

# NOTICE OF MEETING



## PUBLIC ART PANEL MEETING

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

Venue	<b>Conference Room, Station Street, Mullumbimby</b>
Date	<b>Thursday, 14 November 2019</b>
Time	<b>11.30am</b>

Vanessa Adams  
Director Corporate and Community Services

*I2019/1870  
Distributed 07/11/19*

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## CONFLICT OF INTERESTS

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**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 Code of Conduct for Councillors (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 the Code of Conduct for Councillors.

**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.

**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 of the provisions in the Code of Conduct (particularly if you have a significant non-pecuniary interest)

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## RECORDING OF VOTING ON PLANNING MATTERS

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### 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 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

## 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 12 September 2019

#### **4. STAFF REPORTS**

##### **Corporate and Community Services**

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STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

**Report No. 4.1**      **Memento Aestates (ex Railway Park Public Art Project) - proposed locations, material and form**

**Directorate:**      Corporate and Community Services  
**Report Author:**      Joanne McMurtry, Community Project Officer  
**File No:**      I2019/1593

**Summary:**

Council has commissioned a work by artist Giovanni Veronesi for consideration in concept design for a number of sites in the Byron Bay town centre.

This report:

- Presents concept plans for the Byron Rail Corridor – one of the identified potential sites for the artwork; and
- Provides recommendations on location, material and form of the artwork for consideration by the PAP.

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**RECOMMENDATION:**

**That the Public Art Panel:**

1.      **Supports / does not support the location of the Byron rail corridor for the artwork**
2.      **Supports / does not support \_\_\_\_\_ as the preferred material for the artwork.**
3.      **Supports / does not support the refined design of the artwork.**

## REPORT

At the Ordinary Meeting held on 22 August 2019, Council resolved (19-384):

1. That Council removes *Memento Aestates* from the scope of works for the upgrade of Railway Park.
2. That Council enters into further negotiations with Urban Art Projects (UAP) regarding the artwork's final form and location.
3. That an alternative location within the Byron Bay town centre be found for *Memento Aestates* by including it for consideration in concept designs for:
  - a. Rail corridor project
  - b. Sandhills Estate skate park and recreation hub
  - c. Broader rail precinct projects
4. That the unspent project budget (\$40,000) be retained in the Section 94A Public Art fund for completion of the artwork once final form and location are agreed upon.

### Background

*Memento Aestates* by Giovanni Veronesi working under Urban Art Projects (UAP) Brisbane is the commissioned work resolved by Council at the 22 November 2018 meeting.

Council staff entered into negotiations with UAP and exchanged contracts on 1 March 2019. A \$40,000 deposit (50%) has been paid to UAP as per the fee structure agreed upon in the contract.

At the time of contract exchange, the delivery programs for the park upgrade and manufacture of the artwork aligned, so the piece could be installed as part of the park construction works.

As program implementation progressed, it became apparent that the Railway Park upgrade would be completed and the park re-opened prior to the artwork being ready for installation.

As park construction proceeded and other feature elements were placed, advice from Dan Plummer, landscape architect for the project, was that an additional sculpture in the park is not a good design outcome – both aesthetically (in terms of overcrowding the space), but also in terms of sight lines and enabling the Arakwal artwork to be the key artistic and cultural feature within the space.

Based on this advice and changes to the timeframe for the artwork's design and manufacture, it was recommended that *Memento Aestates* be removed from the scope of works for Railway Park.

Both the Byron Masterplan Guidance Group and the Public Art Panel supported the recommendation.

### Location of artwork

The landscape architect for Railway Park, Dan Plummer, has also developed draft landscape designs for the Railway Corridor. Dan will present Railway Corridor draft designs and discuss possible artwork locations in the context of the broader project.

***Materials and form***

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.

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, about the two materials being considered.

Based on the new location recommendation, the following is a recommendation regarding materials and form.

Material - given the material qualities already present on the site (being rail infrastructure such as train tracks, rail mechanisms, and the water tower), and the heritage nature of the space in general, the recommended material is corten. Further cost and maintenance analysis will be required to ensure the budget and ongoing maintenance requirements are feasible for Council.

Form - given the conceptual intent of the successful proposal ‘*Memento Aestates is somewhat reminiscent of a pandanus fruit, which has a strong association with Byron, and a signifier of vacation to many*’ it is preferable that this site specific component (and therefore form) of the original proposal be retained.

Landscape architect, Dan Plummer, will be available to answer questions at the Public Art Panel meeting on 14 November.

Galvanised Mild Steel

- *This is the material originally commissioned for this piece*
- *Cheaper option*
- *Longevity would be no different to that of Corten / Bisalloy the only difference is less upkeep*
- *Warranty is the same for both materials.*
- *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.*
- *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

- *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 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.*
- *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 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.*
- *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.*
- *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.*

### Next Steps

If the Public Art Panel agree on a recommendation for the location within the Railway Corridor, the following steps will be undertaken:

1. Council resolve to adopt the Public Art Panel resolution (likely 12 December Ordinary Meeting)
2. The artist and UAP notified of the decision and a request for an updated costing and timeline/ construction program based on the material, form and new location.

## STRATEGIC CONSIDERATIONS

### *Community Strategic Plan and Operational Plan*

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
<b>Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community</b>	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*

Public Art Policy – adopted August 2018.

Public Art Strategy – adopted August 2018.

Public Art Guidelines and Criteria – last reviewed in October 2014.

Reviewed by Legal Counsel: ☐

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***Financial Considerations***

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

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A final total budget of \$80,000 has been allocated for public art in Railway Park as part of the park upgrade.

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A non-refundable \$40,000 deposit has been paid to UAP. The remaining \$40,000 will be moved from the Railway Park budget and retained for completion of the artwork once final form and location are agreed upon.

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Note that if the Public Art Panel selects corten as the material, this will attract additional costs. 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.

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Any additional costs in fabricating and installing the sculpture using corten are likely to result in the final artwork being adjusted, most likely the scale being reduced, to deliver within the total \$80,000 budget available for the project.

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UAP have provided a quote for the amount of \$976 to undertake costings and design review for 2 options:

1. delivering the art work at existing scale in corten (note, this would be outside existing budget constraints); and
2. delivering the art work at a reduced scale in order to remain within budget.

Currently, no budget has been identified in order to proceed with the quote.

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Reviewed by Manager Finance: ☐

***Consultation and Engagement***

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Pending the recommendation from the Public Art Panel, the following groups and individuals will be engaged:

Railway Park project team  
Byron Bay Town Centre Masterplan Guidance Group  
UAP (the contractor) and Giovanni Veronesi (the artist)

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**Report No. 4.2**                      **Public Art Guidelines and Criteria - Final Draft**  
**Directorate:**                      Corporate and Community Services  
**Report Author:**                  Joanne McMurtry, Community Project Officer  
**File No:**                            I2019/1592

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**Summary:**

10      As part of developing a more strategic approach to managing public art in Byron Shire, the Public Art Guidelines and Criteria have been reviewed, with a first draft provided to Panel members at the 12<sup>th</sup> September 2019 Public Art Panel meeting. Feedback has been collated and incorporated into the final draft which is now presented to the Panel with a recommendation for Council to adopt.

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**RECOMMENDATION:**

**That the Public Art Panel:**

- 1.      reviews the final draft of the Public Art Guidelines;**
- 2.      provides any further feedback for incorporation into the final draft;**
- 3.      makes a recommendation to Council to adopt the final draft.**

**Attachments:**

- 20      1      DRAFT Public Art Guidelines, E2019/43148 , page 12 [↓](#)  
         2      IAP2's Public Participation Spectrum for Public Art Panel report 14 November 2019, E2019/78405 ,  
              page 35 [↓](#)

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**REPORT**

As part of developing a more strategic approach to managing public art in Byron Shire, the Public Art Guidelines and Criteria have been reviewed. The first draft revised Public Art Guidelines was provided at the 12 September Public Art Panel meeting for discussion and feedback by Panel members.

Several sources of learnings and improvement have informed the draft of the Public Art Guidelines. Feedback was collated from discussions held at the 12 September meeting and from detailed feedback provided by Panel members. This has been incorporated into the final draft.

