



**13.4 SOUTH MELBOURNE TOWN HALL: OUTCOME OF NEGOTIATION WITH ANAM**

**EXECUTIVE MEMBER: CHRIS CARROLL, GENERAL MANAGER, CUSTOMER, OPERATIONS AND INFRASTRUCTURE**

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**1. PURPOSE**

1.1 To:

- report the outcome of the negotiation with the Australian National Academy of Music (“ANAM”) for a long term lease of the South Melbourne Town Hall; and
- recommend an approach to dealing with a new proposal of ANAM.

**2. EXECUTIVE SUMMARY**

- 2.1 ANAM became the major tenant of the South Melbourne Town Hall twenty four years ago. It remains so today, under a different lease agreement. Its current lease is due to expire in 2032.
- 2.2 In May 2019 ANAM made an unsolicited proposal to Council to lease the entire Town Hall.
- 2.3 Having assessed that proposal, Council in March 2020 directed Officers to negotiate a new long term lease of the South Melbourne Town Hall with ANAM, the negotiation to last a maximum of twelve months, with the outcome to be publicly reported.
- 2.4 The structured negotiation commenced 24 April 2020 and concluded on 23 April 2021.
- 2.5 The negotiation was productive, though has not resulted in an agreement to be considered by Council. Instead, ANAM has put forward a substitute proposal – one that does not rely on State government funding of part of its investment in the building complex, (**Attachment 2**).
- 2.6 Similar in essence to the proposal considered by Council at the March 2020 meeting, its key changes are: a shorter lease term (of 35 years); building renewal and maintenance are to be a cost of the owner (though with a capped contribution by the tenant); and a lower up front investment by ANAM in the building (of \$15M+), with the intent to undertake staged subsequent further investment should fundraising efforts be successful.
- 2.7 Though the total financial offer proposed by ANAM is below market, it represents a substantial improvement on the current lease, once the up front investment of \$15M, including the Federal government commitment, is considered (subject to confirmation of the nature of the proposed investment).
- 2.8 Officers recommend pursuing negotiations with ANAM to improve the terms of its newly proposed lease, though limiting the time for the negotiations to six months.



### 3. RECOMMENDATION

That Council:

- 3.1 Authorises relevant Officers to enter negotiations with ANAM for a new long term lease of the South Melbourne Town Hall.
- 3.2 Allows a maximum of six months for such negotiations, the outcome of which is to be reported publicly to Council.
- 3.3 Instructs that any potential agreement arising from the negotiations is to address the Principal Items of Negotiation identified in Attachment 1 of this report.
- 3.4 Notes that in carrying out this complex negotiation Council will incur costs – for instance, for cost consultancy advice/documentation, legal advice/drafting, and temporarily backfilling existing project commitments – and authorises expenditure of up to \$70,000.
- 3.5 Notes that should a potential agreement for a new long term lease be reached, pursuant to section 115 of the *Local Government Act 2020 (Victoria)*, Council is to undertake a community engagement process on the proposal in accordance with its Community Engagement Policy.

### 4. KEY POINTS/ISSUES

#### The property

- 4.1 The South Melbourne Town Hall is a freehold property owned by Council.
- 4.2 It comprises a building complex spread over an entire city block.
- 4.3 Its prominent location and extraordinary architecture provide it strong presence and visual appeal. It makes a very significant contribution quality of the local built environment, and the identity of the local area.
- 4.4 It was built near the end of the 19<sup>th</sup> century, to accommodate the bureaucratic, ceremonial and administrative functions of the municipal government, together with multiple other uses, including a post office, fire brigade, court house, Mechanics Institute, and staff residences.
- 4.5 The usefulness of building complex for its original functions has diminished over time.
- 4.6 The South Melbourne Town Hall has not been the principal seat of local government for a generation, since the local government reforms of the 1990's led the amalgamation of South Melbourne Council with the Cities of Port Melbourne and St Kilda to form the Port Phillip City Council.
- 4.7 Due to a ceiling failure in 2018, and structural integrity uncertainty identified in 2020, the building was vacated and remains unoccupied whilst remedial work is designed and undertaken.
- 4.8 Earlier this year Councillors budget to design and undertake major repair and partial renewal of the building. The general scope of that work is to: address all structural elements of high or medium concern (e.g. re-anchoring trusses; laterally restraining walls); bring electrical services to compliance; renewal and extension of fire services; bring the lighting to basic compliance; replace the centralised chiller system; and miscellaneous safety/security items. The works are to mitigate the risk of structural failure and boost its state of repair. They will bring the building to a basic, tenatable



