



# Byron Shire Development Control Plan 2014

## Chapter D&B15 Public Art



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# Chapter D8 B15 – Public Art

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## D&B15.1 Introduction

Public Art is defined in the broadest sense as artistic works or activities accessible to the public. The work is of a permanent nature, located in or part of a public space or facility provided by both the public and private sector. Public art also includes the conceptual contribution of an artist to the design of public spaces and facilities **and could include Creative Industries Precincts or other arts and cultural infrastructure outcomes.**

Council supports Public Art as outlined in the:

- Public Art Policy
- Public Art Strategy
- Public Art Guidelines and Criteria

**Council has an internal reference group to consider public art submitted through the application of this chapter.**

**An external Arts and Creative Industries Committee is made up of community members with specialist expertise, experience and interest in the field of creative industries. The committee will be notified of public art plans submitted as a result of this chapter and have the opportunity to provide comments through the exhibition of the development application.**

**More about public art can be found on Council's website.**

<https://www.byron.nsw.gov.au/Community/Arts-and-culture/Public-Art>

~~A Public Art Panel is appointed to provide appropriate specialist advice and recommendations to Council and to oversee the acquisition of public artworks according to the Policy, Strategy and Guidelines and Criteria. The Panel is made up of invited members and community members with specialist expertise and experience in the arena of public art. More about Public Art can be found on Council's website~~

~~<https://www.byron.nsw.gov.au/Community/Arts-and-culture/Public-Art>~~

### D8.1.1 Aims of this Chapter

The Aims of this Chapter are:

1. To implement relevant Strategic Actions and provisions of the Byron Shire Council Cultural Plan and Council's **Public Art Strategy** and Public Art Policy where they apply to the development process.
2. To recognise the importance of artistic expression to community well-being.
3. To cultivate a climate in which innovative and creative design, **and well-integrated ecologically sustainable public art** contribute to the cultural life, liveability and amenity of Byron Shire.
4. To encourage **public art** that is:
  - a) Integral to social and cultural development as outlined in the Byron Shire Community Strategic Plan.
  - b) Developed and managed by appropriate procedures and processes
  - c) Created considering standards of excellence, in a professional manner



- d) Adequately planned with relevant stakeholders throughout the project duration, with partnerships and collaboration encouraged
  - e) Meaningful, aesthetically stimulating and site specific
  - f) **Consistent with current planning, heritage and environmental policies and Plans of Management**
  - g) Aimed to provide a cultural outcome
  - h) Supportive of local creative industries
5. To facilitate the provision of **public art** through the development process that:
- a) ~~Encourages innovative~~ **innovation, and demonstrates artistic excellence**  
~~original work with high artistic merit~~
  - b) Is reflective and responsive to local culture, including the local Aboriginal context, if relevant
  - c) ~~Adds life, texture and interest to the site~~
  - d) Encourages the use of innovative materials including environmentally sustainable and eco-friendly material
  - e) Is durable, robust, and of quality, low-maintenance materials, and if applicable, be treated with anti-graffiti coating
  - f) Comply with all relevant Australian Standards and Building Codes and Regulations with regard to public safety
  - g) Enhance existing public art assets of the Shire.
6. To specify considerations for the assessment of murals.
7. To enable equivalent financial contributions in lieu of providing **public art**.
8. To specify documents to be provided with a development application for the provision of **public art**.

## D8.1.2 Application of this Chapter

1. This Chapter applies to Development Applications for projects that:
- a) have an estimated cost greater than \$1,000,000 **\$2,000,000** (calculated in accordance with the *Environmental Planning & Assessment Regulation*); and
  - b) are located on land (partly or wholly) within zones RU2, RU5, B1, B2, B3, B4, B7, SP3 or W2; and
  - c) include development for one or more of the following purposes:
    - i) **business premises**
    - ii) **entertainment facility**
    - iii) **function centres**
    - iv) **marina**
    - v) **office premises**
    - vi) **recreation area**



- vii) **recreation facility** (**indoor**, **major** and/ or **outdoor**)
  - viii) **registered club**
  - ix) **retail premises**
  - x) **tourist and visitor accommodation.**
2. This chapter applies to residential subdivision of land within zones R1, R2 and R3 resulting in 20 lots or greater, with an estimated project cost greater than \$4,000,000 **\$2,000,000** (calculated in accordance with the *Environmental Planning & Assessment Regulation*)
  3. This chapter applies to the provision of murals requiring development consent under *Byron LEP 2014, Part 5.10 – Heritage Conservation*.
  4. **This chapter does not apply to alterations and additions to existing buildings where the overall use is not changing.**

**Note:**

Unsolicited offers of permanent **public art** works to which this chapter does not apply, both existing and proposed, will be referred to the ~~Public Art Panel~~ **Arts and Creative Industries Committee** for approval **consideration**. The ~~committee panel~~ will consider the art work in the context of Council's:

- Public Art Policy
- Public Art Strategy
- Public Art Guidelines and Criteria

The recommendations of the ~~Public Art Panel~~ **committee** will be presented to Council as required. **Public art** not approved via the ~~Public Art Panel~~ **committee** will be subject to removal.

