

### 3.1 PUBLIC ART

<b>Responsible Directorate</b>	Statutory Services	
<b>Responsible Service Area</b>	Planning	
<b>Adopted</b>	December 2022	C14.12.22
<b>Procedure Ref</b>	N/A	

#### 1. PURPOSE

The purpose of the policy is to:

- a. Establish a clear and equitable system for the provision of public art;
- b. Ensure additional development and growth in the Shire’s town centre and other locations is enhanced through provision of art in public spaces;
- c. Celebrate and tell the story of history and culture within the Shire through meaningful public art; and
- d. Outline the Shire’s public art strategy and define the administration framework for public art in the Shire.

The policy aims to:

- a. Establish a clear and consistent approach for the provision of public art as part of the planning development process;
- b. Facilitate the provision of public art when a proposed development generates a planning need for it, through proportionate contributions; and
- c. Enhance the amenity provided to occupants or visitors of new developments through the provision of public artwork on the development site or within the surrounding public realm or locality.

#### 2. SCOPE

This policy applies to:

- a. All development applications (including those for Shire owned buildings) where the estimated cost of development exceeds \$2 million ex GST, with the exception of a single house, grouped dwelling, ancillary dwelling, an addition(s) to any existing residential building, or any ancillary residential structures; and
- b. The acquisition, maintenance and disposal of public art within the Shire’s public art collection.

### 3. DEFINITIONS

**professional artist**

for the purpose of this policy, a person who demonstrates suitable qualifications to carry out commissioned artwork, comprising of at least two of the following:

- a. a qualification in visual arts or similar field from a tertiary education institution;
- b. a demonstrated record in studio-based creation and public exhibition of original artwork;
- c. completed public artwork that identifies the artist as the creator of the artwork, commissioned by either a private developer or government client; and/or
- d. a person who earns at least 50% of income generated from public art commissions.

**public art**

means artistic work that:

- a. Is constructed of materials which can be maintained and repaired if necessary, including metal, wood, plastic, paint or any other durable material; and/or
- b. Is either freestanding or integrated into the exterior of a building or other structure; and/or
- c. 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/or
- d. Has been designed by a professional artist or has been designed through a process overseen by a professional artist.

### 4. POLICY

Shire of Mundaring recognises that public art can contribute to local amenity, help celebrate the natural environment or local heritage, and enhance the sense of place. The role of public artworks, throughout history and in contemporary life, has been to contribute to the society, heritage, identity, character and cultural life of a community. Public art may commemorate events of local, state or national significance as well as demonstrate the range of artistic expression and standard of excellence at work in society.

The public art within the Shire contributes to the heritage and identity of the Shire, supporting and expressing the community's aspirations, talents and stories. This provides an important element in promoting the Shire as a creative and vibrant place, encouraging tourism growth and overall economic prosperity.

#### **4.1. Public Art Contribution for Proposed development**

- 4.1.1. If a development generates a planning need for public art, a contribution for public art should be provided if the development is valued over \$2 million ex GST.
- 4.1.2. The value of the contribution is one percent (1%) of the total estimated cost of development (including the budgeted costs for contingencies).
  - a. The professional artist's budget, including the professional artist's 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;
  - b. fabrication and installation of artwork;
  - c. site preparation specifically relating to the public artworks;
  - d. structures enabling the professional artist to display the artwork, excluding those structures required for the development; and
  - e. documentation of the artwork.
- 4.1.3. On submission of a development application the proponent must nominate the way in which the public art contribution will be met.
- 4.1.4. At the discretion of the Shire the proponent will meet their public art contribution in one or more of the following ways:
  - a. By providing public art on-site or in the public realm in the vicinity of the site; or
  - b. Providing a cash-in-lieu to the amount specified within the development approval condition.

#### **4.2. General Standards for Public Artworks Required for Proposed Development**

- 4.2.1. Where the proponent provides public art, it shall be provided on site or within the public realm in vicinity to the site. Where located on site, the public art is to be clearly visible from important public areas.
- 4.2.2. The public art shall contribute to an attractive, stimulating and functional environment and not detract from the amenity or safety of the public realm.
- 4.2.3. 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.
- 4.2.4. 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.
- 4.2.5. The public art shall be original and be designed and created or overseen by an artist.

- 4.2.6. The public art must be considered by the Shire to be safe and not have the potential to cause injury or hazard to any person or animal.
- 4.2.7. 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.
- 4.2.8. The public art must not be considered by the Shire to be obscene or offensive in any manner.
- 4.2.9. 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.
- 4.2.10. The landowner of where the development is proposed shall provide a plaque on or nearby the public art (as required by Australian copyright) which details the name of the installation, the artist and date the art was installed. The proposed plaque location and details are to be provided to, and be approved by, the Shire before the public art is installed.
- 4.2.11. If the proponent nominates to provide public art, a maintenance schedule for the public art must accompany the public art concept when the Development Application is lodged.

#### **4.3. Approval Process**

- 4.3.1. When public art is proposed, an initial concept/s will be presented to the Shire's Cultural Advisory Group for advice.
- 4.3.2. The Shire's endorsement of the public art proposal will only be provided following advice from the Cultural Advisory Group. Depending on the location, (i.e. private or public land), additional permits or approvals under the Shire's Local Laws may be required.

#### **4.4. Ownership and Copyright**

- 4.4.1. The ownership of public artwork will depend on the location where it is located. Ownership of public art is outlined by the following principles unless alternative arrangements are agreed with the Shire:
  - a. Public artwork located on private property is owned and required to be installed and maintained by the landowner.
  - b. Public artwork located on public property is owned and maintained by the Shire.
  - c. The Shire has the right to reproduce artwork from the design documentation of the public art provided and photographic images of the public art for non-commercial purposes, such as annual reports, information brochures and for the Shire's website.
  - d. Australia Copyright Law requires all original art to be attributed to the artists. A dedicated plaque must be installed next to the public art, with the following information:

- i. The title of the artwork (most prominent text);
- ii. The artist's name and artist's statement to assist interpretation of the artwork;
- iii. The year the artwork was commissioned;
- iv. Shire of Mundaring logo; and
- v. The details of any partner organisations or funding.

#### **4.5. Shire's Art Collections**

- 4.5.1. The Shire's art collections shall be managed by the Mundaring Arts Centre (MAC) in accordance with the Deed of Agreement, as amended from time to time.
- 4.5.2. The Shire provides funding to assist the MAC in the delivery of community cultural development within the Shire of Mundaring when the conditions of the Deed of Agreement are met.

#### **4.6. Collection and Expenditure of Cash-in-lieu for Public Art Required For Proposed Development**

- 4.6.1. Cash-in-lieu shall be paid into the Shire's Public Art Fund.
- 4.6.2. Where applicable, the Shire is to have received the cash-in-lieu contribution prior to the issue of an Occupancy Permit for the development which has resulted in the requirement for the public art contribution to be provided.
- 4.6.3. 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 Mundaring town centre if that is where the development is located) unless otherwise agreed between the proponent and the Shire.
- 4.6.4. Cash-in-lieu funds may be used towards maintenance of public artworks, at the discretion of the Shire.
- 4.6.5. Funds will be refunded to the owner/applicant in the event the development does not proceed.

### **5. RELATED LEGISLATION**

*Planning and Development Act 2005*

*Local Planning Scheme No. 4*

*Planning and Development (Local Planning Schemes) Regulations 2015 sch 2 pt 2 div 2.*