

**ILSC BOARD MEETING NO 263**  
Held through Microsoft Teams

**Wednesday, 21 October 2020** at 10:30 ACST

**REDACTED MINUTES**

**ATTENDANCE:**

Mr Edward Fry	Chair
Ms Patricia Crossin	Director
Dr Donna Odegaard, AM	Director
Mr Roy Ah-See	Director
Mr Bruce Martin	Director

**APOLOGY:**

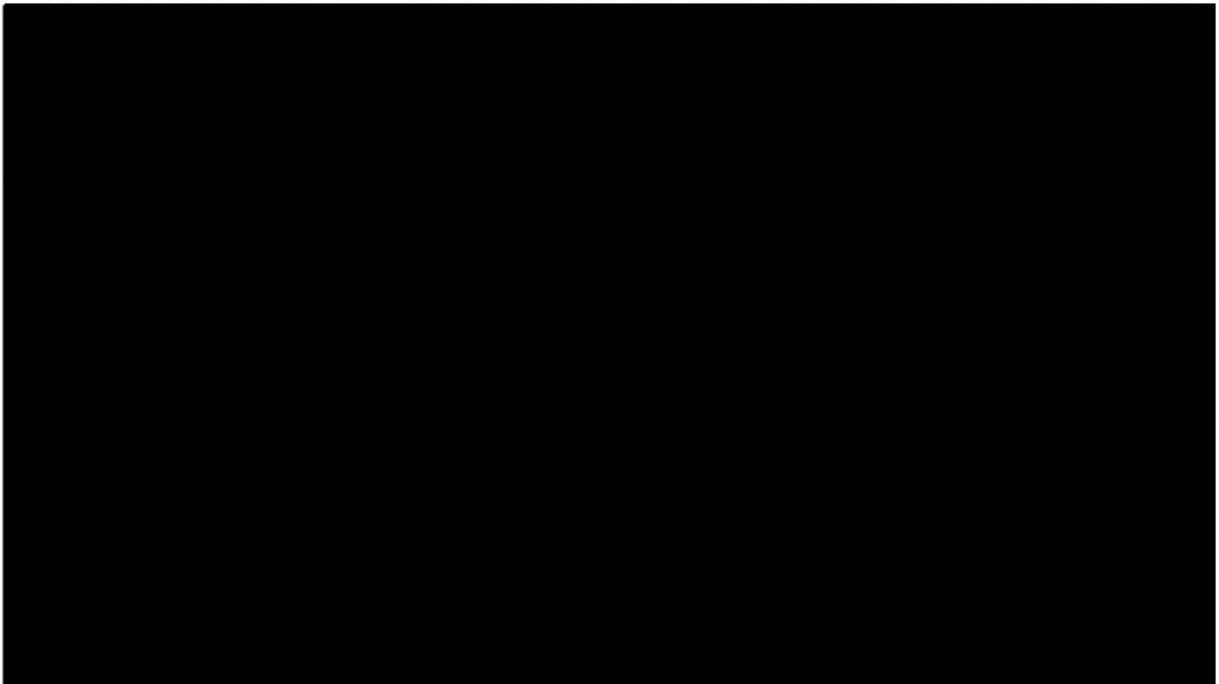
Mr Daniel Tucker, AM	Director
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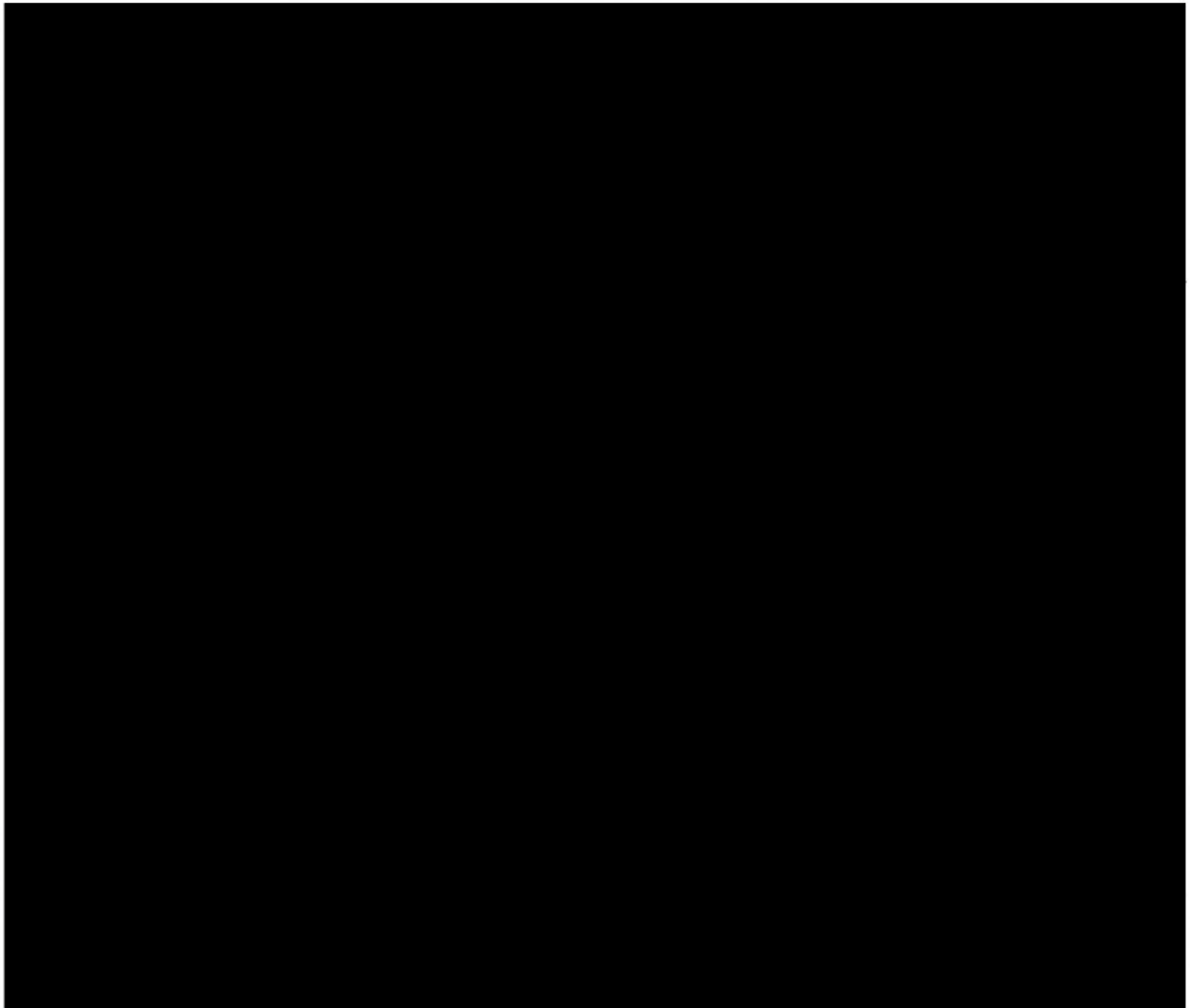
The following attended all or part of the meeting:

