

Public Art Procedure

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1. PURPOSE

To provide direction and consistency for the procurement, commissioning, maintenance and de-commissioning of public art in the Mareeba Shire area. This Procedure should be read in conjunction with the Public Art Policy.

2. SCOPE

This Procedure is relevant to both permanent and temporary art work that is located in the public domain, including outdoor spaces such as parks, streets, building walls, town squares and publicly accessible indoor spaces such as schools, shopping centres, halls, recreation and cultural facilities.

Works of art in the public arena take many forms and incorporate a variety of mediums including paintings, murals, sculpture, installations, mosaics, sound and lighting works and multimedia. Public art may be created by highly experienced public artists, young and emerging artists or members of the general community participating in the creation of a community artwork.

The Public Art Procedure excludes war memorials and work that is part of a museum, gallery or corporate collection. It also excludes functional or decorative details that form streetscape infrastructure e.g. bollards, directional signage, decorative tiles, seating.

3. PROCEDURE STATEMENT

3.1 Procurement Processes

Procurement of public art will be in accordance with the Council's Procurement Policy. Methods for purchasing or commissioning public art are outlined in the Public Art Policy.

A commission brief should contain basic information about the project including: background information, selection processes, desired outcome, artwork type, scale and constraints, copyright arrangements, project dates. A written artwork proposal conveys an artist's interest, availability and capacity (skills and experience) to undertake the project. It would include a written description of the proposed artwork or some evidence

Human Rights Compatibility Statement

The *Human Rights Act 2019* (HR Act) (Qld) came into effect on 1 January 2020 and will mean fairer laws, policies and practices by public entities when dealing with the community on a day-to-day basis. This procedure has been drafted in alignment with obligations under s 58 of the HR Act.

of creative development that provides sufficient information for the commissioner of the artwork to select a small group to prepare a more detailed concept design. A concept design or concept proposal is a visual representation of the artwork or models, including construction or details of materials to be used and indicative budget. For larger projects a more detailed design development phase may be required. In some cases it will be appropriate that artists are paid a fee for the provision of concept designs.

3.2 Public Art Criteria

The general criteria to be considered when purchasing, commissioning, funding and approving public artwork are outlined in the Public Art Policy. Additional criteria apply for public art projects funded through the Regional Arts Development Fund (RADF) program. This includes alignment with current RADF local priorities. Preference will be given to artwork created by local artists or projects that provide development opportunities for local artists. Preference will also be given to artworks to be located in highly visible and publicly accessible areas and provide tourism benefits. Community arts projects that provide opportunities for the general public to participate in the creation of public art, respond to local needs and have social and wellbeing outcomes will also be encouraged under RADF.

Art work will be consistent with the local identity of the town and district and complementary to the setting and will contribute to a sense of "destination" and "place" whilst encouraging thought, discussion and further interaction. Designs may reflect for example, the environment, community, history, heritage, seasons and culture of Shire. Public art must not include offensive language, offensive content, commercial logos, trademarks or brand names.

Council will make reasonable efforts to consult with relevant Aboriginal and / or Torres Strait Islander traditional owners or registered native title body corporate for activities with an Indigenous component or focus. Third parties, seeking to undertake public art projects with an Indigenous focus or component must provide a letter of support for the proposed project from relevant Aboriginal and / or Torres Strait Islander traditional owners or registered native title body corporate.

Scaled, sketch designs must be submitted to Council for approval before work commences. For some small-scale, community-based projects, such as graffiti prevention projects, Council approval of sketch designs may not be required as long as the artwork is otherwise consistent with the general criteria.

3.3 Contracts

An appropriate commissioning (or artwork contract) agreement should be used when engaging an artist that includes but is not limited to: description of proposed works and fabrication details, work and payment schedules, site access and details, insurance and risk management, maintenance and repair responsibilities, expected lifespan and copyright arrangements.

Public art funded through the RADF Program is subject to specific conditions. Recipients and artists must grant Arts Queensland and Mareeba Shire Council an irrevocable, royalty-free licence to use work produced for the purposes of reporting, promoting the RADF Program and promoting Queensland's arts and culture. This agreement does not infringe the moral rights of the artists and intellectual property rights are not transferred from the artist. Council may require artists to enter into a Deed of Licence of Intellectual Property to formalise the grant of this licence.

