



13.7 SOUTH MELBOURNE TOWN HALL - LEASE NEGOTIATIONS WITH ANAM - OUTCOME

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1. PURPOSE

- 1.1 To report the outcome of negotiations with the Australian National Academy of Music (“ANAM”) for a new, long term lease of the South Melbourne Town Hall, and to recommend community consultation on the potential lease.



2. EXECUTIVE SUMMARY

- 2.1 Negotiations between City of Port Phillip and ANAM have resulted in a potential long term lease of the South Melbourne Town Hall, subject to ANAM delivering a major capital investment of \$20.5M in the building.
- 2.2 The required investment is in the form of restoration and upgrade works, and would immediately follow City of Port Phillip’s own planned works, intended to return the building to a basic, tenable condition.
- 2.3 The duration of the proposed lease is 35 years, with provision to increase to 50 years if ANAM delivers a second major capital investment consisting of further works to the value of \$19.5M within the first 20 years of the lease.
- 2.4 Under the proposal, ANAM is also obliged to pay rent, outgoings, and undertake all maintenance.
- 2.5 The proposed lease is designed to support substantially increased visitation of the building, and continuation of specific civic functions – specifically citizenship ceremonies and Council meetings.



- 2.6 It provides requirements and incentives to support ANAM's stewardship of the asset including to deliver on a broad range of wider benefits including sustainability outcomes.
- 2.7 Prior to deciding whether to enter into the proposed new lease with ANAM, Officers recommend that Council seek and consider public input on the proposal to enter into the lease. The consultation plan is outlined in section 5 of this report.

3. RECOMMENDATION

That Council:

- 3.1 Notes the outcome of the negotiations with the Australian National Academy of Music ("ANAM") for a potential new lease of the South Melbourne Town Hall.
- 3.2 Propose to enter into a lease of the South Melbourne Town Hall with ANAM on the following terms:
 - 3.2.1 a lease term of up to 35 years, if the lessee undertakes up-front capital investment in the building complex of \$20.5M;
 - 3.2.2 a further 15 year option, if the lessee undertakes further capital investment in the building complex of \$19.5M;
 - 3.2.3 a commencing rental of \$550,000 per annum, partly abated if performance targets are met;
 - 3.2.4 the lessee will be responsible for condition based and routine maintenance for the term of the lease;
 - 3.2.5 the lessee will be responsible for rates, taxes and insurance premiums;
 - 3.2.6 the lessee shall provide Port Phillip City Council access for Council meetings and citizenship ceremonies; and
 - 3.2.7 such other terms and conditions as may be required by the Chief Executive Officer or delegate.
- 3.3 Pursuant to section 115(4) of the *Local Government Act 2020 (Victoria)*, commences community engagement on the proposed lease in accordance with Council's Community Engagement Policy.
- 3.4 Authorises Officers to undertake the administrative procedures necessary to enable Council to carry out its functions under section 115 of the Act in relation to the Lease proposed, including the giving of Public Notice on Council's website outlining the principal terms of the proposal.
- 3.5 Following the consideration of any submissions, receives a further report at a future Council meeting.

4. KEY POINTS/ISSUES

Background

- 4.1 In May 2019 ANAM made an unsolicited proposal to Council to lease the entire Town Hall, where it had been an occupant for twenty four years.
- 4.2 At its Ordinary Meeting of 18 March 2020, after considering the options, and feedback from its online survey, Council resolved to proceed with negotiations with ANAM for a new long term lease of the South Melbourne Town Hall.



- 4.3 Two rounds of negotiation were undertaken, the second required due to ANAM needing to reshape its proposal. The outcomes of the negotiation rounds were publicly reported.
- 4.4 On 7 September 2022 Council authorised Officers to continue negotiations with ANAM for a period of six-months for a new long-term lease of the South Melbourne Town Hall.

Negotiation status

- 4.5 Negotiations have reached the point where – subject to Council approval – community consultation can be undertaken on a potential lease.

The potential arrangement

- 4.6 At a high level, the negotiated terms operate as follows:-

Under an Agreement for Lease

- City of Port Phillip completes its planned works to bring the Town Hall to a basic, tenable condition.
- ANAM then completes restoration and upgrade works to the building (of \$20.5M), (in addition to its tenant specific fit out).
- The works are to be undertaken by the milestone dates.
- Once the works are complete, the parties enter into the Lease.

