


15. LONDON STREET SCULPTURE – DEED OF GIFT

General Manager responsible:	General Manager City Environment, DDI 941-8608
Officer responsible:	Transport & Greenspace Manager
Author:	Ann Campbell, Consultation Leader Maria Adamski, Parks Contract Manager

PURPOSE OF REPORT

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1. The purpose of this report is for the Board to consider, and make a recommendation to the Council on whether to accept the offer of a proposed new artwork for London Street as a gift to the Council for the benefit of the people of Lyttelton and Christchurch on the understanding that the only cost to Council will be approximately \$500 per annum for maintenance.

EXECUTIVE SUMMARY

2. In April 2009, Council received a request from Project Lyttelton, to use a small garden plot of land next to the Lyttelton Library on London Street, (LOT 1 DP36194) for a proposed commissioned sculptural piece of art.
3. The proposal is a site specific sculpture called 'Ghost Building' and is a reinstatement of a section of an 1860s building, 'Railway Hotel', demolished in the 1970s to make way for a new Post Office on the site. The Post Office business has since relocated and the building currently houses the Lyttelton Library (refer **attachment 1**).
4. The sculpture, 1.5 metres long and 7 metres high, will be cast in concrete and raised as a tilt slab construction. The concrete tilt slab will be installed and occupy the same street frontage as the original section of the original building on London Street. It is also anticipated that the artwork will be lit.
5. The sculpture is to be gifted to the Christchurch City Council for the benefit of the public at large, and this gift will be in line with the Artworks in Public Places Gift Policy. Due to the value of the artwork, Council Policy states that *"A public artwork requiring installation in an outdoor site or special security arrangements proposed for acquisition by means of unconditional gift or bequest and valued over \$10,000 shall be approved by the council upon the recommendation, based on a report from the Public Artworks Team, to the relevant Standing Committee/s."* The relevant Standing Committee at the time the policy was adopted was the Arts, Culture & Heritage Committee. Please note at the time of writing this report funding for the project is still unconfirmed.
6. The Banks Peninsula Art in Public Places Policy states *"Responsibility for overseeing the implementation of this policy will belong to the Community Boards through the 'Art in Public Places Working Party', which will meet as necessary."* *"The Art in Public Places Working Party will evaluate and decide on proposals received from either, external sources or, initiated by Council staff and elected representatives."*
7. The Public Artworks Team and the Arts Culture & Heritage Standing Committee (CCC policy), and the Art in Public Places Working Party (BPDC policy) no longer exist. Therefore Council staff members Maria Adamski (Parks Contract Manager, Transport and Greenspace Unit) and Marlene Le Cren (Arts Advisor, Art Gallery Unit) have considered this proposal and advise that artistically, and from a future maintenance perspective, the sculpture would be consistent with other artworks throughout the city.
8. The artwork has also been checked against the Guidelines for Evaluation of Proposals in the Banks Peninsula Art in Public Places Policy and meets a majority of the criteria. Where it does not, these will be covered under any conditions of approval for the artwork.

FINANCIAL IMPLICATIONS

9. The budget for the artwork, including installation and consents, is \$70,000. These costs will be fully covered by Project Lyttelton, however, at the time of writing this report funding for the project is still unconfirmed. Council staff have also received a funding application from Project Lyttelton for this project which will be subject to a future report coming to the Community Board.
10. There are no costs to Council initially; however there will be ongoing maintenance costs, approximately \$500 per year for cleaning which will be incorporated into the Fountain, Clocks and Statues operational budget.

Do the Recommendations of this Report Align with 2009-19 LTCCP budgets?

11. Yes, provision for maintenance is included under Gardens and Heritage Parks on Page 128 of the 2009-19 LTCCP.

LEGAL CONSIDERATIONS

12. The land in question is owned by the Christchurch City Council and is classified as Fee Simple, LOT 1 DP36194, and managed by the Libraries and Information Unit. They are aware of the plans for the sculpture on the London Street site and have no objections to the placement.
13. A resource consent and a building consent are required for this project. These will be obtained and all costs covered by Project Lyttelton.
14. Lyttelton Township is now registered as an historic area (New Zealand Historic Places Trust). The Accidental Discovery Protocol will be in place during installation and any other issues will be addressed in the consent application.
15. If Council accept this artwork, Christchurch City Council Legal Services will draw up a Deed of Acknowledgement of Gift.
16. Previous legal advice has indicated that when a Banks Peninsula District Council policy still exists and there is also a Christchurch City Council policy that covers the same matter, then both policies should be read and applied together.
17. The policies being applied in this matter are:

