

Deed of Acknowledgment and Variation of
Planning Agreement

2-8 River Road West, Parramatta

City of Parramatta Council

and

Parariver Pty Limited

ACN 161 433 183

Sign
Print Name

Amanda Nassif
Amanda Nassif
Evelyn Nassif

Gregory Dyer

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Deed of Acknowledgment and Variation of Planning Agreement

Date 13 October

2016

Parties

CITY OF PARRAMATTA COUNCIL

ABN 49 907 174 733 of 126 Church Street, Parramatta, New South
Wales

(Parramatta)

PARARIVER PTY LIMITED

ACN 161 433 183 of 121 Majors Bay Road, Concord, New South Wales

(Parariver)

Recitals

- A.** Parariver is the registered proprietor of the property known as 2-8 River Road West, Parramatta being Lot 1 in Deposited Plan 1204213 (**Development Site**).
- B.** Planning Agreement dated 30 October 2012 registered number AH501636 is registered on the title of the Development Site (**Planning Agreement**).
- C.** The parties have agreed to acknowledge and vary the Planning Agreement as provided in this deed.

This deed witnesses that in consideration of, among other things, the mutual promises contained in this deed the parties agree as follows:

1. Interpretation clause

1.1 Interpretation

In this deed unless a contrary intention is expressed:

- (a) headings and italicised, highlighted or bold type do not affect the interpretation of this deed;



- (b) the singular includes the plural and the plural includes the singular;
- (c) a gender includes all other genders;
- (d) other parts of speech and grammatical forms of a word or phrase defined in this deed have a corresponding meaning;
- (e) a reference to a 'person' includes any individual, firm, company, partnership, joint venture, an unincorporated body or association, trust, corporation or other body corporate and any Government Agency (whether or not having a separate legal personality);
- (f) a reference to any thing (including any right) includes a part of that thing, but nothing in this clause 1.1(f) implies that performance of part of an obligation constitutes performance of the obligation;
- (g) a reference to a clause, party, annexure, exhibit or schedule is a reference to a clause of, and a party, annexure, exhibit and schedule to, this deed and a reference to this deed includes any clause, annexure, exhibit and schedule;
- (h) a reference to a document (excluding this deed) includes all amendments or supplements to, or replacements or novations of, that document;
- (i) a reference to a party to any document includes that party's successors and permitted assigns;
- (j) a provision of this deed may not be construed adversely to a party solely on the ground that the party was responsible for the preparation of this deed or the preparation or proposal of that provision;
- (k) specifying anything in this deed after the words 'include', 'including', 'for example', 'such as' or any form of those words or similar expression in this deed do not limit what else is included and must be construed as if they are followed by the words 'without limitation', unless there is express wording to the contrary;
- (l) a reference to a day is to the period of time commencing at midnight and ending 24 hours later;
- (m) if a period of time is specified and dates from a day or the day of an act, event or circumstance, that period is to be determined exclusive of that day;
- (n) if an act or event must occur or be performed on or by a specified day and occurs or is performed after 5.00 pm on that day, it is taken to have occurred or been done on the next day; and
- (o) a reference to '\$', 'A\$', 'dollars' or 'Dollars' is a reference to the lawful currency of Australia.

2. Acknowledgment

2.1 Parariver unconditionally and irrevocably:

- (a) acknowledges that Parariver is bound by the Planning Agreement as if Parariver was a party to the Planning Agreement; and
- (b) agrees that Parariver shall perform all of the obligations of the Developer under the Planning Agreement (as varied by this deed) which are unperformed as at the date on which Parariver became entitled to be the registered proprietor of the Development Site.

3. Variation of Planning Agreement

- 3.1 The parties each vary the Planning Agreement as at the date of this deed (**Variation Date**) as provided in the Reference Schedule of this deed.

4. Ratification

4.1 Planning Agreement continues

- (a) The terms and conditions of the Planning Agreement (as varied by this deed) are ratified and confirmed and the Planning Agreement continues in full force and effect as varied by this deed.
- (b) Each party is bound by the Planning Agreement as varied by this deed.

4.2 No prejudice as to rights

Nothing contained in or implied by this deed abrogates, prejudices, diminishes or otherwise adversely affects any rights, remedies, obligations or liabilities of any of the parties arising with respect to any act, matter or thing done or effect or otherwise arising before the execution of this deed.

5. Representations and Warranties

5.1 Warranties

Each party represents and warrants that at the Variation Date:

- (a) it has full power and authority to enter into and to perform its obligations under this deed;



- (b) it has capacity to execute, deliver and comply with its obligations under this deed;
- (c) it has taken all necessary action, in connection with execution, to authorise the unconditional execution and delivery of, and the compliance with its obligations under this deed;
- (d) this deed is a valid and legally binding obligation and is enforceable against each party in accordance with its terms, subject to principles of equity and rules affecting creditor's rights generally;

5.2 Survival of representations and warranties

The warranties and representations in clause 5.1 survive the execution of this deed and the variation of the Planning Agreement.

6. Inconsistency

If any of the provisions in this deed is inconsistent with a provision of the Planning Agreement, this deed will prevail to the extent of the inconsistency.

7. General

7.1 Entire Agreement

This deed contains the entire agreement of the parties with respect to its subject matter. It sets out the only conduct relied on by the parties and supersedes all earlier conduct by the parties with respect to its subject matter.

7.2 Costs and Expenses

- (a) Parariver must pay all legal costs (assessed on an indemnity basis) and expenses incurred by Parramatta in connection with the negotiation, preparation, execution, delivery and enforcement of this deed.
- (b) Parariver must pay any stamp duty payable on this deed or in connection with any of the transactions contemplated by this deed.

7.3 Waiver

- (a) A waiver of a right, remedy or power must be in writing and signed by the party giving the waiver.
- (b) A party does not waive a right, remedy or power if it delays the exercising, fails to exercise or only partially exercises that right, remedy or power.



- (c) A waiver given by a party in accordance with clause 7.3(a):
 - (i) is only effective in relation to the particular obligation or breach in respect of which it is given and is not to be construed as a waiver of that obligation or breach of any other occasion; and
 - (ii) does not preclude that party from enforcing or exercising any other right, remedy or power under this deed nor is it to be construed as waiver of any other obligations or breach.

7.4 Severance

If a provision in this deed is wholly or partly void, illegal or unenforceable in any relevant jurisdiction that provision or part must, to that extent, be treated as deleted from this deed for the purposes of that jurisdiction. This does not affect the validity or enforceability of the remainder of the provision or any other provision of this deed.

7.5 Further Assurances

Each party will take all steps, execute all documents and do everything reasonably required by any other party to give effect to any of the transactions contemplated by this deed.

7.6 No Assignment

Each party must not assign or otherwise deal with any rights or interest in this deed without the written consent of all the other parties.

7.7 Governing law and jurisdiction

- (a) This deed is governed by and is to be construed under the laws in force in New South Wales.
- (b) Each party submits to the non-exclusive jurisdiction of the courts to which the parties to the deed have submitted in respect of any proceedings arising out of or in connection with this deed.

7.8 Counterparts

- (a) This deed may be executed in any number of counterparts, each signed by one or more parties. Each counterpart when so executed is deemed to be an original and all such counterparts taken together constitute one document.
- (b) A party that has executed a counterpart of this deed may exchange that counterpart with another party by faxing or emailing it to the other party or the other party's legal representative.



Reference Schedule - Variations

In accordance with clause 3.1 of this deed, the Planning Agreement is varied as at the Variation Date as follows:

1. Clause 3 by inserting the following additional Definitions:
 - (a) **"Easement"** means the easement for access 6 wide limited in stratum in favour of the public and Parramatta created over the Land as shown on the plan in Schedule 3 and the easement for support in favour of Parramatta created over the Land as shown on the plan in Schedule 3 and upon the terms provided in Schedule 5.
 - (b) **"Positive Covenant"** means the positive covenant to be granted to Parramatta in accordance with clause 10.4 upon the terms provided in Schedule 6."
 - (c) **"Structures"** has the same meaning as provided in the Positive Covenant.
 - (d) **"Artist"** means Ross Shepherd.
2. Clause 10.1 by deleting the words "prior to the issue of any Occupation Certificate (interim or otherwise)" and substituting the words "within 12 months of the issue of the first Occupation Certificate, or prior to the issue of the final Occupation Certificate (whichever first occurs)".
3. Clause 10 by amending the Heading by inserting the words ", Easement and Positive Covenant" after "Land".
4. By inserting the following additional clause 10.3:

"10.3. Grant of Easement

The Developer must promptly do (or procure to be promptly done) all things required to grant and register the Easement over the Land in accordance with the plan attached in Schedule 3 and upon the terms set out in Schedule 5."
5. By inserting the following additional clause 10.4:

"10.4 Grant of Positive Covenant

 - (a) The Developer must at the Developer's expense, promptly do (or procure to be promptly done) all things required to grant and register the Positive Covenant."
 - (b) Parramatta and the Developer each agree that placement of the Structures in the locations provided in the Revised Public Art Works Location Drawings prepared by Site Image dated 2 August 2016 attached in Schedule 7 are approved by Parramatta and the Developer provided that the Structures in situ must be at least 500mm away from the shared path.



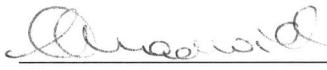
- (c) The Developer acknowledges and agrees that Parramatta may, acting reasonably, remove and dispose of the Structures for any reason without compensation to the Artist as confirmed in the Artist's letter dated 18 August 2016 attached in Schedule 8.
6. Clause 12.5 by deleting the words "on or before the date on which any Occupation Certificate (interim or otherwise)" and replacing with the words "within 12 months of the issue of the first Occupation Certificate, or prior to the issue of the final Occupation Certificate (whichever first occurs)".
 7. Item 4 of Schedule 1 by inserting: "as Lot 2" after "shown".
 8. Item 6 of Schedule 1 by deleting the figure "\$525,000" and substituting the words and figures "one million two hundred and twenty five thousand dollars (\$1,225,000.00) for the purposes of one million and seventy five thousand dollars (\$1,075,000.00) being applied towards construction of the shared pedestrian bridge and one hundred and fifty thousand dollars (\$150,000.00) being applied towards undertaking local road improvements".
 9. The Plan in Schedule 3 is deleted and replaced with the attached Plan marked "A".
 10. The attached Schedule 4: Artwork: Artwork Proposal marked "B" is attached as Schedule 4 to the Planning Agreement.
 11. The attached Schedule 5: Terms of Easement marked "C" is attached as Schedule 5 to the Planning Agreement.
 12. The attached Schedule 6: Terms of Positive Covenant marked "D" is attached as Schedule 6 to the Planning Agreement.
 13. The attached Schedule 7: Revised Public Art Works Location Drawing marked "E" is attached as Schedule 7 to the Planning Agreement.
 14. The attached Schedule 8: Site Image Letter dated 18 August 2016 marked "F" is attached as Schedule 8 to the Planning Agreement.




