

# Notice of Meeting

## Arts and Creative Industries Advisory Committee Meeting

An Arts and Creative Industries Advisory Committee Meeting of  
Byron Shire Council will be held as follows:

Venue	Conference Room, Station Street, Mullumbimby
Date	Thursday, 19 October 2023
Time	11:30am

Esmeralda Davis  
Director Corporate and Community Services

I2023/1576  
Distributed 13/10/23



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## CONFLICT OF INTERESTS

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

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

**Non-pecuniary** – a private or personal interest that a Council official has that does not amount to a pecuniary interest as defined in the 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)

**Committee members are reminded that they should declare and manage all conflicts of interest in respect of any matter on this Agenda, in accordance with the [Code of Conduct](#).**

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## 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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## OATH AND AFFIRMATION FOR COUNCILLORS

Councillors are reminded of the oath of office or affirmation of office made at or before their first meeting of the council in accordance with Clause 233A of the Local Government Act 1993. This includes undertaking the duties of the office of councillor in the best interests of the people of Byron Shire and the Byron Shire Council and faithfully and impartially carrying out the functions, powers, authorities and discretions vested under the Act or any other Act to the best of one's ability and judgment.

# 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 of the Arts and Creative Industries Advisory Committee Meetings held 29 June 2023 and 17 August 2023..... 6

### 4. STAFF REPORTS

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

- 4.1 Update from Aboriginal Project Officer ..... 9  
4.2 Decommissioning of artwork "Catch a Falling Fish" from Federal Park ..... 11  
4.3 Public Art Proposal for Brunswick Nature Sculpture Walk ..... 17

#### **Infrastructure Services**

- 4.4 Amendments to Public Art Development Control Plan ..... 24

**ADOPTION OF MINUTES FROM PREVIOUS MEETINGS**

**Report No. 3.1 Adoption of Minutes of the Arts and Creative Industries Advisory Committee Meetings held 29 June 2023 and 17 August 2023**

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**Directorate:** Corporate and Community Services

**Report Author:** Storm Townsend, Executive Assistant Corporate & Community Services

**File No:** I2023/1242



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**RECOMMENDATION:**

15 **That the Minutes of the Arts and Creative Industries Advisory Committee Meetings held on 29 June 2023 and 17 August 2023 be confirmed.**

**Attachments:**

- 20
- 1 Minutes 17/08/2023 Arts and Creative Industries Advisory Committee, I2023/1187 
  - 2 Minutes 29/06/2023 Arts and Creative Industries Advisory Committee, I2023/973 

# BYRON SHIRE COUNCIL

## ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

3.1

### Report

The attachment to this report provides the minutes of the Arts and Creative Industries Advisory Committee Meetings of 29 June 2023 and 17 August 2023 .

### Report to Council

- 5 The Minutes of 29 June 2023 were reported to Council on 24 August 2023The Minutes of 17 August 2023 were reported to Council on 28 September 2023

### Comments

In accordance with the Committee Recommendations, Council resolved at the Council Meeting held on **24 August 2023** the following:

- 10 **23-336 Resolved** that Council notes the minutes of the Arts and Creative Industries Advisory Committee Meeting held on 29 June 2023. (Ndiaye/Coorey)
- 23-337 Resolved** that Council adopts the following Committee Recommendations:  
**Report No. 4.1 Basketball Court Art Project Proposal received from Laith McGregor & Art Courts Australia**
- 15 1. That the Committee supports the proposal progressing including consultation with relevant stakeholders.  
2. That the Committee recommends consideration of a broader review of the basketball and netball court areas for inclusion into an integrated activation plan. (Ndiaye/Coorey)
- 20 **23-338 Resolved** that Council adopts the following Committee Recommendations:  
**Report No. 4.2 Jonson and Lawson Street Roundabout Mosaic Artworks**
- 25 1. That the Committee acknowledges that the location of the artwork no longer complies with road safety standards and the cost/benefit of repairing the work is prohibitive.  
2. That the Committee recommends examining the possibility of salvaging some of the existing artwork.  
3. That the Committee recommends commissioning a new artwork in a more suitable location. (Ndiaye/Coorey)

