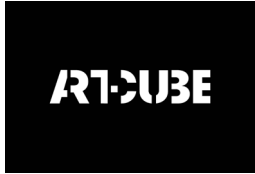
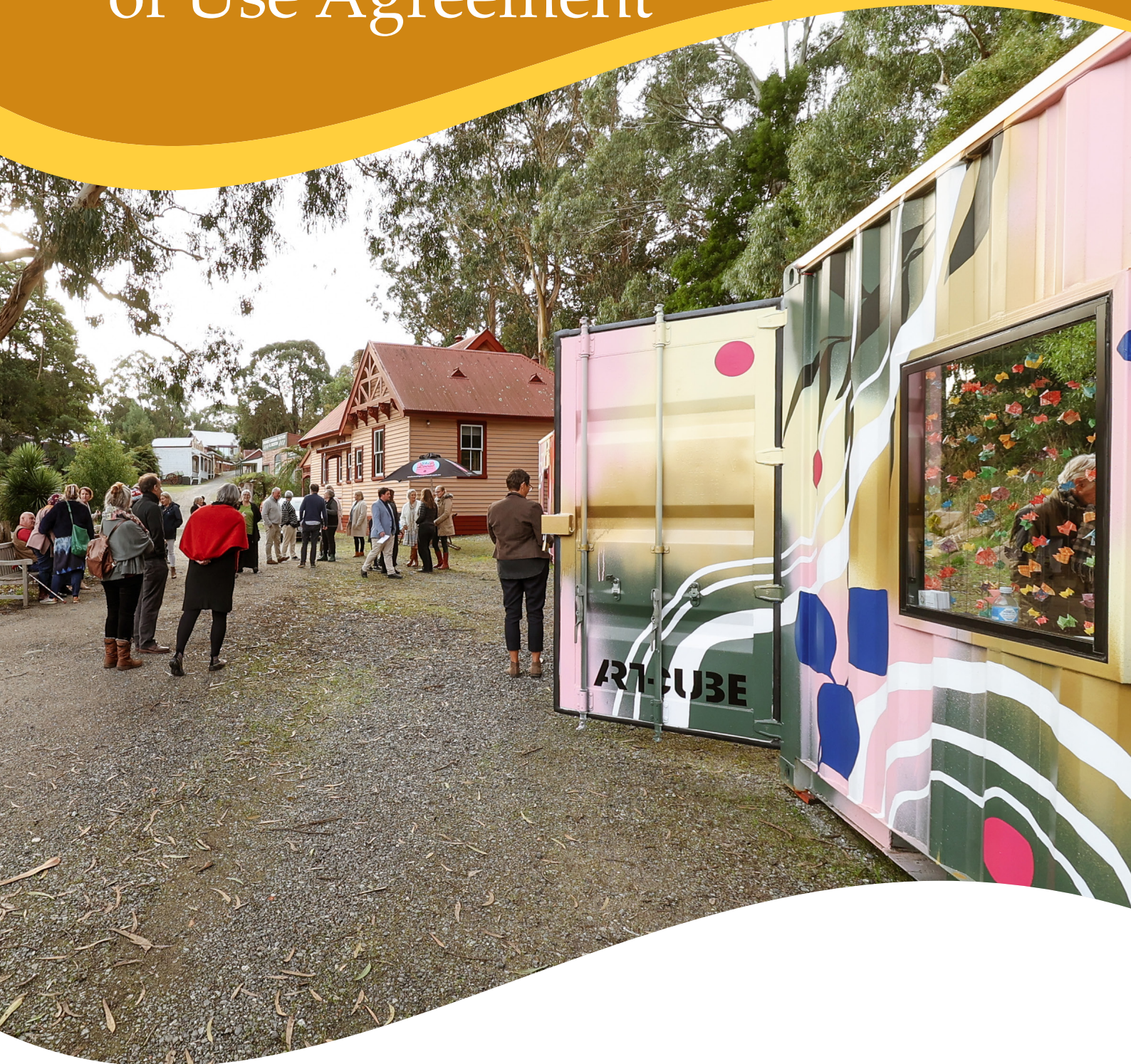