Unsolicited offers of permanent **public art** to be located on Council owned or managed land are to be managed in accordance with Council's Public Art Guidelines & Criteria.

## **D8.2 General Provisions**

### **D8.2.1 Provision of Public Art**

This section enables two assessment pathways for the provision of **public art**. A flow chart is provided in Appendix D8.1 that provides an overview of the assessment pathway options

#### **Objectives**

1. *To facilitate the provision of **public art** through the development process.*



## Performance Criteria

1. In lieu of providing **public art**, the applicant could enter into a Voluntary Planning Agreement with Council to provide an equivalent financial contribution for the installation of **public art** in a suitable location.
2. **Public art** may be located on public land in any of the towns and villages in Byron Shire at the discretion of Council and the ~~Public Art Panel~~ **Arts and Creative Industries Advisory Committee**. Council is to be consulted prior to lodgement of a development application for installations on public land.

### Note:

Preparation of a Voluntary Planning Agreement (VPA) is to be coordinated with Council's Section 7.11 Officer.

## Prescriptive Measures

1. 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.~~
2. A Public Art Plan is to be prepared that provides **sufficient** 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. 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. **A concept design is strongly encouraged.**
  - b) Details of the nature, materials and form of the proposed **public art**.
  - c) Define and illustrate the intended location and approximate size of the artwork
  - d) Provide a program **with timelines** for documentation, fabrication and installation, and integration with the construction program for the development.
  - e) Deaccessioning **considerations and** agreements **as required** in accordance with Council's Public Art Guidelines & Criteria.
  - 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) **Itemised** expenditure for the **public art including artist fees and fabrication costs** and a budget for ongoing maintenance.
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 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 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

### 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.

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~~ **Internal Reference Group for review and notify the Arts and Creative Industries Advisory Committee** for the **opportunity to provide review comment**.

- b) Public Art Report to be submitted by the applicant at the Occupation Certificate Stage.

The Public Art Report is to satisfy Council that the public art has been delivered and the public art commitments have been fulfilled. This will enable the Occupation Certificate to be released. The Public Art Report should provide information about the artworks and artist, the fabrication and installation of the work, the documentation and engineers' drawings, the maintenance requirements, any additional relevant information regarding ownership, and copyright of the work. The Public Art Report is a condition of Occupation Certificate.

### 2. Where the development application for **Public art** is associated with a staged development, the following three documents are required:

- a) Preliminary Public Art Plan to be submitted with the **concept development application** ~~Master Plan for Master Plan sites~~ or with the Stage 1 development application.

The Preliminary Public Art Plan should include an analysis of the locational context, planning requirements and any studies pertinent to the **public art** objectives. It should identify public art opportunities, propose a methodology for the selection and commissioning of artists and provide an estimated budget and program for the



inclusion of artists. Once submitted, the Preliminary Public Art Plan will be referred to the **Internal Reference Group** ~~Public Art Panel~~ for review.

- b) Public Art Plan to be submitted by the applicant at the DA Stage of a Master Plan site **subject to a concept development application** or with the Stage 2 development application.

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 **Internal Reference Group** ~~Public Art Panel~~ for review **and the Arts and Creative Industries Advisory Committee notified**.

- c) Public Art Report to be submitted at Occupation Certificate Stage

The Public Art Report is to satisfy the Council that the **public art** has been delivered and the public art commitments have been fulfilled. This will enable the Occupation Certificate to be released. The Public Art Report should provide information about the artworks and artist, the fabrication and installation of the work, the documentation and engineers' drawings, the maintenance requirements, any additional relevant information regarding ownership, and copyright of the work. The Public Art Report is a condition of Occupation Certificate.

## D8.3 Provision of Murals

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 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

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

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?
  - 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)*.



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.

### **Prescriptive Measures**

There are no prescriptive measures.

Note:

**Murals** that do not require development consent under *Byron LEP 2014, Part 5.10 – Heritage Conservation* do not require a development application. Where development consent is not required, developers and artists are encouraged to submit their concept to the **Arts and Creative Industries Advisory Committee** ~~Public Art Panel~~ for review.

## Appendix D8.1 Assessment Pathways