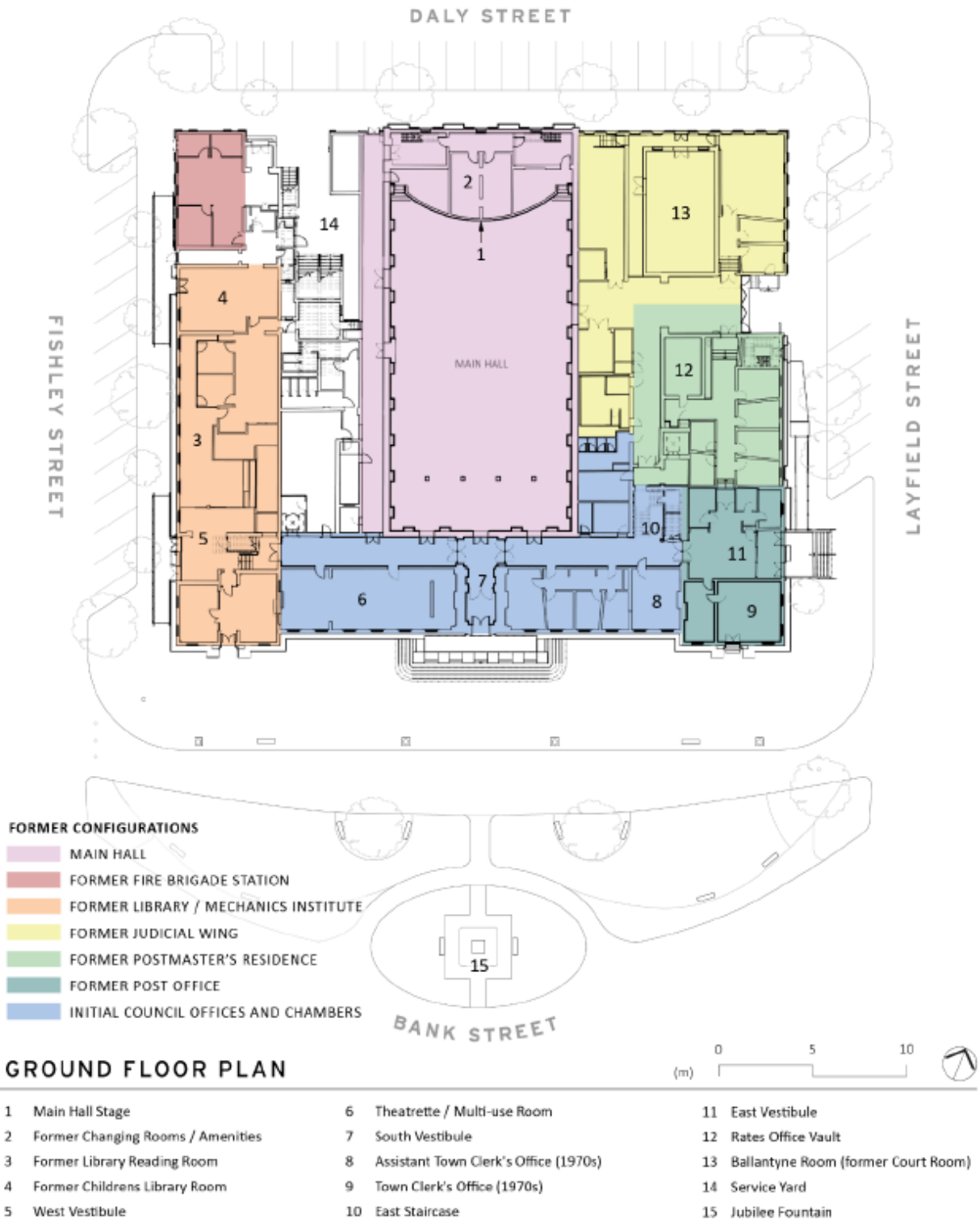
condition, but not to a contemporary standard of compliance, comfort or function, nor help communicate the significance of the building to a new generation of users.