In some cases, Council may wish to acquire intellectual property rights in the work. In those cases, Council will negotiate a Deed of Assignment of Intellectual Property. The nature of any agreement in place between Council and the artist about intellectual property rights will depend on how Council proposes to use the artwork and any requirements imposed on Council under the RADF Program.

Payment of artists should be in accordance with arts industry best practice standard rates or as negotiated or quoted.

Applications from third parties who wish to commission artwork, with financial support from Council or for artwork located on Council owned land and facilities, should also show due consideration of these factors when engaging an artist.

Council will not be responsible for taking any steps to preserve or protect an artist's intellectual property or moral rights in any work, including but not limited to ensuring third parties do not infringe an artist's intellectual property or moral rights in any work.

3.4 Acknowledgement

In some cases, Council may consider it appropriate to install a plaque acknowledging the artist, title and other details of the artwork, for example acknowledgement of the traditional owners of cultural heritage and knowledge.

Public art funded through the RADF Program must include acknowledgement of the Queensland Government and Mareeba Shire Council in all promotional material, publications and products by including the standard RADF acknowledgment text and logos provided to recipients by Mareeba Shire Council.

3.5 Maintenance

3.5.1 Public Art commissioned by Council and located on Council owned land and facilities

Unless otherwise agreed with an artist or a third party, Council will be responsible for the cleaning, maintenance, repairs and removal of all public art commissioned by Council and located on Council owned land and facilities. Council will review the ongoing appropriateness and condition of public art pieces and will put in place appropriate measures for the care, maintenance and removal of public art under Council control. In carrying out this review, Council may consider matters relating to artwork life span, insurance, risk management, whole of life costs and moral rights of the artist.

3.5.2 Public Art commissioned by third parties on Council-owned Land and Facilities

Specific arrangements for the maintenance of public art located on Council-owned land and facilities but commissioned and implemented by third parties are outlined below:

- Mareeba Shire Council may undertake cleaning and / or graffiti removal of public murals on Council land and facilities as required and at its sole discretion except where community groups have agreed to meet these costs as part of the terms and conditions of their approvals.

- The community group or third party commissioning the public mural will be responsible for implementing and funding the costs associated with maintenance and repair of the public mural, including peeling, scratching and other significant damage.
- The community group or third party commissioning the public mural may apply to Mareeba Shire Council's RADF Community Grant Round if assistance is required with funding the costs associated with maintenance and repair of the public mural.
- The community group commissioning the public mural must inform Mareeba Shire Council before undertaking any maintenance and repair activities to the public mural.
- Mareeba Shire Council retains the right to repair or remove the public mural at any time. Reasonable efforts will be made to contact the community group / third party and artist before works commence.
- Mareeba Shire Council will be responsible for implementing and funding the costs associated with removal of an artwork on Council owned land and facilities.

3.5.3 Public Art located on privately owned land and facilities

- Where public art is located on privately owned land and facilities, then the building or land owner is regarded as the custodian of the artwork and will be responsible for implementing and paying for all costs associated with cleaning, maintenance, repairs and removal of the artwork.

4. REPORTING

No additional reporting is required.

5. DEFINITIONS

Copyright - a form of legal protection that provides an artist with the exclusive right to use and capitalise on their work and prevent others from using it without permission.

Intellectual Property - refers to unique creations of the mind such as inventions, literary and artistic works and designs which can be protected under copyright law.

Moral Rights - Moral rights include the personal rights of an artist to be identified and named as the author or creator of an artwork and the right to ensure that their work is not treated in a way that could negatively impact their reputation.

Public Art - Public art can be defined as both permanent and temporary artistic works or activities located in a public space or facility.

6. RELATED DOCUMENTS AND REFERENCES

- *Copyright Act 1968* (Cth)
- *Copyright Amendment (Moral Rights) Act 2000* (Cth)
- *Corporate Plan* (MSC)
- *Cultural Plan* (MSC)
- *Local Government Act 2009* (Qld)
- *Procurement Policy* (MSC)

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- *Regional Arts Development Fund Program Strategy (MSC)*

7. REVIEW

It is the responsibility of the Manager Community Wellbeing to monitor the adequacy of this procedure and implement and approve appropriate changes. This procedure will be formally reviewed every four (4) years or as required by Council.