SOUTH GIPPSLAND SHIRE COUNCIL

ArtCubes Program Partnering and Conditions of Use Agreement



Parties to Agreement

South Gippsland Shire Council

ABN: 67 816 770 786

and

Organisation:

For the period of



Statement of Purpose and Context

Building on its *Arts, Culture and Creative Industries Strategy 2022-2026*, South Gippsland Shire Council's ArtCubes program supports the growth and sustainability of the region's creative sector, industry and community. The ArtCube spaces are designed to support and enable creative development and community vibrancy in our small towns region, providing low risk, low cost, high impact spaces for cultural projects.

South Gippsland Shire Council is committed to working with artists, facilitators, creative practitioners and businesses, and provides access to the ArtCubes as in-kind support to further creative development across the Shire.

Terms in Agreement

'The Council' is South Gippsland Shire Council.

'The Organisation' is the organisation named in Schedule A.

The Organisation may be the end user of the ArtCubes and the agreed activity, or a legally incorporated association acting as auspice on behalf of individuals (auspicee) who are the users of the ArtCubes.

If acting as auspisor, there must be a formal, signed agreement between the organisation (auspisor) and users (auspicee).



1. Parties to the Partnership Agreement

- 1.1 This Partnership Agreement is made on the date specified in Schedule A.
- 1.2 It is between South Gippsland Shire Council and the organisation named in Schedule A.
- 1.3 It relates to the ArtCubes activity referred to in Schedule B (the 'Activity').
- 1.4 South Gippsland Shire Council agrees to assist the organisation through provision of the ArtCubes facilities which contributes to the delivery of the Activity by the organisation, subject to the terms and conditions of this Agreement.

2. Terms of this Agreement

This agreement will, unless terminated earlier, operate for the period specified in Schedule A ('Term').

3. Purpose of the Partnering Agreement

The purpose of this agreement is to:

- 3.1 Establish a mutually beneficial partnership with a commitment to working collaboratively between the organisation and South Gippsland Shire Council for the period of the agreement, for the effective planning and delivery of the activity.
- 3.2 Establish agreed uses and activation to guide the partnership which is in accordance with South Gippsland Shire Council's ArtCubes program goals and with the partner's aims and objectives.
- 3.3 Establish objectives which assist South Gippsland Shire Council in evaluating the ArtCubes program, contributing to future planning and reporting.
- 3.4 Define the asset, in-kind, financial or other support that South Gippsland Shire Council will provide to the organisation over the term.

4. Partnering Principles Applied

This agreement is guided by a set of consistent Partnering Principles applied to the ArtCubes program. Both the organisation and South Gippsland Shire Council will reasonably seek to ensure that the activity operates in a manner which:

- 4.1 Demonstrates a reciprocal commitment to good faith and a spirit of good will and collaboration between both parties.
- 4.2 Contributes actively to the cultural value of the ArtCubes program and to the region's community.
- 4.3 Seeks to make the activities accessible to the public and to community.
- 4.4 Engages with the community through their activities.
- 4.5 Ensures the ArtCubes are activated in a culturally productive manner.

5. Commitment to Partnering

Both South Gippsland Shire Council and the organisation demonstrate their mutual commitment to this agreement through:

- 5.1** Providing access to the ArtCubes or any other facilities described within this agreement for the duration of the term, subject to the terms and conditions.
- 5.2** A commitment from South Gippsland Shire Council to support reasonable and appropriate access to relevant South Gippsland Shire Council information or members of staff to assist with the Activity as required or agreed.
- 5.3** A commitment from the organisation and South Gippsland Shire Council to actively work in partnership to achieve the objectives of the program and activity, and to establish and maintain a close working relationship, including open communication between key staff and representatives of both the organisation and South Gippsland Shire Council.
- 5.4** A commitment from the organisation to diligently provide the activities described to the best of its ability.
- 5.5** A commitment from the organisation to notify South Gippsland Shire Council immediately of any situation of which the organisation is aware that might impact the way it activates the space, and ways to resolve the situation.
- 5.6** A commitment from the organisation that it will notify South Gippsland Shire Council immediately of any circumstance that might give rise to a claim against Council or where any person has suffered loss or injury for which it is alleged that organisation is responsible.