***Key considerations*****1. Community Consultation**

The consultation spectrum can vary in depth from informing the community about what is happening (lowest) to empowering the community to decide what is happening (highest) (Attachment 2).

The Byron Model includes a matrix of 'triggers', such as value and complexity, to guide council staff on what level of community consultation is recommended for a project. If community consultation is recommended, a Community Engagement Plan is to be developed.

**2. Public Art Panel role**

The Public Art Panel Constitution states that the purpose of the Public Art Panel is:

1. Advise Council on Public Art trends and issues and manage expectations of the Byron Shire community.
2. Assist Council in meeting the objectives of the Public Art Policy.
3. Devise a Public Art Strategy, which sets out a proactive approach to public art in the Byron Shire.
4. Assess public art donation and loan proposals against the Public Art Guidelines and Criteria and provide recommendations to Council.
5. Provide advice, if required, pertaining to Public Art in private developments as per the Development Control Plan for Public Art and the Public Art Strategy.

With the addition of an Arts Coordinator in the Draft Public Art Guidelines, the roles of Panel members and paid staff have also been clarified.

**3. Review of Commissioning Contract**

Council will purchase the Arts Law Centre of Australia *Commissioning Agreement: Public Visual Artwork* to review it and ensure that it is fit for Council's purpose.

**4. Feedback from Public Art Panel members**

Panel members' feedback has been reviewed and incorporated as appropriate into the draft. The issue of local artist weighting was highlighted in the feedback and may require further discussion.

**5 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

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***Legal/Statutory/Policy Considerations***

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

***Financial Considerations***

20 Nil in relation to this report.

***Consultation and Engagement***

25 As outlined in the report.



**Byron Shire Council**

# **DRAFT Public Art Guidelines**

**October 2019**



# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

## 4.2 - ATTACHMENT 1

### INFORMATION ABOUT THIS DOCUMENT (INTERNAL USE ONLY)

Date Adopted by Council		Minute Reference	
Document Responsibility	Manager Social & Cultural Development		
Review Timeframe	As required		
Last Review Date:	November 2019	Next Scheduled Review Date	As required or November 2021

#### Document History

Doc No.	Date Amended	Details Comments
DM1226293	30/08/12	Draft Public Art Guidelines and Criteria reported to Council Res 12-728
DM1258949	30/08/12	Draft Guidelines amended following Council Res 12-728
E2012/2479		Adopted by Council 25 October 2012 Res 12-799
E2014/41714	25/6/14	Draft revisions for Public Art Assessment Panel meeting 31 July 2014
E2014/72474	31 October 2014	Revisions adopted by Council resolution 14-471
E2019/43148	October 2019	Draft Public Art Guidelines – complete revision following development of Public Art Strategy, revised Policy and lessons learned from Bayshore Drive Roundabout Public Art project. Includes feedback from Public Art Panel members. Council would like to acknowledge the reference:  Government of WA, Department of Culture and the Arts <i>Public Art Commissioning Guidelines</i> , September 2015

#### Further Document Information and Relationships

Related Legislation	
Related Policies	Public Art Policy (E2018/66341) adopted August 2018  Arts and Cultural Policy (under development)
Related Procedures/ Protocols, Statements, documents	Public Art Strategy (E2018/56731) adopted August 2018  Public Art Panel Constitution (E2017/14185)  Development Control Plan 2014 Chapter D8: Public Art

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## Table 1 – Public Art Commissioning Process

## Templates List

# Overview

## Introduction

Byron Shire Council recognises that the daily lives of residents and visitors can be enriched and enlivened through the presence of quality works of art in the Shire. Public art can add immeasurably to a community's sense of place, contribute to civic identity, address community needs, and activate public spaces.

These Guidelines provide a framework to implement the Public Art Policy and the Public Art Strategy by outlining the standards and procedures for commissioning, managing, maintenance and decommissioning of public artworks. Council aims to provide one public art commission per term of Council.

Council's Public Art Policy outlines Guiding Principles for public art and a policy statement. The Policy and the Public Art Strategy should be read in conjunction with these Guidelines.

## What Is Public Art?

Public Art can be defined in the broadest sense as 'artistic works or activities freely accessible to the public'. The work may be of a temporary or permanent nature. Located in, or part of, a public space or facility provided by both the public and private sector, public art may also include the conceptual contribution of an artist to the design of public spaces and facilities.

Public Art can contribute other dimensions to public spaces, creating 'beloved' spaces, interpreting culture, making a statement and recognising heritage all the while contributing to community wellbeing.

## Models of Acquisition and Forms

Artworks can be commissioned, donated or loaned to Council and each model of acquisition requires a different approach to the acquisition process and management. For further information on donations and loans, refer to p15.

There are several ways public art commissions can be approached, depending largely on the nature of the project and what it is trying to achieve. The most compelling public art sensitively responds to the nature of the surrounding environment and the cultural associations with its location. A number of common public art approaches include design collaborations, place-making and functional art elements.

Examples are outlined below.

Open invitation – a process that invites all artists to respond to a brief. This is the most common form of commissioning public art and includes two stages:

1. Shortlisting a select number of artists from the first round EOI and inviting them to further develop their proposal for a design fee;
2. Shortlisted artists present their concept to a selection panel who select one artist.

Curated – a curator is employed when an area of specialised expertise is needed for the selection of artists or artwork to fit a highly defined brief.

Limited Invitation – is provided to a selection of artists to either respond to a brief or to present the scope of their art practice to a panel. There is often no EOI process for this commissioning model and its most often used for smaller commissions.



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### 4.2 - ATTACHMENT 1

Direct Purchase – an artwork directly purchased from an artist within Council’s procurement process. This is relevant if an artist has a particular body of work appropriate for a specific project.

Direct Commission – this approach differs from the Direct Purchase model in that the artwork is developed specifically for the project. Artists are sometimes interviewed as part of this process.

### Forms of Public Art

Public Art can take many forms and some of the more common are described below.

Stand alone describes artworks that are three dimensional and freestanding rather than embedded into the structure of a building or built space. The work may be a singular piece, a series of related works or an installation. Works of this nature have traditionally been associated with permanent materials (such as marble or bronze) however contemporary artists have expanded public art practice to use a variety of materials including found objects and multimedia.

Integrated artwork refers to art that is integrated into a building, or built space, such as ceilings, walls, glazing, screens and floors. The work has the potential to span both the interior and exterior spaces of a built structure. Integrated artwork may also assist in defining or separating space.

Applied artwork refers to work that is applied to an interior or exterior surface. This may include commissioned paintings, tapestries, murals and mosaics.

Installation art is where the artwork and the site are integral to each other. The artwork could be comprised of a number of elements but the ensemble may be viewed as a whole. The space may be created with a particular work in mind, or the artist may respond to a given space. Installation art may include land art which can be described as art that draws attention to, or intervenes in, a particular environment and is often large scale. These works are generally not functional elements of the built environment but are more about creating landmarks that contribute to the identity of a place.

Ephemeral artwork describes non-permanent work that may include temporary installations, performance art, dance, projections or displays that celebrate places, events and cultural traditions. Recycled materials are common and the approach is fresh, experimental and community focused.

The Byron Shire Public Art Strategy provides some innovative examples of other forms, such as:

Light-based art can transform spaces in an affordable way. Light can be used to create ‘sculpture’ through the manipulation of colour and light to previously unimaginable scales.

Environmental art can draw our attention to threats to environmental concerns through thought provoking artworks.

Sustainable artworks reflect the essential cultural character of a place linked to the lifestyle objectives of the future, communicating sustainability messages.

Virtual artwork is both digital artwork and also allowing public art to occupy virtual spaces. For example, in urban art, people are encouraged through apps, or even the physical presence of their bodies to affect the artwork, in various forms of intervention where an art experience becomes highly personal or experimental.

