**BEST PRACTICES FOR COMMISSIONING ART IN PUBLIC SPACE**

In the writing of these Best Practices, we firstly acknowledge the Traditional Ownership, the contested sites and First Peoples histories of the lands on which artists make public artworks. We advocate that when commissioning and realising public artworks, a paramount consideration is attending to Indigenous protocols through consultation, as well as privileging the provision of Aboriginal and Torres Strait Islander peoples’ access to, participation in and representation within public processes. The words ‘Aboriginal and Torres Strait Islander’, ‘First Nations’ and ‘Indigenous’ are used interchangeably in this document to refer to the Aboriginal and Torres Strait Islander peoples of Australia and their arts and cultures. We understand that some Aboriginal and Torres Strait Islander people are not comfortable with some of these words. Only respect is meant when these words are used.

It is the intention of [The Code of Practice for the Professional Australian Visual Arts, Craft and Design Sector](https://visualarts.net.au/code-of-practice/) to offer a framework for negotiations between artist and commissioners, that is clear but not prescriptive. The draft draws heavily on previous versions of The Code, ongoing stakeholder consultation, contributions from Terri Janke and Company and Arts Law, and published guidelines from local, state and international authorities.

This draft is written following four industry consultations regarding *Best Practice: Commissioning Art in Public Space* (Sydney, Melbourne, Adelaide and online) hosting over 100 artists from all stages of career including First Nations artists, arts workers, curators, consultants, lawyers, local government councils, and other public and commercial interest. Thank you to all of the experts who have shared their knowledge including the staff and students of the Masters of Art – Art in Public Space at RMIT University.

Sincerely,

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# Table of Contents

[What is Art in Public Space/ Public Art? 5](#_Toc20722922)

[Models of Authorship and Engagement 5](#_Toc20722923)

[Consultation with Traditional Owner Groups of the site 5](#_Toc20722924)

[Public art made by Aboriginal and Torres Strait Islander artists 6](#_Toc20722925)

[Individual practitioner model 6](#_Toc20722926)

[Collaborative model 6](#_Toc20722927)

[Community consultative model 6](#_Toc20722928)

[Community participatory model 7](#_Toc20722929)

[Types of Art in Public Space 7](#_Toc20722930)

[Integrated art and design 7](#_Toc20722931)

[Ephemeral art 7](#_Toc20722932)

[Legal street art 7](#_Toc20722933)

[Performance art 8](#_Toc20722934)

[Principles of Commissioning 8](#_Toc20722935)

[Models of Commissioning 8](#_Toc20722936)

[Open Competition 8](#_Toc20722937)

[Limited Competition 9](#_Toc20722938)

[Direct Commission (Curator) 9](#_Toc20722939)

[Roles and Responsibilities 9](#_Toc20722940)

[The Artist/Practitioner 9](#_Toc20722941)

[The Commissioner 11](#_Toc20722942)

[The Project Manager 12](#_Toc20722943)

[Steps in Commissioning 12](#_Toc20722944)

[Step O. Pre-Commission 13](#_Toc20722945)

[The Artist Brief 13](#_Toc20722946)

[Selection Panel Appointment 15](#_Toc20722947)

[Determine and Obtain Relevant Approvals 15](#_Toc20722948)

[Step 1. Artist Identification 15](#_Toc20722949)

[Call for Expressions of Interest (EOI) 15](#_Toc20722950)

[Shortlisting Artists 16](#_Toc20722951)

[Step 2 – Concept Proposal Stage (shortlisting) 17](#_Toc20722952)

[\*Stage 1 Agreement: Concept Proposal 17](#_Toc20722953)

[\*Detailed design development stage (if used) 18](#_Toc20722954)

[Notification of successful and unsuccessful applicants 19](#_Toc20722955)

[Step 3 The Commission 19](#_Toc20722956)

[\* Stage 2 Agreement: Commissioning Artwork 19](#_Toc20722957)

[Concept Approval and Variance 20](#_Toc20722958)

[\*The Detailed Design Package 20](#_Toc20722959)

[Total Project Budget 21](#_Toc20722960)

[Compliance Issues 21](#_Toc20722961)

[Delays to Schedule 21](#_Toc20722962)

[Artist Fees and Payment Schedule 21](#_Toc20722963)

[Intellectual Property and Copyright 23](#_Toc20722964)

[Moral Rights 23](#_Toc20722965)

[Indigenous Cultural and Intellectual Property 24](#_Toc20722966)

[Insurance: Public Liability, Material, Workers Compensation 24](#_Toc20722967)

[Risk Management and Safe Work Methods 25](#_Toc20722968)

[Sub-contractors 25](#_Toc20722969)

[Fabrication (Making the Artwork) 25](#_Toc20722970)

[Installation of Artwork 26](#_Toc20722971)

[Step 4 Post Handover 26](#_Toc20722972)

[Attribution of Artwork 26](#_Toc20722973)

[Maintenance, Conservation and Repair 26](#_Toc20722974)

[Decommissioning, Relocation or Disposal 28](#_Toc20722975)

[Evaluation 28](#_Toc20722976)

[Other Issues 28](#_Toc20722977)

[Disputes 28](#_Toc20722978)

[Termination 29](#_Toc20722979)

[Acquisition: Purchase, Donation or Bequest 29](#_Toc20722980)

[Other areas for development in the Code 29](#_Toc20722981)

[Glossary 30](#_Toc20722982)

[Bibliography: Public Art Policy and Guidelines 33](#_Toc20722983)

[Resources 35](#_Toc20722984)

In recent decades, numerous agencies and authorities have worked to identify and articulate best practices in commissioning and managing art in public space. A strong consensus has emerged about what good processes and practices look like, at least for some types of public art projects. However, we also know that these models are not fully visible to those that could implement them. They aren’t always well understood by artists, commissioning bodies, and other stakeholders, who don’t necessarily share the same terminology, models of art making or context. They can also be complex and rigid, difficult to implement and adapt to real life opportunities. A one-size-fits-all framework is both unrealistic and undesirable.

This Best Practice draft can instead be understood as an educational resource to encourage good practice, with the aim of informing a broader conversation about national standards. It has been authored by NAVA staff and researchers from the School of Art at RMIT University, drawing on experts in art, policy and education with specialist knowledge in public art. NAVA recognises the importance of leading this work in collaboration with the full range of interested parties, to ensure that government and commissioning bodies have the best frameworks to allow for trusting and supporting the vision of the artist. This draft includes content from earlier iterations of The Code as well as feedback from stakeholders nationally, including practitioners, institutions and government bodies. It builds on the review of a wide range of public artwork guidelines from local, state and international authorities as well as private interests.

Art in public space brings artwork into the public realm and into the often contentious, shared realm of ethics, decision-making and public value. Without national standards covering the full scope of public art commissioning – from conception, to contracting, to maintenance and decommission – it can be challenging for an artist to negotiate and realise their professional needs and artistic vision. An unequal power balance often exists between the artists who are engaged to deliver artwork and the institutions who commission them. This disparity, while often unintentional, is played out in the complex negotiations around contract variations or moral rights, in unfair intellectual property clauses, and untimely payments.

This Best Practice draft aims to account for common concerns in the commissioning of art in public space, many of which have been repeatedly reported to NAVA over recent years. These include reports of:

* onerous procurement processes for artists and commissioners;
* exploitative Expressions of Interest (EOI) for public art commissions where artists must share intellectual property or provide labour in creation of designs without pay;
* lengthy and contradictory contracts issued after the work has started or completed;
* requirements for artists to work with designated third-party fabricators, installers or project managers who have little interest or expertise in art;
* changes of project direction or timeline without warning, compensation or opportunity for variance within the contract for the artist; and
* confused approaches to the management and maintenance of commissioned and acquired artworks, ranging from ‘short-termism’ to lengthy lifetime agreements.

Local laws and legislation regarding public safety and procurement are varied across Australia; therefore, commissioners and artists must always refer to local authority when developing new projects. These draft guidelines present what is currently considered best practice when commissioning public art, focusing on three most common models of commissioning: direct, open-competition, and limited-competition commissioning. While not all the stages described here will be relevant for every commission, the information provides a guiding framework to help negotiations, and provide a rationale for and a context regarding timelines and allocation of responsibilities. The roles of artists, commissioners, selection panels, and project managers are outlined in order to identify, in advance of commissioning, the responsibilities of stakeholders in a project, and the range of required skills and expertise.

# What is Art in Public Space/ Public Art?

The terms ‘Art in Public Space’ and ‘Public Art’ are often used interchangeably, but their definitions are not without debate. Both terms are used here to refer to art that is made with the specific intention of being situated in the public domain, often outside, and intended to be accessible to a wide audience. This broad framework includes a wide range of art forms including free-standing sculptural artworks, murals, installations, integrated design projects (where artwork is integrated into the fabric of architecture or applied to buildings, for example), ephemeral art, socially engaged and artist-led participatory processes, and temporary performance works at festivals and cultural events.

Public art can be permanent (lasting many years), or temporary (lasting a few hours, days or months). It can be site-specific, with the artistic vision of the project drawn from and adding to the meaning of a particular site or place. Public art can also be non site-specific – located in a public place for display purposes, for example. Artwork can be acquired for the public realm in many ways: by commissioning new work from an artist or team; through public or private grant schemes for artist or community-initiated projects; as well as by direct purchase, lease, loan, donation or bequest of existing works. This document focuses on commissioned public art.

The purpose of commissioning artwork varies, across diverse contexts that include urban renewal and place making, festivals, percent for art schemes or civic art collection. Public art contributes to our understanding and appreciation of local cultural and social heritage, enhances the natural and built environment, and helps to create meaning in public space. For the purposes of this document, however, our description of public art does not include historical monuments such as plaques and memorials, fountains and architectural features like lighting or ornamentation without artistic elements, moveable artworks (or other moveable items of cultural significance) held in collections within buildings and not intended for wide public access. Issues relating to other specific contexts for commissioning art in the public realm (festivals, performances, ephemeral art, and street art) will be discussed elsewhere in the Code.

## Models of Authorship and Engagement

Public art may be created by multiple people and agencies, with differing expectations relating to artistic authorship and collaboration. A public art project may have varying degrees of professional collaboration or community participation, for example. The amount and type of participation desired should be determined at the start of the project and articulated clearly in the commissioner’s documentation and in communication with artists (such as the artist brief).

