



8.2	PALAIS THEATRE - COMMUNITY FUND COMMITTEE ALLOCATION & ADDITIONAL CAPITAL WORKS PROGRAM
WARD:	LAKE
GENERAL MANAGER:	CHRIS CARROLL, ORGANISATIONAL PERFORMANCE
PREPARED BY:	MATTHEW LANGHORN, SENIOR PROPERTY ADVISOR
TRIM FILE NO:	PF16/475945
ATTACHMENTS:	1. Palais Theatre Lease Implementation Activities - 13 September 2016 2. Palais Theatre Community Fund appointments - Annexure for Council Meeting 1 November 2017

PURPOSE

To seek Council's approval for the selection process of two Committee Members to be appointed on behalf of City of Port Phillip for "Palais Theatre Community Fund". Also to seek approval for additional capital works to be undertaken using savings from Stage One renovation works undertaken by DELWP.

1. RECOMMENDATION

That Council:

- 1.1 Notes the range of activities underway to implement key elements of the Palais Theatre lease.
- 1.2 Authorises Council officers to appoint the two City of Port Phillip Palais Theatre Community Fund Committee members selecting from the existing City of Port Phillip "Cultural Development Fund" Reference Committee.
- 1.3 Approves Allocation of Surplus Funds realised through project savings from Palais Theatre refurbishment partnership, between City of Port Phillip and DELWP to be used for additional urgent and highly desirable schedule of capital works.

2. BACKGROUND

- 2.1 Live Nation Australia Venues Pty Ltd ("Live Nation") leases the Palais Theatre in St Kilda.
- 2.2 The lease is governed by agreement dated 30 June 2016 between the (committee of management) City of Port Phillip as landlord, and Live Nation as tenant
- 2.3 The lease commenced on 1 April 2017. The lease term is thirty years.
- 2.4 As noted by Council on 13 September 2016, the tenant's financial commitment under the lease is approximately \$60M over thirty years. This sum comprises rental, asset



maintenance/upgrade/renewal, and other direct community benefits.

Lease implementation update

- 2.5 The lease between Council and Live Nation contains a number of items for action within 60-120 days of the start of the lease. These include establishment of:
- the Fair Competition and Confidentiality Policy - Completed
 - the Community Advisory Committee – Completed
 - the Palais Theatre Community Fund - Completed
 - the Palais Theatre Community Fund Committee – Pending appointment of CoPP selected members following Council meeting.
 - an Asset Management Plan (“AMP”) – Submitted by Live Nation, pending CoPP approval.
 - Annual Reporting (including forecasting) requirements – Due in June 2018.
- 2.6 Council approved the implementation plan for these key elements of the lease on 13 September 2016.
- 2.7 An update on each of the implementation items is provided in Attachment 1.

Palais Theatre Community Fund

- 2.8 A key community benefit defined in the lease is the Palais Theatre Community Fund (“Fund”). The purpose of the Fund is to raise money for community projects, programs, and developments.
- 2.9 Live Nation is required to contribute fifty cents per ticket sold in the Palais Theatre to the Fund, and also to undertake fund-raising from time to time for the Fund.
- 2.10 Live Nation was required to establish a committee to manage the Fund (“Fund Committee”).
- 2.11 Under the terms of the Lease City of Port Phillip are able to appoint 2 members as part of the Fund Committee.
- 2.12 Council approved the Terms of Reference for the Fund Committee at Council Meeting 21 June 2017.

Capital works Program Savings

- 2.13 City of Port Phillip (“CoPP”) and Department of Environment Land Water and Planning (“DELWP”) jointly funded a major refurbishment and upgrades to Palais Theatre.
- 2.14 CoPP & DELWP provided capital contributions at 36.84% (\$7.5m) and 63.16% (\$13.4m) respectively towards a program of work to address condition and compliance issues.
- 2.15 The program of major works funded by CoPP and DELWP commenced in 2016 with completion in April 2017. Works were both internal and external focussing on major upgrades to building infrastructure and services.



