

PUBLIC ART COUNCIL POLICY

POLICY STATEMENT

This Policy guides all aspects of the management of the City of Bunbury's Public Art projects, programs and services.

POLICY SCOPE

This policy applies to City of Bunbury Staff.

POLICY DETAILS

The City of Bunbury Public Art Collection is owned and managed by the City of Bunbury, through Bunbury Regional Art Gallery, on behalf of the people of the City of Bunbury.

The following principles underpin the City of Bunbury's commitment to public art:

1. Public art opportunities will be a component of future planning and development projects.
2. City of Bunbury projects with a public art component will be subject to this policy.
3. Adequate funding will be provided for commissioning new public art and maintaining the City of Bunbury's existing Public Art Collection according to a prioritised schedule of works.
4. That the Public Art Collection will acknowledge Bunbury's culturally diverse community and celebrate Noongar culture, storytelling and traditions, in consultation with the Noongar community.

POLICY PROCEDURE

1. The Collection

1.1 Purpose:

This policy supports the development and delivery of high quality public art, whether enduring, temporary or ephemeral, and informs the sustainable management of the valuable cultural assets in the City's Public Art Collection for the community present and future.

2. Policy Context

2.1 City of Bunbury Strategic Community Plan 2018 - 2028

Theme 1: Our Community and Culture

Objective 3 A welcoming community, where diverse cultures are valued, and residents have a sense of belonging.

Objective 4 Arts, culture, heritage and events that enrich our understanding and enjoyment of life, celebrate our identity and bring together the community.

Theme 4: Our City

Objective 4 A skilled organisation which exercises responsible asset stewardship, sound financial management and exemplary customer service.

2.2 Creative Bunbury Strategy

Goal 1: Destination Bunbury

Target 1.5 App guided tours of Public Art, Street Art, Heritage sites.

Target 1.8 Maintaining and developing Bunbury's public art program and collection.

2.3 City of Bunbury Local Planning Scheme No.8

3. Scope

The Public Art Policy guides the delivery and management of all City of Bunbury public art projects and programs – with enduring, temporary or ephemeral outcomes – and should also inform projects and programs delivered by others within the City of Bunbury's boundaries.

3.1 Definitions

3.1.1 Public Art

- a. Public art is an enduring, temporary or ephemeral work of art, created by an artist that has been commissioned or acquired specifically to be made accessible in the public realm.
- b. For the purposes of this policy, Public Art does not include:
 - monuments or memorials;
 - interpretive signs or structures;
 - outcomes of community projects that are not primarily the work of an artist(s);
 - busking, art markets, pop-up galleries;
 - playground equipment;
 - community arts programs;
 - commercial promotions in any form including business logos or brands;
 - directional/way-finding elements such as super-graphics, signage or colour coding;
 - objects that are mass-produced or reproduced;
 - most art reproductions; or,
 - services or utilities necessary to operate or maintain artworks.

3.1.2 Artist

- a. It is acknowledged that the term 'artist' is self-referencing. For the purposes of this Policy, artists are expected to be able to meet at least two of the following criteria:
 - A person who evidences their experience in implementing successful public art projects;

- A person who has completed a university degree or a diploma in a relevant arts field (ie visual arts, multi-media, fine arts) as appropriate to the public art commission brief;
- A person who evidences the sale of their artwork through one or more reputable art galleries whose primary business is dealing in the works of professional artists;
- A person who has had works of art purchased by major public collections;
- A person who earns the majority of their income from arts-related activities, including: teaching, selling artwork or undertaking public art commissions.

4. Acquisition and Collection Development

4.1 Acquisition Guidelines

Public art projects come about for a wide variety of reasons ranging from a desire to add interest and prestige to a place through to celebrating people, stories and events. Without wishing to place artificial constraints on what should be a natural evolution of expression and ideas there are some key considerations which considerably assist with creating meaning, resonance and ideally, a sense of ownership, for people who interact with the artworks.

