

1.1 PUBLIC ART CONTRIBUTION POLICY GUIDELINES

1. OBJECTIVE

These Public Art Contribution Policy Guidelines are intended to support the Public Art Strategy & Masterplan 2019 and the Shire of Narrogin Public Art Contribution Policy.

2. PROVISIONS

These Guidelines provide a clear framework of guiding principles and procedural requirements for the planning, development, approval and management of public art projects. Along with the Public Art Contribution Policy it will assist Shire staff, private developers, architects, design professionals, art consultants, and artists in the provision of public art within the Shire of Narrogin.

3. ARTWORK APPROVAL PROCESS

For owners/applicants who choose to coordinate a public art project, the following milestones are required for artwork approval.

Milestone 1: Development Approval

As part of the development approval, the developer must submit, at a minimum, the artwork brief, along with a copy of the contract agreement and provide the details of its appointed public art consultant. If the developer does not intend on engaging a consultant then the developer must provide a statement setting out its reasons for this decision. Projects where there is demonstrated experience within the development team of successful public art project management may not require a public art consultant.

Milestone 2: Building Licence

As part of the application for a Building Licence, the developer must submit as a minimum, a copy of the artwork concept and artist contract.

Milestone 3: Application for Artwork Approval

Once the applicant develops the artwork proposal through to design development, a completed Artwork Approval Application Form must be forwarded to the Shire officer responsible for the arts and culture portfolio. The Shire will provide an Artwork Approval Application Form which provides a checklist of requirements for the public art application including:

- Details of the artist's qualifications, experience and suitability to the project;
- Design documentation - including research, concept development, and a detailed statement addressing compliance with the Public Art Policy and the Shire of Narrogin Public Art Strategy & Masterplan;
- Detailed plans of the artwork/s - including plans to scale with dimensions, materials, colours and installation details;
- Detailed budget including artist fees, consultant fees, fabrication and installation costs;
- If artwork that is to be located on or over public land, a copy of relevant public liability insurance and written consent of the land owner and/or the authority managing the land; and
- Details of requirements and written consent from the artist for any ongoing care or maintenance of the artwork by the building owner.

Milestone 4: Artwork Approval

The application will be assessed by the Shire of Narrogin's Public Art Advisory Panel. Public Art offered to a local government authority as a donation or as a developer contribution on public land is usually referred to a Public Art Advisory Panel for consideration. A Public Art Advisory Panel is made up of independent community representatives in the professional fields of urban design, art and culture.

Milestone 5 Building Permit Granted

Following the Public Art Advisory Panel's approved of the Application for Artwork, an appropriate Shire Officer will prepare a short report for Executive Management sign off before a Report to Council for consideration and if approved, a building permit can be granted.

Milestone 6: Fabrication

The artwork is fabricated and installed. The applicant arranges for the Shire officer overseeing the arts and culture portfolio to inspect the artwork.

Milestone 7: Occupancy

Once the artwork is inspected and approved for occupancy, professional photographs of the installed work should be submitted to the Shire along with official advice of artwork completion.

4. ART CONSULTANTS

As part of the above process, the Shire can provide art consultant contacts – for instance, Artsource or FORM.

5. GENERAL COMMISSIONING GUIDELINES FOR PUBLIC ARTWORK

The public art commissioning program for artworks within the Shire of Narrogin should follow these general guidelines.

Public artworks will be:

- Designed in response to a brief that stipulates one or more of the key curatorial themes set out in the Shire's Public Art Strategy & Master Plan 2019 as the inspiration for the artwork.
- Located at key sight lines and visual nodes as outlined in the Shire of Narrogin Public Art Strategy & Master Plan 2019.

Functional public artworks such as artist designed seating, bridges, shade structures, bicycle racks, tree grates and bollards should be used to provide public amenity wherever these are needed. These need not be the same throughout the Shire as different locations may have a differing aesthetic or thematic requirement, however there are certain economies involved in repetition.

As public artworks are usually located where people congregate they should be people and child friendly. Children and possibly adults, will sit and climb on public artworks, so the materiality and safety of the public artwork needs to accommodate this.