Signing page

Executed as a deed

Executed on behalf of **City of Parramatta Council** in the presence of:


Signature of


Full name (print)


Signature of

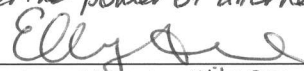

Full name (print)

Executed by **Parariver Pty Limited**

ACN 161 433 183 in accordance with

section 127 of the Corporations Act 2001

(Cth) by its attorney who by signing this document confirms she does not have notice of the revocation, termination or suspension of the power under the power of attorney specified.


Signature of ~~Director~~ **WITNESS**


Elly Attard

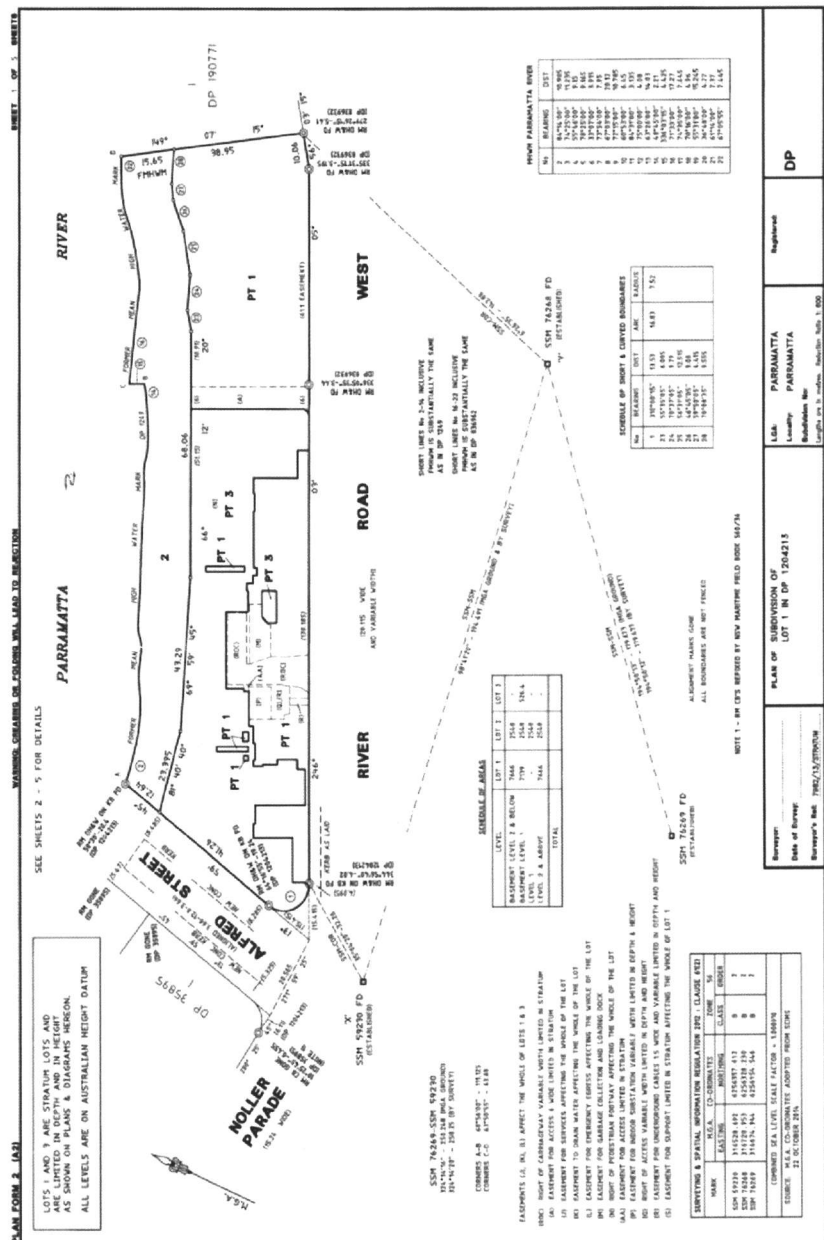
Full name (print)

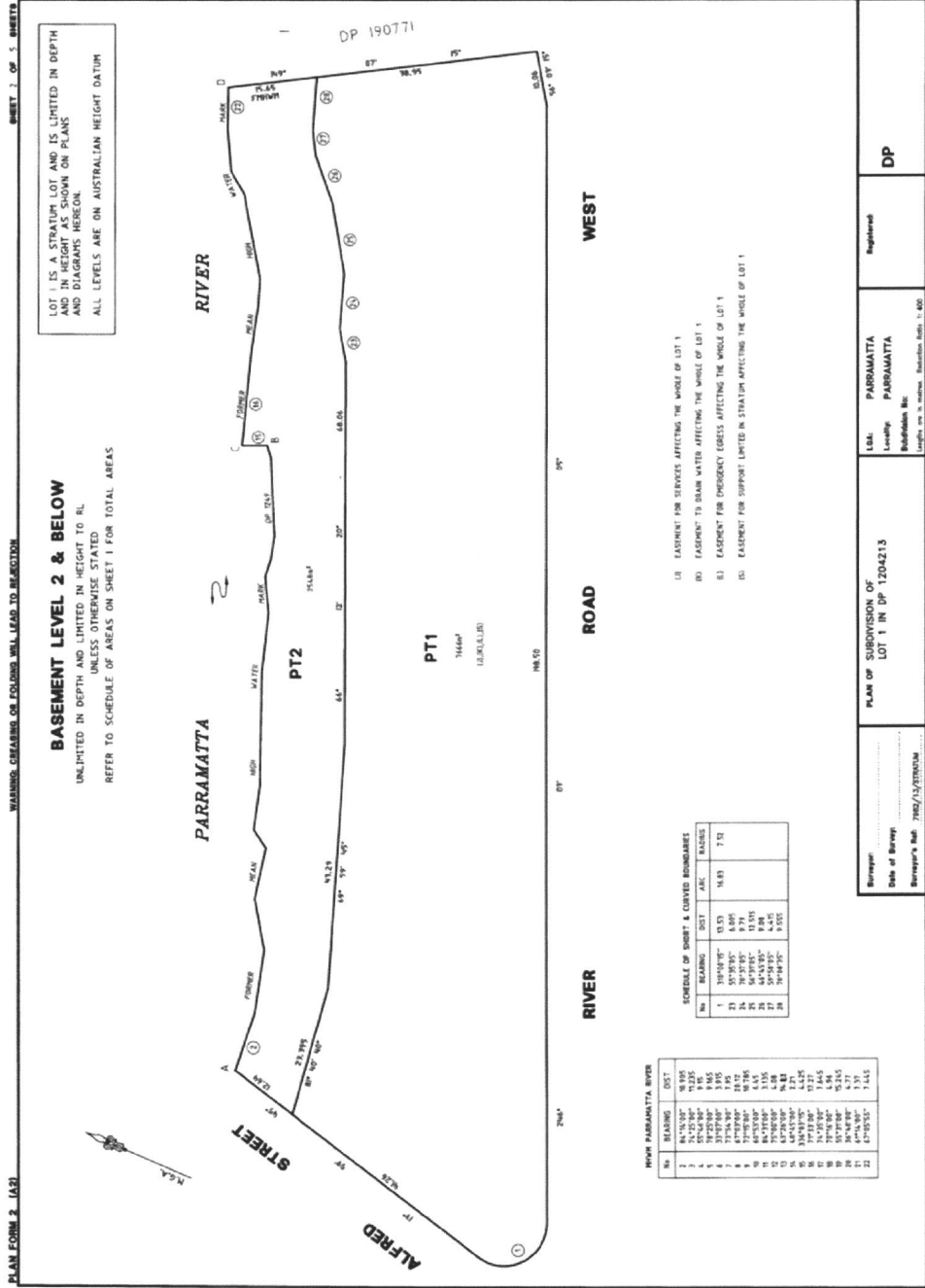

Signature of Director/Company Secretary


Full name (print)

power of attorney dated 22/8/13
BOOK: 4654 VNO: 133





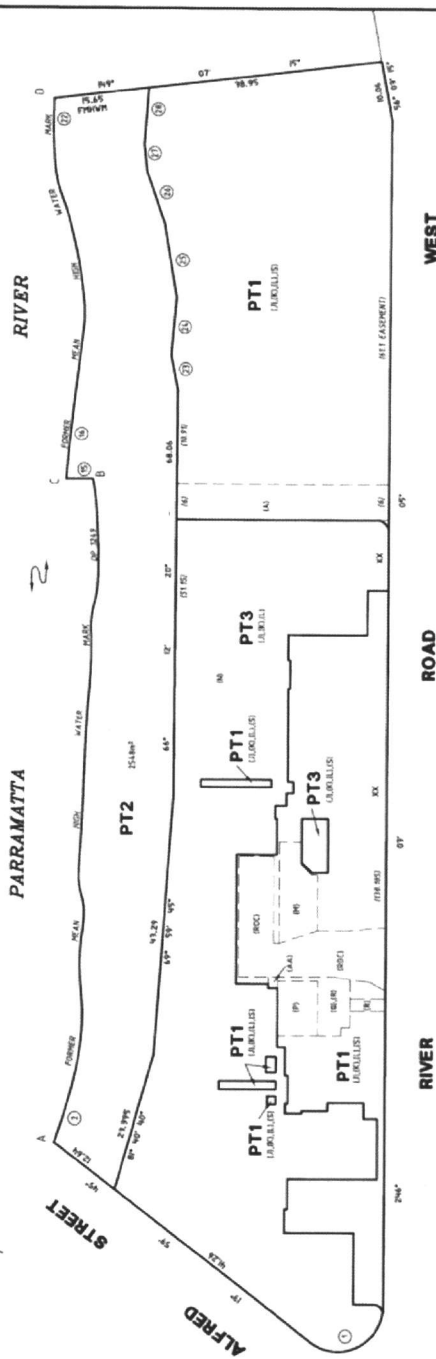


LEVEL 1

LIMITED IN DEPTH TO RL AND LIMITED IN HEIGHT TO RL
UNLESS OTHERWISE STATED
REFER TO SCHEDULE OF AREAS ON SHEET 1 FOR TOTAL AREA

LOTS 1 AND 9 ARE STRATUM LOTS AND ARE LIMITED IN DEPTH AND IN HEIGHT AS SHOWN ON PLANS AND DIAGRAMS HEREON.

