

## CODE OF PRACTICE

<b>Code name</b>	Public Art
<b>Responsible manager(s)</b>	Divisional Manager Community and Recreation Development
<b>Contact officer(s)</b>	Coordinator Creative Arts Development
<b>Directorate</b>	Community, Arts and Recreation Services
<b>Reviewed</b>	2022

### Purpose

Eurobodalla Shire Council aims to develop an innovative collection of public art that reflects our Shire's distinct characteristics, natural and built environments, social histories, humour, diversity and soul. The purpose of the Public Art Code of Practice is to support Council's vision and provides a structure for planning and decision making in commissioning or acquiring public art.

### Code Details

<b>1</b>	<p><b>Application</b></p> <p>The Public Art Code of Practice sets out the criteria and conditions for evaluation, approval, acceptance, procurement, management, preservation and decommissioning of all public art, in keeping with Council's Public Art Policy (2022).</p> <p>This code relates to works of art intended for display in the public domain. The acquisition or commissioning of indoor works is guided by the Art Acquisition Policy and Code of Practice.</p>
<b>2</b>	<p><b>Legislation</b></p> <p>This Code is established under the Local Government Act 1993.</p>
<b>3.1</b>	<p><b>Aims</b></p> <p>The Public Art Code of Practice aims to:</p> <ul style="list-style-type: none"> <li>• Ensure that Council's planning and decision making in the commissioning or acquiring of public art is suitably resourced and managed with provision for the ongoing care and maintenance and where necessary, removal of the artwork.</li> <li>• Assist in the development and implementation of successful public art initiatives, ensuring a high level of professional excellence with a strong regard for community safety.</li> <li>• Confirm that funding sources are secure prior to commencement of the project.</li> <li>• Provide the criteria by which Council can evaluate public art proposals within Eurobodalla.</li> <li>• Ensure public art enhances public spaces and reflects Eurobodalla's character, natural and built environments, social histories, cultural diversity and distinctive character and is both relevant and appropriate to its proposed location.</li> </ul>

	<ul style="list-style-type: none"> <li>• Inform the development of a Public Art Strategy which will provide the framework for the future development of a distinctive collection of works that promotes Eurobodalla.</li> <li>• Provide the guidelines for the sustainable, best practice management and care of Council's collection of public art.</li> <li>• Encourage the commissioning of purpose designed public art within Eurobodalla from experienced professional local and other invited artists.</li> <li>• Ensure that the impact of the artwork on the community is taken into account in the design and consultation process.</li> </ul>
<p><b>3.2</b></p>	<p><b>Definitions</b></p> <p><i>Public art:</i> Works of art that are accessible to all and have been planned and executed with the specific intention of being sited or staged outdoors in the public domain. Public art can be permanent or temporary, of any artistic discipline or medium including, but not limited to, traditional arts practices, multi-media works, landscape design, functional design, signage, performance and music. Public art can be standalone works or form part of greater infrastructure such as street scaping, street furniture or lighting.</p> <p><i>Public domain:</i> Public land and waterways, private land accessible by the general public and other private land where artwork will be visible from public land.</p>
<p><b>3.3</b></p>	<p><b>Role of public art</b></p> <p>Public artworks reinforce and highlight cultural traditions and heritage and can serve to reflect the community's character and distinctive qualities. Public art has the capacity to engage the community, foster public discourse, excite, amuse, challenge and reinvigorate a sense of place, pride, identity and connection.</p> <p>Public art enhances the quality of the public domain such as business precincts, parks and community spaces. It is a mechanism to animate spaces, increase amenity usage, attractiveness and vitality, as well as provide innovative solutions for functional requirements such as seating and play equipment.</p>
<p><b>3.4</b></p>	<p><b>What Council will consider</b></p> <p>Council will support public artwork that:</p> <ul style="list-style-type: none"> <li>• Has been assessed through the Public Art Advisory Committee (PAAC) process.</li> <li>• Is considered to be structurally and conceptually sound.</li> <li>• Does not require an unacceptable or unnecessary high level of maintenance by Council.</li> <li>• Represents no physical, financial or other risk to the community.</li> <li>• Is considered to be appropriately located.</li> </ul>
<p><b>3.5</b></p>	<p><b>How Council can acquire public art.</b></p> <p>Council can acquire public art by means of purchase, commission, donation, bequest or award.</p> <p>Council is not bound to accept any donation, bequest or gift of artwork as per section 3.12 of this Code. Acquisition of public art will be by Council resolution.</p>

