

Public Art Policy

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Related Policy/Procedure:	NIL
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1. Purpose

The purpose of this policy is to outline the principles that govern the development, acquisition, management and disposal of public art in Light Regional Council

2. Scope

This policy relates to:

Public artwork developed and maintained by the Light Regional Council, Private land developers, commercial operators, artists, community groups and private individuals or groups that are developing public artworks on Council owned or managed land or within the public realm and Public art integrated within the design of new buildings or open space precincts.

3. Definitions

Public Art:	Refers to works of art in any media that have been planned and executed with the specific intention of being sited or staged in the physical public domain and accessible to the public. Detailed definitions and examples of the different types of public art have been included in the appendix.
De-accession:	Is the process of removing and disposing of public art works.
Moral Rights of Artists:	Moral rights are rights individual creators have in relation to copyright works they have created. Creators have the right to be attributed (or credited) for their work; not have their work falsely attributed and not have their work treated in a derogatory way.
Public Realm:	Any publicly owned streets, pathways, right of ways, parks, publicly accessible open spaces or any public civic buildings and facilities.
Public Art Reserve:	A ledger maintained within Council's accounting systems that enables funds for the development of Public Art to build up over time. This allows for the allocation of larger amounts of funds to be invested in Public Art through regular smaller contributions, which may not represent enough to create substantial works in their own right.
Commissioning Agent:	The organisation, business group or individual that instigates and manages the development of a piece of public art, generally in collaboration with a professional practicing artist.

4. Council's Role in Public Art

Light Regional Council appreciates the benefits of public art and is committed to the development of public art that enhances the landscape including open spaces, parks, historic sites, reserves, roadsides and within the built environment throughout the Council area. From a policy perspective, Council has many roles in relation to public art, it is both manager and regulator but also a facilitator and creator that may develop public art either independently or in collaboration with other stakeholders. As a priority, Council aims to foster relationships with a variety of partners to create public art.

4.1 Council as Public Art Manager

Management of public art involves the ownership and/or legal responsibility to care for public art. This may include but is not limited to scheduled maintenance, repairs, insurance, copyright, de-accessioning, relocation or any other decisions relating to the use and care of the artwork.

Management of public art is the responsibility of the owner/commissioning agent unless a management agreement is put in place. Light Regional Council is responsible for the management and care of Council owned/commissioned public art that is listed on its asset register, unless a management agreement states otherwise. Arrangements can be made with Council to manage artworks on behalf of other parties, but this is at the discretion of Council. For example, a community group may develop a public artwork on a reserve (with appropriate permissions in place) and enter into an arrangement with Council that sees them take responsibility for the management of the artwork on behalf of the commissioning agent. Some parties, during the development phase may also enter into an agreement with Council that sees the ownership of the artwork transfer to Council along with management responsibilities (see 4.1.1 below for further information).

4.1.1 Ownership of Public Art

In all cases, the party responsible for developing the artwork (commissioning agent) is the owner for the life of the artwork unless a transfer of ownership takes place by mutual agreement. A transfer of ownership may involve Council, or another party and any transfers should be noted on Council's Asset Register. If the commissioning agent involves multiple partners, ownership of the artwork must be nominated during project development and indicated on planning applications, if necessary or formal notification in writing, that is submitted to Council. A memorandum of understanding (MOU) should be established that details each partner's responsibilities in relation to the development of the artwork but most importantly, the ongoing management and maintenance of the artwork. For example, if a mural is created on the wall of a building by someone other than the property owner, the ownership of the artwork and management responsibilities need to be resolved prior to commencement of the artwork development. The MOU would need to detail the agreement reached between the property owner and the commissioning agent, the anticipated maintenance requirement, who is responsible for them, the length of the agreement and what happens if the property is sold or ownership is transferred to someone else.

Council reserves the right to take responsibility for the management of existing public artworks on Council property that were developed by other parties prior to the adoption of this policy, where the ownership and management arrangements have been adequately addressed. For example, if a service club created an artwork 20 years prior

and the artwork has either not been managed appropriately or Council has taken responsibility out of necessity, Council will be considered the owner of the artwork.