- 2.16 The project was delivered below budget with a total project savings of \$3,045,669. The savings are divided between CoPP and DELWP according to the percentage contribution. Council’s share of the savings is \$1,126,897.53.

3. KEY INFORMATION

Palais Theatre Community Fund

- 3.1 The Palais Theatre Community Fund Committee is an external committee, established and managed by Live Nation according to the Terms of Reference approved by Council.
- 3.2 The Palais Theatre Community Fund Committee comprises of:
 - Two members from Live Nation
 - Two members nominated by Council
 - Two community members appointed by Live Nation.
- 3.3 Live Nation undertook an EOI process in July 2017, successfully appointing two community members in August 2017 and fulfilling their obligation under the Lease.
- 3.4 A strong response was recorded to the Live Nation EOI process with a total of 5 applicants for the Palais Theatre Fund Committee.
- 3.5 All applicants for the committees interviewed well for and are held in high esteem following the interview process undertaken by Live Nation. Criteria for the interview process by Live Nation being:
 - Motivational Fit
 - Skills & Experience
 - Communication Skills (written & verbal)
 - Local Community History & Involvement
- 3.6 Committee members appointed by Live Nation are:

Palais Theatre Community Fund Committee (See annexure 2)
Leigh Harry
Julie Mundy

- 3.7 Note; that there are no Council appointed positions for the Palais Theatre Community Advisory Committee.
- 3.8 It is recommended that Council’s two positions for the Palais Theatre Community Fund Committee be filled from the existing CoPP “Cultural Development Fund Committee” (CDFC).
- 3.9 The CDFC consists of 4 community members plus Cr Copsey. The CDFC is a 3 year term with a half rotation ensuring 1 year of continuity.
- 3.10 An invitation was sent on 25 September 2017 to past and present members of the CoPP CDFC to express interest in joining the Palais Theatre Community Fund Committee. 4 members have expressed interest to be considered.
 - Sue Roff



- Jamie Brunton
 - Nicola Klempfner
 - Robyn Birrell
- 3.11 Selection of Council's nominees would be subject to a 2 year tenure, with a general progress review after 12 months.
- 3.12 The members officers wish to nominate are Jamie Brunton & Sue Roff (See *annexure 2*). The decision has been made in consultation with Arts/Vibrant & Creative City considering best fit and previous experience.
- 3.13 There is little to separate the applicants and those not successful in this appointment should be considered for appointment at the next 2 year tenure.
- 3.14 Reasons for selection from an existing committee includes:
- Members have been subject to a prior selection process.
 - Members are known to City of Port Phillip.
 - It is considered that members chosen will have a keen interest in meeting the objectives of the Community Fund and servicing the wider community.
 - Members have prior experience and have engaged previously in similar community activity with exposure to cultural arts.
 - To endeavour appropriate alignment between Council's existing Cultural Development Fund and the Palais Theatre Community Fund, avoiding any overlap between submissions for the two funds.
- 3.15 Council can monitor the effectiveness of the Palais Community Fund Committee over time. The lease requires that Live Nation report to City of Port Phillip annually on:
- The Palais Theatre Community Fund activities, application of funding and financial position.
 - The activities of the Palais Community Advisory Committee.
- 3.16 Furthermore, City of Port Phillip is entitled to review and audit the operation of the Palais Theatre Community Fund at any time during the term of the Lease.
- 3.17 In the event that the Palais Theatre Community Fund Committee does not properly administer the Fund, City of Port Phillip has power under the Lease to direct Live Nation to administer the Palais Theatre Community Fund.

Additional Capital Works Proposed

- 3.18 The State and Council funded works that are now complete enabled the highest priority issues to be resolved. However there were a number of other works that were identified as required but could not be funded at the time. A number of issues were also identified during the delivery of the capital works program by Development Victoria.
- 3.19 Now that savings have been identified from the capital works program, further work has been done to clarify the additional required works, as well as other desired works.



