Public Art Guidelines

Approved by ELT/Council

xxxxxx 2024

INTRODUCTION

Moira Shire Council (Council) recognises the role played by Public Art in meeting the strategic objectives and action plan of the Moira Shire Council Arts and Culture Strategy 2020 – 2026.

The Public Art Policy and Guidelines have been developed to support the ongoing development of a vibrant art sector in accordance with the Strategy by:

- encouraging artistic and cultural interaction in public places within Moira Shire;
- acknowledging the fundamental value of arts and culture as a cornerstone of a healthy community;
- providing a coordinated approach to Public Art resulting in a range of accessible public art (both temporary and permanent) locations/trails; and
- utilising Public Art commissioning where possible, to encourage creative industry development and reinforce cultural tourism within the Moira Shire.

SCOPE

These guidelines relate to Public Art which is developed, purchased, commissioned or maintained by Moira Shire Council on a Council owned or managed asset. These guidelines may also apply to Public Art on privately owned property if the artwork is partially or fully funded by Council through a grant or funding stream.

DEFINITIONS & CONCEPTS

Public Art	Public Art, in this context, refers to the principle of improving the environment through the arts. Included within this concept is the practice of involving artists in the conception, development and transformation of a public space. The term usually refers to contemporary art practice that occurs outside the traditional gallery or museum system. In the built environment, Public Art can also involve a highly diverse range of design elements integrated in the built environment. Examples of Public Art range from seating and wall treatment to landscape and building design.
Public Artwork	Public artwork, being the work itself, can either be permanent, temporary or ephemeral and can vary in regard to size, scope, medium, functionality and location. Public artworks can include performance, installation, site specific work, sculptures, community art, painting, conceptual art, environment and land art, murals, water features, sound art, aerosol art, gateway signage, computer generated, and visually projected artworks. Public artwork can be found in parks and sporting venues, streetscapes, community centres, shopping centres, local government offices or any publicly accessible space.
Sense of Place	A sense of place refers to the way in which Moira Shire and its surrounding region is defined by residents and visitors. It is important to understand our sense of place in the ongoing creation of meaningful, vibrant public places across the Shire. It is also important to appreciate that there are differing perceptions of place and to seek to represent these diverse constructs of our Shire in developing and valuing our public places. Important considerations in understanding “place” include: - Aboriginal Culture and Country; - history; - diversity and unity of community; - surrounding environments and how they are represented;

	- community vision and aspiration; - the wider identity (shire, regional); - contemporary culture; - urban design and planning; and - the environment, the landscape, the buildings, and the people.
Stakeholders	Artistic and cultural expression relates to all people and as such key stakeholders are broad and include artists, art groups, residents, community groups, developers, philanthropic organisations, government agencies, developers, traders, artistic advisors, funding bodies, the Moira Creative Arts Hubs, any Artistic and Cultural Networks Group and Council Officers.
Master Plan	A Master Plan is a dynamic long-term planning document that provides a conceptual layout to guide future planning and use of a public space. Master Plans should consider scope for Public Art as an integral feature of the public space. This may include reimagining existing geographical or natural features i.e. Murray the Pelican, or discretely designed artworks. Generally speaking, all Master Plans include a phase of public consultation and this consultation should include consideration of Public Art.

GUIDELINES

1. Initiating Public Art

Public Art can originate via a range of mechanisms including:

a. development of Council strategic documents and Master Plans (including via public consultation development of these documents);
b. direct requests from the community;
c. requests to install public artworks funded locally or through sponsored art programs (eg. Artists in Residence);
d. requests for funding either through Council's Community Strengthening Grants or budget process to support community-led arts projects; and
e. a request or donation.

2. Applications for Public Art

Community requests (See above 1b, 1c, 1d and/or 1e) for permission to install a piece of Public Art on Council owned or managed asset must be sought through the applicable and appropriate Council process. In each case the request needs to occur in line with the relevant process, and a memorandum of understanding (MOU) may need to be prepared to establish the responsibilities and understandings of parties involved.

