



# PUBLIC ART

**making it happen**

**commissioning guidelines for local councils**



**Artist:**  
Aleks Danko  
and Jude Walton

**Lighting design:**  
Bluebottle

**Landscape consultant:**  
Viesturs Cielens

**Title:**  
*Lie of the Land*

Kanmantoo stone, granitised sand, kangaroo grass (*Themedia triandra*), black mallee box (*Eucalyptus porosa*), lighting installation

**Location:**  
Sir Donald Bradman Drive,  
between the Hilton Bridges  
and West Terrace, Adelaide

**Date:**  
2004

**Commissioning parties:**  
The Department of Transport,  
Urban Planning and the Arts;  
Adelaide City Council

This Centenary of Federation project consists of 25 stone structures, extending approximately 15 metres into the Park Lands. Set amongst plantings of native trees and grasses and illuminated at night, *Lie of the Land* recognises Indigenous history and responds to themes of reconciliation and cultural diversity. Consultation with a broad variety of stakeholders including native title applicants was required to realise this project.

**Photo:**  
Alex Makeyev



# Acknowledgements

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**Government of South Australia**  
Arts SA



**Local Government Association**  
of South Australia

Arts SA is a division of the Department of the Premier and Cabinet within the South Australian Government. It provides leadership and strategic development for a strong and sustainable arts and cultural industry in South Australia.

The PA&D team together with the Ministerially appointed Art for Public Places Committee guide and support the development of innovative public art projects. No liability is accepted for projects commissioned with the assistance of Arts SA or through the use of this document.

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All photos by Arts SA unless otherwise indicated

## Overview

South Australia has many outstanding examples of public art.

Public art is about artistic expression, whether reflecting history, a local story or an issue of the time. It adds immeasurably to a community's sense of place and identity.

Increasingly, artists are being engaged to work on such projects, from major sculptural installations alongside buildings and open spaces to integrated details and furniture in specially designed recreation areas, to interpretive signage within heritage precincts. The goals and objectives informing the commissioning of these works are as different as the projects themselves, and so are the processes and commissioning models through which they have been achieved.

The goals and objectives that both motivate a commission and shape its development include, to:

- enhance an environment
- complement the work of urban design professionals
- engage with community members
- create opportunities for artists
- contribute to place making
- address Council strategies and policies.

In realising such commissions, artists are required to respond both creatively and conceptually to numerous issues, such as:

- the relationship of the work – through its form, scale and materials – to a particular location
- a given theme, issue or event
- the implications associated with works that are temporary
- consultation with the community.

## Purpose of the document

This document has been produced to guide the development of quality public art projects.

The checklists contained within it are to help commissioning agencies develop and implement projects involving the work of artists and design practitioners, by employing best-practice approaches.

The checklists are designed to guide commissioning agencies through a process with which staff may be unfamiliar. They are meant as starting points, recognising that each project presents its own individual requirements and issues. Whatever the project, asking the right questions will help to identify the issues and clarify the objectives. Each checklist can stand alone, but it is intended that they be used in conjunction with one another to inform the commissioning approach.

Writing an artist's brief, applying various models to identify and engage artists, assessing the design proposal and publicising and launching the project are among the areas covered. The contract models flag current issues and concerns and are provided as a reference, although they may be adapted and used.

Further, the checklists are meant to encourage commissioning agencies to think more broadly when planning urban development projects. This includes how the involvement of an artist may add value to and complement other work being undertaken. Consideration of how an artist's involvement in the public realm can be integrated within broader Council strategies is encouraged.

Many arts consultants specialise in the development and management of public art policy and projects, and can be approached for potential involvement in a commission. Arts SA's PA&D team is available to discuss project initiation and development issues and provide advice on public art commissioning. Also many qualified and experienced artists work on public realm projects and could assist in project initiation discussions.

## Definition

Public art is regarded as the artistic expression of a contemporary art practitioner presented within the public arena, outside the traditional gallery system, where it is accessible to a broad audience.

For the purposes of this document, the term 'public art' includes 'design', with the elements designed by either an artist or a design team, which incorporates the creative input of an artist.

The public arena refers to both indoor and outdoor spaces that are accessible to a wide public, including parks, open plazas, road reserves, civic centres and library foyers. Works of art in the public arena take many forms, including paintings, prints, murals, photography, sculpture, earthworks, details in streetscapes, performance, installation, sound works, text, audio and multimedia. They may be permanent, temporary or ephemeral.

Some examples are:

- a decorative detail or a work of art integrated into the fabric of a building
- a sculptural installation located in an open space
- text or poetry inscribed in a footpath or park bench
- an environment where one can sit and contemplate
- a sculpture commemorating an event
- an image on a billboard or a neon sign
- a mural, a footpath design or a wall relief
- a garden or landscape, which reflects or interprets broader concerns
- a fountain or a specifically designed water course
- interpretive signage reflecting the past or present
- a subtle intervention in an unexpected context
- a performance or multimedia presentation.

## Descriptors

Artists can contribute to the public realm in numerous ways, the outcomes of which may not always be readily identified as art. For example, they may have broad design or conceptual input into the overall presentation of a public space, conceiving the landscaping, paving details and furniture, possibly in collaboration with other design professionals.

The descriptors that follow indicate the diversity of approaches to and outcomes of public art projects. As a functional item of furniture may also be decorative and integrated into the environment, for example, there is some overlapping, which may increase understanding of what can be achieved with, and help determine objectives for, a public art commission.

Public art projects can be works that are:

*Functional:* where the primary purpose of the art or design element is utilitarian, such as seating, lighting, furniture, bollards, signage, rubbish bin surrounds, window treatments, reception areas, door handles and carpets. *Can also be decorative, integrated or site specific.*

*Decorative:* where the primary purpose is to aesthetically enhance an environment or structure, such as incorporated imagery or sculpture, paving elements and lighting. *Can also be functional, iconic, integrated or site specific.*

*Iconic:* a stand alone or significant work, where the artist's approach is largely independent of other considerations – 'art-for-art's-sake'. Examples include sculpture, water features, lighting or multimedia. *Often site-specific.*

*Integrated:* works that are fully incorporated within the design of the built or natural environment. Integrated works may include floor and window design, lighting, landscaping and associated elements. *Can also be decorative and/or functional.*

*Site specific:* designed specifically for, and responsive to, a particular site through scale, material, form and concept. *Could apply to all listed categories.*

*Interpretive:* where the primary purpose is to describe, educate and comment on issues, events or situations. Examples include signage, pavement inlays, sculpture, seating, landscaping, murals and text based work. *Can also be functional, decorative, iconic and site specific.*

*Commemorative:* where the primary purpose is to acknowledge and recall an event, activity or person important to the local community and its visitors. Examples include sculpture, murals, pavement details and gardens. *Could apply to all listed categories.*

*Temporary:* where the work is not intended to be permanent. A piece or event may be momentary or remain for a fixed time. Wide-ranging outcomes are possible and include performance, garden planting, text, installations and multimedia.

## Benefits

The benefits of public art are wide ranging. Specifically, public art:

- contributes to a Council meeting its broader policies and strategies as they relate to the community, social development, the environment and planning. It is also an opportunity for Local Government to present a different 'face' to the public
- helps create an urban environment that reflects pride. Works of art can become familiar features generating a sense of ownership, a sense of place and helping cultivate community identity. Through public art, children and young people may come to love a city and appreciate art more broadly
- increases awareness and promotes expression within the community through public debate. It can encourage the viewer to understand and respect various community members and groups
- enables recognition of and respect for links between individuals and the environment. It can also help in interpreting issues and addressing concerns
- delivers a range of outcomes through community involvement. These include increased community participation and engagement, opportunities for creative and practical skills development and increased social capital
- offers insights into issues, through the communication, research and expression of artists. The ideas presented in works of art can enrich cultural experiences while providing interpretation and access for people with disabilities
- enriches the every day experience. Art in the public arena can be chanced upon by accident; it is free to observe, there are no class or social barriers
- offers visitors insights into regional identity, and helps to create regional distinctiveness through the unique connections between works of art and their environments. Local materials and imagery can become features, local traditions and communities can be celebrated, and cultural tourism benefits can be realised
- provides meeting places and focal points. It can enhance public spaces, making them more attractive, and encourage people to experience and enjoy them
- involves the viewer in interpreting and understanding. The ideas of the artist can refer to the site, the community, the past or future. Public art can communicate many things and create meaning within the urban environment
- creates diverse employment and professional development opportunities for artists, fabricators and associated professionals, and adds value to the built environment.

Examples of places that may benefit from public art are:

- city squares, town halls, community and civic centres
- gateways, entrance routes and transport corridors
- main streets and shopping precincts
- parks, recreational reserves and swimming centres
- hospitals and research centres
- law courts, correctional facilities and police stations
- schools and educational institutions
- railway stations, transport hubs and car parks
- theatres, markets, churches, libraries and other major public spaces.

## Role

The artist's role in a public art project can be extensive and multifaceted. Many projects have a number of parties involved, such as advisory panels, which may include representation from community and interest groups, government departments, developers, architects and planners.

The artist may be required to:

- consult with and involve the community
- respond to numerous issues defined in the brief, such as interpreting history or responding to local community values
- manage large budgets
- liaise with engineers and fabricators in the design and costing of the artwork
- consider risk management and assessment issues
- manage fabrication and installation with subcontractors
- make public presentations to community groups, stakeholders, Council meetings
- work in collaboration with other artists or design professionals, such as architects
- undertake project evaluation and report writing
- complete funding applications or seek project sponsorship.

When defining a project and establishing the brief, it is crucial to determine the scope of the artist's role. This helps in articulating the role of Council staff and elected members and in setting the artist selection criteria. In turn, the artist will be able to determine whether they have the skills required or whether they should set up a team or partnership to assemble complementary skills and experience.

The National Association for the Visual Arts has produced a Code of Practice, which includes information about project commissioning and advice on fees for artists or designers.

See Resources, References and Funding, page 49.

## Approaches

An artist can be commissioned in various ways, depending on the nature of the public art project. The process inherent in the approach is important to informing and realising the project. While the process for the community consultative or community participatory approaches can be regarded as important as the resulting work of art, achieving a quality final product is generally the major objective.

Approaches include the following:

*Individual artist:* where an artist is engaged to develop a concept in response to the brief, which may be conceived as a component of a broader redevelopment project undertaken by other design professionals. Often the artist will subcontract others to help fabricate and install the work. Projects may involve artists being engaged as members of or consultants to project scoping or master planning teams, where their contribution may be to identify potential art and design opportunities, and themes and approaches within an overall plan.

*Collaborative:* where the project is realised by a design or artistic team, rather than the creative vision of an individual artist. The design team may involve other design professionals such as architects, landscape architects or graphic designers, or may be a team of artists working in collaboration.

*Community consultative:* where consultation with relevant community members informs and influences the project, to varying degrees. Community may refer to the broader public users of a space or a more specific section of the community, such as a local school population.

*Community participatory:* where members of a community actively participate in the design and fabrication of a project. Generally, such projects are regarded as community art and are guided by an experienced community artist.

## The brief

Developing the brief to which the artist responds is the first step to achieving a successful project. The brief outlines the objectives and sets the framework for the project, and the requirements identified in it will inform the commissioning process, from the selection of the artist through to concept design and artistic outcome.