<p><b>3.6</b></p>	<p><b>Managing the Public Art Policy</b> Council's Community, Arts and Recreation Services will be responsible for coordinating management responsibilities associated with the implementation and review of the Public Art Policy. Management of this policy will be undertaken in consultation with all relevant stakeholders.</p>
<p><b>3.7</b></p>	<p><b>Criteria for the assessment of public artwork</b> Public Artworks considered for acquisition will be assessed by the Public Art Advisory Committee (PAAC) by the following criteria:</p> <ul style="list-style-type: none"> <li>• Excellence – does the artwork display quality of design, execution, articulation of concept and innovation?</li> <li>• Originality – are the ideas within the artwork unique or does the artist bring a fresh approach to established themes?</li> <li>• Inclusiveness – is the artwork inclusive and represent the diversity of community members?</li> <li>• Appeal – does the artwork respect our Shire's cultural and social sensibilities?</li> <li>• Provenance – Is the artwork an important piece by an artist of prominence?</li> <li>• Value – is the artwork affordable and does it represent value for investment?</li> <li>• Longevity – what are the display or maintenance requirements?</li> <li>• Safety – does the artwork fall within the accepted Council safety standard?</li> <li>• Location – Will the artwork be appropriately located?</li> <li>• Condition – Is the artwork display ready or will it require a level of management or restoration?</li> </ul>
<p><b>3.8</b></p>	<p><b>Funding public art proposals</b> Council will provide a leadership role in identifying opportunities and funding for public art in Eurobodalla. The funding of public art will take into consideration the ongoing costs associated with maintenance and management.</p> <p>Any proposed public art project will require a budget as part of the PAAC submission. The budget should detail all required resources and ongoing associated costs and include any expectation for Council to contribute funds or in-kind support.</p> <p>All artist fees must be negotiated with the artist(s). Rates of payment should be guided by the National Association for the <a href="#">Visual Arts (NAVA) Fees and Wages Code of Practice</a>.</p> <p>Projects proposed in the public domain by developers, private sector or community groups, must provide the PAAC evidence of adequate funding sources to ensure successful completion of the work as per the PAAC submission</p>
<p><b>3.9</b></p>	<p><b>Process of developing public art in Eurobodalla</b> The process of developing public art for a community often involves a partnership between a numbers of entities. For the purpose of this code of practice, the following potential stakeholders have been identified and their associated roles and responsibilities defined:</p>

**Council**

The role of Council is to:

- Promote the role and value of public art to the community.
- Promote the public art of Eurobodalla.
- Advocate for and facilitate the development of public art.
- Provide leadership in the development of public art.
- Develop and review plans, policies and strategies for public art.

**Public Art Advisory Committee**

The role of the PAAC is to:

- Provide expert cultural and artistic advice and guidance to Council and staff on planning and selection of public art and related matters in accordance with the assessment criteria contained in Section 3.8 of this Code.
- Assist in the development and review of plans, policies and strategies for public art.
- Promote the role and value of public art to the community.
- Advocate for and facilitate the development of public art.
- Promote the public art of the Eurobodalla.

**The Artist**

The role and responsibilities of the artist will be clearly defined during the establishment of each project brief. Primarily the role of the artist will be to:

- Respond to issues defined in the brief, such as interpreting history or responding to local community values.
- Be available as required to assist with community consultation processes.
- Liaise with engineers and fabricators in the design and costing of the artwork.
- Consider risk management and assessment issues.
- Manage fabrication and installation with subcontractors.
- Work in collaboration with other artists or design professionals, such as architects.
- Develop a maintenance plan for the artwork and undertake project evaluation.
- Comply with any requirements of Council or the PAAC.

**Developers, private sector and community groups**

The role of developers, private entities or community groups proposing public artworks is to:

- Adhere to the process of developing public art as laid out in the Public Art Code of Practice.
- Show evidence of public consultation as part of the submission.
- Show evidence of appropriate funding for the project.
- Consider sustainability, risk management and public safety.
- Develop a maintenance plan for the artwork and undertake project evaluation.
- Work in partnership with the PAAC and comply with Council requirements.

