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15.03.2022
Tim Bolton
Finance Director,
Brighton Life Saving Club Inc.
BRIGHTON 3186

76 Royal Avenue, Sandringham
PO Box 27 Sandringham VIC 3191
T (03) 9599 4444
F (03) 9598 4474
enquiries@bayside.vic.gov.au
www.bayside.vic.gov.au

By email: tim@boltonproperty.com.au

Dear Tim,

HEADS OF AGREEMENT

Premises at: Brighton Life Saving Club, Dendy Street Beach, Brighton VIC 3186
Proposed Lease: Bayside City Council ("**Council**") to Brighton Life Saving Club. ("**Tenant**")

Council proposes the following Heads of Agreement for a Lease and License for your review and approval.

This Heads of Agreement and the Lease are subject to and conditional upon:

- A. Council being in receipt of all funding associated with the redevelopment of the Brighton Life Saving Club in line with the MoU Funding agreement between the Parties.
- B. Approval by Council (it being acknowledged that these Heads of Agreement have been prepared by a Council Officer, and formal Council approval is required);
- C. Council, as Landlord, giving notice of its intention to grant the lease pursuant to giving notice under section 115 of the Local Government Act 2020 (Vic), Community Engagement and subsequently resolving to enter into a lease;
- D. Approval by Council to apply the relevant policy and/or policies

It is the intention of the parties that, upon the tenant's acceptance of the terms set out in this Heads of Agreement, the tenant will be bound and the terms of this Heads of Agreement will amount to an enforceable agreement between the parties, subject only to the approvals and conditions referred to above.

1 Landlord

Bayside City Council of 76 Royal Avenue, Sandringham Victoria 3191

2 Tenant

Brighton Life Saving Club Inc., 133 Esplanade, Brighton VIC 3186.

3 Premises

A handwritten signature in blue ink, appearing to be "TB".

Part of Dendy Street Beach Precinct known as 133 Esplanade, Brighton, VIC 3186.

The area highlighted in yellow in the attached lease plan in Annexure A titled: *Lease Plan – Brighton Life Saving Club, Dendy Street Beach, Brighton, VIC 3186*

4 Term

21 years

5 Commencement Date

The date the occupancy certificate is issued

6 Option/s for Further Term/s

Nil.

7 Commencing Annual Rent

From the Commencement Date the Rent will be \$3,294 plus GST for Year 1 of the Term and is calculated in accordance with Council Leasing and Licensing policy using the following formula:

(Current asset value x 0.1%) x Tenant Capital Investment percentage discount.

Refer Annexure B – Table: Annual rent for the duration of the Term.

8 Rent Commencement Date

In line with the Commencement Date specified in item 5.

9 Rent Review

On each anniversary of the Commencement Date during the term the Rent shall be increased by ~~5%~~ ^{3%} of the rent payable during the immediately prior year up until year 5.

10 Sinking Fund

The Tenant to maintain a Sinking Fund where funds are to be deposited annually on the anniversary of the Commencement Date.

The sinking fund shall be no more than \$500 per annum.

From Year 6 onwards the total amount of funds over \$500 per annum to be deposited will be determined in line with Item 21 and expenditure of the funds is to be agreed by mutual agreement between the parties.

Please see my comments on Annexure B. The Club has contributed \$500,000 and also arranged a Government Grant of \$1 million. however only rec'd \$2,764 in reduced rental. We would expect this discounted rental to continue for the full term of the lease. TB

The suggestion of 5% annual increases is not commercially applicable or acceptable in today's economic and low interest climate. We would agree to annual 3% increases TB

11 Outgoings, Services, Rates and Taxes

The Rent is net of outgoings, which are to be paid by the Tenant and include the following:

Rates (Council fees, electricity, gas and water)

Fixed Fire Levy – Payable by the Tenant

Waste – The Tenant organises their own waste collection (apart from Council collection waste)

Utilities – The Tenant must purchase renewable energy

12 Permitted Use

Primarily to provide lifesaving and emergency services to the community (such as education, training, first aid, observation, administration, amenities, storage etc) and may include uses such as:

- Social activities;
- Fundraising appeals and community and charitable gaming, as defined by and in accordance with the Gambling Regulation Act 2013; and
- Club run commercial activities and approved third-party commercial uses

13 Tenant's Usage

The Tenant will have the use of the following areas of the Premises:

- The entire ground floor of the building (with the exception of the public toilet area) and entire first floor.

