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CCL 27/10/2020 – PUBLIC ART REFERENCE GROUP UPDATE

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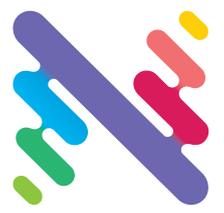
ITEM-80 **Attachment A:** Public Art Reference Group Annual Report 2020

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Annual Report

Public Art Reference Group

2018/19 - 2019/20



City of Newcastle

newcastle.nsw.gov.au

Lyrique Lane Light Chandelier
147 Hunter Street Newcastle

Acknowledgment

City of Newcastle (CN) acknowledges that we operate on the grounds of the traditional country of the Awabakal and Worimi peoples.

We recognise and respect their cultural heritage, beliefs and continuing relationship with the land, and that they are the proud survivors of more than two hundred years of dispossession.

CN reiterates its commitment to address disadvantages and attain justice for Aboriginal and Torres Strait Islander peoples of this community.

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Foreword from the Chair



I am pleased to introduce the first City of Newcastle Public Art Reference Group (PARG) Annual Report. This first reporting period has been one of consolidating the Terms of Reference of PARG, testing the boundaries of it and of working with developers whose projects have triggered the conditions of the Newcastle DCP to contribute public artwork.

Some of the items that have arisen for consideration have included:

- helping applicants meet the 1% public art contribution and ensuring the funds are spent on the artwork
- encouraging developers to work with public art consultants and artists in planning and commissioning public artworks
- planning an ongoing strategy to ensure a healthy funding stream for the commissioning and maintenance of public art in the City of Newcastle

It's encouraging to note that many of the developers, representatives and artists that have met with PARG have appreciated the opportunity to understand and clarify their public art commitments.

Public art humanises our urban spaces and built environment. It contributes to our wellbeing in public spaces, reflects our values as a community, and gives our spaces meaning and the opportunity to be unique. It provides opportunities for artists to

create, for visitors and residents to enjoy, and to build an even greater economic contribution to the city by way of the value of our arts and cultural organisations.

In order for the City of Newcastle (CN) to further pursue excellence in public art, PARG has developed new procedures for developers – Public Art in the Private Domain. My sincere thanks to everyone who has worked on this document, shared ideas and chased the 'art of the possible'.

My gratitude is extended to all members of PARG for their enthusiasm and contributions to our work, and my deepest thanks for an exceptional level of support from CN staff including David Clarke, Michelle Bisson, Priscilla Emmett, Tracey Webb and numerous others.

Councillor Carol Duncan

Chair
Public Art Reference Group

October 2020



Waterline, Jade Oakley in collaboration with Richard Briggs and Caroline Comino

Role of the Public Art Reference Group

The Public Art Reference Group (PARG) acts as an Advisory Committee to the City of Newcastle on Public Art.

Advising on the commissioning and development of new Public Art works in the public and private domain, ensuring transparent commissioning processes that result in art works reflective of Newcastle's history, culture and community, and advocating for City of Newcastle, the PARG provide leadership and ongoing support on all aspects of Public Art.

Membership and Attendance

During the period, the PARG met seven times.

PARG membership and meeting attendance is shown below:

Name	Title	Number of Meetings Attended
Councillor Carol Duncan	Chair	6
Councillor Peta Winney-Baartz	Member	7
Councillor John Mackenzie	Member	6

PARG intends to expand its membership in 2021 to strengthen the capabilities to oversee public art in the Newcastle Local Government Area (LGA), in both the public and private domains. To achieve this, it is proposed to appoint up to five external experts to PARG, of which:



Three positions

For persons with a strong demonstrated relationship to Newcastle who have acclaimed reputations for excellence in the field/s of visual art, architecture, landscaped architecture, cultural leadership and/or design.



One specific position

For a cultural knowledge holder from the Indigenous community



One specific position

For a heritage expert

PARG Meetings

The focus of PARG during the period has been on public art associated with development applications. As such, PARG meetings have been scheduled on an as required basis.

Three meetings were held in the second half of 2019 (June, July & October 2019) and four meetings have been held to date in 2020 (February, April, August & September 2020).

On average, public art proposals are presented to the PARG at three separate meetings prior to the proposals being deemed to have satisfied the PARG's requirements and approval being granted for the Public Art component of the development. Noting that this varies based on the maturity of the proposal and the level of engagement with relevant external agencies or groups.



Public Art in Private Domain Procedures

To provide guidance to PARG, developers and the broader community regarding public art in the private domain, PARG oversaw the development of the Public Art in the Private Domain Procedure 2020.

Clause B.5 of the Newcastle Development Control Plan (2012) provides the planning trigger for public art to be included in certain development applications in the private domain.

B.5 Public artwork

Public art is a defining quality of dynamic interesting and successful cities. More public artworks are needed in private developments and in the public domain.

Performance Criteria

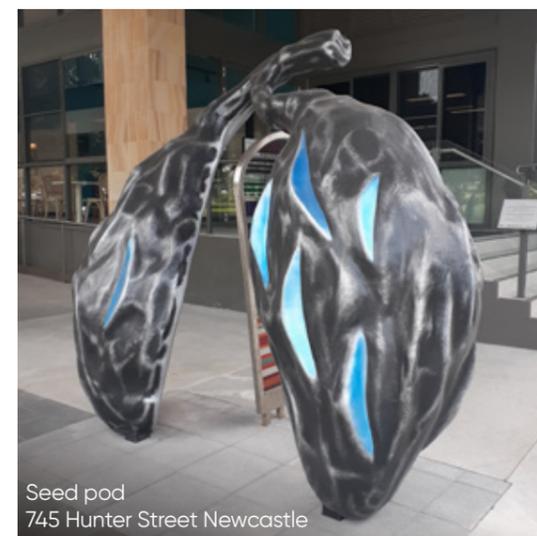
B5.1 Significant development incorporates public artwork

Acceptable solutions

1. Public and civic buildings, developments on key sites and development over 45m in height are to allocate 1% of the capital cost of development towards public artwork for development
2. Council is consulted on the location and proposal for public art

The Public Art in the Private Domain Procedures outline the process to enable a public art proposal to be considered by PARG, including the requirements for documentation, consultation and record keeping.

The Procedures also outline a Principle Framework for Public Art in Newcastle, to ensure high standards of public art are delivered in the private domain, by outlining requirements relating to artistic excellence, local character, heritage and culture, invigoration of the public domain, sustainability and materiality and maintenance.



