

CITY OF SUBIACO
LOCAL PLANNING POLICY 8.3

Percent for public art and public realm

ADMINISTRATIVE

Version	Date	Comment
0.1	24 August 2021	Draft for public advertising
1.0	23 November 2021	Final for publishing

AUTHORITY

- Planning and Development (Local Planning Schemes) Regulations 2015 (**LPS Regulations**)
- City of Subiaco Local Planning Scheme No. 5 (**Scheme**)

STATUTORY BACKGROUND

This local planning policy (**the Policy**) is made pursuant to Schedule 2, Part 2, Division 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* relating to local planning policies.

This Policy applies in conjunction with the Scheme and any other relevant local planning policies.

PURPOSE

The Policy guides provision of public art contributions for development proposals.

APPLICATION

The Policy applies to development with an estimated development cost of \$2,000,000 or more, located on land zoned Centre, Mixed Use, Local Centre or Residential R80 and above.

POLICY

1.0 Objectives

- To create a sense of place with well-designed places and artworks in the public realm.
- To increase the amenity for residents and visitors through the provision of public artwork.
- To enhance the visual amenity, vibrancy and character of the City's built environment.
- To establish a clear and consistent approach for the provision of public art and upgrades to the public realm as part of the development process.
- To build public and private sector partnerships in the arts.

2.0 Definitions

- The following terms are defined for the purpose of this Policy:

<i>Applicant</i>	The nominated person or parties responsible for carrying out the development and may include the Applicant for the development application, the owner of the property being developed or their authorised representative.
<i>Development cost</i>	The approximate cost of the proposed development nominated on the Application for Development Approval form required to be submitted with the development application.
<i>Owner</i>	The owner of the land on which the development is proposed to be built. The owner is ultimately responsible for fulfilling the obligations of this Policy and any conditions of development approval related to the provision of public art on-site or the payment of a percent for public art contribution requirement.
<i>Professional artist</i>	An individual or team responsible for producing the artwork in accordance with the public art requirements of this policy. The characteristics and criteria used by the City to further define a Professional Artist are contained in the City's Percent for Art Handbook.
<i>Public art</i>	The integration of an artistic concept into the public realm. Public art can take many forms, incorporate many different materials and be produced in many ways. It can be stand-alone, applied to surfaces, or integrated into the fabric of buildings, road infrastructure elements or landscaped outdoor spaces. Public art can be permanent, temporary or ephemeral. The distinguishing feature of these works is that a professional artist or artist team is wholly, or partly, responsible for the creation, design and/or fabrication. Secondary collaborations may take place with other professionals.
<i>Public Art and Public Realm Reserve Fund</i>	The Public Art and Public Realm Reserve Fund is a pool of funds set up for the purpose of reserving and accumulating funds for the provision of public art projects specific public realm upgrades in the City.
<i>Public realm</i>	Comprises the streets, squares, parks, green spaces and other outdoor places that are freely accessible for everyone to use.
<i>Public realm upgrade</i>	New or improved elements within the public realm which may include: soft and hard landscaping, seating, bins, bus stops, furniture, public parklets or wayfinding. This does not include elements for the sole benefit of private developments or commercial signage.

Scheme

City of Subiaco Local Planning Scheme No. 5 (LPS 5).

- (b) All other terms, words and expression used in this policy have the same meaning as they have in the Scheme.

3.0 Percent for art or public realm contribution

- 3.1 A proposal for development within the City is subject to a requirement for the provision of public art or to contribute to the upgrade of the public realm to the value of one per cent (1%) of the development cost where it meets the following criteria:

3.1.1 Located on land zoned Centre, Mixed Use, Local Centre or Residential R80 and above; and

3.1.2 Has a development cost of \$2,000,000 and above.

- 3.2 Notwithstanding the requirements in clause 3.1, the following types of development are excluded from the public art or public realm upgrade contribution requirement:

3.2.1 Development comprised solely of demolition, site works or other servicing infrastructure; or

3.2.2 Wholly residential developments containing fewer than 10 dwellings; or

3.2.3 Building refurbishments to existing premises of less than 1000sqm floor area; or

3.2.4 External façade upgrade works and/or signage to non-residential buildings.

- 3.3 To avoid any doubt, the requirement for a contribution to public art or public realm includes development of a heritage protected place.

4.0 Options to satisfy percent for public art or public realm upgrade contribution requirement

- 4.1 The public art or public realm upgrade contribution requirement in Clause 3.1 can be satisfied by:

4.1.1 Option 1 – Payment of cash-in-lieu of the required contribution amount into the City of Subiaco’s Public Art and Public Realm Reserve Fund to be expended in accordance with the purpose of the fund;

or

4.1.2 Option 2 – Provision of public art by the Applicant to the value of the required contribution amount as:

- i. part of the approved development on a portion of the development site so that artwork can be experienced from the public realm adjoining the site; or

- ii. on public land under the City's control within close proximity to the development site, subject to agreement by the City.