6. Relationship Between the Parties

Each party will not, by virtue of this agreement, be deemed to be the other party's legal employee, partner or agent, and must not represent itself as being the other party's employee, partner or agent.

7. Governance

If the organisation is an Incorporated Association under the *Associations Incorporation Reform Act 2012*, or any other legally constituted entity, it must maintain itself as that legally constituted entity for the duration of this agreement.

8. Funding

- 8.1** If applicable and where agreed, South Gippsland Shire Council may provide funding to the organisation to assist with the activities subject to this agreement.
- 8.2** The funding will be the amount stated in Schedule A and applies to this agreement only.

8.3 The organisation must apply the funding only in accordance with the stated purpose of activities described in Schedule B.

8.4 The funding must be applied responsibly and in an accountable way.

8.5 South Gippsland Shire Council is not responsible for the provision of additional money to meet any expenditure incurred by the organisation in excess of the funding provided under this agreement.

8.6 Funding is not applicable to all ArtCube programs.

9. Program Evaluation

9.1 The organisation will provide information, data or documentation for the evaluation of their ArtCube activities in order to show outcomes for community, and to assist learnings and future opportunities. A template is provided.

9.2 The program and activities should be as stated in the application. If you believe the program needs to be significantly varied, please discuss with the nominated South Gippsland Shire Council contact officer.

10. Access

The organisation must provide to South Gippsland Shire Council, or other appropriate nominees, reasonable access to the ArtCubes premises.

11. Compliance with Laws and Our Policies

The organisation must, in carrying out its obligations under this agreement, comply with all relevant legislation and government requirements and any of South Gippsland Shire Council's policies, which are applicable to the activity as notified by South Gippsland Shire Council to the organisation in writing.

12. Insurance

The organisation must, at all times during its occupation of the ArtCubes and the term of this agreement, be the holder of a current Public Liability policy of insurance with a reputable insurer, providing coverage for the amount stated in Schedule A.

13. Occupational Health and Safety

If relevant, the organisation must develop appropriate child safe policies and procedures in line with the Victorian Child Safe Standards, and comply with all occupational health and safety policies, procedures or measures.

14. Termination

If the organisation defaults in the performance or observance of any obligation it has under this agreement, South Gippsland Shire Council may, without limiting any other rights that Council may have, give reasonable notice to the organisation to show cause why the powers contained in this clause should not be exercised, which may include suspension or termination of this agreement by giving written notice to the organisation.

15. Dispute Resolution

If a dispute arises concerning this agreement, then the parties must meet and attempt, in good faith, to resolve the dispute. If the dispute is not resolved within seven days of the meeting taking place, either party may refer the dispute to a mediator agreed to by both parties (or, if they cannot agree on a mediator, as appointed by South Gippsland Shire Council).

16. Acknowledgement and Publicity

The organisation will acknowledge the partnership with and support of South Gippsland Shire Council in all publications, promotions and advertising of their activities related to this agreement in accordance with the guidelines provided by South Gippsland Shire Council.

17. Reputation

The organisation must not do or omit to do anything which may damage, bring into disrepute or ridicule South Gippsland Shire Council; or attract public or media attention which may be prejudicial or otherwise detrimental to South Gippsland Shire Council.

Signed for and on behalf of:

Name:

Position:

Signature:

Date:

Signature of Witness:

Print Full Name of Witness:

Signed for and on behalf of: South Gippsland Shire Council

Name:

Position:

Signature:

Date:

Signature of Witness:

Print Full Name of Witness:

Schedule A: Agreement Details

Schedule B: Activity and Nature of Agreement

Schedule C: Conditions of Use. License to Use.

Schedule D: Program Self-Evaluation and Financial Acquittal Form.