At all times use by other community groups or segments of the community must be catered for by the Tenant on the Upper level in the multi-use space (including those areas on the second floor marked Multipurpose/Training Room, Kitchen, Multipurpose WC, Circulation and Lobby/Break out Space 2 on the plan attached as Annexure A) in accordance with policies and procedures established by the Tenant and approved by Council which are consistent with Council policy on the provision of access to community halls and facilities.

14 Hours of Use

Tenant	Hours of Use	Maximum numbers
Life saving club (low season)	6am-9pm, 7 days per week	24
On no more than 6 occasions, multi-purpose function space (low season)	7am-9pm Sunday to Thursday 7am-11pm Friday and Saturday	134

TB

On all other occasions, multi-purpose function space (low season)	7am-9pm, 7 days per week	134
On no more than 12 occasions, life saving club and multi-purpose function space (high season)	6am-11pm, 7 days per week	158
On all other occasions, life saving club and multi-purpose function space (high season)	6am-9pm, 7 days per week	158

Low season - May to October; High season - November to April.

15 Community Use of Premises

Community use of the Level 1 multi purpose area will be encouraged by both parties during both the low and patrol seasons. Tenant will ensure community access is available through the patrol season in a manner that does not unreasonably impact on lifesaving activities.

Tenant may set charges for community use in consultation with Council. Tenant will determine the distribution of the revenue from these charges but acknowledge that the charges from community use are intended to defray the costs and expenses of cleaning, general maintenance, repairs and the management of the Premises by the Tenant and fulfilling its purposes as a lifesaving club within the municipality.

Where a community group seeks access throughout the year Council and BLSC will work together to facilitate continuity of use.

16 Make Good

At the end of the lease, the tenant is required to vacate the Premises leaving them clean, in good repair, excepting fair wear and tear and in the same condition as when the Tenant took occupancy of the premises, not including any alterations or improvements.

17 Liquor Licensing

Council will grant Landlord approval for the Tenant to apply for a new Liquor License to reflect the new leased area, such licence will be subject to all relevant approvals.

18 Insurance

The Tenant is responsible for:

1. Obtaining Public Liability insurance (min \$20m) in the Tenant's name;
2. Obtaining Contents insurance in the Tenant's name; and
3. Paying the apportioned Building insurance amount upon receipt of an invoice as issued by the Landlord (annually).

19 Landlord's works

Means:

1. The Capital construction of the structure of the premises which shall include provision for lockers, workshop bench, desking, chairs, base access control system (tenant will be required to pay an additional sum for specification above

base system), and other fittings shown in the attached plan Annexure A, **but excluding tables and chairs for the multi-purpose room.** (The provision of racking is still in discussion).

2. Maintenance which is determined by an Engineer to be structural in nature
3. All works associated with the Landlord's responsibilities in the Maintenance Schedule (Annexure B)

20 Tenant's works

Any Tenant's works must be carried out in accordance with the terms of the Lease and all Laws and Requirements.

Plans for any proposed works must be submitted to Council for its approval.

All operations and maintenance relating to environmental sustainability must be in accordance with Council's Sustainable Leasing Guidelines and is the responsibility of the Tenant

21 Maintenance

All maintenance items and the parties responsibilities have been listed in the attached Maintenance Schedule (Annexure C)

Any maintenance items relating to any structural items on the premises will be the responsibility of Council;

The Lease will include a copy of the Builders warranties/certification for maintenance purposes

The maintenance responsibilities for the premises are specified in the Maintenance Schedule in Annexure B

22 Landlord's Use of Premises

The Tenant must not withhold consent to the Landlord's use of the Upper Floor or part of the Upper Floor as a venue for Landlord sponsored functions unless the Landlord's use impacts the Tenant's emergency service function or any revenue generating opportunities (within reason).