An approach to authorship should also be determined before the start of the project to ensure that the expectations of all parties, including the artist(s), commissioning body, and relevant community or stakeholder groups, are articulated as clearly as possible before work begins. Should there be changes to intended engagement and collaboration in the project, the artist is responsible for negotiating a variance to authorship and attribution in the contract.

### Consultation with Traditional Owner Groups of the site

Best practice in public art commissioning encourages consultation with Indigenous Traditional Owners who are custodians of the intended site of the artwork. All places in Australia have a connection to First Nations people and their living cultural heritage. Traditional Owners hold valuable insights and expertise on the history and cultural practices associate with project sites and should be compensated for sharing this.

The commissioner is encouraged to proactively recognise and respect these cultural connections to sites and places and consult with regards to both the proposed sites and commissioned artworks.

Traditional Owners (or their delegates) should be invited to sit on the Selection Panel of the public artwork commission in a paid role in recognition of their expert cultural advice. This best practice should be applied to all models of art in public space.

### Public art made by Aboriginal and Torres Strait Islander artists

It is best practice to engage a First Nations curator when commissions specifically invite Aboriginal and Torres Strait Islander artists to submit Expressions of Interest. It is also best practice to engage a First Nations curator when proposed artworks engage with subjects related to First Nations themes and histories. The engagement of First Nations curators should of course not be exclusive to artworks made by First Nations artists.

### Individual practitioner model

An individual artist can be engaged by the commissioner to develop and realise the artwork. Some artists will work alone to design, create and install public artworks. Typically, the principal artist will subcontract others to help with aspects of the commission, such as the design, project management, fabrication or installation of the work.

### Collaborative model

In this model, the project is realised by an artistic team or design group working in collaboration, rather than the creative vision of an individual practitioner alone. The design team may include other artists or artist teams, as well as other professionals such as architects, landscape architects, and graphic designers. In a collaborative project, the artist may be contracted as the lead or may be engaged as a consultant to contribute to an overall collaborative design process. This process may or may not result in a distinct work being produced by the artist.

Collaboration between architects, landscape architects, planners and artists are opportunities to cross disciplines, challenge hierarchies and develop highly innovative and relevant integrated design solutions for public places. All members of the team should be brought together at an early stage of the project in order to ensure that the design is authentically created through a process of collaboration.

### Community consultative model

A project where consultation with relevant community members informs and influences the project to some degree can be described as community consultative. Projects can be structured to allow for community input at any or all stages, from the development of the artist brief to design and selection, manufacture and installation. The commissioner will provide the artist with a description of the stakeholders, the consultation process, and the intended role of the artist in any consultation. The artist may independently recommend or undertake consultation as part of the artistic process. Community may refer to the broader public users of a space or a more specific section of the community.

\*When the project involves using Indigenous cultural heritage, traditional knowledge or traditional cultural expressions (stories, language, themes), the artist and commissioner need to be mindful that cultural protocol might apply. Some best practice suggestions include clear discussion at the outset regarding project scope and how cultural heritage is proposed to be used. This includes consideration in project contracts of the following:

* Benefit sharing for use and application of culture (fees for community consultation included in the project budget)
* Acknowledgement of traditional owner groups or relevant custodians
* Consent obtained or required to be obtained to use cultural heritage
* Ongoing consultation requirements and processes

### Community participatory model

In this model, members of a community actively participate in the design and fabrication of art in public space, led or guided by an artist. These projects generally fall within the field of community art and should be facilitated by an experienced community artist or arts worker. Practitioners undertaking community arts projects need to be aware that copyright and moral rights issues may not be as straight-forward as those relating to the creation of art works by one individual. An approach to authorship should be determined before the start of the project.

\*See the above Community Consultative Model for best practice advice for projects which involve the use Indigenous cultural heritage, traditional knowledge or cultural expressions.

## Types of Art in Public Space

Commissioned art in public space takes multiple forms and involves a diverse array of processes and participants. While the freestanding sculptural object or mural are well recognised types of art in public space, the following provides a brief overview of some other key areas of practice. It is not intended as a comprehensive list of types of art in public space.

### Integrated art and design

Integrated projects are those in which art is incorporated within the design of a building or site. Artists can be employed as consultants for creative decisions at the early stage of design. An artist may be commissioned to satisfy a component of the project or employed from the beginning as a professional to contribute as a member of a multidisciplinary design team. There may be no clearly distinct, isolated work of art created (for example, as in artistic contributions to landscaping, paving design, canopy, benches, or lighting).

It is important that artists and curators are involved in spatial design in advance to reduce the potential for compromised commission later. Failure often occurs when the artistic component and its budget are not considered at project conception.

### Ephemeral art

Ephemeral art projects are intended to be temporary, lasting for a limited period of time and generally leaving no permanent physical trace. Examples include street art, performance art, sound, projection, installation and time-based practices. Ephemeral art may require infrastructure in some instances, such as rigging, staging, lighting, projectors, screens, amplifiers and speakers. Any required infrastructure must meet with safety standards and requirements for public space. These include state-based occupational health and safety laws, urban design guidelines and or local government planning requirements. In some instances, local authority permits may be required. Where infrastructure is exposed to the environment, weather proofing will also be required.

### Legal street art

Legal street art involves art forms often attributed to or aligned with graffiti (unsanctioned practices of writing, drawing, stencilling, painting, pasting up and scratching surfaces), but is sanctioned by a commissioning body. Examples may include murals, stencil works, paste-ups and/or sculptural installations. Commissioned legal street art has the approval of the building/property owner and local government authority, in compliance with local laws. Legal street art may require local authority permits. Installation of legal street art must also comply with appropriate occupational health and safety regulations, for example, safety requirements when working at heights.

### Performance art

Performance art is art created through actions performed by the artist or other participants. Participants might include artistic collaborators or members of the general public. Performance art varies in its intent and form and can include live, recorded, spontaneous or scripted practices. Performance art may require infrastructure to achieve the proposed outcomes. Commissioned performance works like all other forms of art must respond to and meet with safety standards and requirements for public space, these include state-based occupational health and safety requirements; urban design guidelines and or local government planning requirements.

# Principles of Commissioning

Public art is commissioned by both public and private interests, including governments, community and interest groups, private developers, and individuals. Commissioners should consider the most appropriate model for each project. Each model has advantages and disadvantages and there is no one process suitable for all projects. Some public art projects use a combination of different models.

There are three general models of public art commissioning described in this document: open-competition, and limited-competition and direct commissioning. These terms refer to the process used to invite artists to be considered to undertake the commission, and to select and approve artworks.

Whichever model is chosen by the commissioner, the key principles of best practice commissioning processes are:

* **First Nations first.** Consideration is given to Indigenous protocols through consultation with Traditional Owner groups at all stages of the commissioning process, as well as access to, participation in and representation within public processes.
* **Respect** for the expertise and rights of artists. Appropriate consideration is given to the work involved by artists in submitting a proposal or visual concept. Artists are paid for the work they undertake. Artists’ intellectual property and moral rights are protected in all processes. Indigenous peoples’ rights to their cultural heritage, traditional knowledge and traditional cultural expressions are respected and protected.
* **Transparency** of expectations and decision making. There is clarity regarding the project brief, processes, budgets, fees and timelines, and the roles and responsibilities of all parties. The selection process, for example, should incorporate a clear timeline for the acceptance or rejection of submissions.
* **Fairness.** For example, a limited budget is not an excuse to transfer the costs of the selection process onto the practitioner by requiring detailed submissions without offering an initial visual concept design fee.

# Models of Commissioning

## Open Competition

For publicly funded public art projects, an open competition model with EOI request is preferred. The EOI process will take the place of a Tender Procurement Process.

Following the preparation of the artist brief, in the open competition model, the commissioner makes an open invitation for qualified artists to submit an Expression of Interest (EOI). Artists are shortlisted by the selection panel against the criteria outlined in the brief. Artists may be interviewed to further narrow the field. Shortlisted artists are then contracted for a fee to develop a concept design in response to the brief ([Stage 1: Concept Proposal](#_Stage_1_Agreement:)), after which normally only one artist is selected to advance to the commissioning stage ([Stage 2 Agreement: Commissioning Artwork](#_Stage_2_Agreement:)). Note that in some commissioning models, the \*[Detailed design development phase](#_*Detailed_design_development) is an additional agreement stage in advance of commissioning the artist.

## Limited Competition

There is often no EOI process for this commissioning model. The selection panel invites a limited number of qualified artists to present the scope of their art practice to a panel at interview, or to contract for a fee to present their responses to the artist brief ([Stage 1 Agreement: Concept Proposal](#_Stage_1_Agreement:)).

The model of limited invitation may be appropriate for small budget projects or, for larger commissions, where the artist brief requires artists with very specific skills and experience (such as particular technical skills or cultural knowledge) or other characteristics (such as geographic residency).

## Direct Commission (Curator)

Direct commission models effectively bypass the expression of interest and competitive shortlisting processes and commence at the \*[Detailed design development phase](#_*Detailed_design_development)) or commissioning ([Stage 2 Agreement Commissioning Artwork](#_Stage_2_Agreement:)). The commissioner or selection panel may take on the role of identifying and selecting the artist for a direct commission or may employ a curator to do so. Direct commissions are appropriate when a specific artist is sought for their high standing or when the artist brief requires specific expertise or particular ways of working. This is desirable when an area of specialised expertise is needed to realise the artistic vision of a project and this inform the selection of artists or artwork.

# Roles and Responsibilities

There are two key roles in any public art commission:

* the person or team who creates the work (the **artist** or practitioner) which may include an individual or team of creative collaborators, designers and/or subcontractors such as a project manager and fabricators; and
* the client of the artist (the **commissioner**) which may include a range of team members including the Project Manager, a curator site manager/ building owner, maintenance workers, and the collections registrar.

The **selection committee** (sometimes called an advisory panel, project steering committee or a subset of these), serves the commissioner. A selection committee is made up of a number of representatives of community, professionals, cultural experts, and the commissioning agency, and has the role of selecting the artist, the artwork concept design, and/or the artwork.

A **project manager** is a preferable option for complex projects, which can be contracted by either party depending on the circumstances including scale, scope, budget and other consultation requirements regarding site or context.