- 4.9 Despite structural integrity issues and being well due for a major cycle of repair and renewal, the building is in fair condition overall.
- 4.10 There are several features of the building complex that make it particularly attractive for users – including its location, strong architectural appeal, and reasonable public transport access. On the other hand however, users are let down by poor lighting (especially the lack of natural light), poor views, lack of on site carparking, and an outdated layout.
- 4.11 Relatedly, it is financially obsolete – costing more to keep than it makes (or could be expected to make if leased commercially).
- 4.12 Although its role as a centre of social and civic life for the local community has dwindled, there remains generally strong social attachment to the South Melbourne Town Hall – as evidenced for instance by the responses to the *Have Your Say* survey carried out in November and December 2019. A vocal subsection of the community advocates the continued use of the building for civic use.

# MEETING OF THE PORT PHILLIP CITY COUNCIL 15 SEPTEMBER 2021

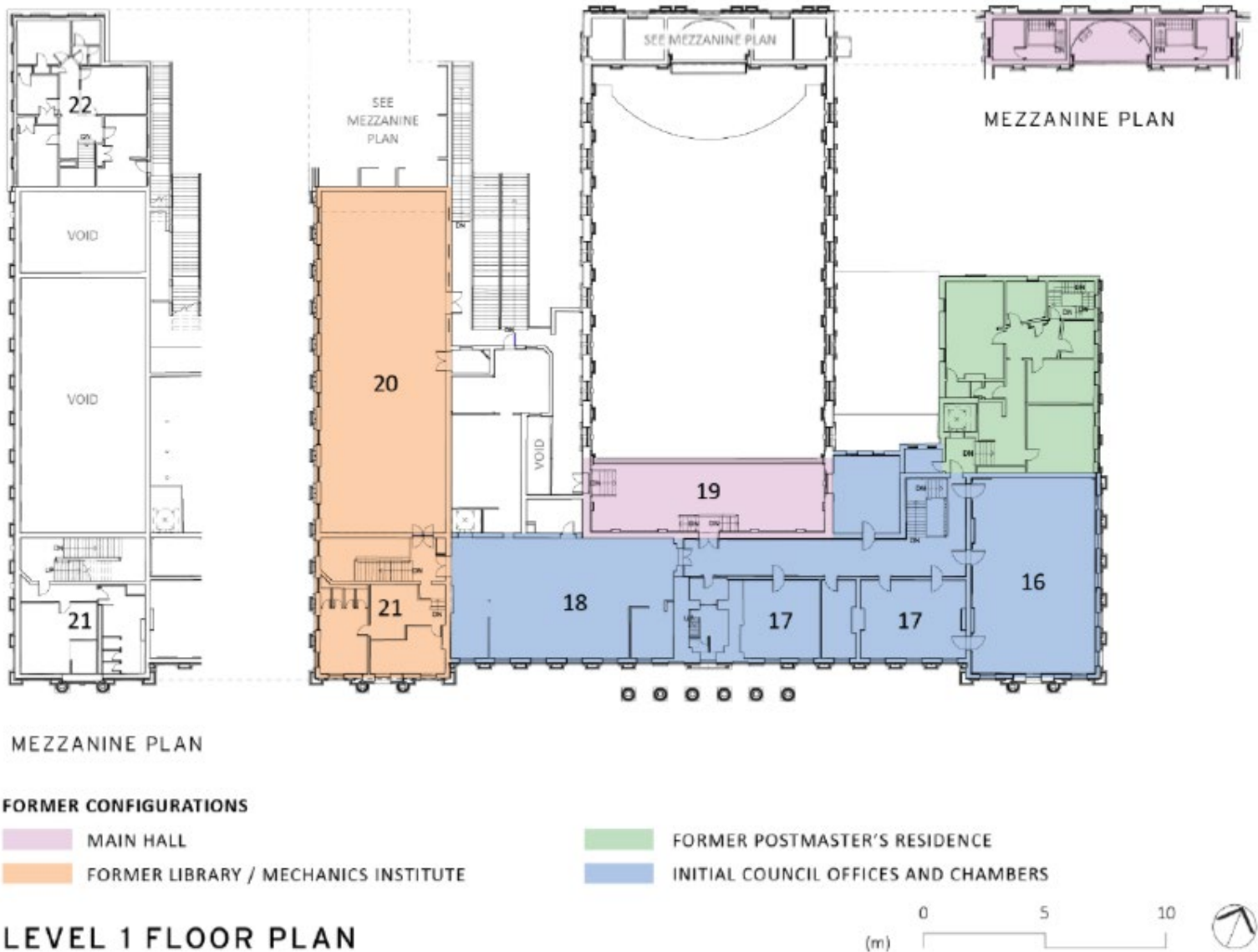


*Image: current ground floor plan overlaid with the (approximate) locations of the original functions.  
Source: South Melbourne Town Hall Conservation Management Plan (Lovell Chen, 2021).*