ALL LEVELS ARE ON AUSTRALIAN HEIGHT DATUM

[illegible]

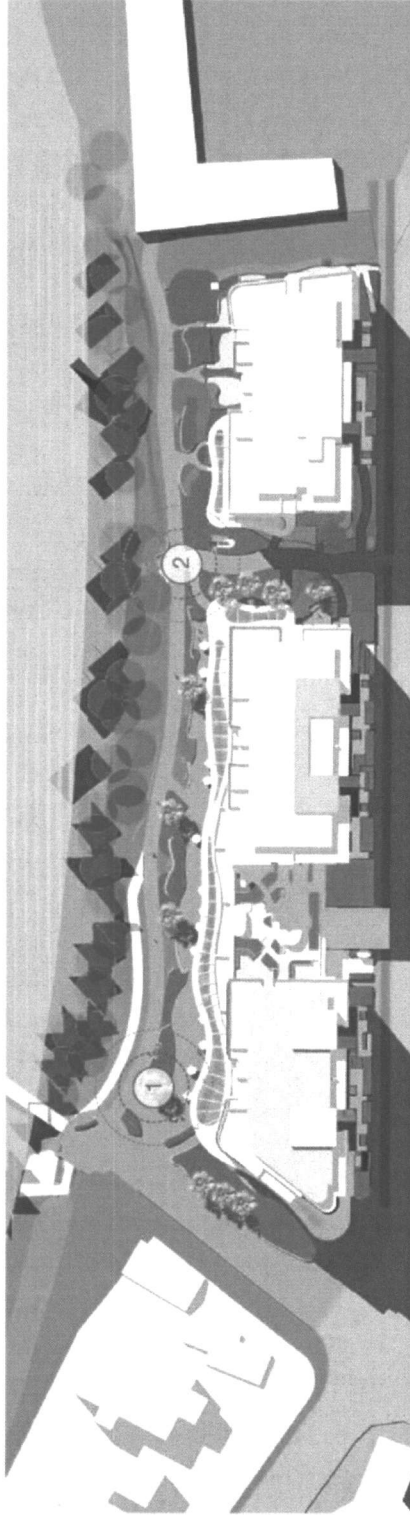
No	BEARING	DIST	ARC	BACKSIGHTS
1	319°19'15"	13.53	98.83	7.52
23	55°19'35"	6.005		
24	37°17'35"	0.719		
25	53°17'00"	23.595		
26	44°54'53"	9.408		
27	53°40'35"	4.436		
28	224°44'35"	2.444		

- (A) EASHPOT FOR ACCESS AT A WIDE LIMITED IN DEPTH TO THE LOT
- (B) EASHPOT TO DRAIN WATER AFFECTING THE WHOLE OF LOTS 1 & 2.
- (C) EASHPOT FOR EMERGENCY FIREWORKS AFFECTING THE WHOLE OF LOTS 1 & 2.
- (D) EASHPOT FOR GARAGE LOADING AND UNLOADING DOCK
- (E) ROOF OF FORESTRY POSTWAY AFFECTING THE WHOLE OF THE LOT
- (F) EASHPOT FOR ACCESS AT A WIDE LIMITED IN DEPTH TO THE LOT
- (G) EASHPOT FOR MOTOR CUBICULATION VARIABLE LIMITED IN DEPTH & HEIGHT
- (H) ROOF OF ACCESS VARIABLE LIMITED IN DEPTH AND HEIGHT
- (I) EASHPOT FOR UNDERGROUND CANALS 16 METER VARIABLE LIMITED IN DEPTH AND HEIGHT
- (J) EASHPOT FOR SUPPORT LIMITED IN STATION AFFECTING THE WHOLE OF LOT 1
- (K) EASHPOT FOR ACCESS AT A WIDE LIMITED IN DEPTH TO THE LOT AND LIMITED IN HEIGHT TO BE 3.5 METERS ABOVE GROUND SURFACE
- (L) LIMITED IN DEPTH TO AN INCLUDE IN PLACE AS SHOWN IN TABLE 1
- (M) LIMITED IN HEIGHT TO 2.7 ABOVE THOSE LEVELS

LI	31/05/21	1455
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Surveyor	PLAN OF SUBDIVISION OF LOT 1 IN DP 1204213	Local: Parramatta	Registered:	DP
Date of Survey		Locality: Parramatta		
Surveyor's Ref		Subdivision No.		

Annexure B Schedule 4: Artwork Proposal



2-8 RIVER ROAD WEST, PARRAMATTA

PUBLIC ART PROPOSAL | 11 APRIL 2016 | ISSUE G

ISSUE G - APRIL 2016 UPDATE IN RESPONSE TO COUNCIL MEETING

PREPARED BY: SITE IMAGE PUBLIC ART CONSULTANTS
FOR: TOPPLATE

ARCHITECTS: KIKIS TAYLOR



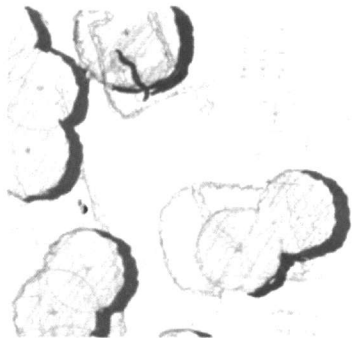
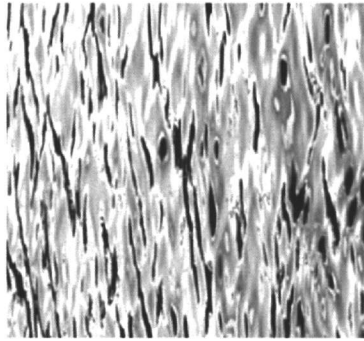
INTRODUCTION

The detailed Public Art elements set out in this report have been prepared by Site Image Public Art Consultants, commissioned by project developers Topica Pty Limited in support of Kiri's Tower architectural proposals for the development at 2-8 River Road, Parramatta. The Public Art has been developed into detailed proposals to reflect the framework, general themes and indicative locations and elements as described in the approved 2013 Arts Plan prepared by Miro & Stonehouse artists. The foundation of research and determining potential themes and general forms for artwork is acknowledged as providing the artistic framework only for development of artwork and interpretive elements by Site Image.

The Eurotown Heritage Assessment prepared by Mr Greg Patch of Archisec Designs in May of 2010 provides details of the site history, heritage and curbscape aspects. Further investigation of the site has included considering a number of visits to the site and surrounds and related Parramatta Heritage Walk locations. Information on the heritage and features of the site and surrounds has been gained through use of site survey, architectural and landscape architect plans and 3D modelling, and online research. Research has been completed on the broader context and curbscape of this site and adjoining significant heritage assets, exploring the relevant history of Parramatta and the river and site specific cultural and built form history, imagery and facts. Relevant to the emerging artworks was research of derivative aspects of natural heritage relating to hydrology and history of the river, landform and ecology, riparian landscape, natural and environment.

The detailed public art elements have regard to the requirements and guidelines of Parramatta Council's Public Art Policy. Research of the site and local themes, history and context provided site specific reference that has been incorporated into the artworks. The artwork and elements provide an interpretive response to site specific themes, developed with regard to the matrix of other public art elements in the locality. Materials and detailing have regard for providing a durable, sustainable outcome that is safe and engages with the riverfront pedestrian link and connecting paths, the gate / retail outdoor seating terraces and landscape and the interface with the potential future pedestrian bridge across the river.

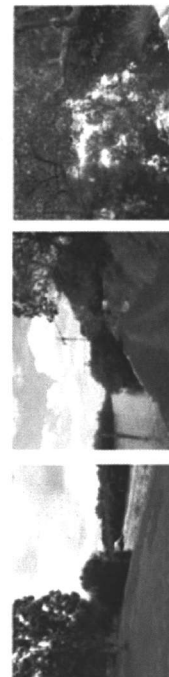
The drawings and illustrations provide detail of location and installation, dimensions, form, materials, finishes, structure and engineering, all described to Construction Certificate level of documentation. Shop Drawings of artworks and Architectural Construction documents will provide the final detail for fabrication, engineering certification and installation.



River Road, Parramatta | Public Art Proposal

Owner	Topica Pty Ltd	Project Manager	Site Image Public Art Consultants
Architect	Archisec Designs	Engineer	Site Image Public Art Consultants
Site Image Job Number	2013-01	Date	11 April 2016
Site Image Public Art Consultants Pty Ltd ABN 44 601 960 000 is a registered company under the Australian Companies Act 2006. Australian Taxation File Number 61 000 000 000.			

The proposed development at 2-8 River Road West is located to create an open space waterfront corridor along the southern bank of the Parramatta River. The site is approximately 600 metres from the CBD and the Riverwalk Ferry Wharf at Charles Street. To the west along the waterfront is a row of residences fronting a waterfront open space, and near Queens Wharf Park, containing information boards and sculpture elements along the Users Park portion of the Parramatta Heritage Walk. Existing commercial buildings occur to the east of the site, under which Clay Cliff Creek passes through pipes and joins with Parramatta River approximately 100m from the site. Mature mangrove trees occur along most of the river embankment fronting the site, with small gaps where minor structured occur. Three residential apartment buildings are proposed on the subject sites, with Alfred Street to the west, and an open space corridor to the east with riparian / native planting. A through site pedestrian path approximately midway along the site provides access and a vista towards the waterfront. The adjoining aerial image shows a range of heritage and landscape items in the vicinity that are relevant to establishing the context and setting of the site.



Queens Wharf Park, linking waterfront open space towards the site; mangrove view

SITE IMAGE

River Road, Parramatta | Public Art Proposal

Sheet	Worksheet	File Name	Job Number	Site Image (H5W) File	U30 ARN	44 801	262 380	as agent for Delta Image H5W Partnership (Level 1, B, 5 Regional Cloud Supply Falls NSW 2010 Australia) T +61 2 8332 5000	Issue	Topic	Date
									Krisis Taylor		11 April 2016

PUBLIC ART CONTEXT

Public Art for the River Walk Heritage of the 2-8 River Road project has been developed to closely accord with the conceptual framework and described potential manner and opportunities as set out in the Mine and Storehouse Arts Plan for project of September 2013. The historical overview provided in that report is supported by the European Heritage Assessment presented by Mr. Greg Patten of Antenna Design in May of 2013. The subject perspectives are noted as falling within an area identified as being of "National Significance" (STEP 28 - Parramatta, and describes the numerous layers of human history upon the specific site. The human history described includes that of the Burramattj people (Burra meaning place, matta meaning water, belonging to the Dharug People. Their excellent land management skills did not include the need for artificially cultivated crops, but did include regular burning of the landscape resulting in a "parkland" type visual character that had an appealing aesthetic to the first settlers, being reminiscent of European notions of parklands. The broader context of the Parramatta River is noted as an iconic part of the history and sustenance of Sydney's Aboriginal people and as a conduit for the arrival and on-going sustenance, trade, transport and communication of the first settlers.

The approved Arts Plan and the European Heritage Assessment identify the site context relating to heritage items and conservation areas, cultural history records. We understand there is on-going research and documentation by Parramatta City Council Archives, Parramatta Heritage Centre, NSW Office of Environment and Heritage, and other relevant institutions. In practical terms the history of the locality is expressed through the living history of buildings, structures and the landscape, and artefacts and museums, and published brochures, records and maps. Contemporary experience of Parramatta's living history and past is provided by the history, resources and exhibits at the Parramatta Heritage Centre, and also through providing of structured walks for visitors with information signs and illustrations, interpretive artwork and installations, dramatic recreations to accompany the designated journey and featured locations along the heritage walks. The Harms Park segment of Parramatta's Heritage Walk includes a broad range of notable colonial architecture, structures, locations and human history stories and buildings such as Elizabeth Farm, Hamilton Cottage House, Explanant Farm Cottage, and Queen's Wharf in name a few. Regional walking routes are similarly documented as "guided" pathways including the Parramatta River Walk (Pyda Bridge to Parramatta being a trunk walking route of Sydney Harbour and Coast walks).

