



## LOCAL PLANNING POLICY 7.9: PERCENT FOR ART

<b>CONTENTS</b>	
<b>1.</b>	<b>INTRODUCTION</b>
<b>2.</b>	<b>APPLICATION OF POLICY</b>
<b>3.</b>	<b>RELATIONSHIP TO OTHER POLICIES AND LEGISLATION</b>
<b>4.</b>	<b>OBJECTIVES</b>
<b>5.</b>	<b>POLICY MEASURES</b>
	5.1 Options to Satisfy Percent for Art Contribution Requirement
	5.2 Consideration of contribution on-site at Development Application Stage (Option A)
	5.3 Satisfaction of contribution on-site after Development Application Stage (Option A)
	5.4 Maintenance, Ownership and Moral Rights
	5.5 Satisfaction of contribution by payment of cash-in-lieu (Option B)
	5.6 Development Approval Requirements
<b>6.</b>	<b>DEFINITIONS</b>



## 1. INTRODUCTION

- 1.1 The City aims to enhance community identity and cultural vibrancy through a percent for public art policy linked to private development projects. This initiative, consistent with the City of Nedlands Council Plan and the aims of Local Planning Scheme 3, integrates public art into the built environment, improving the aesthetics and functionality of public spaces like streets and parks.
- 1.2 Public artworks serve both artistic and practical purposes, enhancing the appeal of new and refurbished developments for residents, staff, and visitors. This policy aligns with the State Government's Percent for Art Scheme, which encourages allocating up to one percent of construction costs for public art in projects over \$2 million.

## 2. APPLICATION OF POLICY

- 2.1 This policy applies to all development with the City of Nedlands with a **cost of development** of \$2 million or more and located on land reserved as urban under the Metropolitan Region Scheme.
- 2.2 Notwithstanding Clause 2.1, the following developments are exempt from the policy:
- (a) Single Houses;
  - (b) Wholly residential developments containing fewer than 10 dwellings;
  - (c) Additions and alterations to existing developments which have a **cost of development** of less than \$4 Million;
  - (d) Developments within the Shenton Park Hospital Redevelopment Improvement Scheme Area;
  - (e) Development within the Metropolitan Region Scheme that is reserved for a purpose other than urban; and
  - (f) Development comprised solely of demolition, site works or other servicing infrastructure.
- 2.3 The requirements of this policy do not apply to public art installations that have not been required by this policy.
- 2.4 Where this policy does not mandate a public art contribution, landowners and developers are still encouraged to consult this policy and the City of Nedlands on how to incorporate public art into their proposals.



### 3. RELATIONSHIP TO OTHER POLICIES AND LEGISLATION

- 3.1 This policy has been prepared in accordance with Schedule 2 Part 2 Clause 4 of the Planning and Development (Local Planning Schemes) Regulations 2015.
- 3.2 This Policy should be read in conjunction with the following planning instruments and its requirements apply unless specifically stipulated elsewhere in any of the below:
- Planning and Development Act 2005
  - Planning and Development (Local Planning Schemes) Regulations 2015
  - City of Nedlands Local Planning Scheme No. 3
  - Residential Design Codes Volume 1 (R-Codes Volume 1)
  - Residential Design Codes Volume 2 (R-Codes Volume 2)
  - Local Planning Policy 71: Exempt Development

### 4. OBJECTIVES

- 4.1 To develop and promote community identity through public artworks that reflect the local environment and the experiences of residents, visitors, and customers of new or refurbished developments.
- 4.2 To enhance the amenity for current and future occupants of new or substantially refurbished developments by incorporating public art into the development site or surrounding areas.
- 4.3 To establish a clear and consistent framework for integrating public art into the private development process.
- 4.4 To foster an understanding and appreciation of the City's physical, cultural, and social values, including both historic and contemporary themes.
- 4.5 To enrich the visual appeal, vibrancy, and character of the City's built environment.
- 4.6 To improve navigation and clarity within streets, open spaces, and buildings, including the use of prominent landmark features where suitable.