Seed pod
745 Hunter Street Newcastle

Public Art considered by PARG

Since 2018, PARG has considered a number of public art proposals for the private domain which are related to development applications in the Newcastle CBD.

The map below shows the locations of these proposals, with examples explained in the following pages.



3 proposals approved



5 proposals currently under review





147 Hunter Street Newcastle

Lyrique Lane Light Chandelier

The design intent of the Public Artworks is to create a three dimensional interpretation of the arches that feature in the façade of the Lyrique Theatre. A series of light infused rods (or similar) and proposes to define the new public space through a sculptural light, similar to a grand chandelier.

Address	DA	Proponent/ Applicant	Description of proposal	Cost of works (1%)	Date approved by PARG
147 Hunter Street, Newcastle	DA2018/00354	East End Stage 2 Pty Ltd/ SJB Planning	Light Chandelier	\$501,590.00	February 2020



745 Hunter Street Newcastle

Seed pod and facade treatment

The sculpture is a stainless steel construction in the form of a giant seed capsule and a glass seed. The seed capsule is constructed to a height of 2550mm. It is an open form in two parts, each side being a domed shape approximately 2040mm high. The two domed forms are linked at the top with a 170mm diameter tube section. The insides of each half of the seed capsule is a polished mirror finish plane. The outside of the seed capsules will have a matt black painted finish with some stainless steel silver colour showing in areas and a bright metallic blue surface in select zones. The final coat will be a clear 2 pack polyurethane paint.

The seed which sits in between the two domed shapes is made of laminated glass with a coloured film inside. The glass is housed in a stainless steel frame which also contains the LED lighting. The glass and frame are approximately 1785mm high x 640mm wide.

Newcastle triptych

The three screens for the two carpark levels are comprised of a series of steel panels to be bolted to the building and to one another to stabilise. The three screens will each be divided into 10 panels of approximately 1.5m wide x 3m high to each screen. Each panel will be 3mm mild steel plate with a laser cut design. Each panel will be etch primed and painted in a basecoat of black powdercoat paint before rendered with colour to create the 3 landscape scenes. The panels are to be bolted at one side to the building. The other panels will be interconnected with bolts on strips of painted steel behind the panels.



Address	DA	Proponent/ Applicant	Description of proposal	Cost of works (1%)	Date approved by PARG
745 King Street, Newcastle	DA2016/00654	Core Project Group/ RSL Lifecare Limited	Seed pod statue, screening of façade & 3 large screens	\$430,126.00	May 2019



38 Hannell Street Wickham

Indigenous mural and native artworks

Item 1 - This mural will be informed by the areas indigenous history and acknowledge the stories and traditions of the original custodians of the land. Discussion between Adnate and the Awabakal people is currently ongoing. An elevated presence will provide an opportunity for greater social engagement from within the surrounding neighbourhood as well as an interesting aspect from the Transport Interchange. A prominent position will allow for an enduring impression and an evolution of the original mural.

Item 2 - Adnate has been commissioned for a series of murals for the purpose of providing cohesion to Item 1. Local artists will be asked to collaborate with Adnate to bring originality to each piece. These murals will be informed by the area's indigenous flora and fauna.



Address	DA	Proponent/ Applicant	Description of proposal	Cost of works (1%)	Date approved by PARG
38 Hannell Street, Wickham	DA2017/01399	Thirdi 38 Hannell Pty Ltd	Kangaroo statues, painting & indigenous mural on facade	\$387,663.00	May 2019

Public Art proposals

currently under review by the PARG

A number of public art proposals in the private domain remain under consideration by PARG.

Address	DA	Proponent/ Applicant	Description of proposal	Cost of works (1%)	Date approved by PARG
10 Dangar Street, Wickham	DA2018/01197	Dangar Street Wickham Pty Limited / KDC Pty Ltd	Indigenous Illumination display on building	\$528,004.48	April, August & Sept 2020
6 Stewart Avenue, Newcastle	DA2018/01107	Doma Interchange Development Pty Ltd / KDC Pty Ltd	Decorative component attached to the façade of the building including illumination	\$547,662.00	August & Sept 2020
309 King Street, Newcastle West	DA2019/01169 (under assessment)	Western Suburbs (N'cle) Leagues Club Limited / Wpp Pty Ltd	Structures and water features within the internal laneway within the development	\$1,608,992.00	February 2020
1 National Park Street, Newcastle	DA2019/00711	Exp No 1 National Park Street Pty Ltd / KDC Pty Ltd	Bronze oval structure suspended within the development site	\$695,420.00	February 2020
The Store 854 Hunter Street, Newcastle	DA2018/01109	Doma Interchange Development Pty Ltd / KDC Pty Ltd	Messaging though ground displays, pavement inlays, Street blades and street furniture.	\$2,000,000.00	March 2019

Additional items discussed at PARG Meeting

In addition to public art in the private domain, during the period PARG has also provided public art advice relating to several other proposals in the Newcastle Local Government Area.

Address	Description of proposal
426 King Street Newcastle	Facade treatment of the site featuring a wave and boat sculpture
Fernleigh Track Indigenous Artwork	Indigenous mural located along the Fernleigh Track

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ITEM-80 Attachment B: Public Art in the Private Domain Procedures 2020

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Procedures

Public Art in the Private Domain

City of Newcastle

October 2020

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Part A Preliminary

1 Scope

- 1.1 The Public Art in the Private Domain procedures provide Private Developers with the process for commissioning Public Art to satisfy Development Application (DA) consent conditions in Private Development

These procedures must be followed by Private Developers who have triggered the conditions for Public Art set in the City of Newcastle (CN) Development Control Plan (DCP) as advised in the Pre-Development Application process.

- 1.2 These procedures apply to stakeholders including, Private Developers, Curators, Artists, the CN Public Art Working Group, CN Public Art Reference Group and all relevant technical staff of CN including, Planning, Governance, Procurement, Cultural and Public Art.