4.2 Council as Public Art Regulator

The development of public art by Light Regional Council or external parties will be subject to planning, design, safety and construction standards, which may include a formal development application depending on the nature, location and size of the artwork. This includes artwork that will be developed in the public realm, either as an independent project or as part of a larger development. Commissioning agents are advised to notify Council of their intentions in writing and discuss the project to ensure the project can proceed without issue and within legal and regulatory requirements. Council will regulate this process as required, including assessment and decision notification involving the application then followed by compliance and/or enforcement with any conditions of approval given (if approved).

Council may also provide support and advice to commissioning agents during this process in line with information in the Public Art Guidelines included within this framework. The installation, repair or removal of public art on public land must adhere to Council's policies and processes, particularly in relation to safety. Council may provide advice regarding issues relating to traffic, engineering standards and workplace health and safety requirements during the build and installation of the artwork within the public realm. If within their legislative responsibilities, Council will regulate as required on any relevant issues.

4.3 Council as Public Art Facilitator / Developer

Light Regional Council may, as part of its role as a local government authority choose to develop public art within its community. This could be led by Council independently or in partnership with other stakeholders. For example, Council may choose to develop artwork in conjunction with schools or community groups to beautify the landscape or it may work with local businesses or recreational groups to develop public art that enhances retail strip, civic spaces or parks and gardens. The goals in relation to the development of public art over the next ten years are outlined in Light Regional Council's Public Art Strategy, but there may also be drivers beyond this document that result in Council developing artwork in the public realm.

As a commissioning agent, Light Regional Council will adhere to the requirements outlined in part five of this policy. Council will ensure planning and building approvals are in place and the project is delivered in accordance with best practice principles for developing public art, commissioning artwork and working with artists.

5. Acquiring and Commissioning Public Art

When developing public art either independently or in collaboration with others, Light Regional Council will adhere to all relevant Council policies and procedures including building, planning, workplace health and safety and procurement.

Council will develop public artwork that aligns with existing or new Council documents including but not limited to strategies and plans relating to arts and cultural development, events, economic development, tourism, urban design, place-making and open space and recreation planning. For example, Council may develop public art based on a regional tourism strategy or in collaboration with a local school in accordance with education strategies.

5.1 Developing Permanent Public Art

When developing new permanent public art, Light Regional Council will adopt an “Open Competition Model”, in accordance with Light Regional Council’s Public Art Development Guidelines, for at least 50% of its public art projects over a five-year period. This approach ensures both fair and equitable opportunities for artists to secure commissions for public art projects, enables greater involvement from the community and ensures quality and diversity for Light Regional Council’s public art collection. Council may also from time to time choose to mentor a young and/or emerging artist(s) through this process to facilitate the development of public art skills within the local region.

30% the remaining public art projects undertaken by Light Regional Council over a five-year period, which result in permanent artworks, will be developed as Community Arts and Cultural Development Projects, which positions community participation and engagement at the centre of the project as makers, advisers, and/or storytellers.

The final 20% may be developed through any of the following processes:

- Direct invitation – A specific artist or group of artists is contracted to respond to Council’s brief and create a permanent artwork.
- Limited competition – A small number of artists, between three and six, are invited to express interest in Council’s brief and compete with a small number of artists for selection.
- Direct Purchase – Council purchases an existing artwork for installation in the public realm.
- Acquisitive Prize – An exhibition of artworks that compete for a cash prize and the inclusion of their work within Council’s public art collection.
- Permanent public art includes sculptures as well as integrated and functional public art or memorial in nature

Section 6.4 provides guidance on how public art maybe developed in new land division developments.

5.1.1 Artist Contracts and Commissioning Fees

Light Regional Council will enter into contracts with artists and pay fees for the development of public art in accordance with national industry standards. Advice pertaining to current fees and contracting standards may be sought from Arts South Australia or the National Association of Visual Arts (NAVA). Arts Law may be called upon to provide templates in relation to commissioning contracts.

Generally when proposing a public artwork, the artist will incorporate a range of fees including cost of construction / fabrication, installation, transport, insurance as well as an artist’s fee that covers the artist’s role in interpreting the brief and conceiving and designing the work as a professional practicing artist – not dissimilar to an architect that designs a building or home.

It is important to note that the commissioning and contracting of artists to create artwork similar to other normal contracting and procurement processes that are undertaken by Council. The expectations in relation to the construction / fabrication of a structure and quality of the outcome are detailed in the contract along with timelines, costs and any sub-contractors that may be used. Artists or commissioning agents will also need to provide suitable documentation relating to safety, risk management, traffic management and specific engineering specifications if relevant.