30 In accordance with the Committee Recommendations, Council resolved at the Council Meeting held on **28 September 2023** the following:

- 23-411 Resolved** that Council notes the minutes of the Arts and Creative Industries Advisory Committee Meeting held on 17 August 2023. (Lyon/Hunter)

The following Management recommendation was also endorsed by Council, which were necessary due to budget constraints.

# BYRON SHIRE COUNCIL

## ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

3.1

**23-412 Resolved** that Council does not adopt Committee Recommendations 3.1 as shown in the attachment to this report, but instead adopts the Management Recommendations as follows:

### **Report No. 3.1 Byron Shire Council Creative Public Spaces Grant 2023 - Successful Applicants**

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1. That the Committee notes successful applicants for the 2023 Creative Public Spaces Grant.

2. The Management recommends an increase in the budget for the Creative Public Spaces Grant of \$10,000 allocated from the Public Art Budget Line (GL 2323.001).  
(Lyon/Hunter)

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STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

**Report No. 4.1      Update from Aboriginal Project Officer**

**Directorate:** Corporate and Community Services

5 **Report Author:** Robert Appo, Project Officer (Aboriginal)  
Melitta Firth, Arts & Culture Officer

**File No:** I2023/1045

**Summary:**

10 The purpose of this report is to provide an update on Council’s work to acknowledge and celebrate Aboriginal voices and stories, communities, cultural expression, and creativity.

The Aboriginal Project Officer will provide an overview of:

- Collaboration and planning with Arakwal Corporation
- Widjabal Wia-bal native title determination
- Recent projects in partnership with Aboriginal artists and creatives

15 The Aboriginal Project Officer will also represent the Bundjalung community on the Arts and Creative Industries Advisory Committee at this meeting while recruitment for a new representative is underway.

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**RECOMMENDATION:**

**That the Committee notes the report and update provided by the Aboriginal Project Officer.**

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**Report**

The purpose of this report is to provide an update on Council’s work to acknowledge and celebrate Aboriginal voices and stories, communities, cultural expression, and creativity.

5 As interest has been suggested by the Committee, the Aboriginal Project Officer will provide an overview of:

- Collaboration and planning with Arakwal Corporation
- Widjabal Wia-bal native title determination
- Recent projects in partnership with Aboriginal artists and creatives

10 The Aboriginal Project Officer will also represent the Bundjalung community on the Arts and Creative Industries Advisory Committee at this meeting while recruitment for a new representative is underway.

**Arts and Culture Action Plan 2023-2026**

Our newly adopted Arts and Culture Action Plan 2023-2026 outlines the key priorities to celebrate Aboriginal artists, creatives, and organisations:

- 15 • Partner with the Aboriginal community to support collaborations and increase intergenerational exchange and sharing through arts and cultural initiatives, storytelling and cultural expression.
- Support Aboriginal-led arts projects, curation and cultural activity and provide access to time on country for Aboriginal artists and creatives.
- 20 • Support opportunities to promote Aboriginal knowledge systems, language, place names, cultural practices and cultural tourism.

**Community Strategic Plan and Operational Plan**

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
2: Inclusive Community	2.3: Respect Aboriginal culture, value cultural knowledge, and acknowledge history	2.3.2: Aboriginal cultural expression - Support First Nations cultural expression	2.3.2.1	Support First Nations cultural expression through capacity building and outcomes as guided by the needs of Aboriginal stakeholders

**Report No. 4.2      Decommissioning of artwork "Catch a Falling Fish" from Federal Park**

**Directorate:** Corporate and Community Services

**Report Author:** Melitta Firth, Arts & Culture Officer

5 **File No:** I2023/1449

**Summary:**

The public artwork 'Catch a Falling Fish' by Suvira McDonald at Federal Park, Federal has been identified for decommissioning due to safety concerns.