2 Responsibilities

Who	Responsibility
Director Governance	The Director, Governance is responsible for overseeing the Newcastle Development Control Plan 2012, including Section B5. Public Artwork
The Developer	The Developer is responsible for all the financial aspects of delivering the public artwork. The Developer is responsible for meeting all the procedural requirements of CN in the delivery of public art in their development.
Public Art Officer (vacant role)	<p>The Public Art Officer is responsible for the ongoing support of the Curator and the Developer ensuring clear and transparent procedures are followed in the commissioning of Public Art in the Private Domain.</p> <p>The Public Art Officer provides administrative support, reporting and information to the Public Art Reference Group during the recommendation and decision making stages of the Public Art Commissioning Process</p>

Who	Responsibility
Curator	<p>A Curator is a suitably qualified and Council approved person with specialist art knowledge. The Curator is responsible for the public art process including artist selection and artwork development phases, including artwork opportunity brief, artist brief, concept development, design development, commissioning, fabrication, installation and maintenance requirements of the artwork.</p>
Public Art Reference Group (external)	<p>Public Art Reference Group (PARG) is a Council established advisory body comprised of three Councillors and experts in the field of Public Art. The role of the PARG is to;</p> <ol style="list-style-type: none"> a. To act as an advisory body to City of Newcastle (CN) on public art b. To advise on the commissioning and development of new public art works in the public and private domain c. Ensuring transparent commissioning processes that result in art works reflective of Newcastle's history, culture and community. d. Advocating for CN, providing leadership and ongoing support on all aspects of public art.

Part B Procedure

3 Conditions for Public Art in the Private Domain

3.1 Public Art Triggers in Pre DA process

Action	Description	Responsibility
<p>Newcastle Development Control Plan 2012</p> <p>DA triggers for Public Art</p>	<p>B.5 Public artwork</p> <p>Public art is a defining quality of dynamic interesting and successful cities. More public artworks are needed in private developments and in the public domain.</p> <p>Performance Criteria</p> <p>B5.1 Significant development incorporates public artwork</p> <p>Acceptable solutions</p> <ol style="list-style-type: none"> 1. Public and civic buildings, developments on key sites and development over 45m in height are to allocate 1% of the capital cost of development towards public artwork for development 2. Council is consulted on the location and proposal for public art¹ 	<p>Manager Regulatory Planning & Assessment</p>

<p>Actions required</p>	<p>Once notified of a requirement for public art in pre DA stage of a Development Application the Developer must take the following actions;</p> <ol style="list-style-type: none"> 1. The Developer must engage a Curator to plan and deliver the Public Art commissioning process. 2. CN will establish a Panel of Providers of suitably qualified Curators that can be supplied to the Developer for consideration. 3. Once engaged the Curator must meet with the Public Art Officer to discuss the project, including the brief, site location, budget, procedural and reporting expectations of CN. 4. Following meeting with CN staff the Curator must prepare a detailed Brief outlining the site location, context, scale, Principle Framework for Public Art and overall budget for the artwork. 	<p>Manager Regulatory Planning & Assessment</p> <p>Developer, Public Art Officer, Curator</p>
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4 Pre DA Procedure for Public Art in the Private Domain

4.1 Curatorial Procedure for Public Art Approval

Action	Description	Responsibility
Stage 1 Brief Approval	<p>For the Brief to be approved the Curator must undertake the following;</p> <ol style="list-style-type: none"> 1. The Curator must present a detailed Brief for the artwork with a proposed shortlist of artists to the Public Art Reference Group (PARG) for feedback. 2. The Curator must present the detailed Brief with a proposed shortlist of artists to the PARG for feedback and approval. 3. Once the PARG have approved the Brief and shortlist of artists the Curator may approach shortlisted artists to respond to the Brief through the concept development stage. 	PARG, Curator, Public Art Officer
Stage 2 Concept Development	<p>For the Concept Development stage to be approved the Curator must undertake the following;</p> <ol style="list-style-type: none"> 1. Curator must engage approved shortlist of artists to concept development stage 2. Artists to provide concept responses to the Brief including a written response to the Principal Framework (Attachment A) 3. Curator to review concept development responses to the Brief with PARG 4. Curator and PARG shortlist two artists for detailed design development stage 	PARG Curator Public Art Officer Artist/s
Stage 3 Detailed Design Development	<p>For the Detailed Design Development stage to be completed the Curator must undertake the following;</p> <ol style="list-style-type: none"> 1. Work with the two shortlisted artists to provide Detailed Design of concept including, rendered images of the work in-situ, engineering sign off, WHS compliance, detailed budget for fabrication and installation, a scheduled maintenance plan, final artist fee and final artist statement. 2. Curator must present the two Detail Designs to PAWG for review and feedback 3. Curator must present Detailed Designs and feedback to PARG for recommendations on the final commission 4. PARG recommends the preferred commission based on expert feedback from Curator. 	PARG Curator Public Art Officer Artist/s
Stage 4 Consultation	<p>For the Consultation stage to be met the Developer must undertake the following;</p> <ol style="list-style-type: none"> 1. Detailed Design for preferred commission must be submitted to Council as part of the DA for the overall development 2, DA placed on exhibition for community response and feedback 	Developer

Action	Description	Responsibility
Stage 5	In order for the commission to be awarded the following must take place; 1. DA approved 2. Commission awarded	Manager Regulatory Planning & Assessment
Stage 5	Fabrication and installation	Developer, Curator, Artist

5 Record Keeping

5.1

Action	Description	Responsibility
PARG meetings	The Agendas and Minutes of the Public Art Reference Group meetings including recommendations on commissions are public documents that can be used in Council reports and to support DA final submissions	Manager Regulatory Planning & Assessment

Attachment A – Principle Framework for Public Art in Newcastle

1. Artistic Excellence and Integrated Design

Public Art must be of a high a standard of artistic calibre involving professional artists who have achieved a reputation and standard of excellence in their practice. The measures for Artistic Excellence can be ascertained from an Artist's CV, including professional training, exhibition history, critical review, awards, previous commissions and overall artistic profile. Proposed Public Art projects must be incorporated into the overall design and architectural plans for a new development and evidence a collaborative design process that directly engages the artist in the development of the Public Art work within the built form. The final proposed Public Art work must be included in the overall DA submitted to CN for exhibition.

2. Local Character, Heritage and Culture

Public Art should engage with the multiplicity of local histories, folkloric stories, cultural heritage and character embedded in the social fabric of the Newcastle area. Newcastle has an incredibly rich long standing Indigenous history as well as a recent history of social and cultural migration and Industry that are deeply ingrained in the local identity. All appropriate cultural protocols and required consultation must be implemented at the onset of the process in development of new Public Art works and evidenced in DA submission.

3. Invigoration of the Public Domain

Public Art should evoke the imagination by reinventing the built environment in new and unforeseen ways. It should invigorate the context of new developments that are visible to the public to actively enhance the character of the city increasing pride of place within the local community, redefining the boundaries between public and private space and adding cultural value to the area.