If community consultation and engagement is a significant factor, this criterion will be included within the brief. It will have an impact on the selection of an artist, inform the design development and help in setting the fees. In turn, it will influence the way in which the artist approaches the project and the resources required to conduct consultation. That the final design reflects the community consultation is a given.

Alternatively, the Council may wish to commission a significant work of art in conjunction with an urban design project to improve amenity in an area. The brief for such a project would require the artist to have diverse skills and undertake a role vastly different than that for the community consultation model.

The fees to be paid to the artist will need to reflect the complexity of the tasks and the extent of their role in developing and delivering the project. Staff time and resources will need to be allocated to complex projects that have diverse partners. See The Artist's Brief, page 20.



**Artist:**

Greg Johns

**Architect:**

PP+ARM comprising Melbourne architects, Ashton Raggatt McDougall Pty Ltd in association with Adelaide based Phillips/Pilkington Architects Pty Ltd

**Title:**

*From the Horizon –  
To the Horizon*

Steel and stone sculpture

**Location:**

Marion Cultural Centre,  
Diagonal Road, Oaklands  
Park

**Date:**

2001

**Commissioning party:**

The City of Marion

This stand alone, iconic sculptural work was commissioned as part of the integrated signage for the new Marion Cultural Centre and installed during the overall building works. The work represents the letter 'I' in 'Marion'.

**Photo:**

Courtesy of the City of Marion

Public art commissions are generally implemented through a three stage process:

- concept design – when an artist (or a number of artists working in competition) is engaged to develop a concept in response to a brief, for which they are paid a fee
- concept/design development – when the selected concept is further developed and resolved, to address issues such as the budget, engineering and construction details, and issues raised by the advisory panel or by those involved in the approval or risk management process. A negotiated fee, generally a component of the total project budget, is paid for this stage
- project commissioning and fabrication – when the artist who conceived and developed the concept is commissioned to undertake or oversee the fabrication and installation of the work.

Commissioning models that engage the artist at the earliest possible stage of planning and development are regarded as the most appropriate, particularly for built environment development projects. Such an approach enables the artist to respond to the complexities of the broader project, to be thoroughly informed as to Council's overall objectives and to integrate their artistic contribution. Further, opportunities for artistic input, including within other areas of the development, are maximised, and contacts can be established and relationships built with architects and project managers.

Processes for selecting and commissioning artists need to be identified and assessed in relation to each project so that skills and abilities match the project requirements, enabling the desired outcomes to be achieved.

Open competition, direct competition and limited competition are three models for selecting and commissioning artists. Within these, approaches for identifying artists can vary. A multidisciplinary team, or a team of artists, may be most appropriate. Alternatively, a design team may be engaged, which in turn selects and engages an artist. The processes through which an artist is selected and the commissioning model followed can significantly influence the project outcome. See *Selecting an Artist*, page 27.

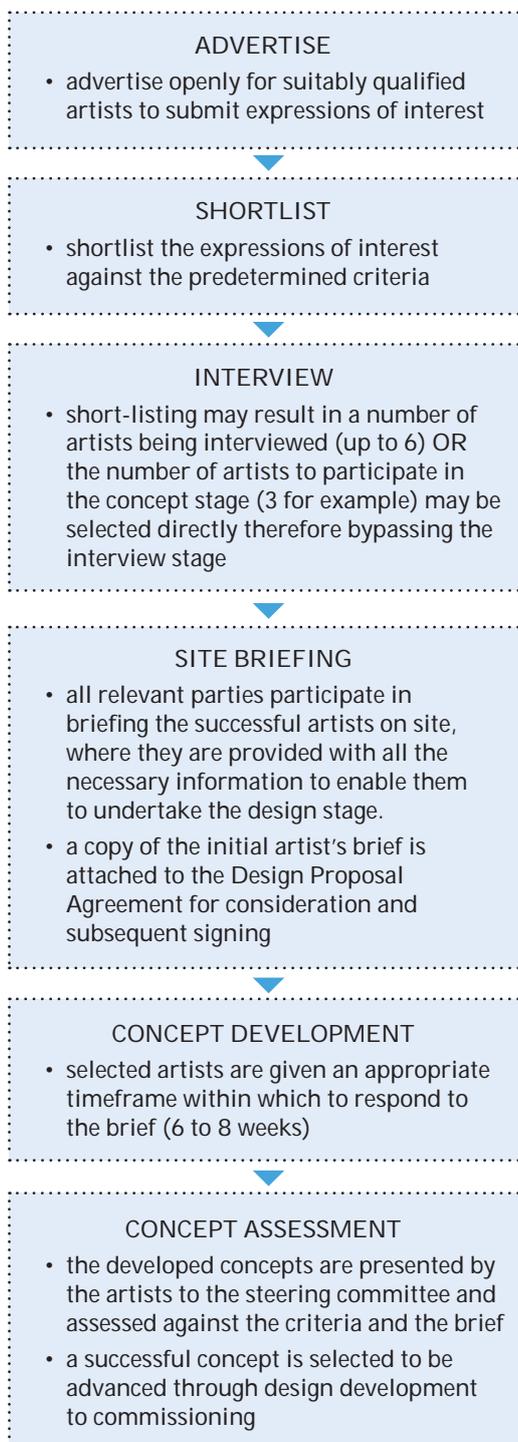
## Open competition

For publicly funded projects, especially those with a significant budget, an open competition model is preferred. The stages are:

- expression of interest request – an advertisement in appropriate publications invites suitably qualified artists to submit an expression of interest, with a minimum of two weeks allowed for responses. The artist may be invited to provide:
  - a response to the brief and the site
  - images of previous commissions and related artistic work
  - a list of the images detailing the commissioning agency, location of the work, materials used, size, collaborative partners (if appropriate)
  - a curriculum vitae (CV)
  - an indication of availability within the nominated timeframe
  - concepts are not required at this stage and would not be requested until a selected artist was fully briefed and had signed a contract dealing with intellectual property rights, fee payment and other issues
- shortlisting – the project advisory panel shortlists a limited number of artists (around six) against the criteria outlined in the brief. See *Selecting an Artist*, page 27.
- interview – the shortlisted artists are interviewed and two or three are selected. Alternatively, fewer (two or three) artists can be shortlisted and invited to go on to the concept design stage
- site briefing – this is conducted with the artist and relevant members of the advisory panel, at which Council's staff should also raise relevant issues
- artists' response to the brief – artists are given an appropriate timeframe within which to respond to the brief and address the requirements of the concept development. This may involve drawings and elevations, site plans, and possibly a maquette or model

- concept presentation – generally, artists are invited to present their concepts to the project advisory panel and answer any questions
- concept assessment – concepts are assessed against the criteria outlined in the brief and the most appropriate is selected. See *The Design Proposal and Final Concept – Assessing and Approving*, page 30.
- concept development – the selected artist is engaged to develop their concept, resolve engineering and budgetary details and other issues raised by Council. Preliminary risk assessment should be undertaken before design development, and consideration needs to be given as to who should be involved – risk and asset managers, legal and Disability Discrimination Act advisers. Ensure that an appropriate process is outlined and relevant parties are briefed and prepared to participate at the applicable time
- presentation of developed concept – this is presented to the advisory panel. Proposal details need to be carefully considered, especially in regard to the design development requirements. Further risk assessment needs to be undertaken, and expert feedback sought as relevant
- concept approval – if the panel (and any other nominated representatives) is satisfied with all of the elements of the developed concept, it recommends that the appropriate person or authority endorses it and, if appropriate, a presentation is arranged
- commissioning – resolve the commission details with the artist and commission the work.

## Open competition commissioning model overview



## Direct commission

In some circumstances, a direct invitation to a particular artist to undertake a commission may be appropriate. It may be that Council wishes to acknowledge the achievements of a particular artist by awarding them a major commission. Alternately, Council may have a firm idea of the type of artwork it wants to commission, hence limiting and prescribing the project outcomes. Such a project may best be achieved by extending a direct invitation to one artist, whose work is highly regarded and would meet the objectives.

However, open and transparent processes provide access for diverse practitioners and are generally preferred. Council's tendering policy will also influence the decision.

The process for direct commission is similar to the open competition model:

- establishing the brief and the selection criteria
- shortlisting from known artists or artists registered on a database
- selection of one artist, which may involve an interview
- brief the artist and engage them to develop a concept
- concept presentation, analysis, risk assessment
- design development and resolution
- concept endorsement and approval
- signing of commissioning agreement.

## Limited competition

Where project budgets are small or where a selection criterion, such as the requirement that the participating artist lives in a particular area, a limited competition model may be appropriate, whereby a select number of artists are invited to participate in the shortlisting, or take part directly in the concept development stage.

Artists may be sourced from existing databases, galleries or listings of previous project applicants. Shortlisting is undertaken against established criteria before a select group is invited to respond with an expression of interest or attend an interview. Alternately, shortlisting may select three artists directly and commission them to develop concept proposals.

Other stages are similar to those outlined above:

- establishing the brief and the criteria
- shortlisting artists without advertising
- inviting a select number to either express interest, be interviewed or develop concepts
- brief artists on site and commission concepts
- concept development
- concept presentation, assessment, selection, analysis, risk assessment
- design development and resolution
- concept endorsement and approval
- signing of commissioning agreement.

## BENEFITS

There are numerous benefits in commissioning a limited number of design proposals through a competition model. These benefits include:

- giving the commissioning agency the opportunity to consider a range of responses to the brief and the site, enabling the selection of the most appropriate concept
- offering professional development opportunities to the artists who can take risks and exercise artistic freedom
- providing educational benefits and enhanced insight for selection panel members through being presented with the artists' concepts
- informing the community of the artists' role and vision through public displays (however, this approach would need to be agreed through the contractual arrangements).

A disadvantage of the model is that some artists are not prepared to participate in a competitive situation, resulting in a limited pool from which to select.

## Buying an existing work

Buying an existing sculptural work to be placed in the public realm may be an option, but such a decision needs careful consideration. The work of art would not be site specific, nor would it respond to the range of criteria and issues that a specifically commissioned artwork would. Further, it may not have been engineered or fabricated to withstand the conditions to which it would be subsequently permanently exposed. An additional factor is that there would be no opportunity to develop the design, when issues regarding the preliminary concept could be assessed and addressed.

However, if the option is being considered criteria should be established much the same as for commissioning a work. See *Gifts and Artwork Proposals*, page 47.

A contract is designed to address the interests of both parties, in this instance the Council, as the commissioning party, and the artist.

Public art projects are often governed by two separate contracts, namely:

- Concept Design Agreement – whereby the artist agrees to create a concept design and, if the commission is to proceed, to further develop and amend the concept design. See Appendix 2: Concept Design Agreement.
- Work of Art Commission Agreement – whereby the artist agrees to fabricate and, usually, install the work as described in the developed concept design. See Appendix 3: Work of Art Commission Agreement.

Given that each project will differ according to the goals of the Council and project-specific objectives, there are difficulties in seeking to rely solely on a proforma contract. Certain clauses may not be applicable in every case, or alternative clauses may need to be inserted due to the individual needs of the parties involved. As with any contractual arrangement, the terms and conditions can be negotiated.