Following discussions with the artist, staff recommend removal of the artwork.

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**RECOMMENDATION:**

15 **That Council decommissions the public artwork 'Catch a Falling Fish' by Suvira McDonald and return the work to the artist.**

## Report

5 All public 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, Council will liaise with the artist and remove the artwork.

10 'Catch a Falling Fish' by local sculptor and ceramic artist Suvira McDonald has been identified for decommissioning during routine maintenance due to rust, deterioration, and safety considerations. Please see images of the artwork in Figures 1, 2 and 3.

As per the the Public Art Guidelines and the Arts and Creative Industries Advisory Committee Constitution the Committee is responsible for implementing the decommissioning process.

### 15 **Decommissioning of artwork**

'Catching a Falling Fish' was a community-initiated artwork installed at Federal Park in Federal. Having been in place for 15 years, the public artwork has had a long lifespan.

Concerns about the artwork include:

- The nets have rusted and lost visual integrity.
- The existing wire tensioning for the structure appears to be inadequate.
- Proximity to playground means this work would not meet relevant safety standards.

In consultation with the artist, removal of the artwork is considered the best option to reduce risk considering it is structurally compromised and potentially unsafe.

25 The support structure that holds the nets was a joint community effort to create however, this has also aged, is no longer aesthetically appealing, and requires further engineering advice if removal if this is to be retained. Therefore, staff recommend removal of the support structure as well.

30 Until a decision is formalised, Open Space staff continue to monitor the artwork through ongoing regular inspections however it will need to be removed soon.

Consideration of any new artwork at this site can occur alongside future park upgrades, masterplan activities and community consultation.

35 Recommendations to decommission artworks are required to be referred to Council for decision.

40



Figure 1: Catch a Falling Fish sculpture by Suvira McDonald



Figure 2. Support structure of Catch a Falling Fish sculpture by Suvira McDonald



5 Figure 3. Nets - Catch a Falling Fish sculpture by Suvira McDonald



Figure 3: Aerial view of Federal Park with location of artwork shown.

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## Strategic Considerations

### Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
2: Inclusive Community	2.1: Foster opportunities to express, celebrate and participate in arts and cultural activity	2.1.1: Public Art - Increase creativity in public spaces and build public art opportunities	2.1.1.1	Support art and creative industries in the shire through advice, facilitation or coordination of policy, plans and projects

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

As per the Public Art Guidelines, before a work is removed or decommissioned, a formal process has been implemented and has considered:

- 5 • 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.
- 10 • 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.
- 15 • community or cultural issues associated with the artwork, building, land and/or original commissioning process.

The Arts and Creative Industries Advisory Committee provides advice on Council's public artwork collection and is responsible for implementing the decommissioning process.

### **20 Financial Considerations**

Costs of removal are yet to be determined; however decommissioning expenses are included in Open Spaces' general maintenance budget.

### **Consultation and Engagement**

Open Spaces Team

25 Artist - Suvira McDonald

Gary Haughton - Federal Community Centre



**Report No. 4.3      Public Art Proposal for Brunswick Nature Sculpture Walk**

**Directorate:** Corporate and Community Services

**Report Author:** Melitta Firth, Arts & Culture Officer

5 **File No:** I2023/1473

**Summary:**

A proposal has been received from Brunswick Nature Sculpture Walk (BNSW) seeking changes to Council's contribution to the triennial festival and requesting financial support for a public artwork by local Japanese-Australian artist Hiromi Tango.

10 As per the Public Art Guidelines and the Arts and Creative Industries Advisory Committee Constitution, the Committee is required to assess public art proposals and advise Council on public art acquisitions.

