

**ORDINARY MEETING OF COUNCIL
18 DECEMBER 2008**

ORDER OF THE DAY

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| ORDER 8 | AUSTRALIAN NATIONAL ACADEMY OF MUSIC (ANAM) AND SOUTH MELBOURNE TOWN HALL (SMTH) UPDATE |
| LOCATION/ADDRESS: | N/A |
| EXECUTIVE DIRECTOR: | GEOFF OULTON, EXECUTIVE DIRECTOR COMMUNITY DEVELOPMENT & PLANNING |
| PREPARED BY: | CAROL MAYELL, MANAGER COMMUNITY DEVELOPMENT & ENGAGEMENT |
| FILE NO.: | 86/04/08 |
| ATTACHMENTS: | NIL. |

1. PURPOSE

To update the Council as to the status of funding to the Australian National Academy of Music (ANAM) and their continued use of the eastern side of South Melbourne Town Hall (SMTH) under the current Occupancy Agreement, as per the request by the Council on 27 October 2008 for the Chief Executive Officer (CEO) to provide the incoming council with a report on implications.

The Council's Chief Executive Officer (CEO) has recently received advice from the newly appointed General Manager of ANAM that the Commonwealth government is continuing their funding of ANAM beyond 31/12/08.

To recommend that the Council recommences the process to lease part of the vacant 1st floor on the western side of SMTH to a not for profit organization for a period up to two years, as resolved by the Council on 25 August 2008.

2. RECOMMENDATION

- That the Council notes the advice received from the newly appointed General Manager of Australian National Academy of Music (ANAM) that a new Board of Directors is to be appointed in January 2009 and that their tenancy at South Melbourne Town Hall (SMTH) is to continue beyond 31/12/08.
- That the Council notes that further advice in writing is to be received from ANAM to confirm continuation of the Occupancy Agreement at SMTH.

- That the Council resolve to continue to seek from the ANAM tenancy: a commercial return; improved community access to the main hall; as well as other community benefits.
- That Council note the re-visioning process for the SMTH precinct to preserve future options, as resolved by the Council in July 2007, is to commence in 2009.
- That the Council resolve to implement the process to lease part of the vacant 1st floor on the western side of SMTH to a not for profit community organization for a period not exceeding two years, further noting that a rebated rent can be negotiated, as per the Council decision of 25 August 2008.
- That the Council offers a commercial lease for part of the 1st floor of SMTH to McKillop Family Services who require temporary office accommodation whilst their own offices in Cecil Street, South Melbourne are undergoing refurbishment over the coming two years.
- That the Council notes that the floor area required by McKillop Family Services, ie approx 300m², is independently valued at \$43,500 per annum. The lease is therefore not subject to the provisions of the Local Government Act, sections 190 & 223, which relate to the requirements for a public advertising process if the premises are valued in excess of \$50,000pa.
- That the Council delegates authority to the Property Coordinator, in consultation with the Manager Community Development & Engagement, to negotiate a rebated rent, consistent with the Council decision of 25 August 2008, if McKillop Family Services can justify their inability to pay full commercial value for the premises.

3. BACKGROUND AND CONTEXT

- The ground floor on the western side of South Melbourne Town Hall is undergoing a major refurbishment in preparation for its new life as the Community Hub designed to primarily service the South Melbourne and St Kilda Road neighbourhoods.
- The Hub will comprise a mix of council services including ASSIST, cashier, maternal & child health and housing information & support; community welfare services; community group administration spaces; and a number of multi-purpose meeting rooms.
- The development of the hub commenced in May 2008, once council officers had relocated to the new Port Phillip administration hub at St Kilda Town Hall. The Hub is expected to become operational in February 2009.
- The 1st floor on the western side of SMTH, was vacated by council staff in March 2008 who were relocated to the new administration centre at St Kilda Town Hall. The 1st floor was assessed as not required for Community Hub or Council purposes. In accordance with Council strategy the space became available for commercial lease.
- A decision was made by the Council on 25 August 2008 to lease this space to a not for profit organization for a period not exceeding 2 years, however the process was

put on hold by the Council on 27 October 2008 in response to the reported decision by the Commonwealth government to cease funding ANAM. This decision brought into doubt their future tenancy of SMTH and therefore the Council wished to ensure that future options were preserved for uses of SMTH.