"Life Along the Riverbank" is a structured walk provided as part of Parramatta City Council's Parramatta Stones Project, created by historian Michael Flynn and artist Susan Milne and Greg Storehouse. The contemporary interpretations are designed to attract people and spark debate, insight and reflection on the heritage and the people who walked along the riverbank. The series of contemporary artworks provide interpretation of historic locations and events, supplemented by soundscapes which can be downloaded as podcasts for visitors to listen while experiencing specific sculptures. Four sculptures are featured, being "Storywalks" in the backyard at Harristford, "Sentry Box" and "Windmill Shadow".

The public art envisaged by the approved Arts Plan is to provide a new portion of Parramatta's riverfront walk network, to extend east from the Harms Park walkway, and to add a future walkway to the east that will be developed as future development occurs of waterfront lands east of the site. The Arts Plan notes that Council is likely to extend the "Parramatta Stones Project" to this section of walkway, which is notionally being called the Byness Mill and Clay Cliff Creek Walk. The naming anticipates the creation of a single walking precinct, being a logical segment of approximately 300m length extending from Alfred Street to James Ropes Drive bridge to the east, being in the creek confluence with the river. The extent of the river walk precinct is of course subject to Council's judgement and determination, but it is thought relevant to reference the close proximity of the creek to the subject sites as it is integral to aspects of the natural and landscape histories, with a dam across the creek being part of improvements of the land associated with the Byness Mill and Clay Cliff Creek. The history of this portion of riverfront is strongly layered over time and through overlapping sequences of landscapes, with highly significant and interesting features and events that provide a rich series of interwoven stories about natural history, human history, and landscape and built elements history. Byness Mill and Clay Cliff Creek are considered the two prominent features that together are considered as suitably describing the natural, human and landscape history aspects of this portion of Parramatta's riverfront.

* The original naming of the creek was Pipe Clay Creek, but that over time it has become known as Clay Cliff Creek. Council's guidance will be sought as to the correct name.

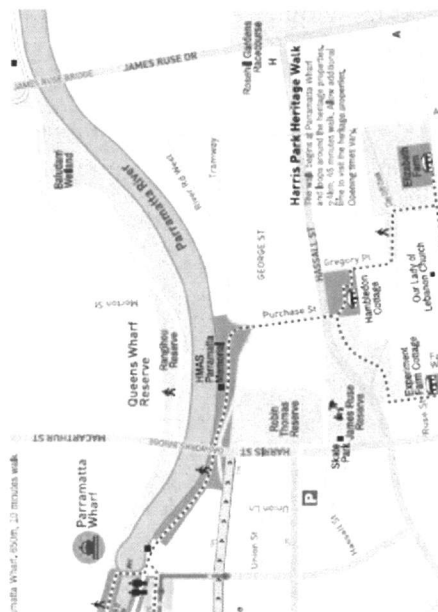


Image source: Parramatta Council Website public download area. Artworks by Milne & Storehouse

Client	Project Name	Site Page No	Page No	Topic	Author	Date	Page No
Parramatta Council	Life Along the Riverbank	1	1	Public Art	HWLEBSWORTH	11 April 2016	1
Site image (photo) File Loc: AHS-44-801-262-263 as agent for site image under Parramatta Council (AHS-44-801-262-263) and as agent for site image under Parramatta Council (AHS-44-801-262-263)							1

CONTINUATION OF PARRAMATTA'S WALKWAY NETWORK

As noted, The Arts Plan notes that Council would consider adopting the "Panamint Stones Project" to this section of the waterway, which is currently being called the Byrnes Mill and Clay Cliff Creek Walk. The history of this portion of the waterway is strongly layered with significant and interesting natural and heritage elements and events that provide a rich series of well-known stories about natural history, human history, and agriculture and built elements history. Extensive research has been completed of the site and surrounds relating to each of these three different aspects of the site specific history of the waterfront. The following sections set out the specific aspects of these themes to be addressed in the three themed public art locations, with development of the text and illustration plaques and for Council information displays / brochures / postcards to be further developed in close cooperation with Council's Heritage Arts staff members and team. The key themes and specific interpretive aspects for the three public art proposals are described below, and further elaborated and detailed in following pages.



Map - Clay Cliff Creek Historic Sites, and detail inset of subject sites
Image source - Pamunatta City Council website

SITE IMAGE

River Road, Parramatta | Public Art Proposal

Client	Account	Topic	Topic	Date	By
		Account Type	Topic		
		2015 - 2017		11 April 2016	

Bala Image (BIM) Pty Ltd Adm 44 801 262 360 as agent for Bala Image NRE Partnership
 Level 1, 3-5 Spencer Street, Sydney NSW 2010 Australia T: 2 9332 9900



“Water Ribbon”

There is opportunity for Council to potentially expand their 'Life Along the Riverbank' podcast commentary to include this area. Landscape heritage summary information is provided for reference, with landscape envisaged as a relevant topic for this location.

“Currents of Change”

Aspects of the "changing current" of human history for those living on and around the island is considered a suitable topic for Cuneo's future "Life Along the Riverbank" podcast commentary.



on

LOCATION 1 - 'WATER RIBBON'

Public Art Theme - River pattern in profile
Potential Podcast Theme - Landuse history

Location and Theme.

- The artwork, located at the western end of the river at the bridge of the subject's street, is a contemporary fluid shaped stainless steel form with reflective surface that is a shape in elevation derived from the curves of the river passing through Trianon Park (taken from aerial images). It is clear iconic water image works at the macro and micro scales of water as a resource and 'barometer of environmental health', and as a symbol of the river overall. The sculpture is symbolic of the constant of the flowing river as the basis for human activity and also the active agent for ongoing change to the evolving riverfront along over time.

- River as a core element for Paramatta through time.
 The reflective basin mirroring the river and waterfront landscape, and providing interaction with pedestrians.
 The circular base referring to the cyclical aspects of water cycle and tides, and the flowing waterfront landscapes.
 Burnamford ponds sustainable management the landscape to provide seasonal sustenance.
 Elizabeth Farm created by John Macarthur with his clearing and farming the portion of land granted in 1810.
 British Flour Mill and Slaughter Cattle Mill and Factory, and dock and landing on the riverfront.
 Henry de Aguiar and Infante Main (1813, 1926), housed in the converted Mill building.
 Paramatta Gasworks and "Gasometer" on the site and from time to the south of the site.
 Residential subdivision the land in 1884 and sold it off over the following 4 years to 1888.
 Residential and industrial land-based buildings on the site in the 20th century (1943, 1991).



Sculpture profile to follow the shape of the river

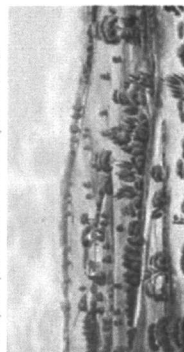
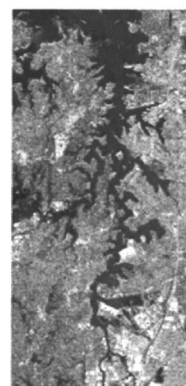
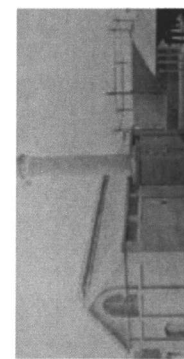
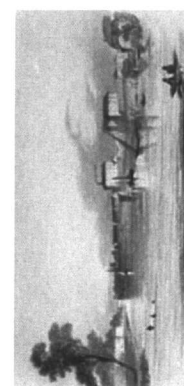
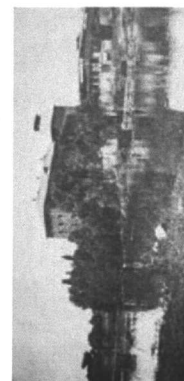


Image sources: To be added - FolioHeritage Centre images and other as appropriate, permission to be sought



SITE IMAGE

River Road, Parramatta | Public Art Proposal

Client	Topic	G
Architect	Krista Taylor	Issue
Site image job Number	SS15 - 3071	Date
Site image #55919 / Pp. 1-2 4/24/14 44 44 202 200 as subject for site image 10398 Partnership Level 1, 3-5 images about survey with floor 2010 Australia 11 11 2 8322 5000		

'Water Ribbon' - Artwork Detail

Form

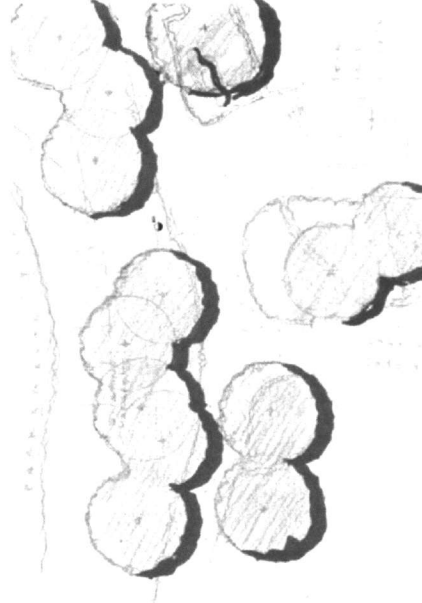
- Hollow stainless steel fluid-form sculpture with mid-way vertical pedestal mount at apex in curving form. Mounted in planter offset so as to not impede path continuity.

Response to Arts Plan

- The fluid form of the sculpture is symbolic of the continuum of the flowing river as the basis for human activity and also the active agent for bringing change to the evolving riverfront landscapes over time. The Arts Plan thematic task for 'Undercurrent' nodes - is first as a source for local Aboriginal groups living within its focus and providing sustenance and fresh water, then as a transport artery for the colonists as they depleted the forests and cultivated the land, and finally as a resource for industry harnessing its tides in flow and its convenience. The river is now returning to the values placed on it by the First People.
- Consistent with the Arts Plan, the artwork is based on the river as "a powerful motif for Parramatta," and "acting as a benchmark for the development of Parramatta, the river's health and amenity is the undercurrent for change, stories and cultural voices." This idea takes the river's current as eddies and flows in continuum." The artworks are poised to create strong sense of identity for the development, as "integration of a visual signature for the development" and "combined with the artwork, interpretive works can refer to important histories for this specific site."



