

MEETING OF THE PORT PHILLIP CITY COUNCIL 7 SEPTEMBER 2022



10.2 SOUTH MELBOURNE TOWN HALL - LEASE NEGOTIATION WITH ANAM - UPDATE

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

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(DEVELOPMENT & TRANSACTIONS)

1. PURPOSE

- 1.1 To provide an update on the negotiation with Australian National Academy of Music ("ANAM") for their potential new lease of the South Melbourne Town Hall, and to recommend further time for negotiation.



2. EXECUTIVE SUMMARY

- 2.1 In response to the Council resolution of 15 September 2021, Officers have negotiated with ANAM regarding a potential new lease of the South Melbourne Town Hall.
- 2.2 Officers propose to extend the negotiations by up to 6 months – to 6 March 2023 - to allow time to resolve some items of a potential lease for which provisional agreement has not been reached.
- 2.3 The results of that negotiation would be reported to Council.
- 2.4 Where a provisional agreement to be reached, and Council be willing to consider it, Officers would seek a resolution of Council to commence public consultation on the potential lease.

3. RECOMMENDATION

That Council:

- 3.1 Authorises relevant Officers to continue negotiations with ANAM for a new long-term lease of the South Melbourne Town Hall, the outcome of which is to be reported publicly to Council.
- 3.2 Allows a maximum negotiation period of up to 6 months – to 6 March 2023.



- 3.3 Authorises the CEO (or their delegate) to adjust the maximum negotiation period, should that be necessary due to major disruption – for instance due to pandemic.
- 3.4 Instructs that any potential agreement arising from the negotiations is to address the Principal Items of Negotiation identified in Attachment 1 of this report.
- 3.5 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

Background

- 4.1 ANAM leases part of the South Melbourne Town Hall, under a lease that expires on 31 March 2032.
- 4.2 The building is currently closed, to allow repair and renewal work to be planned and undertaken.
- 4.3 ANAM has proposed a lease that would substantially expand the floor area they occupy and their tenure, together with substantial capital investment in the building.
- 4.4 Having considered the ANAM proposal, Council resolved on 18 March 2020 to undertake negotiations, with the outcome to be reported to an Ordinary Meeting of Council.
- 4.5 Officers subsequently reported that – though negotiations had been productive - ANAM had needed to reshape their proposal to reflect a substantially different funding profile.

Negotiation

- 4.6 On 15 September 2021 Council resolved to undertake up to six months of negotiations with ANAM on their reshaped proposal to lease the South Melbourne Town Hall.
- 4.7 The current round of negotiations with ANAM commenced, as planned, in November 2021.
- 4.8 In the negotiations Officers were guided by the Principal Items of Negotiation (**Attachment 1**) and the starting point for negotiation recommended in the 15 September 2021 report to Council.
- 4.9 As Councillors were briefed on 22 June 2022, provisional agreement has been achieved on some items – for instance: minimum initial spend on the building, performance security, visitation targets, community hire discount.
- 4.10 However, there are several key items which are yet to be resolved and some of the items agreed in provisionally are subject to resolution of these items. Officers therefore have no negotiated proposal to present to Councillors and the community now.
- 4.11 That said, negotiations to date have been constructive and productive. We are also in a better position to negotiate some items now that design works for the reinstatement of the South Melbourne Town Hall are further progressed.



Potential further negotiation

4.12 To provide opportunity to attempt to resolve the remaining items, Officers propose to continue negotiations with ANAM. However, it is proposed that this negotiation be limited to 6 months – that is, up to 6 March 2023.

5. CONSULTATION AND STAKEHOLDERS

5.1 At the Ordinary Meeting of Council of March 2020, after having considered the ANAM proposal, Council 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 (compared with 43.8% 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 On 15 September 2021 Officers reported the outcomes of the negotiation to an Ordinary Meeting of Council, and Council resolved to undertake negotiations for a further 6 months.

5.5 Should a proposal to lease ultimately be negotiated, 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 It would breach the *Heritage Act 2017 (Victoria)* to allow the South Melbourne Town Hall 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.

6.2 If Council ultimately resolves to proceed with a new lease to ANAM, the current lease to ANAM will be surrendered.

6.3 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 of 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.



- 6.4 Unlike ANAM's original lease proposal, this one is not contingent on it securing upfront funding contributions from State government.

7. FINANCIAL IMPACT

- 7.1 Further negotiation with ANAM will incur professional advisory costs - principally building cost consultancy and legals. It will also expend Officer time.

8. ENVIRONMENTAL IMPACT

- 8.1 The Principal Items of Negotiation include the item "Environmental sustainability incorporated into the initial upgrades, the long term asset management plan, and operations".
- 8.2 ANAM is in principle supportive of incorporating environmental sustainability into the lease, into the asset management plan, and into its operations.

9. COMMUNITY IMPACT

- 9.1 The proposal provides for civic functions (namely Council meetings and Citizenship ceremonies) to continue to be conducted in the South Melbourne Town Hall.
- 9.2 ANAM's proposal provides for spaces to be made available for community hire, at a discount rate broadly aligning with City of Port Phillip's own community rate.
- 9.3 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. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 10.1 The recommendations of this report advance Council Plan strategic direction "Liveable Port Phillip" and the Emerald Hill Master Plan.

11. IMPLEMENTATION STRATEGY

11.1 TIMELINE

- 11.1.1 Should Council adopt the recommendation of this report, Officers would immediately re-activate negotiations with ANAM.

11.2 COMMUNICATION

- 11.2.1 Council is committed to the performance of its property portfolio, including its overall community benefit and public value.
- 11.2.2 Council has put forward key matters which must be addressed in a prospective new lease, for negotiation and public reporting.
- 11.2.3 Council will formally seek and consider public feedback prior to entering into such a lease.

12. OFFICER DIRECT OR INDIRECT INTEREST

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

ATTACHMENTS 1. Principal Items of Negotiation 