



## 1.0 AUTHORITY

- *Local Government Act 2020*
- *Copyright Amendment Act 2000*
- National Association for the Visual Arts (NAVA) code of practice guidelines for commissioning artwork for public places (Chapter 3).
- National Standards for Museums and Galleries (Australian Museums and Galleries Association (AMaGA))
- Arts Law of Australia
- Creative State (Creative Victoria)

## 2.0 INTENT

This policy aims to support a well-planned and sustainable approach to public art in the Mornington Peninsula Shire (the Shire). The purpose of this policy is to provide a framework for the planning, acquisition, commissioning, deaccession and management of public art activity which builds a sense of place, urban vitality, arts development, and community capacity in a fair and equitable manner. The Policy guides the management of the Shire's public art collection to ensure its longevity and to protect its significance.

## 3.0 SCOPE

The policy relates to the commissioning of new public artworks, including those funded by Council grants and the private sector, and the conservation of existing permanent public artworks and collections in public spaces.

## 4.0 GOVERNANCE PRINCIPLES

Under the *Local Government Act 2020*, Council must give effect to the following overarching governance principles:

- a) priority is to be given to achieving the best outcomes for the municipal community, including future generations.
- b) the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted.
- c) innovation and continuous improvement are to be pursued;
- d) collaboration with other Councils and Governments and statutory bodies is to be sought;
- e) the transparency of Council decisions, actions and information is to be ensured.

## 5.0 POLICY STATEMENT

The Policy puts forward six key directions for the development of public art:

- Celebrate and promote the Shire's rich First Nations' cultural heritage as well as engage with local First Nations peoples to better understand their communities



- Prioritise inclusion, diversity, local culture, and sustainability as key themes
- Provide commissioning opportunities for local artists, as well as attract national and international talent to the region
- Embed public art into future infrastructure, urban design, and town centre renewal projects
- Support high quality public artworks from private development to improve amenity
- Facilitate opportunities for creative expression and community participation

### 5.1 Overview

The Mornington Peninsula Shire is committed to building a culturally aware and engaged community through the arts and to provide an environment in which artistic and cultural expression in the public domain is encouraged and valued. This Policy provides a framework to plan, develop, and deliver culturally appropriate artworks in publicly accessible spaces across the Shire, with delivery of this policy supported through the Public Art Plan.

### 5.2 Funding

The Shire provides public art activity and maintains its public art collection by allocating staff and budget resources each year through Council's annual budget process. Further funding avenues include:

#### 5.2.1 Shire Funded: New and Upgrade Capital Works Projects

Shire will commit to the funding of public art to be included in appropriate Capital Works Projects (CWP) and will allocate 1% of the total Capital Works project budget towards this. This funding will be allocated to Arts & Culture Capital budget to be allocated to each year's projects. Arts and Culture will work with PPMO to determine which project/s are suitable for the inclusion of public artworks. These funds will be retained within the CWP, and projects identified and approved by Public Art Assessment Panel which controls the acquisition requirements.

Any New and Renewal Capital Works Projects valued at over \$1 million will include 1% of the total project budget towards public art as part of the project design/delivery until funds are exhausted. The maximum project budget for artwork will be capped at \$250,000 for any individual project. This funding will be taken from the Capital Works budget which will hold the 1% of capital works project budget funding for this purpose.

Where funding is allocated for New/Renewal projects over \$1million, the 1% for public art will be included within the total project budget and must only be used for public art relating to the specified project. Where a specific project greater than \$1million has a public art allocation of 1% included in the budget, that an allocation of 1% for public art is not allocated in that financial year.

Where there is a proposal for public art to be included as part of open space (within the definition of the Subdivisions Act 1988), the preferred funding source for the proposed public art will be open space contributions.

#### 5.2.2 Non-Shire Funded: External Grant Opportunities

The Shire will pursue external grant opportunities from the private sector and the State and Commonwealth governments. Any applications for Grants should be channelled through the Infrastructure Grants & Advocacy Facilitator to ensure they are recorded and managed accordingly.

### 5.2.3 Non-Shire Funded: Developer Contributions

The Shire will negotiate with developers of strategic investigation sites and other major urban renewal developments through its planning roles for a voluntary 2% of the estimated cost of the development as a contribution towards accessible and integrated public art within their development.

Funding for public art associated with developments are to be considered and included at the planning stage and the Shire will negotiate with the developer through the Statutory Planning Department for a voluntary 2.0% of the estimated cost of the development. The contribution may be directed to an identified public art project associated with the development or elsewhere to the satisfaction of the Shire.