The sculpture's form is derived from the winding Parramatta river



Plan



Elevation

SITE IMAGE



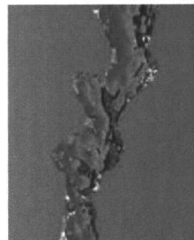
River Road, Parramatta | Public Art Proposal

Client: ACT Government
Project Name: SSNS 3017 Date: 11 April 2016
Site Image Job Number: SSNS 3017 Date: 11 April 2016
Site Image Photo: P11, L11, L12, L13, L14, L15, L16, L17, L18, L19, L20, L21, L22, L23, L24, L25, L26, L27, L28, L29, L30, L31, L32, L33, L34, L35, L36, L37, L38, L39, L40, L41, L42, L43, L44, L45, L46, L47, L48, L49, L50, L51, L52, L53, L54, L55, L56, L57, L58, L59, L60, L61, L62, L63, L64, L65, L66, L67, L68, L69, L70, L71, L72, L73, L74, L75, L76, L77, L78, L79, L80, L81, L82, L83, L84, L85, L86, L87, L88, L89, L90, L91, L92, L93, L94, L95, L96, L97, L98, L99, L100, L101, L102, L103, L104, L105, L106, L107, L108, L109, L110, L111, L112, L113, L114, L115, L116, L117, L118, L119, L120, L121, L122, L123, L124, L125, L126, L127, L128, L129, L130, L131, L132, L133, L134, L135, L136, L137, L138, L139, L140, L141, L142, L143, L144, L145, L146, L147, L148, L149, L150, L151, L152, L153, L154, L155, L156, L157, L158, L159, L160, L161, L162, L163, L164, L165, L166, L167, L168, L169, L170, L171, L172, L173, L174, L175, L176, L177, L178, L179, L180, L181, L182, L183, L184, L185, L186, L187, 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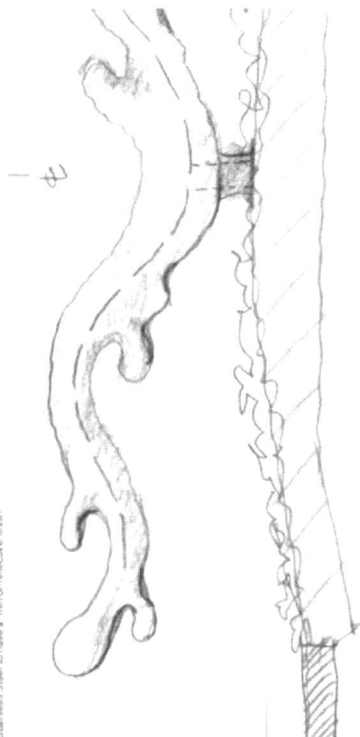
'Water Ribbon' - Artwork Detail

Setting, Dimensions, Materials, Fabrication and Installation

- Mounted stainless steel frame to be mounted on a steel frame and set in a moulded landscape polymer bed setting
 - Dimensions to maintain unobstructed view corridors and unimpeded through site accessibility
 - Sculpture to have a glossy stainless steel finish
 - Sculpture to have a sculpture off site and installed to metal frame
 - Sluicer to provide principal metal frame installation, and art install by specialist fabricator
- NOTE: As requested by Council, discrete mounting/fixing of the sculpture is to be detailed so as to allow potential removal or relocation of the artwork to a location determined to be in suitable relationship with Council's potential future pedestrian bridge crossing of the river near to this location.



Stainless Steel to have a mirror-reflective finish.



Elevation



SITE IMAGE

River Road, Parramatta | Public Art Proposal

Client	Logica	
Account	Krista Taylor	Issue
Estimate Number	SSS-2017-20th	11 April 2018

Site Image (ISSM) Pty. Ltd ABN 44 601 262 380 as agent for Site Image ISSM Partnership
 Level 1, 3-5, 150/151 Great Street, North Sydney, NSW 2060 Australia. T: +61 2 9555 2000

Structure, Lighting, Durability and Maintenance

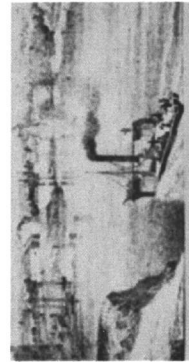
- Internal structures with sustainable structural loading to be located within plaster bed ceiling.
 - Upgrading to structure located in plaster bed to enhance visual quality
 - Commercial stainless steel product and finish suitable for public space
 - Maintenance by recommended manufacturer methods and processes
- NOTE: As requested by Council, on going maintenance of the artwork is to be the responsibility of the Residential Body Corporate, as set out in accompanying documentation to approval of Council



Plan

Public Art Theme - River currents and patterns
Potential Podcast theme - Human history

The artwork location is located a short distance east of the midpoint along the river walk. Montage of the subject sites, angled on the gap and axis of river views between the buildings in this location. Consistent with the Arts Plan, the artwork is based on 12 7-foreshores Park View and reference to "The" elevation of the sculpture and varies respond to the elements adding a whimsical tone to the river bank. The precedent images shown from Putney further downstream give an idea of the scale and function of the artwork's envisaged here.⁸



SITE IMAGE

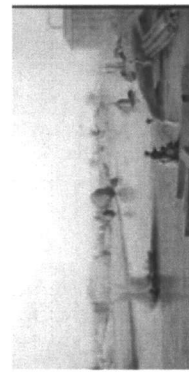
12/10/2011 10:10:10 AM

12/10/2011 10:10:10 AM

Client	Topology	Issue	Date
Architect	Krebs Layer	Issue	11 April 2016
Site Image Job Number	SS75 - 3017		

Site Image (Photo) Pty. Ltd ABN 44 801 262 360 an agent for Site Image AS/NZ Partnership
 Level 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, 37, 39, 41, 43, 45, 47, 49, 51, 53, 55, 57, 59, 61, 63, 65, 67, 69, 71, 73, 75, 77, 79, 81, 83, 85, 87, 89, 91, 93, 95, 97, 99, 101, 103, 105, 107, 109, 111, 113, 115, 117, 119, 121, 123, 125, 127, 129, 131, 133, 135, 137, 139, 141, 143, 145, 147, 149, 151, 153, 155, 157, 159, 161, 163, 165, 167, 169, 171, 173, 175, 177, 179, 181, 183, 185, 187, 189, 191, 193, 195, 197, 199, 201, 203, 205, 207, 209, 211, 213, 215, 217, 219, 221, 223, 225, 227, 229, 231, 233, 235, 237, 239, 241, 243, 245, 247, 249, 251, 253, 255, 257, 259, 261, 263, 265, 267, 269, 271, 273, 275, 277, 279, 281, 283, 285, 287, 289, 291, 293, 295, 297, 299, 301, 303, 305, 307, 309, 311, 313, 315, 317, 319, 321, 323, 325, 327, 329, 331, 333, 335, 337, 339, 341, 343, 345, 347, 349, 351, 353, 355, 357, 359, 361, 363, 365, 367, 369, 371, 373, 375, 377, 379, 381, 383, 385, 387, 389, 391, 393, 395, 397, 399, 401, 403, 405, 407, 409, 411, 413, 415, 417, 419, 421, 423, 425, 427, 429, 431, 433, 435, 437, 439, 441, 443, 445, 447, 449, 451, 453, 455, 457, 459, 461, 463, 465, 467, 469, 471, 473, 475, 477, 479, 481, 483, 485, 487, 489, 491, 493, 495, 497, 499, 501, 503, 505, 507, 509, 511, 513, 515, 517, 519, 521, 523, 525, 527, 529, 531, 533, 535, 537, 539, 541, 543, 545, 547, 549, 551, 553, 555, 557, 559, 561, 563, 565, 567, 569, 571, 573, 575, 577, 579, 581, 583, 585, 587, 589, 591, 593, 595, 597, 599, 601, 603, 605, 607, 609, 611, 613, 615, 617, 619, 621, 623, 625, 627, 629, 631, 633, 635, 637, 639, 641, 643, 645, 647, 649, 651, 653, 655, 657, 659, 661, 663, 665, 667, 669, 671, 673, 675, 677, 679, 681, 683, 685, 687, 689, 691, 693, 695, 697, 699, 701, 703, 705, 707, 709, 711, 713, 715, 717, 719, 721, 723, 725, 727, 729, 731, 733, 735, 737, 739, 741, 743, 745, 747, 749, 751, 753, 755, 757, 759, 761, 763, 765, 767, 769, 771, 773, 775, 777, 779, 781, 783, 785, 787, 789, 791, 793, 795, 797, 799, 801, 803, 805, 807, 809, 811, 813, 815, 817, 819, 821, 823, 825, 827, 829, 831, 833, 835, 837, 839, 841, 843, 845, 847, 849, 851, 853, 855, 857, 859, 861, 863, 865, 867, 869, 871, 873, 875, 877, 879, 881, 883, 885, 887, 889, 891, 893, 895, 897, 899, 901, 903, 905, 907, 909, 911, 913, 915, 917, 919, 921, 923, 925, 927, 929, 931, 933, 935, 937, 939, 941, 943, 945, 947, 949, 951, 953, 955, 957, 959, 961, 963, 965, 967, 969, 971, 973, 975, 977, 979, 981, 983, 985, 987, 989, 991, 993, 995, 997, 999, 1001, 1003, 1005, 1007, 1009, 1011, 1013, 1015, 1017, 1019, 1021, 1023, 1025, 1027, 1029, 1031, 1033, 1035, 1037, 1039, 1041, 1043, 1045, 1047, 1049, 1051, 1053, 1055, 1057, 1059, 1061, 1063, 1065, 1067, 1069, 1071, 1073, 1075, 1077, 1079, 1081, 1083, 1085, 1087, 1089, 1091, 1093, 1095, 1097, 1099, 1101, 1103, 1105, 1107, 1109, 1111, 1113, 1115, 1117, 1119, 1121, 1123, 1125, 1127, 1129, 1131, 1133, 1135, 1137, 1139, 1141, 1143, 1145, 1147, 1149, 1151, 1153, 1155, 1157, 1159, 1161, 1163, 1165, 1167, 1169, 1171, 1173, 1175, 1177, 1179, 1181, 1183, 1185, 1187, 1189, 1191, 1193, 1195, 1197, 1199, 1201, 1203, 1205, 1207, 1209, 1211, 1213, 1215, 1217, 1219, 1221, 1223, 1225, 1227, 1229, 1231, 1233, 1235, 1237, 1239, 1241, 1243, 1245, 1247, 1249, 1251, 1253, 1255, 1257, 1259, 1261, 1263, 1265, 1267, 1269, 1271, 1273, 1275, 1277, 1279, 1281, 1283, 1285, 1287, 1289, 1291, 1293, 1295, 1297, 1299, 1301, 1303, 1305, 1307, 1309, 1311, 1313, 1315, 1317, 1319, 1321, 1323, 1325, 1327, 1329, 1331, 1333, 1335, 1337, 1339, 1341, 1343, 1345, 1347, 1349, 1351, 1353, 1355, 1357, 1359, 1361, 1363, 1365, 1367, 1369, 1371, 1373, 1375, 1377, 1379, 1381, 1383, 1385, 1387, 1389, 1391, 1393, 1395, 1397, 1399, 1401, 1403, 1405, 1407, 1409, 1411, 1413, 1415, 1417, 1419, 1421, 1423, 1425, 1427, 1429, 1431, 1433, 1435, 1437, 1439, 1441, 1443, 1445, 1447, 1449, 1451, 1453, 1455, 1457, 1459, 1461, 1463, 1465, 1467, 1469, 1471, 1473, 1475, 1477, 1479, 1481, 1483, 1485, 1487, 1

