

15.3 - THE CONCOURSE TENANCIES REPORT

ATTACHMENTS:	1. IMPLICATIONS 2. COUNCIL RESOLUTIONS & REPORTS
RESPONSIBLE OFFICER:	LINO DI LERNIA – INTERIM CUSTOMER & CORPORATE DIRECTOR
AUTHOR:	LINO DI LERNIA – INTERIM CUSTOMER & CORPORATE DIRECTOR
CITY STRATEGY OUTCOME:	5.1 – BE HONEST, TRANSPARENT AND ACCOUNTABLE IN ALL THAT WE DO
MEETING DATE:	8 MARCH 2021

1. PURPOSE OF REPORT

The purpose of report is to provide details of tenancies over the last three years at The Concourse.

2. OFFICER'S RECOMMENDATION

That Council note the report on tenancies, vacancies, arrears and losses for tenancies at The Concourse.

3. BACKGROUND

On 8 February 2021, Councillors endorsed the following recommendation:

That Councillors be provided a chronological report of tenancies, vacancies, arrears and losses accrued each year over the last three years at The Concourse.

This report provides information in response to this resolution.

A chronological list of the various reports, resolutions and briefings made to Council related to The Concourse tenancies since May 2019 is incorporated in **Attachment 2** to the report.

4. DISCUSSION

All tenancies at The Concourse are occupied.

The rental arrears owing to Council by The Concourse tenancies was \$1,128,599 as at 31 January 2021. This balance has since been reduced by receipt of payments totalling \$143,209 with further commitments totalling \$316,422 from tenants that are either on payment plans or have otherwise made commitments to make payments in the near future (together representing around 40% of the 31 January arrears).

Recovery of the arrears is being pursued through negotiation and agreed rent repayment plans and bank and personal guarantees held, with resolutions now well advanced. Council holds bank guarantees totalling \$896,256 as security against rent defaults by The Concourse tenants.

Council has made adequate provisions to cover possible shortfalls should some arrears not be paid in full. The 2019/20 Annual accounts included provision for doubtful debts of

\$424,000 and this was increased by \$157,011 at Quarterly Budget Review 2, bringing the total provision to cover rent defaults to \$581,011.

The obligations of landlords and tenants, including non-eviction, rent waivers and deferrals introduced in March and April 2020 through Federal and State legislation (as enacted in the *NSW retail and Other Commercial Leases (Covid-19 Regulations)*) is set to expire on 31 March 2021.

Analysis

The following analysis relates to five periods:

- Part 1 (Figures 1 to 4) shows rental income and the breakdown of arrears, vacancies and losses for the 2016/17, 2017/18, 2018/19 and 2019/20 financial years. These figures reflect the audited results in Council's financial statements for each year and are public.
- Part 2 (Figures 5 and 6) shows rental income, arrears, vacancies and losses for the 7-month period to 31 January 2021.

The high-level conclusions from the analysis are:

- Prior to the COVID pandemic in 2020, the tenancies at The Concourse produced strong income and minimal vacancies, as evidenced in the stable returns in the period from 2016/17 to 2018/19.
- The impact of COVID is clearly shown in 2019/20 and YTD 2021, with rental income falling significantly, and arrears rising to high levels.
- There were significant losses in 2018/19 and 2019/20 which have been previously communicated to Council on 10 February 2020.
- Council has adopted a prudent approach to its provisions for doubtful debts (current provisions total \$581,011) and further provisions are not considered to be required at this stage.

The arrival of the COVID pandemic resulted in the Federal Government announcing the Commercial Code on 7 April 2020 and the State Government enacting legislation on 24 April 2020. The regulation announced by the Federal Government provided the overarching legislation, but it was the responsibility of states and territories to legislate. The resulting legislation meant that relief was provided to commercial tenants with an annual turnover of less than \$50 million in 2018/19 and who had a decline of 30% or more in turnover.

In September 2020, the State Government announced an extension of the COVID regulation until 31 December 2020. The State Government has now further extended the COVID regulation until the end of March 2021, but the eligibility has reduced to \$5 million turnover in 2018/19.

Prior to the Government initiatives, Council provided an extensive Business Support Plan (approved by Council on 30 March 2020), which provided a total of \$332,653 in relief to tenants of The Concourse. Since then, Council has provided further relief to the tenants in the form rent waivers and deferrals totalling \$151,012 bringing the total relief provided by Council to date of \$483,665. This relief is accounted for separately to the arrears figure.

Looking forward, the immediate plan is to finalise all COVID relief claims and have all tenants on sustainable payment regimens which encompass ongoing payment of rent as it falls due and, where applicable, recovery of arrears and ultimately the deferred rent. Implementation of this plan is underway.