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**RECOMMENDATION:**

1. **That the Committee recommends Council removes the requirement for the Brunswick Nature Sculpture Walk prize to be awarded to a work that is permanently acquired.**
- 20 **2. That the Committee provides feedback and recommendations to Council on the proposal for installation of the Hiromi Tango work YU KA 夢花 (Dream Flower).**

**Attachments:**

- 1 YU KA Dream Flowers Hiromi Tango Proposal, E2023/103638 
- 25 2 Brunswick Nature Sculptural Walk additional information, E2023/103636 

## Report

### Background

5 Brunswick Nature Sculpture Walk (BNSW) is a not-for-profit, triennial sculpture festival curated by arts professionals and made possible by a team of volunteers and local sponsors.

The festival provides a platform for sculpture, performance and sound works that sensitively engage with the environment and community.

10 Over time, BNSW has fostered extensive creative projects and exchanges with artists across Australia, acquired numerous long-term artworks, and offered exciting arts activities to both locals and visitors.

The festival has been running for nine years and is a free outdoor event.

BNSW are seeking changes to Council support of the event and funding for the installation of new public art as part of the 2024 festival.

### 15 Previous Council Sponsorship of the Event

Since 2016, Council has donated \$16,500 towards the BNSW who have run two events in this period. This has included \$5,000 for a Council-sponsored prize at each event. This funding has been critical to the longevity and viability of the event.

20 Due to multiple impacts of Covid on the 2021 event, it was agreed that the terms of the Council sponsored award would be changed from acquisitive to non-acquisitive for that year only. At the time the Public Art Panel requested the opportunity to provide feedback on any proposed changes to the award for future events.

There were a number of reasons for this change recommended by the judges which emerged during the judging process.

- 25
- The cost of large sculptural works is generally higher than the \$5,000 award amount - the award amount is below the sale price of the work meaning the artist might make a loss as a result of winning the award.
  - \$5,000 is an amount better suited to an industry standard artist concept design fee or prototype fee, or for the footings alone of a permanent piece of public art. Most
  - 30 acquisitive sculpture awards are anywhere between \$15,000 - \$100,000.
  - Most of the works entered in the prize are not safe enough or durable enough to be considered for the prize as they could not be installed long term. This limits the judges to only a handful of works for selection as the winner.
  - In line with the ethos of the event, the festival attracts ephemeral and temporary
  - 35 work with an emphasis on nature and changing and surprising works responding to the environment. It is not necessarily desirable for some of these works to be installed or acquired long term, though they make a great contribution to the time-limited event.

In 2021, Council followed the Public Art Panel recommendation to:

1. Provide a \$5,000 financial contribution for a non-acquisitive award based on conceptual strength, relevance to landscape of Brunswick Heads, integrity and craftsmanship.
- 5 2. Upon accepting the award, and dependent on the work's suitability, the artist agreed for the work to be installed for up to three years, if suitable. After the agreed time period, the work is returned to the artist.
3. Remove suitability for long term installation and longevity of materials as a requirement in the award selection criterion.

10 **BNSW request to change award**

BNSW have proposed that Council permanently alter the previous agreement to allow for greater flexibility of the \$5,000 award in the future.

Changes to the award would allow the winning work to be any of the following:

- 15 • An acquisitive award for a work that is owned by Council
- A non-acquisitional work
- Concept design for a future commission
- An ephemeral artwork, performance or soundscape
- 20 • A temporary loan -i.e., \$5,000 artist fee paid for loan of sculpture for 3 years and Artist retains the sculpture and/or Council has first option to buy the work at end of agreed period.

Changing the parameters of the award to include temporary artworks has several advantages including:

- allowing the audience and community to explore and examine sculptures that are better suited to long term acquisitions.
- 25 • gauging community responses and reactions to sculptural pieces
- providing opportunities for community consultation and feedback prior to future commissioning or purchase.