5.0 Option 1: cash-in-lieu contribution

5.1 Payment of cash-in-lieu

- 5.1.1 Where an Applicant elects to satisfy the public art and public realm upgrade contribution requirement of this Policy in accordance with Clause 4.1.1, payment of the cash-in-lieu contribution amount is to be made prior to strata titling or occupation of the development, whichever occurs first;
- 5.1.2 A discount of fifteen per cent (15%) to the public art or public realm upgrade contribution requirement will apply where an Applicant elects to pay cash-in-lieu in accordance with Clause 4.1.1.
- 5.1.3 The City will determine whether the cash-in-lieu contribution will be used for a specific public realm upgrade project or as a contribution to public art and payment will need to be made into the City's Public Art and Public Realm Reserve Fund as directed by the City.

5.2 Expenditure of cash-in-lieu public art or public realm upgrade contributions

- 5.2.1 Expenditure of cash-in-lieu monies paid to the City may occur at any time following substantial commencement of the approved development to which they relate;
- 5.2.2 If a development is substantially commenced but fails to reach completion, the City will retain the cash-in-lieu payment to be expended in accordance with this Policy; and
- 5.2.3 Cash-in-lieu payments must be expended by the City for the delivery of public art or a public realm upgrade project and be located within the locality of the developments they were generated by where practicable. This may include local parks, footpaths, streets, squares or other public realm locations. The City reserves the right to expend cash-in-lieu payments in any location within the City if deemed appropriate.

6.0 Option 2: provision of artwork by Applicant

6.1 Where an Applicant opts to provide public art in accordance with clause 4.1.2, the following procedure applies:

- 6.1.1 the Applicant reviews the City's Percent for Art Handbook (Handbook) and consults with the City in accordance with the steps outlined in the Handbook;
- 6.1.2 The Applicant seeks the City's approval for their chosen professional artist, and an artistic concept(s) prepared by that professional artist,

through submission of Percent for Art Application to the City in accordance with the Handbook;

- 6.1.3 The Applicant enters into a contract with the approved professional artist to design, fabricate, install and/or complete delivery of the public art concept(s) in accordance with the approved Percent for Art Application;
- 6.1.4 A copy of the contract entered into with the professional artist as per 6.1.3 above is required to be provided to the City prior to the lodgement of a building permit for the development, or other timeframe as agreed to in writing by the City;
- 6.1.5 The approved artist undertakes the public art project in accordance with the approved Percent for Art Application, with complete installation to occur prior to the first occupation of the development or strata titling, whichever occurs first;
- 6.1.6 The City is to be notified of the completed installation of the public artwork and will undertake an inspection to confirm its satisfactory completion, including installation of a plaque for each permanent artwork in accordance with clause 7.2 below.

7.0 Maintenance, ownership and moral rights

- 7.1 Ownership and the responsibility for maintenance of public art commissioned under this Policy:
 - 7.1.1 Where public art is attached to a building or located on private property, including where the public art projects beyond the property boundary (e.g. an artwork attached to a building façade or an overhead canopy above the public pedestrian path), the public art is owned, required to be maintained, and where appropriate, eventually decommissioned by the land owner.
 - 7.1.2 Where public art is wholly situated on public property/land, the public art is owned, maintained, and where appropriate, eventually decommissioned by the City following the completion of its satisfactory installation in accordance with clause 6.1.5 and defect period as agreed between the City and the Applicant.
- 7.2 The installation of all permanent public art shall include a plaque or plate in close proximity to the artwork, with the following information:
 - a) title of the artwork (most prominent text)
 - b) artist's name
 - c) year the artwork was commissioned
 - d) City of Subiaco logo and acknowledgement of the Percent for Art Scheme
 - e) details of any partner organisations or funding bodies
 - f) in some instances, an artist statement may be appropriate to include on the plaque to assist in interpretation of the artwork.

- 7.3 For ephemeral or temporary public art, details similar to those required on a plaque in clause 7.2 are to be made available where possible.
- 7.4 Consultation with the artist should occur prior to any changes being made to any public art, including removal or relocation.
- 7.5 Public art installed in accordance with this Policy must remain in the same position and remain visible from the public realm to the same degree as the design approved by the City, except to the extent that the City may otherwise consent to in writing.
- 7.6 The City will have the right to reproduce extracts from the design documentation of the public art and photographic images of the public art for non-commercial purposes, such as annual reports, information brochures, and information on the City's website.