Under the proposed Lease

- ANAM is permitted to use the premises for: artistic, creative and cultural training and performance; gatherings, events and functions; office; ancillary uses, including food and beverage sales; short stay lodging strictly in connection with trade, profession or business carried on by the lodger in respect of the balance of the permitted uses.
- ANAM pays rent, with discounts for meeting various performance targets – relating to making the building available to the community, substantially boosting visitation, maintaining the heritage integrity of the building, and ensuring that it is safe and insured.
- ANAM is to pay outgoings.
- ANAM is to carry out maintenance in accordance with the Asset Management Plan.

Addressing the Principal Items of Negotiation

- 4.7 Negotiations with ANAM have been guided by the Principal Items of Negotiation. These were developed to support performance, risk mitigation, accountability, sustainability and recognition.
- 4.8 At its Ordinary Meeting of 18 March 2020, and of 7 September 2022, Council instructed that any potential agreement is to address the Principal Items of Negotiation.
- 4.9 The table below summarises how the potential agreement negotiated reconciles with the Principal Items of Negotiation.

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Principal Items of Negotiation		Relevant negotiated lease term
Commercial / financial	<p>The 50 year term as currently proposed is not considered to be appropriate unless the financial consideration improves. If not, a total term of up to 35 years, appears to better balance ANAM's need for long term certainty and return on investment, with community palatability and preservation of long term optionality.</p>	<p>ANAM is to make an up-front capital investment of \$20.5M, as specified works to the Town Hall. A 35 year lease commences once these works are completed.</p> <p>This extends by a further 15 years if ANAM undertakes additional, specified capital investment of \$19.5M within the first 20 years of the lease.</p>
	<p>Incentives for meeting key performance indicators.</p>	<p>The annual rent of \$550,000 abates where ANAM meets the performance measures – reducing by:</p> <ul style="list-style-type: none"> • \$50k for meeting the Building Safety measure; • \$50k for meeting the Insurance measure; • \$100k for meeting the Conservation measures; • \$100k for meeting the Community Access measures. <p>A jointly appointed, independent auditor determines whether performance has been met.</p>
	<p>Security (e.g. bank guarantees) where performance risk is not otherwise mitigated.</p>	<p>A bank guarantee equivalent to two months' rent (approximately \$90,000).</p>
	<p>Sinking fund for building renewal, non-refundable on early ending of the lease.</p>	<p>A sinking fund is redundant, as ANAM's initial \$20.5M capital investment is required for the lease to commence.</p> <p>Its second potential capital investment – of \$19.5M – is not an obligation, but a condition precedent to receiving a lease extension.</p>
	<p>Maintenance and renewal according to the long term asset management plan, with reporting of same.</p>	<p>An Asset Management Plan is required to be prepared, and ANAM is required to undertake repair and maintenance according the Asset Management Plan.</p>
	<p>A strict limit to Council contributions.</p>	<p>Council's contribution to the building is limited to capital expenditure, including end of life replacement.</p> <p>ANAM is responsible for condition based and routine maintenance. For its own fit out, it is responsible for capital expenditure, and repairs and maintenance.</p> <p>ANAM is also responsible for outgoings, including rates, taxes and insurance premiums.</p>
Environmental	<p>Environmental sustainability incorporated into the initial upgrades, the long term asset management plan, with reporting of same.</p>	<p>The upfront capital investment by the tenant includes environmental sustainability upgrades, such as improved building insulation and photovoltaic solar collection.</p>

