

Local Planning Policy 3.19: Percent for Public Art

INTRODUCTION

The provision of public art contributes towards a sense of place and to community identity and can enliven and enhance the visual amenity of the public domain. The heritage of a place and its interpretation can also be reinforced through public art.

The Town seeks to promote the provision of public art as part of private development through the application of a percent for public art policy.

APPLICATIONS SUBJECT TO THIS POLICY

This policy applies to all applications for commercial, non-residential and mixed use developments with a construction cost of \$1 million or more throughout the Town. Classes of development excluded from the policy are applications for demolition and/or infrastructure projects only.

AIMS

- To enhance a sense of place by encouraging public art forms.
- To improve the legibility of streets, open spaces and buildings through the provision of public art.
- To enrich the visual amenity of public places.
- To allow for the interpretation of cultural, environmental and/or built heritage.
- To improve the functionality of the public domain through the use of public art including appropriate street furniture.
- To establish a clear and equitable approach for the provision of public art as part of the development process.

DEFINITIONS

For the purpose of this policy, the following definitions apply. For other definitions, the Town Planning Scheme definitions apply.

Public art means an artistic work that:

- (i) is permanent in nature, and constructed of materials which can be maintained and repaired if necessary, including metal, wood, plastic, paint or any other durable material;
- (ii) is either freestanding or integrated into the exterior of a building or other structure;
- (iii) is created and located for public accessibility, either within the public realm or within view of the public realm, such as the street, park, urban plaza or public building; and
- (iv) has been designed by an artist or has been designed through a process overseen by an artist.

Construction value 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 Town will generally accept this to be the same as the estimated cost of development stated by the applicant on the building permit application.

Artist for the purposes of this policy means a person who meets any of the following criteria:

- (i) a person who has obtained a Bachelor Degree or Diploma in visual arts or any similar field or who is undertaking studies towards these qualifications;
- (ii) a person who has a track record of exhibiting and/or selling their own original artwork;
- (iii) a person who has had their own original artwork purchased by major public collections;
- (iv) a person who earns more than 50% of their income from arts related activities such as teaching art and selling their own artwork;
- (v) a person who has secured work or consultancies in the arts field on the basis of professional expertise; or
- (vi) a person who has expertise in creating the form of public art proposed by an applicant or the Council under this policy.

POLICY

1. Amount of public art contribution

- 1.1. The cost of any public art provided for under this policy shall be no less than one percent of the construction value of the development.
- 1.2. Notwithstanding Clause 1.1, a single development shall not be required to provide or contribute any more than \$500,000 in public art costs.
- 1.3. The costs associated with the production of public art may include:
 - (i) artist's budget, including artist fees, material, assistant's 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 specifically relating to the public artworks;
 - (iv) structures enabling the artist to display the artwork, excluding those structures required for the development;
 - (v) documentation of the artwork; and
 - (vi) acknowledgement plaque identifying the artist, artwork and development.

2. Form of public art contribution

- 2.1. On submission of a development application the proponent must nominate the way in which the public art contribution will be met for consideration by Council.

- 2.2. At the discretion of Council the proponent will meet their public art contribution in one or more of the following ways:
- (i) by establishing 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; or
 - (iii) by providing cash-in-lieu to the amount specified within the development condition.

3. General standards for public artworks

- 3.1. Where the proponent provides public art, it shall be provided on site or within the public realm immediately adjacent to the site. Where located on site, the public art is to be clearly seen from the public realm.
- 3.2. The public art shall contribute to an attractive, stimulating and functional environment and not detract from the amenity or safety of the public realm.
- 3.3. The public art shall be specifically designed for, and be suitable for, the building or site where it is to be located and contribute towards the sense of place for that locality.
- 3.4. The public art shall be of high aesthetic quality, low maintenance, durable and resistant to vandalism and must be maintained during the continuation of the development.
- 3.5. The public art shall be original and be designed and created or overseen by an artist/s.
- 3.6. The public art must be considered by the Town to be safe and not have the potential to cause injury or hazard to any person or animal.
- 3.7. The public art must be designed and sited to avoid encouraging criminal activity on the site such that it should not be used for assistance in unauthorised entry or conceal any person.
- 3.8. The public art must not be considered by the Town to be obscene or offensive in any manner.
- 3.9. The public art shall be consistent with any public art strategy prepared by the Town for the relevant area/precinct, where applicable.

4. Forms of public art

- 4.1. Public artworks may take the following forms:
- (i) building features and enhancements such as bicycle racks, gates and lighting;
 - (ii) components of public spaces such as benches, fountains, playground structures, shade shelters, lighting, screening, artistic paving and special planting which is an integral part of the space and contributes towards its artistic value and quality;
 - (iii) landscape art enhancements such as walkways, bridges, green-walls or art features within landscaping;
 - (iv) murals, tiles or mosaics covering walls, floors and walkways;

- (v) sculpture in durable materials;
 - (vi) fibre works, neon or glass works, photographs and prints; or
 - (vii) community arts projects resulting in tangible artwork.
- 4.2. The art project may be an interpretation of cultural heritage and the Town may also consider alternative art projects including community arts programs, which involve the public and the incorporation of a cultural space that comprises a visual or performing arts space.
- 4.3. Public art should be made accessible to all members of the community, irrespective of age and abilities. Public art can be tactile, as well as being visual. Public art need not be monumental but can be at heights suitable for people to touch, move through and explore. Public art may be interactive play objects for family groups and children, where appropriate. Interpretive signage in an easy to read format (including Braille) will allow public art to be inclusive of all members of the community.