- Relevance to place
- Relevance to community aspirations and identity
- Relevance to contemporary ideas and issues
- Innovative and provocative ideas
- Proposed artwork is simply 'right' for the project

4.2 Acquisition Criteria

Public Art Collection acquisitions and management will be subject to a process of due diligence to ensure that material acquired for the Collection meets the following criteria and it is:

- the original work/concept of the artist(s) involved and has ethical provenance.
- addresses the requirements of the artists' brief for the project.
- It meets standards of artistic excellence and innovation appropriate to the collection of a major regional city.
- consistent with the principles set out in the City of Bunbury Public Art Policy.
- fabricated from appropriate high quality materials to ensure physical integrity and durability appropriate to the work's intended lifespan and to ensure maintenance and conservation requirements are reasonable.
- located on Council land or Crown land unless a specific agreement is reached to include artwork(s) on private property.
- compliant with all relevant codes and regulations applicable to works in the public realm.
- made accessible to a diverse audience and does not breach the creator's moral rights.

All acquisitions which are donations, gifts or bequests will be accompanied by a Deed of Gift or a Deed of Acquisition, completed and signed by the donor.

4.3 Partnership and Collaboration

Where there is opportunity, and it is appropriate, the City of Bunbury will work collaboratively and in partnership with individuals, community groups, other agencies and corporations to achieve world-class public art that is characterised by excellence and innovation.

4.4 Roles and Responsibilities

Responsibility for the Public Art Policy and the Public Art Collection rests with the Community Connection Department.

Other business units within the City of Bunbury may initiate and deliver public art outcomes in consultation with the Director, Bunbury Regional Art Gallery to ensure alignment with the City of Bunbury Public Art Policy and procedures relevant to public art.

Where procurements are being advertised for projects which include public art components the Director, Bunbury Regional Art Gallery shall be included in the consideration of that part of the procurement.

Where a Development Application includes public art elements the Director, Bunbury Regional Art Gallery will be invited to the Development Coordination Unit meeting where the project is considered.

5. Procurement and Acquisitions

Procurement for public art projects and programs will be in alignment with the City of Bunbury Purchasing Council Policy and the *Local Government (Functions and General) Regulations 1996*.

All acquisitions and selection of artworks for City of Bunbury projects, programs and services will be in alignment with the criteria set out at 4.2 above and will be informed by the advice of a Public Art Assessment Panel.

5.1 Acquisition and Procurement Methods

The acquisition process will depend on the objectives of each project, the size of the budget and the Purchasing Council Policy.

Commission

The commissioning of site-specific Public Art shall be procured for new works. The selection of public art for commissioning will involve evaluation of competing creative submissions that respond to a site-specific brief.

Purchase (existing artwork)

An assessment panel shall consider any reasonable proposal for the direct purchase of an existing work of public art, in accordance with the acquisition criteria and the Purchasing Council Policy.

On the advice of the assessment panel, direct purchase of a work of public art may be recommended for consideration by Council or the Chief Executive Officer

Open Competition

This model requires a public call for Expressions of Interest to provide a schematic response to the artist brief, short listed artists or artist teams are invited to develop and present concept

designs for a fee. A preferred artist is selected by the assessment panel and presented to the Chief Executive Officer or delegated officer for approval. The commission process outlined below will be followed.

Gift, Donation or Bequest

Unsolicited gifts, donations or contributions of Public Art assets, whether existing or commissioned, are not automatically accepted by the City of Bunbury.

Where an external party, private or public entity, wishes to initiate a Public Art commission or acquisition that is intended to become an asset contributed to the City of Bunbury, a preliminary proposal should be presented for the City's consideration.

Direct Commission

Direct commission of a public artwork without a competitive selection process may be considered where a work is considered to be important to complement or fill a gap in the City of Bunbury Public Art Collection and in line with the Purchasing Council Policy.

6. Acceptance of Assets

Ownership, care and responsibility for any art asset in the public realm is only to be accepted by the City of Bunbury when the work complies with the criteria detailed in Section 4.2.

6.1. Contributed Assets

The Western Australian Government, other government entities or private developers may plan to include Public Art in their developments and intend for these to become contributed assets, transferred to the City's care and control. The City will only accept these assets when the developer has:

- Obtained the City's prior, in principle acceptance of the assets; and
- Consultation has occurred with a representative from the City with appropriate expertise at all key stages of the planning, development, commissioning and delivery of the asset.

