



VISION OF COUNCIL

"A thriving and friendly community that recognises our history and embraces cultural diversity and economic opportunity, whilst nurturing our unique natural and built environment."

AGENDA

BUSINESS OF AN URGENT NATURE

FOR THE

ORDINARY MEETING OF COUNCIL

28 FEBRUARY 2019

OUR VISION

"A thriving and friendly community that recognises our history and embraces cultural diversity and economic opportunity, whilst nurturing our unique natural and built environment."

OUR MISSION

"To deliver affordable and quality Local Government services."

CORE VALUES OF THE SHIRE

The core values that underpin the achievement of the mission will be based on a strong customer service focus and a positive attitude:

Communication

Integrity

Respect

Innovation

Transparency

Courtesy

DISCLAIMER

The purpose of Council Meetings is to discuss, and where possible, make resolutions about items appearing on the agenda. Whilst Council has the power to resolve such items and may in fact, appear to have done so at the meeting, no person should rely on or act on the basis of such decision or on any advice or information provided by a Member or Officer, or on the content of any discussion occurring, during the course of the meeting.

Persons should be aware that the provisions of the Local Government Act 1995 (Section 5.25 (e)) establish procedures for revocation or rescission of a Council decision. No person should rely on the decisions made by Council until formal advice of the Council decision is received by that person. The Shire of Broome expressly disclaims liability for any loss or damage suffered by any person as a result of relying on or acting on the basis of any resolution of Council, or any advice or information provided by a Member or Officer, or the content of any discussion occurring, during the course of the Council meeting.

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SHIRE OF BROOME
ORDINARY MEETING OF COUNCIL
THURSDAY 28 FEBRUARY 2019
INDEX – BUSINESS OF AN URGENT NATURE

8.	MATTERS FOR WHICH THE MEETING MAY BE CLOSED	4
12.	BUSINESS OF AN URGENT NATURE	5
12.1	RFT18/06 CHINATOWN ENTRY STATEMENT	5

8. MATTERS FOR WHICH THE MEETING MAY BE CLOSED

UNDER SECTION 5.23 (2)(D) OF THE LOCAL GOVERNMENT ACT 1995 COUNCIL MAY RESOLVE TO MOVE THE MEETING BEHIND CLOSED DOORS.

12. BUSINESS OF AN URGENT NATURE

12.1 RFT18/06 CHINATOWN ENTRY STATEMENT

LOCATION/ADDRESS:	Nil
APPLICANT:	Nil
FILE:	RFT 18/06
AUTHOR:	Manager Community and Economic Development
CONTRIBUTOR/S:	Nil
RESPONSIBLE OFFICER:	Acting Director Development & Community
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	20 February 2019

SUMMARY: The purpose of this report is for Council to revoke its decision, made at the Ordinary Meeting of Council held 22 November 2018, regarding Item 12.1 - Chinatown Public Art - Entry Statement Concept Design. The report also seeks Council's consideration to allow the Shire to work collaboratively with No33 Safehaven Studio to further develop concept design plans.

BACKGROUND

Previous Considerations

OMC 30 August 2018	Item 12.2
OMC 22 November 2018	Item 12.1

Background

The Entry Statement project was initially identified as a key project to be delivered as part of the public art and interpretation program within the Chinatown Revitalisation Project, informed by the Chinatown Public Art and Interpretation Strategy. The total project budget allocated to this project is \$215,000, of which \$162,768 is funded from the Shire's Public Art Reserve.

At the Ordinary Meeting of Council (OMC) held 22 November 2018 Council considered Item 12.1 – Chinatown Public Art – Entry Statement Concept Design.