Page 23



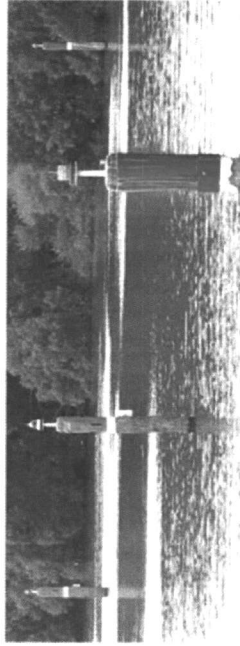
'Currents of Change' - Artwork Detail

Form:

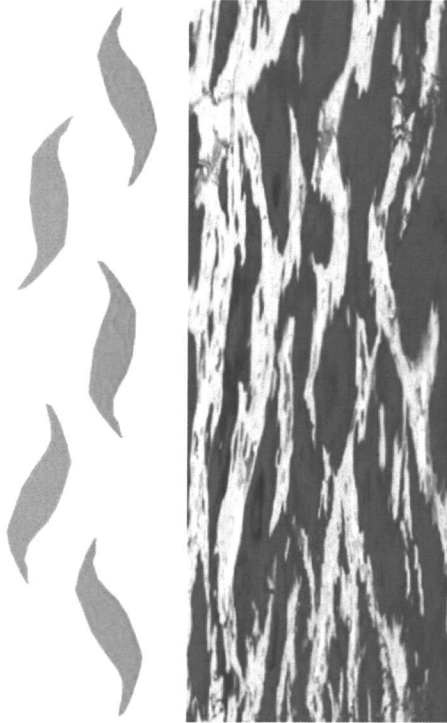
- Four 141 metre tall posts with several mounted wind vanes, each having the curving forms of patterns of currents on the river surface, with reflective qualities from a coloured metallic patina of blue, green and also potentially the ochre colour of the reflected 'clay cliff' river bank.

Response to Arts Plan:

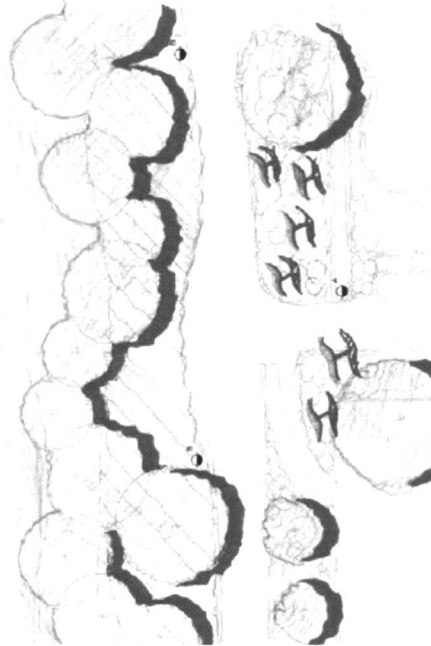
- Consistent with the Arts Plan, the artwork is based on the 'Parramatta Timeline' historical overview, which highlights the 'currents of change' with the overlapping sequence of landuses, interwoven with stories about the history of the people involved and living and working on the site. Page 6 of the approved Arts Plan notes: "This idea takes the river's currents as a vehicle and flows in continuum. The sculptural elements can allude to any of its collective stories such as the connection to Elizabeth Farm, the harnessing of energy for mills and the gas industry, the sailing of 'The Lump', an early pocket vessel for passage from Sydney to Parramatta and its altered natural environment. Combined with the artwork, interpretive works can relate to the important histories for this specific site."
- The wind vane features sculptures are considered one sculptural expression, with the two adjacent groups of 6 wind vanes forming a connective visual sequence. The flow of wind along this riverside pathway will create a slightly sequenced response of movement in the vanes, providing interest and variation. These are seen as filling the sculpture requirements to the timeline from the Arts Plan.



Existing river depth markers



Apples and light reflections



Plan

SITE IMAGE



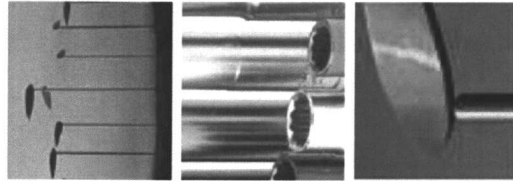
River Road, Parramatta | Public Art Proposal

Client	Project	Topic	Issue	Date
Site Image and Nurture	Site Image and Nurture	Kristal Taylor	Site Image and Nurture	11 April 2016
Site Image and Nurture	Site Image and Nurture	Site Image and Nurture	Site Image and Nurture	11 April 2016

'Currents of Change' - Artwork Detail

Setting, Dimensions, Materials, Fabrication and Installation

- Footings to be provided by Builder to detail requirements of fabricator / engineer
- Steel upright supports to be formed "H" profile, with 3 part epoxy plan finish to allow on site touch-up
- Stainless steel or nylon pivot to be provided with secure flat swivel surface to ensure horizontal stability
- Feature metal blade element to be specialist finish anodized metal / patina finish. TBA in shop drawings



Materials

Elevation



River Road, Parramatta | Public Art Proposal

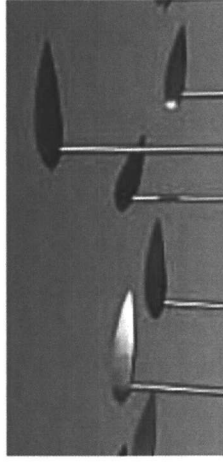
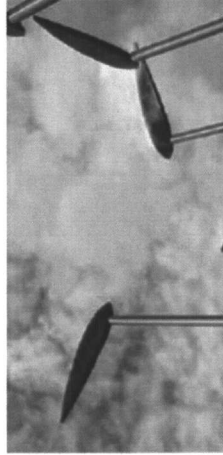
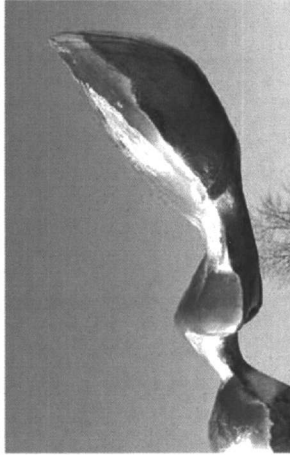
Structure, Lighting, Durability and Maintenance

- Metal support post with suitable structural footing to be located within planter bed setting
- Uplighting to sculpture located in planter bed to enhance visual quality
- Commercial finishes suitable for public space - can repair if damaged
- Maintenance by recommended manufacturer methods and process
- NOTE: As requested by Council, on going maintenance of the artwork is to be the responsibility of the residential Body Corporate, as set out in accompanying documentation to approval of Council



Plan

Client: Council of Parramatta
Architect: EBSWORTH
Site Image Art Number: 0001
Site Image Art Date: 11 April 2016
Site Image Art Size: 1.5m x 1.5m x 1.5m
Site Image Art Weight: 1.5m x 1.5m x 1.5m
Site Image Art Location: River Road, Parramatta
Site Image Art Contact: 02 9600 5000
Site Image Art Email: info@ebsworth.com.au
Site Image Art Website: www.ebsworth.com.au



CONCLUSION

As required by the DA approval conditions, this Public Art Proposal as outlined for the has been developed after thoughtful and thorough investigation of the site and context, taking strong guidance from the approved Arts Plan and Council's Public Art code, guidelines and objectives. Ongoing consultation with Council has resulted in the consolidation of the Artworks to the 2 locations as shown. This report and the detail of the specific artwork proposals are submitted for Construction Certificate approval purposes. The proposals for Public Art are considered consistent with the approved Arts Plan and suitable for Construction Certificate approval by Council.

Ross

Ross Shepherd, M.Arch (CQFA, UNSW), B.Arch (UNSW), Registered Landscape Architect No. 449
Partner, Site Image NSW Pty Ltd - Public Art Consultants and Landscape Architects



SITE IMAGE

River Road, Parramatta | Public Art Proposal

Client: Council of Parramatta
Project: River Road Public Art Proposal
Site Image Job Number: 2016-001
Site Image NSW Pty Ltd ABN 44 607 282 280 as agent for Site Image NSW Parramatta
Level 1, 3-5 Regent Street Surry Hills NSW 2010 Australia T +61 2 8552 5600
G
11 April 2016

Annexure C Schedule 5: Terms of Easement

Definitions

For the purposes of this Instrument, the following words have the following meanings:

Easement means the Easement created by this Instrument.

Owner of the Lot Burdened means the registered proprietor of the Lot Burdened from time to time.

Council means the City of Parramatta Council and its successors.

Lot Burdened means that part of the land having the burden of the Easement which the Plan indicates is the site of the Easement (being the part of the land used for access way from River Road West to the foreshore of Parramatta River having a width of 6 metres over 2-8 River Road West, Parramatta).

Plan means the plan to which this Instrument relates.

1. *Easement for Access 6 wide limited in Stratum (A)*

Terms of Easement

- 1.1 Full right for the public at all times to enter, pass and repass over the Lot Burdened but only within the site of the Easement.
- 1.2 Full right for the Council and the servants, agents and contractors of the Council at all times to enter, pass and repass over the Lot Burdened (in common with the public) but only in the site of the easement with or without vehicles, plant and equipment and to remain on but only in the site of the easement for so long as may be necessary for the purpose of performing the Council's rights under clause 1.4 and the Council's obligations under clause 1.5.
- 1.3 The Owner of the Lot Burdened must at all times at its expense, keep:
 - (a) the Lot Burdened (including any services in, on or under the Lot Burdened) in good repair and condition; and
 - (b) the Lot Burdened clean and free from rubbish.
- 1.4 If the Owner of the Lot Burdened does not perform any obligation under clause 1.3, the Council may undertake the required work and recover the costs of all such work from the Owner of the Lot Burdened as a liquidated debt.
- 1.5 The Council must at its expense, from time to time and at all times as soon as practicable and so far as reasonably necessary promptly make good and remedy any damage caused to the Lot Burdened arising from any exercise of the rights under clauses 1.1, 1.2 and 1.4 and/or performance of any of the obligations under clause 1.5.
- 1.6 If the Council does not rectify any damage under clause 1.5, then the Owner of the Lot Burdened may undertake the required work and recover the costs of all such work from the Council as a liquidated debt.

- 1.7 (The Council must at its expense, effect and maintain in force at all times, a public liability or broadform liability policy of insurance for \$20,000,000 against liability arising in respect of personal injury to or death of any person and loss of and damage to any personal property on or about the Lot Burdened arising from any exercise of the rights under clauses 1.1, 1.2 and 1.4 and/or performance of any of the obligations under clause 1.5.
- 1.8 The Council is solely empowered to release the Easement.
- 1.9 The Easement may only be varied by written agreement between the Council and the Owner of the Lot Burdened.