This discussion does not intend to provide a complete legal framework. Rather, it highlights the issues that both the Council and the artist will need to consider when the contract is being developed and negotiated. It is recommended that legal advice be sought when commissioning the work of an artist. As well, a discussion with a representative from the Local Government Association's Mutual Liability Scheme may be helpful in resolving contractual requirements.

The following information is best understood in conjunction with the proforma contracts in Appendices 2 and 3. There are other models, such as those available through the Arts Law Centre of Australia or Arts SA, which may be useful reference points when developing a specific agreement. The National Association for the Visual Arts, in its *Code of practice for the Australian visual arts and craft sector*, has published a contracts checklist. The Australian Copyright Council has published a series of information sheets, including those addressing moral rights and copyright issues. See Resources, References and Funding, page 49.

## Contractual documents

The contractual relationship between the Council and the artist will be governed by the following documents:

- artist's brief (Stage 1)
- design development requirements (extension to Stage 1)
- commission brief (Stage 2)
- General Conditions of Contract
- Schedule to the Contract
- Annexures to the Contract.

It is imperative that the general conditions of contract are supplemented by a detailed outline of the project requirements. In Stage 1 of the project, this document is referred to as the artist's brief and must be annexed to the Concept Design Agreement. See *The Artist's Brief*, page 20.

As the project progresses, and if the artist is requested to further develop their concept design, the contractual arrangements will need to incorporate Council's design development instructions in addition, or as an amendment, to the original artist's brief. The artist's concept proposal is also incorporated into the contractual arrangement.

In Stage 2, the artist's brief, with the Council's additional instructions regarding the development of the concept design, is referred to as the commission brief. The commission brief must be annexed to the Work of Art Commission Agreement. The artist's developed design is also annexed to the Work of Art Commission Agreement.

The artist's brief will form part of the Concept Design Agreement and the commission brief will form part of the Work of Art Commission Agreement.

## Engaging the artist

### STAGE 1: CONCEPT DESIGN AGREEMENT

The Concept Design Agreement outlines the terms and conditions regarding the concept design creation, including payment arrangements, submission dates and copyright ownership. The agreement also incorporates provision for the artist to further develop or amend the concept design if the commissioning party requests it.

The further development of the concept design generally involves resolving and fine tuning practical issues, such as engineering, budget and project delivery timelines, together with any risk management issues, rather than amending or modifying the concept. There may be circumstances, however, when the commissioner requires that the concept design be amended or developed from an aesthetic or conceptual perspective. Such requests need to be carefully considered to ensure the integrity of the artist's work is not compromised.

The Concept Design Agreement should address at least the following issues, although some of these may be incorporated within the attached artist's brief:

- outline who is commissioning the work and if different to who is paying
- define the form that the concept design will take
- state the number of concept designs being commissioned
- identify when the concepts must be submitted or presented
- nominate a time period within which the commissioning party must accept or reject the concept designs, or request they be developed or amended
- state the fee payable for the concept design
- outline if the fee is payable when the agreement is signed, or when the designs are submitted, and state what the invoicing and payment arrangements are
- ascertain who will pay for any expenses incurred, such as material costs and travel to the site
- state who will own the designs and the copyright if the commission does not proceed.

If the Council rejects the concept design, the contractual relationship will come to an end upon payment of the design commission fee. However, if the Council approves the concept design and requests that it be developed, then the artist must

do so subject to the commissioning party paying an additional design development fee. This is often a component of the total available project budget, the details of which would be outlined in the artist's brief.

The Concept Design Agreement can be executed again to accommodate the design development phase in the commissioning process, by attaching a concept approval statement together with a list of the requirements and issues to be addressed. The schedule can be revised to reflect submission dates and fees for the next stage and the execution pages signed again to reflect the extended contractual arrangements.

If the Council approves the developed concept design, the artist may be invited to enter Stage 2 of the project by negotiating and executing a Work of Art Commission Agreement.

### STAGE 2: WORK OF ART COMMISSION AGREEMENT

The Work of Art Commission Agreement locks in the implementation budget, the structural and engineering approach and all other fabrication details as resolved within the previous concept design and design development stage, including the implementation timeline.

In many cases, the artist will engage subcontractors to help with the fabrication and installation of the work, which presents a number of issues, particularly in relation to insurance requirements.

The many issues addressed by the agreement include:

- the description of the proposed work, for example, dimensions, materials and engineering details, which is usually addressed by annexing the developed concept design to the general conditions of contract
- a description of the site for the work
- a schedule for payments
- how project completion is determined
- provisions enabling access to the site by the artist
- those responsible for the delivery of the work
- the completion date
- ownership of the work when completed
- copyright ownership
- how the parties may terminate their relationship
- the rights of the artist with respect to payment
- the procedure to be followed in the event of a dispute.

## Contract commission fee

Payment to the artist will generally be made in the following stages:

- The design fee must be specified in the schedule to the Concept Design Agreement. Unless otherwise agreed between the parties, it should be paid to the artist within 14 days of submission of the concept design.
- The design development commission fee is negotiated between the artist and the commissioning party in the event that the artist is required to develop their concept design. Generally, half the agreed fee is paid upfront and the other half within 14 days of the developed concept design being submitted.
- The commission and fabrication fee is negotiated between the artist and the commissioning party and must be specified in the schedule to the Work of Art Commission Agreement. It is common practice for the fee to be paid in the following instalments:
  - one third to be paid within seven days of the execution of the Work of Art Commission Agreement
  - one third to be paid at an agreed date during the fabrication process, which generally relates to a completed stage or certain progress in the fabrication
  - one third to be paid within 14 days of the commissioning party issuing an approval statement confirming that the work has been completed and installed in accordance with the commission brief and the general conditions of contract.

The Council may want the right to retain a small percentage of the commission fee for a short period of time after installation to cover any costs that might arise because of faulty or inappropriate workmanship, or fabrication flaws that only become apparent after installation.

## Ownership of intellectual property

Intellectual property rights in a commissioned work of art, such as copyright, generally remain vested in the artist. However, a licence may be negotiated as part of the commissioning agreement to enable the commissioning party to publish promotional images, or to reproduce the work in a two-dimensional form on a not-for-profit basis, for example. Agreements may also be drafted to provide for the transfer of intellectual property rights to the commissioning party.

Generally, commissioners do not acquire the rights through the contract to reproduce the work of art in a three-dimensional form, or to use the image of the work as a logo design or letterhead, for example. If such a use is desired or intended it should be negotiated at the time of commissioning, or preferably the intent outlined earlier in the commissioning process within the artist's brief. Such a requirement is likely to impact on the fee paid to the artist and may involve the payment of royalties.

## Moral rights

Moral rights under the *Copyright Act 1968* are the rights of an author to have their work treated in a certain way. There are three kinds of moral rights, namely:

- a right of attribution
- a right not to have authorship falsely attributed
- a right of integrity (the right to not have an author's work subject to changes which may be derogatory to the author's reputation).

While it is not necessary for an artist or creator to expressly preserve their moral rights, contracts may include a clause to this effect. It should be noted that moral rights apply to people and not to corporations. Unlike copyright, moral rights are personal property and cannot be transferred.

## Insurance and risk management

This is an important issue particularly in relation to fabrication and installation. While it is standard for artists or their subcontractors to be required to have public liability insurance during the fabrication and installation of a project, professional indemnity insurance is not readily available to arts practitioners and can be difficult for them to obtain.

Depending on the nature of the project, it is likely that the artist will seek professional advice, in the form of engineering or technical specifications, from an appropriately qualified and insured professional. Through the contractual arrangements, Council should ensure that only those with appropriate professional indemnity insurance undertake any technical and subcontracting services. This can be achieved by requiring the artist to seek the prior consent of the Council before engaging any subcontractor. The Council should request proof of the subcontractor's relevant insurance documents, as appropriate.

Insurance requirements should be considered on a project-by-project basis. Project outcomes may be assessed as presenting greater or lesser risks and the requirements for insurance adjusted accordingly. Many factors influence the type of cover and the length of time for which it may be required, and who will provide it in the long term.

The National Association for the Visual Arts, in its *Code of practice for the Australian visual arts and crafts sector*, states that the party who is in the best position to manage and control the risks, and who is able to obtain the cover at a reasonable cost should assume responsibility for the insurance cover. The Code of Practice also indicates that when professional indemnity cover is required, its cost should be included as a line within the project budget allocation, recognising that artists may not be able to secure the relevant cover.

Where the artist uses employees in the fabrication and installation of the work, the contract will need to address Workcover requirements.

The terms of the contract may also require the artist to comply with any Occupational Health, Safety and Welfare (OHS&W) policies of the Council, in addition to the OHS&W Act. Any such policy should be annexed to the contract.

### Contract representatives

In most instances, the commissioning party (the Council) will need to appoint a person to act as its contract representative. As well as being responsible for the day-to-day management of the project, the contract representative may have the task of preparing the artist's brief, either individually or in conjunction with an advisory panel.

Likewise the artist may wish to appoint a contract representative, particularly where the artist is not simply an individual artist, but rather a number of artists, or an organisation or business entity. In those situations it is important that the contract specifies a point of contact to facilitate communication between the parties.

### Impact of existing arrangements

The artist may have an existing contractual arrangement with a gallery or dealer that will impact on the terms and conditions negotiated for the commission. The gallery may undertake a leading role in negotiations and project management on behalf of the artist, for example. The artist may be contractually obliged to pay the dealer a percentage of fees earned.



<b>Artist:</b> Hossein Valamanesh Angela Valamanesh	Identified as an artwork opportunity during stage one of the North Terrace redevelopment this water feature was commissioned to replace the Bonython Fountain. The work was inspired by the opalised vertebral column of the Ichthyosaur, an extinct marine reptile found in the sea that covered the interior of Australia more than 100 million years ago and on display in the South Australian Museum.
<b>Landscape architect:</b> Taylor Cullity Lethlean	
<b>Title:</b> <i>14 Pieces</i>	
South Australian red and black granite, lighting, water installation	
<b>Location:</b> North Terrace, Adelaide	
<b>Date:</b> 2005	
<b>Commissioning parties:</b> Adelaide City Council and the South Australian Government with project support from Arts SA	<b>Photo:</b> Italo Vardaro

## Making it happen: guidelines and checklists

The guidelines and checklists in the 12 sections that follow are at times in the form of statements and at others are posed as questions, and are designed to direct actions toward the commissioning of quality public art and to verify that action.

This section poses issues and questions for the early stages of the project, and informs the development of the artist's brief. It is important to remember that no two projects are the same and different considerations need to be addressed in the development of each.