30 There are several key considerations for permanent public art which are not able to be applied due to the timeframe of the festival and judging process – this occurs the week prior or the day of the installation. These include but are not limited to:

- site suitability
- land ownership – ability to effectively working together with all parties, such as Arakwal Corporation, Crown Lands, Council, Reflections Holiday Parks and community
- 35 • insurance, safety and security
- durability and maintenance

Other considerations include:

- value of the award is low in comparison to other acquisitive sculpture awards
  - arts industry best practice, openness and flexibility of the award to a broad range of projects/winners
- 5
- ability to make an award determination based on artistic merit rather than choosing from a limited number of works that could be installed permanently.

### **Future Events**

It is recommended that Council's future financial contributions to the festival be flexible and allow for the funding to be used in response to emerging opportunities.

- 10
- Deciding to change the award parameters to non-acquisitive has the potential to attract higher quality submissions and provide better community outcomes.

### **Brunswick Nature Sculpture Walk Public Art Proposal 2024**

BNSW are requesting \$25,000 from Council for the installation of the public art program in 2024.

- 15
- The work proposed is YU KA 夢花 (Dream Flower) by internationally renowned local Japanese-Australian artist Hiromi Tango. The artist proposal is included at [Attachment 1 \(E2023/103638\)](#).

20

Tango lives in the Tweed Shire and has worked closely with communities across the Northern Rivers to create collaborative works for Splendour in the Grass as well as gallery exhibitions.

The proposed costs are outlined below and are dependant on the number of flowers purchased, whether or not the works are installed permanently and if they are newly fabricated or previously exhibited at Brisbane Festival i.e. not brand new works.

- 25
- The first option includes fabrication of one new flower for permanent acquisition. The second option is for a temporary artwork loan for up to three years of existing flowers with an option to purchase at the conclusion of the period. The third option includes fabrication of three new flowers for permanent installation.

Some proposed site options are included in the artists proposal. The proposed area is Council managed Crown Land with Native Title non-exclusive applicable.

- 30
- BNSW have provided more information about the work and the associated community engagement activities at [Attachment 2 \(E2023/103636\)](#).

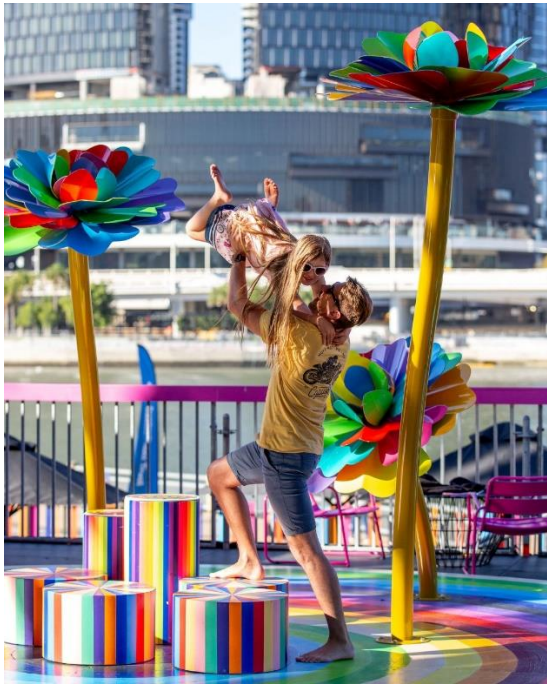


Figure 1: Dream Flower by Artists Hiromi Tango (currently installed at Brisbane Festival)

**Options**

5 The artist has proposed three possible options for the work to be installed as part of Brunswick Nature Sculpture Walk 2024 at Brunswick Heads.

**Option 1**

Acquisition of one newly fabricated YU KA flower for permanent installation.

10 Cost: from \$17,400\* + 30% Artists Fee on top (comprising of \$12,400 per flower + other costs)

**Option 2**

Artwork loan of three flowers from the original installation at the Brisbane Festival

15 This option includes a fee for an artwork loan of three flowers for up to three years. At the end of agreement, Council would have the option to purchase the work permanently for Brunswick Heads.