All public artworks, particularly those in parks and reserves, will, as far as is possible, be designed with the environment in mind. Artworks made from recycled or upcycled materials may be suitable.

Consideration should be given to diversity of forms and materials as this diversity can help create a sense of vibrancy throughout an area.

Consideration needs to be given to options for:

- Temporary public art works with a longevity of up to five years, or artworks that respond to, or are the basis of events, help create a sense of vibrancy throughout the region, particularly within cities and towns;
- Small "discovery" public art works and public art works in the ground plane can add unexpected pleasure to a pedestrian journey through a town centre;
- The use of a few substantial and iconic public artworks can provide anchors for a program composed predominantly of temporary artworks; and
- Landscaping which can enrich public spaces and help soften and embed public artworks in the environment.

Iconic public artworks should, wherever possible, be celebrated with a launch event upon completion and celebrated on key anniversaries for heritage/memorial artworks.

COMMISSIONING PROCESS

In commissioning new works of public art, the general process for the Shire will be as follows:

1. Appoint an internal or external project manager. A public art consultant will be an external project manager.
2. Select a suitable site from an approved priority list/strategy/plans/ and or imminent capital works projects.

3. Identify the category of commission - open competition, limited competition, purchase or direct commission.
4. Establish a Public Art Advisory Panel comprised of independent community representatives in the professional fields of urban design, art, design and culture.
5. Prepare a specific site brief, seeking input and guidance from the Council's Public Art Advisory Panel.
6. Identify and outline the approximate cost of works.
7. Secure Council's approval to proceed with the public art project.
8. Project Manager to prepare an artist's brief for review by relevant Shire officers, the Public Art Advisory Panel and the Selection Panel (see below) for discussion and finalisation prior to issuing.

It is mandatory that developers requiring a Development Application consult with relevant Shire officers to discuss opportunities for the public art contribution component within a proposed development and liaise with the Project Manager who in turn will liaise with the Shire's Public Art Advisory Panel and other relevant administrative bodies or authorities to advise the applicant as to the suitability of the proposed artworks and approval processes.

ARTWORK BRIEF

The brief should provide artists with the following information:

- Project background;
- Vision or themes;
- Location;
- Budget and schedule;
- Constraints of form, scale or material of the artwork, and
- Any required aspects of community engagement.

The brief should not dictate the design of the finished artwork, but be flexible and open to enable a creative response. The brief must also include the Selection Criteria for the Selection Panel to short list the artists. It must also detail information required from the artist such as:

- A written response to the brief (2 x A4 pages);
- An artist CV (2 x A4 pages); and
- Provision of relevant images of past artworks (usually 6-10 digital images as JPEGs (1 MB), PDF or Power Point).

PROCUREMENT PROCESS

The Project Manager will develop an Expression of Interest (EOI) once the artwork brief has been settled.

Best practice procurement for projects over \$25,000 recommends receiving at least three detailed concept proposals for consideration from the initial EOIs. Three artists (or artist teams) may be contacted directly for an EOI, or the Shire may publicly advertise the EOI to gain a broader selection.

An EOI will generally comprise:

- Artist's Curriculum Vitae;
- Portfolio of past public artworks; and
- A short written response to the artwork brief.

Artists are not expected to provide designs at this stage of the procurement process. The submission of an EOI is an opportunity to assess the artist's suitability for the project without requesting a detailed design proposal and therefor preserving the artists' intellectual property. Artists, however, must be remunerated for their detailed concepts according to the amount of time and money they are required to invest in preparing and presenting it.

A curated process, where the Public Art Consultant provides a list of artists invited to submit EOIs, may be appropriate where a specific artwork is required, for projects with budgets under \$25,000, or to reduce timeframes. In these cases, an artist can be commissioned from the EOI stage if required.

SELECTION PANEL

A Selection Panel is made up of project stakeholders and is responsible for the shortlisting and final selection of the artist or artist team. The Shire's Project Manager will facilitate and manage the selection process/meetings.

The Selection Panel would comprise a representative of Council (usually the Project Manager) and for Shire funded projects, representative from the Public Art Advisory Panel. There should be a maximum number of members, ideally five, or at the most, seven members on the Selection Panel.

