

**13.1 URGENT BUSINESS: Proposal to Install Public Artwork**

<b>Ward:</b>	-	<b>Date:</b>	25 August 2015
<b>Precinct:</b>	-	<b>File Ref:</b>	
<b>Attachments:</b>	<u>1</u> – Letter from VenuesWest <u>2</u> – Presentation from DT38 Foundation		
<b>Tabled Items:</b>	-		
<b>Reporting Officer:</b>	L Kosova, Chief Executive Officer		
<b>Responsible Officer:</b>	L Kosova, Chief Executive Officer		

**OFFICER RECOMMENDATION:**

**That Council:**

1. **SUPPORTS** the request submitted by VenuesWest on behalf of the DT38 Foundation to install a public artwork (Statue) at Loton Park, adjacent to nib Stadium (Perth Oval), in accordance with Option 1 as detailed in Attachment 1 subject to VenuesWest:
  - 1.1 submitting details, certified by a suitably qualified Structural Engineer, of the proposed artwork structure and footing design, taking into account the existing soil condition;
  - 1.2 entering into a deed of agreement with the City confirming that VenuesWest and/or the DT38 Foundation will have the ongoing care, management and maintenance, including repair of any damages, of the artwork, in accordance with the artist's maintenance schedule and will provide public liability insurance to a value of twenty (20) million dollars against any claim for public liability arising from the public art. The agreement shall be prepared by the City's solicitors to the satisfaction of the City and all costs associated with the documentation and registration are to be borne by the applicant;
  - 1.3 submitting a copy of the maintenance schedule for the Artwork Installation to the City, at the completion of the commission, outlining the testing and maintenance program to maintain the Work throughout its intended lifespan;

**to the satisfaction of the Chief Executive Officer; and**
2. **AUTHORISES** the Chief Executive Officer to negotiate the necessary arrangements referred to in 1 above and **AUTHORISES** the Mayor and Chief Executive Officer to execute the required agreement with VenuesWest and/or the DT38 Foundation to give effect to the installation of the artwork.

**PURPOSE OF REPORT:**

To consider the installation of a community-initiated statue on City land, adjacent to nib Stadium.

**BACKGROUND:**

On 14 August 2015 VenuesWest wrote to the City, on behalf of the DT38 Foundation, seeking urgent approval for the installation of a commemorative statue in a location outside nib Stadium (see **Attachment 1**). The request to install a statue at this location has been proposed by the DT38 Foundation (a registered charity focussed on raising awareness, prevention and treatment of testicular cancer).

**DETAILS:**

If approved by Council, the statue is proposed to be unveiled by the Socceroo's Captain, Mile Jedinak at the upcoming Socceroo's World Cup qualifying game at nib Stadium on 3 September 2015.

DT38 Foundation has commissioned Robert Charles Hitchcock, a leading portrait sculptor to produce the statue. The sculpture would stand 2.1 metres, is cast in silicon bronze, with the base to be made of reinforced concrete. The sculpture is proposed to be at ground level to enable public access and interaction.

There are two options that have been presented for the location of the statue:

Option 1 - to the rear of the east stand facing out across Loton Park; and

Option 2 - in front of the central palm tree outside gate 1 facing back towards Bulwer Street.

Both locations would appear to be outside the VenuesWest leased area and on land owned in freehold by the City. VenuesWest identified that Option 1 offers more advantages and is the preferred location.

VenuesWest has advised that the DT38 Foundation will be responsible for the installation and ongoing maintenance of the statue, with the VenuesWest engineer approving the installation methodology. In addition, VenuesWest has confirmed it is not receiving any financial benefit from this statue and has agreed to ensure the City is indemnified from any claim for damages, liability, loss and the like arising from the Statue's installation and that the Statue is maintained at no expense to the City.

**CONSULTATION:**

Nil.

**LEGAL/POLICY:**

The provision of public art is addressed under the City's Art Policy (No. 3.10.7). Public artworks are defined as, "*artistic works or activities created for, and which can be seen by, the public in a public space or facility*". Public spaces or facilities are sites which are deemed available and accessible to the public.

