

# Percent for Public Art (2012)

## Local Planning Policy

### Preliminary

Clause 5.1 of the *Town of Port Hedland Town Planning Scheme No. 5* (The Scheme) allows Council to prepare a Local Planning Policy in respect of any matter related to the planning and development of the Scheme area.

This policy will be made effective once Council has completed the process provided by Clauses 5.1.4 – 5.1.7 inclusive of The Scheme.

Pursuant to section 5.1.2 of The Scheme, if a provision of this Policy is inconsistent with The Scheme, The Scheme prevails to the extent of the inconsistency.

This Policy is not part of The Scheme and does not bind Council in respect of any application for planning approval. However, Council shall have due regard to the provisions of the Policy and the objectives which the Policy is designed to achieve before making its determination.

### Objective

The Town of Port Hedland considers there is a need to protect and enhance the utility, amenity and identity of the public spaces such as town centres, commercial nodes, main streets, entry points, squares, foreshores and parks within the municipality.

The purpose of this Policy is to assist in achieving the following objectives:

- a) Improve the quality of the Town's built environment through the use of high quality public artworks
- b) Increase the social, cultural and economic value of the Town
- c) Develop and promote community identity within the Town
- d) Enhance a sense of place by encouraging public art forms which reinforce and highlight Early Settler and Indigenous history, cultural heritage and contemporary traditions.

### Definitions

**Applicant**—means the person or entity who submitted the Application for Approval to commence development to the Town for the relevant development.

**Owner**—means the owner of the land upon which the relevant development is proposed to be built. The owner may also be the Applicant.

**Public Art** -For the purposes of this policy 'Public Art' is defined as being site-related and place-responsive art created and located for public accessibility, either within or readily visible from the public space. Public Art should enhance the built and natural environments and add value to character and cultural identity through the use of a diverse range of art forms and design applications. Items which cannot be considered Public Art are set out later in this Policy.

**Public Artist** – means a regular exhibitor of artwork, offering work for sale, or selling work; having been awarded or eligible for a government grant; selected for public exhibition, awards or prizes; having secured work or consultancies on the basis of professional expertise, having had work acquired for public or private collections; being a member of a professional association on the basis of his/her status as a professional artist.

**Public Space** – means a space that is open and accessible to all.

**Total Project Cost** – The cost of a development for the purposes of this Policy is the cost of the equipment, financing, services, utilities, materials and construction necessary to carry out the development, but does not include the cost of the acquisition of land or architectural, design or consultant's fees. The Town will generally accept the cost of the development to be the same as the approximate cost of the proposed development stated by the applicant on the Scheme Application for Planning Approval form.

## **Policy Statement**

### ***1. Policy Intent***

Proposals for eligible development proposals or improvements over the value of \$5,000,000 (five million dollars) are to set aside a minimum of 1% (one percent) of the Total Project Cost for the development of Public Art which reflects the place, locality or community, up to a maximum contribution of \$250,000. Any contribution in excess of \$250,000 is to be considered as a voluntary contribution by the Owner/Applicant.

This Policy applies to those development proposals or improvements for built form where they are situated within the Town Centre, Commercial, Tourism, Mixed Business and Airport zones of the Town of Port Hedland. This policy does not apply to subdivision applications.

This policy shall apply to all proponents, with the exception of those exempt from obtaining Local Authority planning approval under other legislation.

Where a development is exempt from the requirement to obtain planning approval under the Scheme but would otherwise be an eligible proposal under this Policy, the proponent of the development should use this Policy as a guide to the implementation of their State Percent for Art Scheme obligation if applicable

Where this Policy applies, this requirement will be stipulated in a condition of Planning Approval.