The Report Recommendation for this item was as follows:

REPORT RECOMMENDATION:

That Council:

1. *Adopts the recommendation to approve the Chinatown Entry Statement Concept 2 'Shimmer' as per the concept design report contained in Attachment 1, subject to endorsement of Concept 2 by the Chinatown Steering Committee.*
2. *Authorises the Chief Executive Officer to award the Commission Agreement to a maximum of \$200,000 (exc. GST) for Phase 2 of RFT18-06 contract for No33 Safehaven Studio to proceed to construction and installation for the Chinatown Entry Statement approved concept.*

However, it is noted that Council resolved:

Council Resolution:

Moved: Cr B Rudeforth Seconded: Cr P Matsumoto

That Council:

- 1. Declines all concepts for the Chinatown Entry Statement provided under the contract awarded in accordance with RFT 18/06 and terminates the Phase 1 Contract awarded by Council on 30 August 2018.**
- 2. Requests that the Chief Executive Officer investigate options for developing an Entry Statement as part of the Chinatown Revitalisation Project, for future consideration by Council.**

CARRIED UNANIMOUSLY 5/0

Reason: The concepts do not accurately represent Chinatown.

Two workshops have been held with Council following this meeting to investigate options as per part 2 of the resolution.

The first workshop was held with Councillors on 10 December 2018 to present options for developing an Entry Statement. This workshop was attended by Councillors Tracey, Foy, Rudeforth, Fryer and Marriott. The consensus from the meeting was to request a presentation from No 33 Safehaven Studio in early 2019, given that no formal representation had been made by the artists to date.

This subsequent workshop was held on 5 February 2019, with No 33 Safehaven Studio attending to provide a summary of the project to date. Councillors Tracey (via conference call), Male, Rudeforth and Mitchell were also present, along with Shire officers. Following a presentation from the artists, Councillors provided in-principle support for officers to prepare a report recommending the continued engagement of No 33 Safehaven Studio to allow further development of concept designs for the Entry Statement.

As such, the officer's recommendation in this report is to revoke Council's original decision and endorse the recommendation as contained in the report below.

COMMENT

Throughout the Council workshops in recent months, there has been a shared acknowledgement that given the complexities of Chinatown's history and meaning; and the nature of this public art project; that further community and stakeholder engagement by the appointed public artists will result in an optimum outcome.

The Department of Primary Industry and Regional Development (DPIRD) were queried as to whether this project could be delivered outside of the constraints of the Chinatown Revitalisation Project to provide an opportunity for the artist to further engage with the Broome community, and revise the timeline accordingly. This approach was endorsed by the Chinatown Steering Committee at the meeting on 15 February 2019, conditional on the Shire committing to continue with the project into 2020.

The key impact of this change is that the balance of the project budget (after the Shire of Broome Public Art Reserve contribution of \$162,768) will be the responsibility of the Shire to either fund directly or seek an external sponsor. This would total approximately \$53,000. The corresponding amount of funding originally assigned through the Chinatown Revitalisation Project will be absorbed into the project contingency.

No33 Safehaven Studios was requested to provide comment on a revised timeline and the benefit this would offer the project in terms of additional time to strengthen community engagement and input into the design. This is addressed below.

No33 Safehaven Studios was originally procured for this project based on their extensive previous experience in delivering large scale and iconic public art; the strength and value placed on community engagement; and the considered and appropriate methodology to completing this work. This has been further underlined by the recent presentation and liaison with Council and supported by a representation made by the Kimberley Arts Network.

Key features of the project moving forward have been summarised in a proposal from No33 Safehaven Studio (**Attachment 1**). Further supporting documents are also attached. Key elements of the approach moving forward are:

- Establishment of an informal working group including Councillors, Shire officers, Chinatown traders and residents, art sector representatives and other interested parties to be established through an expression of interest process.
- A series of design workshops with the group to fine-tune and further develop preliminary concept designs.
- A further Council workshop for the artist to present designs and models to Councillors.
- A revised timeline which would see concept designs presented for Council endorsement at the OMC on 27 June 2019; and a fabrication and installation process commencing from July 2019 to April 2020. This timeline would be dependent on variables including timely approval of concepts and weather over the 2019/2020 wet season.

It is recommended that Council continues the work with No33 Safehaven Studios in the proposed manner to not only achieve the best outcome for the project; but also taking into account the significant reputational, timing and financial risks for the Shire in seeking to pursue other options.