6.2. Documentation

To fulfil the requirements of ownership and responsibility for art assets in the public realm, the suppliers of these assets must provide the City of Bunbury with all necessary information, documentation and materials required to:

- Comply with the City's Asset Management Policy;
- Populate the City's Public Art Database;
- Demonstrate compliance with all relevant regulations and legislation; and
- Make effective any special agreements required to transfer ownership and maintain the work.

7. Types of Public Art in the Public Realm

Works of art in the City of Bunbury's public realm are managed on the basis of their status as assets. Not all works of art in the public realm are considered to be assets of the City, and some are managed as temporary and ephemeral works with a limited life span.

7.1 Temporary Public Art

Temporary works of Public Art are installed and then removed from site after a predetermined period, with no lasting physical impacts on the site. Temporary works are

required to have no maintenance or management responsibilities placed upon the City during the time that they are on site and shall be the sole responsibility of the artist or commissioning agent.

7.2 Ephemeral Public Art

Ephemeral works are temporary works typically delivered as a one-off event or performance with no lasting presence on site, or are works that embrace their own natural dissipation or deterioration whilst they remain on site.

7.3 Murals (Temporary) and Street Art

Most murals and all works of street art are considered to be works of temporary public art and are not considered to be assets. However, in certain instances, murals and “street art” may be commissioned as major works, and therefore eligible for long term maintenance according to the maintenance schedule provided as part of the commissioning process. In such instances, murals and street art commissioned by the City of Bunbury as major works will be protected by suitable anti-graffiti coatings at the cost of the commissioner to facilitate the management of subsequent graffiti damage. In all other instances, where murals and street art are created as ephemeral, the city has no obligation to protect or maintain the work beyond the work’s anticipated lifespan.

In common with other public art projects an anticipated lifespan will be identified for murals and street art. Additional investment in the maintenance of temporary murals and street art will be considered on a case-by-case basis and will be entirely at the City’s discretion.

7.4 Placemaking Elements

Placemaking Elements are assets that are integrated aesthetic or cultural features of the landscape or built environment, and some (but not all) are the work of professional artists.

Integrated works of art are those that form an inextricable part of the fabric of the building or landscape, and/or are site specific to the extent that the work’s significance would be compromised in isolation from its site. Integrated works of art may be classified as Placemaking Elements at the point of commission/acquisition without diminishing their status as works of art, in recognition that such works are wholly dependent on the life and care of the buildings or landscape into which they are integrated.

These assets are managed by the City Officers with relevant expertise, as is deemed most appropriate to the site.

7.6 Enduring Public Art

Enduring Public Art assets are long lasting works of Public Art commissioned from professional artists for sites in the public realm in alignment with the definitions and criteria set out in the City’s Public Art Policy. Enduring Public Art assets are accessioned into the Public Art Collection for their long-term care and maintenance.

8. Acquisition Approvals and Processes

An Assessment Panel will consider all proposed projects in terms of practical/structural/safety/planning/maintenance issues as well as curatorial and aesthetic considerations.

Commissioning methodologies will be guided by the advice of an Assessment Panel on industry best practice, and suitability for the project in question.

In instances where the City's procurement team is required to be activated (such as the commissioning of new art installations for site specific or site generated work) the procurement policies and procedures will guide the process (including the assessment panel creation), giving due consideration to this policy where applicable.

In all other instances, membership of a Public Art Assessment Panel will consist of:

- A Councillor;
- A representative of the planning department;
- A representative of the Infrastructure Directorate;
- The Director, Bunbury Regional Art Gallery (or relevant arts professional with public art experience); and
- One community members with relevant knowledge and experience

8.1. Site Selection

Proposals for new public artworks may be site specific or identify a preferred site. Before the proposal is considered by an Assessment Panel the Director, Bunbury Regional Art Gallery will consult with relevant stakeholders to identify if any of the following apply: geo technical issues/soil stability, accessibility issues, traffic and safety considerations, ownership, heritage concerns including approvals from relevant agencies (State Heritage Office/Department of Aboriginal Affairs), environmental concerns (local flora, fauna, noise) and all permits and approvals required.