## The Artist/Practitioner

The artist (or artist team) is the creator who is responsible for developing and producing the artwork for the client. The term practitioner is also common, inclusive of the wide range of creators involved in public art projects, including visual artists, arts workers, crafts people, designers, architects and other creative professionals. Commissioners of art in public space are usually advised to engage professional artists. A professional artist is someone who has an established track record as an artist creating and exhibiting original artworks. Professional artists may be categorised as emerging, mid-career, or established in their career. At times it may be appropriate for a commissioner to seek out artists in any one of these specific categories to carry the work, or to seek people outside of the above definition of a professional.

In the case of collaborations, one artist must be nominated as the principal artist, who will take on the professional responsibilities of the contract including artistic leadership and the other risk and practical elements like insurance coverage.

The artist needs to fully understand their responsibilities and rights in relation to the contracts at each step and consult legal advice if required. This includes a responsibility to understand or seek advice relating to financial management, insurance liability, intellectual property, legislative requirements, and negotiation. Should the artist not feel confident to undertake these responsibilities due to the level of complexity of the project in relation to time, skillset, and/or knowledge required, the artist can engage a project manager to assist with coordination of technical details.

Before registering interest through an expression of interest, the artist/practitioner should:

* Ensure they (or someone in their team) have the appropriate level of experience to fulfil criteria stated in the artist brief. Depending on the scale of the project, lead artists with less experience may need to include other professionals in their EOI or demonstrate where how will access relevant experience (e.g. business and planning, technical, artistic, or community consultation skills).
* Examine the artist brief to determine whether or not the aims and themes of the project are aligned to the artist’s own artistic interests and philosophical approach.
* Consider the value of their own work and budget adequately for the cost and time needed for the project. The artist brief and conditions of the contract will determine whether the budget and timetable are reasonable.
* Consult their representing gallery, if applicable, including on matters of commission due and the gallery’s potential involvement in the stages of fabrication, installation or management of the commission.They should ensure they also have a contract with their representing gallery when the artist is successful in receiving public art commissions.

At all stages of the design and development process, the artist/practitioner should:

* Design to budget and propose what can realistically be delivered within budget.
* Liaise with the commissioner to clarify contracts and have it independently vetted by a lawyer if necessary, then organise personal insurance and tax matters as required. Legal fees can be paid by the commissioner.
* In the case of a collaboration, ensure all collaborators are aware of the contractual requirements and negotiate the financial and intellectual property agreements with the collaborators.
* Communicate regularly with the commissioner to inform them of the progress of the work, through regular site and studio visits and meetings. These communications should be outlined in the contract.

When carrying out the commission, the artist/practitioner should:

* Supply lists of contractors and other artists associated with the project and ensure they have the relevant insurances in place to undertake the commission.
* Ensure that the artwork complies with all relevant Australian Standards and the Building Code of Australia and secure product and/or service warranties from any sub- contractor.
* Deliver the artwork within the agreed timeframe and budget. If variations are required, the project should not proceed until these are negotiated. These agreements should be documented.
* Coordinate site strategies with the Commissioner when installing artwork.
* At the time of handover, provide detailed instructions to the new owner of maintenance, including any ongoing budgetary implications.
* Ensure the Commissioner has the information they need for appropriate attribution on any public materials they may produce in relation to the public work.

## The Commissioner

The commissioner is generally understood to be the client of the artist. (Note that the commissioner may sometimes be an agency commissioning the work on behalf of a third party.) The commissioner may be an organisation, such as a state government department or agency, a local government authority, a private developer, community organisation, or an individual architect or other agent.

Commissioners must be realistic in their expectations for a project and aim to match those expectations to the budget and the most appropriate type of project. For example, public art projects may intend to solve design problems, manage the use of public space or positively engage community, and complement urban growth. However, it is important to balance the artistic integrity and interests of the public with any other instrumental goals.

The commissioner should also be mindful that in most cases they are commissioning the development and implementation of a new concept or artistic vision. This can be both exciting and challenging and will require the commissioner to be clear in their briefing, but also flexible and responsive to the process. A commissioner not familiar with this way of working is advised to enlist the assistance of project manager who will assist them to work collaboratively with the artist to ensure the best possible outcome for all parties.

Prior to selecting an artist, the commissioner should:

* Consult with Traditional Owners of the proposed site regarding the themes of the project and the history of the land. Invite representatives to sit on the selection committee in paid roles to provide advice.
* Develop the artist brief to describe the scale and scope including timelines and budget of the project and what is expected of the artist.
* Determine the purpose of the project and use the rationale, location, scale, audience and other relevant factors bearing on the project to broadly determine the theme or style of the art to be commissioned (without becoming overly prescriptive at this stage).
* Determine the budget for the public art project, ensuring that this includes a fair compensation for artist fees (20-30% of total budget regardless of stage of career of artists -(see [draft artist fees for public art](https://visualarts.net.au/artist-fees-public-art/)) and other fabrication, transportation, or installation costs. A maintenance budget should be considered also at this stage for the Commissioner to care for the management of the lifespan of the artwork. The lifespan of an artwork is not only a concern of material stability and environmental considerations. These issues impinge on moral rights when the environment and context of the artwork changes but also if building sales or renovations affect the work.
* Ensure a management structure outlining roles including who will develop the artist brief and manage the project, how to divide tasks, and the consideration of the appointment of a project manager.
* Develop fair and accessible criteria for selecting the practitioner and decide upon the type of selection process. Development of a rubric at this stage can be helpful in advance of briefing the selection panel.
* Plan how to advertise the brief in an equitable way that reaches a broad range of artists. Consider how the advertisement, selection criteria, and EOI requirements may advantage or disadvantage different artists. Decide whether to involve the community and to what extent. If so, establish the mode of community participation in the project at the outset and ensure that expectations are clearly articulated in the project brief.
* Establish and coordinate the selection panel to assess expressions of interest.
* Arrange a detailed contract, schedule and payments. Ensure the terms and conditions in the contract and the terms of payment respect the professional status of the artist and are fair and equitable.
* Recognise that it may be necessary to support the artist in obtaining legal advice in relation to contracts (e.g. payment of legal fees, simplified contracts, directing them to NAVA and Arts Law)

Throughout the commission, the commissioner should:

* Be available to provide advice for contracted artists regarding their obligations and commitments and offer professional support throughout the commissioning process.
* Pay artists/practitioners their fee either in stages, with the largest proportion in the first payment, or upfront so artists are able to pay the costs of fabrication and expert advice directly from the commission fee. A staged payment ratio of 40-30-25-5% is suggested.
* Ensure standards of practice, safety requirements and legal and insurance obligations are met including insurance for the work once it has been completed.
* Monitor the progress of the artwork through regular meetings and studio and site visits, should as outlined in the contract.
* Arrange attribution signage and digital content, maintain records, and promotion while upholding copyright and moral rights requirements for existing and new public work. This includes recognising the artist’s design concepts and works are the property of the artist, preserving the integrity of the artwork over its lifetime and paying for its regular maintenance and repair when necessary in consultation with the artist.

## The Project Manager

The project manager acts as an intermediary who negotiates between the commissioner and the artist and is an important role within complex commissioning processes. Public art projects offer new and exciting opportunities for artists; however, the commissioning process can be very complex. For large scale projects, whether stand-alone public artwork, or works fully integrated into large building projects, the administrative, legal and logistical demands can be immense.

A project manager may be appointed by either party in the commissioning process to oversee a particular task or stage of the public art project. In some cases, a specialist consultant may be engaged for the artist selection process or to administer the commission agreement. In other cases, the Commissioner will hire a project manager, art coordinator or art consultant to manage the whole public art project on their behalf.

Artists may include a project manager as part of their own team to oversee some or all components of the project. Artists working independently, without a project manager, may need the support of the commissioner to manage all the necessary requirements of a commission.

**Other Roles**

Other roles involved in a public art commission may include a curator, subcontractors for project management in the artist’s team or fabricators and installers, and members of the selection committee. Once installed, there will be a maintenance team identified to care for the artwork across its lifespan as delegated by the commissioner.

# Steps in Commissioning

**Step 0. Pre-commission**

Appoint a Project Manager and or curator at the start of the process (commissioner)

Do research on who the relevant Traditional Owners are to the site (commissioner)

Consult with Traditional Owners and relevant stakeholders regarding proposed site/project (commissioner)

Determine Selection Panel (or curator) and selection criteria (commissioner)

Develop Artist Brief (commissioner

**Step 1. Artist Identification**

**Direct Commission**: Artist selected by commissioner, selection panel and/or curator (commissioner) [Go to Step 2 or Step 3](#_Step_2._Concept)

**Limited Competition**: Pool of artists identified by commissioner, selection panel or curator (C) Provide artist brief (commissioner). Request EOIs or [Go to Step 2](#_Step_2._Concept)

**Open Competition:** Publicly advertise request for EOIs and artist brief – up to 3 months to ensure the widest range of talent is involved in the competition. (commissioner)

EOIs submitted (artist)

Selection panel meet to review EOIs and interview artists (optional) (commissioner)

**Step** **2. \* Stage 1 Agreement: Concept Proposal**

Artists contracted for initial design phase (commissioner)

Site visit for shortlisted artists and First Nations consultation (commissioner and artist)

Develop initial concept proposal (artist)

Artists’ presentations for panel (artist)

Payment of fees to artists according to schedule (commissioner)

Selection panel review of concept proposals (commissioner)

In some commissioning processes, the selected artists are contracted to deliver a \*Detailed design package (commissioner and artist)

**Step 3. \* Stage 2 Agreement: Commissioning Artwork**

Contract agreement for artist to make and install art (commissioner)

Determine and obtain relevant approvals based on selected design (commissioner)

Contract written, revised and signed (commissioner artist)

Payment 1 to artist 40% (commissioner)

\*Detailed design package (artist)

Insurance purchased (artist)

Make the artwork/ fabrication (artist)

Ongoing communication and studio visit as outlined in contract (commissioner and artist)

Payment 2 to artist 30% (commissioner)

Transport and install the artwork (artist)

Maintenance schedule advised and developed (artist and commissioner)

Handover and promotion (commissioner and artist)

Payment 3 to artist 25% (commissioner)

**Step 4. Post-handover**

Maintenance and management for contracted lifespan (commissioner)

Payment 4 to artist 5% defects liability (commissioner)

Up to 12 month defect materials warranty (artist)

Decommissioning (commissioner)

# Step O. Pre-Commission

## The Artist Brief

The artist brief is prepared by the commissioner to outline the scope and objectives of the project, such as project themes, stakeholder engagement, or any material specifications. The artist brief also outlines the selection criteria against which the commissioner or selection panel assesses artists and artist proposals.

