



**8.3** **PROPOSED LEASE - MULTICULTURAL ARTS VICTORIA**

**WARD:** **GATEWAY**

**GENERAL MANAGER:** **CHRIS CARROLL, ORGANISATIONAL PERFORMANCE**

**PREPARED BY:** **MATTHEW LANGHORN, SENIOR PROPERTY ADVISOR**

**TRIM FILE NO:** **0380/208-05**

**ATTACHMENTS:** **Nil**

**PURPOSE**

To seek Council approval to commence the statutory process for offering a new lease of part level 1, 208 Bank Street, South Melbourne.

**I. RECOMMENDATION**

That Council:

- 1.1 Resolves that the statutory procedures under the Local Government Act 1989 (the Act) be commenced for a new lease of part level 1, 208 Bank Street, South Melbourne to Multicultural Arts Victoria subject to the following terms:
- |                |  |
|----------------|--|
| Premises       | Part of the west wing on level 1 of the South Melbourne Town Hall at 208 Bank Street, South Melbourne  |
|                | Approximately 300 m <sup>2</sup> exclusive possession with access to communal amenities.<br>Prescribed access of 3 days to the main auditorium at no hire fee. |
| Permitted Use  | Office   |
| Commencement   | 1 March 2018   |
| Length of term | Three years  |
| Rent           | \$20,135 per annum + GST per annum with annual CPI increases   |
- 1.2 Notes that the proposed rent of \$20,135 represents a discount of \$59,865 (74.8%) on the market rental valuation in recognition of the Council support for the community benefits provided by the tenant.
- 1.3 Directs the public notice of the proposed lease be given under Section 223 of the Act.
- 1.4 Authorises the Chief Executive Officer or delegate to undertake the administrative procedures necessary to enable Council to carry out its functions under section 223 of the Act.
- 1.5 Resolves to hear and consider any submissions received pursuant to Section 223 of the Local Government Act 1989 at a Council to meeting to be held in early 2018.



## **2. BACKGROUND**

- 2.1 The South Melbourne Town Hall is a freehold property owned by Council.
- 2.2 It is proposed to lease the same part of the town hall to Multicultural Arts Victoria (MAV) under similar terms to a previous lease which expired in March 2017.
- 2.3 As the proposed lease is for a term of more than one year and the market rent inclusive of GST is more than \$50,000 per annum, the lease is subject to the statutory procedures under Sections 190 and 223 of the Act.

## **3. KEY INFORMATION**

- 3.1 The South Melbourne Town Hall forms part of the Emerald Hill Arts Precinct, where space is ideally activated to form a “cultural hub” allowing like-minded organisations to work in synergy.
- 3.2 MAV are a not for profit organisation providing leadership and advocacy for the advancement of multicultural arts across several disciplines locally, nationally and internationally, whilst also working with disadvantaged communities including LGBTIQ.
- 3.3 MAV provides significant leadership and advocacy for the advancement of multicultural arts locally where 20% CoPP residents speak a language other than English.
- 3.4 MAV provides professional, semi-professional and community level opportunities and pathways for artists in the City of Port Phillip whilst activating many public spaces in the municipality including Princes Pier, South Melbourne Market & Acland St.
- 3.5 In 2016, MAV’s programs reached 817,111 people across Victoria, attracted over \$1.1 million in government and private funding, earned over \$300,000 in non-grant income and engaged over 2,200 artists.
- 3.6 CoPP partners with MAV on activation programs and projects through sporadic funding arrangements. In 2016/17, these programs provided 30 events in CoPP, attracting audiences of over 15,000 people, engaging over 360 artists and over 150 other participants leveraging \$260,000 in cash and in-kind from other sources.
- 3.7 \$30,000 was contributed by CoPP for the “Crossing Worlds” program helping MAV leverage a further \$80,000 in sponsorship from external sources.
- 3.8 It is considered that as a tenant at the South Melbourne Town Hall, MAV is a cultural asset, valuable partner and national leader in cultural diversity, inclusion and participation.
- 3.9 Primary funding for MAV is time sensitive with a current external agreement with Creative Victoria in place until 2020.
- 3.10 Council does not currently provide operational funding to MAV (they had program funding in 2016/17 but not 2017/18) but received a Cultural Development Fund grant for \$6,000 to fund a “migration history project” this year.
- 3.11 The “in kind” support provided by Council by way of a subsidised lease by \$59,865 per annum, or \$179,595 over the term of the lease, signals local commitment to other



external funding organisations who contribute financial support to MAV.

- 3.12 A new Property Policy is scheduled for development in 2018. This will involve strong Councillor engagement and feedback from the community. Whilst this is being developed, leasing principles, based on the Crown Land Leasing Policy, are used to support appropriate, consistent and transparent leasing and licencing.

- 3.13 The tenant's proposal is assessed below in regard to the proposed key terms and associated key principles.

3.14 **Term of lease**

Key principles:

- The term of the lease needs to be appropriate to the tenant and use of the premises and allow for consideration of alternative uses.
- A longer term lease may be warranted to support capital investment in the premises and provide security for financing or future planning.

Assessment:

- The proposed lease is for three years which provides continued support for MAV.

3.15 **Permitted uses**

Key principle:

- Permitted uses are those uses that support the primary purpose of the facility for the provision of a service to the local community and visitors.

Assessment:

- The permitted use is as an office but the objects of MAV are particularly suited to the cultural nature of the precinct and the building.

3.16 **Rent**

Key principles:

- A market rent is desirable but Council accepts lower than market rent to help support community based organisations that provide community benefits or services on behalf of Council.
- Council will also consider the tenant's ability to pay rent and the effect rent would have on its programs and community benefit.