<b>3.10</b>	<b>The commissioning process</b>		
	Should Council initiate the commissioning of a public artwork this document provides a framework for assessing public art proposals. In developing this document, Council has adopted best practice approaches that are implemented by local governments across Australia.		
	In determining appropriate public art for Eurobodalla, Council will implement the following four tiered process. This process applies to works of significance through open competition commissions as well as direct commissions. The guidelines for commissioning public art will also be implemented by the PAAC when evaluating and assessing public art gift proposals and memorials.		
	Project initiation and development	Step 1: Initiation of art project	PAAC sign off
		Step 2: Scope of project determined	
		Step 3: Artists brief developed / approved	
	Selecting an artist	Step 1: Advertise for expressions of interest	PAAC sign off
		Step 2: Short list against predetermined criteria	
		Step 3: Interview and invite successful artists to continue to concept development stage	
	Public artwork concept development	Step 1: Site briefing	PAAC sign off
Step 2: Artist briefing			
Step 3: Preliminary concept designs			
Step 4: Concept development			
Step 5: Community consultation		Council approval	
Step 6: Concept acceptance			
Implementation	Step 1: Commission Contract	Council engineers and PAAC sign off	
	Step 2: Construction/Fabrication		
	Step 3: Installation		
	Step 4: Handover and Maintenance		
<p><b>Project initiation and development</b></p> <p>All public art concepts and proposals are to be outlined in a project brief that clearly defines the scope and objectives of the project. This process applies to both community and Council generated initiatives. The brief will need to demonstrate how the proposed project will achieve successful outcomes for all stakeholders, including Council and or proponent, the artist and the community.</p> <p>Specifically, this stage of the public art commissioning process will involve the following steps:</p> <ul style="list-style-type: none"> <li>• Determine public art opportunities, project motivation and desired outcomes.</li> <li>• Consider how the proposed commission will be in keeping with the Public Art Policy's guiding principles.</li> </ul>			

- Consider the influence of policy and legislative requirements and any issues that may impact on the artist's brief and the project.
- Resolve project theme and parameters, project budget, site, project management issues, risk management issues, timeframes and planning and approval processes.
- Ensure consultation with all key stakeholders.
- If significant community consultation and engagement is required the relevant process will be clearly defined in the project brief.

### **Selecting an artist**

The purpose of this stage is to ensure the successful selection of an artist through an equitable and transparent process. Expressions of interest will be advertised through the media, online, and other relevant networks. All interested artists will be required to submit an expression of interest addressing the criteria outlined in the project brief. Artists may also be required to submit a list of images of their work.

Short listing may result in a number of artists being interviewed. Alternatively, the number of artists to participate in the concept stage may be selected directly therefore bypassing the interview stage. Depending on the scope of the project, two or three artists will be selected to go onto the concept design stage. Artists will be required to present their concept design to the PAAC who will review all designs and select the final public artwork.

### **Public artwork concept development**

This stage involves the successful artists selected through the above process to develop a model of their proposed design. It is a requirement for the artists involved to present a design model of their proposal to the PAAC for evaluation and consideration.

A community consultation process will be undertaken to enable the PAAC to gain a perspective of how the community relates to the project.

If the PAAC fails to reach an agreement they can elect to reconvene the meeting to consider additional information. Alternatively the PAAC may elect to put the designs to a vote with the concept that gains the majority of support proceeding.

In assessing each concept the PAAC will ensure that the successful proposal:

- Has a high standard of design, technical and structural execution.
- Does not propose onerous maintenance or risk management issues and has a proposed maintenance schedule for the work.
- Does not pose any long term conservation issues.
- Best meets the requirements outlined in the project brief.
- Meets relevant building and safety standards.
- Meets the requirements of the proposed project budget.
- Will meet the specified timeframe.

- Is assessed on the basis of the guiding principles in this Code.
- Is appropriately located to present the work to its full potential.
- Considers access and equity issues.
- Considers maintenance and lifespan as part of the design process.
- Considers the use of local, sustainably produced materials that promote the regionally distinctive qualities of Eurobodalla and Council's commitment to sustainable practice.
- Understands that Council will require agreement on a decommissioning schedule for the work.

Once the preferred public art concept has been selected by the PAAC, a recommendation for the preferred artist will be made to Council for endorsement. Once endorsed it is imperative that the sufficient resources for fabrication and instalment of the work are in place prior to the project commencing. The successful artist will be offered a contract agreement.

### **Implementation**

The final stage of the commissioning process involves construction, project installation, completion and handover. Fabrication of the public art proposal will be monitored by a relevant Council officer from Infrastructure Services. The artist will be required to submit a maintenance plan prior to Council's endorsement of the concept design.

### **Commissioning contract**

A Public Art Commission Contract will outline the specific terms and conditions of the project between the stakeholders.

### **Construction and Fabrication**

An open and collaborative communication process will be encouraged between all parties during the fabrication stage and in the lead up to installation. The artist will be responsible for ensuring construction complies with all relevant standards and Council policies.

### **Installation**

Installation of the public art will be determined at the commission contract stage. It may be the responsibility of the artist and or Council to install the artwork. Responsibility for installation and maintenance will be determined at the project brief development stage.