## Supporting Local Artists

Council’s Public Art Policy includes an objective to strengthen the Byron Shire cultural economy through the employment, training and provision of professional development opportunities for local artists, designers and project managers. Two ways in which Council can assist local artists to engage in public art include:

## BYRON SHIRE COUNCIL

### STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

### 4.2 - ATTACHMENT 1

1. Council, in conjunction with local arts organisation, run a workshop or series of workshops to assist local artists in up skilling in the Expression of Interest application process and their ability to meet the selection criteria for public art commissions.
2. Incorporate local weighting into the assessment criteria for public art commissions. The acquisition of Public Art will be consistent with Council's Procurement and Purchasing Policy (DM1049387), which outlines the procurement principles, including *local and Australian content* and procurement sustainability goals including *community economic and social wellbeing*, where positive social outcomes can be generated.

Byron Shire Council acknowledges the traditional owners in Byron Shire, including the Bundjalung of Byron Bay—Arakwal people. Council also acknowledges the people and the wider Bundjalung Nation and their connection to the land. Council will work closely with the traditional owners and relevant stakeholder groups to ensure Aboriginal stories will be weaved into the fabric of the region.

## Commissioning Process

The steps that need to be considered when commissioning public art in Byron Shire are outlined in Table 1 at the end of this document. It is recognised that not all steps are relevant for every commission, however the information may still be useful and help provide context.

Commissioning projects will be initiated and developed in accordance with the Public Art Strategy.

### Roles and Responsibilities

The process of developing public artworks for a community often involves collaboration with a range of stakeholders.

There are three key roles in any public art commission – the commissioner, the creator and the manager. These need to be determined for each commission and clearly defined with a contract developed for the Arts Coordinator / Curator.

**Council** (the commissioner/ acquirer) – the role of Council is to develop, manage, coordinate, and preserve Public Art resources and assets. To assist in the role, Council works in consultation with the Public Art Panel for advice.

**Public Art Panel** – the role of the Panel is outlined in the Constitution for the Panel and includes:

- a) Advise Council on Public Art trends and issues and manage expectations of the Byron Shire community.
- b) Assist Council in meeting the objectives of the Public Art Policy.
- c) Devise a Public Art Strategy, which sets out a proactive approach to public art in the Byron Shire.
- d) Assess public art donation and loan proposals against the Public Art Guidelines and Criteria and provide recommendations to Council.
- e) Provide advice, if required, pertaining to Public Art in private developments as per the Development Control Plan for Public Art and the Public Art Strategy.

**The Artist or creator** – the roles and responsibilities of the artist need to be clearly defined during the establishment of the project brief and any contracts developed.

Primarily the role of the artist will be to develop and produce the artwork. The artist responds to issues defined in the brief, such as interpreting history or responding to local community values. The artist should be available as required to assist with community consultation processes.

Other tasks for the artist include:

- Liaise with engineers/fabricators in the design and costing of the artwork
- Consider risk management and assessment issues
- Manage fabrication and installation with subcontractors
- Work in collaboration with other artists or design professionals, such as architects
- Develop a maintenance plan for the artwork and undertake project evaluation.

**The Curator/ Arts Coordinator** (the project manager) – the Arts Coordinator will be contracted for special projects by Council on a case by case basis. Responsibilities may include:

- Manage the artwork acquisition/ commissioning process from end-to-end

- Liaising with the commissioner, the architect, the artist and the building contractor
- Advising on appropriate commissioning models
- Assisting with aspects of project planning from the inception
- Writing the brief for the artists for the EOI and having input to other parts of the Project Plan as appropriate
- Recommend an appropriate panel membership for the project
- Manage media and the implementation of the Community Engagement Plan in conjunction with Council
- Manage the EOI and the artist shortlisting process, and the final selection of the successful candidate
- Manage the commission model selected for the project, for example open invitation or limited invitation
- Organise an architect's briefing and, where appropriate, a site visit for shortlisted artists
- Ensure the artist's contract is signed
- Attend Panel meetings to answer questions in relation to the design and installation
- Provide timely (fortnightly) advice on issues and concerns relating to the commissioning and installation process
- Manage studio visits where appropriate to view work-in-progress
- Examining artwork items to determine condition and authenticity (quality assurance)
- Work in collaboration with artists and other Council staff and subcontractors regarding the placement of artwork.
- Ensure timely progress payments to the artist and that the work is completed and installed on time
- Examining items to determine condition and authenticity
- Identify and classify artwork
- Keep and maintain records about all items including images and data for the project.

### Project Initiation – the Project Plan

A Project Plan developed using the *Public Art Project Plan* is a first step in commissioning an acquisition. The following considerations need to be included in an overarching Project Plan.

#### Arts Coordinator Engagement

The first step is in determining if an Arts Coordinator will be engaged for the project. The Arts Coordinator can lead the development of the project including the Project Plan documentation outlined in this section.

A contract should be prepared for the Arts Coordinator/ Curator if required and call for Expressions of Interest to fill the role prior to the next steps being implemented.

#### Select a commissioning model/ approach

There are many different commissioning models and some are outlined in the Overview Section – Models of Acquisition and Forms on p4-5.

The most appropriate model for a project will depend on a number of factors, including the scope of the project, the budget, whether it is a new build or a refurbishment, how the overall project is being contracted, the location and profile of the site. Some public art projects use a combination of commissioning models.

Whatever model is selected, ensure there are realistic delivery timeframes and budget factored into the project timeline.

#### Risk Assessment and Management

A Risk Management Plan must be developed for the project and will inform development of a Community Engagement Plan. Of particular note, no Council managed projects will link the timeline of a public art project to the deliverables of major infrastructure projects. Public art projects must stand alone.

Community Consultation

A Community Engagement Plan is to be developed for the project outlining the key stakeholders and how community consultation, feedback and input will be managed throughout the project.

The Plan needs to articulate the various roles and responsibilities in community engagement, including the media spokespersons, and alternate spokesperson, for the project.

Budget

At the commencement of each Council term, benchmarking of public art commissioning budgets will occur using a range of regional and metropolitan examples as a baseline.

Development of the budget should consider the following:

- Management fee for the art coordinator
- Design concept fees for the shortlisted artists
- Design fee for the successful artist if relevant
- Additional insurances if required
- Transport costs to site
- Any permits or approvals required
- Footings and foundations
- Remedial work to the surroundings
- Provision of power and water
- Interpretive material (such as plaques/ signage etc.)
- Installation costs
- Ongoing maintenance and conservation of the artwork.

Installation Preparation

When considering the site for installation of a public artwork, the following checklist may be helpful in determining project plan steps:

- Is installation consistent with the Plan of Management or other strategic plans for the proposed site?
- Is the site ready for work to be installed?
- Does timing of installation avoids busy holiday periods
- Is a concrete pad or foundation works required?
- Have all the services been appropriately prepared, such as electrical?
- Have all site dimensions and measurements been confirmed?
- Is access to the site restricted in any way?
- Are any permits or approvals required?
- Will traffic arrangements be required for installation?
- Are the relevant installation contractors engaged and prepared?
- What tools and equipment will be required?
- Is appropriate insurance in place, including during transportation?
- Are WHS requirements understood and provisions in place?
- Are any parking approvals/ arrangements required for contractor vehicles?

Artist Brief

The artist brief should be flexible enough to allow for a creative response, while still meeting Council's needs and any specific functional and technical requirements.

A *Public Art Brief* has been developed for use. Additionally, the brief will outline the selection criteria that will be used to assess the different stages of the submission process.

Artwork Selection Committee

Determine if a separate artwork selection committee will be required for the project and make steps to establish a committee for the assessment of submissions leading to the selection of the final artwork.

## **Expressions of Interest/ Selection of Artist or Work**

The artwork brief is usually released through an EOI process. In some circumstances an EOI is not the preferred method of procurement. In these cases an artist's briefing session may occur or artists can be directly commissioned.

The EOI submission usually includes:

- The artist's CV
- Written responses to the artist's brief, with demonstrated experience relating to the selection criteria
- Relevant images of past artworks.

Broad reach to a maximum number of artists would include print and online advertising including via professional arts organisations, art coordinator networks, social media and via media release. An EOI is usually open for three to four weeks, although larger commissions may be open for longer.

In addressing the criteria outlined in the Project Brief, artists will be required to submit a rigorous response comprehensively describing their proposed concept, their approach, philosophy and professional capability to deliver a public commission.

