

Exemption from Tender - Music Licence for City of Sydney

File No: X132266.005

Summary

To play music in a business setting, the City is required to comply with legal obligations under the Copyright Act 1968 (Cth). Australasian Performing Right Association Ltd trading as OneMusic Australia (OneMusic) is Australia's only organisation that issues 'blanket' public performance music licences for the purpose of playing in public the vast majority of the world's repertoire of music.

The City renews its annual licence under the OneMusic Council Scheme (which was implemented in 2019), which provides the City with a blanket licence to use music throughout the workplace, community facilities and events within a specified criteria.

This report recommends that Council grant an exemption from tender for ongoing music licencing through the OneMusic Council Scheme, for a period of up to 5 years until 30 June 2031 to ensure ongoing compliance with Australian copyright laws and maintain the continuity of Council operations.

Recommendation

It is resolved that:

- (A) Council approve an exemption from tender in accordance with section 55(3)(i) of the Local Government Act 1993 for the provision of music licencing through the OneMusic Council Scheme, for a period of up to 5 years until 30 June 2031;
- (B) Council note that a satisfactory result would not be achieved by inviting tenders for this work because only one supplier can provide the City with 'blanket' public performance music licences for the purpose of playing in public the vast majority of the world's repertoire of music;
- (C) Council enter into the OneMusic Council Scheme licence with Australasian Performing Right Association Ltd trading as OneMusic Australia annually, for a period of up to 5 years until 30 June 2031; and
- (D) authority be delegated to the Chief Executive Officer to negotiate, execute, administer and vary arrangements relating to the music licence, as required.

Attachments

Nil.

Background

1. The City is required to obtain appropriate permission to use copyrighted music in the delivery of its services and activities under the *Copyright Act 1968 (Cth)*. To meet this obligation, the Council has historically sought licence licences from Australasian Performing Right Association Ltd trading as OneMusic Australia (OneMusic). OneMusic is a joint music licensing initiative between the Australasian Performing Right Association (APRA), the Australasian Mechanical Copyright Owners Society (AMCOS) and the Phonographic Performance Company of Australia (PPCA).
2. OneMusic is Australia's only organisation that issues 'blanket' public performance music licences for the purpose of playing in public the vast majority of the world's repertoire of music.
3. In 2019, OneMusic introduced its OneMusic Council Scheme which provides users with a 'blanket' licence to enable the lawful use of music across a range of Council-led activities and facilities that form part of Council's normal operations and community service delivery.
4. The licence scheme covers the use of music protected by copyright across Council and its facilities for a range of uses, some of which include music and performances at the City's free public events; music played at City libraries, childcare centres, community venues, and fitness/recreation centres; and on hold or background music. Historically, the renewal of the annual licence has been managed within the City's internal procurement policies and procedures, however due to the cumulative expenditure, an exemption from tender is sought to enable continued expenditure and renewal of the licence.
5. Approval is sought under this exemption for a period of up to 5 years, however the licence will be renewed annually under the OneMusic Council Scheme. The City will conduct market research prior to the licence renewal each year, to determine whether new licencing options have become available.
6. The annual licence fee is calculated under a matrix used by OneMusic and is based on the City of Sydney population data published by the Australian Bureau of Statistics and adjusted annually in accordance with CPI. The maximum fee for the licence over the maximum 5-year period is set out below.

Financial Implications

7. Sufficient funds for the licence renewal have been allocated in the draft 2026/27 City Life budget and future year forward estimates.
8. The licence fee for the upcoming 5-year period is estimated to be \$219,319.29 (ex GST) / \$241,251.22 (incl GST). This estimate has been calculated in accordance with the Australian Bureau of Statistics (ABS) forecasted population figures and the City's long term CPI forecasts representing an approximate annual increase of 4.7%.

9. To provide flexibility within this approval, a 20% contingency is required to accommodate variations to population data and CPI.
10. A summary of the total approval sought under this exemption from tender is below:

	Amount (ex GST)	Amount (incl GST)
Estimated Fee	\$219,319.29	\$241,251.22
Contingency (20%)	\$43,863.86	\$48,250.25
Total	\$263,183.15	\$289,501.47

Risks

11. The City is required to obtain appropriate permission to use copyrighted music in the delivery of its services and activities under the *Copyright Act 1968 (Cth)*.
12. This approach is within the City's risk appetite, which states:
 - (a) Our risk philosophy is centred around achieving a balance between innovation, community and user satisfaction and risk management, ensuring that we meet our strategic objectives while maintaining a robust control environment.
 - (b) We are committed to conducting our activities in full compliance with applicable laws, regulations and relevant industry standards.

Relevant Legislation

13. The exemption from tender process has been conducted in accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2021.

Critical Dates / Time Frames

14. To ensure continuity of the licence, the licence must be renewed prior to 30 June 2026.

Options

15. Alternate options include using royalty-free music or negotiating licences directly with individual rights holders. These options are not recommended, as they significantly limit the range of music that can be played and negotiating individual licences across the scope of music used is not practical given the scale and diversity of the City's music usage.

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