



**CITY OF
PARRAMATTA**

UHRIG RD COMMUNITY CENTRE SYDNEY OLYMPIC PARK AREA

PUBLIC ART APPLIED WALL WORK

CALL FOR EXPRESSION OF INTEREST FROM ARTISTS

EOI Applications Open

Thursday 05 December 2024 9am AEST

EOI Application Deadline

Sunday 19 January 2024 11:59pm AEST

The City of Parramatta embraces what was, is, and always will be Aboriginal Country.

The people of the Dharug Nation are the traditional custodians of the site which borders Sydney Olympic Park and North Lidcombe. Dharug peoples connection to this place spans at least 1000 generations of continuous occupation and their relationship to the river and the importance of water in the landscape, ongoing connections and ceremony, and the land management techniques practiced in caring for country, are key to understanding the Uhrig Road Community Centre site.

The City of Parramatta supports and values this continuing connection to Country and recognises it as a place of shared and challenging histories: a place of early contact and colonisation; a site of resistance, dispossession and resilience.



Revitalised Carter Street Precinct - NSW Department of Planning and Environment Masterplan for Carter Street Precinct, 2017. Article by The Urban Developer Fri 5 October 2018

PROJECT CONTEXT

The Uhrig Rd Community Centre Public Art Project has identified the need for wall based public artwork on a primary bulkhead above the entry ramp. This artwork commission has a clearly defined scope of works in relation to the fit-out program, artwork typology parameters and working to the all inclusive commissioning budget of \$60,000 ex GST.

The budget for this project is inclusive of all artist fees, design development, detailed design documentation, fabrication, installation, and the maintenance manual. Council will contract the Artist for the design, fabrication and installation and 12-months maintenance of the artwork. They will be responsible for delivery, insurance, WHS, with Safety in Design and engineering certification (as required).

The relationship between a structure and its inhabitants is formed by social activity. The curatorial theme of *Common Ground* invites Artists to explore ideas of commonality, unity and transformation in this newly evolved environment on the border of Sydney Olympic Park. Interested Artists are invited to submit an Expression of Interest for a 2D or shallow profile 3D wall work to be installed to the bulkhead at the centre entrance.

Common Ground invites artists to explore how the expression or function of something is converted into another, through reinvention and shared experience. Cohesion, curiosity and connection are central themes and key to the activation of the community hub as a place of mutual knowledge, shared interests, ideas and activities essential for successful communication between people.

This location has experienced intense re-development with a change in identity, character and purpose. This Community Centre will be located on the Ground Floor of Meriton's Atrium development at 4-8 Uhrig Road, Lidcombe. The cold shell will be delivered by Meriton with the interior fit-out delivered by the City of Parramatta. The Artist's Brief includes benchmark projects that demonstrate benchmark artwork typologies, budget, fabrication and installation methodologies. The project overview will include the scope of works, materiality, design life, safety in design, and maintenance.

VISION ALIGNMENT

The Uhrig Road Community Centre project aligns with the following documents:

- City of Parramatta Council's 2050 Strategy (2024)
- City of Parramatta Council's Interim Public Art Guidelines for Developers (2017)
- City of Parramatta Council Public Art Policy (2017)

Public art projects within the City of Parramatta will:

- Enhance the artwork location - adds interest and enriching context;
- Be specific to its site or context - tells a local story;
- Be appropriate and suitable to its bulkhead location, in scale and impact on amenity and other uses;
- Be high quality in design, materials and finishes;
- Present innovative, fresh, creative and original ideas;
- Inspire, provoke reflection, arouse curiosity; enrich and stimulate;
- Be comprehensible, informative and engaging;
- Be uniquely Parramatta;
- Be welcoming and inclusive

