

Percent for Art Policy

Legislation / local law requirements	This Policy has been prepared under the provisions of Schedule 2, Part 2 and 3 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> .
Relevant delegations	16.1.1 Determination of various applications for development approval under the City's Local Planning Scheme
Related policies, procedures and supporting documentation	Public Art Policy 3.10.8 (2017)

PART 1 – PRELIMINARY

INTRODUCTION

Art plays a vital role in creating a vibrant and thriving city. Art helps to create a sense of belonging and it contributes to identity through insight, reflection, and allowing a space for the expression of ideas. Public Art can encourage social, cultural and economic activity and be positive for existing or future residents, employers and investors.

Developers are responsible for contributing to the key strengths and characteristics of the areas in which they develop. The City of Vincent (“the City”) encourages and supports innovative and high-quality Public Art that improves the public amenity and the City’s built environment.

PURPOSE

The purpose of the Policy is to:

- Establish a framework to require commissioned Public Art as part of public and private development projects within the City of Vincent; and
- Provide guidance around the collection and expenditure of cash-in-lieu of Public Art.

OBJECTIVES

1. Develop and promote community identity within the City;
2. Increase the social, heritage, cultural and economic value of the City;
3. Improve public amenity for existing or future users of developments;
4. Enhance the built environment and align with the City’s Local Planning Strategy objectives; and
5. Ensure developers consider how public art integrates with the development and the public realm to produce high quality Public Art.

SCOPE

1. Development proposals subject to this Policy are to set aside a minimum of one percent (1%) of the Total Project Cost for the development of Public Art. This Policy applies to:
 - 1.1 Proposals for Commercial and Mixed Use developments over the Threshold Value; and
 - 1.2 Proposals for Residential developments over the Threshold Value that also meet the following criteria:
 - 1.2.1 comprise of ten (10) dwellings or more; and
 - 1.2.2 are zoned Centre, Commercial, Mixed Use or Residential R60 and above.
2. Where this Policy is inconsistent with an area-specific local or State planning instrument, the requirements of that other planning instrument will apply to the extent of the inconsistency.

DEFINITIONS

“**Applicant**” means the person or entity who submitted the Application for Development Approval to the City for the relevant development.

“**Application for Public Art Design Approval**” means the application the Owner/Applicant submits if they are choosing to make the Percent for Art contribution themselves (Option 1).

“**Arts Advisory Group**” means a group that operates in an advisory capacity to advocate and promote arts in the City and to provide expert advice and recommendations to the City on arts projects. The Arts Advisory Group (AAG) operates within the context of this Policy and the AAG Terms of Reference.

“**Art Consultant**” means the person or organisation nominated by the Owner/Applicant to be responsible for the Public Art commissioning process under Option 1.

“**City of Vincent Arts Plan**” means a plan that provides objectives and strategies for arts investment in the City of Vincent over five years.

“**Owner**” means the owner of the land upon which the relevant development is proposed to be built. The Owner may also be the Applicant.

“**Professional Artist**” means a suitably qualified artist with extensive Public Art experience. A Professional Artist can be defined as a person who fits into at least two of the following categories:

- has a tertiary qualification or equivalent experience in the visual arts, or when the brief calls for it, other art forms such as multimedia;
- has a track record of exhibiting and selling art;
- is represented in major public collections;
- A person who earns more than 50% of their income from arts related activities such as undertaking Public Art commissions; and
- Is an Aboriginal and/or Torres Strait Islander Artist.

No Professional Artist under consideration for a Percent for Art commission may have a familial relationship to the Owner/Applicant or have financial interest in the development.

“**Public Art**” means an enduring, temporary or ephemeral work of art, created by a Professional Artist that has been commissioned specifically for its location and to be made accessible within the public realm.

Enduring – Public Art that lasts at least 20 years, such as but not limited to sculptural, free-standing, functional, decorative, integrated or iconic works.

Temporary – Public Art that is only intended to last up to 5 years, such as but not limited to an installation.

Ephemeral – Public Art that is usually event based and only lasts for a very short time. Public Art types under this category could include but are not limited to performance art, projection, audio and/or visual media.

“**Public Realm**” means all public spaces including thoroughfare or streets, public car parks, reserves/public open space, civic squares and other areas used by and accessible to the community.

“**Threshold Value**” means the amount determined by the Council at the commencement of each financial year setting the minimum amount for which developments are required to contribute to Percent for Art. The amount is determined annually and set out in the City’s Prescribed ‘Fees and Charges’.

“**Total Project Cost**” means the approximate total cost of the proposed development, as indicated on the Application for Development Approval.

