



**SHIRE OF DENMARK**  
**TOWN PLANNING SCHEME No. 3**  
**POLICY No. 42**  
**PUBLIC ART**

ADOPTED AT THE ORDINARY COUNCIL MEETING ON 24 AUGUST 2010

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## **1. INTRODUCTION**

The Shire of Denmark has an established and vibrant arts community with a wide diversity of talent in all aspects of visual and performing arts. The Council has a history of encouraging public artworks to be included within substantial new developments (both public and private) in the Shire.

The Shire supports the provision of public art on both public and private land that enhances our sense of place; reflects our local culture and customs; celebrates our uniqueness; or interprets local history/events. Public art adds to the overall attractiveness and richness of a community and will also enhance opportunities within the local arts community.

This Policy reinforces the Council's desire to require all developers to integrate public art within substantial developments (with a construction cost in excess of \$500,000) undertaken within the Shire and sets out the requirements to be met.

## **2. POLICY BASIS**

Clause 8.2 of the Shire of Denmark's Town Planning Scheme No. 3 ('the Scheme') provides for the preparation of Local Planning Policies. This Policy has been prepared in accordance with the Scheme.

This Policy does not bind the local government in respect of any application for development approval but the local government will have due regard to the provision of the Policy and the objectives which the Policy is designed to achieve before making its determination.

## **3. OBJECTIVES**

The objectives of the Policy are as follows:

- To enhance the natural and built assets and appearance, character and amenity of public spaces and developments through the inclusion of high quality public art.
- To require developers to integrate public art within new substantial developments within the Shire of Denmark through the development approval process.
- To establish an equitable system for the provision of public art by developers.

## **4. APPLICATION OF THE POLICY**

This Policy shall be applied by Council to all applications for subdivision referred by WA Planning Commission and applications for planning consent for developments where the construction cost is \$500,000 or more. The Policy shall be applied to all developments (including private and public) including civic, institutional, educational, medical, mixed use, office, commercial, tourist, industrial and public works. This Policy does not apply to any non-for profit organisations, proposals for single houses and incidental residential developments such as outbuildings etc.

## 5. DEFINITIONS

For the purpose of this Policy, the following definitions apply:

**‘Public art’** is any art work or project created and located for public interaction and accessibility. Public art is generally located in or can be clearly seen from the public realm, such as a street, park, or building. It includes all art forms and the artwork may be permanent or temporary. Public art can either be freestanding or integrated into buildings, be included as functional objects (as determined by Council). Elements including the building architectural design or building fabric that the art is attached to (e.g. wall or fence), any advertising signs/supports and/or commercial branding are not considered to be public art.

**‘Construction cost’** is all costs associated with the preparation, construction and completion of the development including all materials, labour, servicing and ancillary costs. Council will require the applicant provide cost breakdowns to confirm construction costs and accurately determine public art contribution required.

**‘Public Art Fund’** is a special trust-fund established for the sole purpose of accumulating cash-in-lieu funds for funding of the provision of public art projects within Denmark. The provision of public art referred to in this policy is to be undertaken in accordance with Council's Public Art Strategy (Cultural Plan).

## 6. POLICY STATEMENT

6.1 The Shire of Denmark requires developers of all new substantial developments where the construction cost is \$500,000 or more for the entire development, regardless of staging, to incorporate public art within the development or contribute financially to the public art fund as set out in the following table:

<b>Construction Cost</b>	<b>Contribution Required</b>
Less than \$500,000	Nil.
Exceeding \$500,000	0.5% of value of the construction cost to be provided either on-site or to a public art fund.

6.2 All proposals for public art shall meet the following acceptable development standards:

- The artwork shall be able to be clearly seen from, or be located in, the public realm.
- The artwork is consistent with the objectives of the Providing Public Art policy and/or any Public Art Strategy adopted by Council.
- The artwork is considered by Council to contribute to an attractive, stimulating and functional environment.
- Does not detract from the amenity and/or safety of the public realm.

- The artwork has been specifically designed and is suitable for the proposed building or site on which it is to be located and adds to the sense of place of that locality.
- It is an original artwork, designed and created by a competent artist.
- The artwork is of a high aesthetic quality, made from appropriate materials, is durable and easy to maintain over the life of the artwork.

6.3 When a developer is required as a condition of planning approval to provide public art within an approved development, the developer may either elect to provide a physical or financial contribution as follows:

#### 6.3.1 Physical Contribution

Where the developer elects to provide public art on-site, the developer shall provide report/plans on the proposed public artwork/s and installation for approval by the Shire of Denmark prior to any construction of the artwork commencing.

The report/plans shall address the following matters:

- Details of artist's qualifications, experience and suitability for the project.
- Design documentation including research, concepts and detailed statement showing how artwork complies with public art policy objectives and where necessary adopted public art strategy.
- Detailed plans of artwork (plans, dimensions, materials, colours and construction/installation details).
- Details of cost calculations for the artwork including construction costs and public art costs i.e. artist's fees, labour, materials, installation and naming plate etc.
- Details of requirements for maintenance of the artwork from the artist.
- For any artwork to be located on public land, written consent from the landowner and/or management authority and evidence of an appropriate public liability insurance policy.
- Details on the artist's acknowledgement of the requirements of the *Copyright Amendment (Moral Rights) Act 2000* including artist recognition/acknowledgement; their consent for required maintenance or relocation; consent to publish images of the artwork etc.

Approved artwork/s shall then be constructed, installed and maintained by the landowner in accordance with the approved report/plans.

### 6.3.2 Financial Contribution

Where the developer elects to provide a financial contribution in-lieu of physically providing public art, the developer shall provide the Shire:

- With a written breakdown of the total construction costs for approval/endorsement by the Shire at the time of either seeking a Building Licence or applying for subdivision conditions clearance.
- Upon approval, within 10 working days of being advised of the acceptance of the construction costs breakdown, pay the agreed amount to the Shire of Denmark.

Any monies received from developers in-lieu of providing public art shall be kept by the Council in a Public Art Trust Fund specifically for the purposes of providing public art within the locality as defined under the Land Administration Act or as agreed by the Shire of Denmark to be undertaken in accordance with Council's Public Art Strategy.