

NOTICE OF MEETING



PUBLIC ART PANEL MEETING

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

Venue	Conference Room, Station Street, Mullumbimby
Date	Thursday, 19 August 2021
Time	4.30pm

Vanessa Adams
Director Corporate and Community Services

*I2021/1245
Distributed 12/08/21*

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 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)

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 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
BUSINESS OF MEETING

1. APOLOGIES

2. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

3. ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

- 3.1 Adoption of Minutes from 29 April 2021 Public Art Panel Meeting..... 5

4. STAFF REPORTS

Corporate and Community Services

- 4.1 PAP Referral 156 Jonson Street, Public Art Plan DA10.2021.348.1..... 12
4.2 Tennyson Street Utility Shed, BYS Mural proposal..... 16
4.3 Creative Public Spaces Grant Round 22
4.4 PAP Referral 144 Jonson Street DA 10.2021.441.1 31
4.5 PAP Referral 116 118 Jonson Street Voluntary Planning Agreement
10.2021.291.1 75

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

**Report No. 3.1 Adoption of Minutes from 29 April 2021
Public Art Panel Meeting**

5 **Directorate:** Corporate and Community Services

Report Author: Pamela Durkin, Social and Cultural Support Officer, CACS -
Social & Cultural Planning

File No: I2021/970

10

RECOMMENDATION:

That the minutes of the Public Art Panel Meeting held on 29 April 2021 be confirmed.

15 <Section5>

Attachments:

1 Minutes of the Public Art Panel meeting held 29 April 2021, I2021/666 , page 7 [↓](#)

20

Report

The attachment to this report provides the minutes of the Public Art Panel Meeting of 29 April 2021 .

5

Report to Council

The minutes were reported to Council on

Comments

10

In accordance with the Committee Recommendations, Council resolved the following:

Report of the Public Art Panel meeting held on 29 April 2021

21-195 Resolved:

1. That Council notes the minutes of the Public Art Panel meeting held on 29 April 2021
2. That Council adopts the following Panel recommendation:

Report No. 4.2 Byron Bypass Sound Wall - Graffiti and Rotating Mural Proposal
File No: I2021/467

Committee Recommendation:

That Council invests in an Anti-Graffiti Coating on all existing road facing panels of the bypass.

(Lyon/Cameron)

Report

Public art proposals for developments are presented to the Public Art Panel for feedback and comment, to enable the planners assessing the Development Applications to manage the public art component of the Development Control Plan. This is to ensure that the Public Art Plan is in accordance with conditions of consent, to be satisfied prior to issue of a construction certificate.

The applicant did not initially prepare a Public Art Plan despite receiving advice that the DCP would require it. The DA was allowed to be lodged without the Public Art Plan which has now been provided and referred to the Public Art Panel for comment.

10 A public art proposal for inclusion in the development at 156 Jonson Street has been provided and is attached.

Representatives from Creative Road will attend the meeting to present the public art elements proposed.

15 **Strategic Considerations**

Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
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

20 Public Art Policy – adopted August 2018.

Public Art Strategy – adopted August 2018.

Public Art Guidelines – adopted December 2019.

Public Art Chapter, Development Control Plan

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

4.1

Excerpt from the Development Control Plan

A Public Art Plan is to be prepared that provides details of the proposed public art and must be submitted as part of the Development Application documentation. Council is to be consulted prior to lodgement of a development application.

- 5 The Public Art Plan must include the following details to the satisfaction of Council and the Public Art Panel:
- a) A statement that explains the rationale behind the artwork and demonstrates how it will relate to the proposed development and site.
 - b) Details of the nature, materials and form of the proposed public art.
 - 10 c) Define and illustrate the intended location and approximate size of the artwork
 - d) Provide a program for documentation, fabrication and installation, and integration with the construction program for the development.
 - e) Deaccessioning agreements in accordance with Council's Public Art Guidelines & Criteria.
 - 15 f) Evidence of partnerships and/or collaboration and funding sources for the public art project where applicable.
 - g) Evidence of Public Liability Insurance to cover construction and installation of the work.
 - h) Expenditure for the public art and a budget for ongoing maintenance.
 - 20 3. The Public Art Plan must also demonstrate how the proposed public art meets the following Design Selection Criteria:
 - a) The artwork demonstrates artistic excellence and demonstrates local and cultural appropriateness.
 - b) The public art must be permanent and durable, with consideration given to
25 maintenance requirements and potential for vandalism.
 - c) The design is consistent with the themes outlined in the Public Art Policy and Public Art Strategy.
 - d) Public art must be provided in a location that allows users of the public domain an unobstructed view of the artwork and the ability to freely access and interact with the
30 artwork. Public art will not be considered inside buildings, except for public buildings.
 - e) Meets relevant building and safety standards.