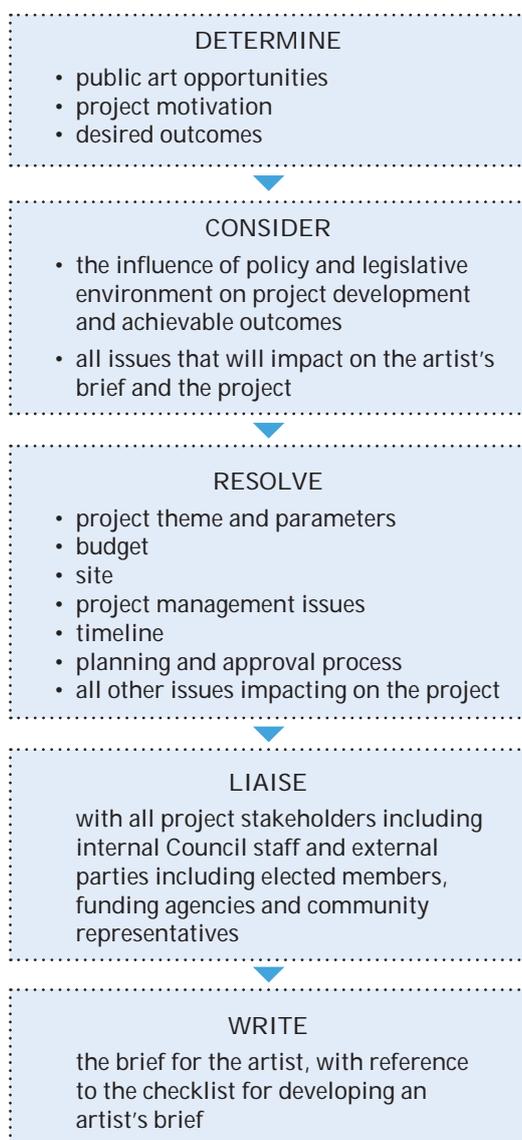
Thorough planning, establishing clear objectives and ensuring that stakeholders' motivations are reflected in the brief are important to achieving a successful outcome for all parties, including the Council, the artist and the community.

*How is a public art project initiated? Are there plans and strategies in place that will assist in instigating a project, or help inform Council's response to community proposals? How will the project be developed and realised?*

There may be broader legislative requirements, Development Plans and Council policies to consider – those that impact on urban design decisions, public infrastructure, capital works, asset management, risk management and open spaces. Placing public art within Council's planning and development process, where it can complement urban and architectural design initiatives and add value to existing developments, is a sound approach.

*What are the practical stages, such as approval processes and risk assessment? Who should be included in the initial discussions, project planning and management? Who needs to be consulted in the early stages to inform the approach? Who needs to be part of the overseeing project development panel?*

## Project initiation overview



## Preliminary considerations

- What is the motivation for considering a public art project?
- What will be achieved by commissioning an artist?
- Is the artist required to exercise artistic expression and interpretation to create a work of significant artistic merit, or are they to create functional elements for the environment?
- Is the artist to engage with the community in the design and realisation of the work?
- Will they explore and interpret historical references through their work?
- What level of support is available from staff or elected members? How will this impact on the advancement of the project through budgetary bids and approval processes? How can the support base be increased?
- How can the particular political environment be addressed to ensure the successful advancement of the project?

## Policy and legislative environment

What are the implications of the existing legislative and policy environment? Consider the influence of the following with regard to what can be achieved in a particular location:

- *Local Government Act 1999*
- *Development Act 1993*
- *Heritage Act 1993*
- *Native Title Act 1994*
- *Aboriginal Heritage Act 1988*
- *Construction Industry Training Fund Act 1993*
- *Occupational Health, Safety and Welfare Act 1986*
- *Copyright Act 1968*, incorporating moral rights for artists
- *Disability Discrimination Act 1992*
- Australian Building Standards
- anti-discrimination legislation.

Is the approach consistent with the following provisions? Consider:

- management plans for community land
- contracts and tenders policy
- public consultation policy
- strategic management plans
- development plans
- significant tree legislation
- asset management
- risk management policy and framework
- occupation, health, safety and welfare.

What strategies, plans and policies of Council are relevant? What existing parameters will influence the project?

Consider the potential impact of the following policies:

- cultural
- public art
- economic
- social
- recreation
- environmental
- lighting
- financial
- signage
- open space
- consultation
- capital works.

Consider:

- other requirements that will impact on what is possible and how it will be achieved
- whether there are budgetary considerations from a time or policy perspective
- whether there are policy guidelines that enable an effective response to a project proposal
- how the project relates to Council's capital works program
- how project evaluation will be undertaken to inform future projects or policy directions
- which Council staff need to be consulted to gain further information
- whether Council's marketing and communications staff should be involved from the early stages
- how Council's risk management approach will impact on the planning and development.

## Public art opportunities

- What are the parameters and opportunities for an artist's involvement?
- Is there scope to commission a significant stand-alone work of art, or is the opportunity restricted to smaller integrated elements?
- How will the work of art be used? What are the implications from a risk management perspective? Will it be interactive? If so, does this include climbing on the work? How does this impact on the engineering and structural requirements? Does the project, because of its nature and materiality, pose greater risks, in particular, does it incorporate water and encourage interaction with it? How will this be managed?
- Have the desired aesthetic, social, and community outcomes and objectives been identified? Are they realistic? (An artistic response may not solve urban design problems, for example.)
- How can broader Council strategies and objectives be addressed through public art?

## Budget

- Where are the funds coming from? What are the requirements of funding providers?
- What funding-related issues or criteria need to be reflected within the artist's brief?
- Is the funding sufficient to meet the project objectives? How can it be ensured that the project will not be compromised because of inadequate funds?
- Does the scope of the project need to be modified to achieve a successful outcome in relation to the available funds?
- What will be the value of the artist's fee for the design stage and subsequent stages? Is this appropriate in relation to the requirements?
- Are potential avenues of additional funding being investigated – grants, sponsorship, in-kind support? See Resources, References and Funding, page 49.
- Has the time involved in preparing an application to a funding body, which may involve complex funding guidelines and criteria, been taken into account, and does it influence a project's development?
- Have diverse funding sources been identified, in particular, for staged project development?

## Thematic considerations

- What will the work communicate, explore, reflect, question?
- Can the project be developed without requiring specific thematic responses?
- Are there historical aspects, events or local stories relevant to the site or region that should be remembered and reflected in the brief and the work?
- Is the work to be celebratory, monumental, historical, interpretive, interactive, engaging?
- What will the work say about the Council? Are there Council-related issues – goals and objectives, history, public profile – that will contribute to the theme?
- Has it been ensured that the brief is not overly prescriptive and gives the artist a great degree of artistic freedom? Do thematic considerations provide a sound starting point without defining what the outcome will look like?
- How can the siting of the work enhance the way people use the space?
- What are the relationships between the public you are addressing and the selected site?
- Does the site impact on the long-term ownership of the work?
- What will the relationship be between the work and the site?
- Are there any master plans for future development that need to be considered?
- Does the site impact on the ability of the project to meet broader objectives?
- Are there any site-related issues that will impact on what can be achieved through the work – climatic, risk, social, other?

## Management

- How will the project be managed on a day-to-day basis?
- Have project management tasks been identified? These include writing the brief, sourcing and selecting the artists, undertaking the site briefing, evaluating and selecting the concept proposals, notifying successful and unsuccessful artists, contract administration, and construction and installation supervision. Has the level of experience the artist brings to the project, and the subsequent impact on project management requirements and how it should be undertaken, been considered?
- Will a project manager be engaged or are staff resources and skills available?
- Who will be responsible for commissioning the work within the broader structure of the Council? Within which area will the project management sit? Is this the most appropriate? Is an internal management committee needed to ensure appropriate liaison and support for the project implementation stage?
- Will the artist be required to assume a project management role?
- Who should be on the project advisory panel to represent the stakeholders and undertake the artist selection? Is there adequate representation of those with arts expertise, which will make the task easier and provide credibility?
- Who will be the point of contact for the project within Council?

## Stakeholders

- Have potential partners, stakeholders, staff and elected members been consulted for their input, feedback and support to inform the project brief? What restrictions do these potentially impose?
- What support, skills and connections might the stakeholders bring to the project?
- What involvement should stakeholders have in the commission, for example, a role in writing or endorsing the brief, involvement in the project advisory panel?
- Are there community members or groups, or users of the proposed site, who should be consulted to enhance their sense of ownership of the project? How will this be undertaken? Will the artist be involved? Will another professional facilitate consultation?
- Which external stakeholders should be represented on the project advisory panel – representatives of the community, funding organisations, project sponsor, other?

## The site

- What factors influence the selection of the site?
- What implications and restrictions are imposed by a particular site – underground services, site access, land ownership and control, for example?
- How publicly accessible is it? Who are the users of the site? Is it the only site? Is it the most appropriate site? Are there other sites worthy of consideration?

## Advisory panel

- Does the composition of the project advisory panel reflect the tasks allocated to it?
- Have legislative requirements been considered if the panel is to make decisions on behalf of the Council rather than just provide advice to it?

*Note: the tasks allocated to the project advisory panel may influence its membership and the way it operates. An advisory panel may be appointed for the purpose of gathering experts in the area of public art who can provide professional advice to the Council and assist in selecting a concept and an artist to proceed to the commission and fabrication stage.*

*Where the Council wants to provide greater powers to the advisory panel, such as the ability to select the artist, endorse the artist's brief or make decisions on behalf of the Council then the advisory panel should be a formal 'Council committee' in accordance with Section 41 of the Local Government Act. In these circumstances, the Council needs to prepare the appropriate terms of reference with the view to describing the parameters of the advisory panel's functions, duties and powers, including its membership.*

## Timeline

- What is the timeline available for all stages of the project, including writing the brief, artist selection, concept development and approval, fabrication and installation?
- Is the timeline adequate? Will the project be compromised by insufficient time?
- Are there other factors that will impact on the available time, such as potential delays in the approval processes, industry down times, site works and access to the site?

## Planning and approval

- What is the approval process? Have the implications, particularly for the implementation stage (including timeline and budget) been understood?
- Is there a need for an urban planner to endorse the brief, or to participate as a member of the advisory panel?
- How will the concept be assessed for potential risks? What is the impact of this on the brief and the project? How will all relevant staff undertake risk assessment?
- Are there staff who should join the advisory panel or contribute to the development of the brief, regarding these issues?

- Has the potential value of establishing a reference group to examine the concept from a risk management perspective and before design development is commissioned, been considered? Does the group include a planner, building inspector and those responsible for the management of assets, cultural development and maintenance?
- How does Council's asset register impact on insurance and maintenance requirements and the associated requirements placed on the artist and Council's ongoing budget?

## Resolving the artist's brief

- Have questions an artist will ask been anticipated? Have they been addressed?
- Have the parameters within which the artist will work been provided without specifying what the resulting work of art should be?
- Have relevant stakeholders been invited to contribute to the development of the brief?
- Have all legislative, regulatory and policy issues been addressed?

*Note: The framework contained in the artist's brief will inform the development of the project brief. See The Artist's Brief, page 20.*

*When resolving the artist's brief, provide relevant information, but avoid being prescriptive about the artistic outcome. If a consultant or project manager is being engaged, they will also require a brief.*

## Project evaluation and monitoring

- Will the project be evaluated against a number of objectives, from a range of perspectives? See Project Evaluation, page 42.
- How will the work of art be monitored in regard to risk management? Who will report on accidents and incidents associated with the work? Who will observe and report on how the work of art is interacted with and used?
- How will the project be assessed to inform maintenance and conservation issues? How will the condition of the work be assessed on an ongoing basis?