Permanent public artworks are to become part of the Shire of Narrogin's art collection. The artist must provide written acknowledgement of the implications of the Copyright Amendment (Moral Rights) Act 2000, including how the artist will be acknowledged, consent for any required maintenance or relocation, and consent for the Shire to publish images of the artwork for non-commercial purposes.

ADVERTISING PROCESS

An EOI is an advertisement of the artwork brief. It may be advertised through the Shire's website, Tenders WA (if the budget is \$250,000 or above) and networks, in the local papers or through art agencies such as Artsource and FORM. It can be a formal tendering process, or an invitation only selection process coordinated by the Project Manager. The EOI should be open for three to four weeks for smaller commissions and four to eight weeks for large commissions (i.e. over \$25,000).

ASSESSMENT CRITERIA

The Public Art Advisory Panel will assess Public Artwork applications against the following criteria:

- Public access: the artwork is clearly visible to the public realm and must positively impact the visual amenity of the development;
- Concept: the artwork is designed by an artist that shows strong vision, innovation, and excellent craftsmanship. The proposed artwork is unique and provides an opportunity for public engagement;
- Longevity: the artwork is designed to be structurally sound and resistant to theft, vandalism, weathering, and excessive maintenance;
- Context: the artwork is site specific and considers the relevant themes, architectural, historical, geographical and/or sociocultural context of the site and community identity;
- Public safety: the artwork is designed, constructed and installed with best practice risk management and the artwork does not present a hazard to public safety; and
- Special conditions: the artwork must adhere to any special conditions applied by the Shire.

SHORTLISTING

Each member of the Selection Panel reviews each EOI and assesses them against the selection criteria. The Panel convenes to select the short-list of artists who are then invited to progress to the next stage and to submit a Concept.

CONCEPT

The Project Manager will review the artwork brief and provide a Stage Two brief with relevant selection criteria and submission requirements for the final selection. Each shortlisted artist prepares a concept.

Depending on the scale of the project, artists should be given between four to eight weeks to submit the concept. A briefing session is usually held at the start of the concept period for all shortlisted artists and facilitated by the Project Manager with presentations from the design professionals working on the project. Architectural drawings including plans, elevations and perspectives are supplied in a PDF format to the artists so they can link their

concepts to the architectural or building specifications. Artists will be paid a fee for preparation of the concept relevant to the overall budget and the submission requirements for the concept.

The submission requirements will usually include concept documentation including:

- A written artwork statement;
- Detailed drawings or maquettes showing the artwork in its location;
- Material palette; and
- Budget and work program.

As part of best practice for the visual arts industry, the selection panel must agree to protect the copyright, moral rights and intellectual property of the artists submitting their ideas.

FINAL SELECTION

The Selection Panel is convened and each short-listed artist or team presents their respective concept to the Panel. Following the presentations, the Panel undertakes a group assessment and selects the preferred proposal.

The Project Manager will prepare a Public Art Report for Public Art Advisory Panel for their recommendation to Council. The Report can be forwarded to the Shire's Chief Executive Officer (CEO).

The CEO provides comment and/or endorsement of recommendations. Should the CEO reject the recommendation, it can be referred to staff for further development. Proposals will only be rejected if the contents of the Public Art Report are substantially different from the previously approved artwork brief and concept. If the application is rejected, Shire staff will advise/liaise with the developer. If the CEO endorses the application under delegated authority it may proceed to implementation, or the CEO may refer it for Council's consideration.

This process may take between three and ten weeks assuming further information or consultation is not required. Once the proposal is approved the applicant is formally notified. The project will be scheduled for fabrication and installation. If the CEO endorses the application under delegated authority it may proceed to implementation, or the CEO may refer it for Council consideration.

CONTRACT

Once selected, the artist is provided with a written contract which sets out terms and obligations. The contract should include a milestone work program with a payment schedule. Arts Law Australia and Artsource can provide template contracts in line with arts industry standards. Although there are some crossovers, an artist delivering a public artwork should never be engaged under a building or industry contract.