5. POLICY MEASURES	
5.1	Options to Satisfy Percent for Art Contribution Requirement
5.1.1	All applications subject to this policy must include a public art contribution equal to one percent (1%) of the estimated <b>cost of development</b> , provided the development cost is \$2 Million or more. This requirement is excluded for the types of developments specified in Clause 2.2.
5.1.2	<p>Satisfaction of the public art contribution requirement in Clause 5.1.1 can be fulfilled by:</p> <ul style="list-style-type: none"> <li>(a) Provision of public artwork by the landowner or developer in an on-site contribution to the value of the required contribution amount (Option A) either: <ul style="list-style-type: none"> <li>i. On the same site as the development; or</li> <li>ii. On public land in close proximity to the development site (subject to Council approval); or</li> </ul> </li> <li>(b) Payment of cash-in-lieu of the required contribution amount into the City of Nedlands' Capital Reserve for Public Art, for the future provision of public art by the City of Nedlands (Option B).</li> </ul>
5.2	Consideration of contribution on-site at Development Application Stage (Option A)
5.2.1	If a landowner or developer plans to incorporate the required public art contribution as part of their proposed development in accordance with Clause 5.1.2(a), they are encouraged to notify the City by including a covering letter with their development application.
5.2.2	Landowners and developers are strongly encouraged to include conceptual details of the proposed artwork(s) in the development application to ensure that design, installation, and maintenance are considered within the overall project.
5.2.3	It is advisable for public art concepts submitted to the City during the development application phase to be informed by initial discussions with a <b>professional artist</b> . This ensures that the conceptual artwork(s) can be realistically fabricated, installed, and maintained, especially for significant developments involving large-scale or diverse public artworks.
5.3	Satisfaction of contribution on-site after Development Application Stage (Option A)
5.3.1	<p>Process and Approval for Design and Installation of Public Art</p> <p>The following provisions apply when a landowner or developer chooses to fulfill the public art contribution requirement as outlined in Clause 5.1.2(a):</p> <ul style="list-style-type: none"> <li>(a) The landowner or developer must review the City of Nedlands Percent for Art Guidelines and consult with the City as necessary according to the Guidelines.</li> </ul>



- (b) The landowner or developer should seek the City's approval for their selected **professional artist** and the artistic concept(s) developed by that artist by applying for Artwork Approval in line with the Guidelines.
- (c) The Application for Artwork Approval will be reviewed by the City's Public Art Committee, which will evaluate the proposed public artwork concept(s) and may recommend the proposal for City approval.
- (d) The landowner or developer must enter into a contract with the approved **professional artist** to design, fabricate, install, and/or deliver the **public art** concept(s) in accordance with the approved Application for Artwork Approval.
- (e) A copy of the contract with the **professional artist**, as outlined in (d), must be submitted to the Council before lodging a building permit for the development or within another timeframe agreed upon in writing with the City.
- (f) The approved **professional artist** must carry out the **public art** project according to the approved Application for Artwork Approval, ensuring complete installation prior to the first occupation of the development or strata titling, whichever comes first.
- (g) The City must be notified once the **public art** is installed, and it will conduct an inspection to confirm satisfactory completion, including the installation of a plaque for each permanent artwork as per Clause 5.3.2(c) below.
- (h) Strata titling and/or occupation of the development may only occur after the City has confirmed the satisfactory installation of the approved **public art**.

#### 5.3.2 Maintenance, Ownership and Moral Rights

- (a) If **public art** is located on or attached to a building on private property, including any elements that extend beyond the property boundary (e.g., artwork on a building façade or an overhead canopy over a public walkway), the ownership of the **public art** lies with the landowner (e.g., the strata company or body corporate for strata-titled developments). The landowner is responsible for the ongoing maintenance and care of the **public art** to keep it in good condition for the expected lifespan of the artwork.
- (b) When **public art** is entirely situated on public property or land (with the City's agreement), ownership and maintenance transfer to the City after the artwork has been satisfactorily installed in accordance with Clause 5.3.1(f).
- (c) All permanent **public artworks** must include a plaque or plate placed nearby, containing the following information:
  - i. title of the artwork (This should be at the top and bolded);
  - ii. artist's name;
  - iii. year of commissioning;
  - iv. City of Nedlands logo and an acknowledgment of the Percent for Art Scheme;
  - v. details of any partner organisations or funding bodies; and
  - vi. an artist statement may be included on the plaque to aid in interpreting the artwork (optional).
- (d) The City shall consult the artist prior to any modifications being made to a **public artwork**, including removal or relocation.



- (e) **Public art** installed under this policy must remain in their original location and visible from the **public realm** as approved by the City, unless the City provides written consent for any changes.

#### 5.4 Satisfaction of contribution by payment of cash-in-lieu (Option B)

##### 5.4.1 Payment of Cash-in-Lieu

- (a) If a landowner or developer chooses to meet the public art contribution requirement of this Policy by making a cash payment as outlined in Clause 5.1.2(b), the payment must be made before strata titling or occupation of the development (whichever occurs first).