5.1.2 Other Considerations

When developing public art projects Light Regional Council will consider a range of matters in accordance with the Light Regional Council Public Art Development Guidelines.

5.1.3 Public Art Panel

Light Regional Council will form a Public Art Selection Panel (The Panel) on an “as needs” basis, to undertake a range of tasks associated with the development and management of public art within Council. Members will be appointed, and the Panel convened as required at the discretion of Council’s Chief Executive Officer. The Panel will assist with the selection of public artworks or to provide advice to Council regarding the management or de-accessioning of public art. The membership of the Panel may vary depending on the nature of the project with members expected to support and advise in the following instances:

- The selection of public art through any of the mechanisms outlined in section 5.1 of this policy.
- The deaccessioning of public art as per Section 7.2 of this policy.
- Decisions pertaining to the management and maintenance of public art.
- For other duties as required relating to implementation of the Public Art Strategy.

Terms of Reference (TOR) will be established by Council and communicated to all members each time the Panel is convened. The TOR will convey the role of the group as a whole and the expectations of its members. The Panel will aim to make recommendations that have been reached by “overall consensus”, with members encouraged to agree unanimously on the advice or recommendations it provides to Council. Recommendations made by the Panel will be forwarded to Council for their review and action at their discretion.

The Panel will include Light Regional Council staff including but not limited to representatives from the Infrastructure & Environment, Economic Development and Strategy & Development departments. Other members of the Panel will be appointed depending on further representation or expertise needs. For example, if the project involves the installation of an artwork in a retail area, local business owners may be represented on the panel, or if the artwork involves a particular style of art such as projections or textile, an artist with expertise in this area may be selected to be part of the Panel.

Members of the Panel will generally act in a voluntary capacity with payment of sitting fees considered by Council depending on the expertise and role of Panel Members. For

example, professional artists and community members who take time out from their practice / work and lose income as a result, may be remunerated for their time. This will be at the discretion of Council and evaluated within the context of the Panel's expectations.

5.2 Commissioning Temporary Public Art

Council may contract artists to create temporary or ephemeral public art for a specific purpose or event. An artist or arts group may be directly selected or invited to submit proposals that respond to the requirements of Council in relation to the event or purpose. This may be for a specific event or festival or relate to and educative or promotional activity.

5.3 Unsolicited Public Art

External parties including individuals, community organisations or other private or commercial entities, may offer unsolicited public art to Council outside of any planned commissioning or acquisition processes. This may include a proposal to create a permanent or temporary public artwork or to donate or sell an existing artwork for installation by Council or other party in the public realm.

Upon receipt of unsolicited public art proposals, Light Regional Council will consider the proposal and assess if the acquisition of the work is in keeping with Council's current public art strategy, collection development, financial position and/or other relevant programs and services.

Council will consider the following in relation to unsolicited artworks:

- The nature and relevance of the artwork in relation to community needs and values.
- The alignment of the artwork in relation to Council's existing public art collection.
- Cost of installation and management of the work for the duration of its life and the availability of funds in Council's Long-Term Financial Plan to accommodate these needs.
- Partnership opportunities, particularly for the development of new public artworks.
- The significance of the artwork or artist and the benefit for Council and/or the community if the work is acquired.

Council may either accept or decline the donation and/or proposal and make recommendations in relation to the artwork for the party that is donating/offering the work to Light Regional Council. A Public Art Panel may be appointed to assist with the assessment.

6. Funding / Supporting Public Art

6.1 Grants and Funding

A range of public and private funds are available throughout Australia that can support Public Art projects. To reduce the cost to Council and/or potentially increase the overall budget for any projects, funding and/or sponsorship will be sought by Light Regional Council to support the development of public art wherever possible. Council's contribution will be leveraged to attract additional funds including cash and in-kind contributions. During the project development stage, Council will indicate if the development of specific artworks is contingent on the receipt of external funding or donations prior to proceeding.

6.2 Percentage for Art Scheme

Council will consider a contribution or allocation of between 1% and 5% of the gross construction / implementation costs for capital projects undertaken by Light Regional Council to the development of public art. This will be considered in the context of Council's Long-Term Financial Plan and the nature of the project. It may include new buildings, existing buildings, which are undergoing a major refurbishment, significant landscaping projects, urban precinct development and land developments (excluding land acquisitions).

