

3.1.9 Percent for Public Art – Local Planning Policy

Type:	Regulatory Services - Planning
Legislation:	Planning and Development Act 2005 Planning and Development (Local Planning Schemes) Regulations 2015
Procedure:	N/A
Delegation:	N/A
Other Related Document:	Public Art Strategy; Public Art Panel 4.1.2; Public Art Policy 4.1.3

Objective

The objectives of the Percent for Public Art Policy are:

- to contribute to a sense of place;
- to enhance public enjoyment and understanding of places;
- to create local landmarks;
- to make streets, open spaces, and buildings more distinctive; and
- to develop public art that captures the spirit of East Fremantle, is responsive to East Fremantle's distinct domains and considers the foreshore as a natural destination to explore.

Policy Scope

This policy applies to all new developments within the Town of East Fremantle including multiple dwellings comprising fifteen or more dwellings, mixed use, commercial and non-residential developments, with an estimated construction cost of three million dollars or greater.

The policy details the requirements for public art contributions as part of a development proposal and provides performance standards to guide the provision of public art and assessment of development applications that include public art.

Applicants are encouraged to contact the Town of East Fremantle as early as possible to discuss options for the provision of public art in their development.

Any development proposals requiring planning approval of a construction value greater than AUD\$3,000,000 will be required to provide public art under this policy.

The public art contribution is set at a contribution rate of 1% of the construction cost* until the construction cost reaches \$100,000,000 and then the contribution rate is set at 0.75%.

*For the purpose of the Policy "construction cost" means the estimated cost of the equipment, financing services and utilities that are required to carry out a development but does not include the cost of land acquisition. The Council will generally accept this to be the same as the estimated cost of the development stated by the applicant on the Building Permit application. This does not include GST.

Developments excluded from this requirement to contribute are as follows:

- demolition;
- single residential developments;
- group dwelling developments;
- multiple dwellings less than fifteen dwellings;
- State and Federal projects where an equivalent public art contribution policy is applied; and
- heritage works.

Policy

Section 1: Background

1.1 Form of Percent for Public Art Contribution

On submission of a development approval application the applicant must nominate the way in which the public art contribution will be met for the consideration of the Town of East Fremantle Public Art Panel (the Panel).

Following the consideration of the public art proposal by the Panel and at the discretion of the Council the proponent will meet their public art contribution in one or more of the following ways:

- (i) by established public art 'on-site' as a component of their development;
- (ii) by providing public art in the vicinity of the site in the public realm; and/or
- (iii) by providing cash in lieu for the provision of public art as identified in the Public Art Strategy to the amount specified within the development approval condition.

In some cases, the cash-in-lieu contribution may be required by the Council as a condition of planning approval.

1.2 Public Art Delivery Guidance

Within the development or on public land within the vicinity of the development (the location to be determined by the Panel) as outlined in the Public Art Strategy.

The expenditure of cash in lieu will be undertaken as soon as practically possible and the artwork will carry a plaque indicating the source of the contributions.

Section 2: Approval Process

2.1 Approval Process

2.1.1 Town of East Fremantle Public Art Panel

- The Council will appoint a Town of East Fremantle Public Art Panel as per the Public Art Panel Policy No. 4.1.5.
- Where Council determines that the proponent will provide the public art, the proponent shall submit a Public Art Report to the Town which addresses the criteria outlined under Clause 3.1 of this Policy.
- The Public Art Report will be submitted with the development application.
- All of the documentation contained in the Public Art Report is to be submitted to the Public Art Panel for consideration and approval.
- The Public Art Report will be required to be considered by the Public Art Panel prior to the lodgement of a Building Permit application for the given development.

- The Public Art Report will be considered by the Public Art Panel and the proponent will be notified of its approval or refusal no later than 60 days from the date of submission (or such other period agreed by the proponent). If modifications are required, the Public Art Panel will liaise with the proponent prior to making any final decision on the proposal.
- Where it has been determined under this Policy that the proponent will provide the public art contribution, and the Public Art Panel considers that the Public Art Report fails to meet the objectives and criteria outlined in this policy, the proponent may be directed to provide more detailed plans, modifications to plans or provide a cash-in-lieu contribution.
- Council may apply further conditions regarding the proposed public artworks on the original development approval.
- Public art in fulfilment of a condition of planning approval shall not require a further development application. Where the public art entails structural elements a building permit application will be required.
- The proponent will be required to forward copies of the artist's contract, maintenance schedule and artist contact details to the Town at the commencement of the art project.
- Where provided by the proponent, the public art must be installed prior to the issue of an Occupancy Permit.
- Where development does not proceed within the timeframe for which planning approval is granted (24 months), the requirement for public art will no longer apply unless an extension of the development approval has been granted by the Responsible Authority.

