

# MODEL PLANNING POLICY – UNIVERSAL PERCENT FOR ART

**THIS MODEL HAS BEEN PREPARED FOR RESOURCE AND DISCUSSION PURPOSES ONLY. AGENCIES AND LOCAL AUTHORITIES ARE ADVISED TO REVIEW AND ADAPT THIS MODEL TO THEIR OWN REQUIREMENTS.**

## 1.0 Preliminary

### 1.1 Citation

This Policy is the Universal Percent For Art Planning Policy adopted by the Shire/Town/City of ..... as a Planning Policy pursuant to Section ... of Town Planning Scheme No .... (as amended).

### 1.2 Purpose

The Shire/Town/City of ..... considers there is a need to protect and enhance the utility, amenity and identity of the public domain of places such as centres, main streets, squares and parks within its municipality.

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

- a) improving legibility by introducing public art which assists in making streets, open spaces and buildings more identifiable,
- b) enhancing a sense of place by encouraging public art forms which provide an interpretation and expression of the local area's natural physical characteristics and social values,
- c) improving interpretation of cultural, environmental and built heritage,
- d) improving visual amenity by use of public art to screen unattractive views and improve the appearance of places, and
- e) improving the functionality of the public domain through the use of public art to provide appropriate street furniture functions.

### 1.3 Guidelines

Interpretation and implementation of this Policy shall be in accordance with the Shire/Town/City of ...Universal Percent for Art Guidelines. (Model Guidelines are provided in Appendix A to this document)

## 2.0 Application

### 2.1 Public Art to be Required

The Shire/Town/City of ..... shall require eligible proposals to provide public art in accordance with the described method for determining Public Art contributions described hereunder.

## **2.2 Proposals Eligible for Public Art Contributions**

### **2.2.1 Projects Eligible**

All development proposals for multiple dwellings, mixed use, commercial, civic, institutional, educational projects or public works of a value greater than \$1 million (one million dollars) shall be regarded as eligible proposals under this Policy.

### **2.2.2 Area of Application**

This Policy shall only apply to those uses listed in 2.2.1 above where they are situated in 'prescribed areas' as set out in the Shire/Town/City of .....Universal Percent for Art Guidelines. (The Guidelines should contain a map which sets out the extent of prescribed areas referred to here)

### **2.2.3 Proponents**

This Policy shall apply to all proponents, with the exception of those exempt from obtaining Local Authority planning approval under other legislation. Those proponents/projects so exempted should utilise this Policy and associated Guidelines as a guide for the implementation of their respective Percent for Art Policy obligations where applicable.

## **3.0 Method of Determining Public Art Contribution**

### **3.1.1 Method of determining Public Art Contribution**

The cost of any Public Art provided under this Policy shall be no less than one percent of the value of the eligible proposal.

### **3.1.2 Form of Public Art Contribution**

Public Art required pursuant to this Policy shall be provided in kind. Where requested by the proponent, the Council may alternatively accept a cash-in-lieu payment in accordance with the Shire/Town/City of ...Universal Percent for Art Guidelines.

### **3.1.3 Location of Public Art Contribution**

Public Art provided in-kind pursuant to this Policy shall be provided on site, or on crown land immediately adjacent to the site.

### **3.1.4 Separate Approval Generally Not Required for Public Art**

Public Art provided under this Policy, in fulfilment of a condition of Planning Approval, shall not require a further Development Application.

## APPENDIX A

# MODEL GUIDELINES FOR UNIVERSAL PERCENT FOR ART POLICY

### 1.0 Operation and Intent

These Guidelines are adopted by the Shire/Town/City of ..... for the purpose of direction for the interpretation and implementation of the Shire's/Town's/City's Universal Percent for Art Policy.

### 2.0 Implementation of Universal Percent for Art

#### 2.1 Prescribed Areas

The Shire/Town/City shall prepare a Public Art Masterplan for its municipality, within which it will prescribe areas to which the Universal Percent For Art Policy and these Guidelines shall apply.

The aforesaid Policy and these Guidelines shall not have force until such Public Art Masterplan has been prepared and adopted by Council.

#### 2.2 Cash In Lieu

Where the proponent elects, the public art contribution may alternatively be satisfied by cash-in-lieu based on the rate described in the Shire/Town/City's Universal Percent for Art Policy. Such cash-in-lieu are to be:

a) paid to the Shire/Town/City of .... Public Arts Fund (Percent for Public Art); and

b) expended on a public art project within the prescribed area in the Public Art Masterplan within which proposal is situated. Individual funds contributed within a prescribed area may be accrued for more comprehensive or detailed art projects and/or areas as outlined in the Shire/Town/City of ..... Public Art Masterplan.

#### 2.3 Eligible Costs

For the purpose of cash in lieu contributions, costs associated with the production of an art project may include:

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, and

vi) Acknowledgment plaque identifying the artist, artwork and development.

## **2.4 Equity, Safety and Universal Access**

Public art should be made accessible to all members of the community, irrespective of their age and abilities. While art in public spaces might be considered primarily a visual experience, it can provide a range of sensory experiences for people with disabilities – artwork can be tactile, aural and give off pleasant smells as well as being visual. Artwork need not be monumental, but can be at heights suitable for people in wheelchairs to touch, move through and explore. Artwork can be interactive play objects for family groups and children. Interpretive signage in an easy to read format, including Braille, will ensure that artworks are inclusive of all members of the community. Where feasible and appropriate to the site and community, the Authority will commission artworks that can be enjoyed as an interactive experience, irrespective of age, mobility or ability.