### **Commissioning process for community or developer initiated public art**

For public art proposals initiated by a community member or group, or by a developer, the commissioning process is outlined below.



	<p><b>Presentation of initial concept</b></p> <p>Before designing or commissioning any proposed public artwork, proponents should complete a Community Initiated Public Art Submission form for presentation to the PAAC. The submission should include:</p> <ul style="list-style-type: none"> <li>• Details of the proposed work, inclusive of sketch designs, suggested location, materials to be used, artists and key personnel.</li> <li>• A rationale for the work, its significance to the nominated location and relevance to the Council’s Public Art Strategy.</li> <li>• A demonstration of excellence in arts practice.</li> <li>• How it meets the assessment criteria and guiding principles.</li> <li>• A project budget.</li> <li>• A maintenance schedule and costs.</li> <li>• Installation requirements.</li> <li>• Council’s role in the project.</li> </ul> <p>The PAAC will review the concept and provide feedback to the proponent. A Community Initiated Public Art Submission form is available from Council’s website.</p> <p><b>Presentation of detailed plans</b></p> <p>Having considered the feedback from the PAAC, the proponent should develop detailed plans for further consideration. The PAAC will review the detailed plans and make a recommendation to Council, who will make the decision whether to accept the public art.</p> <p>Where the public art is proposed in conjunction with the development of land, proponents are advised to obtain acceptance of the public art prior to lodging a development application for the associated development. This will ensure there are no delays to the assessment of the development application relating to Council’s acceptance or otherwise of the public art component of the development.</p>
<p><b>3.11</b></p>	<p><b>The consultation process</b></p> <p>The consultation process is considered an integral part of the development of public art. It is the ideal vehicle for identifying significant sites and cultural and historical relevance. It is essential that all projects have clear objectives and comprehensive design parameters are formulated.</p> <p>Evidence of consultation will be required for both Council commissions and developer or community initiated public artworks. Consultations can be coordinated through informal group activities or more formally in public meetings. In addition to consulting with the broader community, it is important to ensure other professionals such as Council planners, engineers, designers, arts workers and other appropriate staff are involved in the preparation. Consultation with appropriate funding bodies, commercial or private stakeholders, arts and cultural organisations and research of appropriate websites are also encouraged.</p>



	<p>Should the proposed public artwork deal with Aboriginal cultural material, heritage, or practices Aboriginal people must be consulted and represented in the development of a project. It is desirable to start with the local land councils, whose members consist of the local Aboriginal people. Local land councils also have elected representatives, whose role it is to serve their communities' interests. Guidance sought from community Elders and the Aboriginal Advisory Committee is also encouraged.</p>
<p><b>3.12</b></p>	<p><b>Gifts monuments and memorials</b></p> <p>Council is not bound to accept any donation, bequest or gift of artwork. Council will only agree to accept public art gifts or support initiatives proposed from the community for memorials or monuments that meet the assessment criteria outlined in section 3.7 of this code.</p> <p>Proposed public art gifts or community generated proposals for memorials or monuments will be assessed by the PAAC. The PAAC will make recommendations to Council to determine whether or not to accept the gift or support the community initiative.</p> <p>Council will not accept any artwork that is encumbered by restriction or conditions.</p> <p>Should Council agree to accept a gift of Public Art, Council will take care of ongoing maintenance, insurance and decommissioning should it be required.</p> <p>The PAAC will not review proposals for memorial seats, naming of parks, reserves or sport fields. These will be assessed in accordance with their respective policies.</p>
<p><b>3.13</b></p>	<p><b>Acquisition of public art through award</b></p> <p>Council may acquire public artwork through an art prize. In this case the cash amount of the prize will be clearly stated in the terms and conditions of the competition. The prize will represent the full price of the winning artwork.</p> <p>The winning artwork will become the property of Council, who will take responsibility for conservation, insurance and de-commissioning if required.</p> <p>If the competition is a Council initiative, an appropriate judge will be appointed. If a Council acquisitive prize is being offered through a community initiated competition, then Council must have approval of the judge and confidence that the acquisition criteria will be adhered to.</p>
<p><b>3.14</b></p>	<p><b>Contract of acquisition</b></p> <p>Whether by purchase, commission, donation or award a contract of acquisition will be administered, acknowledging acquisition. The contract will include permission to reproduce the work for educational or promotional purposes.</p>