2. **Easement for Support, limited in stratum**

2.1 **Definitions**

For the purpose of clause 2 of this Instrument, the following words have the following meanings:

Accessway means the part of the Lot Benefitted 6 wide limited in stratum which is used as public accessway.

Council means the City of Parramatta Council and its successors.

Easement means the Easement created in accordance with clause 2 of this Instrument.

Lot Benefitted means the part of the land having the benefit of the Easement which the Plan includes is the site of the Easement.

Lot Burdened means that part of the land having the burden of the Easement which the Plan indicates is the site of the Easement.

Owner of the Lot Burdened means the registered proprietor of the Lot Burdened from time to time.

Plan means the plan to which this Instrument relates.

2.2 **Terms of Easement**

Full right for Council to require the Accessway to be fully supported by the Lot Burdened at all times.

- 2.3 (a) The Owner of the Lot Burdened must at all times at its expense:
- (1) provide and maintain support of the Accessway;
 - (2) promptly comply with all reasonable directions by the Council in relation to providing and maintaining support of the Accessway; and
 - (3) maintain appropriate insurance in the name of the Owner of the Lot Burdened and noting the Council's interest against damage and destruction of any structure which forms part of the Accessway for the full replacement value.



- 2.4 If the Owner of the Lot Burdened does not perform any obligation under clause 2.3(a), the Council may undertake the required work and recover the costs of all such work from the Owner of the Lot Burdened as a liquidated debt.
- 2.5 The Council must at its expense, from time to time and at all times as soon as practicable and so far as reasonably necessary promptly make good and remedy any damage caused to the Lot Burdened arising from any exercise of the Council's rights under clause 2.4..
- 2.6 If the Council does not rectify any damage under clause 2.5, then the Owner of the Lot Burdened may undertake the required work and recover the costs of such work from the Council as a liquidated debt.
- 2.7 **Release and Variation of Easement**
- (a) The Council is solely empowered to release the Easement.
- (b) The Easement may only be varied by written agreement between the Council and the Owner of the Lot Burdened.



Annexure D Schedule 6: Terms of Positive Covenant



Terms of Positive Covenant

1. Definitions and Interpretation

1.1 Definitions

For the purpose of this Positive Covenant, the following Definitions apply:

Act means the Conveyancing Act 1919.

Business Day means a day that is not a Saturday, Sunday or public holiday in the State of New South Wales.

Council means City of Parramatta Council and its successors.

Council's Land means the whole of the land comprised in Lot 2 on the plan

Development Consent means DA/702/2013 (including any modification).

Expenses includes:

- (a) any reasonable expense incurred by the Council in exercising its powers under this Positive Covenant. Such expense shall include but are not limited to wages for Council's employees, agents or contractors in effecting any work, supervising any work and administering any work together with the costs for the use of machinery, tools and equipment in conjunction with such work; and
- (b) reasonable legal costs on an indemnity basis.

Licensed Areas means the sites on which each Structure stands from time to time.

Planning Agreement means the Planning Agreement dated 30 October 2012 Registered number 1204213 (as varied).

Registered Proprietor means the registered proprietor of the Registered Proprietor's Land from time to time.

Registered Proprietor's Land means the whole of the land comprised in Lot 1 on the plan known as 2-8 River Road West, Parramatta.

Relevant Authority means the Council and all and any other governmental or semi-governmental entity entitled to authorise or regulate the construction, use, condition and removal of the Structures.

Structures means all items of public art or decorative and interpretive signage referred to in the Public Art Proposal prepared by Site Image (Issue G, dated 11 April 2016 as approved by Council) and in the Revised Public Art Works Location Drawings prepared by Site Image (dated 2nd August 2016) as approved by Council and the Developer and erected on the Council's Land from time to time in accordance with the Planning Agreement and the Development Consent.

WH&S Legislation means the Work Health & Safety Act 2011 (NSW) and the Work Health & Safety Regulation 2011 (NSW).



1.2 Interpretation

In this Positive Covenant, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a clause, paragraph, schedule, information table or annexure is to a clause of paragraph of, or schedule or information table or annexure to, this Positive Covenant and a reference to this Positive Covenant includes any schedule or annexure;
- (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (e) a reference to a party includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (f) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (g) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions;
- (h) any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally;
- (i) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this Positive Covenant or any part of it;
- (j) headings are for ease of reference only and do not affect interpretation; and
- (k) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day.

2. Operation of this Positive Covenant

- (a) This Positive Covenant shall continue to operate and apply until all of the Structures have been removed from the Council's Land.
- (b) If there is any inconsistency between the provisions of this Positive Covenant and the Development Consent, the conditions of the Positive Covenant will prevail to the extent of the inconsistency.

3. Obligations in relation to the Structures

- (a) The Registered Proprietor must at the Registered Proprietor's expense, at all times without notice from the Council:
 - (i) subject to clause 3(b), maintain and repair the Structures in perpetuity in good and tidy condition and in a proper state of repair;
 - (ii) carry out regular inspections of the Structures to ensure that the Structures are securely constructed and meet all requirements from time to time of Relevant Authorities and the law so that they are in a proper and safe condition at all times; and
 - (iii) refurbish the Structures whenever required to do so by the Council.
- (b) Notwithstanding clause 3(a), the Registered Proprietor must relocate or remove the Structures if required by the Council.
- (c) Notwithstanding clause (b), the Registered Proprietor must not:
 - (i) alter any Structure; or
 - (ii) remove or relocate any Structurewithout the Council's prior written consent (which consent may in the absolute discretion of the Council be withheld or granted conditionally).
- (d) The Council may, without prejudice to any other right it may have as registered proprietor of the Council's Land or as the local government authority, serve a notice under this Positive Covenant requiring the Registered Proprietor at the Registered Proprietor's expense, to do works on the Structures (including, without limitation, repairs and maintenance, alteration, relocation, removal of any Structure) to the satisfaction of the Council.
- (e) If the Registered Proprietor does not comply with a notice issued under clause 3(d), the Council may undertake the work specified in the notice in such manner and on such terms as the Council determines (acting reasonably) and the Registered Proprietor must pay to the Council on demand, the costs and expenses incurred by the Council in undertaking such work.
- (f) The Registered Proprietor acknowledges that:
 - (i) as the owner of the Council's Land, the Council has obligations under the WH&S Legislation; and
 - (ii) as controller of the Licenced Areas, the Registered Proprietor has obligations under the WH&S Legislation and, in particular, the Registered Proprietor has control of the Licenced Areas and the Structures for the purposes of the Work Health and Safety Act 2011 (NSW).
- (g) The Registered Proprietor must:
 - (i) perform all the Registered Proprietor's obligations under the WH&S Legislation in relation to the Structures and the Licenced Areas;



- (ii) ensure that the Registered Proprietor or any of the Registered Proprietor's workers, employees, invitees, officers, contractors or any other party over which the Registered Proprietor exercises control, does not by any act or omission cause the Council to be in breach of the WH&S Legislation in relation to the Structures and the Licenced Areas; and
- (iii) put in place workplace systems to ensure compliance with the WH&S Legislation in relation to the Structures and the Licenced Areas and ensure those systems include:
 - (A) an assessment of the risks and hazards to work health safety arising from, or in any way connected with, the Registered Proprietor's control of the Licensed Areas and Structures, or the work the Registered Proprietor performs on any part of Council's Land; and
 - (B) an identification and implementation of measures to eliminate, or, if elimination is not reasonably practicable, minimise the risks and hazards, a safe work method statement (if required to by the WH&S Legislation), emergency procedures and the adequate provisions of information to any visitors (including members of the public and workers) to the Structures and the Licensed Areas.
- (h) To the extent permitted by law, the Registered Proprietor agrees that the Registered Proprietor will perform, and be liable for the non-performance of the obligations of the Council under the WH&S Legislation in relation to any work performed by the Registered Proprietor and any employee, agent and contractor of the Registered Proprietor on, or in relation to the Structures or the Licenced Areas.
- (i) The Council appoints the Registered Proprietor, and the Registered Proprietor accepts the appointment, as principal contractor for the purposes of the WH&S Legislation in relation to any work carried out by or on behalf of the Registered Proprietor in relation to the Structures and the Licenced Areas and the Registered Proprietor warrants that, to the extent required by WH&S Legislation, it has all qualifications and licences necessary to accept such appointment.

4. Covenants of the Registered Proprietor

The Registered Proprietor:

- (a) at its own cost must:
 - (i) ensure that the Structures are at all times securely constructed, meet the requirements of all Relevant Authorities and complies with all building codes and the law;
 - (ii) promptly comply with any direction, order, demand, licence notice or other requirement issued by the Council or any Relevant Authority in relation to the Structures, (including without limitation as to the need to



construct, repair, maintain, replace, refurbish or alter the Structures);
and

- (iii) if required by Council in writing, remove or relocate the Structures and make safe the site of the Structures to the satisfaction of Council within one (1) month of any notice issued by the Council pursuant to this clause;
- (b) covenants that the Registered Proprietor shall not remove or relocate any Structure without the Council's prior written consent (which consent may in the absolute discretion of the Council be withheld or granted conditionally); and
- (c) covenants that in carrying out its obligations and exercising its rights under this Positive Covenant, it must use its best endeavours not to cause any inconvenience to the public and adjoining owners.

5. Rights and obligations of the Council

- (a) By written notice to the Registered Proprietor, the Council at any time may require the Registered Proprietor to attend to any matter and to carry out any further work to the Structures within such time as the Council may specify or require and proper and efficient maintenance of the Structures. The Registered Proprietor must comply with the notice at its own cost.
- (b) If the Registered Proprietor fails to comply with the terms of any written notice by the Council as set out in the clause 5(a), the Council or any person authorised by the Council may repair, replace or otherwise remedy any failure by the Registered Proprietor to observe its obligations under this Positive Covenant and the Council may recover all Expenses incurred by the Council of so doing from the Registered Proprietor.
- (c) Nothing in this Positive Covenant is to be deemed to fetter or restrict exercise of the Council's powers and discretions as a consent authority in any way.

6. Removal of Structures

- (a) The Registered Proprietor acknowledges that if:
 - (i) the Registered Proprietor is in breach of this Positive Covenant and fails to rectify the breach after one (1) month's written notice from the Council;
 - (ii) the Council is required by law for any reason to require the Structures to be removed; or
 - (iii) the Structures or any of them are in the reasonable opinion of the Council at an end of its viability and should be demolished whether the Structure is subsequently replaced or not

the Council may require the Structures to be demolished and removed from the Council's Land within one (1) month of any notice issued pursuant to this clause.

- (b) No compensation is payable by the Council to the Registered Proprietor in relation to any relocation of Structures or the removal, disposal or retention of the Structures in accordance with this Positive Covenant.

7. Notices

Any notice, approval, consent or other communication required to be given or served in connection with this Positive Covenant must be in writing and must be served in accordance with section 170 of the Act.