## **2.5 Exclusions to Public Art**

Art projects ineligible for consideration include:

- i) Business logo.
- 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.
- vi) services or utilities necessary to operate or maintain artworks.

## **2.6 Design Documentation**

The artist will be required to prepare detailed documentation of the artwork at various stages of the commission, design, fabrication and implementation processes. Depending upon the project, the documentation may include concept drawings, maquettes, structural and other engineering drawings, photographic images of works in progress, photographic images of completed and installed work and a maintenance schedule.

## **2.7 Approval of Artwork**

The approval of the Council shall be required prior to the creation and installation of the Public Art. It is preferable that the Council delegate authority to grant approval to the Public Art to an appropriate Officer, or duly appointed panel.

## **2.8 Clearance Process**

The public artwork must be completed and installed prior to the first occupation of the new development, and maintained thereafter by the owner(s)/occupier(s).

Alternatively, Council may accept a suitable agreement prepared at the applicant's expense binding the proponent to complete the works within a specified time frame.

### **3.0 Maintenance**

#### **3.1 Maintenance and Resistance to Vandalism**

Artworks that are low maintenance, robust, durable and resistant to Vandalism will be encouraged. Artists will be required to present the Shire/Town/City with a maintenance schedule at the completion of the commission.

#### **3.2 Recording**

The public artwork will be registered in the Shire/Town/City's Public Art Inventory once the artwork is completed.

#### **3.3 Decommissioning**

The proponent (or Shire/Town/City where the public art is situated on Crown Land) may decide to remove an artwork because it is in an advanced state of disrepair or damage, because the artwork is no longer considered suitable for the location or for other reasons. In such cases, the Shire/Town/City will prepare a documented archival record of the artwork prior to its removal.

The proponent (or Shire/Town/City where the public art is situated on Crown Land) must make a reasonable attempt to contact the artist at least 28 days ahead of any relocation, sale, alteration or removal of an artwork.

### **4.0 Creative Development Process**

#### **4.1 Creative Design Process**

The proponent will commission artists and coordinate and manage the process by which they work alongside architects, landscape architects, planners and engineers. There will be a variety of approaches resulting in some easily identifiable artworks, and others that will be merged as an integral part of construction. While there is certainly a place for sculpture and civic landmark, there is also room for colour, movement, whimsy and theatre. This policy gives equal value to the purely aesthetic and to the functional.

#### **4.2 Consultation with Stakeholders**

Where appropriate, an invitation should be extended to community members to participate in the artwork process.

Some groups in the community are not comfortable with the expression of interest and tender processes, and will not enter into them without assistance.

While artists from these groups will be encouraged to apply for all publicly advertised commissions, there may be opportunities for designating specific commissions for them. In such cases, the selection processes outlined above may be modified and more assistance given to the artists submitting Expressions of Interest or Requests for Proposals.

### **4.3 Collaboration**

There is an expectation that commissioned artists will work in collaboration with other consultants engaged by the Proponent (most commonly, but not exclusively, landscape architects, urban planners and engineers) and that the conceptual and technical requirements of these professionals will be duly regarded by the artist when designing and installing the artwork.

There is an equal expectation that the artists' aesthetic judgement will be respected by other consultants engaged by the proponent. Changes to an artwork, even at concept stage, can only be made with the full knowledge and approval of the artist.

## **5.0 Artists Rights**

### **5.1 Definition of Artist**

Only professional artists will be eligible to carry out public art commissions. As the term 'artist' is self-referencing, for the purposes of this policy 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 university degree or minimum 3 year full time TAFE Diploma in visual arts, or when the brief calls for it, other art forms such as multi media;
- A person who has a track record of exhibiting their artwork at reputable art galleries that sell the work of professional artists;
- A person who has had work purchased by major public collections, including (but not limited to) the Art Gallery of Western Australia, any of the university collections or Artbank;
- A person who earns more than 50% of their income from arts related activities, such as teaching, selling artwork or undertaking public art commissions.

Sometimes it will be appropriate to be more flexible and seek people other than professional artists to carry out artwork commissions. This may apply in instances when young, emerging and indigenous artists or students may be considered appropriate.

### **5.2 Artist Contract**

The proponent will be required to forward copies of the artist's contract, maintenance schedule and artist contact details to the Shire/Town/City at the commencement of the project. In the case where the proponent is the Shire/Town/City, it shall satisfy itself that these requisites have been satisfied.

### **5.3 Moral Rights**

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 all artworks should have the artist's name on or attached it, that the Authority cannot change an artwork in any way without seeking the artist's permission; likewise, cannot remove or re-locate the artwork without

seeking the artist's permission. It may be that an artist has moved and the Authority cannot find them, but evidence that a reasonable attempt to find the artist must be provided. The Shire/Town/City 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 artists. 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.

#### **5.4 Acknowledgement of Artwork**

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.

#### **5.5 Copyright of Artwork**

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

#### **5.6 Fees to Artists**

A fee may be paid to artists invited to submit a Request for Proposal (RFP) and this may be credited to the value of the Public Art required under the Policy. The amount will be at the discretion of the proponent and in proportion to the overall artwork budget. The fee will be paid after the proposal had been submitted, deemed to comply with the requirements and the artist has attended their interview.

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DOCUMENT DATE: May 2007