Ms Tricia Stroud	ILSC Acting Group CEO
Mr David Silcock	ILSC Group CFO
Mr Trevor Edmond	ILSC Group General Counsel
Ms Maria Storti	Chair, Audit and Risk Committee
Ms Angela Keane	ILSC Minute taker

A copy of the agenda is attached.

The Chair (**Chair**), Mr E Fry welcomed Directors and opened the meeting at 10:33 ACST having noted a quorum of Directors was present.





### 3.3.1 NCIE – Divestment Plan Progress Update

The Acting GCEO, Ms T Stroud spoke to the paper briefing the Board on the progress of the divestment plan of NCIE's, Redfern property. She reminded Directors of the unsolicited request from the NSW Aboriginal Land Council (**NSWALC**) to enter into discussions in the divestment of the Redfern asset. Furthermore, it was noted that the NSWALC was the only Indigenous controlled and representative body with the financial capacity, capability and statutory purpose to own, manage and invest in the Redfern asset with access to statutory funding from the NSW Government. It was noted that the Board had previously set a number of non-negotiable parameters in the development of such a proposal. Ms Stroud reminded Directors that the number of Indigenous organisations and interest groups are front and centre and assured Directors they are always given a presence.

Both the ILSC and NSWALC have undertaken significant due diligence inclusive of community consultation. Ms Stroud outlined the next steps in completing the 'in principle' divestment decision which in turn will be presented at the December Board meeting.

The Chair opened the floor for Director discussion.

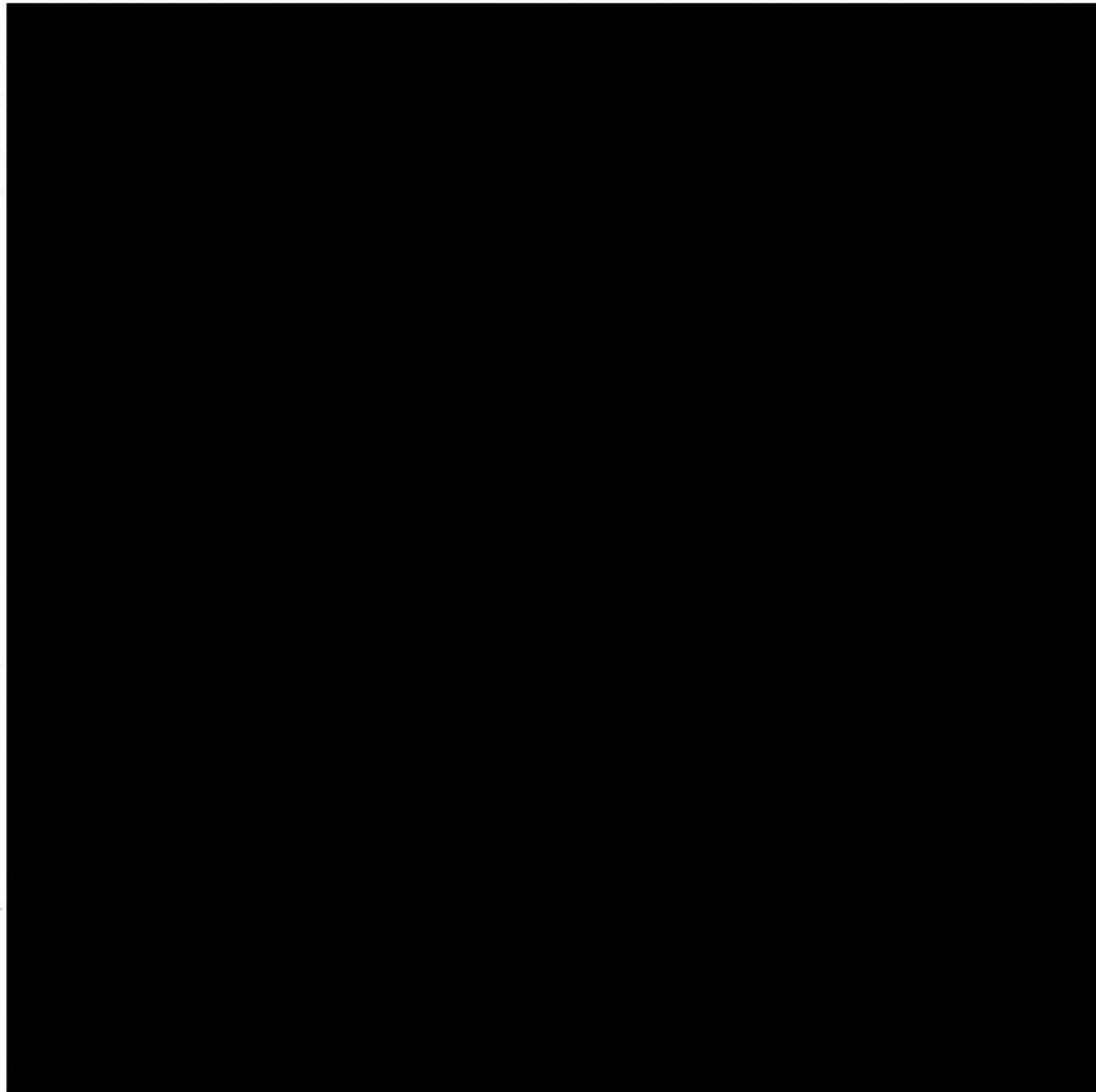
**Resolved:**

ILSC Board resolved to approve the following resolutions:

1. Notes the contents of this paper; and
2. Provides feedback on the proposed divestment criteria to support a future conditional grant of 160-202 George Street, Redfern NSW to New South Wales Aboriginal Land Council.