23 Lease Documentation

- 23.1 The Lease to be entered into by the parties will be in the form of Life Saving Victoria's standard form of Lease documentation and amended to reflect the terms set out in these Heads of Agreement.
- 23.2 The Lease documentation is to be prepared by Council or Council's lawyers.
- 23.3 In the event of any inconsistency between the terms of these Heads of Agreement and the formal Lease, the formal Lease document/s shall prevail.

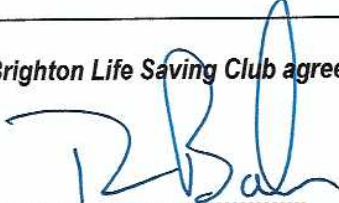
TB

If you have any questions or would like to discuss the contents of this agreement, please contact Newton Gatoff direct by telephone 0466 699 623 or email: ngatoff@bayside.vic.gov.au.

Regards,

Jason Stubbs
Manager – Commercial Services

Brighton Life Saving Club agrees to the above terms and conditions.



Tim Bolton – Finance Director, Brighton Life Saving Club

16/3/22

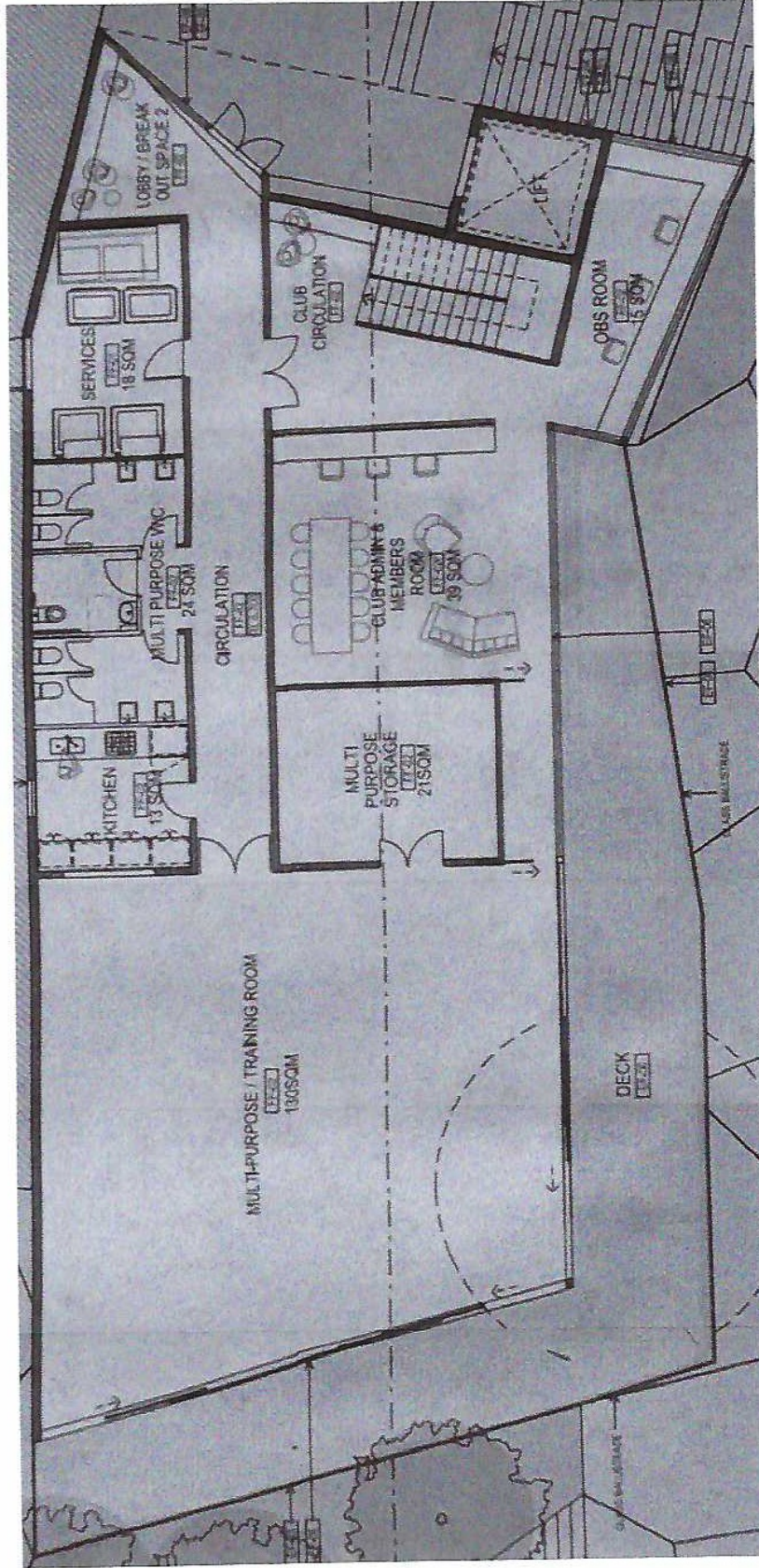
Date

Enc. Preliminary Lease and Licensed Area Plans – Brighton Life Saving Club, calculation of rent and maintenance schedule.



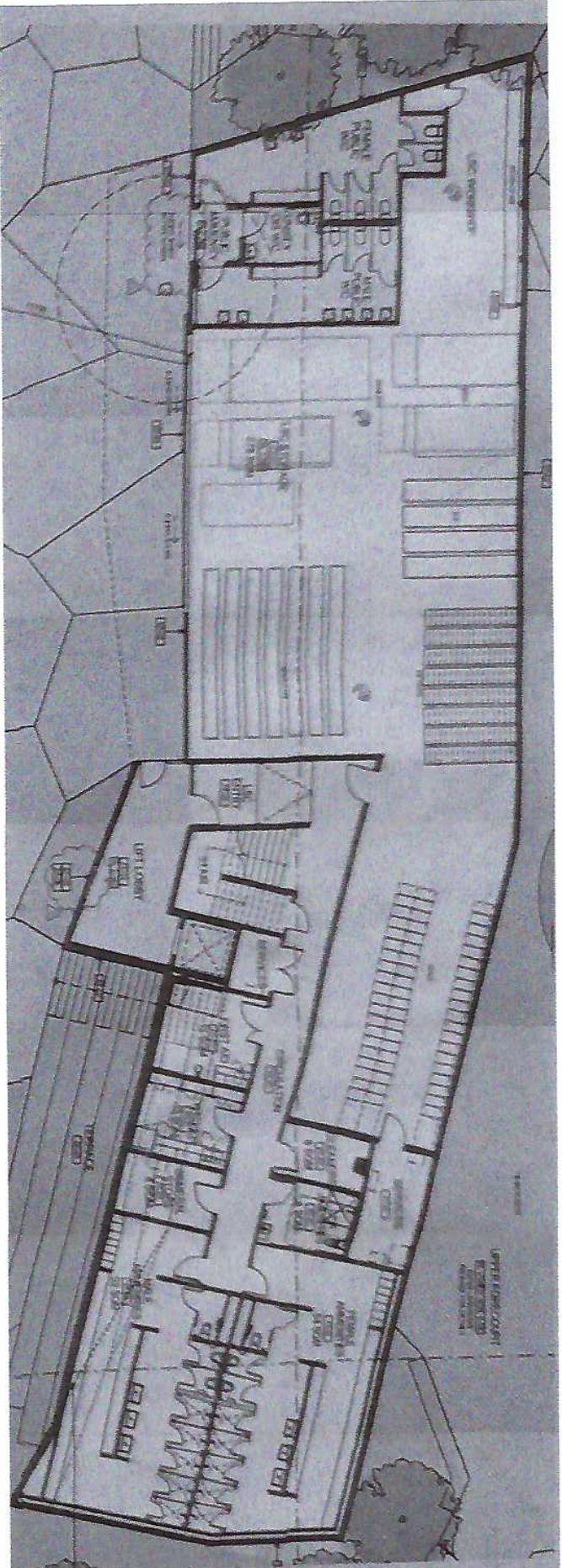
ANNEXURE A

Lease Plan – Brighton Life Saving Club, Dendy Street Beach, Brighton, VIC 3186 - Upper Floor