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*Image: current first floor and mezzanine plan overlaid with the (approximate) locations of the original functions. Source: South Melbourne Town Hall Conservation Management Plan (Lovell Chen, 2021)*



- |                               |   |   |
|-------------------------------|---|---|
| 16 Council Chamber            | 19 Main Hall Balcony                            | 22 Former Assistant Librarian's Residence |
| 17 Mayor and Mayoress's Suite | 20 Lodge Room                                   |   |
| 18 Supper Room                | 21 West Vestibule Stair and Mezzanine Amenities |   |



## **ANAM**

4.13 ANAM is one of the eight national elite performing arts training organisations funded by the Australian government to support Australia's creative economy. It was established in 1994 under the Federal government's Creative Nations cultural initiative.

4.14 ANAM's vision:

*ANAM inspires to be the place in which exceptional young classical musicians may fulfil their potential as music leaders, distinguished by their skill, imagination and courage, and by their determined contribution to a vibrant Australian music culture.*

4.15 ANAM objectives, as prescribed in its Constitution, are to:

*be a national institution, celebrated for the achievements of our musicians and alumni, and regarded as one of the world's premiere classical music performance preparation institutions;*

*maintain a focus on training through performance, enabling musicians to discover and strengthen their musical voice;*

*be distinguished by the expertise of our artists, the quality and intensity of our programs and our innovative public performances;*

*continue to nourish the precious relationship between performer and listener, audience and community; and*

*secure the vibrancy of Australia's music culture by drawing in the finest musicians, and sending out into the world polished artists with musical expertise, wisdom and determination*

4.16 ANAM became the major tenant of the Town Hall twenty four years ago. Its current lease expires in March 2032.

4.17 Under its lease ANAM occupies about 58% of the Town Hall, (though it doesn't have exclusive use of the Main Hall for the whole year).

4.18 ANAM is temporarily located at Abbotsford Convent, whilst structural integrity works are undertaken to the South Melbourne Town Hall.

## **The ANAM proposal of 2019**

4.19 In May 2019 Council received an unsolicited proposal from ANAM for a long term lease of the Town Hall.

4.20 ANAM had been a major tenant of the Town Hall for twenty four years. It sought secure a new, modified, long term agreement under which it would provide substantially greater consideration.

## **Considering the proposal**

4.21 City of Port Phillip assessed the offer and alternative options and on 18 March 2020 authorised Officers to negotiate with ANAM a long term lease of the Town Hall.

4.22 The resolution allowed one year for negotiation, after which the outcome is to be publicly reported.



### **The negotiation**

- 4.23 The structured negotiation commenced on 24 April 2020 and concluded on 23 April 2021.
- 4.24 It was undertaken on the basis that any agreement is subject to the Intention to Lease community consultation process under the *Local Government Act*.
- 4.25 There were two significant disruptions to the negotiation, being: (a) the pandemic; and (b) ANAM's temporary relocation from the building, at the request of City of Port Phillip, due to structural integrity uncertainty.
- 4.26 Nevertheless, the negotiation was productive in terms of addressing the Principal Items of Negotiation set out by Council (**Attachment 1**).
- 4.27 However, it did not result in a negotiated outcome that can be put to Council and the community.
- 4.28 In the latter stage of the negotiation, recognising that it was not likely to achieve the funding required from State government that its proposal partly relied on, ANAM pragmatically put forward a substitute proposal.

### **The fresh proposal**

- 4.29 At a Councillor Briefing of 7 July 2021 ANAM attended to clarify its proposal.
- 4.30 The proposal is outlined in **Attachment 2**.
- 4.31 Compared to the earlier proposal, key changes include:
- a lease duration of 35 years rather than 50 years;
  - (at least) \$15M rather than \$37M upfront capital investment in the building; and
  - the landlord rather than the tenant is to be responsible for the building, though with a (maximum) total contribution of \$350k annually from the tenant for outgoings, maintenance and renewal.