The artist brief is the responsibility of the commissioner. It may be developed by a project manager, a curator, or a team, such as an advisory panel comprising both professionals and stakeholders in the project. The artist brief and artist selection criteria should be endorsed by the panel prior to being made available to artists, to ensure that all relevant aspects of the site and commission are addressed.

The brief is developed and circulated after internal review of the site (or potential sites) has been undertaken, relevant policy frameworks identified, and community consultation, and after the selection committee is formed.

The brief provides the artist with all related contextual information and practical elements such as budget, timelines and site, as well as any required skills or characteristics of the artist. The brief should be well considered and feasible - allowing adequate time and funds for proposals, project development and execution. It will clearly state who is the contact person for the commissioning project.

Communicating these elements up front ensures that the client and stakeholder expectations and conditions are transparent. However, to ensure artists can freely express their creativity in response to the site, the artist brief should not be too prescriptive. It should be flexible enough to allow for a creative response and meeting the commissioner’s needs including functional or technical requirements.

The artist brief may include:

* details of the commissioner, the selection panel, and the roles of other parties expected to be involved in the project, such as Traditional Ownership groups, project managers, curators, advisory panels, community groups, or related organisations;
* identification of any parties expected to be consulted in the project, including a description of the level of consultation expected from the artist;
* the detailed budget including an indicative summary of expense lines (such as labour, design fees, travel, sub-contractor fees, materials, fabrication, construction, insurance, certification) and all installation costs;
* background to the project, including relevant history and reference to any underlying theme or master plan from local government or developers;
* key ideas informing the commission, including the purpose of the commission, the desired artistic and/or social outcomes of the project, relevant policy frameworks and themes;
* the location and characteristics of the building or place including any relevant plans, maps, or photographs of the site (including any limitations of the site regarding heritage listing or environmental factors);
* the scale and scope of the intended work, including any parameters for the art form. materials to be used, and intended lifespan;
* a description of the limitations and practical considerations that apply, such as planning regulations or building codes, engineering considerations, other scheduled works, site access restrictions or risk management and safety considerations;
* the time schedule for commencement, completion and lifespan of the work and any other key milestones;
* technical requirements that must be met including site analysis and constraints, plans and other drawings;
* sub-contracting options and responsibilities; and/or
* a summary of the commissioning process, including proposed contract arrangements (such as insurance).
* eligibility criteria, selection criteria and the selection process, including reference to the selection committee and detailed information about what to submit.

If the commissioning process includes a competition, a selection panel will be formed and the artists brief will be advertised widely (open competition) in conjunction with a request of EOIs, or to a limited pool of potential applicants (limited competition).

The artist brief may be revised prior to the development of contracts in the concept proposal, design development or commissioning steps, in response to changed circumstances, or in negotiation with artists.

## Selection Panel Appointment

The selection panel is responsible for assessing all applications and determining which artist or artists to commission in order to best realise the project outlined in the artist brief.

The composition of the selection panel will vary according to each project but usually includes the commissioner (or a representative of the commissioning organisation), key project personnel and other key stakeholders. It may include representation from relevant communities and professional bodies, in order to include members with appropriate professional knowledge and lived experience to judge the artistic, aesthetic and practical quality of an artist’s proposal and its relationship to the social and environmental site of the commission.

The panel is generally facilitated by the project manager as non-voting chair. Specifically, a selection panel should include the following:

* Traditional Owners of the proposed site
* Project manager and/ or curator
* Public art professionals
* Design and architecture professionals
* Community stakeholders (broad or specific)
* Key government agency stakeholders
* Technical experts regarding site and materials if applicable

Responsibilities and scope of work for the selection panel should be clearly defined and include the length and number of anticipated meetings, payment details and a confidentiality agreement.

## Determine and Obtain Relevant Approvals

Certain public art proposals may require development or works approval and/or building approvals. It is the responsibility of the commissioner or project manager to consult with relevant authorities in advance of the circulation of the artist brief, artist and design selection and contracting, to determine what site and other approvals are required.

This is not the responsibility of the artist making a proposal; however, the limitations of the site should be a consideration. The artist brief should include a description of the known limitations and practical considerations that apply in the commission, such as any planning regulations or building codes, engineering considerations, other scheduled works, site access restrictions or risk management and safety considerations.

Structural certification from an appropriately qualified engineer is typically the contractual responsibility of the artist before installation commences, in addition to development or works approval, and or, building approval. Other specialist input may be required from electrical engineers and access consultants.

# Step 1. Artist Identification

## Call for Expressions of Interest (EOI)

A request for Expressions of Interest (EOI) is an invitation from the commissioner for qualified artists to demonstrate their availability, capacity and interest in undertaking the work outlined in the artist brief. The EOI should be open for three months to ensure a wide pool of talent is included in the competition. Artists may submit an EOI either as an individual or as part of a team.

In some circumstances an EOI is not required, particularly in public art commissions for private developers or where Percent for Art schemes are active. In direct or limited competition commissioning models where an EOI is not required, an artist briefing session may still occur with the commissioner or architect.

The EOI is typically submitted online and includes:

* the CV of the artist or artist team highlighting a track record of artworks and relevant experience (for example in managing large projects);
* relevant images of past artworks, paying careful attention to the technical requirements requested from the commissioner (size of files or length of video);
* a short, written response to the artist brief, highlighting experience and skills relevant to the selection criteria. This may include relating their experience to the artist’s intended approach to the project;
* an indication of the artist’s availability within the proposed timelines for the project.

The selection panel may convene a briefing session or arrange site visits to supplement the artist brief, prior to the close of EOIs. Any additional resources should be provided to all competing artists. Resources and communication should be transparent, with responses to individual questions, for example, made available to all artists.

Responses to the artist brief in the form of an EOI should be completed by the principal artist, who is either a solo artist, or in the case of collaborations, the nominated or principal artist for the leadership purpose of contracting and project management.

Concept ideas or researched designs **should not** be prepared or requested at this stage, and never without the payment of a fee. Unlike many of the other professionals contributing to large building projects or public events, an independent practitioner may be operating with limited infrastructural support. Particular attention therefore needs to be paid to setting out purpose-designed processes and contracts for practitioners working on public art commissions that recognise the nature of the work undertaken by an artist to deliver the task or project.

## Shortlisting Artists

The artist brief outlines not only the nature of the project but also the criteria for selecting one or more artists to participate in the commissioning process.

In an open or limited-competition commissioning process, the selection panel selects those artists to proceed to the concept design stage against the selection criteria specified in the artist brief. Ideally, a selection rubric has been developed in conjunction with the artist brief to guide the panel through the process.

For commissions involving an EOI process, the submitted EOIs are assessed against the predetermined selection criteria. The selection criteria may include:

* The quality of the EOI in terms of the strength of the artists’ intended approach in relation to the priorities of the artist brief
* Calibre and track record of the artist:
* As demonstrated by the support material showing practitioner’s previous work
* Evidence of experience and appropriate skills in relation to the artist brief (i.e. specified materials, site specificity or community engagement)
* The suitability of the artist/ practitioner’s work to the context, history and interests of Traditional Ownership of land. If the artwork relates to First Nations cultures or sites, the proposed work should be assessed by relevant First Nations communities (or their nominated representatives) as to its appropriateness
* The artist/ practitioner’s interest, availability and commitment to the project

The panel members may review and rank each application individually against the selection criteria before meeting to undertake a group assessment using the same process. Following this assessment, usually two to five artists are shortlisted and invited to proceed to the concept proposal stage. If a larger number of artists remain in contention, they may be invited by the panel to an Interview at which they can discuss their EOI, prior to the final shortlisting.

The chair of the panel collates the information from the selection panel and prepares a report, following which applicants are notified in writing of the outcome of the EOI process. The shortlisted applicants will be sent a letter of agreement by the commissioner informing them that they have been shortlisted and inviting them, for a fee, to develop a concept proposal for the work. Any applicants who were not shortlisted should be notified of the outcome at this stage.

# Step 2. Concept Proposal Stage (shortlisting)

## Stage 1 Agreement: Concept Proposal

In this step, the shortlisted or invited artists are contracted for a fee to develop a concept design in response to the artist brief (\*[Stage 1 Agreement: Concept Proposal](#_Stage_1_Agreement:)). The resulting concept proposals are presented to the selection panel and assessed against the artist brief, from which normally only one artist is selected to advance to commissioning (the \*[Design Development Stage](#_*Detailed_design_development) or \*[Stage 2 Agreement: Commissioning the Artist](#_Stage_2_Agreement:)).

To provide shortlisted artists with more detailed information about the commission, a briefing is usually held, usually prior to contractual agreement. The briefing may include presentations by the commissioner and any other relevant professionals, as well as a site visit. It is preferred that commissioners engage local Traditional Owners to provide consultation about the site.

The artist brief, which forms part of the concept proposal agreement, may have been revised in response to changed circumstances, or in negotiation with artists following the briefing. It is the responsibility of the commissioner to brief the shortlisted artists with all relevant information to enable them to prepare their concept proposal.

A fee (typically $2500-3000 - and scaled up according to overall budget, see [draft artist fees for public art](https://visualarts.net.au/artist-fees-public-art/)) should be paid to each of the shortlisted practitioners for the development and presentation of a visual concept and more fully developed proposal. This shouldn’t include detailed engineering drawings, which should be included as a contract milestone. The fee does not include the rights to concepts, drawings, maquettes and models submitted as part of the presentation, which remain the property of the artist.

The contract should clearly specify the timeframe in which the artist must respond, as well as who owns the intellectual property in the proposal or the circumstances in which copyright is granted to the commissioner. Artists should normally retain ownership of any submitted visual concepts they have developed. Artists should be free to make alternative use of visual concepts or submissions once an agreed time has expired, unless appropriate and fair alternative arrangements have been entered into.

Each artist is required to develop their initial concept proposal and costing. The concept proposal needs to consider relevant budget, engineering, planning consent, risk assessment or other issues raised in the brief.

