

9.4 Policy (Review) - Public Art Policy

POLICY NAME: DRAFT REVIEW
PUBLIC ART

POLICY REF: P03

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OBJECTIVE

The objectives of the Public Art Policy are to:

- a. To provide a collection of high quality public art which will enrich the lives of residents and visitors alike and promote cultural and economic development in Ballina Shire
- b. Recognise the importance of artistic expression to community well-being;
- c. Cultivate a climate in which innovative and creative design contributes to the cultural life, liveability and amenity of Ballina Shire;
- d. Provide for Public Art which:
 - i. is designed in a manner which respects and enhances the "sense of place";
 - ii. reflects the cultural diversity of the community;
 - iii. respects the history of the place and community; and
 - iv. recognises Aboriginal cultural heritage;
- e. Develop collaborative partnerships between design professionals (planners, architects, urban designers), business, artists and arts-related industries in appropriate capital works projects;
- f. Involve the wider community in the creative and planning processes;
- g. Ensure that all existing cultural assets and the procuring of future Public Art are managed, maintained and conducted in an appropriate and professional manner; and
- h. Include Public Art as an integral component of all larger capital works projects undertaken by Council.

BACKGROUND

Ballina Shire is located in the Northern Rivers Region of NSW. The Shire is experiencing rapid growth, with new families and retirees moving to the area to experience the coast and hinterland in all its beauty each year. Tourism is a rapidly growing industry, particularly for visitors looking for a relaxed coastal feel in easy reach of the Region's many attractions.

Ballina Shire Council recognises that the daily lives of residents and visitors can be enriched and enlivened through the presence of high quality works of art in the Shire. Council also recognises that a collection of such art will attract visitors, thereby contributing to economic development.

The Northern Rivers is well known as an area that has a thriving artistic community. Public Art is one way to recognize local artists and issues whilst adding a new dimension to public spaces in the Shire. This policy is designed to support Public Art in Ballina Shire within a framework that clearly outlines the practical considerations for management and selection of such artwork.

The Ballina Shire Council Public Art Policy provides a framework for increasing the levels of Public Art in the Shire. It is to be used for commissioning new works, acquiring existing works, collection management and maintenance by Council staff and external parties such as developers, architects and urban designers.

DEFINITIONS

Community Public Art is Public Art created by the members of the community through a community based process that is developed and coordinated by an experience Community Public Artist.

Council Ballina Shire Council

Public Art is an artistic work located in a public space or facility. It can comprise sculptures, paintings, murals, mosaics or other such visual art.

Public Artist is an artist experienced in the creation of Public Art.

SCOPE OF POLICY

This policy applies to:

- Council employees
- Councillors
- Community members
- Committees of Council
- Consultants/Contractors

RELATED DOCUMENTATION

Related documents, policies and legislation:

- Environmental Planning & Assessment Act 1979
- Environmental Planning & Assessment Regulation 2000
- Ballina Shire Combined Development Control Plan
- Ballina Shire Council - Development Application / Assessment Procedures

POLICY**1. IMPLEMENTATION STRATEGY**

To achieve the Vision and the Objectives, the following Implementation Strategy operates:

- 1.1 Integration of the Public Art Policy into Council's Management Plan so as to ensure that Public Art is considered as part of the Council's budgetary and management processes. In this regard, Council will allocate at least \$15,000 annually for the provision of Public Art¹. This will be derived from a combination of general revenue, development contributions and grants. Council recognizes that with respect to Public Art, a few high quality artworks is preferable to a large number of lesser quality pieces. Accordingly, this money will be spent on a small number of high quality works. In addition, Council will support the provision of Public Art through in-kind donations and the like.

¹ Including art provided as part of major infrastructure referred to in Section 2e.

