

Public art and cultural development policy

Policy No. 8012.100.E.R

1 Purpose

This policy establishes City of Darwin's position, defines terms and outlines the approach to public art and cultural development within the Darwin municipality.

2 Scope

This policy refers to City of Darwin initiatives and activities occurring across the Darwin municipality, including:

- public art
- best practice for engagement of artists
- City of Darwin's legal responsibilities, including the handling of intellectual and artistic property.

Workplace participants at City of Darwin all have joint responsibilities in complying with the terms of this policy.

3 Policy statement

City of Darwin's Creative Strategy 2024-2030 enshrines Council's commitment to the arts and creative sector.

This policy is a key component of the Creative Strategy which is a seven-year place based strategy structured around three focus areas:

- celebrating Larrakia
- distinctly Darwin
- invigorating spaces.

This policy involves each of the three focus areas and commits City of Darwin to continued investment in public art and cultural development. It operates in conjunction with legislation and relevant policies and procedures.

Implementation of arts and cultural development by City of Darwin excludes:

- memorials or heritage projects
- landscaping and earthworks when not executed by an artist or commissioned as a public art work
- promotional media

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- school based or children's arts activities
- community development activities without cultural or artistic components
- activities that compromise artist's moral rights, artist copyright and/or ICIP
- upgrades to private property, artistic or otherwise.

Engagement of creatives

City of Darwin is committed to the engagement of local artists as a priority.

Freedom of artistic expression

Freedom of artistic expression will be maintained in City of Darwin projects where the creative product in question does not cause harm, does not cause offence to a reasonable person and does not conflict with City of Darwin's culture and values. Public feedback about artworks commissioned or exhibited by City of Darwin is to be lodged through the process outlined in City of Darwin's Customer Feedback Policy.

Artworks will not be altered, censored or destroyed due to individual complaints received citing difference of aesthetic taste, creative preference, location or position of works or coherence with individual belief systems.

Artist moral rights

City of Darwin recognises the moral rights held by artists over their work.

Moral rights are held by an artist over their artwork until the artist dies. City of Darwin will ensure artists will be attributed for their works in wording endorsed by the artist and written in the schedule attached to their copyright contract. City of Darwin will not add, crop, change or destroy the work without the artist's written consent.

Commissioning, licensing and copyright

City of Darwin will undertake contracts with Creatives as part of our commissioning, licensing and copyright process. Creatives have rights in relation to copyright and intellectual property. Artists retain full rights of ownership to works commissioned by Council. Where relevant, reimbursement for copyright usage will be negotiated on a case-by-case basis, determined by the nature of the artwork in question, the public profile of its usage and the seniority of the artists. Copyright usage and reimbursement is negotiated separately and additionally to negotiations for the commissioning, usage and payment for works acquired.

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First Nations cultural and intellectual property rights

In addition to artist copyright, City of Darwin recognises the specificity of Indigenous Cultural and Intellectual Property (ICIP) rights. ICIP acknowledges that imagery and symbols contained in some works of art by First Nations artists carry meaning for a wider cultural group and therefore ownership of concepts becomes shared between the artist and that group. City of Darwin is committed to upholding ICIP by not allowing anything to be done that may denigrate or damage ICIP in the works it uses or commissions. If requested by the artists, City of Darwin will use best efforts to ensure that the contribution of a First Nations community is acknowledged by including a notice of custodial interest within the schedule attached to the artists copyright contract.

3.1 Commissioned public art

Existing public art

City of Darwin keeps records of existing public art on City of Darwin controlled places. These records inform maintenance and decommissioning programs. A public art register will be developed and maintained by City of Darwin in line with Assets procedures.

Proposed public art

City of Darwin does not commission public art including murals or street art for properties that are not owned by City of Darwin unless wide community benefit and alignment to both arts and cultural development and the Creative Strategy 2024-2030 can be demonstrated.

Artwork, donations and bequests

City of Darwin 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 art produced. Given variations in quality and relevance, coupled with ongoing responsibility and maintenance requirements, City of Darwin does not encourage and will not automatically accept a gift or donation of public art. City of Darwin reserves the right to decline the offer of any work which does not meet safety, aesthetic, structural or durability requirements.

Legal street art spaces

City of Darwin distinguishes between legal street art, which is a legitimate art practice undertaken with the permission of the property owner, and graffiti which is the vandalism of property. City of Darwin aims to facilitate, maintain, and promote legal street art spaces on designated Council-controlled infrastructure for the benefit of local and visiting artists and the Darwin community.

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Legal street art spaces managed by City of Darwin include the skate park at Jingili Water Gardens.

Removal, relocation and decommissioning

Artworks (particularly public artworks) have a finite lifespan which City of Darwin assesses on an individual basis. This assessment determines the 'useful life' of an artwork and is stipulated in City of Darwin's asset registry. City of Darwin endeavours to fulfill all requirements for upkeep of public art assets but reserves the right to decommission a work when:

- the work has reached its agreed commissioned lifespan
- 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, and/or
- there is deterioration or damage to the work beyond reasonable repair.

Artists' moral rights will be adhered to by City of Darwin when processing the removal, relocation or decommissioning of an artwork under its ownership.

4 Definitions

Arts and cultural development means visual art, music, dance, writing, craft, theatre, media art, interdisciplinary practice, digital art and design, public art, cultural events and festivals, exhibitions, community cultural development activities, and preservation of knowledge, stories, some heritage assets and collections.

First Nations means culturally distinct ethnic groups who are Indigenous to a particular place. Indigenous cultural intellectual property (ICIP) means all rights that Indigenous people have, and want to have, to protect their traditional arts and culture.

Larrakia means the Traditional Owners of Darwin, often referred to as saltwater people. Larrakia Country runs far beyond the municipal boundaries of Darwin, covering the area from the Cox Peninsula in the west to the Adelaide River in the East. Representative bodies for the Larrakia include Larrakia Nation Aboriginal Corporation, Larrakia Development Corporation and Gwalwa Daraniki.

Public art means an artwork in any medium, planned and executed outside a gallery context and intended specifically for exhibition within public space. Public art can be located indoors or outside and include permanent works, temporary works, site-specific installation, integrated works into another public structure, works applied to a separate surface or structure (this includes murals, street art, vinyl transfers), performance-based works, digital works, kinetic works (works that move) and works which experiment with scale (very large or very small). Public Art is generally open and accessible to all.

Street art means a legitimate and distinct art form from graffiti. It is characterised by its obtaining of consent from property owners for its purposes.

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5 Legislative references

Copyright Act 1968 (CTH)

Local Government Act 2019 (NT)

City of Darwin By- Laws 2023 (NT)

6 Procedures / related documents

Revive – Australia's National Cultural Policy

2601.100.E.R Customer Feedback Policy

8010.100.E.R Percentage for Art Policy (in development)

City of Darwin Creative Strategy 2024-2030

7 Responsibility / application

City of Darwin workplace participants are responsible for ensuring that artists engaged by City of Darwin are aware of this policy, its definitions, references, and related documents.

The General Manager Community is responsible for the implementation and review of this policy This policy will be reviewed every four years or as required.

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