The concept proposal developed by the artist may include:

* a written description of the artwork and response to the theme;
* drawings, sketches and/or digital images indicating the location, scale, colour and materials of the artwork and where appropriate, a 3D model or digital images;
* material samples;
* approach to community engagement in the project, if appropriate;
* details of major fabricators, industry collaborators and other design professionals required to produce the artwork;
* preliminary budget or cost estimates;
* work program and payment schedule;
* proof of relevant insurances; and/or
* preliminary details of installation requirements.

Artist/practitioners should be given an adequate period of time (at least four weeks) to submit their design concept, however, this timeframe depends on the scope and complexity of the commission.

The resulting concept proposals are presented to the selection panel and assessed against the selection criteria stated in the artist brief, from which normally only one artist is selected to advance to the next stage. The selection criteria may include:

* The quality of the concept proposal in terms of the strength of the artists’ concept proposal in relation to the priorities of the artist brief
* Calibre and track record of the artist:
* As demonstrated by the support material showing practitioner’s previous work
* Levels of experience and appropriate skills in relation to the artist brief (ie: specified materials or community engagement)
* The suitability of the practitioner’s work to the context, history and interests of Traditional Ownership of land. If the artwork relates to First Nations cultures or sites, the proposed work should be assessed by relevant First Nations communities (or their nominated representatives) as to its appropriateness
* The artist’s interest, availability and commitment to the project
* A realistic budget and project schedules.

The chair of the panel collates the information from the selection panel and prepares a report, following which applicants are notified in writing of the outcome. The selected artist will be sent a letter of agreement by the commissioner informing them that they have been shortlisted and inviting them, for a fee, to develop a detailed design for the work ([Stage 2 Agreement: Commissioning the Artist](#_Stage_2_Agreement:)). In some commissioning processes, the \*[Detailed design development stage](#_*Detailed_design_development) is an additional agreement stage in advance of commissioning the artist.

Any applicants who were not shortlisted should be notified of the outcome at this stage.

## \*Detailed design development stage (if used)

Design development may be contracted as a separate stage or incorporated within the final contract for commission.

If managed as a separate contract stage, the selected artist is contracted to develop a detailed design package for the work and have the proposal assessed by the selection panel, prior to the final contract for the commission. ([Step 3](#_Step_3._The))

It’s use in this way is not uniformly accepted because it has the potential to lengthen the commissioning process and unfairly impact the artist’s creative outcome. It may be appropriate, however, where there has been a significant change to the artist brief, or in other circumstances affecting the brief since the concept proposal stage, or where the artist and commissioner wish to test out the feasibility of a particular technique or approach before committing to commission.”

The artist brief, which forms part of the design development agreement, may be revised at this stage in response to changed circumstances, or in negotiation with the artists following their selection.

The developed design may include:

* artistic approach - conceptual ideas behind the artwork in relation to the artist brief
* preliminary images or drawings for two dimensional artworks including dimensions, finished dimensions and an estimation of finished weight **or** scaled drawings and/or models for three dimensional artworks
* themes and colours
* materials or fabrication samples having ensured that all materials are available and fit for purpose
* construction drawings for any elements that require engineer certification
* a project timeline update taking into account subcontractor timeframes and variance
* a completed risk management plan and a safe work methods statement
* a realistic budget

The artist presents their detailed design to the selection panel, who will assess the design against extended criteria.

## Notification of successful and unsuccessful applicants

Once the selection committee has come to a decision the commissioner (usually via the chair of the selection panel) should notify the successful and unsuccessful applicants in writing. The deliberations of the panel should be kept confidential, however unsuccessful applicants may seek feedback from the commissioner on the outcome of their application.

# Step 3. The Commission

## Stage 2 Agreement: Commissioning Artwork

In summary, the commissioner creates and negotiates a contract with the artist to fabricate and install the artwork according to the selected design. There will typically be 4 payments (40% upon signing, 30% in process of fabrication/ following detailed design package, 25% at installation and handover, and a small provision for defects liability should be factored in at 5% for up to 12 months after installation). Other considerations throughout the commission include insurance, variations, subcontractors, transportation, installation, and maintenance.

The [Arts Law Centre of Australia](https://www.artslaw.com.au/sample-agreements/sample-agreement/public-art-design-and-commission-agreement/) provides sample agreements for public art commissions. It is our experience that template contracts from commissioners other than Arts Law will not have appropriate clauses or take into account issues of delivery or intellectual property and it also puts undue burden in the artist to then negotiate favourable terms.

Contractual agreement is especially important in public art commissioning because of the scale of the project, but sometimes it is the complexity of contracts that causes problems. The development of long and detailed contracts, especially in large public art projects, can make it difficult for artists to understand their responsibilities. Further, the contract may not be appropriate for some forms of artistic practice. Conversely, a contract that is too simple can leave too much open to interpretation and not be useful in the case of disagreement or a dispute. Agreement as to the terms of the commission contract should be reached as soon as possible following the final selection process. The selected practitioner should not undertake further work on the project unless and until they have reached agreement with the commissioner about the terms of the contract, and that agreement is in writing and signed by both parties. This should be understood and respected by both parties. Artists should not be pressured by the commissioner to start work on the project before an agreement has been signed due to short timelines. The commissioner should present a contract to the artist in a timely manner, allowing time for any negotiations before work begins.

The contract should clearly state the conditions of the commission including insurance responsibilities, copyright and reproduction arrangements, budget guidelines including a schedule of remuneration, decommissioning and relocation guidelines, ownership of maquettes, and other conditions as required. A risk management plan should also be completed by artist at the contract stage to identify risks associated with the artwork proposal and to document their management. Commissioners may be able to provide a suitable risk assessment form to be adapted. Unlike construction contracts, artists may require payment upfront for materials purchase followed by payments on milestones achieved. It is important that commissioners are mindful that most artists may only occasionally take on complex commissions and may not have access to the business support structures possessed by other design and construction professionals.

The commissioning contract should include:

* Contact details for the artist and their team
* Concept and design approval of artwork with image attachment
* Commencement, progress milestones, payment and completion dates
* Artist fees, payment schedule and other budget items
* Schedule of communication including a midway studio visit and handover
* Variance and changes (number, reasons for, and process to approve)
* Penalties for late artist fee payments by commissioner
* Insurance requirements
* Attribution details and copyright
* Identification of preferred subcontractors (e.g. the artist may develop a design with a particular fabricator in mind. If so, they will need to be identified in the contract.
* Terms on Indigenous cultural and intellectual property rights and any protocols that need to be followed by the commissioner in relation to respecting these rights
* Maintenance and repair procedures and defects liability period (up to 12 months)
* Terms around what would happen if the commissioner hands over the control of the site to a third party (e.g. agreement necessary for additional agreement with third party in relation to copyright, moral rights, Indigenous cultural and intellectual property, as well as maintenance and deaccessioning. This additional agreement would need to be also provided to the artist.
* Expected lifespan of the artwork and decommissioning specifications for removal
* Dispute resolution procedures and termination terms and conditions including what happens to the intellectual property should the commission end in termination.

### Concept Approval and Variance

The contract should outline the approved concept and include the visual concept material provided by the artist. The approval of this concept and any specifications of variance will need to be referred to throughout the commissioning process.

### \*The Detailed Design Package

The design phase of the commission begins after the contract has been negotiated and signed. Artists will now develop a detailed design package for approval by the commissioner, which then becomes what artist must deliver as outlined in the contract. \*In some instances, the Detailed Design Package is the second stage of agreement in advance of the commissioning the artist.

Artists should reconsider the aims of the project as originally outlined in the artist brief, particularly in relation to themes, style, site, audience and engagement. Artists also need to consider technical elements including public safety, lifespan of materials and maintenance requirements of the artwork. The Detailed Design Package should include the following:

* artistic approach - conceptual ideas and themes behind the artwork
* preliminary images or drawings for two dimensional artworks including dimensions, finished dimensions and an estimation of weight at completion
* colours, materials or fabrication samples
* construction drawings for any elements that require engineer certification
* a project timeline update taking into account subcontractor timeframes and variance
* A risk management plan and a safe work methods statement

### Total Project Budget

The total project budget is firstly included in the artist brief and will be redeveloped/ expanded on at the project design stage once the artist becomes clear on what expenses the creation of the work entails. It must be specified for each line item what is the cost to be managed by the artist or commissioner. The total artwork budget for the commission is advertised in the artist brief and must cover all costs associated with the commission.

* management fee for a project manager (commissioner and/or artist)
* artist fees approximately 20-40% percentage of overall project budget, based on the role of the artist in the project but regardless of the stage of career of the artist (commissioner)
* costs for producing the artwork (artist)
* meeting time and expenses
* travel and accommodation expenses (if applicable)
* administrative expenses
* materials and construction/fabrication costs
* transportation, freight and installation costs
* subcontractor and/or collaborator fees (if applicable)
* project management fee for the principal artist if subcontractors are used
* insurance costs
* engineering certification or other compliance costs (if applicable)
* footings and foundation (commissioner)
* interpretive material (such as plaques or website) (commissioner)
* installation costs (commissioner and/or artist) including detail of in-kind costs covered by the commissioner
* ongoing maintenance and conservation of the artwork (commissioner)

### Compliance Issues

The integration of artworks in the public arena raises issues of public health and safety and accordingly artworks must comply with the relevant Australian Standards and the Building Code of Australia relating to the design, fabrication and installation of the commission. These costs should be included in the artwork budget.

### Delays to Schedule

The artist is contracted to deliver the commission by the agreed date. Any changes to the agreed timeline must be approved by the key stakeholders in writing.

If delays in the building or landscaping of the site mean that the artist cannot install the artwork according to the agreed schedule, then the commissioner may be required to pay for or provide suitable storage for the artwork until installation can be affected.

### Artist Fees and Payment Schedule

Commissioning bodies and artists should be realistic about the work involved in carrying out the commission, and artists should be fully remunerated for their work. Often an artist fee is a larger percentage in a smaller project and a smaller fee in a larger project. Artists should be paid a fee; a minimum fee schedule is outlined in [draft artist fees for public art](https://visualarts.net.au/artist-fees-public-art/).

Specifically, for commissioning art in public space, the budget and artist fees should be planned for two stages of contracts. In some instances, an additional \*Detailed design stage is contracted from the shortlisted artists before selection of artist for commissioning.