PART 2 - POLICY PROVISIONS

1. GENERAL PROVISIONS

- 1.1 Where this Policy applies, specific requirements will be stipulated in a condition of Development Approval.
- 1.2 Public Art must be commissioned by a Professional Artist and located on either private or public property such that it is highly visible to, or accessible within the public realm.
- 1.3 The Owner/Applicant is required to provide signed, written confirmation to the City stipulating the choice of:
 - 1.3.1. Option 1: Owner/Applicant coordinates and delivers Public Art; or
 - 1.3.2. Option 2: Owner/Applicant pays percent for art contribution.
- 1.4 Subject to approval by the City, Public Art may encompass diverse public art types, such as, but not limited to:
 - 1.4.1 building features and enhancements such as bicycle racks, gates, benches, fountains, neon, glass art or playground structures which are unique and produced by a Professional Artist;
 - 1.4.2 2D works such as murals, tile artworks, mosaics or bas-relief applied to building surfaces and walkways. Murals may be painted or incorporate a variety of materials;
 - 1.4.3 3D works which can be freestanding or supported;
 - 1.4.4 multimedia, including any combination of media such as sound, video projection or lighting;
 - 1.4.5 community projects resulting in tangible Public Art, i.e. community murals; and
 - 1.4.6 Public art infrastructure such as artist-in-residency spaces or other forms of public space where art or the production of art is visible and accessible to the public.
- 1.5 The City may also consider alternative Public Art that does not satisfy clause 1.4 where it includes:
 - 1.5.1 landscape art that is integrated into the property (in addition to any required landscape plan), if it is created by or led by a Professional Artist;
 - 1.5.2 ephemeral or temporary Public Art provided it is adequately demonstrated that it will provide activation opportunities for the area; and/or
 - 1.5.3 Professional Artist supported Public Art projects that include mentorship or upskilling for emerging artists who do not have extensive Public Art experience.
- 1.6 Public Art must not consist of:
 - 1.6.1 business logos, wording or names related to the development or Owner/Applicant;
 - 1.6.2 Public Art that is not in clear public view;
 - 1.6.3 Public Art or elements of the Public Art which are mass produced;
 - 1.6.4 “off the shelf” or reproduced Public Art; and
 - 1.6.5 landscaping or architectural elements which are required as part of the development, as per the relevant planning framework (unless integrating an artistic component or otherwise approved by the City).

2. OWNER/APPLICANT PROJECT (OPTION 1)

2.1 Where an Owner/Applicant chooses an Art Consultant* to manage the process or decides to coordinate the Public Art project themselves the following process must be followed:

01 Inform the City

Before submitting an Application for Development Approval, discuss the initial concept, location, and potential Artist(s) with the City. If seeking Design Review Panel (DRP) advice, provide information on the Public Art concept as part of the DRP assessment.

02 Preliminary Discussions

Have preliminary discussions with building designer and any other relevant parties about potential locations and types of Public Art.

03 Sign Written Confirmation

Provide signed, written confirmation, stating that Option 1 has been selected. Submit this prior to submitting a building permit. If applicable, art consultant should be engaged at or before this stage to manage the remainder of the process.

04 Define Public Art Opportunity

Prepare an Artwork Brief and coordinate the procurement of a Public Art concept by a Professional Artist. (Please note Artists are to be paid for concept designs). The Owner/Applicant must enter into a contract with their approved chosen Professional Artist, before they submit an application for Public Art Design Approval to the City.

05 Submit Application

Submit application for Percent for Art Approval to the City of Vincent which will be provided to the Arts Advisory Group for comment. The Public Art concept is one of a number of requirements of the application which can be found on the City's website.

06 Assessment and Approval

The application is assessed against the criteria. If approved, notification will be provided in writing. Once the application is approved the project obtains full project approval from the City. If not approved the reasoning will be discussed and a revised application will be required.

07 Artwork and Attribution Plaque

Professional Artist(s) complete detailed design, then artwork is fabricated (if applicable) and installed. A plaque must also be installed next to the Public Art to acknowledge the artist and the City of Vincent. A template can be found on the City's website.

08 Submit Artwork Completion form

The Public Art must be completed, with a notice of Public Art completion form submitted to the City, including a budget report for the full amount of the contribution, prior to the City's granting of a building occupancy permit.

*It is highly recommended that an Art Consultant be appointed to manage Public Art projects for developments that have larger percent for art contributions of \$80,000 and over.

ASSESSMENT CRITERIA

01 Concept: the Public Art is designed by a Professional Artist that shows strong vision, innovation, and excellent craftsmanship. The application should demonstrate how the breakdown of fees will achieve a high-quality Public Art outcome.

02 Context: the Public Art is site specific and considers the relevant themes, architectural, historical, geographical and/or sociocultural context of the site and community identity.

03 Public Access: the Public Art is highly visible to the public realm and positively impacts the visual amenity of the development.

04 Public safety: the Public Art is designed, constructed and installed with best practice risk management and the Public Art does not present a hazard to public safety.

05 Longevity: with the exception of ephemeral and temporary categories of art, the Public Art is designed to be structurally sound and resistant to theft, vandalism, weathering, and excessive maintenance to ensure reasonable life of the Public Art.

06 Special conditions: Public Art must adhere to any special conditions applied by the City, including but not limited to:

Temporary or Ephemeral Art: Must demonstrate that the Public Art will deliver a significant arts and cultural activation that provides short-term and long-term outcomes for the local community. It should provide measurable outcomes that the activation will increase audience accessibility to an engaging arts and cultural experience.