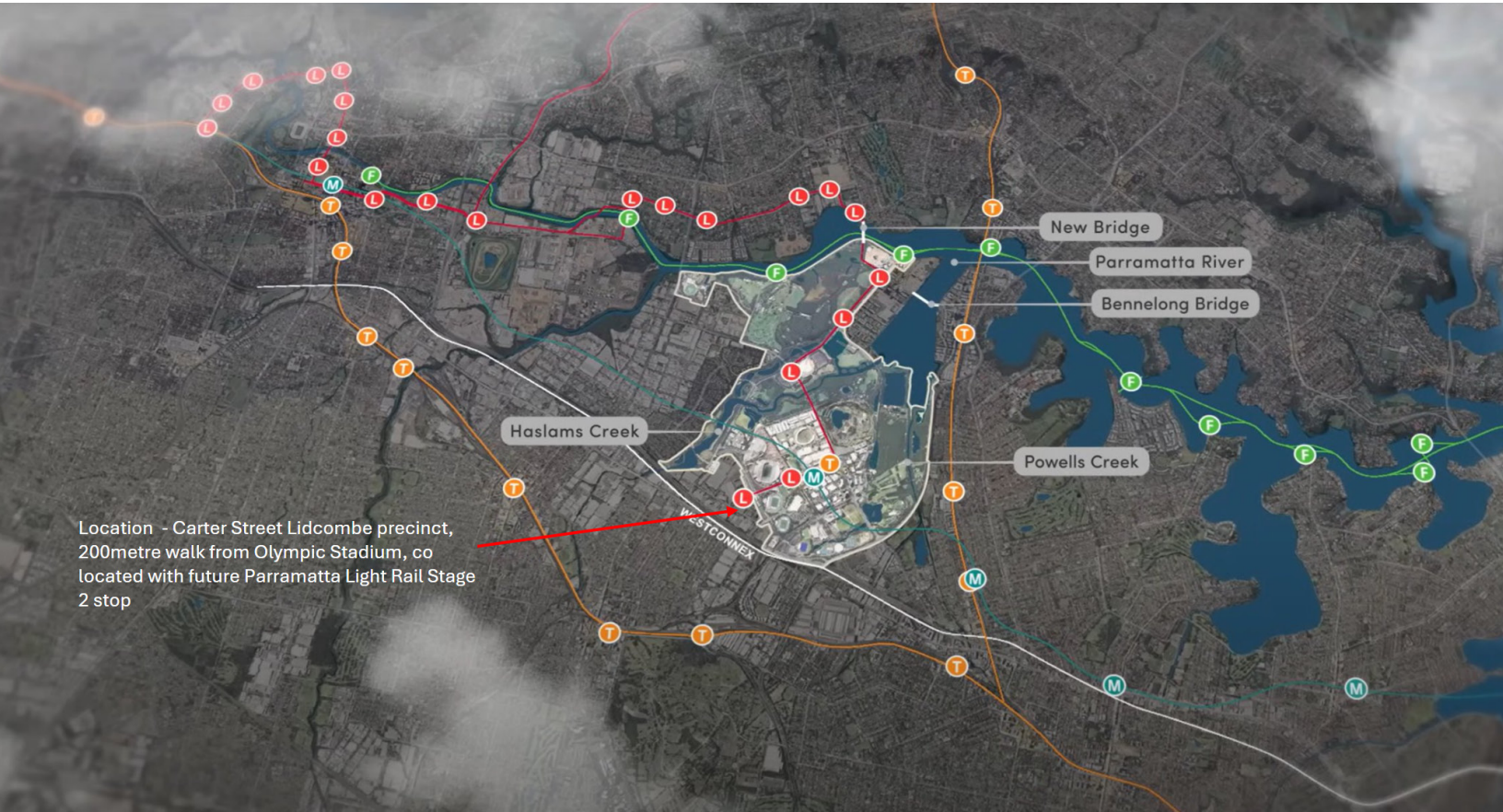
Parramatta 2050 Vision:

By 2050, Global Parramatta will be a global city full of world-class experiences and opportunities to gather, create and accelerate. Our strategic directions are:

- Gather: We gather a world of stories, ideas and experiences
- Create: We create world-class experiences and opportunities in an environment where creativity knows no bounds
- Accelerate: We accelerate beyond the bounds of current thinking, recognising that creating the city of tomorrow will require us to be bold and dream big