* **Stage 1 - Concept proposal fee** - approximately $2500 - $3000 should be paid to artists who are invited to submit an initial proposal following preliminary shortlisting. This includes an initial project idea and rough budget and timelines. It is typical for approximately 2-5 artists or artist groups to be selected at this stage.
* **Stage 2 -** **Commissioning fee** - approximately 20 - 40% percentage of overall project budget, regardless of the stage of career of the artist, but dependent on the amount of artistic content/ labour and skill level of work undertaken as the artist’s contribution
* **Additional costs** to be negotiated in commissioning contract:
	+ Costs of artwork (materials and production) depending on the size and scope of the project as proposed by the artist, selected by the commissioner, and defined by the contract.
	+ Costs for travel associated with meetings ATO rates
	+ Costs for time associated with meetings and speaking engagements – (see Pay Standards for Artists & Artsworkers in [NAVA’s Code of Practice](https://visualarts.net.au/code-of-practice/))

Once contracted, the artist fee should be paid according to successful milestones as outlined in the contract:

* Payment 1: 40 % of the total artwork budget within 30 days of the receipt of contract
* Payment 2: 30 % of the total artwork budget within 30 days of viewing of project’s progress, e.g.: studio visit when fabrication of project is half-way completed.
* Payment 3: 25 % of the total artwork budget within 30 days of the notification that the commission is delivered and the handover completed.
* Payment 4: 5% of the total artwork budget held as small provision for defects liability should be factored in at 5% for up to 12 months after installation

Where the artist is responsible for purchase of materials and fabrication costs, the payment schedule should recognise that artists may not have the economic resources to cover the costs of large projects in advance and that payments need to be made on time and the first payment may need to be a significant portion of the fee payable. A schedule of penalties for late payments should be included in the contract.

Prior agreement should be reached on the key required meetings relating to the project the artist should attend. Attendance at any additional meetings should be paid according to an agreed hourly rate. Further, when the artist is invited to give public artist talks, they should be paid at the suggested fee for artist talk rate (see Pay Standards for Artists & Artsworkers in [NAVA’s Code of Practice](https://visualarts.net.au/code-of-practice/))

The contract should outline what costs are provided in kind by the commissioner, this includes installation costs such as engineers, installation equipment, help with traffic control, attribution through material and digital signage and other things. These items should be negotiated as part of the contract.

Provision should be made for handling unforeseen variations in costs. These may occur due to:

* general project delays
* extra modifications to designs made at the commissioner’s request for special circumstances only, when these are over and above the number of revisions specified in the contract as being covered by the original fee. The practitioner should not be expected to bear the additional costs in such circumstances. Appropriate design fees, and other costs for any additional labour, services and materials required due to circumstances beyond the practitioner’s control should be paid by the commissioner.

Budget cuts within the commissioning body is not the artist’s responsibility. Once the contract is issued, funding has been allocated to procure the artwork. There may be other reasons that the project cannot go ahead in its original form, requiring redesign or remaking of the work; however, these variances from the commissioners need to be negotiated with the contract artist with resources to support the proposed change. Practitioners must be notified of these changes and the option to present a new design/concept within these new parameters with appropriate payment. In this case, the contract would need to be revised.

The artist should invoice the commissioner for all scheduled payments. Invoices must show the artist’s ABN. Where the artist is registered for GST, they must provide a valid tax invoice.

### Intellectual Property and Copyright

Artist’s rights are protected under the Copyright Act 1968 (Commonwealth). The [Australian Copyright Council](http://www.copyright.org.au/) provides advice on copyright and ownership in relation to public art. More information about artists’ copyright and moral rights protected under copyright lawis available on the [Arts Law Centre of Australia website](http://www.artslaw.com.au/legal/information-sheets).

Unless otherwise agreed, copyright of both the preliminary visual material and the work itself should be retained by the artist. The artist is responsible for attributing all authors of any work that comprises part of the artwork, and for procuring the consent of said authors as appropriate.

While intellectual property rights remain with the artist, a license may be negotiated as part of the commissioning contract to enable the commissioning party to reproduce, communicate, publish and broadcast images of the work. Any display of the artwork should clearly identify the artist. Publications, representations or descriptions of the artwork, including audio, video, film, electronic or photographic means, should identify the artist as the creator of the work.

Unless otherwise agreed to by the artist, commercial use (e.g.) merchandising should be subject to further royalty payments. This should be set out in the agreement. The commissioning agreement should clearly outline the scope of the licence granted to the commissioner to use images of the work.

Particular care should be taken in relation to licensing and using copyright in works by First Nations artists or that relates to First Nations cultures or communities. It is important to discuss with First Nations artists and/or Traditional Owner groups how images of the work are to be used, to make sure that the proposed uses do not cause cultural harm or breach cultural protocols.

If copyright is transferred to the commissioner, the following conditions must be met:

* the artist should be adequately remunerated specifically for the copyright in the designs, or the work, or both.
* the artist retains the right to reproduce the designs or the work in two dimensions for nominated purposes (for example, inclusion in a portfolio, submissions for grants, awards or promotional material).

Agreements that the artist and commissioner hold joint copyright in the work or designs is not recommended because this arrangement is likely to be unclear and neither party can control the actions of the other with respect to reproductions of the work.

Intellectual property terms should also specify whether the licence is exclusive or non exclusive, e.g. what restrictions does the artist then have? It is usual for commissioned work to be exclusive rights for the commissioner to use and display the work on the site because it is purpose built.

### Moral Rights

Artists and commissioners must be aware of legislation that protects moral rights. Moral rights are protected through an amendment to the Copyright Act 1968 passed in 2000. Moral rights are additional to the economic rights already provided for. Only individuals have moral rights. This means that corporate bodies cannot claim moral rights under Australian copyright law.

 This legislation protects the rights of attribution and integrity belonging to authors of artistic works. The following three rights are recognised:

* the right of attribution of authorship – the artist and collaborators are identified by being named on signage or plaques in public space, the collections registrar, and any documentation or publication of the work including websites.
* the right not to have authorship falsely attributed
* the right of integrity of authorship - an author has the right not to have his or her work subjected to derogatory treatment, meaning the work is materially or conceptually damaged. The commissioner must not compromise the integrity of the work or permit others to do so while the work is in their care. The commissioner should be responsible for ensuring that the public artwork is adequately maintained and protected in its lifespan and the decommissioning conditions will also be specified in the agreement.

The artist must be consulted if changes are proposed to the work, or to the location of the work. Relocation is strongly discouraged if the work is site specific. If the parties cannot reach an agreement about the changes proposed, the practitioner has the right to be disassociated from the work, for example, through the removal of their name from the work and the right to document the work in situ prior to its relocation or removal.

For works by First Nations artists or that relates to First Nations cultures or communities, there should be a consultation and approval process for any materials that portray or share First Nations cultures, histories, stories, etc. Need to check proper interpretation (e.g. spellings, how a story is told), for integrity of culture and accuracy, and that it is not offensive.

### Indigenous Cultural and Intellectual Property

In addition to copyright and moral rights, Indigenous Cultural and Intellectual Property (ICIP) rights may also subsist in works. These are Indigenous people’s rights to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions as conferred by Article 31(1) of the United Nations Declaration on the Rights of Indigenous Peoples.

Free, prior and informed consent for the use of ICIP must be obtained from relevant Traditional Owner groups. ICIP rights should always remain with its traditional owners or custodians. Best practice is to include terms in commissioning agreements to respect ICIP rights.

* Obligations on the commissioner to follow protocols – refer to the [Australia Council for the Arts](https://www.australiacouncil.gov.au/about/protocols-for-working-with-indigenous-artists/) Indigenous Protocols.
* Attributions: see page 34 of the Australia Council document for an example of an ICIP custodian notice, which is like an attribution notice, but is about acknowledging custodial interests. It is important that this is discussed in advance with Traditional Owners or the Indigenous artist on preferred attribution as some might not want to be attributed.
* Free, prior and informed consent for the use of ICIP must be obtained from relevant Traditional Owner groups. ICIP rights should always remain with its traditional owners or custodians. Best practice is to include terms in agreements to respect ICIP rights.

### Insurance: Public Liability, Material, Workers Compensation

The responsibility for insurance should be undertaken by the party in the best position to control and manage the risk and be best able to secure the insurance cover at a reasonable premium. Commissioners should recognise the economic constraints under which many artists work and should not shift their responsibilities onto those who may not be able to or afford to obtain adequate insurance. If the practitioner is to be responsible for insurance for the fabrication of the public art project, this cost should be included in the contract budget.

Artists are generally responsible for their own insurance and are encouraged to seek specialist advice on what insurances are required and what protection they provide. Artists and subcontractors must hold public liability insurance and the principal artist should provide proof of such insurance to the commissioner. Generally, the artist is required to hold public liability insurance protecting the commissioner against defects in the work for a specified time period (6-12 months warranty post handover).

Where fabrication of the work is onsite a property owned by the commissioner (e.g. Local Government), they are usually required to provide public liability insurance for that site. The cost for the artist to insure the work off site and during transit to the installation site should be included in the contract budget.

If Workers Compensation insurance is required, this should be the responsibility of the artist/practitioner and included in the contract budget.

### Risk Management and Safe Work Methods

In addition to the terms and conditions of the contract, the principal artist is responsible for identifying and effectively managing the risks and hazards for the commission.

A risk management plan enables artists to consider what could go wrong and whether they are making assumptions that could be proven to be incorrect. It helps to identify the risks and determine the best way of mitigating them. A component of a risk management plan is the safe work method statement. This statement shows that artists have considered their work practices, the hazards that may be inherent in the work that they do and shows what they will do to address these. It is different to a risk management plan in that it describes the steps required to create and complete the commission and identifies the hazards as opposed to the risks.

The commissioner should supply the principal artist with a template that they may use to assist in the development of a risk management plan and safe work methods statement. For further information about the local legislation, responsibilities and links to codes of practice visit Worksafe websites for each state.

### Sub-contractors

Artists may employ subcontractors to assist with design, fabrication, transportation, and/or installation of the artwork and/or some of its components. The artist should ensure that they have been provided the risk management plans, safe work methods statements, and insurance coverage. The artist should supply a list of sub-contractors to the commissioner. The commissioner will specify in the contract what level of insurance is required.

