Public Art

Local Planning Policy 16

August 2023

This policy was adopted by Council to set governing principles in place that align the strategic direction of the organisation with PL.1 Diverse, Sustainable and Well-Designed Places, the *Strategic Community Plan 2040 and Creative Culture Plan 2023-2025.*

Objectives

Through the application of this Public Art Policy, the Shire propose to:

- Identify suitable public art opportunities throughout the Shire
- Support local art, artists and the cultural industries to develop high quality works.
- Celebrate and tell the story of history and culture within the Shire through meaningful public art.
- Create artistic landmarks.
- Continue to enhance vibrancy, character and cultural life through public art, community art and ephemeral art projects that enliven and engage with the community within public spaces.
- Create a unique sense of place and community by including the provision of public art throughout the evolution of the built environment
- Ensuring the contribution of public art to a quality built environment is provided in a contextual and meaningful way that is reflective of local identity.
- Ensuring the incorporation of public art is considered early in the design process for substantial developments and integrated into a meaningful way into that development.

Implementation

This policy guides the statutory requirement for public art to be included within significant development proposals, or through Percent for Art contributions to the Shire. It also guides the implementation of public art through expenditure of funds allocated within the Shire's annual budget, received through grant funding programmes and/or donations.

This policy applies to all staff and developers managing or coordinating significant development proposals that require a public art component and those managing or coordinating current public art projects or spaces that include public art owned or invested in the Shire of Augusta Margaret River. Responsibility for the implementation of this policy rests with the Chief Executive Officer, the Director of Sustainable Development and Infrastructure and the Director Corporate and Community Services

Commitment

Assessment for any public art component will take place on all major infrastructure projects around town centres and recreation areas or any other identified space. Assessments will be undertaken by an Art Panel consisting of relevant Shire officers and members of the Arts and Culture Advisory Group in accordance with the Public Art Guidelines.

The Shire will always attempt to consult early on in any public art project with traditional owners to ensure cultural values and heritage are considered within public art commissions.

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The Shire will seek to commission local artists and cultural industries as a preference to support the development of high quality artwork within the local community.

Definitions

'Art' is the product of practitioners who intend their work and activities to be seen, read and experienced as art. Art embraces material and immaterial products and concepts from the imaginative thinking of artists.

'Artist' will be eligible to carry out public art commissions. The term artist for the purpose of this policy is defined as a person who meets a minimum of two of the following criteria:

(a) A person who has a bachelor's degree or Diploma in visual arts or any similar field;
(b) A person who has a track record of exhibiting their own original artwork at reputable art galleries that sell or exhibit the work of professional artist.
(c) A person who has had their own original artwork purchased by major public collections, including (but not limited to) the Art Gallery of Western Australia.
(d) A person who earns more than 50% of their income from arts related activities, such as teaching, selling artwork or undertaking public art commissions.
(e) A person engaged in an activity related to creating art, practicing the arts, or demonstrating an art.

In some circumstances it will be appropriate to be more flexible and seek people other than professional artists to carry out artwork, such as commissions for an Emerging Artist.

'Contentious Public Art' People's interpretation of art will be influenced by their personal feelings, tastes, or opinions and art that achieves its objective of provoking thought is often controversial. While the Shire aims for public art to provoke thought, it aims not to offend. Proposals incorporating any of the following will not be supported:

- Negative racial stereotypes
- Political messages
- Sexually provocative nudity (general nudity is not considered provocative)
- Sexist
- Discriminatory

The responsibility of determining what is contentious rests with the Art Panel and the CEO.

'Community Art' is a collaboration between professional artists and non-professional artists, often around dealing with a social issue, community building initiative, or as a form of community consultation. Community arts, also sometimes known as "dialogical art" involves exchanges between people as they interact with information, objects, and each other.

'Construction Cost' means the estimated cost of a development including:
(a) All goods and materials (including manufactured goods for part of the work)
(b) Labour
(c) Services necessary
(d) Fees payable
(e) Overheads to be met
(f) Profit margin
or
Contract price where the work is to be carried out under a contract provided the contract price includes the value for at least each of the relevant components (a to f above), the estimated construction cost of the development is the contract price (including GST).

'Development' means the development or use of any land, including

a) Any demolition, erection, construction, alteration of or addition to any building or structure on the land;
b) The carrying out on the land of any excavation or other works;

'Ephemeral art' describes non-permanent work that may include temporary installations, performance art, dance, exhibition, experiential and/or participatory art.

'Emerging artist' an artist who is at an early stage in their career, who has specialised training in the art form or who has created a modest body of artistic work.

''Public Art' refers to artwork in any medium specifically created to be experienced in the public realm. Public art is typically located in highly accessible public spaces and can include sculpture, painting, installation, multimedia, sound or performance; it may also be integrated into architectural surfaces and landscaping. Where development is removed from public spaces by being remote from an urban area, public art shall be clearly visible from publicly accessible parts of the development site.

'Significant Development Proposal' means a development that is within the categories of Tourism Uses, Licensed Premises, Commercial Uses or Community Uses under the Local Planning Scheme and that has an estimated construction cost of greater than $1 Million.