Schedule A: Agreement Details

Item	Description	Details
1	Parties	<p>South Gippsland Shire Council</p> <p>ABN: 67 816 770 786</p> <p>Address: 9 Smith Street, Leongatha VIC 3953</p> <p>Email: council@southgippsland.vic.gov.au</p> <p>Organisation:</p> <p>ABN:</p> <p>Address:</p> <p>Email:</p> <p>Short Name: the Organisation</p> <p>Delete the below if not applicable.</p> <p>Auspice Name:</p> <p>Address:</p> <p>Email:</p> <p>Contact:</p> <p>Short Name: the Auspice</p>
2	Start Date	
3	End Date	
4	Insurance	Public Liability Insurance: \$20,000,000 per claim.
5	Funding for Activity	<ul style="list-style-type: none">No funding from South Gippsland Shire Council to the organisation is applicable to this agreement.South Gippsland Shire Council will pay to the organisation the sum of \$ (plus GST where applicable) as a one-off payment applicable to this agreement and the activities described only, within 30 days of both parties signing the agreement and receipt of invoice.
6	Fee for Use	<ul style="list-style-type: none">There is no fee applicable from South Gippsland Shire Council for the use of the ArtCubes facilities and for their relocation to the agreed site for the term and conditions of this agreement.The organisation will pay to South Gippsland Shire Council the one-off fee of \$ (plus GST as applicable) upon invoice for the use of the ArtCubes facilities and for their relocation to the agreed site, for the term and conditions of this agreement.

Specified Personnel

Council Representative

Designated Officer

The Designated Officer is the South Gippsland Shire Council officer with day-to-day responsibility for liaising with the organisation and ensuring that South Gippsland Shire Council's responsibilities and obligations are met. The Designated Officer may exercise all of South Gippsland Shire Council's functions, rights and powers under the agreement on behalf of South Gippsland Shire Council.

Name:

Title / Role / Position:

Telephone:

Mobile:

Email:

Organisation's Representative

The Organisation's Representative is the person who is responsible for liaising with South Gippsland Shire Council regarding the organisation's performance of its obligations under the agreement.

Name:

Title:

Address:

Telephone:

Mobile:

Email:

Schedule B: Activity and Nature of Agreement

Activity Title

Activity Description

Provide a short description of the ArtCubes program activity (as per the application).

Nature of Agreement

1. Council

Council will make available to the organisation for the duration of this agreement:

- 1.1 The exclusive use of the space known as the ArtCubes.
- 1.2 Logistical and asset maintenance support as required for reasonable operations of the activity for the duration of this agreement.
- 1.3 Program advice and mentoring from South Gippsland Shire Council's Arts Development Officer.
- 1.4 Basic event promotion support via information and listings on South Gippsland Shire Council's website as applicable and where available.
- 1.5 The ArtCubes will be moved and located to the agreed site of the activity by South Gippsland Shire Council and removed at the end of the agreement period by South Gippsland Shire Council. Any applicable fee is specified in Schedule A.
- 1.6 The Conditions and License or Use are detailed in Schedule C.

2. The Organisation

The organisation:

- 2.1 Will utilise the designated space only for those purposes as agreed and described in this agreement.
- 2.2 Shall use all reasonable endeavours to actively utilise the space throughout the agreement period, notwithstanding reasonable down time between activities.

2.3 Shall, within the scope of the agreed activity, make all reasonable endeavours to activate the ArtCubes in a manner that is collaborative with and inclusive of community engagement and participation.

2.4 Is solely and completely responsible for overseeing the management of all aspects of their space and their activities, including but not limited to any third-party agreements or undertakings.

2.5 Is solely and completely responsible for any financial agreements, liabilities and obligations which they may enter into with any third-party.

2.6 Shall ensure that all activities are undertaken in a way that is safe and with regard to safe work practices and Occupational Health and Safety requirements.

3. Program and Curatorial Content – Consultation

3.1 South Gippsland Shire Council acknowledges that the organisation have curatorial and program control over activities within the designated venue, subject to 3.2 below.

