



## PUBLIC ART POLICY

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|------------------------|------------------------------|-----------------------|----------|
| Type:                  | Corporate Policy             |                       |          |
| Owner:                 | Director, Community Services |                       |          |
| Responsible Officer:   | Director, Community Services |                       |          |
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### 1 PURPOSE

Katherine Town Council is committed to developing and supporting public art in Katherine. The purpose of this policy is to provide guidelines for the effective acquisition, management and decommissioning of public art and art collections.

### 2 SCOPE

This policy applies to all elected members and Council staff who are engaged in the process of acquiring public art, either through commission, direct purchase or donation.

In addition, this policy serves as a guide to Territory Government, organisations, community groups and individuals who are submitting public art projects for Council's consideration.

### 3 DEFINITIONS

**Acquisition** means receiving art works by way of engagement (commissioning), sponsorship, donation or bequest.

**Art** means artistic works designed and created from many different materials and forms, which may include (but not be limited to): free-standing sculptural artworks, murals, installations, integrated design projects (where artwork is integrated into the fabric of architecture or applied to buildings, for example), ephemeral art, socially engaged and artist-led participatory processes, and temporary performance works at festivals and cultural events.

**Bequest** means an existing artwork that has been privately or publicly donated via a will.

**Decommissioning** means the formal process to remove art from its active status, through methods including (but not limited to) sale, donation or disposal/destruction.

**Ephemeral art** means works created in non-permanent materials such as projection or lighting works where there is no physical object created.

**Public art** means work created for public spaces by visual artists, designers and craftworkers, including collaborations with musicians, writers and other performing artists. Public art is generally located in public spaces, either outdoors or within buildings, but this definition excludes works that are part of a museum, gallery, corporate or curated collection.

**Public space** includes, but is not limited to streets, squares, parks and spaces within buildings that are accessible to the general public and in the ownership of, or under the control of Council, Territory Government or Commonwealth Government agencies. Spaces accessible to the general public but in private ownership may also be considered public spaces.

## 4 DETAILS

Public art, as an element of good design, can reflect and showcase the character, identity and ambition of the community at any given time, as well as adding both social and economic value to capital works.

A key driving force behind the commissioning of public art is that it is reflective of the cultures and groups represented within the region. Any public art commissioned needs to reflect excellence in artistic merit while providing opportunities for artists at all stages of their career. Opportunities to collaborate with artists from outside the region should not be overlooked as this could provide skills development and capacity building opportunities for artists from the Katherine Region.

A paramount consideration for Council is ensuring cultural protocols are followed, as well as privileging the provision of First Nations peoples' access to, participation in and representation within public processes. Where possible, a First Nations curator will be engaged when commissions specifically invite Aboriginal artists to submit Expressions of Interest or when proposed artworks engage with subjects related to Aboriginal themes and histories.

The aim of public art is to:

- Ensure the development of high-quality public art to contribute to the amenity of the town, encouraging public ownership and pride in public spaces
- Contribute to the wellbeing and empowerment of communities through participation in helping to shape their environment, and
- Create landmarks that will become natural gathering places.

In exceptional instances, and on the advice of suitably qualified, external arts professionals, Council may consider acquiring or commissioning works of art that sit outside of these definitions, for instance in the case of culturally significant historical artworks or other crafted objects where the identity of the artist is unknown, or in the case of works by emerging artists with a limited history of professional practice.

### COMMISSIONING MODELS

There are a number of commissioning models for the acquisition of public art. Any commissioning process should be open and fair, with expectations clearly defined and contractual obligations identified and documented.

- **Direct Acquisition or Engagement**

A single artist may be approached and asked to create an artwork or series of works. This should be a cautious approach, as although the client will be familiar with what will be created, responses may lack the diversity created through open commissioning processes. There are however many opportunities for establishing key relationships between the commissioner and the artist. In some situations, it may be the most appropriate response (e.g. specific cultural sites). Direct Acquisition or Engagement must comply with Council's Procurement Policy.

- **Open Competition**

A publicly advertised, open competition implemented through a tender or expression of interest process is a preferred way to commission art works. This is very successful when dealing with high value, iconic works as the competitive process favours experienced practitioners, or groups of practitioners who can suggest a

diverse range of responses to site and deliver high quality outcomes. Council reserves the right to not commission a work should if no strong concepts be forthcoming.

