

28 February 2006**QUEENSBRIDGE PRECINCT PROJECT: LEASE FOR
NORTHBANK LAND****Committee** Finance and Corporate Performance**Presenter** Cr Shanahan**Purpose**

1. To seek Council approval to enter into a lease with the Victorian Rail Track to lease the Northbank land which is part of the Queensbridge Precinct.

Recommendation

2. That Council resolve:
 - 2.1. to enter into a lease with the Victorian Rail Track (“VicTrack”) to lease the area known as the Northbank land which is part of the Queensbridge Precinct and is contained in Certificate of Title Volume 10168 Folio 916 subject to obtaining all necessary approvals and on the following terms and conditions:
 - 2.1.1. a term of 50 years with no guarantee of a further term although the parties agree to negotiate in good faith should they determine that another lease is appropriate at the expiry of the term;
 - 2.1.2. a rental of \$104.00 per annum together with charges for any electricity, gas, water, oil and any other source or type of energy, fuel or telephone and other utilities and services consumed on the leased land;
 - 2.1.3. VicTrack having the right to resume a part of the Northbank land, the ‘Resumption Area’ for future rail purposes, but not within a period of twenty (20) years, if at all;
 - 2.1.4. the permitted use is “public open space for recreational activities including the staging of events for public entertainment”; and
 - 2.1.5. such other terms and conditions as may be required by the Manager Legal Services, or the person from time to time acting in that position;
 - 2.2. by instrument of delegation sealed by the Council under section 98(1) *Local Government Act 1989* (“the Act”) delegate to the Chief Executive Officer, or the persons from time to time acting in that position, the authority to enter into the lease and to do all things incidental and ancillary to the same;

- 2.3. under section 98(3) of the Act, authorise the instrument of delegation to the Chief Executive Officer, or the person from time to time acting in that position, to empower him or her to delegate any power, duty or function delegated to him or her under paragraph 2.2 above, to a member of Council staff; and
- 2.4. that the instrument of delegation referred to in paragraph 2.2 above and any sub delegation under paragraph 2.3 above will cease and be of no further effect upon the completion of all necessary steps and the execution of all necessary documents to enter into the lease.

Council Report Attachment:

1. Finance and Corporate Performance Committee, Agenda Item 5.5, 7 February 2006

**FINANCE AND CORPORATE
PERFORMANCE COMMITTEE REPORT**

Agenda Item 5.5

7 February 2006

**QUEENSBRIDGE PRECINCT PROJECT: LEASE FOR
NORTHBANK LAND**

Division Design & Culture

Presenters Rob Adams, Director Design & Culture

Purpose

1. To seek Council approval to enter into a lease with the Victorian Rail Track (“VicTrack”) to lease the Northbank land which is a part of the Queensbridge Precinct.

Recommendation

2. That the Finance and Corporate Performance Committee recommend that Council resolve:
 - 2.1. to enter into a lease with the Victorian Rail Track (“VicTrack”) to lease the area known as the Northbank land which is part of the Queensbridge Precinct and is contained in Certificate of Title Volume 10168 Folio 916 subject to obtaining all necessary approvals and on the following terms and conditions:
 - 2.1.1. a term of 50 years with no guarantee of a further term although the parties agree to negotiate in good faith should they determine that another lease is appropriate at the expiry of the term;
 - 2.1.2. a rental of \$104.00 per annum together with charges for any electricity, gas, water, oil and any other source or type of energy, fuel or telephone and other utilities and services consumed on the leased land;
 - 2.1.3. VicTrack having the right to resume a part of the Northbank land, the ‘Resumption Area’ for future rail purposes, but not within a period of twenty (20) years, if at all;
 - 2.1.4. the permitted use is “public open space for recreational activities including the staging of events for public entertainment”;
 - 2.1.5. such other terms and conditions as may be required by the Manager Legal & Governance, or the person from time to time acting in that position; and
 - 2.2. by instrument of delegation sealed by the Council under section 98(1) *Local Government Act 1989* (“the Act”) delegate to the Chief Executive Officer, or the persons from time to time acting in that position, the authority to enter into the lease and to do all things incidental and ancillary to the same;
 - 2.3. under section 98(3) of the Act, authorise the instrument of delegation to the Chief Executive Officer, or the person from time to time acting in that position, to empower him or her to delegate any power, duty or function delegated to him or her under paragraph 2.2 of this report, to a member of Council staff; and

- 2.4. that the instrument of delegation referred to in paragraph 2.2 and any sub delegation under paragraph 2.3 of this report will cease and be of no further effect upon the completion of all necessary steps and the execution of all necessary documents to enter into the lease.