2.1.2 Cash-in-lieu Contribution

Collection and expenditure of cash-in-lieu for public art

- Cash-in-lieu shall be paid into Council's Arts & Sculpture Reserve.
- Contributions within a domain area may be accrued in the Arts & Sculpture Reserve, for larger public art projects.
- Where applicable, the Town is to have received the cash-in-lieu contribution prior to the issue of an Occupancy Permit.
- Funds are to only be expended on public art located on public land within the vicinity of the development (for instance adjacent to the site or within the Town Centre) unless otherwise agreed between the applicant and the Council.
- Cash-in-lieu funds may be accrued for more comprehensive public art projects as determined by the Town.
- Cash-in-lieu funds may be used towards maintenance of public artworks.
- Funds will be refunded to the owner/applicant in the event the development does not proceed.

2.2 Initiation

Applicants are required to contact the Town for information about the appropriate approval processes. If the Town determines that an applicant is to develop a public artwork on site, then the applicant must engage a Public Art Consultant at the earliest opportunity.

2.3 Development Approval Application

The applicant must submit a Public Art Report to the satisfaction of the Town with the Development Approval application.

The Public Art Report will be assessed by the Town against this policy, the Public Art Policy, and the Public Art Strategy and any other statutory provisions that may be required.

Alternatively, where the applicant elects, and the Council agrees, the public art contribution may be satisfied by cash-in-lieu.

2.4 Prior to Occupancy

Prior to issue of an Occupancy Permit, the applicant must submit proof of a Section 70A Notification under the Land Administration Act being registered on the Certificate of Title, in accordance with Section 3.3 (PS.9)

Section 3: Development Approval Requirements

Development applications for public art must clearly demonstrate that the proposal meets the Performance Standards for Development Approval (see Section 3.3 of the Policy) and any other statutory provisions that may apply, including:

- the objectives of this policy;
- other development policies; and
- and design or development guidelines that may apply to the site.

3.1 Development Application Submission Requirements

A Public Art Report for all proposed artworks is to be prepared and submitted with the Development Application to ensure public art is integrated into a public place, development site or building design.

The Public Art Report must be prepared by a Public Art Consultant or Artist and will include:

- (i) Details of the artist's qualification, experience and suitability to the project;
- (ii) Design documentation - including research, concept development and a detailed statement addressing compliance with this Percent for Public Art Policy, Public Art Policy and Public Art Strategy;
- (iii) Detailed plans of the public art. Plans are to be to scale and include dimensions, materials, colours and installation details;
- (iv) Plans showing location of proposed public art;
- (v) Details of cost calculations including construction cost and the public art contributions costs, in accordance with this Policy;
- (vi) For public art to be located on or over the public land, written consent of the landowner and/or authority with management control of the land; and
- (vii) Details of requirements and written consent from the artist for any ongoing operational details, care and/or maintenance of the artwork by the owner or the Town.

3.2 Structure Plan Submission Requirements

For large scale development projects, such as those requiring a Structure Plan, a Public Art Strategy is required to be prepared by a Public Art Consultant, outlining the themes, locations and installation staging of artwork across the development site/s.

3.3 Performance Standards for Development Approval

PS1. Where it is determined that the applicant will commission a public artwork, the artwork is to be located within the lot boundaries of the development site.

PS2. The artwork is to be designed and created by a professional artist (refer to definitions).