- 3.20 The additional works are summarised below (See 3.25 for table of costings).
- Fire Suppression Systems | On commissioning the Hydrant System the water main incoming from the street has been found to have degraded and unable to provide required water supply.
 - Renewal of heritage bathroom facilities | Improving amenity and comfort by increasing number of female stalls in Ground Floor. General refurbishment to all other facilities. Present condition reflects poorly on operator in context with substantial capital investment injected.
 - Northern pavement upgrade to achieve DDA compliance | Risk of non-compliance to Disability Discrimination Act. Has been subject to Public feedback. Existing conditions do not compliment the high profile location.
 - Southern pavement upgrade | Requires line marking and surface renewal to ensure safe egress for performers. Deteriorated due to ongoing external works in Phase 1 and Phase 2.
 - Leak from mezzanine ceiling into first floor landing | The leak is significant and in a visible area. *(Note: Live Nation has undertaken this work as an urgent item being in a publically visible area where operator has installed new bespoke carpet).*
 - Stormwater drainage (west side of building) – Does not meet contemporary norms and is accelerating structural deterioration. There have been ongoing problems with water filling the tunnel system and this has proximity to this issue. The operator has Lease obligations for adopting Sustainability measures and will be unable to achieve these without the works *(note: Live Nation has undertaken this work as an urgent item as they were unable to progress with construction of the annexe to the west and disabled access lift).*
 - Façade balconettes | Restoration for community interest and to increase heritage value of site.
 - Bedford lights | Create replicas and install to improve the heritage value of the venue.
- 3.21 DELWP has shown commitment to the Palais and have previously shown support to contribute a portion of their savings to undertake the additional scope of works in partnership with CoPP. DELWP have confirmed that they will contribute \$900k of their portion of the project savings towards further works.
- 3.22 Utilising both Council and State savings for the additional works represents a great opportunity to address the additional issues and compliment what has already been achieved by Council and State Government and the work done by Live Nation as per their lease agreement.
- 3.23 It is recommended that Council approve the use of Council's savings for the additional works proposed below, with priority placed on the urgent and required items and that any remaining amount left over from these works due to State contribution (\$900k) be allocated to the Palais Theatre Sinking Fund for future renewal works.



3.24 Summary of works for consideration (ranked in order of priority):

Summary Capital works program - Highly Desirable & Urgent Works				
Item	Cost	Requirement	Issue	Status
1. Replacement of water main servicing fire hydrant	\$42,350	Urgent	Safety	In Progress
2. Renewal & Upgrade of toilets	\$836,000	Required	Amenity	Incomplete
3. Northern pavement upgrade - DDA compliance	\$77,770	Required	Safety	Incomplete
4. Southern pavement upgrade - worn due to works	\$35,200	Required	Safety	Incomplete
5. Bedford Lights	\$165,000	Desirable	Heritage	Incomplete
6. Façade Balconettes	\$172,700	Desirable	Heritage	Incomplete
Contingencies	\$123,174			
Total Costs between CoPP & DELWP	\$1,452,194			
Cost to CoPP (36.84%)	\$534,988			
Cost to DELWP (63.16%)	\$917,205			

The tenant has already undertaken the following works from the schedule due to operational impact.

Leak to mezzanine level	\$11,748	Required	Safety	Completed
Stormwater drainage	\$146,300	Required	Sustainability	Completed
Total Costs paid by Live Nation	\$158,048			

- 3.25 Failure to accommodate urgent and required works, particularly the condition issues, could cause further damage to occur to the building and pose risk to user safety.
- 3.26 Desirable works improve user experience and preservation of the asset through further restoration of original features.
- 3.27 The nature of the works have high cost implications due to accessibility restraints and specialist contractor skill required. There is also regard for heritage sensitivities.
- 3.28 Costing provision has been made to accommodate unforeseen circumstances during works process.