ANNEXURE A (CONT.)

Lease Plan – Brighton Life Saving Club, Dendy Street Beach, Brighton, VIC 3186 - Lower Floor



21

ANNEXURE B -

RENT PAYABLE PLAN

Term	\$ Rent payable exclusive of GST
Year 1	3304 $\times 3\%$
Year 2	3469
Year 3	3642
Year 4	3825
Year 5	4016
Year 6	4855
Year 7	5098
Year 8	5353
Year 9	5621
Year 10	5902
Year 11	6197
Year 12	6507
Year 13	6832
Year 14	7174
Year 15	7533
Year 16	7910
Year 17	8306
Year 18	8721
Year 19	9157
Year 20	9615
Year 21	10096

Although we appreciate that our contribution of \$500,000 plus GST to the building costs helped to kickstart the project, we receive only a net benefit of less than \$3,000 in discounted rental for the first 5 years. In addition, in cohorts with LifeSaving Victoria, we arranged State Government funding of \$1,000,000 for the redevelopment. At the very least I believe the discounted rental structure as applied to the first 5 years should be applicable for the whole of the lease term.

Annexure C– Maintenance Schedule

Maintenance Schedule

Item	Tenant's responsibility and cost	Landlord's responsibility and cost	Comments
Air conditioning and/or heating and cooling appliances	- None. (Fixed units supplied by Council) - Tenant supplied units: service, repair or replace when required	- Replacement of existing units at the end of its economical life or as determined by Council - Service and repair when required of all units	
Building, general	- Not to undertake any work unless prior approval by Council - Notify Council of any damage requiring rectification. - Provide Council with a copy of any regulatory inspection of Premises - All costs/repairs resulting from inappropriate activity by the Tenant as reasonably determined by Council	- Assess all requests submitted - Ensure satisfactory completion of approved works - All façade maintenance and renewal including deck (excluding	
Car Parking areas	Tenant to report to Council of any items requiring repair or maintenance	Council to maintain and repair and provide line markings as determined by Council	
Ceiling, internal walls	- Repair and/or replacement due to tenant's misuse - Cleaning as required	Assess all requests submitted	

	- Not to undertake any work unless prior approval by Council - Notify Council of any damage requiring rectification	Ensure satisfactory completion of approved works	
Chemicals and paints	Dispose all chemicals and paints in an appropriate manner in an environmentally sustainable way	None	
Cleaning	- All costs of cleaning the Premises - Keep the Premises in a clean and sanitary condition - Maintain and document a regular cleaning program of the Premises (including fixtures and fittings) - Comply with all Health and Safety regulations and guidelines - Comply with any laws, notices, orders, public health directions, safety plans, legal requirements and requirements of any authority relating to cleaning and COVID-19 requirements	Ensure that reasonable standards are maintained	
Curtains, drapes, blinds	- Regular cleaning - Repair or replacement as required	None	
Doors	- Repair any damage caused by misuse or break-ins - Cleaning of all internal doors - Minor adjustments and ensure all doors remain operational	- Repair and replace external and internal doors - Cleaning of all external doors	
Electrical wiring fittings and lights	Additions to existing lighting (i.e.) new power points, new equipment) to be completed by qualified and registered electrician	Repair, maintenance and replacement of all electrical components, wiring and fittings	

