



LPP/04 PERCENT FOR PUBLIC ART

1.0 Citation

This is a Local Planning Policy prepared under Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations). This Policy may be cited as Local Planning Policy 04 Percent for Public Art (LPP/04).

2.0 Purpose

The development of public spaces contributes to a sense of identity and place, whilst contributing to the quality of the built environment and enhancing visitor experience. Public Art has the ability to deliver a range of social, economic, and cultural benefits that can influence the way people interact within a public space. Public Art can enhance the appearance of buildings and provide opportunities for social interaction improving visitor experience.

The purpose of Local Planning Policy 04 – Percent for Public Art (Policy) is to set out when development is required to provide Public Art or cash-in-lieu contribution as part of their Development Approval. This policy provides a framework for the development, funding and management of Public Art.

3.0 Objectives

The objectives of this Policy are to:

- Increase the social, cultural, and economic value of the Town in conjunction with the Town's Arts & Culture Strategy 2019-2022 and the Town's Public Art Strategy;
- Acknowledge and celebrate Aboriginal culture and heritage;
- Develop and promote community identity within the Town to bridge communities;
- Establish new design partnerships between artists, architects and other professionals;
- Celebrate environment, industry, and lifestyle; and
- Increase public awareness of the value of art, design and culture.

This Policy is not an emerging artist initiative; however, in some instances emerging artists may be considered for particular projects.

4.0 Application

- 4.1 Interpretation and implementation of this policy shall be in accordance with the Percent for Art Guidelines.
- 4.2 Final determination for all Public Art projects developed under this Policy is at the discretion of the Town.
- 4.3 All new development on zoned and reserved land over the threshold value of \$2 million (two million dollars) shall set aside a minimum of one percent (1%) of the Total Project Cost of the development to be put towards the provision for Public Art, excluding:
- Demolition;
  - Single house and grouped dwelling development;



- Multiple dwellings, where there are less than 12 (twelve) dwellings proposed;
  - Heritage works;
  - Infrastructure works, including coastal protection infrastructure, standalone civil works, footpaths and roads; and
  - Any private development exempt from Development Approval.
- 4.4 The maximum contribution for Public Art is capped at \$150,000 (one hundred and fifty thousand dollars) for private developments.
- 4.5 For public development over the Threshold Value of \$2 million (two million dollars) and coordinated and delivered by the Town, a minimum of two percent (2%) of the total project cost of the development is to be set aside for the provision of Public Art. The maximum contribution for Public Art for Town delivered projects is capped at \$500,000 (five hundred thousand dollars) for each development.
- 4.6 This policy does not apply to State and Federal projects that are subject to an equivalent Public Art contribution policy.
- 4.7 The owner/applicant is required to provide a Public Art contribution via one of the following options:
- 4.7.1 The owner/applicant shall co-ordinate the Public Art project themselves or by engaging an art consultant;
- 4.7.2 The owner/applicant shall pay a cash-in-lieu contribution as prescribed in this policy.

## 5.0 General Provisions

- 5.1 The budget allocated towards Public Art shall only include the following.
- Management fee for the Art Consultant/Coordinator, must not exceed ten percent (10%) of the total percent for art contribution amount;
  - Professional Artist fees, including design concept fees for short-listed artists, design fee for the successful artist, assistant labour costs;
  - Community engagement costs for Public Art projects that have community involvement;
  - Cost of materials, fabrication and installation of the artwork;
  - Insurance for the installation of the artwork, and any legal expenses;
  - Transport costs to site;
  - Structures to display the artwork, including footings and foundations;
  - Remedial work to surroundings; and
  - Documentation of the artwork, and acknowledgement plaque.
- 5.2 **Public Art projects may include the following subject to approval at the discretion of the Town**
- 5.2.1 Building features and enhancements such as bicycle racks, fountains, or playground structures that have been site-specifically designed and purpose-built by or with the direct influence from a Professional Artist for the purpose of Public Art contribution.