##### 5.4.2 Expenditure of Cash-in-Lieu Public Art Contributions

- (a) Expenditure of cash-in-lieu funds paid to the City may occur at any time after substantial commencement of the approved development related to those funds.
- (b) Cash-in-lieu payments must be spent by the City on **public artworks** within the same locality as the developments that generated them. This includes local parks, footpaths, streets, squares, or other public spaces within the same suburb or precinct as the contributing development.

##### 5.4.3 Situations where Cash-in-Lieu may be fully or partially refunded

- (a) Cash-in-lieu payments will only be refunded if they were made prior to the substantial commencement of the development and:
  - i. the development does not proceed and/or fails to reach substantial commencement; or
  - ii. if the estimated value of the building work, as determined by the permit authority at the building permit stage, is less than the value on which the cash-in-lieu contribution was based, in which case the refund will be calculated on a pro-rata basis.
- (b) The City may require a statutory declaration from the landowner or developer and/or owner confirming that the development will not proceed before any cash-in-lieu payment refund is issued under (a)i. above.

#### 5.5 Development Approval Requirements

##### 5.5.1 Requirement for Separate Development Approval

- (a) **Public art** included as a condition of development approval will not require a separate application for development approval if it has been incorporated into the design and construction of the approved development at the development application stage, as encouraged in Clause 5.2 of this Policy.
- (b) An application to amend the development approval may be necessary if a landowner or developer initially stated at the development application stage that they would opt for a cash-in-lieu contribution under Clause 5.1.2(b) but later decided to integrate **public art** into the design and construction as per



Clause 5.1.2(a), or vice versa. This is especially true if the change significantly alters the external appearance or construction of the development. Landowners and developers should confirm with the City whether an amendment application is needed in such cases.

- (c) Stand-alone **public art** proposals not associated with the proposed development must obtain development approval from the City unless an exemption applies.

#### 5.5.2 Conditions of Development Approval

- (a) The requirements and obligations of this Policy will be enforced through conditions of development approval for all qualifying developments approved by the City.
- (b) The City may alter or add conditions of development approval when approving an application for an amendment to development approval, particularly in response to changes resulting from the removal or integration of **public art** into a development.

## 6. DEFINITIONS

6.1 For this policy, the following definitions apply:

Definition	Meaning
Cost of Development	The cost of development as stated on the Development Application Form for the development to which this policy applies.
Professional Artist	<p>Means a person who meets at least two of the following criteria:</p> <ol style="list-style-type: none"> <li>1. University or tertiary qualification in visual arts;</li> <li>2. Artworks in a major public collection such as a state gallery or other significant collection;</li> <li>3. Earns more than 50% of income from arts related activities, such as teaching, selling artwork or undertaking public art commissions;</li> <li>4. Successfully completed more than five public art commission; or</li> <li>5. Emerging artists who have worked with an experienced artist on previous public art projects.</li> </ol> <p>The definition may be relaxed at the City's discretion where a project involves emerging artists, indigenous artists, students or street/urban artists.</p> <p>Notwithstanding the above, the artist is ineligible if they have a familial relationship to the landowner, developer or applicant.</p>





Public Art/Public Artworks	<p>Is a work that is created by a <b>professional artist</b> and is sited in a visually accessible public location. Public art can include (but is not limited to):</p> <ul style="list-style-type: none"><li>• Murals and mosaics;</li><li>• Sculptures that are free standing, wall supported or incorporated as an integral part of a building's design;</li><li>• Landscape art enhancements such as walkways, bridges or art features which are unique and produced by an artist;</li><li>• The artistic treatment of functional equipment such as bike racks, benches and shade structures; or</li><li>• Digital art such as audio, lightshow, neon lighting, video and immersive art where appropriate.</li></ul> <p>Public art does not include:</p> <ul style="list-style-type: none"><li>• Business logos including art that includes or references business logos;</li><li>• Advertising signage, slogans or commercial promotions in any form;</li><li>• Artworks that could be confused for signage such as directional signage, road safety and traffic signage; and</li><li>• Mass produced artworks or reproductions.</li><li>•</li></ul>
Public Realm	<p>Means an area that is outdoors from which the public can access or has the ability to view and appreciate <b>public art</b>. This can include:</p> <ul style="list-style-type: none"><li>• Front setback areas</li><li>• The street</li><li>• Parks</li><li>• Squares or Plazas</li><li>• Other publicly accessible outdoor spaces in either public or private ownership.</li></ul>

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