4. Sustainability and Materiality

Public Art should be developed with consideration to sustainability of the work within the Public Domain. It must show suitability and integrated design to the structural and building materials of the context in which it is located. Permanent Public Art works must provide detailed material and engineering certifications evidencing a minimum lifespan of ten years.

5. Maintenance

A detailed plan and schedule for ongoing maintenance and management of the Public Art work must be submitted at the DA stage for the overall development. The responsibility and upkeep of Public Art in private development rests with the building owner and all costs related to the ongoing maintenance of the Public Art must be accounted for in ongoing building strata financials.

Annexure A – Definitions

Artist means a person engaged for the design and creation of an artwork.

CEO means Chief Executive Officer of the City of Newcastle and includes their delegate or authorised representative. References to the Chief Executive Officer are references to the General Manager appointed under the *Local Government Act 1993* (NSW).

Council means the elected Council.

City of Newcastle (CN) means Newcastle City Council.

Collaboration is an artwork realised by a design or artistic team of practitioners rather than the creative vision of a single practitioner. The design team may involve other professionals such as architects, landscape architects, graphic designers or a team of practitioners working in collaboration. In this case the practitioner is engaged as an artist consultant to contribute to an overall collaborative design process, which may or may not result in a distinct work being produced by the practitioner later in the process. All members of the collaborative team need to be brought together at an early stage of the project in order to ensure that the overall design is in fact created through a process of collaboration. ⁱⁱ

Commissioning is often used in a variety of contexts to refer to the mode of enabling the production of a new artistic work

Curator in the context of Public Art, is a suitably qualified and Council approved person who has specialist art knowledge and oversees the development of the public art process from community consultation, site selection, artist selection and art work development phases including artwork opportunity brief, artist brief, concept development, design development, commissioning, fabrication, installation and maintenance schedule requirements of the artwork

De-accessioning means to relocate, sell, donate or dispose of a piece of artwork.

Integrated means collaboration between Architects, Landscape Architects, Planners and artists that works to cross disciplines transcend hierarchies and develop highly innovative and relevant integrated design solutions for public places. ⁱⁱⁱ

Lifespan of artworks means the agreed lifespan of the artwork that is stated in the commission agreement, including maintenance schedule.

Maintenance the processes and procedures for preserving the condition, situation, function and quality of an object

Panel of Providers means a database of industry arts professionals formed by an Expression of Interest (EOI) process. The database includes details of professional public art providers and demonstrates their capability through CV, images of work and references. Additional arts professionals or suppliers may be sought during the two-year timeframe depending upon project requirements.

Permanent Art means the artwork is intended to have a long term or indefinite lifespan (minimum of 10 years). These works need to be designed and built to survive long-term in-situ.

Public Art means works of art that are accessible in the public domain. Public Art can be ephemeral, temporary or permanent. It is site-specific and not mass produced or a reproduction of an original artwork. It responds to a brief, including its physical environment and/or social context. It includes original works by living or acknowledged artists and craftspeople and may be created in a collaborative process involving architects, planners and members of the community. Public art may be commissioned by Council, community or private client, or be the product of an approved donation or gift to Council.

Public Art Reference Group (PARG) is a Council established advisory body comprised of three Councillors and experts in the field of Public Art that advise on cultural, heritage and aesthetic appropriateness of certain high-profile public art projects.

Public Domain means the space we share with other people – footpaths, streets, beaches, parks, playgrounds and other open spaces along with the amenities of trees, seating, artworks, shade and signage. These are publicly held assets, not owned by individuals or companies.

Site Specific Art means art that is created for a specific location. The artist takes this into account during the conception and creation of the works responding to physical, historical, cultural or social contexts unique to the site.

Temporary art means works commissioned and created for a specific period of time with an expected lifespan from one to five years.

Document Control

Procedure Title	Public Art in the Private Domain Procedures
Procedure owner	Director Governance
Procedure expert/writer	Manager Regulatory Planning & Assessment
Associated Policy Title (if applicable)	
Policy owner (if applicable)	Director Governance
Prepared by	Governance
Approved by	Director
Date approved	To be completed after approval
Commencement Date	To be completed after approval
Next revision date	October 2023
Version	1
Category	Development and Building
Keywords	Public Art, Public Domain, Public Art Working Group, Public Art Reference Group, Private Development
Details of previous versions	
Legislative amendments	
Relevant strategic direction	Vibrant and Activated Public Places
Relevant legislation/codes (reference specific sections)	Nil
Other related policies/documents/ strategies	Newcastle Development Control Plan 2012 Newcastle 2030 Community Strategic Plan Cultural Strategy (latest version: 2016-2019)
Relevant strategy	
Related forms	
Authorisations	.

ⁱ [Newcastle Development Control Plan 2012 6.0 p.46](#)

ⁱⁱ NAVA Code of Practice: [3.2 Types of Public Art](#)

ⁱⁱⁱ NAVA Code of Practice: [3.2 Types of Public Art](#)

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CCL 27/10/2020 – PUBLIC ART REFERENCE GROUP UPDATE

ITEM-80 **Attachment C:** Public Art and Placemaking Policy 2002

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Policy

Public Art and Placemaking

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Newcastle City Council

**PUBLIC ART &
PLACEMAKING POLICY**

GUIDELINES FOR IMPLEMENTATION

REVISED FEBRUARY 2002

1. Introduction

To achieve the objectives of Newcastle City Council's Public Art and Placemaking Policy the following Guidelines for Implementation have been developed. The guidelines are an operational document to assist Council officers and the Public Art Advisory Committee (PAAC) to implement the Policy.

Newcastle's future development depends more on the quality of life it can offer residents and visitors than on its traditional industrial base. Cultural resources and facilities, including public art, are important community assets creating a Newcastle specific sense of place, supporting a thriving and diversified economy and increasing the region's attraction as a tourism destination.

Newcastle City Council therefore adopts an integrated approach to implementing its Public Art and Placemaking Policy that supports the role of public art in urban renewal, complementing urban design objectives, animating public spaces and improving the overall 'livability' of the city.

2. Integration with other Council Plans and Policies

To support the integration of public art and placemaking, public art provisions and guidelines are included in a range of Council's key policies and plans of management including:

- Plans of Management for Public Open Space
- Development Control Plans 75 / 40
- Section 94 Contributions Plan
- Tourism Development Plan

3. Funding the Public Art and Placemaking Program

To encourage an integrated approach to the Public Art and Placemaking Program Council has established a number of mechanisms for funding public art and placemaking projects. Council has a % for art levy for its own capital works and through its planning tools encourages the corporate sector to contribute a similar proportion of total project costs to public art and placemaking works.