- PS3.** The artwork must be clearly visible from, or located in, the public realm.
- PS4.** The artwork must contribute to an attractive, stimulating environment and not detract from the amenity, safety or function of the public realm.
- PS5.** The artwork is original and of high aesthetic quality.
- PS6.** The artwork is permanent (i.e. for the life of the artwork stated in the maintenance Report) durable and easy to maintain.
- PS7.** The artwork is consistent with any applicable public art policy or strategy prepared or approved by the Town of East Fremantle for the relevant project area or domain.
- PS8.** A plaque or similar identifier is to be installed on, or near the public art which details the artist's name, name of the installation and date of the installation.
- PS9.** A notification pursuant to Section 70A of the Transfer of Land Act is to be lodged against the Certificate of Title to the land on which the public art is located to make the proprietors and prospective purchasers aware of the requirements to maintain the public art, in accordance with Section 3.4 of this Policy.

3.4 Maintenance

The applicant and any subsequent owner/s of the development are required to fully maintain the artwork to the satisfaction of the Council. The artwork must be kept safe and in good condition, for the life stated in the Maintenance Report.

The applicant/s (and any subsequent owners) of the subject development are to comply with any reasonable request by the Council.

3.5 Infringement and complaints

The Town may act:

- where the artwork has become unsafe, damaged, "tagged" with graffiti or vandalised or irreparable;
- to allow future works in the public place; or
- where the artwork is not being maintained to the satisfaction of the Town.

If the applicant/owner fails to comply, the Town in its absolute discretion, after giving the owner of the artwork twenty-eight (28) days' notice in writing of the Town's intention to do so, and the owner failing to comply with the requirements of the notice, may carry out the requirements of the notice. This may include the removal of the art work from the site for either cleaning, repairing, storing, relocating permanently or temporarily, selling or otherwise disposing of the art work.

The Town may recover any costs associated with such works from the applicant/owner.

Section 4: Related Policies and Plans

Interpretation and implementation of this Policy is in accordance with the Town of East Fremantle documents as outlined below.

- Town of East Fremantle Public Art Strategy
- Town of East Fremantle Public Art Policy 4.2.5
- Town of East Fremantle Public Art Panel Policy 4.1.5

Other Related Policies or Plans

- Town of East Fremantle Strategic Community Plan 2017-2027

Section 5: Definitions

Public Art

For the purposes of this Policy, public art is defined as a work of art that is created by an artist, sited in a visually accessible public location. Public art can include (but is not limited to):

- *the artistic treatment of functional equipment such as bike racks, benches, fountains, playground equipment, light posts or shade structures which are unique;*
- *landscape art enhancements such as walkways, bridges or art features within a public garden;*
- *murals, tiles and mosaics covering walls, floors and walkways; and*
- *sculptures, free-standing or incorporated as an integral element of a building's design, paintings, pictures and photographic works.*

Public art does not include:

- *business logos;*
- *advertising signage;*
- *art objects which are mass produced or off the-shelf reproductions; and*
- *landscaping or architectural features which are considered by the Council to be normally integrated into the building or development.*

Attachment

For an extended list of detailed definitions please refer to the Appendix

Responsible Directorate:	Regulatory Services
Reviewing Officer:	Executive Manager Regulatory Services
Decision making Authority:	Council
Policy Adopted:	20/02/18
Policy Amended/Reviewed:	15/10/19
Former Policy No:	3.1.9

A. Types of public art

The descriptors that follow indicate the diversity of approaches to public art projects.

Ephemeral Artworks: those works that are short lived, based on a specific occasion or event and are transitory in nature. Ephemeral art describes projects that may be environmental, lighting or projection where there is no physical artwork created. The term also applies to physical works in non-permanent materials such as natural found materials that degrade as part of the art process.

Functional Artworks: where the primary purpose of the element is utilitarian such as seating, lighting, bollards, rubbish bins, bike racks, shelters and paving. These can vary in form, scale or quantity, dependent on the location. Functional works can reinforce a design aesthetic or thematic concern and be playful, delightful or sophisticated.

Ground Plane Artworks: form part of the ground in a public setting and may be experienced as carved/shaped paving elements, metal relief elements, toughened glass panels and ceramic or mosaic inserts, amongst others. Ground plane works are designed to be viewed closely by pedestrians in the space, potentially slowing their movement through the area and creating the opportunity for an intimate and personal engagement between the work and the viewer. Ground Plane works are useful as a way finding tool.

Iconic Artworks: a significant, freestanding work, where the approach is largely independent of other considerations.

Integrated Artworks: works that are fully incorporated within the design of the built or natural environment.