- 1.2 Integration of the Public Art Policy with Development Control Plans (DCP) for commercial areas, such as the Ballina Town Centre, Lennox Head and Alstonville Village Centres and Wollongbar and Wardell Local Centres. This will include provisions requiring that commercial, retail and tourist developments with a value of over \$1,000,000 must include Public Art to the value of at least \$15,000 of as an integral part of the development. This requirement will come into force at such time as appropriate provisions are introduced into the relevant DCP.
- 1.3 Integration of the Public Art Policy with Plans of Management for Open Space areas in the Shire. This includes incorporating the sites identified in the Placement Strategy outlined in Section 2 as the preferred sites for Public Art.
- 1.4 Development of a Section 94 Developer Contributions Plan for the provision of Public Art². Funds received will be utilised to provide Public Art on Public Land in accordance with the Placement Strategy outlined in Section 2.
- 1.5 Incorporation of Public Art into major infrastructure projects constructed by Council. This will include a requirement that infrastructure projects with a value over \$1,000,000 will need to include Public Art to the value of at least \$15,000 as part of the development. The art would be provided at locations consistent with the Placement Strategy outlined in Section 3.
- 1.6 Procurement of alternate funding sources, including
 - Private sector sponsorship;
 - Donations and bequests; and
 - Commonwealth and State funding programs.
- 1.7 Procurement of alternate funding sources to facilitate mentoring programs for local emerging artists, particularly Aboriginal artists.
- 1.8 Development of partnerships with community groups and schools for the provision of Community Public Art.

² The relationship of this Contributions Plan to other Contributions Plans operating in the Shire (particularly the Open Space and Reserves Contributions Plan) and the detailed operation of the Plan are still to be developed. It is envisaged, however, that it will focus on the majority of contributions being received from tourist, commercial and retail developments. A small levy will also be made on all residential developments in the Shire. Developments identified in clause 2b would not be required to contribute.

2. PUBLIC ART PLACEMENT STRATEGY

For the first five years of the Policy, Council will focus on providing a series of works along the Kerry Saxby Walkway and riverfront cycleway in Ballina and East Ballina. The Policy provides, however, for the placement of works within other areas of the Shire as funds become available. Public Art acquired by Council under such circumstances will be located in accordance with the Placement Strategy listed below.

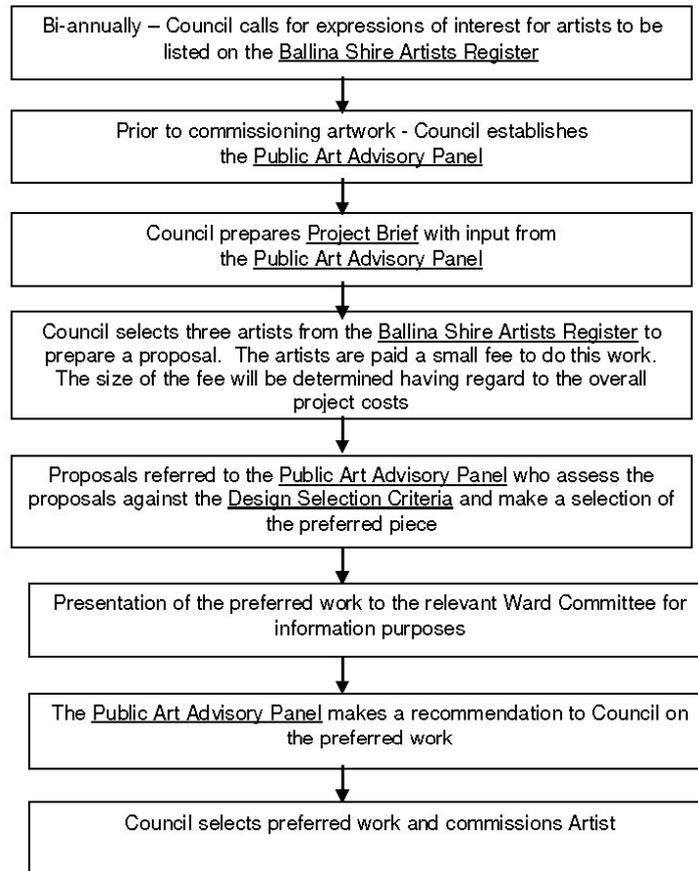
- Ballina**
 - East Ballina Coastal Cycleway
 - Kerry Saxby Walkway
 - Missingham Bridge - Parks on west side of North Creek
 - Shaws Bay – Pop Denison Park
 - Treelands Reserve
 - Ballina Town Centre - River Street Upgrade
 - Fawcett Park
 - Burns Point Ferry Road - Proposed Local Park
 - Commemoration Park
- Lennox Head**
 - Ross Park
 - Lennox Head Community Centre - Williams Reserve
 - Ballina Street Upgrade
 - Lake Ainsworth
 - Coastal Reserve – Various Locations
- Alstonville**
 - Park at Corner Daley Street / Main Street, Alstonville
 - Elizabeth Ann Brown Park
- Wollongbar**
 - District Park proposed as part of Wollongbar Expansion Area
- Wardell**
 - River Front (Sinclair Street in vicinity of Jetty)
- Cumalalum**
 - District Parks
- Other**
 - “Entrances” to towns and villages
 - Coastal Cycleway between East Ballina and Lennox Head