8.2. Artwork Brief

The Manager Community Facilities will prepare an artwork brief after consultation with appropriate stakeholders prior to issuing a procurement for a specified period of time. The brief should:

- Provide artists with a clear framework of the City's expectations for the project such as project background, vision or themes for the artwork, location, budget, timing, and any objectives or constraints with regard to the form/type, scale, materials or site of the artwork;
- Detail any technical requirements that must be met including site analysis and constraints and engineering where this detail is available, plans, elevations and other drawings;
- Not dictate the actual design of the finished artwork but rather leave sufficient flexibility for artistic interpretation and a creative response given the parameters of the brief; and
- Provide the selection criteria to be used and project milestones;

9. Asset Management

Assets accessioned into the City of Bunbury's Public Art Collection shall be managed and maintained in accordance with relevant industry standards for the care of items of cultural significance.

9.1. Public Art Collection

The City of Bunbury has a collection of significant works of public art, commissioned or acquired by the City specifically for public sites in Bunbury. Within the city's boundaries there are also privately owned and managed works of Public Art. The City of Bunbury's Public Art Collection includes only public art assets owned by the City.

9.2 Accessioning

All items accepted for acquisition into the City of Bunbury's Public Art Collection shall be accessioned. This process shall be documented, and objects registered on the Asset Register and collection databases, with full acquisition, provenance, maintenance schedule, and catalogue information. These records shall be retained by the City in perpetuity.

9.3. De-accessioning

De-accessioning is the process whereby works are permanently removed from a collection. De-accessioning and disposal should only occur in rare cases, consistent with the role of a public art collection as a valuable community resource. Deaccessioning should only be considered if there is unlikely to be an adverse effect on the City of Bunbury's ability to attract future donations of artwork or financial assistance towards the purchase of artworks.

In every instance, when known, the artist or the artist's estate must be contacted prior to the de-accessioning of an artwork.

Assets in the Public Art Collection must meet one or more of the following criteria to be considered for de-accession:

- 9.3.1. It no longer meets the Criteria set out in Section 4.2.
- 9.3.2. It is a duplicate or reproduction that serves no specific function;
- 9.3.3. The City can no longer adequately and sustainably care and maintain the item through the allocation of resources commensurate with the item's current value and artistic, cultural, social, or historical merit;
- 9.3.4. It has been integrated into the fabric of a building, street or park, which is subject to redevelopment and where it is not salvageable;
- 9.3.5. It has no provenance, cannot be displayed, and is not suitable for research;
- 9.3.6. The City has been ordered to return the item to its rightful owner by a court of law or the City recognises that it is not the rightful owner and has identified the rightful owner.

9.4. Recommendation to De-Accession

A recommendation to de-accession an item from the Public Art Collection shall be made to Council for consideration on the advice of the Manager Community Connection on a case by case basis. A recommendation to deaccession an artwork must include the artwork's catalogue information, a statement of justification, and proposed method of disposal.

9.5. Public Comment

As items in the Public Art Collection are generally highly visible and enduring features of the City's public spaces, the City of Bunbury may invite public comment on its intention to de-accession in order to better gauge all dimensions of the value and significance of the work where considered appropriate.

9.6. Costs Incurred

Where de-accessioning of an item in the Public Art Collection is requested to facilitate development or the requirements of an external entity, and is approved by the Council, the applicant will be required to reimburse any costs incurred by the City for the de-accession and disposal of the asset.

9.7 Disposal and Documentation

The proceeds of work/s sold should be used for further acquisitions or maintenance of another work/s as indicated.

Work acquired by donation may, at the discretion of the Council be offered in the first instance to the donor or the family of the donor if deceased.

Other than above, disposal shall be carried out in line with the disposal of asset legislation under the *Local Government Act 1995* and the City of Bunbury Disposal of Minor Assets Management Policy.

Full documentation including photographs of de-accessioned works is to be retained along with all processes followed for disposal.

9.8 Relocation

The City may determine to relocate Public Art where the work's condition is sustainable and the current location of the work of Public Art is either no longer viable or suitable. Public Art shall be relocated by suitably qualified persons as directed by the City of Bunbury at the cost of the requesting body.