Council's previous resolution was to decline the initial concepts and terminate the engagement of No33 Safehaven Studios. Officers sought advice from WALGA regarding the process to follow should Council wish to continue working with No33 Safehaven Studios to further the design of concept plans. WALGA's recommendation was to;

1. Revoke Council's decision in accordance with Regulation 10 of the Local Government (Administration) Regulations 1996 and;
2. Write a recommendation that reflects the true meaning of Council's intent.

CONSULTATION

Kimberley Arts Network
Chinatown Revitalisation
No33 Safehaven Studio
Department of Primary Industry and Regional Development (DPIRD)

WA Local Government Association (WALGA)

STATUTORY ENVIRONMENT

SECTION 5.25 OF THE LOCAL GOVERNMENT ACT 1995:

Local Government Act 1995

5.25. Regulations about council and committee meetings and committees

(1) Without limiting the generality of section 9.59, regulations may make provision in relation to —

- (e) the circumstances and manner in which a decision made at a council or a committee meeting may be revoked or changed (which may differ from the manner in which the decision was made);

Local Government (Administration) Regulations 1996

10. Revoking or changing decisions (Act s. 5.25(1)(e))

(1) If a decision has been made at a council or a committee meeting then any motion to revoke or change the decision must be supported —

- (a) in the case where an attempt to revoke or change the decision had been made within the previous 3 months but had failed, by an absolute majority; or
- (b) in any other case, by at least $\frac{1}{3}$ of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover.

(1a) Notice of a motion to revoke or change a decision referred to in subregulation (1) is to be signed by members of the council or committee numbering at least $\frac{1}{3}$ of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover.

(2) If a decision has been made at a council or a committee meeting then any decision to revoke or change the first-mentioned decision must be made —

- (a) in the case where the decision to be revoked or changed was required to be made by an absolute majority or by a special majority, by that kind of majority; or
- b) in any other case, by an absolute majority.

POLICY IMPLICATIONS

Policy 5.12 Provision of Public Art

FINANCIAL IMPLICATIONS

The following table demonstrates the financial implications of the Shire resolving to remove the Chinatown Entry Statement from the deliverables within the Chinatown Revitalisation Project. It is noted that minor variations may be required due to the additional engagement, concept development and coordination to progress the project.

Funding Source (original)	Funding Source (proposed)	Capital or Start Up Expense	Account Number
Shire of Broome Public Art Reserve	Shire of Broome Public Art Reserve	\$162,768	100010320
Chinatown Revitalisation Project	External Funding (or Shire of Broome)	\$52,232	NA
TOTAL		\$215,000	
Contract		Amount	
Phase 1: Concept Design		\$15,000	
Phase 2: Construction and Installation		\$200,000	

RISK

Risk	Type	Rank	Mitigation
Quality of project delivery	Reputational Financial	Low	The Chinatown Revitalisation Project has engaged the services of an appropriately experienced public art consultant to support the successful public artist in the development of the Entry Statement Project. The consultant will manage the delivery of this project, therefore ensuring value for money, a high quality of work and satisfaction of required approvals.
Project not being delivered in required timeframe	Reputational Financial	Low	Approval has been received to remove from Entry Statement from the scope of works for the Chinatown Revitalisation Project, which provides the Shire with the opportunity to set a realistic timeframe for delivery in consultation with the artists. No33 Safehaven Studio has provided an alternative timeline to progress the project.
Concept Design not being chosen	Reputational Financial	Low	The presentation by Safehaven Studio was received positively by Council. It was agreed that should Safehaven continue to be engaged, that further community consultation would take place to develop concept designs.
Negative public perception of chosen design	Reputational	Low	The risk of negative public perception will be addressed through further consultation.

funding availability	Financial	Low	Officers have commenced investigations into potential funding sources to supplement the Shire's contribution to the project. Should external funding not be available, the Shire may be required to fund the shortfall from the 2019/20 budget. Initial investigations suggest that current funding opportunities may be limited for a project of this nature.
Failure to continue Safehaven Studio	Reputational Financial	High	Should Council fail to continue with the engagement of Safehaven Studio, significant project delays would likely result due to the requirement to procure another artist and begin the consultation process again. This action would likely see significant ongoing reputational and financial impacts for the Shire.