### **Options**

- 4.32 Council may:
- reject the fresh ANAM proposal, and fall back to the existing lease; or
  - negotiate the fresh proposal.
- 4.33 It is premature to seek expressions of interest to lease the property, as ANAM's existing lease doesn't expire for over a decade.
- 4.34 An alternative is to seek expressions of interest to purchase the property, subject to ANAM's existing lease. However, this is not considered realistic, as it is likely to challenge community acceptability. Through the *Have Your Say* community survey carried out in late 2019, it is evident that a sub-section of the community remains committed to the historic concept of the Town Hall complex as a civic place.

### **Some considerations regarding the fresh proposal**

- 4.35 This proposal, like the original, assumes that ANAM lease the whole floorspace of the building complex.



- 4.36 Under the proposal the name of the building complex – South Melbourne Town Hall – does not change, and City of Port Phillip could continue to use the relevant spaces for Citizenship ceremonies and Council Meetings.
- 4.37 The quantum of annual payment proposed by ANAM is broadly similar what it is required to pay under the current lease, once adjusted for the larger floorspace.
- 4.38 However, the overall financial benefit to City of Port Phillip is improved with the upfront investment of \$15M.
- 4.39 It would need to be clarified through negotiation however, how much of the \$15M would benefit the asset and/or contribute to increased visitation, and how much was tenant fitout.
- 4.40 The proposal precludes a City of Port Phillip ASSIST customer service counter. Parallel with negotiations, Officers will consider where in the local area to trial an alternative ASSIST physical presence.
- 4.41 ANAM remains a good “fit” for the town hall, being a compatible use aligning with Council strategy.
- 4.42 To achieve a successful outcome will require significant Officer time. City of Port Phillip has already carried out negotiations over one year, involving considerable investment of Officer time and attention.

**Proposed way forward**

- 4.43 It is considered that the fresh ANAM proposal provides an acceptable starting point for negotiation, subject to the following adjustments:-

ANAM proposed	More adequate
35 year term	A term of say, 15 years, extendable to up to 35 years if targets are met within the initial term that extend the (physical, functional or economic) lifespan of the building complex.
Initial Tenant Works of \$15M	Of this, a threshold amount is to be spent on the building, as distinct from tenant fitout.
Outgoings capped at \$110,000	No capping of outgoings. Outgoings to be passed on would include: <ul style="list-style-type: none"> <li>• rates</li> <li>• building insurance</li> <li>• utilities</li> <li>• management fees</li> <li>• repairs and maintenance (excluding capital costs)</li> </ul>
Contribution to repair and maintenance capped at \$125,000.	Instead, ANAM to be responsible for maintaining (though not renewing) the building according to the Asset Management Plan.  (The Asset Management Plan is to be updated to reflect the Tenant Improvements).



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Contribution to building renewal capped at \$125,000.	Treat as the minimum rent, (pending satisfaction with the other items).
Rent reducing from \$920k to zero, to the extent that specified performance measures are met.	In principle it is appropriate that rent abates with performance. However, it need not reduce to zero, but to the amount in the row above.
Community hire discounted by at least 15%.	Consider aligning the rate to City of Port Phillip's own community rate, or having those spaces not part of the lease, but for open hire, including to ANAM.

- 4.44 If the terms of a negotiated offer do not justify a lease of the whole building, an alternative based on ANAM's existing lease area could be considered.
- 4.45 It is proposed that City of Port Phillip negotiate with ANAM on this basis, allowing a maximum negotiation period of six months.
- 4.46 Due to existing commitments, Officers will be in a position to commence the negotiation in approximately two months, once existing commitments are partially and temporarily backfilled.