If financial support is required, dependent on the amount and available co-contribution, a further application to Council's Community Strengthening Grants or a budget submission as part of Council's Annual Budget process can be made.

The Council lead for delivery of projects will be determined as relevant to the project, following its approval and/or funding. In the case of Public Art on privately owned property that is partially or fully funded by Council through a grant or funding stream, an MOU will be needed.

3. Public Art Funding

Public artwork can be funded through a number of mechanisms such as:

- Council's capital works program - specific allocations as part of the annual capital works program;
- partnership and donations - with artists, community groups, developers, philanthropic organisations and government agencies;

- developer-led commissions - Council will encourage private developers to incorporate public art in new residential and commercial developments;
- State and Federal government funding - Council will actively seek funding, either whole or part project costs, from other tiers of government; and
- Council's Community Strengthening Grants Program - Council will encourage the creation of small-scale ephemeral, temporary and permanent public artworks initiated by the community and local artists.

4. Acquiring & Commissioning

Public Art may be acquired or commissioned with Council adoption through:

- a gift or donation – from individual or multiple donors, companies or organisations, artists or makers, through bequests or estates, or via the Australian Government's Cultural Gifts Program;
- transfer or exchange - with another institution or individual;
- commission - for a specific purpose/location, to commemorate an event or acknowledge a person; and
- purchase – with funds from Council, through grants, building/development allowances, nominated budgets, etc., or from third parties, such as foundations, benefactors, through grants, funds from insurance losses relating to another.

5. Ownership of works

All artworks commissioned on a Council asset, unless specially agreed otherwise, become the property of Council for insurance and asset management purposes. All projects undertaken within the scope of our Public Art Policy and Guidelines must proceed on this basis and appropriate paperwork be completed.

6. Acquisition and Selection Criteria

Acquiring Public Art in Moira Shire may be made by endorsement of the Executive Leadership Team. The Executive Leadership Team can determine that a recommendation or resolution is needed by Council in certain circumstances, including:

- acceptance of a gift, donation or commission;
- approval of the Community Strengthening Grants projects recommendations;
- endorsement of a site Master Plan;
- approval of the annual Council Budget; and
- the planning approval process.

When considering the acquisition or installation of a public artwork selection, the following are considered:

- relevance to the objectives and actions in Council's Strategies, Plans and Policies including Council's Art and Culture Strategy;
- relevance to the principles of the Public Art Policy;
- artistic merit of the work;
- relevance and appropriateness of the work to the site and/or community identity,
- community views as determined through the application and/or consultation process if required;
- consideration of controversial, political or offensive themes;
- consistency with current planning, heritage and environmental policies where relevant;
- compliance with Occupational Health and Safety and public access;
- consideration of maintenance and durability requirements;

- evidence of funding source and budget including an allocation for ongoing maintenance, if needed;
- non-duplication of monuments commemorating the same or similar events; and
- any Council policies which may be relevant such as the Gift Benefit and Hospitality Policy and Memorials and Plaques Policy.

The following will also be considered if relevant:

- State, Federal and Peak Advisory Body Policies (e.g. VIC Roads Policies and Road Safety Reports, Cultural Heritage Significance Guidelines, Register of War Memorials and Monuments) should be considered where indicated;
- evidence of sustainable design practices;
- presence of the artist/s unique connection to Moira Shire; and
- works by professional artists that depict Moira Shire and are of state, national or international significance.

7. Key factors for siting Public Art

The selection of potential sites for art works and their specific placement within a site should include due consideration of a number of factors. These factors include, but are not limited to:

- acknowledgement of a sense of place;
- the artist view in collaboration with Council Officers and/or Council if appropriate;
- constraints on size, placement, materials, form and subject matter;
- public safety;
- opportunity for tampering and vandalism;
- long term management and maintenance, including expectations of all stakeholders, resources and costs;
- surrounding environment and access including; pathways, entrances, existing elements, disabled access, plantings, and other Council overlays and requirements;
- heritage (including Cultural Heritage); and
- any requirements from other bodies (VicRoads/RSL).

