



Item No: 16.2
 File No: 17.94.1.1
 Date: 16 April 2018
 Attachment: Nil

Meeting: Council

Title: Charlotte Balfour Watercolour

Responsible Manager: Chief Executive Officer, Kiki Magro

Author: Chief Executive Officer, Kiki Magro / Manager Marketing & Communications, Sonia De Nicola

Key Focus Area 1: Vibrant local culture, inspired by diversity and inclusivity

Type of Report: **Decision Required**

Pursuant to Section 83(5) of the *Local Government Act 1999*, the Chief Executive Officer indicates that the matter contained in this report may, if the Council so determines, be considered in confidence pursuant to Section 90(2) of the *Local Government Act 1999* on the basis that the information contained in the attached report is information of the nature specified in subsections 90(3)(a) of the Act being:

information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead)

Recommendation (Public)

Pursuant to s90(3)(a)

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except Chief Executive Officer Kiki Magro, Manager Marketing & Communications Sonia DeNicola, Group Manager Corporate Services Katy Bone, Manager Community & Development Fiona Deckert, Property & Contracts Officer Kate Arthur and the Acting Council Secretariat Jo Biskup be excluded from attendance at the meeting for Agenda Item 'Charlotte Balfour Watercolour'.

The Council is satisfied that, pursuant to section 90(3)(a) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the disclosure of information contained in this report will be prematurely disclosed before the details have been considered and discussed with the person of interest.

Recommendation

That the Charlotte Balfour 'Walkerville Civic Centre Courtyard' Watercolour is returned to the Wilson family and the Asset Register be updated accordingly.

Recommendation (Public)

Pursuant to s.91(7)

That having considered Agenda Item 'Charlotte Balfour Watercolour' in confidence under section 90(2) and (3)(a) of the *Local Government Act 1999*, the Council, pursuant to section 91(7) of that Act orders that the report relevant to this Agenda Item be retained in confidence for a period of 12 months excepting that Council authorises the release of the minutes to enable enactment of the resolution and that pursuant to Section 91(9)(c) of the *Local Government Act 1999* the Council delegates to the Chief Executive Officer the review and power to revoke this Order

and

That Council resolves to end its confidential deliberations pursuant to Section 90(2) of the *Local Government Act 1999* Council and re-admit the public.

Summary

On the 9 August 2017, Administration received an email from Dr John Wilson requesting the return of a painting the family had donated to the Library in memory of Yvette Wilson. His daughter (Caroline Pearson-Wright) had previously contacted Councillor Graham Webster to pursue this matter.

Council considered Dr John Wilson's request at its meeting held on 21 August 2017. Subsequent to that meeting, Administration was advised by Caroline Pearson-Wright that the family decided not to proceed with the matter, given in part by Council decision. It should be noted that the report presented to Council on 21 August 2017 was not considered in confidence. This report is presented in confidence given the sensitive information surrounding the health of Dr Wilson.

On Thursday 5th April 2018, Dr Wilson emailed Administration requesting the immediate return of this artwork and objecting to any costs relating to the return of the artwork. Administration contacted his daughter Caroline Pearson-Wright, given the previous advice received. Administration was informed that she did not know that her father had made contact with Council on 5 April 2018 and she stated that her father is now in care and while mentally sound, is expected to have months to live.

Background

As per Council's Collection Policy: "*All decisions regarding deaccessioning of items from the Town of Walkerville Civic Collection should be referred to Council for final approval.*"

The most significant change since August 2017 are the change of circumstances of Dr Wilson's declining health.

In 2014, Council endorsed a Collections Policy (**CNC28/14-15**) to guide Council on the management and administration of Council's cultural assets, including donated artworks. The Policy was developed alongside an Assets Register, which details the provenance, condition and value of every item in the collection.

This is the first time a donor has requested the return of an item since the policy was adopted. The artwork has been in storage since 2013. Council also has a second artwork by the same artist in its Collection. That second artwork was purchased by the Friends of the Walkerville Library and is currently on display in the library.

As part of a broader discussion around the future management of its Collection, Administration is investigating the possibility of producing merchandise, such as calendars, library bags or posters featuring reproductions of items from the Collection. A proposal is being prepared for the Women of Walkerville Foundation for the Committee to consider this type of merchandise as a fundraising initiative. Hence, the potential loss of this item from the Collection serves as a catalyst to obtain permission rights from the artist for both artworks.