3.2 Notwithstanding the general principal of curatorial control within 3.1 of Schedule B above, the organisation acknowledge that there may be curatorial, program or promotional content constraints placed upon their activities due to the possibility of placing South Gippsland Shire Council in disrepute. In consideration of this it is agreed that:

3.2.1 Should South Gippsland Shire Council have significant concerns regarding activity content as per 3.2, the designated Council and Organisation representatives shall meet to discuss those concerns.

3.2.2 Both parties commit to working collaboratively to resolve any areas of concern and to mutually agree an outcome that provides for a reasonable balance of freedom of creative expression and protecting the public reputation of South Gippsland Shire Council.

3.3 Should a significant conflict between South Gippsland Shire Council and the organisation arise regarding an activity, both parties shall attempt to resolve the matter through negotiation.

3.4 Should a significant conflict persist, and should South Gippsland Shire Council perceive the issue to create a conflict with its mission, strategic plan, reputation or best interests, Council reserves the right to withdraw from the agreement immediately, thereby revoking all rights within this agreement.

Schedule C: Conditions of Use – License to Use ArtCubes

- 1.** Subject to the provisions hereinafter specified the Council hereby grants to the organisation license to use the premises identified as 'the ArtCubes' ("the Premises"); comprising an exclusive license to the space for the term and the purpose specified under the conditions of the agreement.
- 2.** During the continuance of this License the organisation shall:
 - a.** Not transfer this license or sublet the premises in any circumstances.
 - b.** Take all necessary care of the premises and contents and may be liable to pay any excess costs above South Gippsland Shire Council's insurance for any damage caused by the organisation or its use of the premises.
 - c.** Not impede or interfere with South Gippsland Shire Council's right of possession and control over the premises.
 - d.** Not permit the consumption of illicit substances or smoking in the premises, or for the premises to be used for any illegal act.
 - e.** Permit South Gippsland Shire Council by itself or its agents to enter the premises; and otherwise co-operate to enable South Gippsland Shire Council or its agents to inspect, clean, repair and otherwise maintain the premises.
 - f.** Not permit any physical alterations to be made to the exterior of the ArtCubes.
 - g.** Take all reasonable measures to mitigate any risk associated with its activities or the ArtCubes site, as detailed in the Organisation's Event Registration and Emergency Plan submitted to South Gippsland Shire Council.
 - h.** Ensure that any electrical equipment or appliance brought into the premises is appropriately test & tagged as per legislative requirements before its use.
 - i.** To the fullest extent permitted by the law indemnify and keep indemnified South Gippsland Shire Council from any claim, loss or damage by the organisation in connection with the license and from any person the organisation allows or causes to be on the premises.
- 3.** South Gippsland Shire Council does not take any responsibility for loss or damage to property or persons in connection with the organisation's activities and is hereby released and indemnified from all liability howsoever arising.
- 4.** South Gippsland Shire Council shall not be responsible for any loss or damage to the organisation's merchandise, displayed artworks, equipment or other contents howsoever used.

Responsibilities and Obligations

1. During the currency of this agreement, South Gippsland Shire Council will:
 - a. Insure, and keep insured the premises against loss or damage or destruction by any cause including, without limitations, fire, explosion, flood, storm, tempest, earthquake, civil commotion and malicious damage, other than that caused by the organisation, their representatives and visitors.
 - i. In the case of damage caused by the user, the user will be responsible for paying to South Gippsland Shire Council any excess or shortfall on South Gippsland Shire Council's insurance claim to repair the damage.
2. Council reserves the rights and powers to:
 - a. Make and/or alter procedures for the safety, care, cleanliness and security of the premises as in Council's judgement may from time to time be necessary.
3. During the currency of this agreement, the organisation will:
 - a. Comply with the specific Partnering Agreement and all associated Conditions of Use that may exist.
 - b. Keep current and comply with a completed Event Registration and Event Emergency Plan submitted to South Gippsland Shire Council prior to the commencement of any on-site activity or occupation of the premises.
 - c. Follow all procedures, instructions and check lists for the safe use of the ArtCube premises, fittings, furnishings and electrical systems as detailed in the ArtCubes User Manual which is provided to them by South Gippsland Shire Council.
 - d. Attend an on-site Use of ArtCube Induction with the designated South Gippsland Shire Council Officer.
 - e. Manage the upkeep, cleanliness and day-to-day maintenance of the ArtCubes.
 - f. Treat the ArtCubes premises with respect and leave them in the same condition as that which was provided by South Gippsland Shire Council, to the satisfaction of the designated Council Officer.
 - i. Users are welcome to attach objects and fittings to the interior walls and ceiling to support any creative installation works, once approved by South Gippsland Shire Council.