8. Governing Law

The laws of the State of New South Wales apply to this Positive Covenant to the exclusion of any other laws and the parties agree to submit to the jurisdiction of the Courts of New South Wales in relation to this Positive Covenant.

9. Severability

In the event that any provision of this Positive Covenant is held to be invalid, illegal or unenforceable, that provision must to the extent of the invalidity, illegality and unenforceability be ignored in the interpretation of this Positive Covenant and all other provisions of this Positive Covenant will remain in full force and effect.

10. No waiver

A party to this Positive Covenant is not to be taken to have waived any right or entitlement it may have under this Positive Covenant unless and until that waiver is notified in writing to the party seeking the benefit of the alleged waiver. Waiver by a party in respect of any act or thing required to be done under this Positive Covenant does not constitute a waiver of any other act or thing (whether of the same or of a different nature) required to be done under this Positive Covenant.

11. Right to extinguish

Name of person with the power to release, vary or modify or extinguish this Positive Covenant referred to is the Council.

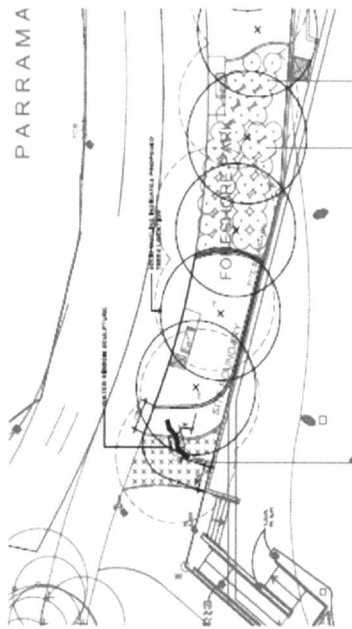
12. Costs

- (a) The Registered Proprietor must pay all the Council's reasonable legal costs (assessed on an indemnity basis) plus GST and out of pocket expenses in respect of the preparation and registration of this Positive Covenant.
- (b) The Council may recover from the Registered Proprietor in any Court of competent jurisdiction, any amount payable by the Registered Proprietor under this Positive Covenant as a liquidated debt.

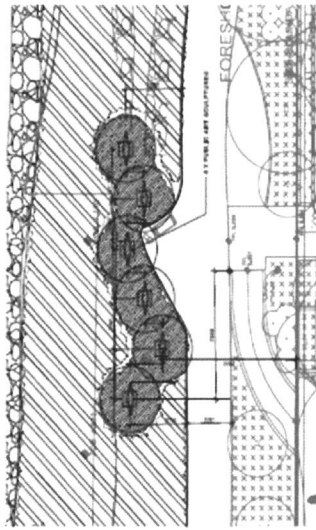


Annexure E Schedule 7: Revised Public Art Works Location
Drawings





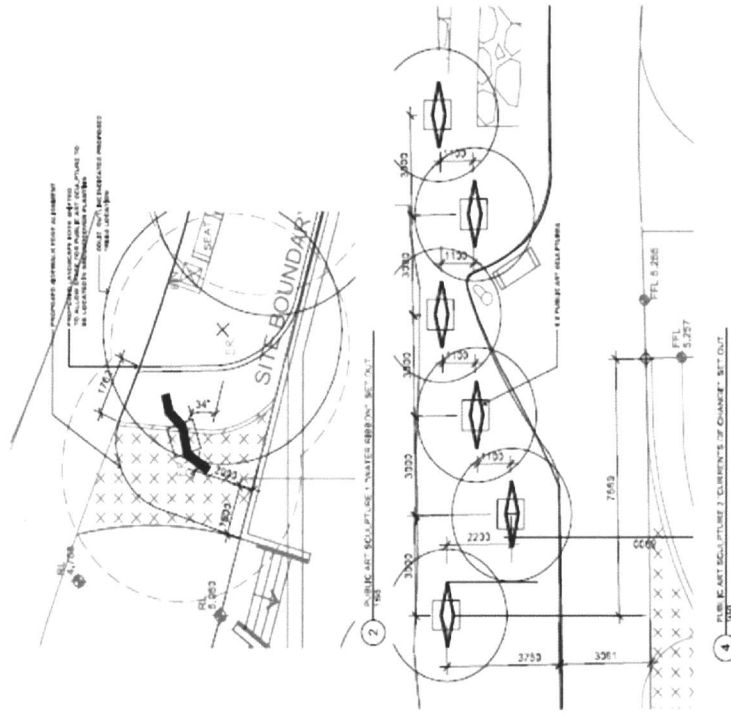
1 PUBLIC ART SCULPTURE - WATER RESISTANT LOCATION



2 PUBLIC ART SCULPTURE - WATER RESISTANT LOCATION

NOT FOR CONSTRUCTION

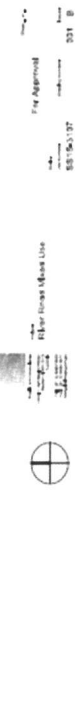
NOT FOR CONSTRUCTION



3 PUBLIC ART SCULPTURE - WATER RESISTANT LOCATION

NOT FOR CONSTRUCTION

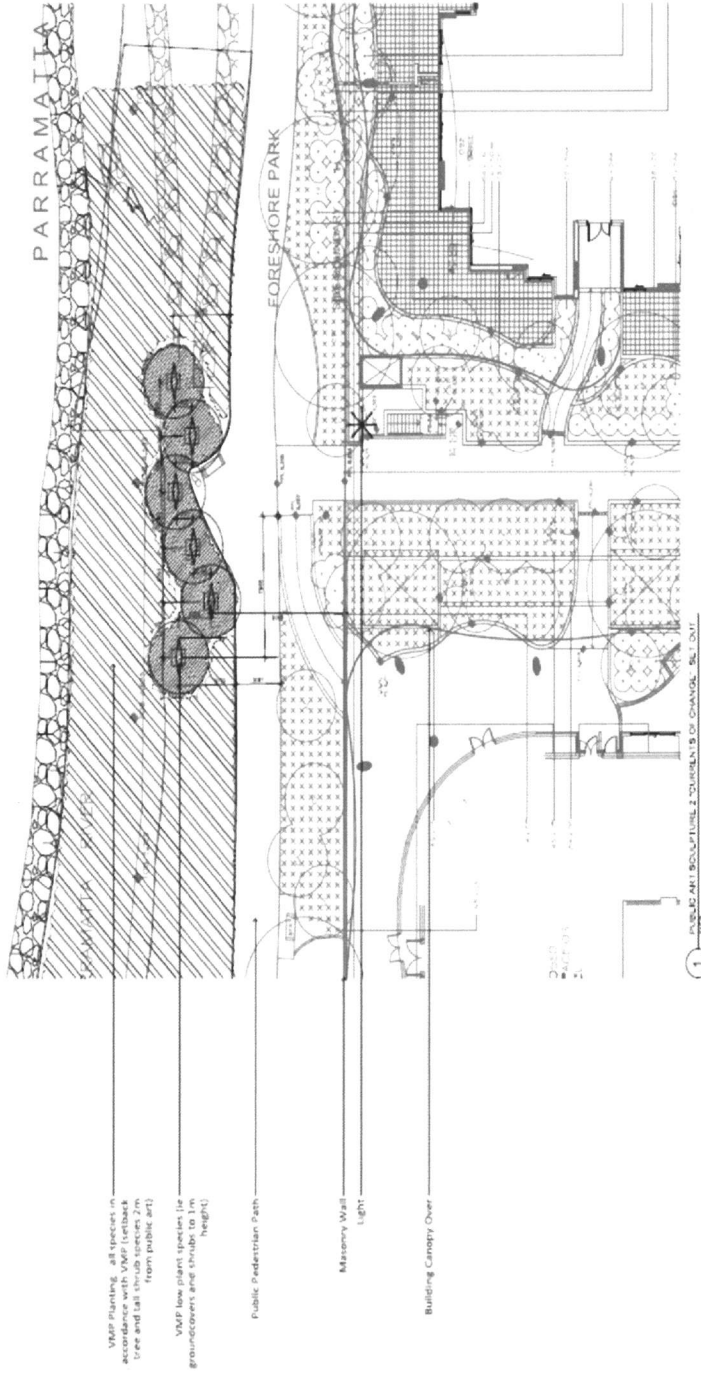
NOT FOR CONSTRUCTION



4 PUBLIC ART SCULPTURE - WATER RESISTANT LOCATION

NOT FOR CONSTRUCTION

NOT FOR CONSTRUCTION



NOT FOR CONSTRUCTION

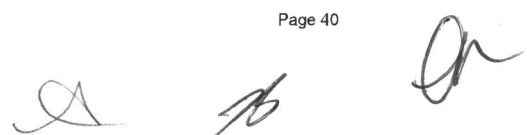
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1. PUBLIC ART SOLUTIONS 2. JOURNALS OF CHANGE 3. 1. OUT

Annexure F Schedule 8: Site Image Letter dated 18 August
2016



18 August 2016

PO Box 32 PARRAMATTA NSW 2124
City of Parramatta Council - City Strategy Section



SITE IMAGE

PO Box 32 Parramatta NSW 2124

Attention:

Diane Galea Senior Project Officer - Land Use Planning

George Mannix, Manager, City Animation

James Smallison, Supervisor Open Space and Natural Resources

Re: Public Art 2-8 River Road West, Parramatta - Condition of Approval No. 3 - Release of Intellectual Property Rights for Artwork

Dear Diane, George and James,

Thank you for your advice by email dated today that the revised Public Art Work Location Drawings prepared by Site Image dated 2 August 2016, are approved and suitable for installation, subject to your conditions re path offset, maintenance and release of IP and property rights to the artworks.

This letter is provided in response to Condition 3 that notes: 'Council, acting reasonably, retains the right to remove and dispose of the sculptures for any reason, without compensation to the owner or artist.'

This letter confirms that Ross Shepherd, as the Artist, and as representative for Toplace, releases Intellectual Property Rights relating to the artworks to Council, and confirm authority to Council to reasonably remove and dispose of the sculptures for any reason, without compensation to the owner or artist.

As Public Art Consultants representing Toplace we can confirm Condition 1 will be met, with installation at least 500mm from shared path, and confirm our understanding that agreement and documentation will be put in place by Toplace to confirm Condition 2. That the sculptures be maintained in good condition and the public safety of the sculptures will continue to be the responsibility of the Body Corporate who should retain at all times public liability cover in regard to the work.

It is understood that this addresses Council's requirements regarding Conditions of Approval and the works will be installed on this basis.

Comments of course welcome

Kind regards,
on behalf of Site Image (NSW) Pty Ltd

Ross Shepherd MArt BLArch RLA
Artist / Director

cc: David Krepp - Toplace

Site Image (NSW) Pty Ltd
Print Name
Suwanda Chodut
Chassif
Evelyn Nassif

Site Image (NSW) Pty Ltd ABN 44 801 267 080 as agent for Site Image NSW Partnership

6 September 2016

Doc ID 345137813/v1

Gregory Dyer

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