Council will identify existing and new income streams to allocate a percentage of funds towards public art – particularly income that is derived from activity that impacts on the public amenity. For example, revenue raised from the leasing of public land for mobile phone communication towers.

Funds may be allocated to create work adjacent to or within the capital development or allocated to Council's Public Art Reserve enabling it to accumulate over time and expended on public art projects identified and approved by the Light Regional Council at a later date.

When developing Master Plans for Council assets the development of integrated and permanent public art will be included within the strategies where appropriate.

6.3 Partnerships

Council will endeavour to form partnerships with stakeholders with an interest and capacity to develop public art. In these instances, Council's role and/or contribution may vary from technical support and advice, to in-kind or cash support.

6.4 Supporting / Encouraging Stakeholders

Council will work with developers to negotiate contributions that support the creation of public art within new land division developments creating more than 50 allotments or large infrastructure projects. Council's planning and development team will provide support and guidance to Developers and encourage investment in public art as part of the necessary components of an attractive and well-serviced community. This includes integrated art and independent works. If desirable, Council will create public art on behalf of or in collaboration with developers depending on the contributions made by private investors.

7. Repair and De-Accessioning Process

Over time, for a range of reasons, permanent public artwork will need to be repaired or removed, which is referred to as de-accessioning.

Reasons for repair or removal may include:

- Deterioration of the artwork as a result of natural aging or weathering.
- Damage resulting from natural causes such as a disaster or major weather event.
- Damage caused by vandals or as a result of an incident / accident.
- A change in community standards or expectations. For example, a work that includes a water feature may no longer be deemed appropriate given water conservation standards or the artwork honours a particular person who is found not to be worthy of the acknowledgement.

- A change in the official land use or informal change in the way the community interacts in a space or place. For example, a traffic corridor is changed or re-developed or a public reserve is established as a skate park.

7.1 Repair of Damaged Artwork

If an artwork is damaged or in a state of disrepair, Light Regional Council staff will make a full assessment of the damage and prepare a report with suitable recommendations to repair, relocate or remove the artwork depending on the circumstances and include an estimation of funds required to do so. If Council staff do not have the appropriate expertise, outside contractors will be sought to undertake the assessment and prepare a report in collaboration with Council Staff. Council may then choose to convene a Public Art Panel and refer the matter to them for additional advice or determine a suitable course of action. A number of options may be considered including repair, removal or relocation.

In determining a course of action, the following considerations should be included in the report:

- The nature and severity of the damage and complexity of the process for repair. For example, the repair may involve using replacement materials that are unavailable or difficult to source and issues relating to the impact of using alternative materials on the artwork's aesthetic must be considered.
- The likelihood of further deterioration or repeated damage regardless of repair. For example, the work is in a location where the crime rate is increasing, and the work is expected to be repeatedly damaged or the region has become prone to regular floods.
- Access to the artist and their skills to inform, lead or conduct the repair work (refer "right of repair" below).
- The monetary and community value of the artwork in the context of the cost of repair including access to insurance. For example, the actual value of the artwork may be \$50k but the cultural or community value is far greater, and repair may cost almost the same amount as the work originally cost.
- Community expectations. For example, the work may be popular and highly regarded by the community or it may be very old and no longer considered relevant or desirable.

7.1.1 Right of Repair

When an artwork is damaged and repair is necessary, Light Regional Council will make every effort to contact and liaise with the artist in relation to repair of the work. Referred to as the "Right of Repair" this process provides the artist with an opportunity to provide a quote to Council for the repairs in the first instance. This will be considered in the assessment report along with recommendations to Council. The role of the artist in repairing the artwork may include, the practical / physical repair or the work, management or supervision of the repairs in conjunction with Council staff, providing advice to Council in relation to materials and construction or suggesting other suitable artists or crafts-people who have the necessary skills to undertake the repairs. The right of repair will not be granted automatically to the artist with the artist's current circumstances, the quoted cost and the needs of Council taken into consideration.

If the artist is deceased or declines the “right of repair”, Light Regional Council will seek advice from other artists, crafts people and/or specialist tradesperson with the necessary skills to undertake the repairs and/or provide advice.

7.2 De-Accessioning Artwork

7.2.1 Standard De-accessioning Process

The following process will be undertaken prior to officially de-accessioning an artwork.