D8.2.2 Requirements for a development application for the provision of public art

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

4.1

1. Development applications for the provision of public art are to include the following two documents:

a) Public Art Plan to be submitted by the applicant at the development application stage.

- 5 The Public Art Plan must address the Prescriptive Measures outlined in D8.2.1 and demonstrate how the proposed work will accord with this DCP chapter.

Once submitted, the Public Art Plan will be referred by Council assessment officers to the Public Art Panel for review.

10 **Financial Considerations**

N/A. Nil to the public art budget.

Consultation and Engagement

- 15 Planning Assessment Officer

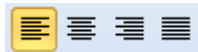
Report No. 4.2 Tennyson Street Utility Shed, BYS Mural proposal

Directorate: Corporate and Community Services

Report Author: Melitta Firth, Arts & Culture Office

5 **File No:** I2021/1215

Summary:



10 Byron Youth Service is seeking to paint the Tennyson Street Utility Shed at their southern entrance, bordering the Recreation Grounds, as part of their Inscribe 8-week program, teaching young artists how to develop and present street art. This report is to provide information and invite any feedback from PAP, noting the tight timeframe.

15 **RECOMMENDATION:**

That PAP notes the proposal by BYS and provides any feedback.

Attachments:

20 1 Confidential - BYS Tennyson Street Utility Shed Mural Proposal 2021, E2021/97784

Report

5 Byron Youth Service received grant funding to run the Inscribe youth program in September 2021 in Byron Bay. Inscribe is a program for emerging artists who are mentored through the processes of developing quality street art. The 8-week program covers skills development, collaboration, responding to a brief and consultation through to design development and installation. It provides an exciting platform for local young people to gain creative industries experience.

10 As part of the program the group will paint three practice walls before developing a brief, artwork concept and final artwork for the Tennyson Street Utility shed (proposed location). This shed is located at the Southern entrance to BYS and is a Council-owned asset. The proposed project seeks to improve the area, which is currently an uninviting, informal entrance to the youth service/ recreation grounds.

15 The project will be coordinated by experienced street artist Karma Barnes who will oversee all aspects of the program including the concept design and execution. BYS will undertake community engagement about the project.

The artwork will be covered with a Dulux anti-graffiti paint. A restricted natural colour palette has been discussed with the artist.

Attached is the proposal and information from the artist.

20 In approving the artwork, Council would require that Byron Shire Youth Service inform the community. BYS would be asked to:

- consult with directly affected local residents prior to the commencement of the project to ensure any concerns are carefully considered
 - provide information about the project at local touchpoints such as other facilities at the recreation grounds
 - provide a contact in order that residents, users or sporting groups are able to make contact should they have questions or input
 - BYS will provide information to the media about the project during the first two weeks of the project to inform the community about the project, and Byron Shire Council will share this information and the project results through local media (at the conclusion of the project)
- 25
- 30

