

**10.1.4 ADVERTISING OF DRAFT PLANNING POLICY- DEVELOPER CONTRIBUTIONS FOR PUBLIC ART**

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**File Reference:** D23/12373  
**Applicant(s):** N/A  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

For Council to consider adopting for the purpose of advertising a draft Developer Contributions for Public Art Planning Policy.

**OFFICER RECOMMENDATION IN BRIEF**

THAT Council adopt the draft Developer Contributions for Public Art Planning Policy for the purpose of Advertising in accordance with Schedule 2 Part 2, Clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. Advertising is proposed to include notices in the local newspaper and on the Town's website and Facebook page.

**BACKGROUND**

In light of recent development pressures within the Town, particularly on the Foreshore and in the Town Centre, Elected Members have raised the possibility of developer contributions towards public art.

A number of local governments have successfully implemented planning policies requiring the provision of public art through a condition of Development Approval. Furthermore, the State Government's Percent for Art Scheme requires up to 1% of the construction budget for new public buildings over \$2 million to be spent on art.

**OFFICER COMMENT**

The Town seeks to facilitate the provision of public art as part of the development application approval process, by requiring developers of prescribed developments to contribute towards public art.

Public art has the ability to enhance the social, physical and cultural environment of the Town and add to a community's sense of place. The Policy defines prescribed development, public art and artist.

Prescribed development is development with a cost of \$2 million or more, but does not include a single house, wholly residential developments containing less than 10 dwellings, demolition, site works and/or servicing infrastructure.

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The Policy requires a Development Approval for a prescribed development to include a condition requiring a public art contribution to the value of at least 1% of the development cost.

The public art contribution can be satisfied in one or both of the following ways:

- Option 1: Public art within the development site.

If option 1 is chosen, developers/landowners are to provide information and plans of the proposal to the Town for approval, prior to the lodgement of a building permit application. The public art is to be installed prior to the occupation of the development and thereafter maintained for the life of the development.

- Option 2: payment (cash-in-lieu) of the required contribution amount to the Town of Cottesloe's Community Art Fund for the future provision of public art by the Town.

If option 2 is chosen, the cash-in-lieu contribution is to be paid to the Town prior to the occupation of the development. The contribution is to be expended by the Town within ten (10) years of receipt, on public art in the vicinity of the development, or may be accrued for larger public art projects.

In preparing this Policy, the Town reviewed a number of other local government public art planning policies. These policies were consistent in requiring a 1% contribution and being able to provide public art on site or as a cash-in-lieu contribution. However there were variations in the applicable development cost (\$1 million to \$5 million), the applicable development and what is considered to be public art

### **ATTACHMENTS**

- 10.1.4(a) Draft Developer Contributions for Public Art Planning Policy [under separate cover]**
- 10.1.4(b) Draft Developer Contributions for Public Art queries [under separate cover]**

### **CONSULTATION**

Schedule 2, Part 2, Division 2 – Local Planning Policies of the *Planning and Development (Local Planning Schemes) Regulations 2015* sets out the requirements for preparing local planning policies. In particular, clause 4 states:

- (1) *If the local government resolves to prepare a local planning policy the local government must, unless the Commission otherwise agrees, advertise the proposed policy as follows –*
  - (a) *publish in accordance with clause 87 the proposed policy and a notice giving details of –*
    - (i) *the subject and nature of the proposed policy; and*
    - (ii) *the objectives of the proposed policy; and*

- (iii) *how the proposed policy is made available to the public in accordance with clause 87; and*
  - (iv) *the manner and form in which submissions may be made; and*
  - (v) *the period for making submissions and the last day of that period;*
  - (b) *if, in the opinion of the local government, the policy is inconsistent with any State planning policy, give notice of the proposed policy to the Commission;*
  - (c) *give notice of the proposed policy in any other way and carry out any other consultation the local government considers appropriate.*
- (2) *The period for making submissions specified in a notice under subclause (1)(a)(v) must not be less than the period of 21 days after the day on which the notice is first published under subclause (1)(a).*

The policy is proposed to be advertised for a period of no less than 21 days as follows:

- notice in the local (Post) newspaper,
- notice, copy of the Policy and electronic submission form on the Town's website,
- notice and copy of the Policy at the front counter of the Town's Administration Office, and
- notice on the Town's Facebook page.