DESIGN DOCUMENTATION

Following the contract execution, the artist prepares detailed design documentation in collaboration with the development design team, as required. The design documentation should include:

- Detailed plans or to-scale drawings;
- Information about all finishes and materials, including maintenance requirements;
- Information about all fixings and joinings;
- Names and addresses of subcontractors and fabricators planned to be used;
- Any technology specifications, including lighting;
- Engineering specifications and certification (sign off on each page of drawings) by structural engineer for all structures, fixings and footings and electrical elements;
- Delivery and installation details, including roles, responsibilities of yourself, subcontractors and client;
- Budget breakdown and detailed timeline;
- Documentation of community engagement plan if required; and

- Any other information required to accurately document the design.

Additional matters for the artist to check include:

- Safety in Design Requirements;
- Commissioner obligations such as:
 - Building engineer;
 - Collaboration in design;
 - Power;
 - Site preparation/excavation;
 - Drainage;
 - Landscaping/making good;
- Site access requirements (White Card, Site Access Deed);
- Other regulatory checks (Working with Children, Copyright Licenses);
- Any additional insurances or approvals (e.g. Working with Children, Working at Heights);
- Subcontractor agreements (artists and the commissioner's); and
- A risk analysis.

COPYRIGHT AND MORAL RIGHTS

Any advice in this section is for guidance only, does not constitute legal advice and should be ratified by a lawyer. ArtsLaw is a body which specifically deals with legal issues around art and can provide advice in certain circumstances.

All artwork, including public artwork, is covered by the Copyright Act, 1968 (Cth). The Act provides creators of public artwork the exclusive rights to reproduce, publish or communicate the work to the public, including uploading it to the Internet or publishing it in brochures. Artists can give permission for copyright to be waived in certain circumstances or artists can be paid a fee for image use.

How copyright is managed after commissioning should be addressed as part of a contract with an artist at the time of commissioning. Generally this covers how the commissioner can use images of the work. ArtsLaw and Artsource has developed public art commissioning agreements which cover the issue of copyright and use of images of the artwork for non-commercial purposes.

- <http://www.artslaw.com.au/info-sheets/info-sheet/copyright/>;
- <http://www.artslaw.com.au//checklists/lists-and-guides/displaying-visual-art-on-the-internet>

There are obligations under the Moral Rights Amendments of the Copyright Act, 1968 (Cth); that is:

- The right for an artist to be identified and named as “author” of a work (via a plaque or sign near the work);
- Right of an artist to prevent others being incorrectly named as the “author” of a work; and
- The right to ensure their work is not subject to derogatory treatment.

Unlike copyright, these rights cannot be sold, traded or disposed of. Legal advice should be obtained from ArtsLaw or another source in the event of any concerns. The Copyright Act, 1968 (Cth) also covers circumstances around decommissioning public artworks from a copyright viewpoint.

ASSET MANAGEMENT

Artwork that is part of a private building or on private property remains so; obligations for maintenance are with the building owner and the obligation to maintain public artwork appropriately may form part of a development condition.

Artwork that is commissioned by local government or is gifted to local government needs to be managed as an asset in accordance the Local Government Act (1995). The same duty of care obligations applies to public art as with other local government assets.

As part of standard industry practice and according to industry specific contracts for public art commissions, artists are required to prepare a manual containing comprehensive instructions for the proper cleaning, operation and maintenance of the artwork. The manual will include, where applicable:

- A description of the materials used, including Materials Safety Data Sheet where relevant, and any installed services or equipment and their mode of operation;
- An inspection, testing and maintenance program detailing the routine required to maintain the artwork throughout its intended lifespan;
- “As installed” certified engineers’ drawings for the artwork and all related equipment and services;
- A list of major sub-contractors used with appropriate contact details;
- Any other relevant issues relating to the cleaning, operation and maintenance of the artwork;
- Professionally documented and publishable quality images of the design and fabrication of the artwork, where appropriate, and images of the completed artwork in situ; and
- Contact details for the artist.

It is recommended that a copy of the manual be sent to the officer responsible for assets management within the Shire. This enables the assets manager to register the artworks as assets and prepare a database entry according to:

- Name and contact details of the artist (telephone/email/address);
- Title of the artwork;
- Date of commission;
- Date of installation;
- Location;
- Dimensions (height, breadth and length for 3-dimensional works);
- Approximate lifespan;
- Commission value;
- Materials and surface treatments;
- Details of plaque or signage;
- Details of regular required maintenance at certain intervals; and
- Any other information as required by the Shire of Narrogin.