## **Shortlisting**

The purpose of this stage is to ensure the successful selection of an artist through an equitable and transparent process.

For commissions involving an EOI process, the applications are assessed against the selection criteria by a selection panel. The panel composition varies according to each project but usually includes the project architect and other relevant stakeholders. The panel is generally facilitated by the art coordinator, who is a non-voting Chair.

In assessing each concept, as per the assessment template, the Public Art Panel aims to ensure that the successful proposal:

1. responds to the curatorial content of the Art Brief
2. is of a high standard in terms of design and technical and structural execution
3. is culturally appropriate
4. requires minimal maintenance
5. does not pose risk or WH&S management issues
6. best meets the requirements outlined in the project brief and Council's objectives
7. meets relevant building and safety standards
8. does not pose any long-term conservation issues
9. meets the requirements of the project budget
10. will meet the specified timeframe; and
11. is assessed on the basis of the guidelines outlined in this document and Council's *Public Art Policy*.

## **BYRON SHIRE COUNCIL**

### **STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES**

### **4.2 - ATTACHMENT 1**

The panel members may review and rank each application individually against the selection criteria before meeting to undertake a group assessment using the same process. Short listing may result in a number of artists being interviewed by the Public Art Panel. Alternatively the number of artists to participate in the concept stage may be selected directly therefore bi-passing the interview stage. Depending on the scope of the project, two or three artists will be selected to go onto the concept design stage.

Commissions for large projects may instead shortlist a pool of artists who may be called upon to submit a project proposal.

A report is prepared using the information from the selection panel for a Council endorsement of the decision. Artists are notified in writing of the outcome of the EOI process. The panel deliberations should be kept confidential; however artists may seek feedback about their submission. Council is not obligated to proceed with a commission if the calibre of submissions does not meet expectations of quality.

Once the preferred public artwork concept has been selected by the Public Art Panel, a recommendation for the preferred artist will be made to Council for endorsement.

## **Concept Design Development**

Some Limited Invitation and Direct Commission models may bypass the EOI process and commence the public art project at the Design Concept stage. For commissioning models using an EOI process, the design concept stage allows shortlisted artists to develop the concepts they submitted as part of the EOI process.

Shortlisted artists will be required to enter into a Concept Design Agreement (contract). A fee should be paid to all shortlisted artists to assist with the development and production of the design concept. The fee does not include the rights to concepts, drawings, maquettes and models submitted as part of the presentation, which remain the property of the artist.

To provide the shortlisted artists with more detailed information about the commission, a briefing is usually held. The briefing may include presentations by the art coordinator, the commissioner (Council), architect and any other relevant professionals, as well as a site visit.

The design concept to be developed by the artist must include:

- A written description of the artwork and response to the theme
- Drawings, sketches and/or digital images indicating the location, scale, colour and materials of the artwork and where appropriate, a 3D model or digital images of the proposed artwork
- Material samples
- A methodology for community participation/ consultation in the project
- Details of major fabricators, industry collaborations and other design professionals required to produce the artwork
- Preliminary budget or cost estimates
- Work program and payment schedule - must be able to demonstrate the viability and construction methodology of the public art concept to an agreed budget.
- Proof of relevant insurances
- Preliminary details of installation requirements.

Artists are usually given four weeks to submit their design concept, however, this depends on the scope and complexity of the commission.

## **Final Selection**

Artists will be required to present their concept design to the Public Art Panel who will review all designs and select the final public art work and refer to Council for final determination. The selection panel will assess the presentations and the design concepts using a similar process to that undertaken in the EOI process.

The assessment should consider:

- The response to the brief and whether the artist has an understanding of the project objectives
- The quality and creativity of the proposal
- Previous experience
- Appropriate level of skill to match the requirements
- That the artist has the resources and capability to deliver the proposed works.
- Demonstrated ability to work collaboratively with the project team and the community
- Realistic implementation/deliverability and budget.

The artist will be required to submit a maintenance plan, as per document template, prior to Council's endorsement of the concept design.



**Contract**

Once the preferred artwork has been endorsed by Council, the successful artist will be offered a contract agreement (template *Public Art Commission Agreement*) that will outline the specific terms and conditions of the project between the parties.

The contract should include a work program with milestones, including a payment schedule. The contract may also address specific requirements of the project, such as:

- Who pays for preparatory work such as services and fixtures
- Who pays for transport, delivery and installation of the artwork
- Who organises and pays for remedial work around the artwork after installation
- Who provides for the hire of equipment or professional advice which may be needed for items such as the footings or installation
- Who insures the work in progress and when does the responsibility transfer
- Who is responsible for maintenance and care of the completed artwork.

An open and collaborative communication process will be encouraged between all parties at all stages of a commission. Variations to the contracted arrangements will be reported to the Public Art Panel for comment or advice.

**Design Development and Documentation**

During design development, the artist or artist team will:

- Review and refine the original design concept, particularly in response to any comments or directions that may have been made by the selection panel during the final selection meeting
- Review and finalise the budget by securing firm quotations from suppliers and/or fabricators
- Meet with the project architect to finalise locations and resolve any integration issues
- Meet with other design professionals as required, such as landscape architects and Aboriginal stakeholders
- Meet with material suppliers and/or fabricators
- Produce samples or prototypes
- Undertake further research of materials and finishes before making final selections.

The artist will provide final drawings, prototypes, samples and documents as part of the design documentation stage, noting any amendments to the original design proposal. Where appropriate, the artist meets with the engineer to obtain engineering specifications and certification where they are required for the structural elements or fixing.

The artist also needs to demonstrate that any professionals they engage have the relevant insurance. This is a project hold point until appropriate and sufficient documentation is provided for Public Art Panel approval.

**Production of Artwork**

The artist will be responsible for ensuring construction/fabrication complies with all relevant standards and Council policies and planning instruments. Fabrication of the public art proposal will be monitored by a relevant Council officer or Arts Coordinator.

During this stage, the artist will be required to meet the milestones outlined in the contract, which in turn will trigger progress payments to be released. During production, the artist will provide regular, written updates (including images) on the progress of the artwork to the art coordinator. These updates will be provided to the Public Art Panel. Where appropriate, a studio visit is undertaken by the Art Coordinator and may also involve the architects and other stakeholders.

Installation of the public art work will be determined at the Commission Contract stage. It may be the responsibility of the artist and/or Council to install the art work. Responsibility for installation and maintenance will be determined at the project brief development stage.

## **Completion of Artwork**

Once the artwork has been completed according to the terms of the contract and brief, the artwork will be installed in accordance with the conditions outlined in the contract between the artist and Council.

At the end of the project, the artist should provide Council with images and a final maintenance report, as per template. An event may be organised involving the artist and stakeholders to celebrate and promote the project.

Once installed, the artwork will be inspected by Council staff or nominated professional engineer as per template and a *Certificate of Practical Completion* (template) issued. At this stage, the final fee, less the retained which may be held until completion of the Warranty Period as per the Commission Contract (clause 7.4), is paid to the artist and the artwork is entered onto Council's public art register.

Following a further three month period, a *Certificate of Final Completion* (Appendix 8) is issued if no ongoing structural or maintenance issues are identified.

## **Evaluation of Project**

At the completion of the project an evaluation of the project should be conducted. This information can be used to review processes and maintain best-practice in the commissioning of public art.

A template has been prepared for this purpose: *Project Evaluation Template*.

The Cultural Development Network outlines five cultural outcomes on which to evaluate the benefit to the community of art and these are available in the template as options for evaluation.

## Donations, bequests and loans

Byron Shire Council may be offered donations and gifts of public artworks by individuals or commercial entities wishing to make a cultural contribution to the Shire. While Council is grateful for such offers, it is not obliged to accept the artworks since they may carry with them expensive responsibilities for installation, maintenance, conservation and decommissioning.

When an artwork is loaned to Council, the artist will be responsible for maintaining and insuring the Public Artwork on loan. It is the artist's responsibility to inform Council prior to undertaking maintenance and repairs on the art work. Council will not be responsible for any damage, loss or destruction of loaned artwork. Artworks are loaned to Council for a defined period and an assessment of the artwork for loan is usually undertaken by the Public Art Panel. Council will only agree to accept public art loans which meet the criteria established by the Policy, Strategy and these Guidelines.