It is the artist’s responsibility to manage and resolve any issues that arise with their sub-contractors related to delays, costings, faulty workmanship or inability to deliver within the specified timeframe and budget.

## Fabrication (Making the Artwork)

Once the contract has been signed by both parties, the commissioner and artist should remain in communication regarding the progress of the project. If there is a project manager, it is their responsibility to arrange progress meetings and assist in resolving any issues which arise; otherwise, this should be the responsibility of the commissioner.

The production of the artwork may involve the artist creating the artwork themselves, supervising its fabrication by someone else, or a combination of both. An artist should not be required to work with particular fabricators chosen by the commissioner unless this has been discussed before the artist has been selected to undertake the commission.

The artist will work to meet the milestones specified in the contract and be responsible for providing regular progress reports as outlined in the communication requirements in the contract (written updates and images on the progress of the artwork). Where appropriate, a studio visit will be undertaken by the commissioner and may also involve other relevant professionals and stakeholders. Visits also ensure that there are no unwanted ‘surprises’ for the commissioner at the end of the process because the commissioner may not be expert in reading drawings or visualising artwork.

Once the detailed design package has been approved, the artist may start making the artwork. The artist must not make any significant changes to planning and realisation of the artwork as approved at the detailed design package stage unless an approval for variance has been updated for the contract. If the artist makes changes to the artwork without approval, then the commissioner may refuse to accept the artwork. Both of these outcomes have financial and time implications for the artist.

Once the artwork has been completed according to the terms of the contract, the artwork will be installed in accordance with the conditions outlined in the contract between the artist and commissioner. As the final stage of the contracted public artwork commission project, the artist should provide a maintenance report.

## Installation of Artwork

The commissioner should also arrange or work with the practitioner to fulfil any regulatory submissions or requirements that are needed for installation of the work. This may include engineering certificates, approval to work onsite or access considerations such as traffic control.

The installation will take place at the exact site identified in the original artist brief and detailed in contract. The commissioner will have sought approvals for this site in advance of the advertisement of the artist brief and clarified these approvals in the contract. The commissioner will manage any consultation about the installation at this site

Artist contracts should clearly outline the artist’s responsibility for transportation of an artwork to the installation site, and for ensuring secure storage if site readiness occurs later than delivery, as well as insurance prior to acceptance of the artwork on site. The artist’s responsibility for the cost of artwork installation should also be included in the artist’s contract, as appropriate. The lighting of public artwork will be specified in the detailed design package by the artist and approved by notice and budget in the contract.

On completion of the project, an event may be organised involving the artist and stakeholders to celebrate and promote the project. Artists should be invited to give a public talk about the artwork and the development process. Traditional Owners of the site should be invited to contribute, attend or are consulted. Someone from the community should be invited to perform a Welcome to Country (see Pay Standards for Artists & Artsworkers in [NAVA’s Code of Practice](https://visualarts.net.au/code-of-practice/)). This process can also help encourage community understanding of the artistic vision and process of creation of the public art project. Unless included in the contract, the artist should be provided a fee for the artist talk.

# Step 4 Post Handover

## Attribution of Artwork

Moral rights legislation requires that the artist is properly acknowledged. There are two ways public art will be acknowledged: physical signage or virtual attribution. If the artwork is commissioned by government, there should be signage or plaque installed detailing the artist’s name, the title of the artwork, the year, the materials used and acknowledging the commissioning body of the artwork. Increasingly, commissioners will publish this information on a website or find other digital and interactive ways to identify works such as smartphone apps for public art collection maps or walking tours. Virtual attribution should be done in additional to physical signage.

The commissioner will include a notice of Traditional Custodianship should be included and if created by an Indigenous artist, be guided by them on attribution of community.

## Maintenance, Conservation and Repair

A public artwork must be able to be installed and subsequently maintained within available resources for the duration of its lifespan. As each artwork is different, some works will be more fragile than others and subsequently will require more maintenance and conservation work. Handover and delivery of the project the practitioner should provide the commissioner with a maintenance schedule. The commissioner should implement a regular program of cleaning and checking the work to ensure that the work is kept in good condition. The commissioner also needs to be aware that maintenance of the artwork may be required in order to uphold the practitioner’s moral right of integrity in the work. This is also relevant if the site was to be redeveloped in the future and the impact that this may have on the relationship of the work of art to its location. A public artwork may need to be removed from public display for a range of reasons, including deterioration in it condition or circumstances impact on the site of the work and compromise its integrity.

The contract or agreement should outline the maintenance and conservation responsibilities, repair processes and process of deaccession and disposal. As these responsibilities occur after the transfer of ownership of the public artwork, this should be the fiscal responsibility of the commissioner; however, the artist should be immediately notified of any damage or proposals for changing/moving the work and be given the opportunity to provide advice or undertake repairs on public work. If undertaking repairs or changes on request by the commissioner, after the final delivery of the work, the artist should be paid appropriately for additional work outside of the initial project scope and outside of the specified warranty.

Maintenance involves basic frequent activities such as cleaning of artwork surfaces and infrequent activities such as surface polishing. Maintenance also includes responding to vandalism and damage such as replacing broken components and removing graffiti and bill posters. Conservation refers to major activities required to refurbish an artwork and may require removing the artwork from site. Conservation works may include the repainting of an artwork or the replacement of mechanical components. Specialised professional services are recommended for conservation work.

The commissioner should budget dedicated funding for the maintenance of artworks each financial year with a more substantial amount being set aside for major activities required until decommissioning. The amount of funding required for maintenance will depend on the tasks set out in the maintenance manual provided by the artist at the installation of the work. Some artworks will be more expensive to maintain than others. For example, those using water or electrical components can be very costly to maintain and the guaranteed availability of a suitable maintenance budget should be considered when commissioning an artwork.

The ongoing maintenance of the public artwork should be the responsibility of the owner. The maintenance manual is prepared by the artist at the end of the project and outlines:

* a description of the artwork (including digital images and the date of completion);
* artist team contact details
* a maintenance schedule and an agreement on who is responsible
* the expected and agreed lifespan of the work (refer to commissioner’s policy)
* dimensions of the artwork and materials used
* fabrication and installation techniques and certificates
* details of any electrical and/or mechanical systems installed
* sub-contractors engaged
* cleaning/maintenance requirements and instructions

The contract should outline the maintenance responsibilities, repair processes and process of deaccession and disposal. This should be the responsibility of the commissioner; however, the artist should be immediately notified of any damage or proposals for changing/ moving the work and be given the opportunity to provide advice or undertake repairs on public work. If undertaking repairs or changes on request by the commissioner, after the final delivery of the work, the artist should be paid appropriately for additional work outside of the initial project scope. Over time the original personnel involved with the commission may move on and the corporate knowledge around the commission could be lost.

During the warranty period, which may be specified up to 12 months, the artist will be required to fix defects in the artwork or else meet the costs the owner incurs in fixing defects in the artwork and installation in accordance with the contract requirements.

## Decommissioning, Relocation or Disposal

In the event of destruction, removal, deaccession or relocation of the artwork, a contract requires compliance with section 195AT of the Copyright Act 1968. This section requires the person who wishes to destroy, remove or relocate the artwork to give the author a reasonable opportunity to remove the work from the place where it was situated, or a notice stating the person’s intention to carry out the above acts and an opportunity for the author to seek and have access to the artwork for the purpose of making a record of the work, or consulting with the person about the intended acts. See [Arts Law’s Public Art – design and commissioning information sheet](https://aus01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.artslaw.com.au%2Fimages%2Fuploads%2FNEW_Public_Art_-_design_and_commissioning_information_sheet_12.01.2016.pdf&data=02%7C01%7C%7Ce5e3feffe3bd4214b0b408d73fd9dd99%7Cd1323671cdbe4417b4d4bdb24b51316b%7C0%7C1%7C637048077290406682&sdata=rEEDPA28qTVIK%2BnAkZalMNAEbqr50Ua%2FGA20oXlWDww%3D&reserved=0) with regards to Moral Rights (page 5).

The artist/practitioner should be contacted if it is proposed that the work be relocated or decommissioned. If it is not possible to contact the artist, then consideration need to be given as to who should be consulted on their behalf e.g. the estate and current copyright holder. If the public artwork is to be removed from its site for disposal, the artist should be given the first opportunity to have the title in the work transferred to them and to document the work in situ.

Decommissioning is defined as the formal process to remove public artwork from its active status, including (but not limited to) relocation, storage, sale, donation or disposal/destruction. Each public artwork has a finite lifespan, depending on a number of factors, such as what it is made from and where it is located. If an artwork has reached its intended lifespan, has been damaged or destroyed, or is no longer safe, there may be a need to remove or relocate the artwork. This may also happen if the site on which the artwork is located has been sold or is to be redeveloped or if the artwork no longer reflects a sense of place.

Before an artwork is decommissioned, a formal process should be implemented to consider:

* the intended lifespan of the artwork;
* any conditions relating to the deaccessioning of the artwork, as outlined in the contract;
* the opinions and advice of relevant stakeholders including the artist, maintenance contractors, the owners of the building or land on which the artwork is located or any other experts, such as engineers; and
* community or cultural issues associated with the artwork, building, land and/or original commissioning process.

If an artwork cannot be retained in its original location, the artwork may be able to be sensitively relocated, only after discussions between the commissioner and the artist have occurred.

## Evaluation

At the completion of the project, it can be useful to evaluate the processes involved in the commission.

# Other Issues

### Disputes

Arts Law has [Mediation Guidelines](https://www.artslaw.com.au/images/uploads/Mediation%20Guidelines_2012.pdf) and services available for artists and commissioners.

There is a need for appropriate dispute resolution mechanisms to address disputes that may arise over issues such as whether the work has been satisfactorily completed, who should bear the costs of changes to designs or to the work itself, differing expectations about completion, access to the work site, inspection of the work prior to completion, and so on.

Dispute resolution should be conducted by an independent mediator agreed to by both parties. The costs of the dispute resolution process should be met by the commissioner.

### Termination

A termination clause should be included that outlines the conditions where the commission might be terminated. The artist should be paid for any work completed thus far in the commission. This clause should also outline what should happen if the artist falls ill or dies during the commissioning process.

# Acquisition: Purchase, Donation or Bequest

The acquisition processes of purchase or donation of a pre-existing artwork follow very similar processes to commissioning a new work. This is also true for a bequest: an existing artwork that has been privately or publicly donated via a will.