	• Ensure no misuse of electrical wirings and fittings	• Maintenance and repair of switchboards • Supply and replacement of all light globes • Replace all electric light bulbs, fluorescent tubes, starters and other lighting equipment which may be damaged or broken or fail to light;	
Electrical appliances e.g., Refrigerator, washing machines, clothes dryer, microwave ovens, heaters, coolers	• Regular cleaning • Repair and/or replacement of appliances such as microwave ovens, washing machines, heaters, coolers • Cost of additional appliances	• Repair or replace cooling, heating and hot water service as determined by Council	
Floor surfaces and coverings	• Repair, renew and/or replacement at the end of their economical life if due to misuse by the Tenant • Regular cleaning and maintenance of all floor coverings	• Repair, renew and/or replacement at the end of their economical life is not caused by misuse of Tenant	
Flyscreens (if applicable)	• None	• To install, maintain, repair and replace screen when required	
Furnishings and equipment	• Repairs or replacement as required	• None	
Gardens and lawns		• Council to maintain (in other leases the Tenant is responsible for this???)	
Gates	• Ensure that gate locks and closures remain operational	• Repair and replacement due to fair wear and tear	

		Upgrades due to legislative requirement/regulations	
General joinery, doors, cupboards etc.	Routine repairs	Replacement due to age, structural failure, defect or vandalism subject to Landlord assessment	
Glass and glazing	- Ensure windows are kept secure - Regular cleaning of inside windows - Repair all broken glass and replace it with glass of the same or similar quality when damaged by misuse of Tenant	- Regular cleaning of external windows - Repair and replacement of all broken or cracked windows	
Grounds and surrounds. Fencing and gates	Seek Landlord approval for any modifications to grounds Keep all outside areas and entry/exits clear and sweep regularly	- Major pruning (branches greater than 200mm diameter) or any tree removal - Repair and replacement of existing pavements to pathways, driveway etc. - Remove graffiti from external areas - Repairs, maintenance and replacement of all internal and boundary fences (including fencing around courts, ovals, fields if applicable) - Any fencing upgrade works that are necessary to comply with laws - Maintain all surrounds including cutting grass, minor pruning, weeding, replacing plants etc. and in accordance with the Lease conditions	

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		• Maintenance repairs and replacement of garden hoses, sprinklers etc. • Comply with directions from the Landlord and other responsible authorities in regards to ground use and watering	
Intercom/communication system (if installed by Tenant)	• Service/maintenance charges • Upgrade or replacement	• None	
Keys and Locks	• Supply own locks and keys for doors and ensure that Council is provided with access passes • Ensure that locks remain operational • Cost of replacement of lost or damaged keys • Cost or repair and replacement of lock if due to Tenant abuse • Replacement of lock/additional locks if required for security • Supply of keys for user groups over and above initial issue of keys to Tenant • Reimburse Council for the cost and installation of lock cylinders if due to misuse by Tenant	• To install one lock cylinders which are part of Council's master key system • Replacement of lock is required for security or fair wear and tear • Replacement of lost or damaged keys by Council • Council will install and maintain locks on the lift and public toilets.	NB: Responsibilities noted are for use by Tenant of Council lock systems
Kitchen	• Maintain kitchen benches and surfaces to ensure compliance with Health Regulations	• Environmental Health Department to provide direction to Tenant in designing, constructing, registering and operating	

	Register kitchen with Council and comply with all directions of Environmental Health Department	kitchens in accordance to Food Standards Australia and New Zealand requirements and the Food Act 1984 (if applicable) Repair and replacement of kitchen fans	
Notice boards	Provide and maintain	None	
Outdoor lighting		Provide and maintain	
Painting	Costs to re-paint internally due to Tenant's misuse	Costs if painting internal and external walls as per Council's cyclic painting program	
Permanent appliances, fixtures (direct wired to main switch board) e.g. Dishwashers, ovens, stoves, exhaust fans, ceiling fans	- Regular cleaning of all fixtures - Maintenance, repair and/or replacement - Cost, maintenance and repair of additional appliances	None	
Pest control	- Keep all areas in a clean and hygienic state - All pest control as required both internally and externally with Council's written consent	- Council to carry out Lifecycle and Building Condition Audits as required - White ant and termite pest control treatments to be carried out by Council if necessary	
Plumbing	None	Replacement of plumbing pipes, fittings, broken toilet bowls, cisterns, taps and sinks subject to Council assessment	