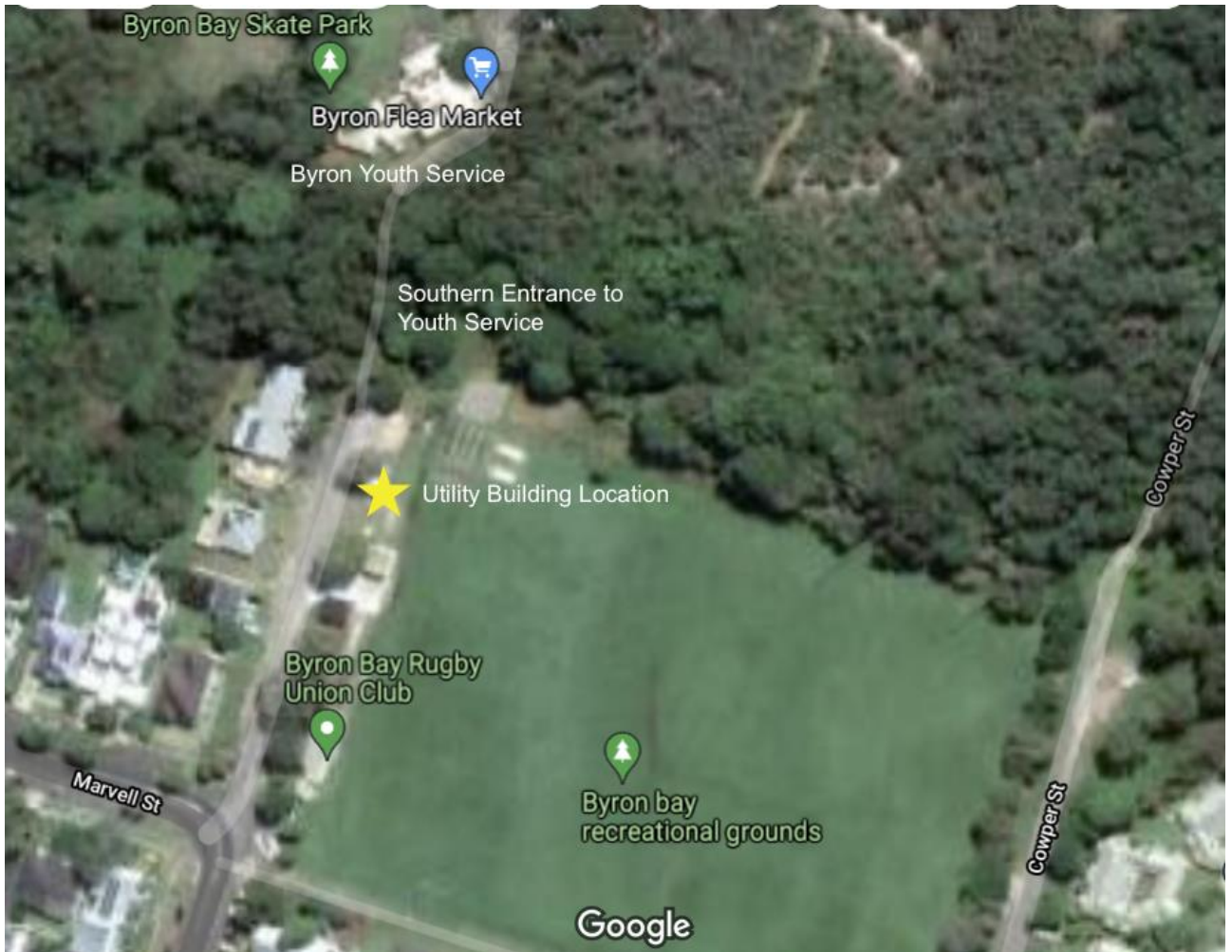
BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

4.2



BYRON SHIRE COUNCIL





5 Example artwork above by Artist Karma Barnes 'Super Rough Seas' a collaborative community project responding to the unprecedented times of COVID.

Key issues

Consultation with nearby residences and sporting groups would be undertaken, however as the project happens over an 8-week period, the concept design is not finalised until the last weeks of the program.

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

10 **Legal/Statutory/Policy Considerations**

- Public Art Policy – adopted August 2018.
- Public Art Strategy – adopted August 2018.
- Public Art Guidelines – adopted December 2019.

Financial Considerations

15 This project has been funded through grant funding and will be managed by Byron Youth Service. Anti-graffiti coating should ensure minimal maintenance costs to Council.

Consultation and Engagement

Manager Utilities has provided consent for the proposed site.

20 BYS has agreed to consult with local residents and sporting groups and keep them informed about the project progress.

Report No. 4.3 Creative Public Spaces Grant Round

Directorate: Corporate and Community Services

Report Author: Melitta Firth, Arts & Culture Office

File No: I2021/1226

5 **Summary:**

The purpose of this report is to provide the PAP with information regarding the inaugural Creative Public Spaces Small Grants program which was advertised in May and June 2021. A change to the guidelines is recommended for future funding rounds.

10

RECOMMENDATION:

That the PAP notes the proposed amendments for future funding rounds.

Attachments:

15

1 Creative Public Spaces Small Grant Guidelines, E2021/66056 , page 26 [↓](#)

Report

The Creative Public Spaces Small Grants program was initiated by the Public Art Panel to seed fund the creation and presentation of art in public spaces across the Byron Shire.