'Forms of public art' public art may take many forms including but not limited to the following categories.

a) **Stand Alone**
Artworks of a three dimensional nature embedded into a building or public space and may be a single or multiple installation works. This style of work has been traditionally associated with public artworks.
b) **Integrated**
Artworks that are integrated into a building or building space either interior or exterior. They may be imbedded in ceilings, floors, railings, screens and/or assist to define or separate spaces.
c) **Applied**
Works that are applied to interior or exterior surfaces, including commissioned paintings, tapestries and murals.
d) **Installation**
These works are where the work and the site are integral to each other. The work may be created to respond or compliment a space or draw attention or intervene in a particular environment.
e) **Ephemeral**
These are works that are non-permanent works that may include temporary installations, performance, participatory or experiential works.

Policy

Application

Funding of public art will generally be by one of the following means:

1. Shire Public Art Acquisition budget set annually as part of the annual budget process to contribute towards the acquisition of public art. The amount is to be determined through the annual budgeting process and may include opportunities to access grant funding for public art projects.

2. Donation or gift of public artworks funded through cash or other philanthropic measures but will be required to be the subject of public art assessment via the assessment process outlined. The Shire is not required to accept a donation of public artwork at any time.

3. Developer Contributions which facilitate the provision of public art works through the requirement for all developments (excluding private homes, subdivisions, rural and industrial development) above a value of $1,000,000 (including GST) to allocate one per cent of the value of the development to public art.

   The Per Cent for Art requirement also applies to Shire funded developments above a construction cost of $1,000,000 (including GST).

1. Public Art in Development

A significant development proposal will incorporate the provision of public art to the value of one percent of the construction cost of a development with a value over $1 Million up to and including $10 Million, with an additional 0.5 percent contribution for the construction cost of a development over $10 Million.

1.1 Incorporation of Public Art into Development

a) Public art may be provided through the implementation of a development proposal. Where public art is provided as part of a development proposal it should be suitably detailed through the application and assessment of a development.
b) Valuation of the provision of a public art component of a development shall be provided to demonstrate that where incorporated within a development proposal, the art provided is to a value commensurate with the requirement for public art in development. Valuation may be provided following approval to demonstrate compliance with a condition of approval requiring public art.

1.2 Provision of cash in lieu for Public Art

a) As an alternative to the incorporation of public art within a development, cash in lieu to the value of the requirement for public art may be paid to satisfy the requirement for public art.
b) Cash in lieu of public art will be paid into the Shire's Public Art Fund and used for the provision of public art in accordance with the Shire's Public Art Guidelines.
c) Cash in lieu of public art will only be accepted where nearby public spaces can be enhanced by the provision of public art.
d) Cash in lieu of public art will be refunded where a development approval expires or is no cancelled, upon request of the owner of the approval.
e) Cash in lieu funds may be aggregated for expenditure on public art.

1.3 Valuation of Public Art Provision

The value of public art will be taken as the sum of:

a) The fees of an artist for design, materials, assistant's labour costs, insurance, permits, taxes and other costs directly and proportionally related to the production of a particular item of art. The artists fees must not exceed 20% of the overall cost of the art work.
b) Fabrication and installation of art work.
c) Site preparation.
d) Structures to enable display of a particular art work.
e) Documentation of a particular art work.
f) An acknowledgement plaque for the art work.
g) Any ongoing costs for maintenance/upkeep of the works.

2. Implementation of Public Art Proposals

2.1 Suitability of Public Art Proposals

a) Public art proposals will be assessed in a manner consistent with the Shire's Public Art Guidelines.
b) Public art proposals may include the following:
   - Building features and enhancements such as bicycle racks, gates, benches, fountains or playgrounds structures that are unique and produced by an artist.
   - Murals, tiles mosaics or bas-relief covering floors, walls and walkways. Murals may be painted or constructed with a variety of materials.
   - Three-dimensional works which can be free standing or wall mounted.
   - Neon or glass art works, photographs, prints and any combination of media including lighting.
c) Public art should satisfy all of the following criteria:
   - Be located where it can be clearly seen from the public realm.
   - Be an original artwork.
   - Be of high aesthetic quality.
   - Be durable, sustainable and easy to maintain.
   - Be resistant as possible to vandalism.
   - Be created with consideration for the Shire's *Strategic Community Plan 2040* and *Creative Culture Plan 2023-2025*.
   - Contribute to an attractive and stimulating environment.
   - Shall not detract from the amenity or safety of the surrounding area.
   - No adverse amenity impact on the surrounding locality
   - Be responsive to the site context and reflect the local area's natural, physical, cultural or social values history.
   - Take into account the existing public art in vicinity so to avoid repetition and to ensure the artwork is unique.
   - That the public art be functional where appropriate.
   - Meet any safety standards or requirements for public spaces
d) Public art proposals that comprise the following will not be acceptable as provision of public art:
   - Business logos, wording or names related to the development.
   - Directional elements such as supergraphics, signage, or colour coding.
   - 'Art Objects' that are mass produced such as fountains, statuary or playground equipment.
   - 'Off the shelf' art or reproductions.

- Objectionable or contentious public art subject to assessment through the guidelines
- Landscaping or architectural elements which would normally be associated with the project

Relevant legislation

Planning and Development Act (2005)

An artist's rights are protected under the *Copyright Amendment (Moral Rights) Act 2000* (the Act). Under the Act, all original artwork must be attributed to the artist.

The ownership of the public artwork and copyright will be determined within the commissioning process, the contract and the land on which it is located.

Unless otherwise agreed, copyright of both the preliminary visual material and the work itself should be retained by the artist.

The Australian Copyright Council provides advice on copyright and ownership in relation to public art: http://www.copyright.org.au/.

Related documents

Public Art Guidelines

Creative Culture Plan 2023-2025

Strategic Community Plan 2040

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