## 5. CONSULTATION AND STAKEHOLDERS

- 5.1 At the Ordinary Meeting of Council of March 2020, after having considered the ANAM proposal, Council it was resolved to carry out negotiations with ANAM.
- 5.2 That resolution followed the 2019 community survey *Have Your Say: South Melbourne Town Hall Future Use*, seeking to understand what the community valued about the Town Hall, and ideas about future use.
- 5.3 It also followed the community engagement that took place to inform the *South Melbourne Place Plan 2019*, which reinforced that:-
- The significance of the buildings themselves is considered less important than the range of Council services being provided in the precinct.
  - There is a desire for the Town Hall to generate income.
  - There is a need to improve the open space around or in front of the Town Hall.
  - 2.4% of respondents visit South Melbourne to engage in art, music or cultural activities (contrast 43.8% for visiting cafes, bars, restaurants).
  - 4.2% of respondents would recommend South Melbourne as a destination to engage in art, music, or cultural activities (contrast 63.3% for recommending cafes, bars, restaurants).
  - Respondents were asked which areas of South Melbourne they have visited in the last 6 months. Clarendon Street shopping precinct and South Melbourne Market both scored 76.9% and Emerald Hill precinct scored 35.5%.
- 5.4 Should a proposal to lease be negated, that proposal would be reported to Council and undergo community consultation in accordance with the City of Port Phillip *Community Engagement Policy*.



## 6. LEGAL AND RISK IMPLICATIONS

- 6.1 If Council ultimately resolves to proceed with a new lease to ANAM, the current lease to ANAM will be surrendered, effective from the date of commencement of the new lease. Council's lawyers will prepare all surrender and new lease documentation to reflect the commercial terms and conditions agreed by both parties.
- 6.2 The key risks associated with the recommended option are largely the same as those identified in the report that preceded the previous negotiation, and include the following:-
- *Reputational*  
Negative publicity for Council in considering ANAM's proposal as occurred with previous leasing proposals for the Town Hall.
  - *Counterparty – walk away*  
Under the current ANAM lease, there is a risk of ANAM vacating the Town Hall to avoid its building renewal and maintenance obligations. Under the lease, Council would be entitled to recover the balance of rental (\$1,000 per year) until a new tenant is located and the costs of building maintenance and outgoings would revert to Council.
  - *Counterparty – ability to service financial obligations*  
Over 90% of ANAM's income is derived from government grants (>60%) and donations (>30%). There is a risk over time that there may be significant policy shifts in government (either Federal, State or both) around funding of the arts. Reductions in grant funding or donations may severely impact upon ANAM's ability to fund its financial obligations under a potential lease. There is a history of threats to ANAM's government funding. In 2008, it was announced that Federal government funding of ANAM was to be withdrawn. This decision was only reversed after a significant public campaign. Donations are generally not ongoing in nature but are often 'one-off' or project based, adding uncertainty to ANAM's future budgeting for this income.
  - *Negotiation failure*  
There is a risk that the items/terms proposed in this report may not be acceptable to ANAM. This may lead to them exiting their current lease, in which case Council would need to work with the community on the future of the space, including potentially carrying out an expression of interest to seek a new tenant or tenants.
  - *Cost certainty – "full compliance"*  
There is a building compliance and cost risk in that the extent of repair, restoration and upgrade works (by City of Port Phillip or ANAM) may trigger a range of works to bring the whole Town Hall up to current National Construction Code of Australia standards, particularly in the areas of fire safety and earthquake compliance.
  - *Cost certainty – works and renewal*  
Over the long term duration of the proposed lease, the costs to City of Port Phillip or maintenance and renewal may be higher than anticipated.



This is because of the heritage nature of the asset, its age, and because cost certainty is lower over time.

Detailed condition inspections have been conducted for Council and an Asset Management Plan including indicative costings for long term building renewal has been prepared (Napier Blakeley, 2020).

- *Cost certainty – works implementation*

ANAM is not in the business of planning and managing works programmes. A potential way to mitigate this is to bring in expertise to support this, or have it carried out by City of Port Phillip or a third party.

- *Cost certainty – escalation*

Being a long-term lease, there is a risk that building renewal costs may increase at a faster rate than anticipated at lease commencement, and faster than rental income to City of Port Phillip under the lease. This risk can be partly mitigated by provision in the lease for the tenant payments to adjust with inflation.

6.3 Unlike ANAM's previous lease proposal, this one is not contingent on ANAM securing from State government for upfront capital investment in the building.

6.4 It would breach the *Heritage Act 2017 (Victoria)* to allow it to fall into disrepair or fail to maintain it to the extent that its conservation is threatened. Having a sympathetic and viable long term use for such an asset – whether ANAM or otherwise – helps ensure that it gets the maintenance and renewal that it requires, and encourages visitation and appreciation.

## 7. FINANCIAL IMPACT

7.1 As the proposed lease is a relatively complex one, Officers anticipate costs of approximately \$35k for professional advisory - principally cost consultancy and legals.

