



PERCENT FOR PUBLIC ART POLICY

Responsible Division	Planning and Development Services
Responsible Business Unit/s	Planning Services
Responsible Officer	Planning Manager
Affected Business Unit/s	Planning Services

PURPOSE:

This policy relates to the provision of public art for development proposals and provides guidance on how and where the City of Bayswater will apply the policy to enhance and promote the public realm and streetscape.

1. To facilitate public art that contributes towards creating a strong sense of place, which promotes the expression of local identity and responds to the culture and character of the community.
2. To facilitate public art that positively contributes to its streetscape.
3. To improve legibility by introducing public art which assists in making streets and buildings more identifiable.

POLICY STATEMENT:

This policy provides the parameters for which a percent contribution for public art may be taken for development with a construction value of \$1 million or greater.

The policy shall not be seen as replacing the developer's responsibility to provide a high quality development which positively interacts with the public realm, or to satisfy another condition of approval. Rather, the policy is a mechanism to further enhance a development's contribution to the public realm.

The policy applies where a development proposal on private property has a construction cost of \$1 million or greater and is a commercial, non-residential or mixed use development. The policy is to apply to all development proposals on private property. Those development proposals which do not require a local authority planning approval should utilise this policy as a guide for the implementation of the respective percent for art policy obligations, where applicable.

The cost of any public art provided under this policy is to be no less than 1% of the construction value of the eligible development proposal.

Type of Public Art

Public art is an original artistic work that is created by a professional artist and located for public accessibility. Public art is either clearly seen from the public realm, such as a street, park or urban plaza, or may be located in the public realm, to the satisfaction of the City of Bayswater.

Public art may be freestanding or integrated into building exteriors; or it may take the form of unique functional objects (such as seats or gates). Public art may include an interpretation of cultural heritage or place. Public art does not include:

- Advertisements, promotions, marketing or business logos;
- Directional elements such as supergraphics, signage or colour coding;
- 'Art objects' which are mass produced such as fountains, statuary or playground equipment;
- Most art reproductions, that is, the copying of an existing artwork without modification or interpretation;
- Landscaping or generic hardscaping elements which would normally be associated with the project;
- Services or utilities necessary to operate or maintain artworks; or
- Any discriminatory or offensive material or interpretation.

Professional Artist

Within this Policy, public art is required to be undertaken by a professional artist. A professional artist refers to a person who:

- Earns more than 50% of income from arts related activities, such as teaching, selling artwork or undertaking public art commissions; or
- Has a track record of exhibiting artworks; or
- Has a university qualification or high level technical college qualification in visual, graphic or fine art, or other art form where relevant.

Provision of Public Art

Under this policy public art may be provided by the owner/applicant, or by the City on behalf of the owner/applicant via a cash-in-lieu contribution.

The provision, installation and maintenance of public art will form a condition of planning approval. Where possible, it is recommended that the public art proposed for a development site is considered up-front as part of the development application, to ensure the proposed public art forms an intrinsic component of the development.

Cash-In-Lieu Option

Where the owner/applicant chooses the cash-in-lieu option, a cash-in-lieu payment of no less than 1% of the construction value is to be made to the City prior to submission for a building permit application. The funds will be held by the City in a trust fund and will only be expended after the development has been substantially commenced.

Cash-in-lieu payments will only be refunded to the owner/applicant if the development does not proceed or does not reach the stage of substantial commencement. If the development is substantially commenced the cash-in-lieu will not be refunded. Cash-in-lieu funds paid in relation to more than one development may be accrued for more comprehensive or detailed

public art projects as determined by the City. Any public art commissioned by the City under this policy will be owned and maintained by the City.

Owner/Applicant Provision of Public Art

All owner/applicant applications incorporating the provision of public art are to include the following:

1. Details of the artist's qualifications, experience and suitability for the project;
2. Detailed plans of the artwork(s) – to scale which include dimensions, materials, colours and installation details of the artwork and its relationship to the site;
3. A description of the artwork, including the motivation and meaning of the piece;
4. Details of cost calculations for the public art, including construction cost and the public art contribution costs. Contribution costs are limited to artist's fees, labour, materials, installation and naming plate. Building fabric that the art is attached to (such as fences and walls) or other construction costs are not to be included in the contribution cost;
5. Details of requirements and written consent from the artist for any ongoing care or maintenance of the artwork by the landowner(s); and
6. 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 City of Bayswater to publish images of the artwork.

Artwork on Public Land

Artwork is typically provided onsite however, the City of Bayswater may consider artwork on public land, such as an adjacent street verge area, at the request of the owner/applicant.

Implementation by Owner/Applicant

Public artwork provided by the owner/applicant must be completed and installed prior to the first occupation of the new development, and maintained thereafter by the landowner(s).

All artwork is to be in a location where it is visible from the public realm for the life of the artwork.

Artworks that are low maintenance, robust, durable and resistant to vandalism will be encouraged. Artists will be required to present a copy of the maintenance schedule to the landowner(s) and City of Bayswater, at the completion of the commission.

All artwork is required to be identified with the artist's name, and the name of the artwork.

The landowner is to undertake the care, maintenance and ongoing management of the artwork in accordance with the artist's maintenance requirements.

Prior to the occupation of the development a final invoice(s) of the works associated with the commissioned artwork are to be provided to the City to demonstrate the costs of the artwork is not less than 1% of the construction value of the development.

Copyright of Artwork

Once an artwork has been completed and accepted by the City of Bayswater, copyright will be held mutually by the City of Bayswater and the artist. In practical terms, this means that the City of Bayswater 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 City 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.

DEFINITIONS:

In this policy construction cost means all costs associated with site works, construction and full completion of a development, including all materials, labour, servicing, ancillary costs and GST. To ensure accurate calculation of public art contribution values the City of Bayswater, if necessary, may require an applicant to provide cost breakdowns and/or certification from a quantity surveyor to confirm construction cost.

RELATED LEGISLATION:

Planning and Development (Local Planning Schemes) Regulations 2015 (WA).

RELATED DOCUMENTATION:

Nil.

Relevant Delegations		
Risk Evaluation		
Council Adoption	Date	25 June 2013
Reviewed / Modified	Date	1 March 2016
Reviewed / Modified	Date	7 November 2017
Reviewed / Modified	Date	