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		<p>Similarly, the potential second capital investment by the tenant includes rain water recycling, double glazing (where heritage sensitivities permit) and further solar collection.</p> <p>The lease also includes “green lease” provisions, to encourage the CoPP and ANAM to work together to implement environmental initiatives.</p>
Social / community	Upgrades incorporated into the asset management plan that encourage visitors to the building, including as a public event space.	The works to be undertaken by ANAM include various improvements to the amenity and functionality of the building, including restoration of several rooms, installation of heating and air-conditioning to the Main Hall, lighting upgrades, and fitting out a catering kitchen.
	Creating conditions that encourage community access and support utilisation by community/ cultural groups.	<p>The lease requires (through the incorporated Community Engagement & Access Plan) that:</p> <ul style="list-style-type: none"> - parts of the building are available for public hire; and - ANAM Annual Membership is provided free of charge to all members of the City of Port Phillip Community. <p>A rent discount incentive reinforces compliance with the Community Engagement & Access Plan, and requires specified and measured incremental increases to annual visitor numbers.</p>
	Capped hiring fees for community and cultural groups.	A Community Discount Rate of 50% off standard hire fees.
	A meaningful plan and effort to celebrate the indigenous history of the site – in design and use.	Officers intend to commission a Cultural Heritage Interpretation Strategy for the South Melbourne Town Hall. Once complete, that could potentially – by agreement – be incorporated into the lease.
	Availability of spaces for civic functions such as citizenship ceremonies and Council meetings.	<p>Council may use the Main Hall for citizenship ceremonies and Council Chamber for Council Meetings – at no charge (except for the operating costs of making the premises available).</p> <p>It assumed that City of Port Phillip will continue to operate an ASSIST customer service counter in the building, or in the immediate neighbourhood. Accordingly, the potential lease provides for suitable space for Council to operate such a customer/community service from the building.</p>
	Formalising the use of the Town Hall by the South Melbourne Symphony Orchestra.	The incorporated Community Engagement and Access Plan requires (among other things) that ANAM provide the South Melbourne Symphony Orchestra an access licence to use the Main Auditorium for performance and rehearsal, alternative suitable spaces where the Main Auditorium is unavailable, and facilities suitable for secure storage.



	ANAM's compliance with the Community Access Plan is periodically assessed by the Independent Auditor for public information. Additionally, compliance with the Community Access Plan is a performance measure for the rent abatement mechanism.
Recognition of Council as a major supporter of ANAM – for example, with Council logos.	Signage erected on the premises and notices prepared in respect of ANAM's business at the premises, must include both a reference to City of Port Phillip and/or a logo of the City of Port Phillip in a reasonably prominent position.
How the tenant's stewardship of the historic building and its heritage fabric is appropriately overseen.	A rental discount is linked – among other things – to maintaining the heritage integrity of the building, measured by compliance with specific policies of the incorporated <i>Conservation Management Plan</i> . For instance, under Policy 4, ANAM is required to receive advice from qualified heritage practitioners before any action is proposed or undertaken that could have an impact on the heritage values of the Town Hall. A jointly appointed Independent Auditor is to verify ANAM's compliance with the "Principles to Guide Change" of the <i>Conservation Management Plan</i> .
How ongoing use of the building is to be secured for community groups and events.	ANAM is to establish a South Melbourne Town Hall Cultural Fund, and contribute to the Fund \$1 for every ticket sold over \$20. The purpose of the Fund is to support the presentation of arts and cultural activities in City of Port Phillip, including subsidising venue hire charges for use of the South Melbourne Town Hall venue.
Reporting on performance – social, environmental, economic, financial	A summary of ANAM's compliance with its maintenance requirements, conservation management requirements, and community access plan is to be summarised by the Independent Auditor for public information as part of the period audit.

5. CONSULTATION AND STAKEHOLDERS

- 5.1 The Council resolution of 7 September 2022 noted that should a potential agreement for a new long term lease be reached, Council is to undertake a community engagement process on the proposal in accordance with its *Community Engagement Policy*.
- 5.2 Should Council adopt the recommendation, Officers will seek community feedback concerning the potential lease.
- 5.3 The objective of the engagement is to present the community with the principal terms of the proposed lease, the reasons for the proposed lease, and to receive written submission from any person concerning that lease.



- 5.4 The fundamental question of the engagement is: “Are there any reasons why a lease should or should not proceed?”.
- 5.5 The engagement activities Officers propose to undertake are:
- publishing a notice on Council’s website for at least four weeks;
 - publishing a notice in *The Age* newspaper;
 - writing to adjoining owners and residents, attaching a copy of the notice, to support awareness of the proposed lease and highlight the opportunity to make comment; and
 - carrying out an online *Have Your Say* survey, to enable members of the community to register comments concerning the proposed lease for Council’s consideration prior to a decision.
- 5.6 Any written submissions received by the closing date will be considered in a further report which will be presented to Council to enable the consideration of such submissions prior to making a final decision to lease.