Council will only agree to accept public art donations, bequests and loans which meet the criteria established by the *Public Art Policy*, *Public Art Strategy* and these Guidelines.

### Acceptance Criteria

Proposed public art donations and bequests will be assessed by the Public Art Panel which will then make a recommendation to Council for consideration and endorsement. (Template: *Checklist for Assessment of Public Art Loans or Donations*.) Any proposed donated or loaned public art may undergo a public consultation process where the community will be given the opportunity to have a right of reply.

It is the responsibility of the artist making the donation or loan, to provide the Public Art Panel with enough information to make an assessment of the proposal. This includes submission of the following:

- A *Public Art Asset Application* pro forma (Template)
- A *Public Art Risk Assessment* (Template)
- A *Public Art Maintenance Manual* (Template)
- Other information such as the artist's CV, artistic statement, Photo's/ drawings providing visual samples of proposed work and proposed signage to accompany the artwork (see 7.2)

It is at Council's discretion if, and where donated and bequest artwork will be displayed.

Signage for artwork will be required to be presented at the project proposal stage for approval by Council. Signage is limited to the name of the artist and a brief artist statement.

## **Management of Artwork**

Art work subject to the Guidelines may include, but is not limited to, sculptures, bronzes, paintings, murals, mosaics, and other approved design elements and pieces installed in Council public places, private sites which impact on the public domain and Council-managed/owned buildings and public infrastructure within the Byron Shire.

Council maintains an Asset Management System with a layer of GIS data of the location and condition of artworks in public spaces.

Council also maintains a Visual Arts Register of Council owned paintings and other visual artworks located within Council buildings. Council have received a collection of visual artworks over many years by donation or acquisition. As there is no public gallery in Byron Shire, these artworks are displayed in public buildings such as Council offices and community facilities.

### **Copyright, legal title and ownership**

An artist's moral rights are protected under the Copyright Amendment (Moral Rights) Act 2000. Under the Act, all original artwork must be attributed to the artist.

The ownership of the public artwork and copyright will be determined within the acquisition process and the land on which it is located. Artwork donated to Council is generally owned by the community with Council holding responsibility for the artwork on behalf of the community.

All public artworks will need to be registered as an asset and placed on the Public Art Register which has been developed by Council. The Register of Public Art will be maintained by Council officers.

Council may contribute financially to donated or bequest artwork. Council reserves the right to on-sell or re-donate the artwork.

### **Cultural Gifts and Deductible Gift Recipient (DGR)**

Certain organisations are entitled to receive income tax deductible gifts and tax deductible contributions. They are called Deductible Gift Recipients (DGRs). Byron Bay Library and Lone Goat Gallery are registered as a Deductible Gift Recipients and gifts or donations to the library are tax deductible. Please note that the Lone Goat Gallery does not collect artworks (i.e. there is no Gallery collection). Gifts donated to all other parts of the council are not tax deductible.

The process for donating/receiving gifts for the library is outlined in the Department of Regional Australia, Local Government, Arts and Sport's *Cultural Gifts Program*.

## **Maintenance**

### **Ongoing Maintenance**

In commissioning public artworks and in accepting bequests and gifts, Council accepts the inherent responsibility to maintain the work of art and its surroundings in a manner which is consistent with the design intent of the work, does not significantly inhibit or alter the intended perception of the work and is in accord with the instructions contained in artist's *Maintenance Manual* for the work (*Template*), whose annual requirements will have been assessed and approved prior to the work's fabrication as being appropriate and within Council's financial and human resources.

The maintenance manual provided by the artist should include:

- a complete description of the artwork including digital images and the date of completion;
- the artist contact details;
- a maintenance schedule and a written agreement on who is responsible for the ongoing maintenance;
- the expected lifespan of the work;
- the method of construction, the types of materials used and the details of the fabrication company;
- details of any electrical and/or mechanical systems installed;
- any specific instructions or products to be used when cleaning and maintaining the artwork;
- any instructions to respond to urgent maintenance issues such as vandalism.

Council does not accept responsibility for the maintenance of public art which has been loaned. This responsibility lies with the artist.

Council also accepts that making provision for proper upkeep, maintenance, and minimisation of vandalism includes the requirement for forward identification and cost planning of the progressively increasing annual cost of public art maintenance as the number of commissioned works grows.

### **Repairs**

In all cases, the artist should have the first option to carry out repairs or recommend an appropriate repairer; however, the artist may not always be available and may wish to nominate a conservator, gallery, agent or organisation to be the first point of contact to provide initial advice, names and addresses of fabricators and suppliers of materials for replacement components, technical advice or repairs, as relevant and any details of spare parts that have been lodged.

## **Insurance**

### **Council Insurance**

All commissioned and donated artworks will be recorded on the Public Art Register and will be the property of Council thus will be valued and covered under Council's insurance.

The processes of installation, maintenance, moving the artwork or decommissioning, will need to be considered on a case-by-case basis with Council's insurers. In the case of damage where Council insures an artwork, negotiations will be required to ascertain who will pay the excess fee if damage is sustained.

Artists are responsible for an artwork while it is the control of the artist i.e. until Practical Completion, such as in transit and installation of the artwork on site. The artist must maintain their own insurances, including public liability and workers compensation. Once the work is formally handed over to Council, only then will it be insured by Council.

### **Artist Insurance**

Insurance is an important aspect of public art and artists and their subcontractors need to look carefully at the insurance requirements outlined in the commission contract or agreement before signing it.

All artists who loan public artwork to Council should have their own insurance.

**Property Insurance**

All loaned art work will be provided by the artist at the artist's risk. Council will not be responsible for any damage, loss or destruction of donated or loaned artwork. This includes the removal of graffiti and any rectification work required to maintain the donated artwork.

**Workers Compensation**

A practitioner who is an independent contractor will be responsible for taking out workers' compensation insurance to cover themselves and anyone the practitioner employs directly to work on the commission, both on and off site. The cost of the insurance should be included as an item in the commission budget.

**Public Liability**

Council will be responsible for public liability of any public artwork commissioned, or donated if displayed for public art.

**Decommissioning Public Art**

All artwork has an intended lifespan. Decommissioning refers to the process undertaken to remove a work of art from public display, or from a public collection. If an artwork has reached its intended lifespan, has been damaged or destroyed, or is no longer safe, there may be a need to remove or relocate the artwork.

Council will undertake a review of its public art work assets annually to assess the value of the asset life. The decision to decommission public artwork will be informed by the asset management and maintenance framework relevant to each public artwork. The *Decommissioning Public Artwork pro forma* (Template) has been developed to assist Council with determining the need to decommission public art works.

**Criteria for decommissioning**

Before an art work may be considered for removal from public display, a formal process should be implemented and may consider:

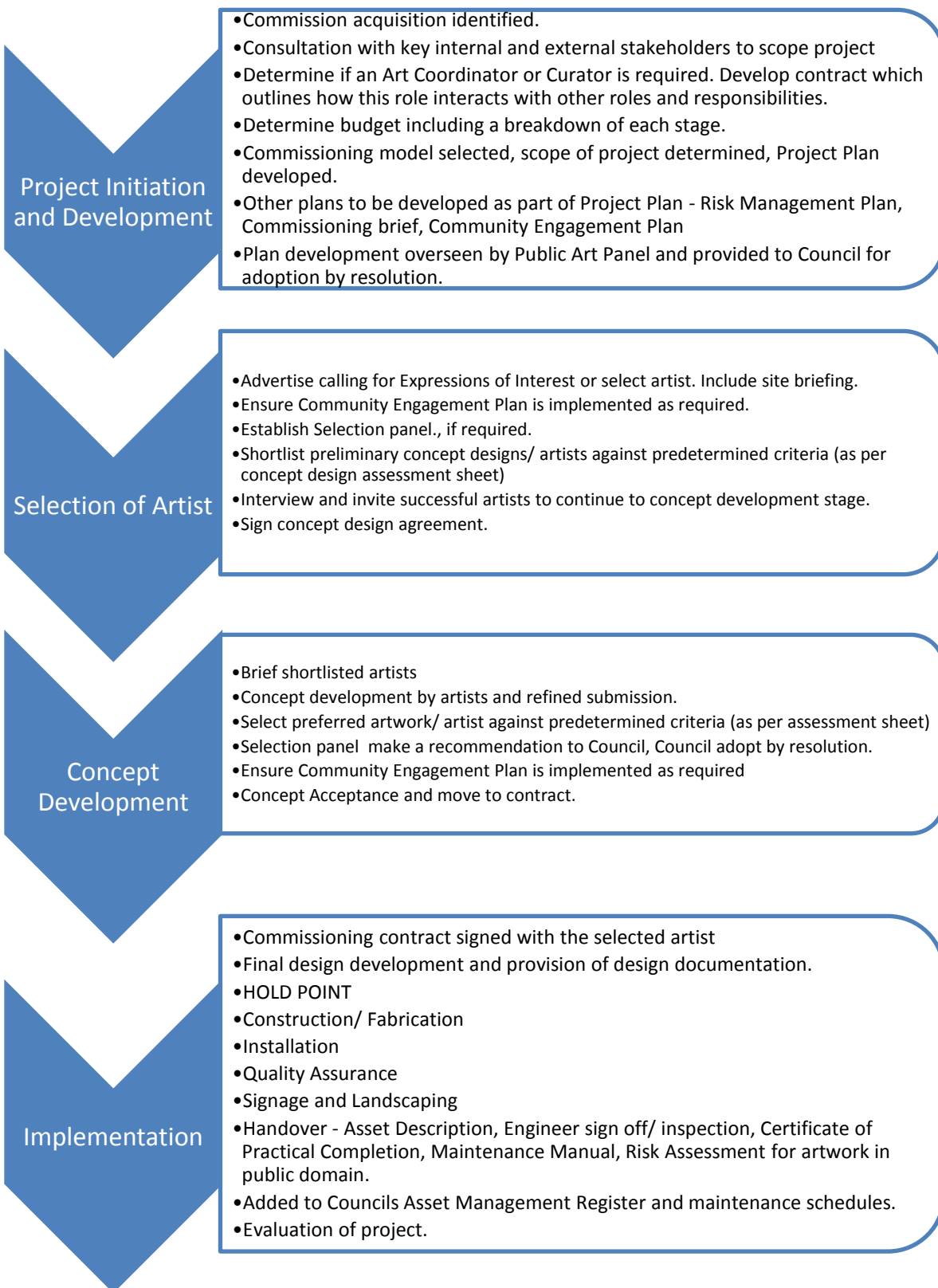
- any conditions relating to the decommissioning of the artwork, as outlined in the original contract;
- changes to the environment impact on the integrity of the work, affecting the artist's original intent or moral rights;
- whether the work has deteriorated and represents an unacceptable level of risk or danger to the public
- whether the artwork is beyond restoration or the cost of restoration is excessive in relation to the value of the public artwork;
- the opinions and advice of relevant stakeholders, including the artist, maintenance contractors, the owners of the building or land on which the artwork is located, or any other experts, such as engineers;
- community or cultural issues associated with the artwork, building, land and/or original commissioning process.

The Public Art Panel will be responsible for reviewing Council's public artwork collection and for implementing the decommissioning process. Any artwork identified for decommissioning or remediation should not be removed, relocated, sold or destroyed without first notifying the artist.

The Panel will be required to consult with individuals with the relevant qualifications and/or expertise prior to making a decision to decommission public art works (e.g. legal advice, a conservator, curator; technical and structural experts and relevant Council staff).

All recommendations to decommission artworks will be referred to Council.

## Table 1 – Public Art Commissioning Process



## Templates List



# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

## 4.2 - ATTACHMENT 1

Old (All attached as Appendices E2014/72474)	New	Comment
Stage 1 – Project Initiation and Development		
	Public Art Project Plan (for commissioned projects) including:  <ul style="list-style-type: none"> <li>- Art Coordinator contract</li> <li>- Risk Management Plan</li> <li>- Community Engagement Plan</li> <li>- Commissioning model</li> <li>- how artist will be selected</li> <li>- budget</li> <li>- installation considerations for site</li> </ul>	Newly developed
	Public Art Commission Checklist for staff (draft E2019/21165)	New
Appendix 1 - Public Art Project Brief Pro-forma	Public Art Project Brief including assessment criteria for selection E2019/52317	Template based on Bayshore Drive Roundabout Project (E2018/39447) and Railway Park Project (E2018/54712).
Stage 2 – Selection of Artist		
Appendix 4 – Public Art Concept Design Assessment Sheet		Based assessment criteria developed during Project Brief phase
Appendix 2 – Notification of unsuccessful public art proposal		
Stage 3 – Concept Development		
Appendix 3 – Public Art Concept Design Agreement Template		To be replaced with one based on Arts Law Centre of Australia
Appendix 4 – Public Art Concept Design Assessment Sheet		‘tweaked’ to suit stage 2 of the process - based assessment criteria developed during Project Brief phase
Stage 4 – Implementation		
Appendix 5 – Public Art Commission Contract	Purchased Arts Law Centre of Australia <i>Commissioning Agreement: Public Visual Artwork.</i>	To be reviewed by lawyer with experience/ specialization in public art
Engineer Inspection Checklist/ sign off		New
Appendix 9 – Public Art Asset Application pro-forma		
Appendix 6 – Public Art Maintenance Manual example		
Appendix 10 – Public Art Risk Assessment		
Appendix 7 – Public Art Certificate of Practical Completion		
Appendix 8 – Public Art Certificate of Final Completion		
Other		
Appendix 13 – Checklist for assessment of Public Art loans or donations		
Appendix 11 – Decommissioning Public Artwork pro-forma		

## BYRON SHIRE COUNCIL

### STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES


4.2 - ATTACHMENT 1

Old (All attached as Appendices E2014/72474)	New	Comment
Appendix 12 – Maps showing parks in Byron Shire		Delete
Project Evaluation Template		New
Evaluating Cultural Outcomes	E2019/52364	New – information

## IAP2'S PUBLIC PARTICIPATION SPECTRUM



The IAP2 Federation has developed the Spectrum to help groups define the public's role in any public participation process. The IAP2 Spectrum is quickly becoming an international standard.

INCREASING IMPACT ON THE DECISION 					
	INFORM	CONSULT	INVOLVE	COLLABORATE	EMPOWER
PUBLIC PARTICIPATION GOAL	To provide the public with balanced and objective information to assist them in understanding the problem, alternatives, opportunities and/or solutions.	To obtain public feedback on analysis, alternatives and/or decisions.	To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered.	To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution.	To place final decision making in the hands of the public.
PROMISE TO THE PUBLIC	We will keep you informed.	We will keep you informed, listen to and acknowledge concerns and aspirations, and provide feedback on how public input influenced the decision.	We will work with you to ensure that your concerns and aspirations are directly reflected in the alternatives developed and provide feedback on how public input influenced the decision.	We will look to you for advice and innovation in formulating solutions and incorporate your advice and recommendations into the decisions to the maximum extent possible.	We will implement what you decide.

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**Report No. 4.3**                      **Public Art Strategy - Strategic priorities and planning**  
**Directorate:**                      Corporate and Community Services  
**Report Author:**                  Joanne McMurtry, Community Project Officer  
**File No:**                              I2019/1597

5

**Summary:**

10      This report identifies and discusses key considerations for taking a proactive approach to encouraging and enabling public art across the Shire, in line with the current Public Art Strategy.

It reviews strategic priorities, budget, and decision-making and also identifies some opportunities for further discussion.

15

Information is provided in the report to enable the Public Art Panel to consider the priorities and opportunities and make a recommendation to Council.

---

**RECOMMENDATION:**

**That the Public Art Panel recommends to Council:**

1.      **That in relation to implementing a proactive approach to encouraging and enabling public art across the Shire, the following strategic priorities be noted:**
  - a)      <Panel to select priority>
  - b)      <Panel to select priority>
  - c)      <Panel to select priority>
2.      **Considering the priorities noted in point 1, that the budget be allocated as follows:**  
        .....<details to be provided at the meeting>.