- a) A recommendation for de-accessioning of an artwork is made by Council Staff, a community member or an organisation for one of the following reasons:
 - The artwork is irreparable, or restoration is not viable.
 - The artwork is causing an unacceptable risk to public safety.
 - The site is being redeveloped and relocation is not appropriate / possible.
 - The environment is no longer suitable for the artwork and relocation is not appropriate / possible.
 - The artwork is no longer relevant or valued by the community.
 - The artistic merit of the work has diminished.
 - The ownership of the artwork cannot be ascertained, and Council are unable to effectively manage the artwork in an ongoing capacity for a range of reasons.
- b) Council will convene a Public Art Panel to support and inform the de-accessioning process. The Panel will provide independent and expert advice in relation to the artwork in question and the de-accessioning process.
- c) In collaboration with the Public Art Panel, Light Regional Council will undertake the necessary community consultation in accordance with its Public Consultation Policy to identify community expectations in relation to the artwork. The consultation will be targeted and include all relevant stakeholders.

For example, residents or businesses that are in the vicinity of the artwork, any party involved in the development of the artwork including the artist and or the artist’s descendants and community members who identify with the artwork will be consulted. At a minimum consultation will include publicly advertising Council’s intention to review the work and the possibility of de-accessioning, inviting the community to make comment. If the work is a memorial or was created to honour a particular industry, individual, group or historical event, the relevant organisations will be invited to be part of discussions regarding the de-accessioning of the artwork. For example, if the work is war related, the RSL or other Veterans Association would be involved or if it relates to pioneering stories the local historical or agricultural society might be involved.

- d) In collaboration with The Panel, Council staff will formulate a De-accessioning Report and forward to Council for consideration.

The Report will include:

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- Reason for de-accessioning along with evidence to support the decision.
 - The level of, if any opposition to de-accessioning the artwork.
 - The process undertaken to evaluate the artwork and its relevance.
 - Relevant damage assessment reports.
 - The history and provenance of the artwork including its original purpose and the parties involved with its development.
 - Results of the community consultation.
 - Re-location or long-term storage options that may be considered.
 - Potential financial impact including the cost of repair, ongoing maintenance, removal, storage and relocation.
 - A timeline for de-accessioning and the practical requirements for this.
- e) If the artwork is deemed to pose an unacceptable risk to public safety, measures may be taken by Council to secure the artwork until the matter has been addressed and a course of action determined. This may include cordoning off the artwork or removing it temporarily until a decision to repair, replace, re-locate or de-accession has been made.

7.2.2 Release Dates

All public art installed in by Light Regional Council will have a release date, which is included in the Artist Brief and commissioning or purchasing contracts with artists. A release date is the date that Council is obligated to display the work until, unless there are other mitigating circumstances that affect the quality or integrity of the artwork and or the site or there are other issues as indicated in 7.2.1 a).

Release dates for permanent public art are generally between 10 and 30 years and will be influenced by the size and nature of the work, the materials used to fabricate the work and the environment it is positioned within. For example, a work made from limestone situated adjacent to the beach may deteriorate more quickly than a work made in bronze. If desirable, artworks may remain in place past the release date at the discretion of Council.

7.2.3 Temporary or Semi-Permanent Public Art

Council may choose to commission or install temporary or semi-permanent works that have a limited lifespan and the release date for these will be discretionary depending on the nature of the work, materials used and the contract with the artist. For example, a large-scale 3D weaving artwork may be commissioned and installed in location to commemorate a particular event or anniversary. The artwork may be expected to last for 4 – 6 months but due to severe weather the integrity of the artwork is reduced, and Council may choose to remove the work sooner. Alternatively, Council may choose to leave the work in place longer if it is still in an appropriate condition.

References

Council's Infrastructure & Asset Management Plan as required under the Local Government Act (1999)

Insurance Register and Asset Register

Public Art Round Table Terms of Reference

Public Artworks Operating Procedures

History

Policy adopted by Ordinary Council meeting held 26 August 2014. Refer Item 11.4.10 Page 2014/339

Amendment 1 adopted at Ordinary Council meeting held 23 August 2016. Refer item 13.4.3 Page 2016/335.

Amendment 2 adopted at Ordinary Council meeting held 24 July 2018. Refer item 13.3.1 Page 2018/264

Amendment No. 3 adopted by Council on 8 December 2020, Meeting Reference 13.5.1, Page Reference 2020/248