<p><b>3.15</b></p>	<p><b>Managing the public art collection</b></p> <p>The Coordinator Creative Arts Development will manage the collection on behalf of Council through the directorate of Community, Arts and Recreation.</p> <p>All works within the collection will be catalogued as part of the acquisition process. Information to be recorded includes, where applicable:</p> <ul style="list-style-type: none"> <li>• title</li> <li>• artist</li> <li>• medium</li> <li>• artist statement</li> <li>• year of creation</li> <li>• date of acquisition</li> <li>• circumstances of acquisition</li> <li>• price paid</li> <li>• valuation for insurance for works over \$5000</li> <li>• provenance</li> <li>• artist information</li> <li>• condition and restoration information</li> <li>• maintenance or display notes and</li> <li>• location.</li> </ul> <p>A collection audit will be undertaken every three years. Artwork condition notes will be taken for each artwork at this time and entered into the collection catalogue.</p>
<p><b>3.16</b></p>	<p><b>Decommissioning public art</b></p> <p>Decommissioning refers to the process undertaken to remove a work of art from public display or from a public collection.</p> <p>In the event of necessary removal or relocation of art works, Council will endeavour to consult, negotiate and form an agreement of action with the author(s) of the artwork prior to its installation. The agreement will be based on the best method of addressing issues for potential decommission. The issue of decommissioning will appear in all relevant contracts.</p> <p>Council will undertake a review of its public artwork assets every 10 years to assess the value and asset life. The decision to decommission public artwork will be informed by the asset management and maintenance framework relevant to each public artwork.</p> <p>In order to determine the need to decommission public art works Council will consider the following checklist.</p>

**The condition of the work**

A work may be considered for removal from public display when its condition has deteriorated or damage to the extent that:

- It can no longer be considered to be the original work of art.
- It is beyond restoration, or the cost of restoration is excessive in relation to the value of the work.
- The cost of ongoing maintenance is prohibitive.

**Legal risk and moral right considerations**

- The work has deteriorated and represents an unacceptable level of risk or danger to the public.
- The artist raises concerns regarding the work.
- Changes to environment impact on the integrity of the work, affecting the artist's original intent or moral rights.
- The work of art has design faults, either on a material or workmanship basis.
- There is significant change in the function of the public space that would compromise the integrity; original intention or role of the artwork in its current location.
- There is proposed re-development of the area and it is not appropriate to include the artwork.

**Artistic considerations**

- The artistic merit of the work falls below the general level of the collection of public artworks.
- The public artwork is no longer considered to be a significant example of the artist's work.
- The public artwork lowers the level of quality or representation of its specific area.
- Council wishes to replace the work with a more significant work by the same, or another artist.
- The public artwork is duplicated within the collection.
- A shift in public attitude deems the work inappropriate, dated or offensive.

## Implementation

Requirements		Responsibility
<b>1</b>	<b>Code of Practice</b> This Code of practice implements Council's Public Art Policy.	Divisional Manager, Community Development and Participation
<b>2</b>	<b>Staff</b> Under supervision, relevant Council staff will be responsible for ensuring that policies and codes are implemented appropriately within their work area, after they have received relevant training to do so.	Divisional Manager, Community Development and Participation
<b>3</b>	<b>Complaints and requests</b> Concerns received regarding public art will be recorded on Council's records system and handled in accordance with Council's Customer Service Policy. They will be used to analyse the history of concerns and requests and to help determine follow up actions.	Divisional Manager, Community Development and Participation
<b>4</b>	<b>Complaints</b> Complaints received regarding this policy will be lodged with the Public Officer and handled in accordance with Council's Complaints Policy.	Public Officer
<b>5</b>	<b>Consultation</b> Consultation that may occur in relation to this policy will involve key stakeholders and the community.	Coordinator Creative Arts Development

## Review

This Code will be reviewed in line with any reviews of the Public Art Policy. This Code may also be reviewed and updated as necessary if legislation requires it, when Council's functions, structure or activities change or when technological advances or new systems change the way that Council manages public art. Reviews of the effectiveness of this Code could include the following:

Performance indicator	Data source(s)
Number of applications	Council records
Customer feedback survey responses, complaints	Surveys
Breaches of policy, code or guidelines	Council records
Internal or external audit	Audit findings

## Governance

This Code should be read in conjunction with any related legislation, relevant internal policies, and guidelines.

### Related legislation and policies

Name	Link
Public Art Policy	<a href="http://www.esc.nsw.gov.au">www.esc.nsw.gov.au</a>
Local Government Act 1993 and Regulation (General) 2005	<a href="#">Local Government Act 1993</a> <a href="#">Local Government Regulation (General) 2005</a>

### Related external references

Name	Link
Office of Local Government	<a href="http://www.olg.nsw.gov.au">www.olg.nsw.gov.au</a>

### Supporting documents

Name	Link

### Change history

Version	Approval date	Approved by	Change