A successful project can only be achieved with an accurate and thorough artist's brief. It should be easy to read and address the issues and questions that the artist/s is likely to raise. Generally, the briefing paper becomes an attachment to the contract and therefore its requirements become part of a legal agreement.

By preparing a brief that covers all of the relevant considerations, the artist has the information to design a work of art that responds appropriately to all the issues.

Following are factors to be considered when developing a brief. They are not definitive, and elements can be expanded or disregarded as they apply to a particular project.



**Artist:**  
Marijana Tadic

**Title:**  
*Contemplation*  
Mixed media installation

**Location:**  
Marino Esplanade

**Date:**  
2005

**Commissioning parties:**  
The City of Marion with financial support from Planning SA and artist fees and project support from Arts SA

*Contemplation* marks the northern entrance to Marion Council's section of the Coast Park project. The three sculptural elements tell a story of boats that have come to rest on the shore. Consideration of the surrounding environment was included in the artist's brief, and local land-care groups provided native provenance seeds and plants to revegetate the degraded cliff face which forms the backdrop to the work. Community members played a significant role in developing the project. The steering committee included Indigenous representatives, local residents and Friends of the Marino and Hallett Cove conservation parks.

**Photo:**  
Marijana Tadic

## Background

### COMMISSIONING AGENT/ORGANISATION

- provision of details regarding the commissioning Council
- issues relevant to the Council's history
- objectives of the Council in relation to the artwork commission
- any commissioning partners

### RELEVANT DISTRICT AND COMMUNITY INFORMATION

- population
- history
- geography
- industries
- the future

### BACKGROUND INFORMATION

- development of the project
- contributors to the brief, including stakeholders and community representatives
- other historical, industrial, cultural or anecdotal information that provides insight into motivations

## Site for the commission

### DESCRIPTION AND CHARACTERISTICS

- location
- history, cultural heritage considerations
- purpose, thematic considerations
- usage, visitation, audience
- how publicly accessible
- environment, surroundings

*Note: Attach relevant site maps, photographs, aerial photographs and topographical surveys.*

## LIMITATIONS

- legal regulations and restrictions, planning and development requirements, permits, implications of other legislative requirements
- access issues and restrictions
- obstructions (power cables, telephone cables, underground services, etc) – provide plans
- scale, design, colour, texture, material, thematic considerations
- structural and engineering considerations, mountings, fixings, footings
- climatic conditions including exposure to wind, rain, sun, chemical pollutants
- possible restrictions during installation, special safety requirements
- any other planned work for the site or the existence of a master plan for the area

*Note: The site's physical and practical limitations need to be considered, for example, in relation to services or traffic and pedestrian movement and access. Is another location more appropriate, where the demands on the work and the artist will be lessened enabling a more open approach?*

## ALTERNATIVE SITE (IF APPLICABLE)

- information as above
- comparative advantages and disadvantages

*Note: Include details of site plans, photographs, drawings and elevations, relevant historical materials, reports and evaluations and other relevant material as attachments to the brief.*

## The work of art

### CONCEPT

- motivation for the commission
- Council's broad vision (with care not to limit the artist's response)
- thematic requirements and considerations
- Council's and stakeholder's broad aims and objectives for the commission
- desired project outcomes

### TARGET AUDIENCE

- general, wide ranging or specific
- local, tourist or both

## AMBIENCE

- functional issues including the use of the space for other purposes
- mood – exciting, peaceful, contemplative, thought provoking, humorous, intimate, monumental, memorial
- size, scale, single or several elements
- to be viewed from long distances, short distances or both
- to be viewed, day, night or both, special lighting requirements
- relationship with site and surroundings
- colour, textural considerations

## MATERIALS

- environmental conditions that will affect the materials – wind, rain, sun
- durability of materials – ageing, life span
- compatibility of materials
- vandal resistance, robustness
- maintenance, conservation, cleaning issues
- possible relevance of local industries, any in-kind support with materials
- safety requirements in relation to materials
- relationship of the work to other surfaces and finishes, colours and textures
- conservation implications – use of materials and how they work with other surfaces
- recycling of existing relevant and available materials

## PRACTICAL CONSIDERATIONS

- standards or building codes that are applicable or relevant. Variances due to the artwork's scale, material and function
- accessibility for the artist during design and installation, and for the public, including disability access issues
- site specific climatic conditions that will impact on the work
- structural and engineering requirements
- site maintenance and cleaning routines that will impact on the work, for example, lawn watering and mowing, street sweeping and graffiti removal with associated equipment and access requirements
- risk management and safety considerations and requirements
- insurance requirements for fabrication and installation, including subcontractors
- desired life of the work of art

## Stakeholder consultation

- requirement for consultation with any stakeholders or community representatives – determine with whom
- objectives for community consultation
- the requirement for formal community consultation workshops, and the role of the Council in facilitating them

*Note: If relevant, ensure stakeholders have been consulted in the preparation of the brief and that their specific concerns and issues are addressed. Ensure there is a budget available to undertake any required consultation.*



### Artist:

Tony Rosella, Eileen Karpany, Darren Siwes, stone sculptor Donato Rosella

### Title:

*Kurna meyunna, Kurna yerta tampendi (recognising Kurna people and Kurna land)*

Mixed media installation

### Location:

Main entrance forecourt, Adelaide Festival Centre

### Date:

2002

### Commissioning parties:

The Graham F. Smith Peace Trust Inc. with funding and project assistance from the South Australian Centenary of Federation; the Adelaide Festival Centre Trust; the Myer Foundation and Adelaide City Council. Artist fees and project support from Arts SA

This Centenary of Federation project was commissioned to help promote the process of reconciliation between Indigenous and non-Indigenous people. The artwork took four years to realise, following a national call for expressions of interest, extensive consultation and design development. Installation was incorporated into the capital works program during the major redevelopment of the Festival Centre in 2002.

### Photo:

Courtesy of the Adelaide Festival Centre

## Budget

### TOTAL ALLOWABLE COST

- outline the total artwork budget, including whether it is GST inclusive or exclusive
- detail all costs to be incorporated within the allowable budget including materials, engineering, fabrication, site preparation, transportation, installation and clean-up, lighting, acknowledgment plaque, artist's fee, insurance and maintenance. Many of these issues will be detailed in the contract
- outline costs which are to be borne by the Council
- assess whether or not the budget is sufficient to satisfactorily meet the project objectives
- detail sources of funding, as relevant

### IN-KIND ASSISTANCE

- outline available in-kind assistance such as potential in-house technical support and engineering advice, installation and site works assistance and materials available

## Management and the advisory panel

### PROJECT MANAGEMENT

- determine how the project will be managed on a day-to-day basis
- state who the key point of contact will be
- consider the reporting relationships

### PROJECT ADVISORY PANEL

- consider who will be represented – from where, their interest in the project
- ensure all relevant and appropriate stakeholders are represented
- ensure appropriate arts representation and expertise
- list members names, positions, organisations, contact numbers, if relevant

### ROLE OF ALL PARTIES IN THE PROJECT

Determine the role/s for the following:

- selection panel/advisory panel, if different
- artist
- consultant/project manager
- community
- Council, and its various staff members, as project commissioner
- project architect
- stakeholders, participants, others.

*Note: Set out who will undertake what tasks and determine who is the point of contact for specific information.*

## Commissioning process and time schedule

### COMMISSIONING PROCESS – OVERVIEW

- the process to identify artists – advertise, database, other
- applicable eligibility criteria for artists
- the number of artists to be short-listed
- expression of interest details – outline what is required, when, where
- detail the selection criteria for assessing expressions of interest

### DESIGN PROPOSALS COMMISSIONED

- number of design proposals commissioned
- when commissioned – design proposal contracts signed
- requirements of the design proposal stage – concept paper, budget, cost estimates, time schedule, rough or detailed drawings, maquette and its scale
- fee payable for this stage
- submission timeline, concept presentation deadline
- concept design assessment criteria – essential and desirable, and criteria ranking
- risk assessment of the preferred concept – by whom, when in the approval process
- outline who will approve the final design proposal
- proposed timeline for acceptance of the concept and notification of the artist
- subsequent stages – design development, timeline, fee, approval process

### COMMISSION FOR WORK OF ART

- anticipated commission date
- budget (restate total budget) and scope of work within this figure
- desired completion date and launch date
- issues relating to site access and installation resolved
- schedule for payment of fees, if relevant

### PROJECT EVALUATION

- outline any formal project evaluation to be undertaken – by whom, issues to be addressed, artist's role in this, if any

## Further information

### CONTACTS

- names and telephone numbers of people to contact for further information

### OTHER

- any other information considered relevant

This checklist is not definitive, and elements should be expanded or disregarded as they are appropriate to a particular project. Use it in tandem with the other checklists and guidelines to inform the development of a project. See Appendix 1: Artist's Briefing Paper—Example.

To help artists respond with an expression of interest or develop a concept and prepare a budget, information is contained in:

- Appendix 4: Checklist for Artists Involved in Public Art Commissions
- Appendix 5: Checklist for Artists Making an Expression of Interest
- Appendix 6: Budget Preparation Checklist.



**Artist:**  
Gerry Wedd

**Title:**  
Temporary street banners  
Vinyl, steel cable

**Location:**  
Gouger Street, Adelaide

**Date:**  
2005

**Commissioning party:**  
Adelaide City Council

Funded by one of Council's Arts and Living Culture program public art grants, this artist initiated project was installed on a temporary basis in the Central Market precinct. There are also a number of permanent works in the street. Collectively the artworks help to develop a vibrant street culture along the main pedestrian thoroughfares and places where people gather.

**Photo:**  
Gerry Wedd

This section provides a general overview of the range of clauses that may be included in a contract to either commission a concept design or a work of art.