5 In the 2021 round, eligible activities included temporary or permanent art projects and creative activations and interventions in public spaces across the Byron Shire. Grants of up to \$5,000 were available, from a total pool of \$5,000 to:

- Individual artists.
- Creative producers.

10 • Artist teams.

The first round of the grant was advertised in May, with applications closing on 11 July 2021. One application for a permanent public artwork was received and assessed by a staff panel as not viable, raising issues with offering this grant for permanent public art projects.

15 Given the total pool of funding available is small (\$5,000 maximum) the available amount is more suited to temporary creative activations, rather than permanent public artwork installations which are expensive to manage, fabricate and install and create risk for Council if not developed with community consultation, appropriate resourcing and multi-disciplinary expertise.

20 Permanent public art projects need to follow the process set out in the Public Art Guidelines and Public Art Strategy.

The unawarded \$5,000 from 2021 will be carried over to the 2022 Creative Public Spaces Small Grant funding round, creating a total pool of \$10,000.

25 The Creative Public Spaces Small Grants Guidelines will be amended to include the following additional requirements for permanent public art projects.

Applications for Permanent Public artworks must:

- Be discussed with Council prior to submitting the application
- Demonstrate viability through other funding sources that are confirmed and must clearly outline realistic budget amounts for concept development, consultation, fabrication, installation, insurances and ongoing maintenance.
- Be pre-approved for consideration through the Public Art Panel

35

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

5 Recent Resolutions

- 20-295: Report of the Public Art Panel meeting held on 9 April 2020. Resolved: 1. That Council adopts the Public Art Annual Small Grants Program, incorporating feedback provided from Public Art Panel members, and prepares to advertise the first round.

10

Legal/Statutory/Policy Considerations

Public Art Policy – adopted August 2018.

Public Art Strategy – adopted August 2018.

Public Art Guidelines – adopted December 2019.

15

Financial Considerations

The allocated amount for the Creative Public Spaces Small Grant annually is \$5,000 from the Public Art Budget. It is proposed that the unspent \$5,000 be carried over to create a fund of \$10,000 for the next funding round.

20 Consultation and Engagement

Staff

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

4.3

Public Art Panel

**Report No. 4.4 PAP Referral 144 Jonson Street DA
10.2021.441.1**

Directorate: Corporate and Community Services

Report Author: Melitta Firth, Arts & Culture Office

5 **File No:** I2021/1232

Summary:

10 A retrospective DA has been submitted for a mural and illuminated signage on a heritage Building at 144 Jonson Street, Byron Bay. In accordance with the requirements in the Development Control Plan, this development application is referred to the Public Art Panel for feedback on the mural component.

RECOMMENDATION:

15 **That the Public Art Panel provides feedback to the Assessment Officer with regards to the attached Development Application for 144 Jonson Street, Byron Bay.**

DA 10.2021.441.1

Attachments:

- 20
- 1 10.2021.441.1 - SEE 144 Jonson St, Byron Bay_PAN-121505, E2021/98920 , page 35[↓](#)
 - 2 10.2021.441.1 - Plans and designs_PAN-121505, E2021/98922 , page 49[↓](#)
 - 3 10.2021.441.1 - DA form_PAN-121505, E2021/98923 , page 56[↓](#)
 - 4 10.2021.441.1 - Report on Heritage Impact_PAN-121505, E2021/98924 , page 60[↓](#)

25

Report

The Heritage impact Assessment Report prepared by heritage consultant Kate Gahan for this DA has concluded that:

- 5 1. Each of the works undertaken (listed above) are considered appropriate treatments to the heritage item (see details in table on page 9-12);
- 2. Each of the works undertaken has not resulted in an adverse heritage impact, rather overall the heritage impact has been positive (see details in table on page 9-12);
- 3. The current owners acted in good faith by undertaking these works to address a recurring illegal graffiti problem on the rear wall of the building.
- 10 The report notes that the overlay of the current Space Yoga mural on the building’s rendered brick surface does not create any additional impact on the fabric of the building from a heritage point of view – given it was already painted and over an existing rendered brick finish. Therefore, the Heritage impact on the fabric of the building is considered neutral as this surface, at any point, could be returned to a blank painted finish.
- 15 The owner of the building has reported that since the mural was installed issues with graffiti have reduced.

