

NOTICE OF MEETING



EXTRAORDINARY PUBLIC ART PANEL MEETING

An Extraordinary Public Art Panel Meeting of Byron Shire Council will be held as follows:

Venue	Conference Room, Station Street, Mullumbimby
Date	Monday, 5 August 2019
Time	4pm

Vanessa Adams
Director Corporate and Community Services

I2019/1118
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CONFLICT OF INTERESTS

What is a “Conflict of Interests” - A conflict of interests can be of two types:

Pecuniary - an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated.

Non-pecuniary – a private or personal interest that a Council official has that does not amount to a pecuniary interest as defined in the Local Government Act (eg. A friendship, membership of an association, society or trade union or involvement or interest in an activity and may include an interest of a financial nature).

Remoteness – a person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to a matter or if the interest is of a kind specified in Section 448 of the Local Government Act.

Who has a Pecuniary Interest? - a person has a pecuniary interest in a matter if the pecuniary interest is the interest of the person, or another person with whom the person is associated (see below).

Relatives, Partners - a person is taken to have a pecuniary interest in a matter if:

- The person’s spouse or de facto partner or a relative of the person has a pecuniary interest in the matter, or
- The person, or a nominee, partners or employer of the person, is a member of a company or other body that has a pecuniary interest in the matter.

N.B. “Relative”, in relation to a person means any of the following:

(a) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descends or adopted child of the person or of the person’s spouse;

(b) the spouse or de facto partners of the person or of a person referred to in paragraph (a)

No Interest in the Matter - however, a person is not taken to have a pecuniary interest in a matter:

- If the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative or company or other body, or
- Just because the person is a member of, or is employed by, the Council.
- Just because the person is a member of, or a delegate of the Council to, a company or other body that has a pecuniary interest in the matter provided that the person has no beneficial interest in any shares of the company or body.

Disclosure and participation in meetings

- A Councillor or a member of a Council Committee who has a pecuniary interest in any matter with which the Council is concerned and who is present at a meeting of the Council or Committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable.
- The Councillor or member must not be present at, or in sight of, the meeting of the Council or Committee:
 - (a) at any time during which the matter is being considered or discussed by the Council or Committee, or
 - (b) at any time during which the Council or Committee is voting on any question in relation to the matter.

No Knowledge - a person does not breach this Clause if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.

Participation in Meetings Despite Pecuniary Interest (S 452 Act)

A Councillor is not prevented from taking part in the consideration or discussion of, or from voting on, any of the matters/questions detailed in Section 452 of the Local Government Act.

Non-pecuniary Interests - Must be disclosed in meetings.

There are a broad range of options available for managing conflicts & the option chosen will depend on an assessment of the circumstances of the matter, the nature of the interest and the significance of the issue being dealt with. Non-pecuniary conflicts of interests must be dealt with in at least one of the following ways:

- It may be appropriate that no action be taken where the potential for conflict is minimal. However, Councillors should consider providing an explanation of why they consider a conflict does not exist.
- Limit involvement if practical (eg. Participate in discussion but not in decision making or vice-versa). Care needs to be taken when exercising this option.
- Remove the source of the conflict (eg. Relinquishing or divesting the personal interest that creates the conflict)
- Have no involvement by absenting yourself from and not taking part in any debate or voting on the issue as if the provisions in S451 of the Local Government Act apply (particularly if you have a significant non-pecuniary interest)

RECORDING OF VOTING ON PLANNING MATTERS

Clause 375A of the Local Government Act 1993 – Recording of voting on planning matters

- (1) In this section, **planning decision** means a decision made in the exercise of a function of a council under the Environmental Planning and Assessment Act 1979:
 - (a) including a decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act, but
 - (b) not including the making of an order under Division 2A of Part 6 of that Act.
- (2) The general manager is required to keep a register containing, for each planning decision made at a meeting of the council or a council committee, the names of the councillors who supported the decision and the names of any councillors who opposed (or are taken to have opposed) the decision.
- (3) For the purpose of maintaining the register, a division is required to be called whenever a motion for a planning decision is put at a meeting of the council or a council committee.
- (4) Each decision recorded in the register is to be described in the register or identified in a manner that enables the description to be obtained from another publicly available document, and is to include the information required by the regulations.
- (5) This section extends to a meeting that is closed to the public.