8. Maintenance, Conservation and Restoration

Maintenance of Public Art on a Council asset is the responsibility of Council. The level to which Public Art is maintained will be at the discretion of Council in line with Council's maintenance program. The requirements for maintenance, conservation or restoration will be included in all proposals for future acquisitions.

If an applicant or community member/group wishes to undertake or fund additional maintenance, this will be considered on a case by case basis and can be factored into an MOU. In the case of Public Art on privately owned property that is partially or fully funded by Council through a grant or funding stream, maintenance will be the responsibility of the applicant, unless decided otherwise.

A survey of the condition of all Public Art on the Shire's inventory will be undertaken annually, which will include a determination of further maintenance and/or conservation or restoration that is required.

9. Copyright

Council, through these guidelines, will adhere to Part IX of the Commonwealth *Copyright Act 1968* (and any subsequent amendment*s)* which provide for comprehensive moral rights protection in Australia. The legislation provides creators with three rights:

- the right of attribution of authorship;
- the right against false attribution; and

- the right of integrity of authorship.

Moral rights last for the same time as copyright duration, the term of which is usually 70 years after the calendar year in which the creator of the work died. Unlike copyright, moral rights are personal property and cannot be transferred. The public artworks will be, unless anonymity is specifically requested by the artist in writing:

- labelled in full view with the following information as a minimum requirement;
- artist's name, title of the artwork, date of the work, medium and as appropriate, the name of the donor;
- not be displayed so as to be obscured or altered without written permission of the artist; and
- not be displayed if it is in disrepair.

10. Decommissioning and Deaccessioning

At times, works of art in the public domain may become damaged beyond reasonable repair, cease to have public relevance or the site may be so changed that the work no longer fits or suits the site or is possible on the site.

In these cases, Council Officers will consider the following options and advise Council on the most suitable response:

- relocation of a work to a more suitable site;
- offer to return to donors or artists, subject to cost agreement;
- donation of work to a school or other public utility;
- sale of work, with funds raised used for other public art projects; and
- destruction of artworks (last resort if the above options cannot be achieved).

In the case of works posing a risk to the public, immediate removal may be necessary.

11. Role of the Moira Creative Arts Hubs Network

Council's decisions on Public Art projects will be informed, when required, in consultation with the Moira Creative Hubs Network group. Council staff who can provide advice on strategic planning, tourism, asset management, engineering, maintenance and environmental consideration will provide additional expertise, as required.

12. Community Engagement

The success of many public art projects comes from community involvement because participation signifies ownership. Some Public Art projects can provide an opportunity for community members to be involved at varying levels of inclusion and to contribute to Public Art outcomes.

Community consultation will be an integral part in deciding the subject and/or theme of Public Art and will be required ahead of an application being lodged. The amount of community engagement necessary will differ from project to project and will be determined by Council Officers.

Further community consultation led by Council Officers may be undertaken prior to the subject and/or theme being determined.

13. Public Artwork in relation to other property

Council is responsible for the planning strategies that guide future developments in the Shire. It develops strategies and policies to ensure the conservation and enhancement of Moira’s high-quality town and rural environments. These planning strategies and policies may affect the entire Shire or be

specific to key sites or areas in order to encourage appropriate planning outcomes throughout the Shire.

There may be opportunities for the Council to encourage and assist private developers to incorporate Public Art in the areas that are accessible to the public and appropriate for such uses (See section 6). Council's role in this will be determined as applicable to the situation on a case by case basis.

REVIEW OF GUIDELINES

These guidelines will be reviewed four years from the date of adoption, or sooner if required.

RELATED LEGISLATION

Local Government Act 2020
Charter of Human Rights and Responsibilities Act 2006
Copyright Act 1968

REFERENCES

Arts and Culture Strategy
Memorials and Plaques Policy
Gift, Benefit and Hospitality Policy
Community Strengthening Grants Policy
Community Engagement Policy