### **STATUTORY IMPLICATIONS**

*Local Government Act 1995*

*Planning and Development (Local Planning Schemes) Regulations 2015*

*Town of Cottesloe Local Planning Scheme No. 3*

### **POLICY IMPLICATIONS**

This Policy will apply to development applications for prescribed development with a development cost of \$2 million or greater.

If Council decides not to adopt the Policy for public advertising, the Town will not be able to impose a requirement to provide public art (or cash-in-lieu of public art) without the agreement of developers.

### **STRATEGIC IMPLICATIONS**

This report is consistent with the Town's *Strategic Community Plan 2013 – 2023*.

Priority Area 4: Managing Development

### **RESOURCE IMPLICATIONS**

Resource requirements are in accordance with the existing budgetary allocation.

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

There are no perceived sustainability implications arising from the officer's recommendation.

**VOTING REQUIREMENT**

Simple Majority

**OFFICER RECOMMENDATION**

Moved Cr Wylynko

Seconded Cr Harkins

THAT Council adopt for the purpose of advertising Draft Planning Policy – “Developer Contributions for Public Art” as specified in Schedule 2, Part 2, clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*

**OCM043/2023**

Moved Cr Bulbeck

Seconded Cr Barrett

**COUNCILLOR AMENDMENT**

THAT Council adopts the following amendment to the draft Planning Policy – “Developer Contributions for Public Art” document.

Include “during fabrication transport to site and installation” after the word Insurance at 1.2.

Carried 9/0

For: Mayor Young, Crs Sadler, Masarei, Harkins, Barrett, MacFarlane, Bulbeck, Wylynko and Atkins  
Against: Nil

**OCM044/2023**

Moved Cr Bulbeck

Seconded Cr Sadler

**COUNCILLOR AMENDMENT**

THAT Council adopts the following amendment to the draft Planning Policy – “Developer Contributions for Public Art” document.

Include “360 degree view of the public art where considered necessary by the Town, and” as a separate point at 3.2(c)

Carried 9/0

For: Mayor Young, Crs Sadler, Masarei, Harkins, Barrett, MacFarlane, Bulbeck, Wylynko and Atkins  
Against: Nil

OCM045/2023

Moved Cr Bulbeck

Seconded Cr Barrett

**COUNCILLOR AMENDMENT**

THAT Council adopts the following amendment to the draft Planning Policy – “Developer Contributions for Public Art” document.

Include “or any deficit below the 1% in the amount expended by the developer/landowner in fulfilling option 1” after 1% of the development costs at 4.1.

Lost 0/9

For: Nil

Against: Mayor Young, Crs Sadler, Masarei, Harkins, Barrett, MacFarlane, Bulbeck, Wylynko and Atkins

OCM046/2023

Moved Cr Bulbeck

Seconded Cr Sadler

**COUNCILLOR AMENDMENT**

THAT Council adopts the following amendment to the draft Planning Policy – “Developer Contributions for Public Art” document.

Include “The selection and approval of any modifications of proposed artworks will be determined having regard to current Council policy” as an additional point at 5.1.

Carried 7/2

For: Mayor Young, Crs Sadler, Masarei, Harkins, Bulbeck, Wylynko and Atkins

Against: Crs Barrett and MacFarlane

OCM047/2023

Moved Cr Wylynko

Seconded Cr Harkins

**SUBSTANTIVE MOTION**

THAT Council adopt for the purpose of advertising Draft Planning Policy – “Developer Contributions for Public Art” as specified in Schedule 2, Part 2, clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, with following amendments to the draft Planning Policy – “Developer Contributions for Public Art” Document.

1. Include “during fabrication, transport to site and installation” after the word Insurance at 1.2
2. Include “360 degree view of the public art where considered necessary by the Town, and” as a separate point at 3.2(c).

3. Include “The selection and approval of any modifications of proposed artworks will be determined having regard to current Council policy” as an additional point at 5.1.

Carried 9/0

For: Mayor Young, Crs Sadler, Masarei, Harkins, Barrett, MacFarlane, Bulbeck, Wylynko and Atkins  
Against: Nil

#### Councillor Rationale

Council wanted the following matters addressed in the Draft Planning Policy:

1. Insurance of the art work following installation will be covered either by the Town’s insurance or that of the building owner.
2. The 360 degree view will provide extra information for assessing the proposal.
3. The policy at the moment does not contain a mechanism for choosing artworks and as indicated in our acquisition of the Public Works policy we do not have the expertise ourselves because the Public Works policy identifies the possibility of appointing an art advisory group or curator, other art policies do have a mechanism like an advisory group or a public art committee.