In respect to this proposal, the following policy provisions are relevant:

**15. COMMUNITY INITIATED PUBLIC ART**

*The community may recommend and financially support particular public art projects, however they are subject the same policy objectives and project management procedures as with all public art commissioned in the City.*

**16. PROJECT MANAGEMENT OF PUBLIC ART**

*A project brief is to be developed for each public art commission. The following steps would be undertaken as part of the brief development and project implementation;*

- *The brief will include submission requirements such as contact details, business and tax status, design concept, curriculum vitae outlining the previous public or private art experience and works, illustrative media of previous work, references and appropriate insurance.*
- *The artist will be required to address the requirements of the brief, including the theme of the project, materials to be used, project budget and timeline.*
- *The planned maintenance of any commissioned artwork is to be stipulated as part of the submission by the artist.*
- *A recommendation is to be made to Council to determine a suitable location within the City as well as to appoint the artist as recommended by the Arts Officer.*
- *The budget allocation is to be recommended as appropriate to the public artwork and specified location.*
- *Community consultation is to be undertaken to ensure that the specified location is amenable with stakeholders in the local vicinity.*

The Policy requirements have generally been met, with the exception of community consultation, which is typically required to be undertaken to ensure that the specified location is amenable to stakeholders in the local vicinity. Due to time constraints and the nature of the request (with a high profile sports-related public unveiling), community consultation has not been possible; however the preferred location is within a park, immediately adjacent to nib Stadium and will not be highly visible to any nearby residents or other stakeholders. Further, the proposed statue will raise awareness of a charitable cause and will honour a young man who died of testicular cancer and spent time as a player at Perth Soccer Club in the City of Vincent, before going on to play for English Premier League team West Ham United and the Australian Socceroos. For these reasons it is considered that the policy requirement for community consultation can be waived.

**RISK MANAGEMENT IMPLICATIONS:**

The City will need to be indemnified against all works associated with installation of the statue. Also, there is a risk that if the Foundation is unable to maintain the statue, the City would be liable, therefore, it will be appropriate to enter into a formal agreement with VenuesWest and/or the DT38 Foundation for any ongoing repairs and maintenance and indemnify the City from Liability.

Ideally, this maintenance and indemnity agreement would be treated as a short-term measure to protect the City's interests prior to and immediately following the statue's installation. However, in the longer term (subject to Council's separate approval) it would be simpler and more secure to incorporate the land on which the statue is proposed to be installed, into the leased area to the State Government for nib Stadium. This would avoid the need for multiple separate agreements dealing with different issues and would ensure (in the longer-term) that responsibility to maintain the statue and indemnify the City falls to the Lessee of the Stadium. The Lessee could then separately decide whether, when or how to apportion some or all of that responsibility to another party (such as the DT38 Foundation) – providing of course that the City's interests are always protected. Such arrangement is already possible under the current Lease, subject to the City's agreement, but the lease area would need to be marginally extended to include the location of the proposed statue.

**STRATEGIC IMPLICATIONS:**

Nil.

**SUSTAINABILITY IMPLICATIONS:**

Nil.

**FINANCIAL/BUDGET IMPLICATIONS:**

Nil.

**COMMENTS:**

In the event Council supports the request, it is considered the Option 1 location, in Loton Park adjacent to nib Stadium Gate 4 is the most appropriate.

Given the unique nature of the request, it is appropriate for Council to consider the issue of precedence. The provision of statues in the public domain in recognition of an individual is relatively restricted and there are no examples in the City of Vincent. However, in this instance, the intent of the statue and other initiatives of the DT38 Foundation are aligned to the Foundation's charter:

***“Our vision is to change the way Testicular Cancer is diagnosed.***

*The foundation's mission is to provide support and awareness through education and opportunity.*

***The foundation aims to achieve this mission by***

*Engaging and **SUPPORTING** chosen charities that deliver services linked to DT38's overall vision.*

*Drive the **AWARENESS** campaign for the prevention of testicular cancer.*

*Focusing on youth **EDUCATION** through various teaching programmes aligned to national curriculum.*

*Providing **OPPORTUNITIES** linked to fun and accessible activities and to support the grass root journey of young footballers.”*

The request is supported particularly as VenuesWest and the Foundation will be taking responsibility for all installation and maintenance. As the statue is to be situated just outside the VenuesWest lease area it is recommended that the CEO be authorised to investigate and determine how best to formalise the necessary arrangements.