- Several approaches have been made to the Council expressing interest in leasing the vacant space on the 1st floor of SMTH. Approaches have been received from: McKillop Family Services requiring urgent temporary accommodation for up to 2 years from 2009 while their existing offices in Cecil Street are refurbished. McKillop have indicated their capacity to pay a negotiated rent. Other enquiries have been received from the National Theatre who is wishing to expand, an opera school and a local ballet school. These approaches however have all been on the basis of securing permanent accommodation on a non-commercial return and were therefore outside the Council's policy parameters for this building.
- The eastern side of the SMTH, including the main hall, is currently occupied by the Australian National Academy of Music (ANAM), however their tenancy beyond 31/12/08 came into doubt with a recent Federal government announcement that funding to ANAM will cease after that time.
- ANAM was established and structured under the terms of a Memorandum of Understanding (MOU) between the Commonwealth of Australia and the State Government of Victoria dated 21 June 1995.
- The MOU set out the State governments undertaking to provide security of tenure for ANAM at SMTH. ANAM has since occupied the eastern side of SMTH under the terms of a 21 year Occupancy Agreement between the State government of Victoria, the University of Melbourne, ANAM and Port Phillip City Council signed on 5 March 1996. This agreement did not require the payment of rent other than an annual contribution to the cost of operational costs. The Occupancy Agreement is valid to March 2017.
- Under the terms of the Occupancy Agreement clause 2.2 'the Academy may at its option terminate this Occupancy Agreement by giving to Port Phillip not less than six (6) months written notice of termination if the Commonwealth Grant ceases to be current during the Term or any other Further Terms.' The newly appointed General Manager of ANAM, Mr. Nick Bailey has indicated that their tenancy will continue as per the current Occupancy Agreement and there is not an intention to exercise the option to terminate as the grant to ANAM has not ceased.
- ANAM continues to be listed by Australian Securities and Investments Commission (ASIC) as a registered company.
- A re-visioning process for the SMTH and precinct is to proceed in 2009, as resolved by the Council in July 2007 to ensure that future options for the both the public and civic spaces are preserved.

4. CONSULTATION AND STAKEHOLDERS

- In discussions with Council's Chief Executive Officer (CEO) and senior staff the General Manager of ANAM has confirmed their status and plans to remain at SMTH. The CEO has indicated to ANAM that the Council will continue to pursue improved access to the main hall and other civic spaces within SMTH and a fair commercial return for their tenancy.
- Advice is being sought from the Commonwealth government to confirm the details of their support of ANAM beyond 31/12/08.

5. DISCUSSION

5.1 OPTIONS

- This report presents information that indicates no change to the Council's current position in relation to the ANAM tenancy at SMTH. There are therefore no alternative options identified.
- Council could choose not to lease part of the vacant 1st floor on the western side, but at this stage it appears that there are no particular advantages to this course of action, ie the Council decision to put on hold the proposed leasing made on 27 October 2008 was in response to the reported decision to cease funding to ANAM. The decision to defer was made to ensure options were preserved whilst maintaining existing obligations in relation to SMTH. Given that the funding to ANAM has been re-instated to continue beyond 31/12/08 the Occupancy Agreement appears to be still valid. The proposal to lease part of the 1st floor for up to 2 years would not appear to jeopardize future options for SMTH.

5.2 POLICY IMPLICATIONS

- The recommendations are consistent with the current policies pertaining to property management, community hubs, the re-visioning process for the precinct and SMTH and the South Melbourne Central Structure Plan.

5.3 FINANCE / RESOURCE IMPLICATIONS

- There are no additional financial or other resources identified as a result of the recommendations.
- An improved financial situation and derived community benefits may be an outcome with leasing of part of the 1st floor of SMTH and negotiations with a new Board and executive of ANAM.

5.4 LEGAL & RISK IMPLICATIONS

- There appears to be no legal implications for the Council from the recommendation, which is based on current available information. The recommendation requests that the Council notes the continued status of ANAM's tenancy at SMTH.
- The recommendation to proceed with leasing part of the 1st floor of SMTH valued at \$43,500 is not subject to the provisions of the Local Government Act which applies to leases of \$50,000 or more.

5.7 SUSTAINABILITY ASSESSMENT

SOCIAL EQUITY

Social Pillar – Maintaining McKillop Family Services in the local community by providing accommodation for them for the next two years will be of benefit to local families and other service providers who are part of the local referral and support network.

ECONOMIC VIABILITY

Economic Pillar – improved financial benefits for the Council can be realised as a result of proceeding with a lease on commercial terms of part of the 1st floor space

ENVIRONMENTAL RESPONSIBILITY

Environmental Pillar - A new tenancy on the 1st floor will require environmentally responsible responses to energy use.

CULTURAL VITALITY

Cultural pillar - The recommendations maintain the cultural identity of the precinct and vitality of the area with increased use and activity.

6. IMPLEMENTATION STRATEGY

6.1 TIMELINE

- An offer to McKillop Family Services to lease part of the 1st floor of SMTH can be made mid January 2009 by the Property Coordinator, as per the conditions of the recommendation.
- The re-visioning process for the precinct and SMTH is to commence in 2009.