9.9 Storage

Collection items removed from site, but not de-accessioned shall be stored securely in a location that will not put the item at risk of damage or accelerated deterioration. The movements and locations of all works not on site will be clearly documented.

9.10. Conservation and Preservation

The City shall apply the appropriate standard of care for its Public Art Collection to promote its long-term preservation for future generations. The City shall employ preventive conservation practices to the extent practicable. Only professionally trained staff and contractors shall handle and manage the conservation and preservation of works in the Public Art Collection.

10. Lifespan

10.1 Establishing Lifespan

The lifespan and the City's commitments to the maintenance of any work of Public Art will be established at the point of acquisition or commission by written and signed agreement between the City of Bunbury and the artist/s.

10.2 Maintenance

The City of Bunbury will ensure that Public Art is maintained in good condition by industry experts in accordance with the maintenance plan provided by the artist, and appropriate for public display throughout the agreed lifespan of the work.

10.3 End of Lifespan

At the end of the agreed life of a work of Public Art, the City of Bunbury may dispose of the artwork in accordance with relevant legislation and City policies, or may review the work and make a determination on a sustainable extension of the life of the work.

10.4 Exceptions

Irrespective of whether a work has reached the end of its life, the City of Bunbury is not obliged to maintain or conserve any of its works of Public Art where they:

- Have been irreversibly compromised by their physical condition or by changes to their environment despite the city's record of maintenance;
- Represent an obstacle or risk to people or the intended use of the site; or
- Is not financially viable or cost prohibitive to maintain in proportion to the artwork's current value.

11. Rights and Responsibilities

11.1 Moral Rights

During exhibition and display, and in subsequent management of the work and related materials, the City will observe and work to protect the creator's moral rights in accordance with the Copyright Amendment (Moral Rights) Act 2000.

11.2 Reproduction

The use and reproduction of works of Public Art, or images of works of public art for display, exhibition and publication shall be in accordance with contractual arrangements established with the Artist and all relevant laws governing copyright and intellectual property.

11.3 Non-exclusive License

The City's non-exclusive license to copy or reproduce Public Art through photography or other means for any purpose is subject to the approval by the Director, Bunbury Regional Art Gallery to ensure the quality of reproduction and to uphold any commitments made by the City in agreements with artists, creators, donors or copyright holders in respect to the *Copyright Act (Commonwealth) 1968*.

11.4 Third Parties

The City is not authorised to grant permission to a third party to reproduce works of art or an image of works of Public Art for commercial purposes or any other purpose that is not covered by Fair Dealing as defined by the Australian Copyright Council.

COMPLIANCE REQUIREMENTS

LEGISLATION

- *Local Government Act Functions and General Regulations (1996)*
- *Local Government Act 1995*
- *Copyright Act 1968*
- *Copyright Amendment (Moral Rights) Act 2000*

INDUSTRY

ORGANISATIONAL

- Asset Management Council Policy



Asset Management
Policy.tr5

- Purchasing Council Policy



Purchasing Council
Policy.tr5

- Disposal of Minor Assets Management Policy



Disposal of minor
assets Management

Document Control					
Document Responsibilities:					
Owner:	Director Sustainable Communities		Owner Business Unit:	Bunbury Regional Art Gallery	
Reviewer:	Manager Community Connection		Decision Maker:	Council	
Document Management:					
Adoption Details	Res 98/17 21 March 2017		Review Frequency:	biennial	Next Due: 2025
Review Version	Decision Reference:		Synopsis:		
DOC/455737[v4]	Council Decision 183/23 26 September 2023		Reviewed with significant changes following consultation with BRAG Advisory Group.		
DOC/455737[v3]	Council Decision 212/20 29 September 2020		Reviewed with changes made to establish greater clarity and simplified where possible.		
DOC/455737[v2]	Council Decision 049/20 17 March 2020		Consolidate policies and corporate guidelines in accordance with revised Policy Framework.		
DOC/455737[v1]			Converted from Mydocs to CM9		
CP-038535					
Date Printed	17 October 2023				