Alternate sites may be considered, provided that Council is satisfied that the alternate site is prominent and widely accessible to the general public.

3. SELECTION PROCESSES FOR COUNCIL PROJECTS

3.1 Process Summary

The following process will apply for Council projects involving the commissioning or acquisition of Public Art.



3.2 Public Art Advisory Panel

A Public Art Advisory Panel is convened on an as-needed basis to assess proposals for Public Art. The Panel comprises the following:

- Council officers;
- 2 artists from the Artist Database who are in different disciplines to the artwork being commissioned;
- 1 Ward Councillor; and
- 1 community representative from relevant Ward Committee.

Meetings of the Panel are organised by Council. The recommendations of the Advisory Panel are forwarded to Council, who will have the responsibility of selecting the preferred work. Council may, from time to time, engage a specialist Public Artist or other professional to assist the work of the Panel. This is likely to occur when the Public Art to be commissioned has a value of greater than \$25,000.

3.3 Artist Register

There is a bi-annual call for expressions of interest for inclusion on an Artists Register. Artists on this Register are invited to submit design proposals for Public Art as required through the following two year period. In order for artists to be eligible for inclusion on this Register they need to demonstrate the following:

- i. that they reside and work in the Northern Rivers Region of NSW*;
- ii. that they are experienced in the successful creation of Public Art or have other relevant experience or training; and
- iii. are able to provide appropriate insurances should Council commission them.

Note: The focus of Council's acquisition program is on supporting the local art community. Under special circumstances, however, it is open to Council to engage artists from outside the Region.

3.4 Project Brief

For each piece of Public Art to be commissioned or acquired by Council, a project brief is to be prepared by Council and forwarded to relevant artists³ on the Artist Register who will be invited to submit design proposals. The Project Brief will incorporate the following:

- i. Background to the project;
- ii. Scale and type of work required – eg mural, sculpture, fountain etc;
- iii. Proposed site;
- iv. Materials and longevity;
- v. Indicative budget and source of funds;

³ For example, if Council is seeking a sculpture, the brief will be issued to sculptors etc

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- vi. The extent to which ancillary features such as lighting, supports, structural design etc are to be included into the design and budget of the piece;
 - vii. Timetable;
 - viii. Who the artist needs to consult with;
 - ix. Maintenance and on-going requirements; and
 - x. Delivery, installation and risk management.

3.5 Design Selection Criteria

For all new Public Art commissioned or acquired by Council, the following selection criteria apply as a minimum:

- 3.1 Standards of excellence and innovation;
- 3.2 Relevance and appropriateness of the work in relation to its site;
- 3.3 Relevance and appropriateness of the work to the Ballina Shire;
- 3.4 Consistency with current planning, heritage and environmental policies and plans of management;
- 3.5 Consideration for public safety and the public's use of and access to the public space;
- 3.6 Consideration of maintenance and durability requirements, including potential for vandalism;
- 3.7 Evidence of funding sources and satisfactory budget, including an allocation for ongoing maintenance; and
- 3.8 Evidence of appropriate Public Liability Insurance to cover construction and installation of Work.

4. PUBLIC ART ON PRIVATE LAND

4.1 Public Art Required by a Development Control Plan

Where developments are required, by way of a Development Control Plan, to provide Public Art on **private land**, the following provisions apply:

- i. The art is to be permanent and durable;
- ii. The Art is to be provided in a location on the development site that is freely accessible to members of the public; and
- iii. The applicant is required to submit details of the proposed Public Art as part of the development application documentation. This documentation must indicate the nature of the work/s (eg fountain, statue, mosaic etc); and show its approximate location and size. It must also address how the proposed Public Art meets the Design Selection Criteria outlined in section 3.5.