### 5.2.4 Shire Interdepartmental Partnerships

Shire departments will pool resources, knowledge, and skill to ensure a cohesive approach to the delivery of public art works, allowing funding to be targeted effectively for specific projects and safeguarding relevance and quality.

## 5.3 Management of Collection

The care of public art is considered across the lifespan of an artwork from commissioning to deaccession processes. All public artworks commissioned by the Shire or accessioned into the public art collection are assigned a lifespan to inform future management decision-making.

The Shire's public art collection is made up of permanent public artworks located in public spaces. Each artwork has a level of significance to the national, state, or local community that should be described and referred to in collection management decision-making.

### 5.3.1 Documentation

Maintaining an accurate understanding of the entire collection is essential. All existing and new permanent public artworks that are part of the public art collection are included on the Shire's Public Art Register. Information about all permanent public artworks will also be supplied to the Asset Management team for inclusion on the Asset Register. Temporary or ephemeral public artworks, including murals, that are commissioned and/or funded by the Shire will only be registered on the Temporary Public Art database.

Information on all items is to be kept up to date on relevant platforms and databases. The Shire ensures best practice in valuation, insurance, and documentation according to professional industry standards.

### 5.3.2 Maintenance

The Shire recognises that public art works are an asset and will ensure that works are appropriately maintained and regularly assessed to safeguard against damage and deterioration. The Public Art Plan will provide a framework for planned maintenance including cleaning and maintenance. The Plan also outlines the recording of assets, development of a maintenance schedule, condition reports and maintenance assessment criteria.

A public art maintenance schedule will be funded through a Public Art Maintenance Program. This will be an annual allocation administered by the Cultural Development unit, which will provide for the specialist maintenance of all registered permanent public artworks.

### 5.3.3 Deaccession of Public Art

Deaccession refers to the replacement, disposal, or relocation of permanent public artwork. A deaccessioning process for public art must be considered to enable those works either in extremely poor condition or of no value to the Shire to be removed from the Shire's collection. Where an artwork is in good condition and of value, the artwork will be safely removed either for sale or relocation.

Deaccessioning will adhere to the guidelines provided by National Standards for Museums and Galleries.

The following criteria will be considered in developing deaccession recommendations:

- The public artwork is found to lack authenticity or infringes on copyright
- the use of the site has changed sufficiently to impact the public artwork's relevance to the site;
- the artwork has become unsafe to the public;
- the artwork has deteriorated beyond repair;
- the artwork has deteriorated so that it no longer represents the artist's intent;
- and/or the artwork's integrity cannot be maintained for any reason.

Deaccessioning includes removal from public space as well as from Council's public art collection catalogue and lists.

Under the provisions of the Copyright (Moral Rights) Amendment Act 2000, Council has several legal obligations to the artist when deaccessioning artwork. Following consideration of the above criteria, the recommendations of the Public Art Assessment Panel will be tabled for Council's consideration.

### 5.4 Public Art Assessment Panels

In order to ensure best practice is followed, Council will utilise the expertise of appointed Public Art Assessment Panels to inform decision-making about public art projects.

#### 5.4.1 Permanent Public Art

A Public Art Assessment Panel will be appointed to make recommendations to the Shire for all permanent public art on Shire land and assets. The panel will operate with a Terms of Reference. In addition to specialist Shire staff, the panel will include external members with art expertise, and a community representative member of the Arts and Culture Panel (ACAP). All external members of the panel will be appointed via an Expression of Interest process. Appointment of panel members will be the responsibility of the Manager Arts, Culture & Community and Director Community Strengthening.

The Panel provides advice to guide Council decisions, however the decision-making authority remains with Shire Councillors and officers.

#### 5.4.2 Temporary and Ephemeral Public Art

Shire-initiated public art projects, community public art projects that are on Shire land or assets, and community public art projects funded through our grant programs or Community Capital Program that are on private property or non-Shire land (e.g. murals) will be assessed and approved by an internal Temporary

Public Art Panel made up of relevant officers which will include at least one member of the Heritage and Public Art team.

### 5.5 Approval process for the commissioning of Public Artworks

The Public Art Panel will make recommendations for the commissioning or acquisition of permanent public art across the Shire based upon the principles outlined in the Public Art Plan and their Terms of Reference. Authority for approval of public art works will follow the framework provided by the Public Art Plan.