Public Art Infrastructure: Will be dealt with on an individual basis due to the unique context of each project. Ongoing management and/or programming will need to be addressed for Public Art Infrastructure. Liaison with the City's Arts Team and Arts Advisory Group will determine a reasonable and mutually acceptable means of calculating the value of Public Art Infrastructure. Possible approaches may include:

- Calculations based upon the agreed market value of an allocated space within the development.
- Lump sum contributions held in trust, or similar, for the purposes of managing the public art space, delivering a program of public art events or activities, or for disbursement (e.g. for artist residencies) in a manner approved by the City.
- Entering into a contractual arrangement with an arts management organisation with the capacity to manage funds and program a public art infrastructure for a determined period of time.

If the set terms are not met, the Applicant/Owner will be required to communicate that in writing to the City and it will then be determined by the City how to proceed.

BUDGET AND PROCUREMENT

The 1% Public Art contribution amount can cover the following expenses:

- Professional Artist's budget, including artist fees material, assistants' labour costs, insurance, permits, taxes, business and legal expenses, and operating costs.
- Fabrication and installation of Public Art.
- Art Consultant's fees.
- Site preparation.
- Documentation of the Public Art.
- Attribution plaque.

In the application for Percent for Art Approval, the 1% Public Art contribution amount should be clearly demonstrated with a breakdown of fees, particularly in regards to the Professional Artist fees for the design concept, fabrication, installation and project management or art consultant fees.

The procurement approach will be dependent on the objectives of each project, the budget and the developer's procurement requirements. The main procurement approaches are listed below:

- **Direct acquisition or engagement**
This approach may be appropriate where a particular Public Art or the work of a particular Professional Artist is sought. This process may also be preferred for smaller budget projects. In this case the proposed Professional Artist needs to be approved by the City as an initial step.
- **Limited competition**

In a limited competition approach, the /Owner/Applicant selects and invites artists to submit proposals in response to an Artwork Brief. This may be appropriate if the artist is required to work in collaboration with an architect, landscape architect and/or an urban designer.

- **Open competition**

This model requires a public call for Expressions of Interest to provide a schematic response to the Artwork Brief. Shortlisted Professional Artists are invited to develop and present concept designs for a fee, and a preferred Professional Artist is selected.

3. PERCENT FOR ART CONTRIBUTION (OPTION 2)

- 3.1 Where the Owner/Applicant chooses the cash-in-lieu option, they will receive a 15% discount on the Percent for Art contribution.
- 3.2 Cash-in-lieu funds are to be paid to the City (or payment plan entered into) prior to the granting of a building occupancy permit.
- 3.3 If the Development Approval expires or is amended to remove the respective condition the cash-in-lieu contribution will be refunded to the Owner/Applicant.
- 3.4 All Public Art cash-in-lieu payments will be collected by the City and combined into a reserve for the purpose of Public Art.
- 3.5 Public Art projects funded by the cash-in-lieu reserve is to be expended in the public realm and in alignment with the objectives of the City of Vincent Arts Plan.
- 3.6 Cash-in-lieu funds will be expended on Public Art projects in the same catchment area as the contributing development, unless otherwise agreed by the City and applicant, provided that the Public Art is consistent with the objectives of this Policy the City of Vincent Arts Plan.
 - 3.6.1 Catchment areas are centred around Town Centres (highlighted in pink in Appendix 1). Any address would be considered part of the catchment area of whichever Town Centre is in closest proximity.
 - 3.6.2 Cash-in-lieu contributors will be notified by the City as to the Public Art project that their contribution will be expended on.
- 3.7 Appendix 1 to this Policy presents a map of locations for Public Art projects in the City of Vincent.
 - 3.7.1 Public Art projects within each catchment area will be prioritised and implemented through the City of Vincent Arts Plan.

4. OWNERSHIP, COPYRIGHT AND MORAL RIGHTS

- 4.1 Ownership of Public Art commissioned under this Policy will generally depend upon the location of the Public Art:
 - 4.1.1 Where situated on private property, the Owner is responsible for the ongoing maintenance and upkeep of the Public Art; and

- 4.1.2 Where situated on public property, the Public Art is owned and maintained by the City, regardless of who coordinated the Public Art. In addition, ownership of the Public Art during the design and installation of the Public Art is subject to agreement between the Professional Artist and the Owner/Applicant or, where the Owner/Applicant chooses the cash-in-lieu option, the Professional Artist and the City.
- 4.2 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.
- 4.3 Australian Copyright Law requires all original Public Art to be attributed to the Artist. A didactic plaque must be installed, by the Owner/Applicant, next to the Public Art to acknowledge the Professional Artist. Artists are also to be acknowledged when images of their work are published.

OFFICE USE ONLY	
Responsible Officer	Manager Policy & Place
Initial Council Adoption	24 August 1998
Previous Title	Local Planning Policy 7.5.13 Percent for Public Art
Reviewed / Amended	2022
Next Review Date	2025

APPENDIX 1

LOCATIONS FOR PUBLIC ART PROJECTS IN THE CITY OF VINCENT

Percent for Art cash-in-lieu contributions are collected and combined into a reserve, to be expended on Public Art projects at the locations shown in this map.