FURTHER SUPPORTING INFORMATION

4. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 4.1 This report supports the delivery of the following outcome in the Council Plan 2017-2027:-
 - 4.1.1 1.1 A safe and active community with strong social connections.
 - 4.1.2 5.3 We thrive by harnessing creativity – A city where arts, culture and creative expression are part of everyday life.

5. CONSULTATION AND STAKEHOLDERS

- 5.1 Council officers within the CoPP Arts/Vibrant & Creative City department have made an approach to existing members of the “Cultural Development Fund”, inviting to contact CoPP if wishing to be considered for appointment to the Community Fund.
- 5.2 Those with interest to be part of the Community Fund Committee will have until 6 October 2017 to express their interest.
- 5.3 Council officers will make direct contact with the applicants with a view to making a selection of two committee members.
- 5.4 Council officers will advise Live Nation the outcome of additional works schedules, consulting with both DELWP and Live Nation to schedule a works program.

6. LEGAL AND RISK IMPLICATIONS

- 6.1 Officers continue to work with Live Nation to ensure its commitments under the Lease are fulfilled.
- 6.2 A delay in the appointment of Committee members from Council will be limiting the possibility of the Fund Committee meeting in 2017 and preventing compliance with the Lease terms.
- 6.3 A delay in completing condition and accessibility capital work items poses potential OHS risks to staff and patrons of Palais Theatre.

7. SUSTAINABILITY – Triple Bottom Line

7.1 ENVIRONMENTAL IMPLICATIONS

- 7.1.1 The Palais Theatre Community Fund has potential to support environmental projects, programs, and developments.
- 7.1.2 Restoration of the Bedford Lights and Façade Balconettes will increase the heritage value of the asset and further compliment aesthetic work already undertaken.

7.2 SOCIAL & CULTURAL IMPLICATIONS

- 7.2.1 The Palais Theatre Community Fund has potential to support social and cultural projects, programs, and developments.



7.2.2 Palais Theatre is a cultural icon of International significance. Any capital improvement works are made in the interest of ensuring positive user experience and preservation of the asset.

7.3 ECONOMIC IMPLICATIONS

7.3.1 The Palais Community Fund is estimated to accumulate approximately \$100,000 in ticket sales contributions in the first year alone – thus having potential to significantly stimulate local projects, programs and developments.

7.3.2 A proactive approach to asset management with Palais Theatre supports a financially sustainable operating model.

7.3.3 A quality user experience ultimately encourages repeat patronage, also benefiting the wider community of local traders within the Acland Street precinct.

7.4 FINANCIAL IMPLICATIONS

7.4.1 The Community Fund Committees are to be managed by Live Nation. City of Port Phillip's involvement is to be managed as part of the ordinary management of the Lease.

7.4.2 Funding of capital works is taken only from surplus of funding already allocated to the initial phase of the project.

7.4.3 The current interest of DELWP in the Palais theatre and existing relationship between the parties brings a timely opportunity to provide a desirable outcome to all stakeholders at no additional cost to Council.

7.4.4 If the opportunity is not taken to use surplus funds this will potentially impose a larger financial burden on Council in the future.

8. IMPLEMENTATION STRATEGY

8.1 TIMELINE

8.1.1 Officers have made contact with those who may be suited to participate as part of the Community Fund.

8.1.2 Should Council resolve to approve the selection process, this will allow the Committee to be fully formed, and the Committee will be recommended to meet as soon as practically possible following this decision. This will be expected to middle November 2017.

8.1.3 Should Council resolve to approve the funding of the capital works from the surplus monies, there will be immediate engagement with stakeholders to establish a program of works aligned with the available savings.

8.1.4 Council officers will provide a progress update when scope of work has been established with schedules for proposed works to be completed.

8.2 COMMUNICATION

8.2.1 Council is committed to the long term success of the Palais Theatre.



8.2.2 The Palais Theatre Community Fund Committee will help the Tenant fulfil obligations and assist to collaboratively deliver value to the City of Port Phillip by harnessing the wealth of skills and knowledge in the community.

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.