7.2 Additionally, to create capacity to undertake the negotiations will require some partial backfilling of existing projects – a cost impact of approximately \$35k.

7.3 ANAM's financial offer includes a major contribution for the undertaking of repairs, renewal and upgrade to the building.

7.4 The freeing up of significant Council capital that would be spent by City of Port Phillip on the Town Hall can be reallocated to other projects to activate the Emerald Hill precinct or across the whole municipality.

## 8. ECONOMIC IMPACT

8.1 Although difficult to quantify, there will be positive economic effects on local businesses of having students, teachers, admin staff etc of ANAM in this location.

8.2 Significant capital renewal of the Town Hall will likely result in the local jobs during construction phases. Construction works are likely to span an 18 month period. During this period, local businesses will benefit from the patronage of the construction workforce.

8.3 ANAM's presence in the local area is likely to be positive in term of encouraging synergistic enterprises to cluster there.



## 9. ENVIRONMENTAL IMPACT

- 9.1 The Principal Items of Negotiation include the item “Environmental sustainability incorporated into the initial upgrades, the long term asset management plan, and operations”.
- 9.2 ANAM is in principle supportive of incorporating environmental sustainability into the lease, into the asset management plan, and into its operations.
- 9.3 Officers have sought advice regarding the key opportunities for environmental sustainability for the Town Hall that could be incorporated into the proposed upfront investment or later capital works. The initiatives identified (Cundall, 2000) include:-
- Rooftop rainwater harvesting from the Town Hall, feeding underground tanks in the forecourt with beneficial re-use of water in toilets within the Town Hall and forecourt landscaping.
  - Consider the potential to reticulate re-use water to toilets in the Emerald Hill Library and Heritage Centre and the 222-228 Bank Street buildings.
  - Upgrade drainage systems for increasing peak rainfall events and flood mitigation.
  - Upgrade all plumbing fixtures to minimum WELS star ratings.
  - Heat rejection HVAC systems to be waterless.
  - Waste facilities to support recycling of all possible waste streams.
  - Food and beverage initiatives to include reduction/elimination of single use plastics.
  - Recycling of demolition and construction material wherever possible.
  - Draught-proofing of windows and doors, solar control films/blinds for selected windows.
  - All-electric systems throughout.
  - HVAC and lighting to meet Green Star benchmarks.
  - Integrated building control systems (motion activated sensors for HVAC and lighting).
  - Use of low VOC/formaldehyde material.
  - Install electric vehicle charging infrastructure.

## 10. COMMUNITY IMPACT

- 10.1 The proposal provides for civic functions (namely Council meetings and Citizenship ceremonies) to continue to be conducted in the South Melbourne Town Hall.
- 10.2 ANAM’s proposal provides for spaces to be made available for community hire. The level/mechanism of discount would need to be established through negotiation.
- 10.3 Empirical evidence gathered by Arts Victoria and the Australia Council for the Arts supports the view that the arts can make a vital contribution to the wellbeing of the community. Council’s commitment to the ongoing successful activation of the Emerald Hill precinct will contribute to the wellbeing of the local community.



10.4 Council residents will enjoy the benefits of free/discounted tickets to ANAM performances. Conversely, if ANAM was to relocate away from the Town Hall, residents would lose these benefits.

**11. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY**

11.1 The recommendation of this report aligns with and advances Council Plan strategic direction “Liveable Port Phillip” and the Emerald Hill Master Plan.

**12. IMPLEMENTATION STRATEGY**

**12.1 TIMELINE**

12.1.1 Should Council accept the recommendation, Officers will prepare a negotiation framework to guide the negotiation.

12.1.2 Officers will be in a position to commence negotiation from approximately November 2021.

12.1.3 Up to six months of negotiations are allowed.

**12.2 COMMUNICATION**

12.2.1 Council is committed to the performance of its property portfolio, including its overall community benefit and public value.

12.2.2 Council has put forward key matters which must be addressed in a prospective new lease, for negotiation and public reporting.

12.2.3 Council will formally seek and consider public feedback prior to entering into such a lease.

**13. OFFICER DIRECT OR INDIRECT INTEREST**

13.1 No officers involved in the preparation of this report have any material or general interest in the matter.

**ATTACHMENTS**

- 1. Principal Items of Negotiation**
- 2. ANAM's substitute proposal of 2021**