## The parties

- state who the parties to the agreement are

## Definitions and interpretation

- define specific terms used in the contract

## The concept design/the commission

- the scope of the work required
- the form the concept design/commission will take
- the number of artists engaged to develop a concept design
- the commissioner's intention in relation to commissioning the work
- issues relating to site access during the development of the concept design
- the requirement that the work will be created with skill, quality and craftsmanship

## General obligations of the artist

- general conditions applying to the artist and their involvement in the project

## Subcontractor engagement

- conditions applying to the engagement of subcontractors, as they relate to performance, insurance and approvals

## Performance and approval

- terms and conditions relating to the delivery, presentation and installation timelines
- how the work is deemed to be completed and who determines it
- when legal ownership transfers from the artist to the commissioner
- a warranty period and some retention of funds by the commissioning party
- the intended life of the work

## The fee

- the amount, and how and when it is to be paid for the work
- costs included in the fee, and the expenses not covered
- GST inclusive or exclusive
- the funds retained for a warranty period, if applicable
- any additional expenses to be paid by the commissioning party

## Modifications to the concept design

- fee payable if amendments are requested
- timeframe to undertake the requested changes
- arrangements in place with the artist that will govern the changes
- conditions that apply if the concept is selected to be developed for commissioning

## Attribution of authorship

- details relating to the placement of a plaque acknowledging the artist and any sponsor, stakeholder, date of commission, title of the work (clarify who will be paying for the plaque)

## Access

- outline the commissioner's right to inspect the work during construction
- determine what arrangements will be in place to enable the artist to create or install the work on the commissioner's premises

## Delivery and installation of the work

- those responsible for meeting the cost of delivering the work for installation, and paying for the installation and associated expenses
- the terms and conditions relating to access to the site to enable installation

## Risk of loss or damage

- outline who is responsible for the risk of loss or damage to the work when it is in the artist's possession, when delivered to the commissioning party's premises and once installed
- state who will make good any damage to the work sustained prior to its completion
- those responsible for relevant insurances during fabrication, installation, ongoing

## Warranty and repair

- warranties required of the artist in relation to materials, workmanship and labour
- timeframe applicable to any warranties

## Maintenance and cleaning

- commissioning party's responsibilities in relation to maintaining and cleaning the work
- artist's responsibility to provide a maintenance schedule, which will inform the maintenance to be undertaken by Council

## Disposal of the work, relocation, removal and sale

- the terms and conditions, consistent with Council's obligations under the Copyright Act if Council intends to remove, relocate or dispose of the work
- the conditions and processes applicable if the site in which the work is located is sold
- dispute resolution if the artist objects to Council's proposed treatment of the work

## Copyright and moral rights

- ownership of intellectual property rights, including copyright, in the concept design and in the finished commission – generally this is the artist
- proposed licences of the copyright, in the concept design or the finished work, to enable, photographs for publicity and promotional purposes, for example
- limits of any proposed licence arrangements
- negotiate a separate agreement if the concept is to be adapted for another purpose, for example, a corporate logo, letterhead or banner
- if the concept design is to be displayed, outline the time, terms and conditions
- the timing of the transfer of the title from the artist to the commissioning party
- a warranty that the artist is not infringing anyone's intellectual property rights
- an indemnity clause in relation to claims for breaches of intellectual property rights
- possible clause outlining moral rights obligations. Although this is an automatic right and there is no legal requirement to assert these rights in a contract, it can be beneficial to alert the parties to their responsibilities

## Alteration

- outline the artist's rights and the commissioner's obligations if the work is damaged
- specify how the damaged work is to be assessed and by whom
- if the work is deemed to be damaged beyond repair outline how it will be managed

## Warranty and indemnity

- the warranties required in relation to the artist's copyright and intellectual property ownership

## GST

- standard clauses relating to the ABN status of the artist and the commissioner's obligation under the *Taxation Administration Act 1953* to withhold tax

## Insurance and indemnity

- outline the insurance required of the artist and their contractors
- state the insurance responsibilities of the commissioner
- specify if a certificate of currency is required as evidence

## OHS&W

- state the artist's obligations in relation to compliance with OHS&W regulations and policy

## Termination and default

- state how, by whom and on what grounds the agreement can be terminated
- determine what happens with fees paid, or payable, in the event of a contract termination
- specify if there are penalties applicable

## Relationship between the parties

- outline the relationship between the parties, especially as it relates to taxation, Workcover liabilities and insurance

## Dispute resolution

- determine who will be engaged to resolve disputes should the need arise
- outline who will determine who assists in dispute resolution
- state the role and responsibilities of an arbiter should one be engaged

## Confidentiality

- outline the responsibilities of the parties in relation to confidential information

## Publicity

- outline who has responsibility for making public announcements about the project
- detail the artist's responsibilities in regard to the confidentiality of project details

## Repayment

- the rights of both parties in relation to portions of the fee, paid or unpaid, and the status of the work, should events impact on the artist's ability to complete the project

## Miscellaneous

- include miscellaneous clauses, including a clause relating to the modification of the agreement and the process for serving notices on the artist

## Signing/execution pages

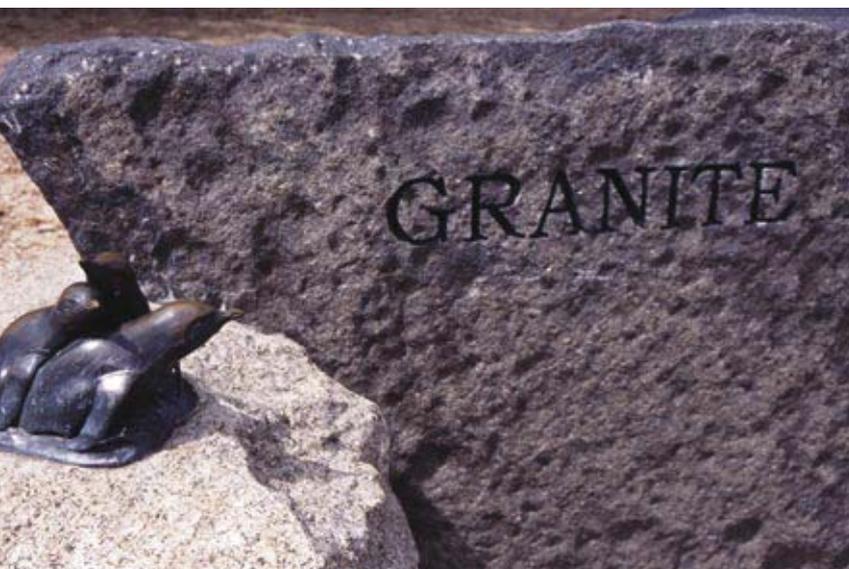
- signed by the parties and witnessed by another party

## Schedules

- the contract models that have informed this checklist have the majority of variable items detailed in an attached schedule rather than within the body of the contract document
- issues outlined in the schedule might include:
  - contact details of the artist and the commissioning party (and any contract representative)
  - the proposed site for the work of art
  - the fee payable and how it will be paid
  - details of any additional expenditure the commissioning party will make available towards the commission
  - the budget for the commission
  - any insurance requirements
  - the date for submission of the concept, installation of the work and exactly what is required and included
  - other details as relevant, including OHS&W requirements.

## Attachments/Annexures

- the artist's brief, which outlines the project budget and specifics relating to the fabrication and installation of the work, is attached to the Concept Design Agreement
- the Concept Design Agreement may also attach an example copy of the Work of Art Commission Agreement as an indication of the terms and conditions that would apply to the commissioning of the work
- when executing the Work of Art Commission Agreement, the developed and amended concept design should also be attached together with all relevant information from the initial concept design
- other attachments may include site plans, building elevations and plans, photographs, background material and any OHS&W policies of the Council



**Artist:**  
Martin Corbin  
and Silvio Apponyi

**Title:**  
Visitor entry statement  
Granite, bronze

**Location:**  
Granite Island  
Recreation Park

**Date:**  
2002

**Commissioning parties:**  
The Department of  
Environment and Heritage  
with artist fees and project  
support from Arts SA

National Parks and Wildlife SA required an entry marker to Granite Island that was interactive, child-friendly, and provided a photographic opportunity for visitors.

Another part of the artist's brief was to reflect the contribution by conservationist Polly Thwaites to the preservation of the island's Little Penguin colony. A penguin 'hide' was built under the granite slabs of the artwork and the birds had nested there before the project's completion. Following consultation with the local Ngarrindjeri community a reference to the dreaming story of the area was also incorporated in the artwork.

Diverse objectives, partners, Council requirements and budgets have an impact on the way projects develop and the process adopted to select an artist, or a number of artists, to participate. A successful selection process, which results in an artist who best satisfies the selection criteria, should be open, transparent and structured to most appropriately address the needs of each project.

Advertising and calling for expressions of interest from suitably qualified and eligible artists is a standard approach to reach large numbers of potential participants. Alternatively, Arts SA's PA&D program maintains a register of artists who are interested in participating in public art projects, and help is available to identify a range of artists suitable for a particular project. Craftsouth and Country Arts SA maintain other artist databases, and various other strategies for identifying appropriate artists may also be explored. See *Resources, References and Funding*, page 49.

Whether Council is seeking to engage one artist in a direct commission, or a number of artists to develop concepts in competition with one another, the following checklist contains relevant considerations. See *Commissioning Models*, page 8.

## Issues for consideration

- implement a selection process that is open and transparent
- ensure terms and conditions of the process are clear, accessible and fair
- outline the selection process and list members of the advisory panel within the brief
- understand the rationale for using one selection process over another
- consider the influence of the project-commissioning model on the artist selection process
- assess whether the expectations and conditions of the selection process are appropriate to the project
- consider whether the process disadvantages artists from a particular background or area
- if consultation is an underpinning requirement, consider how this will impact on the artist selection process, which may result in selecting one artist rather than three, and may necessitate an interview to make the selection
- ensure that the brief clearly identifies the project expectations, conditions and artist's role

## Identifying appropriate artists

- consider how artists will be identified for possible participation in the project
- if advertising for expressions of interest identify the publications to be used
- consider whether specific eligibility criteria are to be included in the advertisement, for example, South Australian residents only, and be mindful of the implications of anti-discrimination legislation
- consider if local artists should be included. If so, they need to be located. Sources include newspaper advertisements, databases, galleries and arts journals
- if a select few artists are to be targeted to express interest, consider how will they be identified and the criteria that will be applied
- think about whether the approach will be a combination of advertisement and invitations to a range of artists
- consider whether shortlisting will be done through an artists' database, for example, Arts SA's register
- consider whether the project requires an individual artist or a team with a range of skills and experience

## Responses to an advertisement or invitation

Careful regard needs to be given as to the information required from artists seeking to participate in a project, to enable applications to be evaluated against the criteria. For example:

- a written response to the project brief or expression of interest brief
- abridged CV – suggest maximum of two pages
- a limited number of labelled slides/images of relevant work, six to eight per artist. Consider what facilities are available to review images in different media, and in what format images should be submitted
- image/slide list – detailing title of work, location, dimensions, year completed, materials, collaborative partners, name of commissioning party if applicable
- past experience, as evidenced in the images and CV, relevant to this project
- specific issues to be addressed – timeline, availability, other
- stress that concepts or specific ideas are not required at this stage.

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

## Selection criteria

- determine the artist selection criteria, and ensure they are clearly identified within the brief
- consider how the project objectives will inform the selection criteria
- clarify the role of the artist, and identify it in the brief. It will inform the selection criteria, for example, whether the artist will be the designer, designer-maker, undertake community consultation, work in collaboration with the project architect, manage the project
- decide if the criteria should be weighted. A consideration here is whether the aesthetics of an artist's work is more relevant than previous public art experience, for example
- determine any specific requirements relating to the funding that need to be addressed
- in the case of a design competition model being adopted, consider whether there is a professional development or educational opportunity for an emerging artist

A range of potential artist selection criteria follows for reference when developing a project. Not all these criteria will be appropriate for all projects, while for other projects additional criteria will need to be established to assist in identifying the most appropriate artist.

### ARTIST'S RELEVANT EXPERIENCE

Consider if the artist has:

- undertaken similar projects in the past
- managed significant project budgets
- participated in collaborative projects with other artists/design professionals
- a particular interest in issues relevant to this project
- produced work which demonstrates quality workmanship and an understanding of, and experience working with, a broad range of materials
- participated in projects requiring community consultation
- an awareness of the issues relevant to permanent public art and the ability to work within the parameters set by these issues – durability of design, materials and finishes in relation to weather, vandalism, safety, public liability.