Cost: \$23,855

**Option 3**

Permanent installation of three newly fabricated YU KA flowers

20 Cost: \$66,450

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

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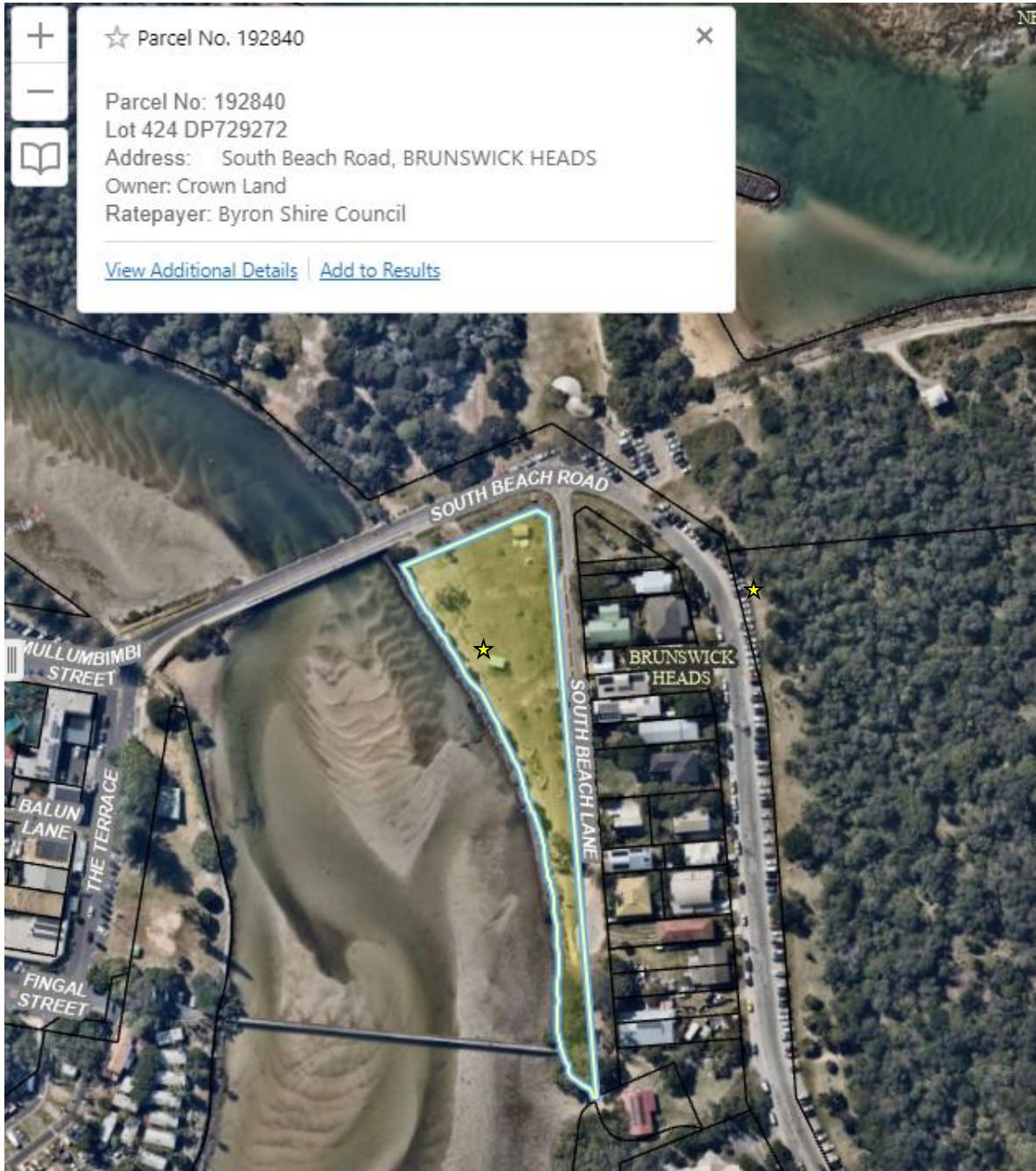