BYRON SHIRE COUNCIL
EXTRAORDINARY PUBLIC ART PANEL MEETING

BUSINESS OF MEETING

- 1. APOLOGIES**
- 2. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY**
- 3. ADOPTION OF MINUTES FROM PREVIOUS MEETINGS**
 - 3.1 Public Art Panel Meeting held on 9 May 2019
 - 3.2 Extraordinary Public Art Panel Meeting held on 24 June 2019

4. STAFF REPORTS

Corporate and Community Services

- 4.1 Progress Report - Railway Park Public Art Project4

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 4.1 Progress Report - Railway Park Public Art Project

Directorate: Corporate and Community Services

5 **Report Author:** Joanne McMurtry, Community Project Officer

File No: I2019/910

10 **Summary:**

Council has commissioned a work by artist Giovanni Veronesi for the upgrade of Railway Park, Byron Bay.

15 This report:

- provides information about the two materials being considered for the artwork;
- details design, manufacture and installation processes for the artwork;
- requests the Panel provides feedback about the proposed refinement to the design;
- reviews integration with Railway Park construction program and timeframes;
- 20 • reviews location of the artwork; and
- highlights learnings from the Bayshore Drive Roundabout Project and their application to the management of this commission

RECOMMENDATION:

That the Public Art Panel:

1. **Nominates _____ as the preferred material for the artwork.**
2. **Supports / does not support the refined design of the artwork.**
3. **Supports / does not support the location of _____ for the artwork.**
4. **Notes the update on other art pieces for Railway Park, including the Arakwal pavement treatment.**

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Attachments:

- 1 Gionvanni Veronesi Public Art Program and Key Milestones Railway Park, E2019/28547 , page 9  

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REPORT

5 The artist, Giovanni Veronesi, attended the 9 May Public Art Panel meeting to answer questions and present some refinement to the design of the artwork, specifically related to the shape of each of the individual “pieces” that make up the artwork.

10 Following discussion at that meeting around the suitability of the material for the commissioned work, samples of galvanised steel and corten ‘petals’ were provided for Public Art Panel members to view and compare. Further information is provided below, as provided by UAP (contractor), about the two materials being considered.

15 The Railway Park landscape architect, Dan Plummer, will be available to answer questions, based on his discussions with UAP and the artist, at the Extra-ordinary Public Art Panel meeting on 5 August. He will also discuss the location of the artwork in the context of the broader Railway Park project.

MaterialsGalvanised Mild Steel

- 20
- *This is the material originally commissioned for this piece*
 - *Cheaper option*

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 - *Longevity would be no different to that of Corten / Bisalloy the only difference is less upkeep*
 - *Warranty is the same for both materials.*

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 - *Should be cleaned when necessary with a non-abrasive detergent and warm water. Anything of strength up to an automotive shampoo. Cleaning should take place every 12 months.*

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 - *Do not use any abrasives or solvents on galvanised surfaces. The Galvanised Mild Steel option would be easier to remove Graffiti from and could be coated with an Anti-Graffiti protective coating to assist with removal.*

Corten / Bisalloy Gr 350

- 40
- *Slightly more expensive than that of Mild Steel – price currently unknown. Quote for re-costing is \$976.*
 - *There is however a cost for finishing i.e. – watering / exposure to elements to ensure an even weathered look. Some extra cost involved in handling and installation, as material*

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 - needs to be handled with protective gloves to ensure weathering occurs at the same rate. Once fully weathered and waxed it’s fine to touch/handle.*
 - *Longevity would be no different to that of Galvanised Mild Steel, the only difference is more upkeep due to the requirement to maintain the wax coating.*

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 - *Warranty is the same for both materials.*
 - *Weathered Steel will need continued coating to inhibit rusting and prevent staining on floor surfaces. This is achieved by coating the Artwork in Ankor Wax. The rust inhibitor (Ankor Wax) will need to be applied every 3 to 6 months for the first 12 to 24 months. Further*

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treatments will be required every 2 years if the first 2 years treatments have been applied. In essence, regular application of the rust inhibitor to the sculpture will ensure surface longevity.