Part 1: 2016/17 to 2019/20

Figure 1 shows that rental income was consistently strong in 2016/17 and 2017/18, dropping slightly in 2018/19 due to an increase in vacancies (from 0% to 11.69%) coinciding with the expiry of multiple leases. The sharp drop in rental income in 2019/20 was largely a result of the impact of COVID and the resultant growth in arrears.

Figure 1 – Rental Income and Amounts Outstanding 2016/17 to 2019/20

	2016/17	2017/18	2018/19	2019/20
Budgeted Rental (\$)	3,731,756	3,885,159	3,355,571	3,009,610
Actual Rental (\$)	3,696,139	3,838,912	3,373,959	2,699,524
Amount Outstanding (\$)	-	12,222	68,192	568,661

The above outstanding balances represent the arrears at a point in time – 30 June of each year. All but \$219,222 of the amounts outstanding have since been paid.

Figure 2 and Figure 3 show the vacancy levels in each year, highlighting the strong years in 2016/17 and 2017/18, and where the vacancies were subsequently concentrated. The increase in vacancies from 2018/19 resulted from the need to find new tenants for leases expiring at around the same time.

Figure 2 – Vacancies

	2016/17	2017/18	2018/19	2019/20
Vacancies	-	-	79 weeks	84 weeks
Vacancy - % of total shop tenancies	-	-	11.69%	12.43%

Figure 3 – Vacancies by Tenancies

Vacancies	2018/2019	2019/2020
Shop 1	15 weeks	30 weeks
Shop 3	-	37 weeks
Shop 4	32 weeks	37 weeks
Shop 6	32 weeks	6 weeks
Total	79 weeks	84 weeks

Figure 4 shows the level of losses in each year, again reflecting positive years followed by significant losses.

Figure 4 - Losses

	2016/17	2017/18	2018/19	2019/20
Losses	-	-	\$ 243,068	\$ 439,616

Part 2: Year to Date of Current (2020/21) Financial Year

Figure 5 shows the information for the 7-month period from 1 July 2020 to 31 January 2021, a period where the full impact of COVID has been felt, both in reduced rental income and also a significant escalation in arrears, even at a time when there were no vacancies.

Figure 5 – Rental Income and Amount Outstanding YTD 31 January 2021

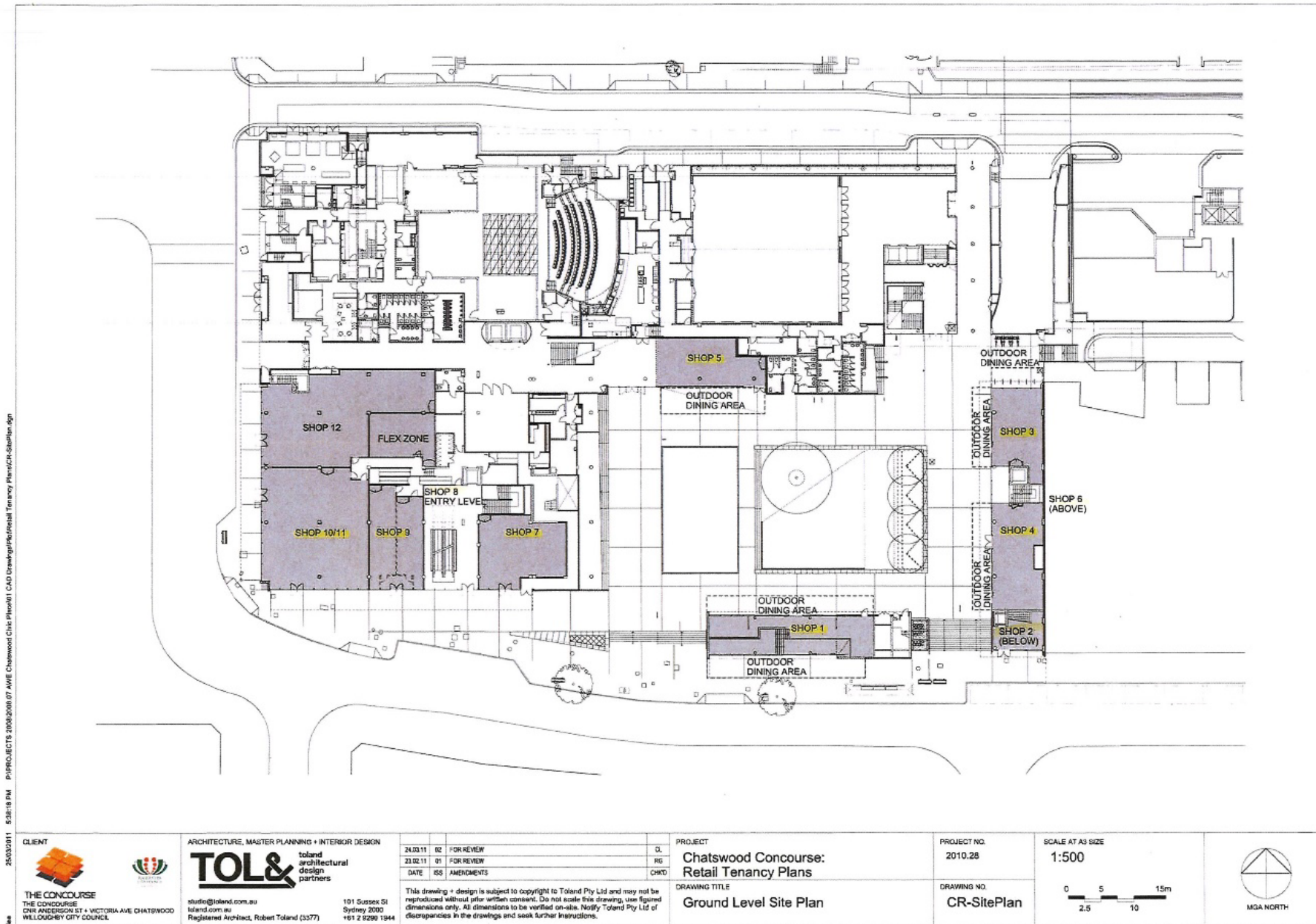
Budgeted rental income	\$2,052,293
Actual rental income	\$1,990,693
Amount outstanding at 31 January 2021	\$1,128,599
Losses	\$69,866
Vacancies	Nil