20

**Attachments:**

- 1      Extract from Byron-Shire-Developer-Contributions-Plan-2012 in relation to S94A, E2019/78326 , page 42 [↓](#)

25

## **REPORT**

### **Background**

5 Council is often approached by community groups and artists with requests for financial and other support for projects such as local art events and temporary artworks, e.g. murals. These requests are not necessarily aligned with the priorities outlined in the Public Art Strategy and nor do they represent the geographical footprint of locations within the Shire. As there is limited budget for public art and a desire to improve both equity and outcomes, a more proactive way forward is needed.

10 The Public Art Panel requested a report regarding a proactive approach to encouraging and enabling public art across the Shire in line with the current public art strategy including strategic priorities, budget planning and decision making considerations.

15 This report highlights relevant content from the Public Art Strategy to aid in discussion and decision making.

20 Priorities already well underway or completed from the Public Art Strategy include:

- Public Art Guidelines and other documentation review almost complete;
- Reviewing the Development Control Plan Public Art Chapter for public art in private developments, which is now in place;
- Two permanent public artwork commission processes conducted and learnings incorporated into existing documentation and processes; and
- Improved partnerships with community organisations.

### **Key Considerations**

#### Strategic Priorities and the Public Art Strategy

A number of strategic priorities are identified in the Public Art Strategy as objectives, including:

1. Provide a strategic framework for the public art program.
2. Promote the integration of public art into Council's capital works projects
3. Ensure a diverse, contemporary and distinctive public art program
4. Focus on quality over quantity by funding and commissioning fewer but more substantial projects
5. Pool and accumulate available funds to develop realistic project budgets
6. Complete several key projects over the next three years
7. Integrate with the town masterplans
8. Strengthen the process for developers
9. Develop partnerships with strong community organisations driven by professional creators
10. Ensure the maintenance and conservation of art is an ongoing feature of the art program
11. Support skills training for local artists to better participate in the tendering and delivery of public art projects

### *Discussion*

50 In order to take a proactive approach to implementing the Public Art Strategy, strategic priorities need to be identified in relation to location and budget, and an open, equitable, transparent way to allocate funds and resources.

Objective 2 promotes the integration of public art into Council's capital works projects which does provide significant opportunities, however public art outcomes and capital works outcomes must remain decoupled, with both rigorous planning and project management in place.

- 5 Community feedback needs to be considered in relation to objective 4 around focusing on quality over quantity by funding and commissioning fewer but more substantial projects. The two projects which have responded to this objective include The Lighthouse and Memento Aestates.

- 10 Objective 5 to pool and accumulate funds was intended for projects where other funding was not identified, such as in Ocean Shores. However, it may be that if larger artworks are not preferred, funds could be partially dispersed with the remainder available for accumulation.

- 15 The town centre master plans/place plans will provide opportunities in the coming years to take a creative approach and integrate public art, as per objective 7.

Whilst the new DCP Chapter for collecting developer contributions for public art has been adopted, is there more work that can be done in encouraging a good outcome for the community to meet objective 8?

- 20 Some recent work with Mullumbimby Sculpture Walk and Brunswick Nature Sculpture Walk provides examples of objective 9 implementation. However, a more equitable process is needed in working with community groups.

- 25 There are opportunities in meeting objective 11 which require further development.

Locations

The Public Art Strategy outlines focal areas for public art, as listed below.

- 30
1. Bangalow Parklands
  2. Suffolk Park Recreational Area
  3. Key spaces identified in the town Masterplans and Place plans
  4. Ocean Shores area
  5. Innovative solutions for graffiti on infrastructure, including water & sewer infrastructure.
- 35

*Discussion*

- 40
1. The Bangalow Parklands project has been finished and all funds expended. At the time the Strategy was written, this project was in development.
  2. The Suffolk Park Recreation area has recently had a Plan of Management adopted and the Suffolk Park community is currently active in implementing the plan. A grant was recently acquired for a 'pump track'. Now is a good time to progress public art in this area, commencing with consultation with the local community. There is budget available for undertaking public art projects, however, the amount will need to be finalised within the larger project vision.
  3. Council has four master plans/place plans where opportunities for public art have been articulated – Byron Bay Town Centre Masterplan, Byron Arts & Industry Estate Precinct Plan, Bangalow Village Plan and Mullumbimby Masterplan (currently in draft). Projects could use some of the S94A funds available for public art treatments to public amenities or civic improvements. There are opportunities to integrate public art into public works, e.g. furnishings – seats, banner poles, tree guards, signage, paving, beach amenities and toilets.
- 50
- 55

4. The timeframe for a project in Ocean Shores is dependent on scale, budget and additional consultation.

5. There are some S94A funds available for public art treatments to public amenities. In 2016 the Public Art Panel facilitated an Expression of Interest for artistic treatment of sewer infrastructure. The Public Art Strategy suggests that water/ sewer infrastructure that has public art potential be identified.

### Budget

Sources of funds for public art include the following:

- Public art operational budget (approximately \$17,000 per annum)
- Section 94 and Section 94A funds
- Some capital works budgets include a public art component, for example, Railway Park upgrade.
- Grants

### *Discussion*

The Strategy suggests that public art funds be pooled in order to create realistic public art budgets that reflect the real cost of delivery. Given that the average delivery period for an art commission is 1-2 years in planning and implementation, pooling the majority of funds would allow sufficient time to accumulate funding for a modest project.

The Strategy also suggests that pooled funds could be used as matching funds to apply for grants.

The Strategy recommends that other funds be identified such as S94 developer contributions and in Council capital works projects, considering art in paving treatments, town entry signage, tree guards, bike racks and other new street furniture. An extract from the Developer Contributions Plan is attached and outlines planned projects under Section 94A.

If any developers take up the opportunity for a Voluntary Agreement under the new Public Art Chapter of the Development Control Plan, this could also be a source of funds.

Other sources of funds could be from sponsorship or philanthropy, however these options have not been explored in depth at this time.

### Decision Making

The existing mechanisms for public art acquisitions include:

- Ad hoc requests received from the community/ artists
- Commissioning an art piece/project
- Grant funded work
- Developer art provided under the DCP Chapter on Public Art
- Other – including art that occurs without Council knowledge or approval.

### Opportunities for further discussion

Some ideas for implementing a more proactive approach to encouraging and enabling public art across the Shire include:

- Consider accumulating some of the annual public art budget for the 'pool' but also allocating some annual budget for a small competitive arts funding opportunity in a key

location This funding opportunity could be made available for a range of outcomes, such as sculpture, murals and/or temporary works/arts events.

- Consider an alternative funding opportunity for a project such as engaging an artist to work with the community to co-create public art.
- Continue to 'pool' an amount each year towards a project, for example Ocean Shores, however begin work to scope the project.
- Encourage partnerships with businesses on art projects, such as the Stone & Wood Bike Rack project
- Encourage stronger, more defined partnerships with community groups to achieve defined outcomes.
- Develop resources (e.g. a brochure) for private developers in meeting their obligations under the DCP chapter with some information about public art in Byron Shire.
- Work with Arts Northern Rivers to deliver training for artists on developing public art expressions of interest.
- Further develop organisational project planning for future public art funded by sources other than the public art budget e.g. works.

## STRATEGIC CONSIDERATIONS

### *Community Strategic Plan and Operational Plan*

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
<b>Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community</b>	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*

Public Art Policy – adopted August 2018.  
 Public Art Strategy – adopted August 2018.  
 Public Art Guidelines and Criteria – October 2014, currently being reviewed.

### *Financial Considerations*

The annual public art budget allocation for 2019/20 is \$16,900, with each year including a CPI increase.

The current available amount in the budget is \$24,000. However due to The Lighthouse sculpture decommissioning, there is some fluctuation occurring. The sale of birds (final number not yet known) will offset decommissioning costs allocated to the public art budget. A final available amount will be confirmed once this process is complete.

Staff time allocated to public art projects is currently approximately one day a week and any future project or program would need to consider this resource allocation. Any ambitious project identified to further deliver on the Strategy would need to factor in a realistic consultancy/ project management cost.