Artworks in Public Places Gift Policy (Christchurch City Council)
Art in Public Places Policy (Banks Peninsula District Council)

Neither policy is being completely applied, so in essence the Council will be acting inconsistently with the policies. Section 80(1) of the Local Government Act 2002 states:

"If a decision of a local authority is significantly inconsistent with, or is anticipated to have consequences that will be significantly inconsistent with, any policy adopted by the local authority or any plan required by this Act or any other enactment, the local authority must, when making the decision, clearly identify—

- (a) *the inconsistency; and*
- (b) *the reasons for the inconsistency; and*
- (c) *any intention of the local authority to amend the policy or plan to accommodate the decision.*

18. In this instance it is not considered that the decision is "significantly" inconsistent as the inconsistency relates to the proposal not being considered by committees and working parties which no longer exist under the current Council structure. The proposal has however been considered by Council staff with the appropriate expertise, and is also being considered by the Community Board.

Have you considered the legal implications of the issue under consideration?

19. Yes, as above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

20. Community support - Strengthening Communities Activity Management Plan

Identify essential projects that support, develop and promote the capacity and sustainability of community recreation, sports, arts, heritage and environment groups with relevant government agencies, community and voluntary organisations.

21. Parks, Open Spaces and Waterways Garden and Heritage Parks Activity Management Plan

Preserve and conserve heritage items and outdoor art work. Provision of these assets enhance Christchurch's Garden City image and protects the heritage items vested with the council in public spaces, and provides open space art works acquired through gifting and Development Contributions.

22. LTCCP 2009-19: Parks, Opens Spaces and Waterways – Page 117

- (a) Community – By providing spaces for communities to gather and interact*
- (b) Environment – By enabling people to contribute to projects that improve our environment*
- (c) Recreation – By offering a range of recreational opportunities in parks, open spaces and waterways*
- (d) Knowledge – By providing opportunities to learn through social interaction and recreation*

23. LTCCP 2009-19: Cultural and Learning Services – Page 161

- (a) Recreation – By providing and supporting a range of arts, festivals and events*
- (b) Knowledge – By providing artworks, exhibitions and other resources.*

Do the recommendations of this report support a level of service or project in the 2009-19 LTCCP?

24. Yes - as per above.

ALIGNMENT WITH STRATEGIES

25. Arts Policy & Strategy - Operational Procedures (Artworks in Public Places Gift Policy, Appendix 8)
Art in Public Places Policy (CCC and former BPDC)

Do the recommendations align with the Council's strategies?

26. The recommendations align with the above policies, but are not totally consistent with those policies, as outlined under Clauses 17 and 18 above.

CONSULTATION FULFILMENT

27. The initiative for this project came from the community and the Council's role has been an advisory one. Process followed by Project Lyttelton has been in line with Council Art in Public Places procedures, but Council has not had an input into budget, brief development or selection of artwork.
28. Project Lyttelton has met with a number of Council staff since 2007, and have gained advice as to how to proceed with the project. In the earlier stages it was hoped to incorporate this project with the London Street upgrade, however this did not eventuate.
29. In June 2008, a member of Project Lyttelton presented their proposal to the Community Board for their information. At that time the project was being proposed by the Lyttelton Harbour Basin Community Arts Council.
30. In July 2009, Project Lyttelton arranged for the commission of an artwork for the site following discussions with Council staff around the original process. Following this process Mark Whyte was selected as the artist.

STAFF RECOMMENDATION

It is recommended that the Lyttelton/Mt Herbert Community Board confirm its view on the offer of a new artwork for London Street as a gift to the Council for the benefit of the people of Lyttelton and Christchurch, and recommend that the Council accept the artwork, subject to the following conditions:

- (a) Confirmation of funding for the total cost of the project being produced by Project Lyttelton, including written confirmation of funding promises, both from “in kind” sponsors and also any promises of cash, prior to construction and installation.
- (b) That the project meet all Council Art in Public Places requirements and this documentation be forwarded to the Parks Contract Manager prior to any work being undertaken.
- (c) That Council has a representative involved in the installation process.
- (d) That Project Lyttelton obtain the necessary resource consents and building consents at its cost, before commencing installation of the artwork.