Figure 2: Proposed sites options

## **Strategic Considerations**

### **Community Strategic Plan and Operational Plan**

<b>CSP Objective</b>	<b>CSP Strategy</b>	<b>DP Action</b>	<b>Code</b>	<b>OP Activity</b>
2: Inclusive Community	2.1: Foster opportunities to express, celebrate and participate in arts and cultural activity	2.1.1: Public Art - Increase creativity in public spaces and build public art opportunities	2.1.1.1	Support art and creative industries in the shire through advice, facilitation or coordination of policy, plans and projects

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

Public Art Policy 2019

5 Public Art Strategy 2020

Arts and Culture Action Plan 2023-2026

### **Financial Considerations**

10 There is currently \$50,400 in the public art budget with \$5,000 committed to creative public spaces. This amount is the result of carry overs from previous years and not a reflection of the annual recurring budget.

BNSW is requesting \$25,000 towards the exhibition of the Hiromi Tango works and associated community engagement activities.

There are several art projects currently under consideration including the Artcourt Proposal by Laith McGregor, the Byron Bay foreshore redevelopment and multiple urban upgrades.

15 Allocation of funds will need to consider existing projects and opportunities for funding through existing grant programs.

### **Consultation and Engagement**

Brunswick Nature Sculpture Walk works closely with key stakeholders, community groups and volunteers. This engagement has informed the proposal.

20 Consultation with Open Spaces and Arakwal Corporation is required following feedback from the Committee.





## Report

### DCP provisions

5 There are two distinct parts of the Environmental Planning and Assessment Act 1979 that pertain to development control plans and planning agreements. These are: Division 3.6 Development Control Plans and Division 7 Subdivision 2 Planning agreements.

The current DCP provisions conflate the two divisions, and it imposes requirements that go beyond the scope of what a DCP should specify.

The purpose of a DCP is set out in section 3.42 of the Act as set out below.

### **3.42 Purpose and status of development control plans** (cf previous s 74BA)

10 (1) *The principal purpose of a development control plan is to provide guidance on the following matters to the persons proposing to carry out development to which this Part applies and to the consent authority for any such development—*

(a) *giving effect to the aims of any environmental planning instrument that applies to the development,*

15 (b) *facilitating development that is permissible under any such instrument,*

(c) *achieving the objectives of land zones under any such instrument.*

*The provisions of a development control plan made for that purpose are not statutory requirements.*

20 (2) *The other purpose of a development control plan is to make provisions of the kind referred to in section 3.43(1)(b)–(e).*

(3) *Subsection (1) does not affect any requirement under Division 4.5 in relation to complying development.*

The current DCP goes beyond this mandate and may be subject to challenge. On this basis the public art provisions as included in the DCP require review and amendment.

### 25 Recent developments

Since 2021 various developments that triggered the public art provisions under the DCP have been granted development consent. Staff will provide a verbal update on the status of these at the meeting.

### Next steps

30 A draft of the amended DCP for provisions of public art will be provided to the committee members via email for comment before the report is presented to Council.

**Community Strategic Plan and Operational Plan**

<b>CSP Objective</b>	<b>CSP Strategy</b>	<b>DP Action</b>	<b>Code</b>	<b>OP Activity</b>
4: Ethical Growth	4.1: Manage responsible development through effective place and space planning	4.1.4: LEP & DCP - Review and update the Local Environmental Plan and Development Control Plans	4.1.4.2	Review and update Local Environmental Plan and Development Control Plans to reflect strategic land use priorities and/or legislative reforms

**Legal/Statutory/Policy Considerations**

Legal advice has been sought and is confidential and privileged information. Release of this information may prejudice Council's position with developers.

**5 Financial Considerations**

There are no budget implications as the DCP amendment may be carried out with existing staff resources.