Regarding the subject matter of the mural the heritage assessment states:

20 Despite the building’s historic use as a Bacon and Small Goods Factory, and its part in illustrating the evolution of Norco in the town and region, the mural appropriately interprets Byron Bay’s contemporary cultural life through the image / face of a woman. The composition of the mural depicts the face in direct relationship to Byron Bay township and environs, as is symbolised by the lighthouse and ocean & rainbow imagery. The style of the mural suggests the contemporary/alternative culture of the town and region – which is steeped in the recent past/half century, triggered by the Aquarius festival of the early

25 1970s. Aquarius also coincided with the closing of the factory in 1972 – the layering of this style of mural and subject matter on the former Norco building suggests the layered history of the town/region – including changes it has seen socially, culturally, and economically.

Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
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

Public Art Chapter, Development Control Plan

Public Art Policy – adopted August 2018.

Public Art Strategy – adopted August 2018.

- 5 Public Art Guidelines – adopted December 2019.

Development Control Plan - Excerpt

D8.3 Provision of Murals

10 This Subchapter applies to the provision of murals requiring development consent under Byron LEP 2014, Part 5.10 – Heritage Conservation. This may include murals that impact Byron Shire Development Control Plan 2014 – Chapter D8 – Public Art Adopted 15 August 2019 Effective 11 September 2019 on a heritage item or are located within a heritage conservation area or may include murals that impact on an Aboriginal object or Aboriginal place of heritage significance.

Objectives

- 15 1. To conserve the environmental heritage of Byron Shire.
- 2. To facilitate the provision of murals that are appropriate for the location and the community.

Performance Criteria

- 20 1. The following considerations are to be addressed in a development application for a mural requiring development consent under Byron LEP 2014, Part 5.10 – Heritage Conservation:
 - a) Is the artwork suited to a diverse audience?
 - b) Does the mural add to the character and integrity of the location?
 - 25 c) Is the artwork a mural as defined in this DCP or does it meet the definition of signage?
- 2. Consideration is to be given to the use of mediums that will not affect the original fabric of the heritage item (e.g. mural may be painted on removable ply boards).
- 3. Development applications must include a heritage impact statement in accordance with Byron LEP 2014, Part 5.10(4).
- 30 4. Where the mural is considered to be of minor impact, applicants are to consult with Council prior to lodgement of a development application to determine if Byron LEP 2014, Part 5.10(10) is applicable.

Financial Considerations

Nil to the public art budget.

Consultation and Engagement

Planning Assessment Officer

**Report No. 4.5 PAP Referral 116 118 Jonson Street
Voluntary Planning Agreement
10.2021.291.1**

Directorate: Corporate and Community Services

5 **Report Author:** Melitta Firth, Arts & Culture Office

File No: I2021/1233

Summary:

10 A Development Application (DA) has been submitted for 116 and 118 Jonson Street, Byron Bay. The applicant has drafted a Voluntary Planning Agreement (VPA) for the provision of Public Art and proposes a contribution of \$80,000 to Council for Public Art in lieu of integrating public art into the development.

In accordance with the requirements in the Development Control Plan, the Public Art Panel is being notified of the proposed VPA.

15

RECOMMENDATION:

That the Public Art Panel reviews the Voluntary Planning Agreement and provides any feedback to the Assessor.

20

Attachments:

1 Confidential - 10.2021.291.1 Draft Planning Agreement_Public Art, E2021/95881

25

Report

5 In lieu of providing public art as a component of a Development Application (DA), an applicant can enter into a Voluntary Planning Agreement with Council to provide an equivalent financial contribution for the installation of public art in a suitable location.

The relevant DA is for:

10 Demolition of Existing Buildings and Construct Mixed Use Development comprising Basement Parking, Ground Floor Retail Premises and Serviced Apartments, Two Levels of Serviced Apartments Above and Provision of Guest Facilities on the Roof including a Private Swimming Pool.

Legal/Statutory/Policy Considerations

Development Control Plan (Excerpt)

15 Development to which this Section applies must include the provision of public art to the value of at least 2.5% of development costs (calculated in accordance with the Environmental Planning & Assessment Regulation) up to \$2 million, and 1% of further development costs exceeding \$2 million. Where development costs exceed \$5 million, the provision of public art may be negotiated at a value no less than \$80,000.

Financial Considerations

20 As per Voluntary Planning agreement

Consultation and Engagement

Planning Assessor