Internal

- Council Owned Properties

All applications for development or redevelopment of Council owned properties, buildings and associated works which have a total value of \$1 million or over shall be subject to a mandatory percent for art contribution of not less than 1% of the total value of the development. Such developments include but are not limited to, community facilities, childcare centres, libraries, community centres, local and district sporting fields and playgrounds.

- Council Program Budgets

Public art and placemaking projects may also be funded through specific annual works program budgets e.g. Council's Landscape Architectural Services may commission an artist to design street furniture or to be involved in the design of a public open space. Budgets for these projects do not come from percent for art but are allocated from specific Council annual works program budgets.

External

In a growing number of Australian cities and in other parts of the world percent for public art has become standard practice allocating a percentage of the total cost of a project to public art and placemaking works associated with that project or site. While not mandatory, the provisions are the basis for Council negotiation with private developers. The inclusion of public art in major private

developments is recognised by Council as a contributing factor towards the allowance of a development bonus in accordance with Council's Urban Design Guidelines.

- Section 94 Contributions Plans

A 1% for art contribution applies in Council's Section 94 Plans for community facilities. S94 Plan No 1 (2001) applies 1% for public art to all capital works with a total value greater than \$250,000 funded through this Plan and details the amounts allocated to public art per project in each relevant works schedule.

It is desirable that public art for Council owned community facilities be integrated with and contribute to the functional design elements of the facility. All public art and placemaking works for Council owned community facilities will be undertaken in accordance with Council's Public Art and Placemaking Policy and Guidelines for Implementation.

- Development Control Plans for Major Private Developments

Public art provisions in Development Control Plans actively encourage a voluntary developer contribution for public art in all major applications for commercial and retail developments over \$1 million dollars. The provisions encourage public art and placemaking elements that can be appreciated from the public domain such as open space areas, gateways and landmarks, streetscapes, children's' play areas and sites of cultural, social, historical or aesthetic significance identified in Council's Public Art Masterplan. Such artworks are to be undertaken in accordance with Council's Public Art and Placemaking Policy and Guidelines for Implementation.

- Sponsorship

From time to time Council may also seek sponsorship for the design, fabrication and installation of works of public art and placemaking.

4. Range of Commission Types and Collaborative Methods

To ensure that commissions to artists, craftspeople and designers reflect the range of professional contemporary visual arts and crafts and community cultural development practice it is intended that the following broad "spread" of commissions should be achieved while still meeting the specific requirements of the site and its urban design and place-making objectives.

- Commissions to professional artists, craftspeople and designers working within the Newcastle area
 - Commissions, where appropriate, to professional artists, craftspeople and designers living outside the Newcastle region who have special demonstrated experience and skills, in creating works in public spaces
 - Commissions to professional artists, craftspeople or designers which develop effective means of working with primary or high school students or students at Newcastle's art educational institutions
 - Commissions to professional artists, craftspeople, and designers involving direct collaboration with Newcastle communities, cultural organisations or groups, or tradespeople (e.g. utilising Newcastle industries for fabrication if feasible)
 - Commissions which encourage, support and facilitate education and training opportunities for emerging artists, craftspeople or designers as artists in the public domain
 - Commissions specifically for public art and placemaking projects of a temporary nature.
-

5. Preliminary Identification & Assessment of Public Art and Placemaking Opportunities

a) Preliminary Identification

Preliminary identification of public art and placemaking opportunities arises primarily through Council's funding mechanisms including %for art, DCP's or Section 94 Plans.

Opportunities may also be identified through:

- Landscape Architecture projects
- Formal public art planning meetings
- The Public Art Plan (Stage One)
- Community initiated projects
- Collaborative partnerships with the Univeristy of Newcastle or the Hunter Institute of Technology

Opportunities may be identified by a range of Council officers including:

- Cultural Development Coordinator
- Development Application Planners
- Landscape Architectural Services
- Section 94 Officer
- City Strategist Community Land
- Council Engineers
- Heritage Officer

b) Preliminary Assessment

When a public art opportunity is identified, relevant Council officers liaise with the Cultural Development Coordinator, who initiates preliminary discussions with relevant stakeholders to determine the appropriateness and feasibility of the proposal. Key factors to be taken into account in the preliminary assessment phase include consistency with the Public Art and Placemaking Policy, Council's strategic directions and other relevant policies and plans as well as the proposal's relationship with other relevant existing and proposed projects. The Cultural Development Coordinator identifies an adequate budget, ensures that the relevant approvals are in place and then presents the suggestions arising from that process to the PAAC for discussion and comment.

c) Evidence of Budget Approval

Prior to discussions with the PAAC concerning possible public art and placemaking projects an adequate budget shall be identified and approved by relevant Council officers and other stakeholders. Written evidence of budget approval status must be presented prior to the involvement of the PAAC in discussing any project. Public art and placemaking projects without adequate project budgets may not proceed to commissioning stage.

d) Evidence of Statutory Authorities Approval Status

Prior to briefings and discussions with the PAAC concerning possible public art and placemaking projects involving other statutory authorities the approval of these authorities, and or relevant approval conditions will be sought and presented to the PAAC in writing.

6. The Public Art and Placemaking Register

The Public Art and Placemaking Register is a listing of all artists interested in being considered for public art and placemaking commissions in Newcastle and is the primary resource for preliminary selection and assessment of artists suitable for particular commissions. The Register contains artists' CV's and supporting visual material such as slides and / or digital images of artists' work.

The Register is maintained and promoted by the Cultural Development Coordinator and is updated every 12 months through a publicly advertised process. It is also promoted widely using a variety of media through arts and cultural organisations, arts educational institutions, private galleries, appropriate commercial outlets and community information facilities.

7. Advertising Commissions

Council acknowledges that the need for a transparent process for selecting artists to undertake public art and placemaking commissions must be balanced by the need for timely, cost effective and efficient project administration and a recruitment process that is appropriate to the scope, budget and significance of each project.

