

APPENDIX 4: CHECKLIST FOR ARTISTS INVOLVED IN PUBLIC ART COMMISSIONS

Public art projects may involve diverse parties and it is important that each party understands the roles and responsibilities of all those participating.

The professional status and role of the artist needs to be recognised and defined and, in turn, the artist needs to ensure that they conduct their business in a professional manner. Generally, the role of the artist would be outlined within the artist's brief for the commission. This role may be further negotiated and defined, as the subsequent design development and project commissioning stages are resolved.

The following checklist is intended as a guide for artists. It raises a number of potential considerations to be addressed before making the commitment to undertake a public art project. It is not definitive and is meant as a starting point only. The commissioning Council may also find it useful when considering and developing a project.

Contractual arrangements

Generally, a public art commission is undertaken by entering into staged contractual arrangements covering concept design, design development and commission implementation.

Initially, a Concept Design Agreement between the Council (the commissioner) and the artist is entered into, engaging the artist to prepare a concept for a prescribed fee.

If the design proposal is to be advanced, an agreement to develop the concept is signed. This may be an extension of the Concept Design Agreement (Appendix 2), which makes provision for the design development, or it could be a separate but related and consistent agreement. During design development, the artist is required to resolve specified issues or further develop the concept and prepare a detailed budget. The material prepared at this stage, including the budget and proposed implementation timeline, forms part of the subsequent Work of Art Commission Agreement (Appendix 3).

The Work of Art Commission Agreement engages the artist to fabricate, and possibly install, the work.

A contract is legally binding therefore parties need to be aware of what they are agreeing to and the potential implications.

It is acceptable to negotiate terms and conditions within a contract. The commissioning Council may have limited experience working with artists and if they are new to public art commissioning there may be some indeterminate issues.

The Arts Law Centre of Australia, based in Sydney, may be able to help with preliminary contractual advice, and can be contacted on (02) 9356 2566. Their website is <http://www.artslaw.com.au>

The National Association for the Visual Arts Ltd has published *The code of practice for the Australian visual arts and craft sector*, which contains information relevant to the commissioning process, including contracts, and can be viewed at <http://www.visualarts.net.au>

Contractual commitments

It is essential that all the implications of the contract be understood, which may require legal advice. Some issues that may need consideration include:

TIME

- Is the timeline for the design stage realistic and achievable?
- Is the proposed timeline for the fabrication and installation realistic and achievable?
- Will any penalties be imposed if the project is not completed within the timeline?
- Are there any issues that will impact on availability to participate/deliver?
- Are there external factors that may impact on the timeline – holidays, industry down time?
- What will be the impact if subcontractors do not meet deadlines?

PROJECT BRIEF/PERSON SPECIFICATION

- Is the brief clear about all aspects of the project – the objectives, outcomes, roles of all parties and the terms and conditions under which the project will be advanced?
- What is the role of the artist in the project? Is it clearly defined? What skills are required?
- Does the artist have all of the skills and abilities to undertake the project? Is there provision to buy in the additional necessary skills?
- How complex are the administration aspects of the project? Has sufficient time been allocated?
- Is the artist well matched as a project participant, given the skills and outcome required?

BUDGET

- What fees are paid to the artist during the various stages of the project?
- Is it clear what items need to be included within the total available project budget?
- Is the proposed budget sufficient to achieve the requirements of the brief?
- Is the commissioner flexible as to how the budget is broken down or has a fixed fee for the artist's fee component been imposed?
- Is the artist obliged, through prior arrangement, to contribute a proportion of the budget to an agent or gallery? Is this affordable within the demands on the available budget?
- Is there any in-kind support available for any stage of the project, especially site preparation and installation? If so, is this advice in writing and does it form part of the contract?
- Is the proposed schedule of payment appropriate? Are the upfront funds sufficient for materials to be purchased and to support the artist while undertaking the commission?
- Is a warranty period applicable? Will funds be retained during this period? What percentage of the budget is proposed for this purpose?

PROJECT MANAGEMENT

- How will the budget and financial aspects of the project be managed?
- How will the administrative aspects be undertaken and delivered?
- Are the skills of another party needed to assist with some aspects of project management?
- Has an accurate implementation schedule been prepared? What external factors will influence it, such as the timing and delivery of work by others.

INSURANCE COSTS

- Has responsibility for the various insurance covers that may be required been clarified? (For example, risk of loss or damage, public liability, professional indemnity and Workcover.)
- Has responsibility for insurance been established? (For example, materials, work in progress, transportation and installation – until practical completion and handover, at

which point the responsibilities are generally transferred from the artist to the Council.)
Has this been outlined in the contract? Are the relevant insurance arrangements and indemnities covered by installation and fabrication contractors?

REMOVAL OF THE WORK FROM DISPLAY

- For how long does the commissioner agree to display the work in situ?
- Should the work of art be reviewed after an agreed period of time?
- Is there a clause in the contract addressing the circumstances to allow for a work to be moved, relocated or de-accessioned if, for example, a building is being redeveloped or an outdoor location is being altered, which would compromise the work and the artist's intent?
- Who should be the contact if the commissioner needs to negotiate the removal of a work of art from the public realm – the artist, gallery representative, other organisation?

See Contract Considerations, page 24.

See Appendix 5: Checklist for Artists Making an Expression of Interest.

See Appendix 6: Budget Preparation Checklist.