Many of the tenancies have been impacted by COVID and have been the beneficiaries of Council’s Business Support Package (\$332,653, approved by Council in March 2020) or application of the mandatory code (as approved by Council in October 2020). The latter resulted in additional relief in the form of rent waivers of \$92,466 and deferrals of \$58,012, bringing the current total cost to Council of the COVID-19 support to \$483,655. The financial impact of this is an opportunity cost and is separate to the losses identified in Figure 4 and Figure 5. This financial impact has already been taken into account through a reduced operating result in 2019/20 and in a reduced budget in 2020/21.

Council has taken a prudent financial/accounting approach by providing for doubtful debts on its leasing portfolio totalling \$581,011 and believes that no further provisions are required at this stage.

For reference purposes, Figure 6 is a site map showing the shops at The Concourse.

Figure 6 – Site Map of The Concourse Shops



25/03/2011 5:31:18 PM P:\PROJECTS\2008\2008_07_AVE Chatswood Civic Plaza\01 CAD Drawings\Facilities\Retail Tenancy Plan\CH-ShopPlan.dgn

CLIENT



THE CONCOURSE
 THE CONCOURSE
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24.03.11	02	FOR REVIEW	DL
23.02.11	01	FOR REVIEW	RG
DATE	ISS	AMENDMENTS	CHRD

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PROJECT

**Chatswood Concourse:
 Retail Tenancy Plans**

DRAWING TITLE

Ground Level Site Plan

PROJECT NO.



2010.28

DRAWING NO.

CR-SitePlan

SCALE AT A3 SIZE

1:500

MGA NORTH

5. CONCLUSION

Prior losses identified in this paper have previously been the subject of reports to Council (Resolutions on 24 June 2019 and 10 February 2020) and it is not currently anticipated that there will be additional losses beyond existing provisions in 2020/21.

COVID-19 has had a negative impact on rental income with the cost of Council's Business Support Package and mandatory rent waivers and deferrals (required under the *Retail and Other Commercial Leases (COVID-19) Regulation 2020*) currently totalling \$483,665. This financial impact has already been taken into account through a reduced operating result in 2019/20, a reduced budget in 2020/21 and appropriate provisioning.

The pandemic has also contributed to a significant increase in arrears in 2019/20 and YTD 2020/21 and a plan to collect these arrears is being implemented.

IMPLICATIONS	COMMENT
City Strategy Outcome	5.1 – Be honest, transparent and accountable in all that we do
Business Plan Objectives, Outcomes / Services	The provision of the report is to inform Council of the current status of the financial performance of the Concourse retail shops.
Policy	This report is produced pursuant to a resolution of Council.
Consultation	This report was produced by Council officers.
Resource	This report has been provided from within existing staff resources.
Risk	Information in this report is high level and does not identify any individual tenancies in order to protect commercial confidentiality.
Legal	There are no legal implications applicable to this report.
Legislation	Any actions to be taken on individual tenancies will need to follow the provisions of the <i>Retail Leases Act 1994</i> and the <i>NSW Retail and Other Commercial Leases (COVID-19) Regulation 2020</i> .
Budget/Financial	The report identifies the current financial status of The Concourse tenancies.