6. LEGAL AND RISK IMPLICATIONS

- 6.1 Under Section 115(1) of the *Local Government Act 2020*, Council’s power to lease its land is limited to leases for a term of 50 years or less.
- 6.2 ANAM’s current lease of the South Melbourne Town Hall is due to expire in 2032. If Council ultimately resolves to proceed with a new lease to ANAM, the current lease to ANAM will be surrendered.
- 6.3 The Officer reports of 18 March 2020 and 7 September 2022 outlined the various risks of the entering into negotiations with ANAM and a potential lease.
- 6.4 One key risk identified is the ability of ANAM to service its financial commitments under a lease. This would include for instance, the \$20.5m upfront capital investment. ANAM advises that it has \$15m in funds for this purpose – \$12.5 from the Commonwealth Government and \$2.5 in confirmed donations. ANAM further advises that it has been in discussion with a leading Melbourne philanthropic entity and has received indication that once ANAM has satisfactorily concluded the Lease negotiation, a commitment of \$5m would very likely be forthcoming. For stage 2 funding, ANAM is developing a strategy to secure funding from the new State government, and advises that it has received a verbal commitment from a leading Melbourne philanthropist that, if the State Government commits \$12.5m, he would bring together a group of Melbourne donors to match the State’s commitment “dollar for dollar”, (though this matching would incorporate the \$5m “phase 1” funding).
- 6.5 Other key risks include:
- there is are diverse views in the community on the proposal. These have been expressed in previous public considerations of ANAM’s proposal(s)
 - cost certainty for ANAM’s capital works, due to escalation, the triggering of compliance upgrades (such as earthquake or fire safety) under the National Construction Code of Australia, or though sub-optimal implementation; and
 - the failure of ANAM to secure planning permits, thus not being able to realise the visitation targets.

7. FINANCIAL IMPACT

- 7.1 ANAM pays consideration of \$121,000 each year under its current lease, structured as \$1,000 rent, and \$120,000 towards future renewal and upgrade of the building.



Additionally, it pays all building outgoings proportional to the area of the building it occupies – equating to approximately \$100,000 each year.

- 7.2 Noting, that ANAM’s current lease area is significantly smaller than the area of the proposed lease. Once adjusted for this, the ongoing financial consideration under the current and proposed lease are broadly similar.
- 7.3 Unlike the existing lease, the proposed lease requires ANAM to make a major capital investment in the building complex. This offsets costs that City of Port Phillip would incur in renewing and upgrading.

8. ENVIRONMENTAL IMPACT

- 8.1 As noted, the potential lease includes a requirement to carry out works on the building complex to improve its environmental sustainability, and “green lease” provisions to encourage co-operation between City of Port Phillip and ANAM in delivering environmental sustainability initiatives.

9. COMMUNITY IMPACT

- 9.1 Having a sympathetic and viable long term use for the South Melbourne Town Hall – whether ANAM or otherwise – helps ensure that it gets the maintenance and renewal that it requires, and encourages visitation and appreciation.
- 9.2 As noted, the negotiated lease terms provide for civic functions (namely Council meetings and Citizenship ceremonies) to continue to be conducted in the South Melbourne Town Hall.
- 9.3 They also provide for spaces to be made available for community hire, at a discount rate broadly aligning with City of Port Phillip’s own community rate.

10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 10.1 Investment in and activation of the South Melbourne Hall supports *Council Plan* strategic direction “Liveable Port Phillip” and the Emerald Hill Master Plan.
- 10.2 Community consultation on the proposed lease supports *Council Plan* strategic direction “Well Governed Port Phillip”.

11. IMPLEMENTATION STRATEGY

11.1 TIMELINE

- 11.1.1 Subject to the recommendation being accepted, Officers intend to commence the community consultation in respect of the proposed lease in December 2022.
- 11.1.2 This would allow submission feedback to be reported to Council in approximately February 2023.

11.2 COMMUNICATION

- 11.2.1 The South Melbourne Town Hall is an outstanding community asset.
- 11.2.2 City of Port Phillip seeks community feedback on the proposal on a new long term lease of the South Melbourne Town Hall to ANAM.

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

Nil