STRATEGIC IMPLICATIONS

Our People Goal – Foster a community environment that is accessible, affordable, inclusive, healthy and safe:

Effective communication

Accessible and safe community spaces

Our Place Goal – Help to protect the nature and built environment and cultural heritage of Broome whilst recognising the unique sense of the place:

A preserved, historical and cultural heritage of Broome

Retention and expansion of Broome's iconic tourism assets and reputation

Our Organisation Goal – Continually enhance the Shire's organisational capacity to service the needs of a growing community:

An organisational culture that strives for service excellence

Responsible resource allocation

Effective community engagement

VOTING REQUIREMENTS

Absolute Majority

A notice of revocation signed by Cr B Rudeforth, Cr H Tracey and Cr P Matsumoto was submitted in accordance with Regulation 10 of the Local Government (Administration) Regulations 1996 to revoke the following council resolution made on at the OMC held 22 November 2018:

COUNCIL RESOLUTION:**Moved: Cr B Rudeforth****Seconded: Cr P Matsumoto****That Council:**

1. **Declines all concepts for the Chinatown Entry Statement provided under the contract awarded in accordance with RFT 18/06 and terminates the Phase 1 Contract awarded by Council on 30 August 2018.**
2. **Requests that the Chief Executive Officer investigate options for developing an Entry Statement as part of the Chinatown Revitalisation Project, for future consideration by Council.**

CARRIED UNANIMOUSLY 5/0

The motion to revoke has been supported by 3 councillors. The voting requirement to revoke the decision is an Absolute Majority.

REPORT RECOMMENDATION:

That Council, in accordance with Regulation 10 of the Local Government (Administration) Regulations 1996, revokes the resolution passed for Item 12.1 – Chinatown Public Art – Entry Statement Concept Design, at the Ordinary Meeting of Council held 22 November 2018.

(ABSOLUTE MAJORITY)

Officers recommend the following new recommendation and the voting requirement is a Simple Majority.

REPORT RECOMMENDATION:**That Council:**

1. Declines all concepts for the Chinatown Entry Statement provided under the contract awarded in accordance with RFT 18/06.
2. Continues to work collaboratively with No 33 Safehaven Studio to further develop concept designs for the Phase 1 Contract awarded by Council on 30 August 2018, and reconfirms the existing terms of engagement as per the original letter of award.
3. Requests the Chief Executive Officer or his delegate to undertake an expression of interest process to develop an informal advisory panel to engage in the finalisation and assessment of concept designs for the Chinatown Entry Statement.

(SIMPLE MAJORITY)**Attachments**

1. Way Forward Proposal by No33 Safehaven Studio (Confidential to Councillors and Directors Only)

This attachment is confidential in accordance with Section 5.23(2) of the Local Government Act 1995 section 5.23(2)((e)(ii)) as it contains “a matter that if disclosed, would reveal information that has a commercial value to a person, where the information is held by, or is about, a person other than the local government”.

2. Concept Workings (Confidential to Councillors and Directors Only)

This attachment is confidential in accordance with Section 5.23(2) of the Local Government Act 1995 section 5.23(2)((e)(i)) as it contains “a matter that if disclosed, would reveal a trade secret, where the trade secret is held by, or is about, a person other than the local government”.

3. Original Artistic Approach (Confidential to Councillors and Directors Only)

This attachment is confidential in accordance with Section 5.23(2) of the Local Government Act 1995 section 5.23(2)((e)(ii)) as it contains “a matter that if disclosed, would reveal information that has a commercial value to a person, where the information is held by, or is about, a person other than the local government”.

4. Examples of Previous Work by No33 Safehaven Studio