**Action:**

Acting GCEO to prepare a brief for the NCIE Board on NCIE Divestment Strategy.



Board-in-Confidence

## ILSC BOARD MEETING No 263

Wednesday, 21 October 2020 commencing at 10:30 am ACST  
To be held by Microsoft Teams

### Board Members:

Edward Fry (Chair)  
Patricia Crossin  
Bruce Martin  
Donna Odegaard, AM  
Roy Ah-See  
Daniel Tucker, AM

### AGENDA

		<i>Discussion Leader</i>
<b>1. STANDING AGENDA ITEMS</b>		
	■ [REDACTED]	■
	■ [REDACTED]	■
	■ [REDACTED]	■
■	■ [REDACTED]	
■	■ [REDACTED]	
■	■ [REDACTED]	
	■ [REDACTED]	■
	■ [REDACTED]	■
	■ [REDACTED]	■
<b>2. STRATEGY, POLICY, LEGISLATION, STAKEHOLDERS</b>		
*	■ [REDACTED]	■
	■ [REDACTED]	■
■	■ [REDACTED]	■
<b>3. MANDATE AND INVESTMENTS</b>		
	■ [REDACTED]	
■	■ [REDACTED]	■
■	■ [REDACTED]	■
	■ [REDACTED]	
*	<b>3.3 Divestments</b>	
	3.3.1 NCIE - Divestment Plan Progress Update	
	3.3.1.1 Att A - NCIE - Divestment Plan Progress Update (KPMG)	
<b>4. FINANCE, RISK AND COMPLIANCE</b>		
	■ [REDACTED]	
	■ [REDACTED]	
<b>5. GOVERNANCE AND ADMINISTRATION</b>		
	■ [REDACTED]	■
	■ [REDACTED]	





Australian Government

Indigenous Land and Sea Corporation



The ILSC GROUP

## BOARD DECISION PAPER

BOARD MEETING NO. 268 – 9 DECEMBER 2020

ITEM 4.2

### NCIE, 160-202 GEORGE STREET, REDFERN NSW - DIVESTMENT STRATEGY

#### PURPOSE

To seek the Board's consent to develop a conditional Divestment Deed with the New South Wales Aboriginal Land Council (NSWALC) that will govern the conditional granting of 160-202 George Street, Redfern NSW (National Centre for Indigenous Excellence).

#### RECOMMENDATION

It is recommended that the ILSC Board note and resolves to approve the following:

1. **Note the contents of this paper.**
2. **Approves an 'in principle' divestment of the property at 160-202 George Street, Redfern, NSW to NSWALC.**
3. **Approves the development of a conditional Divestment Deed between the ILSC and NSWALC, to support the granting of the property, on terms and conditions to be approved by the ILSC Board at its meeting of February 2021.**
4. **Note that ILSC management will present to the Board at its February 2021 meeting a Terms of Reference to engage an independent consultant to assess and prepare options and recommendations on the future of the National Centre of Indigenous Excellence Limited.**

#### BACKGROUND

Since June 2018, the ILSC has worked extensively with the New South Wales Aboriginal Land Council (**NSWALC**) towards a divestment of 160-202 George Street, Redfern, NSW (National Centre for Indigenous Excellence) (**the Property**).

NSWALC is the largest member based Aboriginal organisation in Australia with the core functions to manage, protect and develop Indigenous land in NSW. The viability and sustainability of NSWALC is underpinned by access to statutory funding arrangements with the NSW Government, with its governance protected by the *Aboriginal Land Rights Act (1983)*. NSWALC's current property portfolio is valued at \$36 million, with its greater land estate (including LALC ownership) valued at over \$2 billion.

The ILSC has invested approximately \$65 million into the acquisition, development and operations of the Property since acquisition in October 2006. CAPEX invested to develop and equip the property has been \$32.8 million. It is expected the CAPEX obligations will increase in the following years.