- 5.2.2 Murals, feature walls, tiles, mosaics, floors or walkways. Murals may be painted or constructed with a variety of materials.
- 5.2.3 3D works which can be freestanding or wall-supported.
- 5.2.4 Glass artworks, prints and any combination of media including sound, video projection, lighting ephemeral that have been specifically designed by a Professional Artist for the purpose of Public Art contribution.
- 5.2.5 Landscape artworks and architectural elements may be integrated to the property (in addition to any required landscape plan or other requirements of development approval) if it is created and led by a Professional Artist.
- 5.2.6 Community art projects resulting in tangible artwork to be displayed on, or immediately adjacent to, the development site.
- 5.2.7 All Public Art must be low maintenance, robust, durable, and resistant to vandalism.

### **5.3 Non Permitted Public Art Projects**

- 5.3.1 Business logos, wording or names related to the development of the owner/applicant or commercial promotions in any form.
- 5.3.2 Commercial signage or advertisements.
- 5.3.3 Landscaping or architectural elements which are associated with planning approval conditions.
- 5.3.4 Services or utilities necessary to operate or maintain artworks.
- 5.3.5 Building features and objects that are mass produced, such as bicycle racks, fountains, or playground structures.
- 5.3.6 Walkways, lighting or any other infrastructure required for the development that is not designed by a professional artist.
- 5.3.7 "Off-the-shelf" art or reproductions.

### **5.4 Aboriginal Art**

- 5.4.1 Should Aboriginal artwork be incorporated into the design of the Public Art, evidence of consultation with the Kariyarra, Ngarla and/or Nyamal people shall be provided upon submission for approval.
- 5.4.2 Proof of ownership and/or copyright of the artwork must be provided for any Aboriginal artwork or art components of the Public Art contribution.



- 5.4.3 Procurement of all Aboriginal Art shall reference all relevant Australian Council Protocols for working with Indigenous Artists and Cultural and Intellectual Property in the Arts.

## **5.5 Location**

- 5.5.1 Private developers shall have Public Art located on Private Property, and to be situated where it is clearly visible from the Public Realm.

## **6.0 Procedure**

### **6.1 Public Art Contribution**

Where the Policy applies and the landowner/applicant has chosen to undertake the project, the landowner/applicant is to coordinate the project independently with consultation from an art coordinator/consultant by following the below procedure:

- 6.1.1 It is recommended that the applicant/owner reviews this policy and associated guidelines, and consults with the Town prior to lodgement of a development application.
- 6.1.2 At the time of development application being lodged, the owner/applicant is to provide a Preliminary Public Art Plan as outlined in the Town's Percent for Art Guidelines
- 6.1.3 Prior to the lodgement of the Building Permit, the owner/applicant is to provide a Detailed Public Art Plan in accordance with the Town's Percent for Art Guidelines.
- 6.1.4 The Detailed Public Art Plan shall be reviewed by the Town's Art Advisory Committee, who will consider the objectives of this policy, the Arts and Culture Strategy and Public Arts Strategy, and any recommendations provided to the developer.
- 6.1.4.1 Should the artwork not meet the criteria as listed in the Percent for Public Art Guidelines, the applicant must engage in consultation with the Public Art Advisory Panel and Town Officers to refine the structural design to the satisfaction of the Town.
- 6.1.5 The approved artwork shall be completed prior to use or occupation of the development.
- 6.1.6 Prior to the completion of the development, the owner/applicant is to provide a Final Public Art Report, in accordance with the Town's Percent for Art Guidelines.
- 6.1.6.1 The Town reviews the completed artwork to ensure compliance with the approved artwork plans.



- 6.1.6.2 The approval constitutes artwork Development Approval only and does not obviate the responsibility of the landowner / developer to comply with all relevant building, health, and engineering requirements.