Works of equal value or less than the approved Council budget allocation for public art works will be approved by the Director Community Strengthening. All Councillors will be informed of the recommendation of the Panel prior to approval (or otherwise) by the Director Community Strengthening. Where a relevant master plan is applicable all current and future public art projects will be implemented in conjunction with this plan. Works of greater value than the approved budget allocation for public art works need to be approved by the Capital Works Steering Committee using a Change Request form prior to the commitment of funds.

In the commissioning, acquisition, management, maintenance, promotion and deaccession of the public artwork, the Shire will meet the requirements of the *Copyright Amendment Act 2000* and ensure that an artist's intellectual property rights are respected in line with legislative requirements.

## 6.0 HUMAN RIGHTS CHARTER COMPATIBILITY

This policy has been assessed as being compatible with *the Charter of Human Rights and Responsibilities Act 2006 (Vic)*.

## 7.0 ASSOCIATED DOCUMENTS

- Council and Wellbeing Plan
- Our Arts and Culture Plan
- Reconciliation Action Plan
- Disability Inclusion Plan
- Gender Equality Strategy
- Public Art Plan

## 8.0 DEFINITIONS

<b>Acquisition</b>	Where the Shire takes legal possession and ownership of a work of art through purchase, bequest or gift.
<b>Collections</b>	Refers to existing Public Art in the Shire's ownership and care on Shire managed land. The Shire already has a number of public artworks that would be covered by the definition of a Public Art Policy.

# Council Policy

## Public Art Policy

Objective Reference: A13127739



MORNINGTON  
PENINSULA  
Shire

<b>Commission</b>	The creation of an original work of art by a suitably qualified artist/s in response to a defined brief by an organisation/individual who is willing and able to pay the costs incurred in creating the work, and who will be responsible for the care and presentation of the work after completion.
<b>Community Art</b>	Artworks in public places that have resulted from an artist working with the community to develop the conceptual content and creation of the final artwork.
<b>Deaccession</b>	The formal process of removal of an object from a collection. Deaccessioning includes decommissioning, the process by which selected works are removed from the collection and sold or donated; in some cases where it is not possible to sell or donate, the work is discarded.
<b>Integrated Art</b>	Artworks created as an integral part of the landscape, buildings, play spaces or civic spaces such as facades, glazing, architectural detailing and public space paving, street furniture, retaining walls or interpretive signage.
<b>Intervention</b>	Means artworks encountered unexpectedly within the Shire. Typically, interventions are the initiative of an artist who chooses the location and subject matter for the work and then seeks permission from Shire to implement the proposal, with or without financial support from the Shire.
<b>Public art</b>	Can be defined as artistic works or activities created for, located in, or part of a public space or facility such as parks, foreshores, squares, spaces within public buildings or any space accessible to the general community including private sites which impact on the public domain. Public art can adopt many forms and approaches from community cultural development, place making projects, stand-alone public artworks to the conceptual contribution of artists to the design of public spaces and facilities. Public art may cover a wide range of forms and practices and include sculptures, monuments, murals, artworks, and integrated art such as fountains, street furniture, lighting, paving. More recently, the term 'public art' refers to contemporary art practice that occurs outside of the traditional museum or gallery system and can include a diversity of temporary works and activities such as performance art, interventions, installations, street banners, aerosol art, digital and projected artworks.
<b>Public Art Assessment Panel</b>	The Public Art Assessment Panel's role includes reviewing and considering Council's public art plans and briefs, programs, and projects, and providing advice to Council. The Panel is comprised of officers with Public Art and Planning expertise, along with peer assessors who have an array of arts, cultural, architectural, and urban design expertise. The terms of reference for the panel will ensure that Council receives expert, independent advice in order to deliver a public art program of high standard.
<b>Temporary or Ephemeral Art</b>	A work of art that only occurs once and cannot be embodied in any lasting object to be shown in a museum or gallery.

## 9.0 POLICY SPONSOR

The Manager Arts, Culture and Community is responsible for overseeing the application and review of the Public Art Policy.

## 10.0 DOCUMENT CONTROLS

This policy will be reviewed within four years or earlier, as required.

Version Control		
Date	Version	Detail of revision
03-07-2022	1.0	•

### Administrative Updates

It is recognised that, from time to time, circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter this document, such a change may be made administratively. Examples include a change to the name of a Shire department, the change to an existing policy or document referred to in this policy, and minor updates to legislation and the like which does not have a material impact. However, any change or update which materially alters the document must be by resolution of Council.