Key Issues

3. In November 2002, Council resolved to jointly, with the State Government, develop the Queensbridge Pedestrian Precinct, comprising Sandridge Bridge, Queensbridge Square and the adjacent Northbank.
4. In November 2002, Council was advised that the procurement of the Northbank component of the project was dependent on the resolution of land ownership issues involving VicTrack, the owner of the Northbank land. The State Government had initiated discussions with VicTrack with a view to the release of a specific parcel of land for the project, and Council was advised that this land would then either be:
 - 4.1. leased to Council by VicTrack; or
 - 4.2. subdivided and transferred to either DOI or the Crown (DNRE) and reserved for a public purpose under the *Crown Land (Reserves) Act 1978* with Council appointed Committee of Management.
5. In conjunction with the State Government it was resolved through subsequent discussions with VicTrack that the preferred option is for Council to lease the Northbank land rather than be appointed Committee of Management. This was principally due to VicTrack's requirement that some sections of the land be retained for potential and future rail purposes.
6. VicTrack has advised that it may need to resume a particular part of the Northbank land for future rail purposes, but not within a period of twenty (20) years, if at all. Therefore, the proposed lease contains provision for VicTrack to give notice of at least 2 years that it wishes to resume that particular part of the Northbank land but not before the expiry of the first 18 years of the term of lease. The proposed lease is included as Attachment A to this report and the particular part of the land that VicTrack would have the right to resume under the lease is the area marked as the 'Resumption Area' in Annexure A.
7. Under the terms of the proposed lease, the balance of the Northbank land including along the river-side embankment would be subject to a 50 year lease. This section of land is shown on the plan included in Annexure A to Attachment A.
8. Under the terms of the proposed lease, VicTrack will undertake any structural or other improvements, alterations or additions to the disused Signal Box necessitated by any order made by Heritage Victoria (unless such order relates to a proposed Council use of the building). However, Council may develop the Signal Box and lease it on a commercial basis with the consent of the Lessor only if VicTrack would not become liable for any costs or expenses as a result of Council's development and use of the Signal Box.
9. The proposed lease document has been negotiated by Council's Legal & Governance Branch with VicTrack's firm of solicitors, Deacons, using the standard Victorian Rail Track lease as the foundation.

Time Frame

10. All of the components of the Queensbridge Precinct project will be completed for the 2006 Commonwealth Games. It is proposed that Council will enter into the lease with VicTrack prior to the 2006 Commonwealth Games.

Finance

11. Under the terms of the proposed lease the annual rent is one hundred and four dollars (\$104.00) per annum.

Legal

12. The report accurately reflects the relevant legal issues.

Sustainability

13. The project will improve access within the leisure/cultural precinct of Southbank and strengthen the connection to the CBD and the public transport on the north side of the Yarra.
14. The development improves connections across the river to public transport nodes, in particular access from Southbank to Flinders Street station and tram routes. The development also improves bicycle access along the Yarra River.
15. The development will add to Melbourne's public spaces designed to accommodate cultural and social events, on both sides of the Yarra, as well as improving access along the river for cyclists and pedestrians. The development will increase public use of a section of the Northbank, and with increased activity improve levels of public safety in this area. The heritage-listed Sandridge Bridge is a key element in the precinct and the proposal will bring this asset back into public use, with the approval of Heritage Victoria through the permit process.
16. The development will provide some short-term jobs in the construction and associated industries.
17. The development increases options for transport users by improving access from Southbank to the public transport facilities on the Northbank.

Background

18. In November 2002, Council resolved to jointly develop the Queensbridge Precinct, comprising Sandridge Bridge, Queensbridge Square and the adjacent Northbank.
19. A formal Agreement has been executed between the State Government and Council to jointly undertake the project.
20. A concept design for the precinct was approved by the acting Minister for Planning in July 2003 and noted by Council at the meeting on 26 June 2003.

21. Council awarded contracts for the construction of the principal components of the Queensbridge Pedestrian Precinct project, as follows:
 - 21.1. Queensbridge Square component to J.A. Dodd Ltd. in May 2004;
 - 21.2. Sandridge Bridge refurbishment component to McElligott Partners Pty. Ltd. in February 2005; and
 - 21.3. Northbank component to Delta Constructions (under delegation).
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FINANCE ATTACHMENT

QUEENSBRIDGE PRECINCT PROJECT: LEASE FOR NORTHBANK LAND

The annual rent of one hundred and four (\$104.00) per annum is not provided for in the 2005/06 budget.

Joe Groher
Manager Financial Services

LEGAL ATTACHMENT

QUEENSBRIDGE PRECINCT PROJECT: LEASE FOR NORTHBANK LAND

Section 3C of the *Local Government Act 1989* (“Act”) states that the primary objective of a Council is to:

“endeavour to achieve the best outcomes for the local community having regard to the long term and cumulative effects of decision”.

Further, one of the facilitating aims of this primary objective as set out at section 3C(2)(a) is to:

“promote the social, economic and environmental viability and sustainability of the municipal district”.

Section 3E(1) of the Act provides that the functions of a Council include:

“(a) advocating and promoting proposals which are in the best interests of the local community” and

“(b) planning for and providing services and facilities for the local community”.

Under section 3F of the Act, Council also has the power to do “all things necessary and convenient to be done in connection with the achievement of its objectives and performance of its functions”.

As required, legal advice will be provided in relation to the negotiation, execution and enforcement of the proposed lease.

Instrument of Delegation

On 26 April 2005 the Council resolved to delegate to the Finance and Corporate Performance Committee the power, duties and functions directly relating or ancillary to the Annual Budget, Council Works Program and the Four Year Financial Plan.

Alison Lyon
Manager Legal & Governance