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		- Stormwater drainage repairs/works, including broken pipes, fittings and pits - Repair of gas pipes and fittings - Cleaning of blocked toilets and blocked property sewerage pipes - Replacement of tap washers - Repair and replace all plumbing, drains pipes and sewers exclusively servicing the Premises or originating within the Premises	
Ramps (if applicable)	Advise Council of any issues	Council to repair and maintain	
Roof (tiles, roofing materials), external walls, spouting and downpipes	None	- All maintenance and repairs of the structure of the premises and cleaning of gutters - Cleaning of roof, external walls and downpipes	
Security alarm system (if installed)	- Seek approval from Council in writing prior to installation - Install or replace systems - Meet system and operating costs - Manage usage of the system - Any calls out and service costs i.e. false alarms, misuse - Provide security system details to Council	None	
Security patrol services	Provide advice to Council if there is a requirement	Council to coordinate and pay for at Council's discretion	

Signage	- Initial identification signage - Cleaning of all signs - Additional signage as required and approved by Council - Signage requests to be made to Council	- Ensure that reasonable standards are maintained - Council corporate signage - Assess signage requests	
Skylights (if applicable)	Maintain, repair and replace when required	None	
Structural items including floor base, window supports, support beams, roof structures, building facia and entry/exit structures (as deemed by an engineer)	Tenant to advise Council of any issues in writing	- Council to assess any requests - Council to repair and maintain	
Telecommunication systems (photocopier, telephones, printers, computers and modems)	- Supply of all telecommunication systems - Service and maintenance of all telecommunication systems - Replacement costs	None	
Tenant's furnishings and equipment	Repairs or replacement as required	None	
Vandalism	- Obtain Police report as soon as possible after vandalism and break-in - Contact Council	Repair external damage and glazing	Contact Insurance provider
Verandas / balconies /	Advise Council of any damage	Repair and/or replacement at the end of economical life	

landings, including railings/balustrades and stairs (if applicable)	Any damage due to Tenant's misuse will be repaired by Council at the Tenant's own cost		
Walls	- Internal painting as required - Regular cleaning of walls - Removal of external graffiti on walls	Internal painting on a cyclical basis as determined by Council	
Waste disposal	- Additional removal of hard rubbish above standard domestic waste service - Additional domestic waste handling - Additional bins above standard garbage and recycling service - Provision of sanitary services - Removal of all chemicals, oils and paint waste as per sustainable waste disposal standards (not in domestic waste services)	Provide standard domestic garbage and recycling service	
Windows and Window Frames	Requests for any repairs and/or maintenance or changes to be issued to Council	Council's responsibility to maintain and repair	As per Heritage VIC standards
Essential Safety Measures:			
Fire extinguishers / fire blankets	- Cost to fill if discharged due to misuse - Report defects or loss - Replace if stolen or lost except in the case of burglary of the Premises - Replacement on expiry date - Service/annual inspection and maintenance charge	Provide additional units as assessed by Council as required	Costs can be passed onto the Tenant if required by Council
Paths of travel to exits	Maintain		

Smoke detectors/ Fire Alarm Systems	Any costs of false alarms as a result of action of the Tenant	- Compliance inspections and testing - Maintain system - Install or replace fire alarm systems required by Building Regulations	Costs can be passed onto the Tenant if required by Council
Emergency & Exit Lighting, Fire exit signs	Notify Council of any issues	- Compliance inspections and annual testing - All maintenance and repair as required	Costs can be passed onto the Tenant if required by Council
Other:			
Additional items	- Obtain Police report as soon as possible after vandalism and break-ins - Repair internal damage and replace contents caused by vandalism and break-ins	Repair structural and external damage due to vandalism	