In this context the PAAC may, on an annual basis, select a project of significance that will be publicly advertised. The criteria for a designated project of significance are:

- Prominence of the site
- A site of regional, national or international consequence
- High public visibility
- Budgetary allocation
- Design themes and intent

For a project of significance artists will be invited to submit expressions of interest comprising a current CV and examples of recent work. In addition to advertising the Public Art Coordinator, the commissioner and other stakeholders will also select from the Public Art and Placemaking Register before reviewing all potential artists and making a recommendation to the PAAC.

8. Public Art and Placemaking Project Implementation

- Budget and statutory authorities identified and obtained
 - Public Art Coordinator selected by Cultural Development Coordinator, commissioner, PAAC and other relevant stakeholders
 - Public Art Coordinator writes the project brief with key stakeholders
 - Brief presented to and accepted by PAAC
 - Public Art Coordinator, Cultural Development Coordinator, commissioner and other stakeholders selects a range of artists for consideration by the PAAC from the Public Art and Placemaking Register
 - A project of significance will be advertised locally and nationally. Artists who have submitted expressions of interest are considered by the PAAC in addition to a range of artists from the Public Art and Placemaking Register
 - PAAC and the Public Art Coordinator view and consider the selected artists and shortlist approximately three
 - Public Art Coordinator works with artists to formulate schematic designs, maquettes, a design intent, budget and timeline for the project
 - Artists develop and submit schematic designs
 - Public Art Coordinator presents the Schematic designs to PAAC and one artist is chosen for the commission
 - Public Art Coordinator works with the artist to fabricate and install the artwork.
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9. Community Initiated Public Art and Placemaking Proposals for Land Managed by Council

This section of the guidelines covers land that is owner or managed by Council under the Open Space Plans of Management or operational land were appropriate.

a) Community Initiated Proposals

Public art opportunities may also be identified and proposed to Council by community organisations or individuals who seek Council support or endorsement. Council acknowledges the community's role in identifying and initiating public art and placemaking projects and will work consultatively with the community to ensure that proposals relate to the nature of the site, are in line with Council's Public Art and Placemaking Policy and other relevant Council documents.

All proposals for public art and placemaking projects intended for Council managed land must be submitted to the PAAC. Proposals are to be submitted in writing using the guidelines and checklist in Council's Public Art Proposal Guide. Prior to submitting the proposal to the PAAC, relevant Council officers may undertake preliminary consultation with key stakeholders to determine the appropriateness and feasibility of the proposal. The Cultural Development Coordinator will then present the proposal to the first available PAAC meeting for assessment and recommendation.

Preference will be given to proposals which contain detailed budgets and written confirmation of the availability of adequate sources of funding.

b) Donations of Existing Public Artworks

Projects undertaken through Council's Public Art and Placemaking Program are designed to respond to the specific historic, cultural, environmental, social and aesthetic character and requirement of a particular site.

Council generally is unable to accept donations of existing public artworks such as sculptures that are not designed with reference to the specific site for which they are intended. All offers of donations of public art for Council managed land must be submitted in writing to the PAAC for assessment and recommendation using the guidelines and checklist in Council's Public Art Proposal Guide.

Prior to submitting the proposal to the PAAC, relevant Council officers may undertake preliminary consultation with key stakeholders to determine the appropriateness and feasibility of the proposal. The Cultural Development Coordinator will then present the proposal to the first available PAAC meeting for assessment and recommendation. Proposals that are unable to meet relevant Council guidelines may not be able to be considered.

c) Other Proposals

Other proposals for public art and projects not covered by these guidelines will be considered on a case-by-case basis in placemaking accordance with the intent of the Public Art and Placemaking Policy and Guidelines.

10. Memorial Plaques

Council frequently receives requests from individuals and community groups to install memorial plaques on land owned and/or managed by Council. Currently requests are treated on a case by case basis.

The Public Art and Placemaking Program provides an opportunity to initiate a scheme through which memorial plaques could be placed on pieces of furniture such as park seating paid for by the applicant and designed and made by artists, craftspeople or designers.

Commissions will be implemented to produce suites or pieces of furniture such as park seating for nominated public open space areas that reflect the character or theme of that specific area. A small memorial plaque can will then be placed on these park seats.

The cost to the applicant for donating the seat would be in the order of \$800 - \$1500. This will have the benefit of acknowledging the significant association of a person with a particular place, would provide a community facility at no cost to Council and will decrease the effects of potentially inappropriate and poorly sited acknowledgement.

11. Commissioning Phases

All design/fabrication commissions to artists, craftspeople and designers consist of three commissioning phases each of which are covered by a separate contract as follows:

- a) Schematic Design – Design Agreement
- b) Design Development – Design Development Agreement
- c) Fabrication/Installation – Commission Agreement covering the fabrication, installation of the work.

Where required the Commission Agreement will be supplemented by a "Fabrication Agreement" when the fabrication of the work is performed by others under the quality control of the artist, craftspeople or designer.

The purpose of three separate contracts for these phases is to clearly indicate that each contract represents a discrete phase, with full payment provided to the artist for work completed within that phase. At the time of submission and evaluation of the artist's work completed under each phase, Council, upon the Public Art Advisory Committee's recommendation, is obliged to pay for the work successfully completed according to the contract for the specified fee.

12. Determination of Artists' Fees

Council accepts that part of its Public Art and Placemaking Policy is support for professional rates of pay for artists, craftspeople and designers.

Council also acknowledges that it is difficult to define pay rates for visual artists and craft practitioners who are often self-employed or contractors and not covered by legally enforceable pay scales or minimum rates of pay. It is therefore Council's responsibility, through Council officers, Public Art Coordinators and the PAAC, to assess proposals for commissions to ensure that budgets are adequate to cover professional pay rates for artists, which take into account -the costs of materials, overheads, transport, insurance and other required expenses in the production of the work.

It should also be noted that during the Design Development and Fabrication phases of commissions, the rates of pay for these phases are agreed on the basis of detailed budgets to be prepared by the artist in consultation with the Public Art Coordinator as part of the schematic design phase. They should include allocations for the artist's salary, workshop costs and overheads, insurances, etc.

Fees to commissioned artists, craftspeople and designers shall be determined by the PAAC in consultation with the Public Art Coordinator on a project by project basis with reference to the National Association for the Visual Arts (NAVA) - Code of Practice for the Visual Arts and Crafts sector (Fees and Wages), taking into account the complexity of the project, the experience and skill of the artist.

NAVA defines a public artist as “those who create, produce and install public artwork for councils, governments, public sector agencies and the private sector, become involved in the design process and who offer services advice and expertise as consultants on public projects or private ones in the public context. The work often involves undertaking research on the site and formulating design concepts which integrate the brief of the commissioning organisation or individual with legal codes, technical requirements and the environmental, cultural and historical character of the site.”