Title: Walkerville Civic Centre Courtyard. Watercolour 1990

Artist: Charlotte Balfour

Valued: \$250. Theodore Bruce. 2014

Civic Collection rating: High

Discussion/Issues for Consideration

Whilst the artwork is only valued at \$250, it has a unique value as an original artwork which depicts the former Council courtyard. For this reason, the artwork was given a 'High' rating in the Assets Register. The conditions around the donation do not appear to have been documented and may require further investigation. The register notes that "*Conditions of purchase need to be recorded.*"

The Wilson family donated the artwork before the Collections Policy came into fruition. It can be argued therefore that it is unfair to apply retrospectively a condition on the family that did not exist at the time the artwork was donated.

It appears that Dr Wilson has approached Council without the knowledge of his daughter and it would further appear that he was not made aware that she had written to Council advising that the family no longer wished to proceed with having the artwork returned, did not make him aware.

Options for Consideration

Option 1

The Council agree to return the Charlotte Balfour 'Walkerville Civic Centre Courtyard' watercolour to Dr Wilson and the Asset Register be updated accordingly.

Option 2

1. The original painting remains in Council's collection and Dr Wilson's request is refused, but that the family receive a quality reproduction (photograph) of the work.

2. That Council seeks to obtain permission from the artist to reproduce the image on merchandise and publications and meets any associated costs to secure this permission.

Option 3

The original painting be returned to Dr Wilson, on the following conditions:

- Dr Wilson reimburses Council for a sum which covers Council to have the artwork professionally photographed for its own archive and for future use, as well as associated administrative costs.
- Council seeks an agreement with the artist Charlotte Balfour to reproduce the images of both artworks in the Collection for future merchandise and publications

Option 4

That the original painting be released on loan to Dr Wilson and returned to Council after he is deceased.

Analysis of Options

Option 1 to 3 were originally presented to Council for consideration on 21 August 2017. Council subsequently resolved option 3, but for the fact that the family withdrew their interest.

Option 1

The artwork is of value to the family and it can be said that returning it is the “right thing to do.” The lack of clarity concerning the original donation; its relatively low valuation of \$250 and the fact that the artwork has been in storage for several years supports Option 1.

Option 1 the preferred outcome for the Wilson family and refusing their request to return an item that is currently not on public display and valued at only \$250 could possibly portray the Council in a negative light, particularly as the donation was made to honour the memory of a deceased family member.

Option 2

Should Council refuse Dr Wilson’s request, Council would continue to have in its collection an original artwork depicting the former Council courtyard. From that perspective, the artwork is a significant local historical artefact. It should be noted that Council has in good faith covered the insurance costs for this item as well as the responsibility for its display and storage since it was first donated. A quality reproduction would give the family a record of the artwork for their private use.

Option 3

The valuation from Theodore Bruce in 2014 demonstrates that in itself, this is not a ‘valuable’ painting. Council must determine whether it is worth keeping the original for its own sake, or whether its value as a visual record of the former Council courtyard would be equally served with a quality reproduction.

Option 3 also takes into consideration the family’s wishes and attachment to the work and alleviates Council’s ongoing responsibility to look after the artwork. Given that Council has safeguarded this artwork for decades and is prepared to release this historical artefact, some financial contribution from the family towards the photography of the artwork and administration costs appears reasonable.

This Option seeks to find a middle ground that satisfies the family’s request, but also gives the Council an opportunity to potentially generate income from the reproduction of this item.

Administration commenced discussions with Charlotte Balfour Rischbieth in August 2017 and in those initial discussions, the artist was prepared to provide permission to reproduce her artwork on the proviso that she be paid commission on all pieces sold. Discussions with the artist did not progress once Dr Wilson’s daughter advised Administration that the family would not be pursuing the return of the artwork.

Option 4

This option allows for the painting to be returned to Dr Wilson to enjoy in his last few months (as presented by his daughter). The risk with this option is that the daughter may not have power of attorney over her father and hence will not be able to guarantee the return of the painting, particularly if Dr Wilson will's the painting to someone other than Caroline Pearson-Wright (his daughter). It is also highly unlikely that Council would take any action to force the return of the painting.

Financial Implications

- Costs associated with ongoing storage of item if it remains in the collection.
- Potential costs with gaining permission from the artist to reproduce the artwork.
- Costs association to produce a quality reproduction (photograph) of the artwork.

Community Implications

The item is part of the Civic Collection, which is of intrinsic local historical value to current and future generations.

Regional Implication

There are no known regional implications.

Governance Implications

In bringing this report into the Chamber, Administration is complying with its Collections Policy.

Preferred Option & Reasoning

Option 1 is the preferred option given the circumstances of Dr Wilson's health and the value of the artwork. It is also of value to the family and returning it is the "right thing to do."

Attachment

Nil