It is useful to record other information which may be used for promotional or other internal processes. For example, a photographic record of the work; artist’s statement; artists CV; and records of any marketing material may prove useful if the shire wishes to publicise or assist with the production of tourist material or interpretive material on the works. This information may be best collated by cultural or arts officers within the Shire and appended to the assets register.

It is crucial that regular required maintenance be performed by either a suitably qualified external contractor or the most suitable Shire department; for example works in public open space be inspected and maintained by parks and gardens staff and works attached to Shire owned buildings be inspected and maintained as any other aspect of the building. The cost and record keeping would be borne by the program areas, as with any other asset maintenance performed. Regular maintenance and inspection ensures that works are

presented as intended by the artist, according to their moral rights, enshrined in the Copyright Act 1968 (Cth) and ensures public safety is maintained. Any large scale repairs or alterations to the aesthetic nature of the work should be performed by the artist themselves. To alter an artist's artwork without their permission may be in breach of the Copyright Act 1968 (Cth).

DECOMMISSIONING OR REMOVING WORKS

The Shire of Narrogin, if it is the owner of the work, is able to remove, relocate, alter or destroy an artwork provided that they give the artist three weeks written notice of intent and comply with the procedures set out in Section 195 AT of the Copyright Act 1968.

A public artwork may be decommissioned for a number of reasons:

- The work is at the end of its intended life span;
- Maintenance and repair obligations and costs have become excessive in relation to the value and age of the artwork;
- There is irreparable damage to the work through vandalism or decay;
- There is a significant threat of damage of the work if left in its current location;
- The work has become unsafe, or is affected by changes in health and safety regulations;
- The site where the work is located is to be redeveloped or physically altered;
- The work is no longer relevant or appropriate.

If the work is identified for decommissioning, the assets manager will:

- Consult with the artist, maintenance contractors, professional assessors and any other stakeholders. Where possible it is important to be sensitive to the views of the general public and to any community and cultural groups who were involved in the original commission;
- Examine the artwork maintenance record, as well as any contractual agreements between the artist and the commissioner regarding the maintenance or decommission of the work;
- Follow the disposal methods outlined in relevant Shire Policy such as an Artwork Collection Policy. Where the work is sold or gifted a resale to a third party may incur resale royalties. The Resale Royalty Right for Visual Artists, 2009, provides guidance <https://www.resaleroyalty.org.au/>.

PUBLIC ART MAINTENANCE

Public artworks are exposed to natural forces such as weather conditions and the human forces of pollution, acts of vandalism and accidents. Ideally, regular condition reviews should be carried out. Maintenance reviews and plans can be developed in collaboration with other local government departments which are responsible for public spaces. The Shire will need to develop a maintenance fund to cover future conservation and maintenance costs for all artworks. Ten percent of the project budget is a good guideline, and may be included in the project budget requirements at the time of the commission. The technical review of any public art proposal should consider the anticipated maintenance cost over time.

Each artwork should have a maintenance manual supplied by the artist at the time of completion. The manual lists specifications of the materials and where they were sourced, relevant fabricators and skilled tradespeople who could do repairs. The manual includes a preferred maintenance schedule. Routine maintenance of artwork may be within the scope of regular local government departments, but exceptional maintenance or repairs often require expertise beyond the normal maintenance of property. Whenever possible, the artist should be contacted regarding any repair to the work. Specialised maintenance and conservation duties can be outsourced to the artist or art conservation professionals. The Shire will need to keep a list of such resources.

PUBLIC ART DOCUMENTATION

Council is committed to promoting its public art collection. It is useful for all commissioned artworks to be included in a Public Art Database with reference to a Collections Manual which would include a Maintenance Plan in regards to its Register of Public Artworks, and a staff member or contracted consultant to carry out the Maintenance Plan as per building assets maintenance schedules.

It is recommended a small percentage of the art budget is kept aside as a final payment for the artwork to be professionally photographed. The artist then submits the images and maintenance manual as part of their final documentation of the project's completion.