For information, recent expenditure from the Public Art budget is provided below:

Contribution to acquire UnRING for Mullumbimby Sculpture Walk	\$3 000
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## BYRON SHIRE COUNCIL

### STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

4.3

Engineering Inspection of The Lighthouse sculpture	\$8 000
Resolution 19-061 funds to assist in decision of further work to The Lighthouse sculpture	\$1 100
Plaque for The Lighthouse sculpture	\$ 770
Advertising – Call for EOIs for Bus Shelters, Railway Park, Bayshore Drive Roundabout projects and new Public Art Panel members	\$ 750
Yet to be paid – contribution to Ingenuity	\$5 000
<b>Total Expenditure</b>	<b>\$18,620</b>

Reviewed by Manager Finance: ☐

#### ***Consultation and Engagement***

- 5 Relevant Council staff regarding funds available and status of projects.  
Consultation was undertaken with key stakeholders in the development of the Public Art Strategy.

**Part B – Section 94A Developer Contributions Plan****Section 1 – Summary schedules**

The works schedule identifies the public facilities for which section 94A levies will be required. Schedule 1 identifies the works schedule adopted in [year to be inserted] and a summary of the expenditure on the respective items.

Levies paid to council will be applied towards meeting the cost of provision or augmentation of new public facilities. Schedule 1 provides a summary of new public facilities, which will be provided by council over the next 10 years, as well as the estimated cost of provision and timing.

  
A1

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

## 4.3 - ATTACHMENT 1

Schedule 1 Section 94A Works			
Facility	Cost of Works	Priority	Expenditure
Improvements to Tourist Information centre Station masters Cottage Byron Bay	200,000	1	
Redevelop public toilets in Byron Bay (Including Public Art incorporated into the design)	40,000	2	
Redevelop public toilets in Ocean Shores (Including Public Art incorporated into the design)	40,000	11	
Redevelop public toilets in Suffolk Park (Including Public Art incorporated into the design)	40,000	12	
Redevelop public toilets in Brunswick Heads (Including Public Art incorporated into the design)	40,000	3	
Redevelop public toilets in Bangalow (Including Public Art incorporated into the design)	40,000	4	
Additional Beach showers throughout the shire (Including Public Art incorporated into the design)	50,000	13	
Improved Beach accesses shire wide.	100,000	15	
Public Art in town centres \$30,000 PA for 10 Years	300,000	5	
Civic Improvements in Brunswick Heads town centre. Benches, footpaths, landscaping, signage over 10 years	50,000	6	
Civic Improvements in Ocean Shores town centre. Benches, footpaths, landscaping, signage over 10 years	50,000	7	
Civic Improvements in Byron town centre. Benches, footpaths, landscaping, signage over 10 years	100,000	8	
Civic Improvements in Mullumbimby town centre. Benches, footpaths, landscaping, signage. Over 10 years.	500,000	9	
Civic Improvements in Bangalow town centre. Benches, footpaths, landscaping, signage. Over 10 Years	50,000	10	
Footpath improvements shire wide. Including disabled access facilities	500,000	14	
Administration	150,000	10% of annual income to be allocated to admin	
<b>Total</b>	<b>2,250,000</b>		

A2

**Report No. 4.4      Wall near McGettigans Lane, Byron Bay - proposed Expression of Interest**

**Directorate:** Corporate and Community Services

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

**File No:** I2019/1190

**Summary:**

Several artists have shown interest in completing a mural on the wall near McGettigan's Lane (Ewingsdale) which is highly visible on the main road into Byron Bay. The wall is a frequent site for graffiti.

Further information was requested following discussion of a mural proposal at the Public Art Panel extraordinary meeting on 9<sup>th</sup> May.

This report needs to be considered in the context of the report 'Strategic Priorities and Planning' also presented to the 14 November Public Art Panel meeting.

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**RECOMMENDATION:**

**That the Public Art Panel notes the report.**

**REPORT**

**Background**

5 Several artists have shown interest in completing a mural on the wall near McGettigans Lane (Ewingsdale) which is highly visible on the main road into Byron Bay. The wall is a frequent site for graffiti.

10 The Public Art Panel considered a mural proposal at its 15 February 2018 meeting and supported the proposal in principle, but recommended that Council should not contribute funds to the project. The project did not raise enough funds to go ahead.

15 A new proposal was received and considered by the Public Art Panel at the 9<sup>th</sup> May 2019 meeting. The Public Art Panel requested further information about the site and the option for conducting a broader expression of interest process for a mural competition at the site.

This report needs to be considered in the context of the report 'Strategic Priorities and Planning' also presented to the 14 November Public Art Panel meeting.

20 ***Is the wall necessary?***

Council are working with the RMS on concept plans for the western end of Ewingsdale Rd.

25 The RMS is currently undertaking a traffic modelling and options study for an upgrade on Ewingsdale Rd. In all options discussed, a dual lane roundabout is identified at McGettigan's Lane. This may impact on the culvert which may mean reconstruction of the cycleway and demolition of the wall.

30 The existence of the wall in its current form cannot be guaranteed for more than 12 months. A firmer understanding of the status of the wall will become clearer upon completion of the design work by the RMS in 12 months.

35 There may be an opportunity as part of the upgrade process to replace the wall with cycleway fencing (see image below). This would eliminate the graffiti issue and provide improved safety for pedestrians and cyclists.



### **Mural Competition**

Two key points should be noted prior to discussion:

- 5       • murals assist in managing graffiti in some sites but fail to do so in others and, as a result, generate complex, ongoing, graffiti removal issues; and
- due to the wall's likely removal, any mural would be for a 12 month period only and community expectations would need to be managed in line with this.
  
- 10     A competition would require the following steps:
  - Obtain relevant approvals: A project in this location is likely to need Roads Act Approval and traffic/ pedestrian safety measures to be in place for the installation. There may also be a hoardings charge levied for the use of space. Without an application, these costs are unknown but could range from \$180 for the application only through to significantly higher amounts depending on safety measures required for the installation.
  - 15       • Develop project plan: including aims and objectives, timeline, risk assessment, roles and responsibilities, community engagement, budgeting, evaluation, conservation and maintenance, decommissioning and project management/coordination.
  - Develop artist brief and assessment criteria/format
  - 20       • Call for Expressions of Interest
  - Undertake shortlisting, further concept design (if required) and final selection of artist/ artwork
  - Contract for delivery of the artwork
  - Design development and installation documentation
  - 25       • Install and handover to Council
  - Decommission

### **Key Considerations**

30     The Public Art Strategy recommends that Council focus on permanent, high quality sculptural projects for the coming years.

35     The Strategy provides some guidance for assessing mural applications and suggests that a preferred alternative for considering murals exists within the Masterplan/ Place Planning work.

40     Whilst any treatment of this area would have to be temporary, one of the suggestions made in the Strategy for the management of graffiti is using banner-mesh printed with an image. This treatment was applied to the Bangalow Water tower in 2015 and has reduced the incidence of tagging and graffiti in that location (although it this has not been completely eliminated).

### **STRATEGIC CONSIDERATIONS**

45     ***Community Strategic Plan and Operational Plan***

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
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<b>Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community</b>	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
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***Legal/Statutory/Policy Considerations***

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

Reviewed by Legal Counsel: ☐

***Financial Considerations***

The cost of a mural project is widely variable depending on the artist, the size of the artwork and the quality of the finish (e.g. layers of paint, anti-graffiti coating). The dimensions of the wall are 2m high and 23m long.

Additionally, a minimum of approximately 35 hours Council staff time would be involved in developing and managing the process outlined previously. Application fees and traffic/pedestrian safety costs cannot be identified prior to the application, as each application is assessed individually.

The current available amount in the budget is \$24,000. However due to The Lighthouse sculpture decommissioning, there is some fluctuation occurring. The sale of birds (final number not yet known) will offset decommissioning costs allocated to the public art budget. A final available amount will be confirmed once this process is complete.

Reviewed by Manager Finance: ☐

***Consultation and Engagement***

Relevant Council staff regarding potential funding sources, approvals likely to be needed Consultation was undertaken with key stakeholders in the development of the Public Art Strategy.