The ILSC has historically subsidised the operations of the Company (**the Company**) by approximately \$2-\$3 million per annum. This has meant that, since the acquisition of the property, the ILSC has underpinned the Company's annual operational losses to an approximate value of \$18 million. As such, it can be considered

that maintaining the current management arrangements for the Property represents a significant risk/liability for the ILSC.

This cost and the capital-intensive nature of the Property (heritage listed sections and a public pool in particular) makes divestment of the Property challenging. Divestment of the Property will only be possible where a future Indigenous land owner has significant capital backing.

A valuation of the Property was undertaken by CBRE in December 2019 that provided valuations as a going concern (subject to existing occupancy) of \$29.7 million (GST excl.) and a vacant possession value of \$32.45 million (GST excl); the going concern value being lower due to the current operating model which delivers annual losses.

### **NSWALC's Vision and Intent**

NSWALC's vision is to develop the Property into a nationally recognised asset in the Indigenous Estate.

In doing so, NSWALC will ensure the Property reflects and honours the rich history of Aboriginal culture in Redfern, whilst facilitating improved access to Indigenous businesses, services, programs and events.

NSWALC's concept aligns with the ILSC's original intent for the Property to become a precinct of national significance to all Australians, both Indigenous and non-Indigenous. More importantly, the concept reflects the future use and aspirations articulated through the community consultations, the outcomes of which were reported at the 21 October ILSC Board meeting (refer Agenda Item 3.3).

In recent years the Redfern area has undergone significant gentrification and renewal, and this is expected to continue with the future development of the Waterloo Metro Quarter, which adjoins the Property (by Phillip Street). Future developments within the precinct are projected to provide approximately 700 new private, social and affordable residential housing options, retail and entertainment and improved transport links with the proposed Waterloo train station. This mainstream development will continue to apply pressure to community based Indigenous residential, commercial and social involvement, underpinning the importance of NSWALC's development model for the Property that protects and grows Indigenous representation and benefit.

### **UPDATE**

#### ***Due Diligence***

As noted in recent Board briefings, both the ILSC and NSWALC have liaised in good faith in exploring this divestment opportunity. To this point both organisations have undertaken due diligence activities including:

**ILSC:** undertook due diligence on the legal ability to divest land to NSWALC; the governance and financial security of NSWALC; and its landholding capacity. Due diligence has confirmed NSWALC has the legal, financial and governance capacity you receive a grant of land from the ILSC.

In addition, the ILSC tested local community aspirations for the Property via a community consultation process, independently conducted by Cox Inall Ridgeway. 50 hours of interviews and focus groups occurred

involving 37 individuals and 16 organizations based in Redfern and surrounds or who have a connection to the Property.

Consistent themes from the community voiced a strong alignment between the ILSC's intent behind the original acquisition and the NSWALC vision for the future of the Property, with the uniqueness of the Property as one of the last remaining large, central, urban places for Aboriginal people in inner-city Sydney to come together, being repeatedly highlighted.

**NSWALC:** undertook due diligence on the Property (condition, cost to maintain etc); the financial viability of the Property through its current tenancy arrangements; developed a Concept Plan for the Property; and completed preliminary feasibility on various development options and management models.

[REDACTED]

[REDACTED]

[REDACTED]

**Parameters**

Throughout this process the ILSC has set out a number of non-negotiables concerning the future divestment including:

- The Property will be granted with the ILSC's usual deed of grant conditions with the ILSC holding a caveat over the Property, as per its usual practice, requiring the ILSC's consent for the sale, transfer, mortgaging or redevelopment of the Property.
- The Property must continue to be used for the purpose it was built (social, cultural, health and education); sustain the level of Indigenous service provision (presence of Indigenous service providers); and at a minimum sustain the current level of Indigenous Benefits delivered from the Property.

The latter point has been both respected in NSWALC's concept plan for the Property and validated through the community consultations.

**Current Situation**

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

**KEY ISSUES**

***Divestment Considerations – Conditional Divestment Deed***

[REDACTED]

In order to get these activities underway, it is recommended a conditional Divestment Deed be developed, in consultation with NSWALC that will then be provided to the ILSC Board for approval at its February 2021 meeting. This will form the basis of a conditional divestment, with the actual transfer only taking place after the agreed criteria have been met.