Assessment:

- MAV seek a new lease term at continued discounted rent. The same proportional discount as that provided in the previous lease.
- The market value of the rent has been assessed as \$80,000 per annum plus GST. MAV have proposed \$20,135 plus GST as the annual rent. The value of Council's 74.8% rental subsidy for the term of the new lease through discounted rent will be \$179,595 at \$59,865 per annum.
- A discounted rent is proposed in recognition of MAV being a not for profit organisation delivering key benefits to the community. It is proposed that the



discount continues on a similar level as the previous lease while Council reviews its property policy.

**3.17 Outgoings**

Key principles:

- It is desirable that tenants pay running costs (outgoings) of the premises that are associated with their tenancy.

Assessment:

- As the leased area is not separately metered MAV will pay all outgoings, apportioned by the area of the building occupied, which is 4.5 %.

**3.18 Community benefit**

Key principles:

- Council leases should deliver direct and indirect benefits to the community. This can be achieved either by:

Promotion of health and wellbeing, supporting service provision, cultural or recreational opportunities, or economic benefits; or

Full market rent so that the funds can be used to support Council activities; or

A combination of the above.

Assessment:

- MAV provides a range of community benefits which will be measured as follows:
  - No. of events held within the Municipality.
  - No. of local artists supported within the Municipality.
  - No. of events that are at no cost for the community to attend.
  - No. of events engaging other local groups from the municipality.

**3.19 Environmental sustainability**

Key principles:

- Leases should contain sustainability measures including adapting to climate change and using resources more efficiently to reduce everyday environmental impacts.

Assessment:

- The tenant will be encouraged to adopt sustainable practices.

**3.20 Maintenance**

Key principles:

- Leases should clearly articulate tenant and landlord responsibilities for maintenance.

Assessment:

- MAV will pay for all routine maintenance and facility services apart from those that Council has landlord responsibilities under the Retail leases Act 2003. Communal facility services (including but not exclusive to Air Conditioning, Cleaning, Pest Control, Access Control/Security) will be apportioned to MAV by



the area of the building occupied, which is 4.5 %.

- Council will be responsible for the maintenance of the structure, plant and equipment.



## **FURTHER SUPPORTING INFORMATION**

### **4. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY**

- Direction 1 – “We embrace difference, and people belong” - Supporting programs and events that engage, honour and are inclusive of our diverse social and cultural communities.
- Direction 5 – “We thrive by harnessing creativity” - Promoting and celebrating community creativity and participation in arts, music, culture, heritage and festivals.
- Direction 6 – “Our commitment to you” – sustainable asset management

### **5. CONSULTATION AND STAKEHOLDERS**

- 4.1 The property is currently tenanted and it is proposed to be leased to the incumbent tenant.
- 4.2 Council officers have provisionally negotiated terms for the proposed lease with MAV.
- 4.3 MAV are aware that the proposal is subject to statutory process and Council resolution.
- 4.4 If Council resolves to commence the statutory procedures, MAV will be notified of the public notice inviting submissions.

### **6. LEGAL AND RISK IMPLICATIONS**

- 6.1 The leasing process is subject to the provisions of the following legislation:
  - Local Government Act 1989 Section 190 and 223 - which requires publication of a Notice of Intention to lease inviting submissions from interested persons and the consideration of any submissions received.
  - Retail Leases Act 2003 Section 21 - the tenant will waive its right to a minimum 5 year aggregate term.
- 6.2 The incumbent tenant has been notified of the requirements for a Public Notice process and will be provided with the opportunity to make a submission and be heard under Section 223 of the Local Government Act 1989.

### **7. SUSTAINABILITY – Triple Bottom Line**

#### **7.1 ENVIRONMENTAL IMPLICATIONS**

- 7.1.1 The tenant will be required to comply with sustainability requirements pertaining to operations such as reducing waste, reducing carbon and limiting use of non bio-degradable materials with an annual reporting condition.

#### **7.2 SOCIAL & CULTURAL IMPLICATIONS**

- 7.2.1 It is considered that as a tenant at the South Melbourne Town Hall, MAV is a cultural asset, valuable partner and national leader in cultural diversity, inclusion and participation.



**7.3 ECONOMIC IMPLICATIONS**

7.3.1 Council are providing “in kind” rental subsidy in support to a valuable community organisation.

**7.4 FINANCIAL IMPLICATIONS**

7.4.1 Discounted rental support is quantified at \$59,865 per annum.

7.4.2 Outgoings and building operating costs are to be actively recovered from the tenant at approximately \$4,000 per annum.

7.4.3 The tenant is responsible for all costs pertaining to their activities.

**8. IMPLEMENTATION STRATEGY**

**8.1 TIMELINE**

8.1.1 If Council resolves to commence proceedings a Public Notice will invite submissions from interested persons within 28 days of the publication date. The notice will be published in local newspapers as soon as practical (proposed to be January/February 2018).

8.1.2 Any submissions received may be heard and will be considered at a Council meeting early in 2018.

8.1.3 The tenant and any interested person will be given the opportunity to make a submission and to be heard in person and have their views considered.

8.1.4 Any person making a submission will be informed of Council’s decision and the reason for the decision.

**8.2 COMMUNICATION**

8.2.1 The proposal to lease the property at level 1, 208 Bank Street, South Melbourne will help to activate part of the Emerald Hill Arts Precinct.

8.2.2 A discounted rent is proposed in recognition of MAV being a not for profit organisation delivering key benefits to the community.

8.2.3 It MAV is a cultural asset, valuable partner and national leader in cultural diversity, inclusion and participation.

**9. OFFICER DIRECT OR INDIRECT INTEREST**

9.1 No officers involved in the preparation of this report have any direct or indirect interest in the matter.