### ARTIST'S RELEVANT SKILLS

Consider if the artist has the ability to:

- provide work examples that demonstrate an ability to undertake a project of this nature
- produce work with a high level of artistic merit
- produce work with a high degree of technical expertise
- develop broad-ranging concepts and communicate ideas
- respond to a range of issues and themes
- work within the available timeline
- recognise the demands and limitations imposed by the specific environment
- design appropriate work in response to the parameters of a complex design brief
- present concepts in a professional manner
- communicate, negotiate, research and identify critical components in order to provide adequate and complete costings
- manage a significant budget
- work as part of a collaborative design team
- supervise and assist a trainee working on the project
- be resourceful in relation to securing material sponsorship and in-kind support
- demonstrate an awareness of the legal, financial and risk frameworks involved.

### ARTIST'S COMMITMENT

Consider if the artist is willing to:

- undertake community consultation and work with relevant community representatives
- undertake the design and fabrication stages within the timeframe
- work in a constructive and open way within a collaborative team
- deliver a significant outcome, which meets all the requirements of the brief, for example, concept, design, materials, budget, collaboration
- be responsible for taxation and insurance costs.

## Shortlisting

- ensure all relevant stakeholders are represented on the advisory panel
- ensure that appropriate expertise is represented – arts, architecture, planning, other
- consider the timeline for short-listing and the notification of artists

### SUGGESTED SHORTLISTING PROCESS

When assessing expressions of interest submitted in response to an invitation or advertisement, the suggested process for shortlisting is to:

- record details of all expressions of interest received, including contact names and details, and a list of the material submitted with each application
- copy expressions of interest for panel members. Collate images for viewing
- prepare a tally sheet to record comments/ rankings for each artist, against the criteria
- distribute copies of the expressions of interest, meeting agenda, tally sheet and the record of all expressions of interest received, to all panel members
- meet to shortlist, and after clarifying the purpose and the desired outcomes of the meeting:
  - determine whether to directly select the number of artists required to participate in the concept design preparation (could be one, or three working in competition, for example) or whether to interview a greater number before final selection
  - reiterate the selection criteria and determine the weighting that will apply to the various criteria
  - confirm the approach that will be taken regarding viewing the images, allocating the rankings and tallying scores
- view all submissions and consider them against the criteria, with suggested approaches being:
  - review all images and submissions and establish a list of those to be considered further and a list of those not appropriate for this project. Record comments and feedback. Ensure agreement among members of the panel when decisions are made
  - group the applications when they are being prepared for the shortlisting meeting by applying the criteria in a very general way to all the submissions

*Note: Such an approach can be helpful especially when a large number of responses are received. It is essential for the full panel to view all the applications and to be given the opportunity to move them from one group to another for further consideration. Record the assessment comments against each application.*

*The applications in the 'for further consideration' group can be evaluated in detail and ranked against the criteria. Scores can be allocated by individual panel members, or the decision can be discussed and an agreed score allocated collectively by the panel.*

- tally all scores and discuss further as needed. Consider some applications again especially if there are no clear-cut preferences with many artists ranked similarly
- prepare questions if the shortlisting process includes an interview, to ensure artists can further elaborate on their skills, ability and experience.



**Artist:**  
Linden Edwards

**Title:**  
Swimming lake  
change-rooms mosaic  
Ceramic, porcelain

**Location:**  
Swimming lake,  
Moore Street, Naracoorte

**Date:**  
2000

**Commissioning parties:**  
The Naracoorte Lucindale  
Council and the Naracoorte  
Tidy Towns Committee

This project involved a high level of community participation, ranging from students from the local high school who collaborated with the artist, residents who donated old china and local tiling businesses who provided in-kind support. The project was awarded Naracoorte's Community Event of the Year at the 2000 Australia Day celebrations.

**Photo:**  
Courtesy of Country Arts SA

*How will Council determine whether a proposed work of art will be an appropriate and successful addition to a public space?*

This section considers issues and processes relevant to the selection of a design proposal when a number of concepts have been commissioned through a competitive process. Many of the suggestions also apply to a concept developed by one artist through direct engagement. It is a usual requirement that artists involved in developing concepts present these to the project advisory panel for evaluation and consideration at the completion of the concept design stage.

Selecting the successful design proposal from a number of commissioned concepts can be complex. Council staff will want to ensure that the work is of an appropriate artistic quality, that it does not pose onerous maintenance or risk management issues, that it best meets the requirements of the brief and Council's broader objectives, and that due process is adhered to.

The artist's brief should set out relevant criteria and the approval process, including an indication of the timeline and the course of action to obtain the necessary consents. The criteria that follow are by no means exhaustive and not all will be relevant for every project.

The concept assessment criteria should be reiterated at the design proposal presentation meeting, so that all advisory panel participants are aware of them. A score sheet must be prepared for each panel member for recording preliminary comments and allocating a provisional ranking against the criteria. See *Score Sheet Example*, page 33.

In many cases, some assessment criteria will be ranked more highly than others – the artistic merit of a proposal, for example, may be ranked out of 10 points and other criteria out of five.

It is important that members of the panel have the relevant expertise to assess the proposals against the criteria. A curator or arts specialist may provide expert advice on issues relating to artistic merit, or an architect or engineer may provide essential information regarding structural issues. Risk assessment may need consideration by those with specialist knowledge and may occur as part of the concept assessment process or be sought once a preferred option is selected.

Potential assessment criteria are:

## Artistic criteria

- Is the work of a high artistic standard?
- Is the work a good representation of the artist's work?
- Does the proposal recognise demands and limitations imposed by the specific location?
- Will the work extend the public's awareness of contemporary art in a positive way?
- Is the work underpinned by a strong conceptual response?
- Does the work have strong aesthetic appeal?
- Is the work innovative and creative?

## Practical considerations

- Does the design proposal address the criteria and issues outlined in the brief?
- Will the work meet relevant building and safety standards?
- Does the work pose any long-term conservation issues?
- Is the proposal well considered in terms of structural and assembly techniques, engineering and installation issues? (Be mindful that it is only a preliminary concept and it is not realistic to expect these issues to be fully resolved at this stage.)
- Does the work pose an unacceptable level of ongoing maintenance?
- Does the work meet the requirements of the budget?
- Is the artist able to deliver the project within the specified timeline?
- Is additional specialist advice or information required in order to assess the issues?
- Are the proposed materials, scale and form of the concept appropriate?
- Does the project meet relevant risk assessment and risk management issues? While many risk management issues can be addressed at this stage, such as concealment or entrapment, how will the public interact with the work, and what are the potential risks? If the work invites climbing on to, does this impact on the perceived or real risks? Can this be addressed without impacting on the artistic integrity? (The opportunity exists to work with the artist during the design development stage to address any identified issues.)

## Responsive issues

Determine if the work is responsive to and compliant with:

- all relevant issues outlined in the brief, including all site-related issues
- the local environment and community input
- broader planning issues and concerns.

## The concept

Consider whether the concept:

- addresses Council's objectives and communicates its concerns
- appropriately reflects history, events, its location
- promotes opportunities to recognise and respect links with the environment
- represents the community in a positive light.

Determine whether the work, when fabricated, will:

- stimulate community debate, curiosity and interest
- engage the viewer
- provide comfort and amenity
- add to the urban environment in an appropriate way
- communicate joy, delight, wonder, humour
- encourage understanding and respect for various community members
- stimulate play, creativity and imagination
- promote contact and communication among members of the community
- provide a focal point, a place for contemplation, interaction
- be original.

## Failure to reach a consensus

It is preferable for all panel members to reach consensus at the concept presentation stage. If the panel cannot agree on the concept to be advanced to the design development stage then:

- reconvene the meeting in a few days to reconsider and for additional information to be sought if required
- if agreement cannot be reached at the reconvened meeting, it could be put to the vote with the concept that gains the majority of support proceeding. The panel could agree to work with the artist in developing the most highly regarded concept and engage the artist to develop it.

Alternatively, the entire process could be repeated, which has cost and time implications. Was it the quality of the brief that failed to elicit appropriate responses? Was the process to identify suitable artists at fault? Were inappropriate artists selected? Was the fee payable for the concept development stage insufficient to guarantee a successful outcome?

## Concept approval

- Once the preferred concept has been selected, what is the assessment and approval process to be undertaken for engaging the artist for the next stage – design development?
- Has the approval process been outlined in the project brief?
- Is a preliminary formal endorsement required before additional funds are expended to commission the design development and advance the concept? If so, who needs to provide this endorsement?
- Is there a strategy in place to evaluate the preferred concept before proceeding to design development? Which Council staff should be involved? Have the planner, asset and maintenance managers, cultural development manager, building inspector, risk manager and any other relevant staff been considered?

Establish a list of considerations for evaluating the work, for example:

- Does the work involve water? What are the associated risks?
- Are there concealment issues?
- How will the community interact with it?
- Can it be climbed on to from adjacent trees or structures?
- If it can be climbed on to, and this is acceptable, how can potential risks be minimised?
- Is it close to kerbs and traffic?
- Does it obstruct pedestrian access and flow?

Particular issues and concerns that may need to be considered and addressed include:

- risk management
- Disability Discrimination Act compliance
- conservation and maintenance
- planning
- asset management
- engineering specifications
- budget and timeline resolution and scheduling
- compliance with relevant building codes and standards
- legislative compliance
- fine tuning the concept.

Keep in mind that the artists are responding to the endorsed brief. Ensure that feedback and comments during this evaluation and approval process are consistent with the initial requirements of the brief. Imposing further restriction at this stage, and requiring the artists to undertake extensive modifications to their concept, is unreasonable.

If, however, it becomes obvious that omissions within the brief result in concepts that do not meet expectations, it is appropriate to renegotiate with the artists and pay them to reconsider their ideas. The degree of the proposed modification will need to be negotiated and be reflected in the fee offered. That the artist retains their artistic freedom during this process is important.

While many considerations may have been identified in the brief, it is not until the concept is presented to the advisory panel and relevant staff that compliance can be formally assessed and feedback provided to inform the design development stage. The design development requirements would be documented and included as a schedule attached to the Concept Design Agreement.

*Note: Once the concept has been further developed, generally, the artist would present it to the advisory panel. How will the approval of the developed concept then be undertaken?*

Once the advisory panel accepts the developed concept, an internal audit committee should assess the practical issues and long-term implications, including maintenance. Council can evaluate compliance with the requirements of the design development stage before final endorsement and acceptance of the concept.

*Note: Once endorsed by the advisory panel, and considered by the internal audit committee, will final approval be by the City Manager, the elected members or Council staff?*



**Artist:**  
Hossein Valamanesh  
and Craige Andrae

**Landscape architect:**  
Hassell Ltd

**Title:**  
*ascension*  
Stainless steel, aluminium,  
lighting installation

**Location:**  
Sir Douglas Mawson Lake,  
Mawson Lakes

**Date:**  
2004

**Commissioning parties:**  
Delfin Management Services  
on behalf of the Mawson  
Lakes Joint Venture; the  
City of Salisbury; artist  
design fees and project  
support from Arts SA

Situated in Sir Douglas Mawson Lake *ascension* was commissioned as an iconic work for The Promenade and town centre, and was influenced by the surrounding landscape. The steps and spiral elements simultaneously complement each other and exist as opposites. The steps may be seen as representing logic, order and man-made, while the spiral makes reference to intuition, the organic and the natural.