- 5
- *The removal of chalk graffiti should be achievable by using low pressure water jetting taking care not to disrupt the protective rust 'patina'. Such an operation is unlikely to affect the durability of the structure.*
- 10
- *The removal of spray paint will probably require higher pressures that are more likely to remove the protective rust 'patina', particularly if abrasives have to be used. Unfortunately, it is difficult to predict the degree of damage to the rust 'patina' (and hence the effect on durability) as that depends on how hard it proves to remove the paint. This in turn depends on a number of factors including the type of spray paint, the age of the graffiti, and the original condition of the rust 'patina'. However, should removal of the rust 'patina' be required to remove the graffiti, then the weathering process will have to start again.*
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Project timeframes and key milestones

20 UAP Australia Pty Ltd has provided a construction program for the artwork which was current on 9 May 2019 (see Attachment) which details key milestones, including:

- Technical design
 - Fabrication
 - Installation
 - Handover
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30 At the time, these timeframes aligned with the overall construction program for Railway Park, however with the delay in providing samples for the Public Art Panel to view, and potential further delays dependent on decisions regarding material and form of artwork, the project will now not be completed in time to be installed as part of the Railway Park works. Additional costs may arise from this delay around footing and installation costs, such as the additional hire of equipment.

Location of artwork

35 The landscape architect for Railway Park, Dan Plummer, will discuss the artwork location in the context of the broader Railway Park project.

Project background

40 A presentation was made by Plummer & Smith to the Public Art Panel Extraordinary meeting in May 2018 and a subsequent report was provided to the August Public Art Panel meeting regarding plans for Public Art in the redeveloped Railway Park. The Public Art Panel shortlisted the artists that had responded to an Expression of Interest process at its August 2018 meeting and selected the final artwork at the October 2018 meeting. Council subsequently resolved (18-769) to grant the

45 commission for the Railway Park Public Art Project to UAP Australia Pty Ltd with the artist Giovanni Veronesi.

A contract is now signed and a media release about the project was distributed early March 2019.

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Learnings from Bayshore Drive Roundabout

Learnings from the Bayshore Drive Roundabout Project are being applied to the management of the Railway Park Public Art Project, including, but not limited to:

- 5 • The principal contractor for construction of Railway Park is required to provide written agreements with all sub-contractors regarding programming, installation, accessibility, site condition etc.
- 10 • An additional presentation to the Public Art Panel on 9th May to allow the artist to talk through process.
- Creation of a Project Control Group including Council staff, Project Manager, Landscape Architect with experience in Public Art (Dan Plummer). Tracking of artwork progress and management is a standing agenda item for this meeting.
- 15 • Allocation of funding for Project Manager and Landscape Architect to visit artist's workshop during manufacture phase to ensure consistency from concept to manufacture.

STRATEGIC CONSIDERATIONS

Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community	2.1	Support and encourage our vibrant culture and creativity	2.1.3	Enhance opportunities for interaction with art in public spaces	2.1.3.1	Implement Public Art Strategy

Legal/Statutory/Policy Considerations

25 Public Art Policy – adopted August 2018.
 Public Art Strategy – adopted August 2018.
 Public Art Guidelines and Criteria – last reviewed in October 2014.

30 Reviewed by Legal Counsel:

Financial Considerations

35 The Railway Park upgrade project, including the public art components, is being funded from paid parking (drainage works) and Section 94 Developer Contributions.

40 Note that if the Public Art Panel selects corten as the material, this will add further delays to the project and attract additional artwork costs. A quote to vary the contract to redesign in corten has been received as \$976, for which a budget has not been identified. Corten has been described as *slightly more expensive*, however there will also be additional costs for finishing/handling/installing the artwork, as per material requirements. These costs would be identified through the redesign process.

45 Additionally, further information will need to be sought in relation to the cost implications of delayed installation (irrespective of material) or selection of alternative locations. There may be additional

costs for a footing (starting from approximately \$5,000) and equipment hire for the installation, (e.g. truck crane for approximately \$135 per hour, etc.).

Reviewed by Manager Finance:

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Consultation and Engagement

Railway Park project team

Byron Bay Town Centre Masterplan Guidance Group

10 UAP (the contractor) and Giovanni Veronesi (the artist)

BYRON SHIRE COUNCIL