## **6.2 Cash-in-lieu Contribution**

Where the Policy applies and the landowner/applicant has chosen to pay the Town a cash-in-lieu contribution, the below procedure applies:

- 6.2.1 Cash-in-lieu payments to be made to the Town at the time of the Building Permit Application lodgement.
- 6.2.2 The Town will hold all funds within a trust account that shall only be spent for the provision of Public Art.
- 6.2.3 If the development has substantially commenced, but not completed, the cash-in-lieu payment will not be refunded.
- 6.2.4 The cash-in-lieu funds can be accrued for a more comprehensive or detailed Public Art project as determined by the Town.
- 6.2.5 Any Public Art commissioned by the Town under this policy will be owned by the Town.

## **7.0 Ownership, Copyright and Moral Rights**

- 7.1 Ownership of the Public Art commissioned under this policy will:
  - 7.1.1 Where situated on private property, the Public Art is owned and maintained by the owner for the lifetime of the artwork and decommissioning the artwork upon its expiry.
  - 7.1.2 Where situated on public property, the Public Art is owned and maintained by the Town for the lifetime of the artwork and decommissioning the artwork upon its expiry.
  - 7.1.3 Ownership of the Public Art is subject to an agreement between the artist and the owner/applicant.
- 7.2 The Town will have the right to reproduce extracts from the design documentation of the Public Art and photographic images of the Public Art for non-commercial purposes, such as annual reports, information brochures and information on the Town's website.
- 7.3 All Public Art requires all original art to be attributed to the artist. A plaque must be installed by the developer next to the artwork to acknowledge the artist. Artists are to be acknowledged when images of their works are produced.
  - 7.3.1 The following information is required on the plaque:



- Title;
- Artist name;
- Year artwork was commissioned;
- Town logo and acknowledgement of percent for art scheme; and
- Details of any partners and funding bodies.

## 8.0 Decommissioning of Public Art

8.1 The artwork must not be removed, relocated, sold or destroyed without first making reasonable attempts to notify the artist.

8.2 The owner or the Town may decide to remove an artwork because:

- The work is at the end of its intended lifespan;
- Maintenance and repair obligations and costs have become excessive in relation to the value and age of the artwork;
- There is irreparable damage through vandalism and/or decay;
- The work has become unsafe or is affected by changes in health and safety regulations; and/or
- The site where the work is located is to be redeveloped or physically altered.

8.3 If any artwork provided for as a Public Art contribution is identified for decommissioning as prescribed in clause 8.2, the owner/applicant will conduct a formal review in accordance with the Percent for Art Guidelines.

## 9.0 Definitions

**Art Consultant/Coordinator** includes an individual or consultancy experienced in bringing all the parties involved in a Public Art project together: council planning departments and arts units, property developers, architects, interior designers, artists and stakeholders.

**Professional Artist** is an individual who can show:

- A proven track record of exhibiting their artwork at public and/or private events or can be endorsed by an established professional artist or art consultant;
- Has had work purchased by public and private collections;

The professional artist must not have a familial relationship with the developer or have a financial interest in the development.

**Public Art** is defined as being site-related and place-responsive, and located for public accessibility, either within or readily available from public space. The artwork can be considered a stand-alone structure, applied to surfaces, or integrated into the fabric of buildings, road infrastructure elements or landscaped outdoor spaces.

**Public Realm** means that artworks are to be clearly visible from the adjacent public street(s), public pathway(s), public open space, and/or other publically accessible spaces.

**Total Project Cost** is the approximate total cost of the proposed development as indicated on the application for Development Approval.



Relevant legislation	<i>Planning and Development Act 2005</i> <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> <i>Town of Port Hedland Local Planning Scheme No. 7</i>
Delegated authority	Town of Port Hedland
Business unit	Planning & Development
Directorate	Regulatory Services

<i>Governance to complete this section</i>			
Version Control	Version No.	Resolution No.	Adoption date
	VO1	CM202021/176	3 June 2021
Review frequency	2 Yearly		