5. Exclusions to public art

- 5.1. The public art must not include any promotional or advertising material either for the proposed development or any other business, product or development, mass produced art objects or art reproductions.
- 5.2. The public art must not include elements which would normally be associated with the development, or be any form of services or utilities.

6. Approval process for public art contributions

- 6.1. The Council will appoint a Town of Cambridge Public Art Committee comprising of up to five Elected Members and two community members.
- 6.2. Where Council determines that the proponent will provide the public art, the proponent shall submit a Public Art Report to the Public Art Committee which addresses the criteria outlined under Clause 11 of this policy. The Public Art Report may be submitted with the development application or may be submitted after development approval has been granted. The Public Art Report will be required to be approved by the Public Art Committee prior to the lodgement of a building permit application for the given development.
- 6.3. All of the documentation contained in the Public Art Report is to be submitted to the Public Art Committee for consideration and approval. The Public Art Report will be considered by the Public Art Committee and the proponent will be notified of its approval or refusal no later than 30 days from the date of submission (or such other period agreed by the proponent). If modifications are recommended the Public Art Committee will liaise with the proponent prior to making any final decision on the proposal.
- 6.4. Where the Council has determined the proponent will provide the public art contribution, and the Public Art Committee 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.
- 6.5. Council may apply further conditions regarding the proposed public artworks on the original development approval.

- 6.6. 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.
- 6.7. The proponent will be required to forward copies of the artist's contract, maintenance schedule and artist contact to the Town at the commencement of the art project.
- 6.8. Where provided by the proponent, the public art must be installed prior to the issue of an Occupancy Permit.
- 6.9. 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 public art is located to make the proprietors and prospective purchasers aware of requirements to maintain the public art.
- 6.10. 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.

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

- 7.1. Cash-in-lieu shall be paid into Council's Public Arts Fund.
- 7.2. Where applicable, the Town is to have received the cash-in-lieu contribution prior to the issue of an Occupancy Permit.
- 7.3. Funds are to only be expended on public art located on public land within the vicinity of the development (for instance adjacent to or within the centre in which the development is located) unless otherwise agreed between the proponent and the Public Art Committee.
- 7.4. Cash-in-lieu funds may be accrued for more comprehensive public art projects as determined by the Town.
- 7.5. Cash-in-lieu funds may be used towards maintenance of public artworks.
- 7.6. Cash-in-lieu funds must be utilised by the Town within 3 years of the date which they were received, or such longer period as agreed by the person who made the contribution. In the event the funds are not spent within the period, the contribution shall be returned to the person who made it.
- 7.7. Funds will be refunded to the owner/applicant in the event the development does not proceed.

8. Copyright and ownership of public art

- 8.1. Once an artwork has been completed and accepted by the Town, copyright will be held jointly by the Town and the artist. In practical terms this means that the Town has the right to reproduce extracts from the design documentation and photographic images of the public art for non-commercial purposes (such as annual reports, information brochures). The artist will have the right to reproduce extracts from the design documentation or photographic images of the public art in books or other publications associated with the artist or artwork.

- 8.2. Where situated on private property, the public art is owned and maintained by the owner. Where situated on public property, the public art is owned and maintained by the Town.

9. Moral rights and acknowledgement of artwork

- 9.1. Since 2000 moral rights legislation has protected artists. In brief, an artist's moral rights are infringed if their work is not attributed or credited; their work is falsely attributed to someone else; or their work is treated in a derogatory way by distorting, modifying or removing it without their knowledge or consent.

In practical terms this means that the Town cannot change an artwork in any way without seeking the artist's permission; likewise, cannot remove or relocate the artwork without seeking the artist's permission. A reasonable attempt to find the artist must be provided. The Town will take special care to ensure that acts of restoration or preservation (of artworks) will be conducted in a sensitive manner with prior consultation with the artist/s. Wherever possible, preservation or restorative works should be carried out by professional conservators.

Special care will also be taken with the moral rights associated with works created by more than one artist, in that it is acknowledged that collaborators on artistic creations can take different views on issues such as relocation and restoration.

- 9.2. In line with moral rights legislation, the proponent will install a plaque or plate near each artwork, acknowledging the name of the artist, and the name of the person, agency or company who funded the artwork.
- 9.3. Should the public arts work become a safety hazard, the Town may undertake necessary emergency action to alter or remove the artwork without consultation with the artist.

10. Decommissioning of public artwork

- 10.1. The Town may decide to remove an artwork because it is in an advanced state of disrepair or damage or because the public art is no longer considered suitable for the location. In such cases, the Town will prepare a documented archival record of the public art prior to its removal.

11. Public Art Report guidelines

- 11.1. The Public Art Report is to 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 and Public Art Strategy (where applicable).
- (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.
- (vii) Details of requirements and written consent from the artist for any ongoing care or maintenance of the artwork by the owner or Town.

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