 These elements include:

* proposals for donation,
* selection and contracting,
* transportation and installation,
* attribution, intellectual property and moral rights,
* maintenance, conservation and repair,
* certification of the artwork components by an appropriately qualified Australian certified professional engineer
* and deaccessioning, relocation or disposal.

A proposal to sell or donate a work to a public or private organisation should include:

* a location map showing the proposed site
* drawings of the proposed artwork showing materials, colours and dimensions
* images of the artwork
* a description of the conceptual basis of the artwork
* Artist’s name and curriculum vitae
* certification of the artwork components by an Australian certified professional engineer;
* a recent valuation of the artwork
* name of the artwork owner
* information on the preferred approach to the installation of the artwork including materials, layout and lighting; and
* information about ownership, ongoing maintenance and decommissioning requirements.

# Other areas for development in the Code

* Public art works commissioned via agencies
* Exhibiting and loaned public art
* Legal street art
* Festivals, performance and ephemeral art
* Community art

# Glossary

|  |  |
| --- | --- |
| TERM | DEFINITIONS |
| Acquired public art / Public art acquisition | An existing artwork that has been purchased ‘off the shelf’ (e.g. from an artist, gallery, exhibition or catalogue) with the specific intention of being sited or staged in the physical public domain and accessible by the public.  |
| Art in the Public Space | Referring to projects that exist outside of an arts (gallery, festival, event etc.) setting. |
| Artist Brief | A brief is a document outlining the outcomes and details of a project. This describes the project in a call-out or EOI advertisement. |
| Approval Processes | Different processes for choosing which practitioner/project will be chosen by the commissioner. |
| Bequest | An existing artwork that has been privately or publicly donated via a will. |
| Building Code of Australia | The Building Code of Australia (BCA) provides a nationally accepted and uniform set of technical requirements for all areas of building, from design to construction. Developed by the Australian Building Codes Board (ABCB) on behalf of the Commonwealth, State and Territory Governments, the BCA is referred to as the building regulation in all States and Territories. |
| Commissioner | The agent commissioning the work, i.e. Council, a company, private patron, etc. |
| Community Consultative | Projects that must be developed in consultation with the community they exist in.  |
| Community Art | The development of the project depends on community participation and is enhanced by involvement. Public artwork of community significance involving the active participation of community members in its design and/or creation and often facilitated by an artist or a community arts worker. |
| Commissioned art in public space | A site-specific artwork commissioned by government or private entities from an artist that is inspired by and responds to the environmental, cultural, historical and social context. |
| Commissioning | The process undertaken to create and install an artwork in the public realm. |
| Contract Commission Fee | This is the artist fee agreed upon in the concept design agreement. |
| Deaccessioning | Deaccessioning is the removal of a public artwork. Possibly by request of the practitioner or Commissioner. Usually public artworks are deaccessioned because the integrity of the work is threatened due to outside factors e.g. graffiti, wear and tear etc. |
| Decommissioning  | Decommissioning is the term used for permanent removal of a work of art from a public art installation or collection. Decommissioning is a dynamic element of all public art collections, and each artwork should be reviewed periodically to determine its relevance and context in relation to location and the collection as a whole. |
| Detailed design package | The documents presented by the artist detailing the developed design elements (including any certification requirements) that give the commissioner a clear idea of the intended artwork to the degree that they are able to sign off on its creation.  |
| Ephemeral art | The term ephemeral can be used to describe physical works created in non-permanent materials such as projection or lighting works where there is no physical object created. |
| EOI | EOI stands for expression of interest. It is an advertised call-out for relevant artists to express their interest in an upcoming project. Typically, there is context and criteria they would have to respond to as part of the selection process. |
| Fabrication | This refers to the manufacturing of the physical work, whether it be done externally by a subcontractor or by the artist. |
| GST | Goods and Services Tax. Please refer to the NAVA guide on GST. |
| Hazards | Hazards are inherent in the many and varied work practises and processes involved in the actual creation of the commission and need to be considered in order to protect personal and public health and safety. Hazards can include physical, mechanical and/or electrical, chemical, biological, radiation and/or psychosocial. |
| Indigenous Cultural and Intellectual Property (ICIP) | Indigenous Cultural and Intellectual Property is a term to describe the cultural heritage, traditional knowledge and traditional cultural expressions belonging to Australian Aboriginal and Torres Strait Islander peoples as referred to in Article 31 of the United Nations Declaration on the Rights of Indigenous Peoples. |
| Installation | This refers to the act of installing or putting the work in place. Artists may subcontract installers or commissioners may have in kind services.  |
| Intellectual Property | Generally, the intellectually property of works remains the Artist’s, but make sure to carefully consider and licenses that may be negotiated. |
| In-kind assistance | “In-kind” refers to the payment of goods and services. The term is used when outlining budgets. For example, if you’re using a print-making studio and they allow you to use their ink. The estimated cost of ink would be written as an “in-kind” expense. |
| Lifespan | The agreed lifespan of the artwork, in consultation with the client, will be stated in the advertised artist brief, the contract and in the artwork manual. This will relate to both the materials used in the commission but also the need to be relevant to sense of place.  |
| Memorial | Memorial is defined as an object that serves as focus for commemorating a person or event. This object may be site specific, have cultural significance and artistic merit; however, a memorial is not usually considered to be public art.  |
| Moral Rights | These are rights that apply to artworks even once it belongs to another party. |
| Object of cultural significance  | Moveable items of cultural significance, often community or diplomatic gifts. |
| Principal artist | The solo artist or, in the case of a collaboration, the nominated artist for the purpose of contracting and project management |
| Public Liability Insurance | Public Liability Insurance is a form of insurance that provides protection from claims arising from injuries or damage to other people and property that may arise out of your negligence. |
| Proposal | A proposal’s purpose is to put forward an idea to a certain party for a project. This is a short (unpaid) response to an EOI or call-out that addresses the brief and includes a CV and images of previous work. |
| Risk | A risk is a potential event or condition that, if it occurs, could have a detrimental or negative effect on the commission. These risks could be environmental, financial, managerial or operational, or related to personnel. A risk assessment and risk management plan help to identify these risks, determine the likelihood of them occurring, define the impact they would have on the commission and develop strategies to mitigate or manage the risks. |
| Risk Assessment and Risk Management | Identification of every risk involved with the development of the project and the possible solutions for mitigating these risks. |
| Schedule to the Contract  | A timeline agreement adhered to by the artist and commissioner.  |
| Selection Criteria | The selection criteria is a list of outcomes that must be adhered to. A proposal’s ability to best address a selection criteria directs decision making. |
| Stakeholders | A stakeholder is an individual, group or organisation who is impacted by the outcome of a project. |
| Street art | Street art is usually created in public spaces including sanctioned graffiti artwork, sculpture, stencil graffiti art, sticker art, paste ups and street poster art, video projection, art intervention, guerrilla art and street installations. The term is used to distinguish contemporary artwork in a public space from vandalism. |
| Subcontractor | A subcontractor is an individual or a business that is employed to perform a specific task on behalf of the principal artist, for example, an engineer or metal fabricator. |
| Temporary art  | Artistic works designed and created for a short life span. |
| Total allowable cost | This is the budget of the project. A detailed outline of all costs involved with the project. |

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# Resources

**Standards Australia** Standards Australia is an independent organisation recognised as the peak non-government Standards body in Australia. Standards Australia develops internationally aligned Australian Standards which can be searched and purchased through their website. [www.standards.org.au](http://www.standards.org.au)

**Australian Copyright Council** The Australian Copyright Council provides user- friendly information, legal advice, education and forums on Australian copyright law for artists and consumers. [www.copyright.org.au](http://www.copyright.org.au)

**Arts Law Centre of Australia**The Arts Law Centre of Australia provides legal advice and information on a wide range of arts related legal and business matters including contracts, copyright, business structures, defamation, insurance, employment and taxation to artists and arts organisations across artforms. [www.artslaw.com.au](http://www.artslaw.com.au)

[*Public Art – Design and Commissioning*](https://www.artslaw.com.au/images/uploads/NEW_Public_Art_-_design_and_commissioning_information_sheet_12.01.2016.pdf), Information Sheet.

[*Sample Agreement: Commissioning Agreement: Private or Commercial Visual Artwork*](https://www.artslaw.com.au/sample-agreements/sample-agreement/design-and-commission-agreement/)

[*Sample Agreement: Commissioning Agreement: Public Visual Artwork*](https://www.artslaw.com.au/sample-agreements/sample-agreement/public-art-design-and-commission-agreement/)

[*Sample Agreement: Loan of Artwork for Public Exhibition*](https://www.artslaw.com.au/sample-agreements/sample-agreement/loan-of-artwork-for-public-exhibition/)

[*Sample Agreement: Sale of Artwork Agreement*](https://www.artslaw.com.au/sample-agreements/sample-agreement/sale-of-artwork/)

**National Association for the Visual Arts Ltd** The National Association for the Visual Arts is the national peak body for the visual and media arts, craft and design sector. They offer expert advice, referrals, resources, professional representation and development, grant programs and a range of other opportunity brokerage and career development services. Phone: (02) 9368 1900 Website: [www.nava.net.au](http://www.nava.net.au)

***The Arts Insurance Handbook: A Practical Guide for Artists and Arts Organisations*** Catherine Fargher and Seth Richardson, Arts Law Centre of Australia, 2nd Ed., 2005 [www.artslaw.com.au/books/book/the-arts- insurancehandbook-2nd-edition/](http://www.artslaw.com.au/books/book/the-arts-%20insurancehandbook-2nd-edition/)

***The Code of Practice for the Professional Australian Visual Arts, Crafts and Design Sector*** National Association for the Visual Arts Ltd, 5th Ed., 2016 [www.visualarts.net.au/code-of-practice](http://www.visualarts.net.au/code-of-practice)

***Respecting Cultures: Working with the Tasmanian Aboriginal Community and Aboriginal Artists***Arts Tasmania, 2nd Ed., 2009 www.arts.tas.gov.au/resources/publications/respectin g\_cultures

***Valuing Art, Respecting Culture*** National Association for the Visual Arts Ltd, 2014 [www.visualarts.net.au/guides](http://www.visualarts.net.au/guides)