ii. The ArtCubes must be returned to their original condition at the time of handover. This includes repair of any alterations or damage caused by the organisation during the agreement period; such as removing all wall hanging fixtures installed by them; patching and repairing walls/ ceilings after removal of fixtures; re-painting walls/ surfaces to same finish as supplied; repair of any other damage.

iii. If repairs are deemed to be unsatisfactory, users will continue to be asked to rectify the damage until it is deemed satisfactory.

g. Not make any physical alterations to the exterior of the ArtCubes.

h. Provide information as may be needed by South Gippsland Shire Council to fulfill any accountability requirements.

i. Immediately notify South Gippsland Shire Council of any circumstances which may give rise to a claim against South Gippsland Shire Council, and/or the organisation in relation to an injury, loss or damage which has been suffered or alleged to have been suffered in the premises or the land.

4. Upon expiration of the term of the agreement or other termination, all rights of the organisation in this license shall cease, and the organisation shall immediately remove all its effects and chattels and vacate the premises leaving them in a clean and tidy state.

5. Should the organisation fail to remove its property and vacate the premises, South Gippsland Shire Council may remove and store such property at the organisation's expense without in any way being liable for any loss or damage thereto, and should the organisation fail for over one month to claim its property or pay any such storage expenses South Gippsland Shire Council may proceed to sell such property without further notice to the organisation.

Schedule D: Program Self-Evaluation

Evaluating the difference South Gippsland Shire Council's support makes in your community is vital. Evaluation needs to start at the beginning of a partnership project or activity, and flow through the life of the South Gippsland Shire Council support. This evaluation also helps Council to improve and develop the program.

A simple framework for evaluating your project is provided on the next page.

The organisation agrees to provide to South Gippsland Shire Council, within 30 days of the end of its ArtCubes activity:

- A short acquittal / evaluation report utilising the template provided or any other format which is suitable for the task.
- Documentation of the activities, which may include a selection of photographs, video or audio from their program, which may be used by South Gippsland Shire Council in their marketing, promotions and reporting.
- A completed financial expenditure acquittal form reporting on any funding spent.

Activity Evaluation Template

Goals / Aims

Describe the creative goals or aims of your program during your time in the ArtCubes program.

For example:

- Is it a creative outcome goal?
- Is there a community, social or cultural engagement / impact aim your activity wishes to achieve?
- Does it aim to make connections or enrich community experience?

Activity Measures

What activities or measures can demonstrate progress toward achieving your goals?

Examples:

- Visitation – public engagement with the activities.
- Creative outcomes.
- New works developed.
- Processes documented.

Activation Delivery

How did you use your time in the space?

Describe how the activities you undertook in the ArtCubes helped you achieve your project aims and goals.

Outcomes

What does success look like for your program?

What were the major outcomes, creatively, that this ArtCube time enabled?

Did you achieve your goals?

Describe the activity measures and outcomes.

And next?

Do you hope to develop the project or activity further?

Is it part of a longer-term cultural development or creative project?

Are there future plans for this creative work, such as presenting this work elsewhere?

Tell Us About Your Experience

Please provide any general feedback on your ArtCubes experience and this process, including South Gippsland Shire Council's role.

What worked, what didn't work, what might we be able to do better?

SOUTH GIPPSLAND SHIRE COUNCIL

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Website: www.southgippsland.vic.gov.au

Facebook: www.facebook.com/southgippslandshirecouncil



South Gippsland
Shire Council