## **2. General Provisions**

a) Where this policy applies, the applicant shall either:

- i. Coordinate a Public Art project themselves
- ii. Satisfy the contribution through a cash-in-lieu payment towards a precinct public artwork, at the rate prescribed under this Policy.

b) For the purpose of calculating the value of a contribution to Public Art, the following costs associated with the production of an art project may be included:

- i. professional artist's budget, including artist fees, Request for Proposal, material, assistants' labour costs, insurance, permits, taxes, business and legal expenses, operating costs, and art consultant's fees if these are necessary and reasonable
- ii. Fabrication and installation of artwork
- iii. Site preparation
- iv. Structures enabling the artist to display the artwork
- v. Documentation of the artwork
- vi. Acknowledgment plaque identifying the artist, artwork and development(s) from which funding was obtained.

c) Public Art projects may include:

- i. Building features and enhancements such as bicycle racks, gates, benches, fountains, playground structures or shade structures which are unique and produced by a professional artist
- ii. Landscape art enhancements such as walkways, bridges or art features within a garden
- iii. Murals, tiles, mosaics or bas-relief covering walls, floors and walkways. Murals may be painted or constructed with a variety of materials
- iv. Sculpture which can be freestanding or wall supported in durable materials suitable for the site
- v. Fibreworks, neon or glass art works, photographs, prints and any combination of media including sounds, film and video systems.

d) Public Art projects cannot include:

- i. Commercial promotions in any form
- ii. Directional elements such as supergraphics, signage or colour coding
- iii. 'Art objects' which are mass produced such as fountains, statuary or playground equipment
- iv. most art reproductions
- v. landscaping or generic hardscaping elements which would normally be associated with the project.

e) Public artists are to be commissioned to produce the Public Art.

f) While the Public Art must not be mass produced, the Town is open to a unique pre-existing artwork developed by a Public Artist being purchased and installed as the Public Art.

### **3. Owner/Applicant Project Option**

#### *a) Procedure*

Where an owner applicant chooses to co-ordinate the Public Art project themselves, the following procedure applies:

- i. The Owner/Applicant reviews the Town's Precent for Art Guidelines, and consults with the Town's Community Development Officers as required under the Guidelines
- ii. The Owner/Applicant provides a Public Art Proposal for consideration by the Town
- iii. If satisfied with the proposal, the Town provides approval in principle for the Public Art Project
- iv. The Owner/Applicant enters into a contract with their chosen artist, submits an Application for Art Work Design and obtains full project approval
- v. The artist undertakes the Public Art project
- vi. The Public Art is completely installed prior to occupation of the development and/or issue of Permit to Use.

#### *b) Location of Public Art*

The Town requires Owners/Applicants to situate the Public Art on private property within the relevant development. However, the Town may also consider proposals to install Public Art on public land abutting or adjacent to the site, such as in the road reserve or in another public place.

#### **4. Cash-in-Lieu Option**

a) The public art contribution may be satisfied by cash-in-lieu based on the rate described in the Town's Percent for Art Policy. Such cash-in-lieu payments are to be:

- i. Formally agreed with the Town
- ii. Paid to the Town of Port Hedland Public Arts Fund (Percent for Public Art) prior to occupation of the development
- iii. Expended in accordance with a precinct public art project as prescribed by the Town of Port Hedland or any applicable Cultural and Arts Strategy, in the area within which the proposal is situated
- iv. Refunded to the Owner/Applicant if the development does not proceed

b) Individual funds contributed within an area may be accrued for more comprehensive or detailed public art projects as determined by the Town

c) Any Public Art commissioned as a cash-in-lieu option will be owned and maintained by the Town.

#### **5) Ownership, Copyright and Moral Rights**

a) Ownership of Public Art commissioned under this Policy will generally depend upon the location of the Public Art:

- i. Where situated on private property, the Public Art is owned and maintained by the Owner
- ii. Where situated on public property, the Public Art is owned and maintained by the Town, regardless of who commissioned the art

b) The Town will have the right to reproduce photographic images of the Public Art for non – commercial purposes, such as annual reports, information brochures, and information on the Town' website

c) The Town recognises that artist have moral rights under copyright legislation, which are the right of their work, the right against false attribution to someone else, and the right of the artist to object against treatment of an art work that demeans their reputation.

In line with the moral rights legislation, the Owner/Applicant or, where the Owner/Applicant chooses the Cash-in-lieu option, the Town:

- i. Will install a plaque or plate near a Public Art work, acknowledging the name of the artist, and where appropriate, the name of the person or company who funded the Public Art

- ii. Will consult with the artist if the Public Art work is to be changed in any way (including by removing or re-locating the Public Art) except in cases of emergency.