For such works there is no requirement to refer proposals to the Public Art Advisory Panel or to engage artists on the Artist Register. It is however, open for the applicant to utilise these services should they wish to do so.

4.2 Other Public Art on Private Land

Where individuals or groups propose Public Art on private land that is not required as part of a Development Control Plan, the processes outlined in this Policy do not apply. Such proposals are, however, encouraged to be consistent with the vision, objectives and design selection criteria outlined in this Policy.

5. COMMUNITY PUBLIC ART

Community Public Art is recognised as an important way of engaging the community in the creation of art on Public Land. However, given that these works will remain in the public domain, it is important to ensure that such art is created in a professional manner. The following process will apply where Council commissions Community Public Art:

- i. Council selects a Community Artist from the Artist Register;
- ii. Community Artist develops broad concept in consultation with general community;
- iii. Broad concept is referred to Public Art Advisory Panel for recommendation;
- iv. Community artist develops detailed design in consultation with the community who will be preparing the work; and
- v. Public Artist oversees the creation of the work.

Where the community (either an individual or group) initiates a piece of Community Public Art, the same process will apply - except that the community or individual proposing the work may select the Community Artist from the Artist Register (step 1). Depending on the skills and experience of the individual or group proposing the work, it may be appropriate for the Community Artist to be engaged in a mentoring or supervisory role rather than detailed project development and management.

6. CONTRACTS, MAINTENANCE AND OTHER ISSUES

6.1 Contracts and Agreements

Sample Agreements for the Sale of Artwork prepared by the Arts Law Centre of Australia shall form the basis for any contracts between Council and Artists. As part of the contract, agreement shall be reached concerning the number of alterations to an artwork that can be requested by Council, and the timing of any such alteration requests.

6.2 Payment

Payment of Artists shall be in accordance with the *Artists' Scales of Fees, Wages and Artwork Prices* prepared by the National Association for the Visual Arts Ltd (as amended from time to time).

6.3 Public Art Maintenance and Repair

The Artist will be required to provide a cleaning and maintenance manual on completion of the installation of the work. Ballina Shire Council is responsible, to the

best of its endeavours, to ensure that maintenance of the approved Public Artwork is undertaken in the manner set out in the maintenance manual. If this maintenance is to be outsourced by Council, the Artist shall be given first option to undertake this work (provided that the Artist is readily contactable).

In the event of significant damage to the work, the Artist shall be given first option to repair the work (provided that the Artist is readily contactable). If not contactable, the work shall be de-commissioned and a new work commissioned.

6.4 Liability

The Artist and/or the Commissioner will be liable for any loss or damage arising at Common Law or under any statute relating to property damage and personal injury during construction and installation of the work.

Ballina Shire Council will take out appropriate public liability insurance cover for the work following installation. The artist will, however, be liable for any injury or damage resulting from the work occurring as a result of their negligence.

6.5 Moral Rights

Ballina Shire Council is obliged to:

- Identify the creator of the work wherever the work is exhibited to the public and whenever the work is reproduced in a material form, published or broadcast; and
- Ensure to its best endeavours that any adaptation of the work will not be subject to any material distortion, mutilation or alteration that is unreasonable or is prejudicial to the honour or reputation of the Artist.

6.6 Title and Copyright

Although the Artist retains ownership of copyright in the design and the work, this right is separate from the title to the model or drawing which contains the design, as well as title to the work. Title to both the Design and the Work vests in The Commissioner. All copyright in the Design and the Work belongs to the Artist.

6.7 Relocation, Removal or Sale of Public Art

It is recognized that some Public Artwork may have a limited lifespan. Accordingly, a review of the work will be undertaken 10 years after installation. When relocation, refurbishment or removal of an artwork is considered, Ballina Shire Council will advise the original artist, where possible, prior to work commencing.

In the event that the work is to be disposed of other than through the sale or donation of the work, the Artist will, where possible, be given the option to acquire the work.

6.8 Development Applications

Where development applications are required for projects incorporating Public Art on Public Land, the application is to be lodged by Council.

REVIEW

This Policy is to be reviewed every four years.