

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, 21 October 2021
Time	4.30pm

Vanessa Adams
Director Corporate and Community Services

*I2021/1625
Distributed 14/10/21*

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.

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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 19 August 2021 Public Art Panel Meeting..... 5

4. STAFF REPORTS

Corporate and Community Services

- 4.1 Creative Mullumbimby Update October 2021 12
4.2 Public Art Panel Referral - 90 96 Jonson Street Voluntary Planning
Agreement DA 10.2021.384.1 18
4.3 Creative Public Spaces Grant Round 20

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

**Report No. 3.1 Adoption of Minutes from 19 August 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: I2021/1624

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RECOMMENDATION:

That the minutes of the Public Art Panel Meeting held on 19 August 2021 be confirmed.

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Attachments:

1 Minutes 19/08/2021 Public Art Panel, I2021/1245 , page 7 [↓](#)

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BYRON SHIRE COUNCIL

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

3.1

Report

The attachment to this report provides the minutes of the Public Art Panel Meeting of 19 August 2021.

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Report to Council

The minutes were not reported to Council as there were no items requiring Council consideration.

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STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 4.1 Creative Mullumbimby Update October 2021

Directorate: Corporate and Community Services

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

File No: I2021/1562

Summary:



10 Creative Mullum Inc has provided a report to the PAP outlining current activities and requesting specific actions from Council, including funding support for the installation of a temporary public artwork in Mullumbimby.

15 **RECOMMENDATION:**

That the Public Art Panel:

1. a) recommends that Council provides funding of \$1,000 for the installation of Emma Allen's work 'Imagine' by Creative Mullumbimby over three months of Summer 2021; or
- 20 b) recommends that Council does not fund the installation of the work.

Attachments:

- 1 Confidential - Report to Public Art Panel 21.10.21 CREATIVE MULLUM INC, E2021/122297
- 25 2 Public Art Panel Meeting 21.10.21 Appendix 13 -Revised Public Art Guidelines and Criteria following resolution 14-471 October 2014, E2021/122935 , page 16 [↓](#)

30 **Report**

Creative Mullum Inc has provided an update on its proposed activities in the attached report.

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STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

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Creative Mullum Inc is requesting PAP and Council support to the sum of \$1,000 to cover the cost of installation of a temporary sculpture for three months from November 2021 in Mullumbimby.

- 5 The work is MAGIC_L & AM_ZING by Emma Anna, an accomplished public artist who creates uplifting, interactive, accessible works drawn from the traditions of concrete poetry.



The report also:

- 10
- Provides an update to the PAP on Creative Mullum activities and Ingenuity Festival 2022 without action required.
 - Notes maintenance requirements on public artworks in the park. These will be actioned by staff using existing budget.
- 15
- Provides an update on the work 'Echoes of Chincogan' - a work being completed in stages.

Strategic Considerations

Community Strategic Plan and Operational Plan

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

Legal/Statutory/Policy Considerations

Public Art Policy – adopted August 2018.

5 Public Art Strategy – adopted August 2018.

Public Art Guidelines and Criteria – adopted December 2019.

Excerpt from the Public Art Guidelines 2019

10 When an artwork is loaned to Council, the artist will be responsible for maintaining and insuring the Public Artwork on loan. 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.

15 The proponent has an approved DA.10.2014.248.1. which allows for temporary works to be installed within the Palm Park precinct as part of the Sculpture Walk on a temporary basis. Creative Mullumbimby has Public Liability insurance and the artist is responsible for insuring the work.

20 Recent Resolutions

20-698: Council recently resolved to establish a Public Art Maintenance Reserve of \$10,000 per annum, commencing in the 2021/22 financial year, to cover the cost of inspections, conservation and maintenance. This has been established and sits within the Open Spaces Budget.

25 An estimated cost for an Asset Engineer to inspect the public art assets across the Shire and identify conservation and maintenance work is \$5,200. This leaves the remainder of

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

4.1

an annual budget of \$4,800 available for undertaking any conservation and maintenance work.

Legal/Statutory/Policy Considerations

- 5 Council makes a commitment to maintenance of works acquired.
Artists are required to insure and maintain works on loan.

Financial Considerations

\$1,000 for installation of MAGIC_L & AM_ZING by Emma Anna

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Consultation and Engagement

Creative Mullumbimby Inc

Byron Shire Council Open Spaces Team

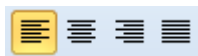
Report No. 4.2 Public Art Panel Referral - 90 96 Jonson Street Voluntary Planning Agreement DA 10.2021.384.1

Directorate: Corporate and Community Services

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

File No: I2021/1571

Summary:



10 A Development Application (DA) has been submitted for 90-96 Jonson Street, Byron Bay. The applicant has drafted a Voluntary Planning Agreement (VPA) for the provision of Public Art and proposes a contribution of \$175,000 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 for DA 10.2021.384.1.

15

RECOMMENDATION:

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

Attachments:

25 1 Confidential - Public Art Panel Referral- Attachment 1 Meeting 21 Oct 2021 10.2021.384.1 - Planning Agreement - Public Art - 90-96 Jonson St, Byron Bay, E2021/120598

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:

Proposal: Demolition of Existing Buildings and Construction of a Three (3) Storey Mixed Use Retail/Residential Development including Basement Parking

Address: 90-96 Jonson Street BYRON BAY

10 Premises: Legend Pizza/Verve Night Club/Farmer Smiffs Chicks

Owner: Beachbreak Developments Pty Ltd

See attached Voluntary Planning Agreement, negotiated to the value of \$175,000.

Legal/Statutory/Policy Considerations

Development Control Plan Part D Section 8

15 **Financial Considerations**

As per Voluntary Planning agreement

Consultation and Engagement

Planning Assessor

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:

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1 Creative Public Spaces Small Grant Guidelines, E2021/66056 , page 24 [↓](#)

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

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Public Art Panel