The Code contains a schedule of indicative rates (see table below) for public artists’, which have been developed from random samples of practicing architects, the comparator group.

Public Artist	Hourly Rate
Level One Entry level self employed Public Artist	\$30 per hour
Level Two Experienced self-employed / consultant Public Artist practitioner with 3-5years plus experience.	\$67 per hour
Level Three Senior very experienced self-employed / consultant practitioner with above average skills, experience and responsibilities.	\$125 per hour

13. Public Art Coordinator

Council’s public art commissioning process relies on a skilled and experienced Public Art Coordinator. The key function of the Public Art Coordinator is to ensure the Public Art and Placemaking Program results in high quality works of contemporary art and craft in the public domain.

a) Public Art Coordinator’s roles and responsibilities

- Assist the PAAC to identify and assess public art opportunities
- Develop and write project briefs in collaboration with key stakeholders
- Participate in the selection process for and assess and identify appropriate artists
- Support artists during schematic design and commission phases
- Present designs to clients, stakeholders and relevant Committees
- Evaluate the quality and suitability of the artists working processes and skill
- Prepare and administer the contracts and briefs for the schematic design and commission and if required for the fabrication phase
- Oversee the fabrication and installation phase.

b) Public Art Coordinator – Skills & Experience

- Strong oral and written skills in articulating creative ideas
- Interpersonal, negotiation and conflict resolution skills
- Ability to write a design brief that articulates the creative vision and practical details for the design of a public artwork
- Extensive professional experience in the visual arts industry
- Experience and competent knowledge in designing and fabricating art for the public domain
- Ability to understand a number of aesthetics and design approaches in the landscape such as scale, colour, materials and form
- Competent knowledge of art making, mainly sculptural materials and processes
- Competent ability to understand landscape, architectural and engineering drawings and design principles
- Competent knowledge and skills to manage people, budgets and timelines

- Competent knowledge in writing contracts and agreements and adapting them to specific circumstances
- Induction Certificate by Regional Councils OH&S Induction Program for Contractors and Workers.

c) Selection of Public Art Coordinator

The Public Art Coordinator for each project will be selected by the Cultural Development Coordinator in consultation with the PAAC from a Council Preferred Suppliers Register (PSR). For a Coordination fee of up to \$5000 the Cultural Development Coordinator in consultation with the PAAC and commissioner will select the most suitable supplier from the PSR. For a Coordination fee over \$5000 all suppliers on the PSR will be given the opportunity to tender for the project and the successful applicant selected by the by the Cultural Development Coordinator in consultation with the PAAC and commissioner.

14. Council Officer's Roles

a) The "Commissioner"

Under the Guidelines the 'commissioner' is generally a Council Officer who is responsible for project administration, cost control and programming of projects within the annual works program for that particular Council division. Council's Cultural Development Coordinator is generally the commissioner for public artworks funded through Council's percent for art and/or Section 94 funds. For projects funded through Council's DCP provisions the commissioner is usually the developer or architect. Council's Landscape Architect is generally the commissioner of public artworks identified within and funded through Landscape Architectural Services annual works program.

b) Cultural Development Coordinator's Role and Responsibilities

The process of commissioning and installing high quality public artworks is highly complex, is never standard from one commission to the next , and has many points at which elements can "go wrong" if all factors are not carefully monitored and coordinated into a single effort with intense quality control and project management skills.

Council accepts that a concentration of responsibility within a specific Department with a designated staff member is required, rather than a dispersal over several Departments or sub-groups. This coordination can achieve a cohesive, responsible, and cost-effective public art process with a clear reporting structure and line of responsibility. This strategy is also required if the consultancy fees for the Public Art Coordinator(s) are to be contained, maximising their effectiveness for Council.

The Community Development Group (Cultural Development) is designated to perform the administrative role on behalf of Council for its Public Art and Placemaking Program, which involves:

- Managing the Public Art Advisory Committee
 - Managing the Public Art Coordinator's work program
 - Integrating the Public Art and Placemaking Program with Council's core urban, economic and social planning documents
 - Adopting the role of 'commissioner' where appropriate for public art and placemaking projects
 - Managing, implementing and reviewing Council's Public Art and Placemaking Policy and Guidelines
 - Consulting with relevant Council officers and Councillors who have consultative or decision-making roles in relation to Council's Public Art and Placemaking Program or projects
 - Promoting Council's Public Art and Placemaking Program including publications
 - Maintaining and promoting the Public Art and Placemaking Register
 - Securing, monitoring, and maintaining project budgets and administration of payments of fees to contractors.
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b) Landscape Architect's Role and Responsibilities

In conjunction with Council's Cultural Development Coordinator the Landscape Architect is responsible for: briefing and/or advising PAAC about :

- Open space and streetscape objectives and context for new public artworks
- Site planning that includes the public artwork in the public setting
- Design of associated landscape and/or streetscape improvements
- Background and advice on vandalism issues, risk and asset management issues
- Artist's brief and work program
- Artist's selection in conjunction with the Public Art Coordinator and Cultural Development Coordinator
- Design development in conjunction with the Public Art Coordinator.

The Landscape Architect may also adopt the role of commissioner where a project is funded through his/her annual works program.

c) Newcastle Regional Art Gallery's Role and Responsibilities

The Newcastle Regional Art Gallery plays a pivotal role in the cultural development of the City especially in the domain of visual arts and crafts. It can generate important synergies between the PAAC and the community by adding value to projects through:

- Public art and placemaking project exhibitions
- Artists in-residence programs
- Public programs such as educational workshops, educational briefings
- Interpretive strategies.

15. Ownership, Copyright, and Artists' Moral Rightsa) Ownership

At the submission of schematic design and design development works, the Council owns "the design" and "the developed design" only after the artist has received payment for that phase. "The design" and "the developed design" refer only to the physical submission for each of those stages of work, i.e. the actual maquette, model, design drawings, etc., and not the copyright to the design, which is owned by the artist as discussed below.

Upon fabrication and installation Council owns the completed work of art only after the artist and/or fabricator has received final payment for the work. Copyright is retained by the artist.

b) Copyright

The Copyright Act (1968) protects artistic work including drawings, paintings, sculptures and works of artistic craftsmanship. Generally, the first owner of copyright is the artist. An original work is automatically protected as soon as it is created and copyright does not have to be registered.