- **Limited Competition**

A small number of artists are selected by an art consultant and asked to submit material for review and selection. This method may be used because the project requires a quick turnaround time so the lengthier expression interest process can be shortened. Additionally, the selected artists may have experience with a certain type of work targeted within the strategy or represent a group that may be selected to achieve outcomes other than public art, such as community development.

## **INTELLECTUAL PROPERTY AND MORAL RIGHTS**

Council recognises the *Copyright Act 1968* (Cth) protects the rights of attribution and integrity belonging to authors of artistic works, and the moral rights of individual artists (that is, the rights applying to artworks even once they belong to another party).

In addition to copyright and moral rights, Indigenous Cultural and Intellectual Property (ICIP) rights may also subsist in works. These are Indigenous people's rights to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions as conferred by Article 31(1) of the United Nations Declaration on the Rights of Indigenous Peoples. Free, prior and informed consent for the use of ICIP must be obtained from relevant Traditional Owner groups. ICIP rights should always remain with its traditional owners or custodians.

## **SPONSORSHIP, DONATIONS, BEQUESTS AND MEMORIALS**

Council may be offered donations and gifts of existing artworks, sculptures, memorials and other objects or be offered funds or sponsorship to have new works of public art produced.

Given the potential for a vast range in terms of quality, relevance and the ongoing responsibility and maintenance requirement, Council will not necessarily accept a gift or donation of public art. Council reserves the right to decline the offer of any work proposed for a public place which does not meet standards of safety, aesthetic, structural or durability requirements.

Council will consider requests for public art memorials proposed for commemoration, including nomination of sites, budget requirements and funding support and the engagement of artists based on the criteria set out below.

Conditions to accept any public artwork, sponsorship, donations, gifts or bequests are detailed below under 'Public Art Criteria'.

## **PUBLIC ART CRITERIA**

The Council's criteria for public art include:

- **Contribution to community or tourism experiences** – high quality public art that represents aspects of Katherine region, contributes to interpretation of the region or acts as a destination drawcard.
- **Building engagement and capacity in the community** – involving the Katherine community in the concept design and/or delivery of public art works, providing opportunities to build the capacity of the local community to deliver public art works
- **Diversity of artworks** – using temporary and replacement ephemeral art to add value to events and festivals, seasonal/short term art works
- **Encouragement of economic activity** – engaging with the business sector as property owners, developers, employers, patrons or funders, with public art being a means of enhancing the community and visitor experience.

## Criteria for Approval

The criteria for Council approval of public art, regardless of the commissioning model, are as follows:

- Demonstrated high quality arts practice and high standard of artistic excellence
- Original artwork that contributes to public amenity and experience
- Presents opportunities for community engagement and capacity building
- Located with access to the public
- Consideration of public safety, durability, environmental and climatic conditions, as well as the asset management and maintenance implications for Council
- Demonstrated sound project management and adequate budget
- Compliance with Local By-laws, policies and procedures and any other regulatory requirements.

## INSURANCE AND SAFE WORKING

Artists are generally responsible for their own insurance and are encouraged to seek specialist advice on what insurances are required and what protection they provide. Artists and subcontractors must hold public liability insurance and the principal artist should provide proof of such insurance to the Council. The artist is required to hold public liability insurance protecting Council against defects in the work for a specified time period (6-12 months warranty post-handover).

Where construction of the work is onsite a property owned by Council, then Council will provide public liability insurance for that site. The cost for the artist to insure the work off site and during transit to the installation site is to be included in the contract budget.

If Workers Compensation insurance is required, this should be the responsibility of the artist/practitioner and included in the contract budget. The principal artist is responsible for identifying and effectively managing the risks and hazards for the commission.

## REMOVAL, RELOCATION AND DECOMMISSIONING

Public art works have a finite lifespan. Council reserves the right to decommission a work when:

- The work is no longer relevant to its site or purpose
- The work poses a risk to public safety
- The work poses a risk to the environment, or
- There is deterioration or damage to the work beyond reasonable repair.

## 5 ASSOCIATED POLICIES/DOCUMENTS

Katherine Town Council Strategic Plan

Katherine Town Council Municipal Plan

Procurement Policy

## 6 REFERENCES AND RELATED LEGISLATION

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*Local Government Act 2019*

Best Practices for Commissioning Art in Public Space, National Association for the Visual Arts

*Copyright Act 1968 (Cth)*

### Revision History

| Version | Approval date | Details of change | Responsible officer                |
|---------|---------------|-------------------|------------------------------------|
| 1       | May 2022      | Creation          | Director,<br>Community<br>Services |
|         |               |                   |                                    |