Interactive Artworks: are works that are designed to encourage a tactile response.

Interpretive Artworks: where the primary purpose of the artwork is to tell a story, describe, educate or comment on an issue, event or situation.

Intervention Artworks: provoke an idea or thought or an element of surprise often in an unexpected location.

Landmark Artworks: could be considered a signature or icon for a city. Large in scale or ambitious in concept, such works tend to be major stand-alone commissions and not part of a capital works project.

Medium Scale/Human Scale Artworks: are artworks approximately the size of an average person. These artworks are easily interacted with and are accessible to pedestrians.

Memorial: a structure, sculpture or other object erected to commemorate a person or an event.

Nodal Artwork: an artwork that comprises of a series of component parts and a central focus element.

Site Specific Artworks: designed specifically for and responding to a particular site through scale, material, form or concept.

Permanent Artworks: refers to public art with a lifespan of at least twenty years.

Plaque: a flat tablet or sign, affixed to an object, building or pavement, of metal, stone or other appropriate material, which may include text and/or images in order to provide interpretive information. Plaques may identify an artwork, commemorate a person, place, object or an event and/or provide historical text or information relevant to its location.

Street Art: may include spray or aerosol art, stencils, sticker art, paste-ups (wheat pasting and poster art), video projection, art interventions, guerrilla art, flash-mobbing and installations.

Temporary Artwork: refers to artwork that is made to last for a specific duration for example, one week or one year. This may include one off or scheduled events such as outdoor exhibitions or installations. The dynamic nature of temporary works are an important place activation tool.

Textural Artworks: are small in scale, often items of architectural, streetscape and landscape detail, which contributes to the local character of a place.

Transition Artworks: provide an element that links one space to another such as an internal to an external public space or a hardscaped space to a landscaped space.

B. Definitions

Artist

A professional visual artist can be defined as a person who fits into at least two of the following categories:

- a person who has a tertiary qualification in the visual arts, or when the brief calls for it, other art forms such as multimedia;
- a person who has a track record of exhibiting their artwork at reputable art galleries that sells the work of professional artists;
- a person whose work is represented in major public or private collections; and
- a person who earns more than 50% of their income from arts related activities, such as teaching, selling artwork or undertaking public art commissions. In some cases, this definition may be relaxed where it may be specified for a particular project.

For example, a project involving emerging artists, Indigenous artists, students or street/graffiti artists.

Artist Fees

That portion of the art project budget reserved for payment to the artist for his/her creative services for design, fabrication, and/or project management services.

Artwork or Work of Art

Any work or object designed by an Artist.

Collection Management

The administration and management of an Art Collection. This encompasses the management of collection records both electronic and hard copy, the database, catalogues, inventories and condition assessments, maintenance and conservation programs, accession of new acquisitions and overseeing the deaccession, disposal or relocation of public artwork.

Community Art

A process where the community initiates or participates in the art project.

Contemporary Art

Artwork created in the present day that engages with issues relevant to its time or uses materials and processes that are at the forefront of arts practice.

Hand-over

The transfer of ownership of an artwork from one party to another. This includes the transfer of legal title and the supplying of the Maintenance Manual and other associated contractual documents.

Maintenance Manual

Those forms completed by the artist detailing the maintenance and technical information for the completed artwork.

Public Art

Public art is a work of art that is created by an artist, sited in a visually accessible public location. Public art can include (but is not limited to):

- the artistic treatment of functional equipment such as bike racks, benches, fountains, playground equipment, light posts or shade structures which are unique;
- landscape art enhancements such as walkways, bridges or art features within a garden;
- murals, tiles and mosaics covering walls, floors and walkways; and
- sculptures, free-standing or incorporated as an integral element of a building's design, paintings, pictures and photographic works.

Public art does not include:

- business logos;
- advertising signage;
- art objects which are mass produced or off the-shelf reproductions; and
- landscaping or architectural features which would normally be integrated into the building or development.

Public Art Maintenance & Conservation Program

The coordinated administration of regular treatments, professional conservation and repairs to works in an Art Collection to maintain their integrity.

Public Art Consultant

A professional specialising in public art, engaged to provide expert advice or project management.

Public Art Project Manager

A professional employee or contractor responsible for the planning, execution, contract management and close-out of the public art project.