**Photo:**  
Courtesy of Wallbridge and  
Gilbert Consulting Engineers

## Utopia Park public art commission: Design proposal evaluation example

Criteria	Artist 1	Artist 2	Artist 3
Artistic			
1 Artistic merit of concept			
2 Aesthetic response in relation to the brief			
3 Aesthetic response in relation to the site			
The concept			
4 Conceptual underpinning			
5 Conceptual response to brief			
6 Communication of ideas			
Practical			
7 Maintenance issues			
8 Risk management issues			
9 Budget			
10 Timeline			
11 Robustness and durability			
Responsive issues			
12 Appropriate for site in scale, materials, etc			
13 Responsive to stakeholder consultation and feedback			
14 Other			
Total Score			

## Design proposal evaluation: suggested meeting format

- reiterate information to refresh participants understanding of the task:
  - summarise the artist's brief, simply, to what was the artist asked to respond?
  - outline issues associated with the site and the commission
  - present concept selection criteria as outlined in the brief
  - distribute criteria tally sheets.
- restate the role of the advisory panel and the process:
  - outline confidentiality issues
  - confirm the role of the chair in voting
  - confirm whether the panel makes a recommendation or if the panel's decision is final
  - summarise the format and timeline for artists' presentations, questions and subsequent discussion and decision-making.

- confirm whether the criteria will be ranked, and determine how a decision will be reached:
  - decision by consensus – individual members rank the concepts. Discussion follows and the full panel allocates an agreed value or ranking against each criterion, by consensus. The full panel agrees to the decision. This outcome is preferred.
  - or
  - vote 'yes' or 'no' for each proposal and substantiate the vote with assessment against the criteria by comparing the alternative proposal/s. Undertaken by individual panel members and a decision reached through discussion.
  - or
  - if a decision cannot be reached – postpone the decision-making and reconvene at a later date. Further information regarding the proposals may be sought.
  - or
  - numeric evaluation – members allocate scores against criteria for each concept and tally the results. Panel members vote for their preferred concept. Majority wins with chair casting the deciding vote if required.
- presentations by each artist – approximately 30 to 40 minutes with time for the panel members to question each artist
- discussion to inform the decision making. Record comments for feedback to artists
- resolution of the next stage in the commissioning process:
  - who will notify the artists? Within what timeframe?
  - confirm the process for making recommendations and seeking approvals
  - what issues need addressing during design development? Within what timeframe?
  - involve other Council staff in undertaking a preliminary assessment of the concept; including risk assessment, to inform the design development requirements
  - set a date for the presentation of the developed concept
  - any issues to discuss in relation to contractual and financial arrangements and project management?



**Artist:**  
Philip Hind

**Title:**  
Cheltenham Open Space  
Steel, Wood

**Location:**  
Cheltenham Community Centre, corner Stroud Street and Buller Terrace, Cheltenham

**Date:**  
2005

**Commissioning parties:**  
The City of Charles Sturt with artist fees and project support from Arts SA

Council identified the need for more open space for the recreational needs of the community. With the site already determined, the artist worked with nominated community representatives. Themes reflecting local history and industry were developed and interpreted in the design of the reserve fencing and playground.

The Council commissioning a public work of art should require that the artist provide a maintenance schedule upon completion of the work, and this is generally detailed within the Work of Art Commission Agreement.

Many project briefs require the artist to consider long-term maintenance of the work when the concept is first developed. Others may require that conservation advice be sought as part of the design development stage of a commission to ensure that there are no design or material issues that may increase the need for ongoing maintenance.

The desired life of the work, which should be stated within the artist's brief, will impact on the extent of maintenance acceptable to the Council. If, for example, a work is intended to remain in situ for only 12 months and needs 50 light bulbs changed every three months, this may be acceptable to Council, especially if the cost was factored into the initial commission. However, if the work was intended to be in situ for 20 years then this level of maintenance would probably be unacceptable.

The responsibilities of Council, in relation to repairs and damage, should be outlined within the Work of Art Commission Agreement. The Council should also be aware of its obligations to the artist under the Moral Rights Legislation in the Copyright Act, should the site proposed be redeveloped in the future and the impact that may have on the relationship of the work of art to its location and on the artist's right to integrity.

The following checklist raises issues for the artist to consider when designing a work of art for the public realm, and when providing a maintenance schedule to the Council at the time of installation. It also guides the development of a maintenance manual to be used over the life of the work of art.

## Materials

- Specify all materials used in the work, including:
  - the main body of the work, including coatings, finishes and anti-graffiti treatments
  - the footings, base or plinth, components
  - fixings, mounting, joining and connecting pieces, glues and solvents, other.
- Provide manufacturers' details, technical specifications and recommended maintenance and cleaning advice for all materials, finishes and treatments. Include anticipated product life, when reapplication will be required, and manufacturers' guarantees, as applicable.
- If using an anti-graffiti coating, ensure that its impact on the materiality of the work of art is known – it is not always the best solution.
- Provide Material Safety Data Sheets where relevant.
- Ensure materials are compatible and assess the design for the potential for corrosion or deterioration. For expert advice consult a conservator during design development.
- Specify details of any operating equipment, technological components, software, lighting, including manufacturers' specifications, model numbers, recommended servicing instructions, recommended life and replacement details, contact details of suppliers. Consider a servicing contract.
- Think about the option of supplying any replacement components at the time of fabrication and installation. This could be budgeted as part of the total project cost.
- Consider any specific local environmental conditions that will impact negatively on the materials selected, for example, proximity to the sea, known high winds.
- Provide photographs of the work being fabricated and installed.

## Maintenance requirements

- Determine any regular known maintenance requirements, for example, recoating of surface finishes such as anti-graffiti coatings or wax treatments.
- Determine requirements for regular cleaning, maintenance or servicing, specifically what is required, who should do it and how often.
- Take into account issues or requirements relating to the maintenance of the surrounding environment that will impact on the work. This is important. Failing to adhere to such requirements may impact on the integrity of the work and the artist's moral rights.
- In the case of vandalism and graffiti, confirm who is to be contacted and the action advised.
- Set out recommended cleaning agents for surface treatments and materials.
- Consider the potential long-term cost of ongoing maintenance, if it is achievable within available budgets, and the most cost-effective solution.
- Document the anticipated aging effects, the patina.

## Repairs to the work

- Establish the Council contact if repairs to the work are necessary. The artist should have the first option to carry out repairs or recommend an appropriate repairer, however, the artist may not always be available and may wish to nominate a conservator, gallery, agent or organisation to be the first point of contact and provide initial advice.
- Determine whether Council has a standard response to graffiti and if it is appropriate. Consider if the response needs to be modified and if those responsible need to be provided with extra training. Think about whether different solvents need to be available.
- Provide names and addresses of fabricators and suppliers of materials for replacement components, technical advice or repairs, as relevant.
- Provide details of any spare parts that have been lodged.
- If a conservator has been consulted, provide their name and date of contact and a copy of their report. Council may consider a maintenance contract with the artist or conservator. This is particularly relevant if annual work, such as recoating, is required.

*Note: The maintenance advice provided is important for the long-term care of the work and will stay with the Council long after the work is completed and staff involved have moved on. The Council also needs to be aware of their responsibilities to maintain the work in good order and of the implications under the Moral Rights Legislation.*

## Relevant information

The comprehensive maintenance manual provided by the artist, including information of importance to the long-term operation and maintenance of the work, should comprise two copies: one for the commissioning department and one for the asset management area.

The Council should collate all relevant information with the maintenance manual to ensure that it is accessible at a later date. It is advisable to include:

- the artist's brief and initial concept proposal
- concept design and commission agreements
- design development documentation including engineering details and specifications
- other technical specifications
- information about the artist
- fabrication, installation and in-situ photographs
- any other details relevant to the development and installation of the project.

This information is a record of the commission and can assist decision-making regarding the work at a later date. Photographs of the work during fabrication and installation can reveal technical and structural fixings that may be hidden once the work is complete. Photographs of the newly installed work will reveal its condition and become a benchmark for maintenance.

It is advisable for Council to implement a regular program of cleaning and checking of the work. This may be handled by staff or be contracted out. It may be important to offer basic training and awareness to those with responsibility for cleaning and maintaining the adjacent area, and nominate who will undertake regular cleaning of the work of art. There is the potential for standard cleaning products and processes to damage the surface treatment.

Checking the work for signs of deterioration can enable early and cost-effective intervention and remediation, and it may be advisable to enter into a contract with a conservator. It may be necessary, especially where a work has moving parts or lighting, to enter into a maintenance agreement with the suppliers of the technology to ensure that the work of art remains in good working order.

Completing and installing the work of art can present unexpected issues for all parties. While the artist may have been thorough in their planning and preparation, quite often projects have timeframes that do not allow for any variation. This can be problematic when projects are adventurous in their nature and when the expertise of others is being relied upon to deliver particular aspects of the project.

Open communication between all parties during the fabrication stage and in the lead up to installation is essential. Other works taking place on the site may cause delays. Alternatively, installation of the work of art may be linked to other works contracts, and contractors may seek compensation for delays beyond their control.

The following checklist relates to both the Council, as artwork commissioner, and the artist.

## Monitoring the progress of the project

- Who from Council will monitor fabrication?
- If progress payments are due to the artist, who authorises them?
- If progress payments are linked to particular stages in the fabrication, is someone with technical or structural expertise required for authorisation and sign-off?

## Preparing for installation

- Are there changes to the schedule of works on the site that will impact on the delivery time of the work of art? Who will advise the artist?
- Is the site ready for the work to be installed?
- Have all services been appropriately prepared, such as electrical?
- Have all site dimensions and measurements been confirmed?
- Is access to the site unrestricted? If not, are all issues affecting access understood and allowed for? Do any special arrangements need to be made in relation to traffic, for example, while the work is being installed? Are any permits required?
- Are the relevant installation contractors booked and appropriately briefed?
- Is the required equipment confirmed? What tools will be required?

- Are appropriate insurance covers in place, including during transportation?
- Are OHS&W requirements understood and provision made to observe them?
- Is it understood who will pay the costs of all related installation expenses?

## Installation and completion

- Once in situ, what is needed to complete the work for formal acceptance by Council?
- Is all site remediation and clean up completed?
- Are there aspects of the work that need to be tested on site, the lighting for example?
- Does the artist need a formal sign-off and acceptance stage with contractors before the work is accepted by Council?
- Has the plaque acknowledging the artist been completed and fixed near the work?



**Artist:**  
Anton Hart with Special Projects Under Development (SPUD)

**Landscape architect:**  
Hemisphere Design

**Title:**  
*Taikurrendi*  
Mixed media

**Location:**  
The Esplanade, in front of the Christies Beach Surf Lifesaving Club, Christies Beach

**Date:** 2005

**Commissioning party:**  
The City of Onkaparinga and Planning SA

The project design team worked with the local Kurna community to develop a plan to upgrade Christies Beach Esplanade and surrounds using themes from the Mullawirrabirka dreaming story. The artist was an integral member of the design team and used these themes to create designs for artworks, bollards, furniture and a shade structure. The City of Onkaparinga Council received a national local government award in 2005 in the Strengthening Indigenous Communities category, acknowledging the collaboration between Council and the Kurna Community



































