In short, the Divestment Deed serves as an assurance to NSWALC that the ILSC will in fact divest and transfer the Property to it, once it meets the agreed conditions. It provides NSWALC with the comfort to make its proposed considerable investment, while providing the ILSC with additional assurances and protections prior to final divestment. The ILSC has not undertaken this additional step previously, however given the value of this asset, its complexities, and the significant investment required by the future landowner, in this instance it is warranted.

[REDACTED]

[REDACTED]



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[Redacted text block]



[REDACTED]

[REDACTED]

***The Company– Independent Review ToR***

As previously highlighted, for the purposes of divestment, the ILSC has taken an approach to separate the Property from the Company, as the current operator. This is a fundamental consideration as the ILSC is established to divest land and water-based assets like the Property and not the operating entities on them. Notwithstanding further Board deliberation on the Company, and as is the case with other ILSC subsidiaries, the Company exists for the sole purpose of undertaking permitted activities; in this case carrying out management of the Property, on behalf of the ILSC, to derive Indigenous benefits. It does so for the time that the ILSC determines to allow it to do so and for no longer than the ILSC’s ownership of the land.

NSWALC remain committed to retaining the Company as a tenant if required. However, clarity on the ILSC’s intentions for the Company post divestment is needed for planning purposes. If there is a requirement for the Property to continue to house the Company post divestment, then detail on its footprint on the Property, the activities it will deliver and the rent it will pay, must be factored into NSWALC’s plans.

The ILSC must therefore come to a decision on its future plans for the Company, including if it would continue to maintain the Company as a subsidiary post divestment.

[REDACTED]

Should a divestment to NSWALC meet ILSC criteria, options may include: a plan to gradually wind down NCIE’s operations over an agreed period and in line with its constitution; or, the Company retaining its core programs to remain as a viable, stand-alone entity and continue operating within that capacity.

ILSC Management recommend the engagement of a third party to complete an independent review of the Company to identify options outlined above and provide recommendation as to its future. It will also be expected a detailed transition plan will be provided for the Board's approval that includes key issues such as legal, tax and statutory obligations along with industrial relations advice to ensure NCIE's employees are treated appropriately. It is expected that the transition plan will need to align with the timeframes of NSWALC's development plan timelines and that all actions associated with the Company ceasing to be an ILSC subsidiary will align with key stages of the Development Plan.

Based on the Development Program project plan, there is (at a minimum) a 12 month transitional period post divestment. While this means the ILSC will continue to subsidise the Company to operate from the property (\$2.3 million per year), it does afford the ILSC time to plan and implement a considered transition. A full Terms of Reference for the Review will be provided to the Board at its February 2021 meeting.

#### Endorsements

**Recommended by:**

Name: Tricia Stroud  
Title: Deputy Group CEO  
Date: 30 November 2019

*In recommending this recommendation, I declare I have no conflict of interest*

**ATTACHMENT:**

**ATTACHMENT A: DEVELOPMENT PROGRAM, KPMG NOVEMBER 2020**



Australian Government

Indigenous Land and Sea Corporation



The ILSC GROUP

*Commercial in Confidence*

**BOARD DECISION**

Decision No

**BOARD MEETING NO:** 268  
**MEETING DATE:** 9 DECEMBER 2020  
**FOR:** NCIE DIVESTMENT STRATEGY

**THE BOARD OF DIRECTORS OF THE INDIGENOUS LAND AND SEA CORPORATION**

It is recommended that the ILSC Board notes and resolves to approve the following:

1. Note the contents of this paper.
2. Approves an 'in principle' divestment of the property at 160-202 George Street, Redfern, NSW to NSWALC.
3. Approves the development of a conditional Divestment Deed between the ILSC and NSWALC, to support the granting of the property, on terms and conditions to be approved by the ILSC Board at its meeting of February 2021.
4. Note that ILSC management will present to the Board at its February 2021 meeting a Terms of Reference to engage an independent consultant to assess and prepare options and recommendations on the future of the National Centre of Indigenous Excellence Limited.

SIGNED, Mr Edward Fry, Chair: .....

Date: 9 December 2020