1. Council Meetings

- **Council Meeting: 27 May 2019**
Report: Question on Notice - The Concourse

Council Resolved:
That Council note the confidential memo from the Planning & infrastructure Director distributed to Councillors on 9 May 2019 and circulated to Councillors prior to the meeting addresses matters raised in Councillor Saville's Question on Notice.
- **Council Meeting - 24 June 2019**
Report: Bad Debt Write Offs Since 2007

Council Resolved:
That Council approve the write off of \$270,633 of non-recoverable debts as detailed in Attachment 2 and Attachment 3.
- **Council Meeting - 11 November 2019**
Report: Quarterly Budget Review 2019/20 - September Quarter (Rent reduction adjustment)

Council Resolved:
That Council:

 1. *Note the report.*
 2. *Approve the increase of \$14.8M in Grants & Contribution provided for Capital Purpose.*
 3. *Approve the increase in operating budget expenditure of \$5.4M and a corresponding increase in operating budget income of \$4.8M resulting in a negative impact of \$0.7M to the budget full year operating surplus 2019/20 which will be decreased from \$5.8M to \$5.1M.*
 4. *Approve the decrease in Projects and Capital Works for the 2019/20 Financial Year of \$82K.*
- **Council Meeting – 9 December 2019**
Report – Confidential - Lease - Shop 3 The Concourse, 409 Victoria Avenue, Chatswood

Council Resolved:
That Council note the confidential commercial information related to the lease.
- **Council Meeting – 10 February 2020**
Report: Confidential - Shop 2 / 409 Victoria Avenue, Chatswood - 10 February 2020

Council Resolved:
That Council delegate authority to the Chief Executive Officer to undertake all necessary actions and execute all required documentation to give effect to the recommendations contained within part 5 of this report and report back to Council.

- **Extraordinary Council Meeting – 30 March 2020**
Report: Confidential - COVID-19 Business Support Plan - 30 March 2020

Council Resolved:

That Council:

1. *Approve the Business Support Plan as detailed in the report and as amended below.*
 2. *Provide rental relief to tenants of Council owned properties for a period of up to six months by way of a waiver of rent for small business tenants in the food and hospitality industries and not for profits as identified in Attachment 2 with an estimated financial impact of \$573,000.*
 3. *Waive licenses and fees for all sporting organisations for a period of six months with an estimated financial impact of \$600,000 with the exception of Northern Suburbs Tennis Association with whom further discussions will be held and a final decision made under delegation to the Mayor and Chief Executive Officer.*
 4. *Note that in the event of the need to revisit the Business Support Plan for additional Council tenants that are impacted by further health orders, or benefit from State or Federal Government assistance, a report will be brought back to Council unless urgent.*
 5. *Approve, for all businesses, the waiving of the environmental health inspection fees, fire safety fees, footway dining and advertising fees and a 50% fee reduction for Chatswood Mall Market stallholders, all for a period of up to 6 months equating to approximately \$435,000 as detailed in the report.*
 6. *Note the budget adjustments for 2019/20 will be confirmed in the March Quarterly review which will be presented to Council in May 2020.*
 7. *Note the impact on the 2020/21 budget will be addressed in the development of the draft 2020/21 budget.*
 8. *Endorse discretionary measures relating to enforcement of some infringements where those discretions will not have an adverse impact on human health or safety, estimated to be \$55,000 in addition to any decrease due to reduced traffic for a period of up to three months.*
 9. *To expedite assistance, delegate authority jointly to the Mayor and Chief Executive Officer to make amendments to the Business Support Plan as necessary to avoid overlaps with the State and Federal Government assistance packages when released and keep Councillors informed of such amendments and their budgetary impacts.*
 10. *The Council resolution be released following the meeting.*
- **Council Meeting – 11 May 2020**
Report: Questions on Notice from Councillor Saville - Concourse Tenancies

Council Resolved:

At its meeting on 11 May 2020, Council addressed questions raised in Councillor Saville's Questions on Notice.

- **Council Meeting – 12 October 2020**
Report: Confidential - Bank of China lease - Shop 11, 409 Victoria Avenue, Chatswood - 12 October 2020

Council Resolved:

That Council:

1. *Enter into a lease with Bank of China for Shop 11, 409 Victoria Avenue, Chatswood at The Concourse, for a term of six (6) years and two (2) months, for a commencing rental amount as detailed in the conclusion of the report, noting the figure is exclusive of GST.*
 2. *Provide the Chief Executive Officer with delegated authority to execute the lease agreement and any associated documents and variations related to the occupation of Shop 11, 409 Victoria Avenue, Chatswood.*
- **Council Meeting – 14 December 2020**
Report: Confidential - Shop 2 Investigation
Council Resolved:
That Council receive and note the report on the investigation into shop 2, The Concourse.
 - **Confidential - Shop 2 Investigation - 14 December 2020**
That Council received and noted the report on the investigation into shop 2, The Concourse.

2. Councillor Briefings

- **Councillor Briefing: 1 February 2021**
Item: BAMB Update
- **Councillor Briefing: 1 March 2021**
Item: Council property Portfolio Report