The artist retains copyright through all commission phases, including when it becomes the property of the Council. In retaining copyright, the artist agrees not to reproduce the work in a similar form and at a similar scale without first obtaining Council's written consent.

Although the artist owns copyright he or she agrees to license Council to exhibit the design and / or reproduce an image of the public artwork in any Council publications for the purposes of promoting Newcastle's Public Art and Placemaking Program or other Council initiatives.

Should Council wish to publish or reproduce the design in any other publications or to use it in any other manner (e.g. reproduce an image of the work on T-shirts or as a silkscreen on bus shelters), the Council must seek the artist's written consent and, if granted, pay an appropriate fee.

The terms and conditions under which this license is issued and operates are set out in a standard contract for NCC public art and placemaking projects which addresses copyright rights.

c) Moral Rights

Moral rights are the personal rights of the creators of artistic works, to claim authorship and have their work protected from mutilation, distortion or any alteration which would be prejudicial to their reputation. The Copyright Amendment (Moral Rights) Act 2000 legislation came into effect in Australia in December 2000. The Act provides that moral rights continue in force until copyright ceases - life of the creator plus 50 years.

The Public Art and Placemaking Guidelines uphold artists' moral rights in a standard Council contract which covers the following moral rights:

- Right of attribution of authorship – the right of the creator of a work to be identified as such whenever the work or an image of the work is used, including reproductions. The creator must be identified in accordance with their wishes, or if these wishes are not known, in a form that is "reasonable". The identification must be "clear and reasonably prominent".

Under Council's Guidelines and detailed in the relevant contract, a notice including the name of the artist will be clearly and prominently displayed in the vicinity of the installed public artwork and where the artist's work or photographic reproduction of the work is exhibited or published in any Council publication, or where any promotional material including media release is produced about the work, Council will name the artist as the creator of the work.

- Right not to have the work falsely attributed – the artist's right not to have the work attributed to someone other than the creator.
- Right of integrity of authorship of a work – the artist's / creator's right not to have the work subjected to "derogatory treatment". This would involve doing anything to the work that would be "prejudicial to the author's honour or reputation", including mutilating, distorting or other modification of a work. In the case of a change in or relocation, demolition or destruction of a building that a public artwork is affixed to or forms part of (under the Act, building is defined to include a structure of any kind) or in the case of removal or relocation of a site specific movable artistic work Council, as the building owner and / or remover of the work must make reasonable enquiries to identify and locate the creator or their representative. If these enquiries are successful Council must give the creator or representative notice of the proposed action and the creator (or rep) has 3 weeks to ask for access to the artistic work in the building. Finally, if requested by the creator (or rep) within 3 weeks from the date of notice, Council must then give them 3 weeks from the request to have the access.

16. Removal or Relocation of a Work

Council agrees that if the Public Art and Placemaking Policy and Guidelines are adhered to there should be few instances where Council determines that a site-specific commissioned work of art should be removed or relocated.

Under no conditions should removal and / or relocation occur due to the aesthetic preferences of Council officers or elected representatives. Once site-specific works of art have been placed in a public context with the intent of display for a significant time, the community develops a sense of ownership of the work which needs to be respected in any subsequent proposals for removal.

Acceptable reasons for removal of the work from its designated site would be:

- The relocation, demolition or destruction of a building that a public artwork is affixed to
- The work's unavoidable physical deterioration or vandalism damage beyond what reasonable rectification costs for Council could provide
- Major change in function of the public space approved by Council, sufficient to change the nature of the "place" and the work's intended place-making role (e.g. the change from a pedestrian-only plaza into a road)
- Formal petition by the artist that the character and / or function of the area for which the work was created has changed, to the severe detriment of the work of art and its public art purpose (e.g. a small-scale work created for a "vest-pocket" park in a residential area evolves into an industrial estate in which the vest-pocket park becomes a traffic island in the midst of heavy industrial vehicles).

The procedures for and conditions under which an artist's approval can be given for the removal and relocation of a public artwork are specified in a standard Council public art and placemaking project contract.

17. Council's Responsibility for Maintenance of Public Art

In commissioning public artworks, Council accepts the inherent responsibility to maintain the work of art and its surroundings in a manner which:

- Is consistent with the design intent of the work
- Does not significantly inhibit or alter the intended perception of the work
- Is in accord with the instructions contained in artist's maintenance manual for the work, whose annual requirements will have been assessed and approved prior to the work's fabrication as being appropriate and within Council's financial and human resources.

Council also accepts that making provision for proper upkeep, maintenance, and minimisation of vandalism includes the requirement for forward identification and cost planning of the progressively increasing annual cost of public art maintenance as the number of commissioned works grows.

This requirement shall be fulfilled through the PAAC preparing a Three-Year Plan identifying the annual and projected future costs of cleaning and refurbishment of each work of public art and its immediate surroundings.

Council recognises that one means of continuing to commission artists for works of art in public places without escalating annual costs for maintenance and vandalism prevention is the commissioning of work with guaranteed de-accessioning after a specific time period, usually five years or ten years. This guarantee, known from the outset of the commissioning process, allows the artist to use less durable materials, often thereby lowering commission budgets, and removes the onus of long-term conservation and preservation of structural integrity of works.

Council agrees to experiment where appropriate with this method, which also potentially provides more work for contemporary artists by increasing the frequency with which commissions are given for important public spaces in the city.

18. Education & Training Opportunities

Council acknowledges the value of its Public Art and Placemaking Program as a unique educational resource and will seek ways to maximise the education, training and professional development opportunities presented by each public art project. All public art commissions including those to professional artists, craftspeople, and designers living outside the Newcastle area will be planned and implemented where possible with education and training components to transfer skills and experience to the Newcastle community and particularly emerging artists. An educational component of a public art project could include seminars and presentations at Newcastle's arts educational institutions, artists' floor talks or skills workshops. The education and training component of public art projects will be developed and implemented in consultation with Newcastle Regional Art Gallery and Newcastle's arts educational institutions.

The Program will also seek to provide opportunities where possible for "on the job training" by engaging a Newcastle emerging artist or student as a paid or volunteer project assistant during some portion of the commission. These opportunities will be negotiated with the commissioned artist on a project by project basis and could be advertised through Newcastle's arts educational institutions.

The Program will also endeavour where feasible to ensure that the commissioning process includes opportunities for emerging artists to submit schematic designs and that emerging artists are represented in the spread of commission types across the Program.