SITE ANALYSIS

AREA MAP

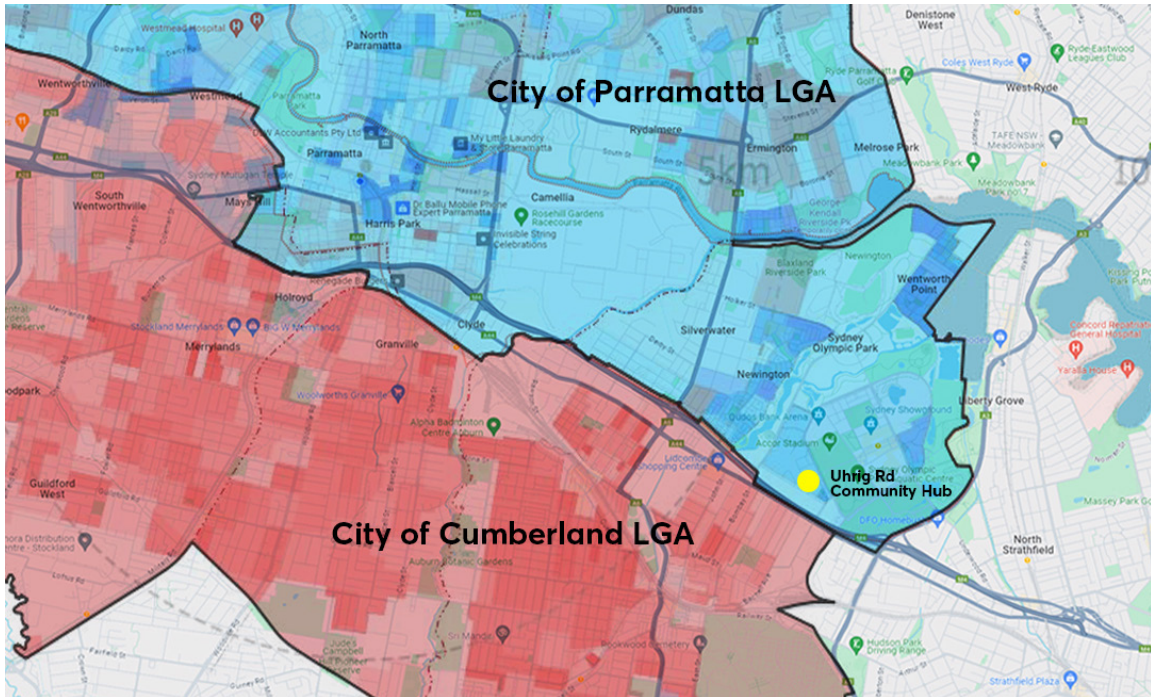


Location - Carter Street Lidcombe precinct,
200metre walk from Olympic Stadium, co
located with future Parramatta Light Rail Stage
2 stop

Uhrig Rd Community Centre, formerly known as Carter Street

SITE ANALYSIS

LGA BOUNDRY



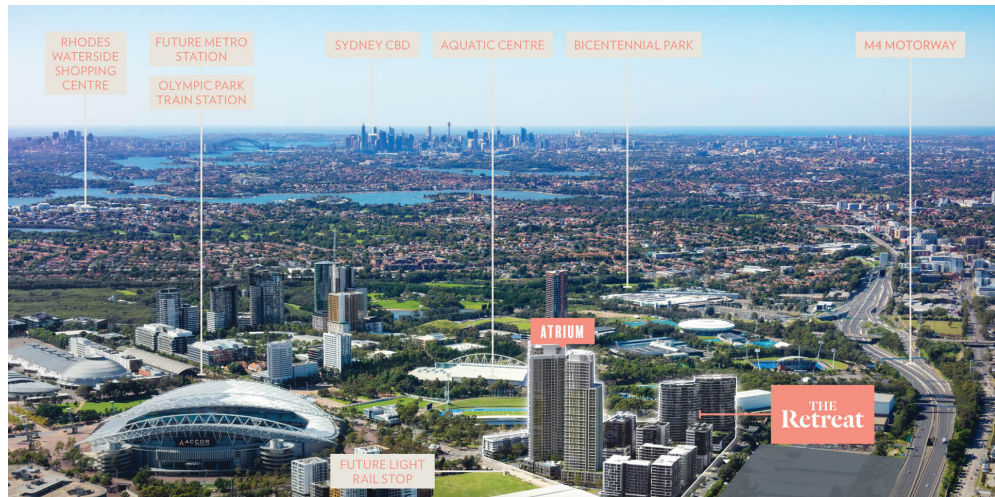
City of Parramatta LGA map and City of Cumberland LGA map denoted to show Uhrig Rd Community Hub is located in the suburb of Lidcombe and within the City of Parramatta LGA.

SITE TOPOGRAPHY



● Uhrig Rd Community Centre

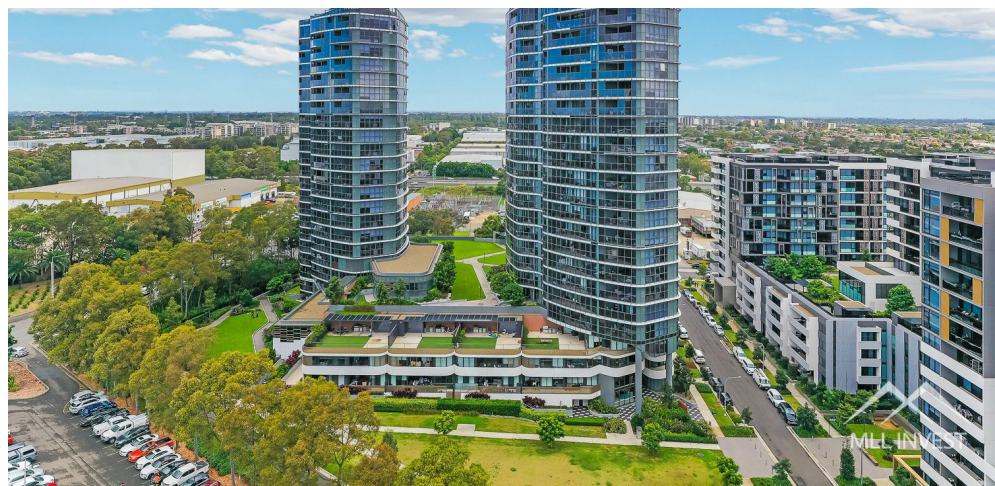
LOCATION



Atrium, The Retreat location context



North of Parramatta Rd, proximity to Sydney Olympic Park



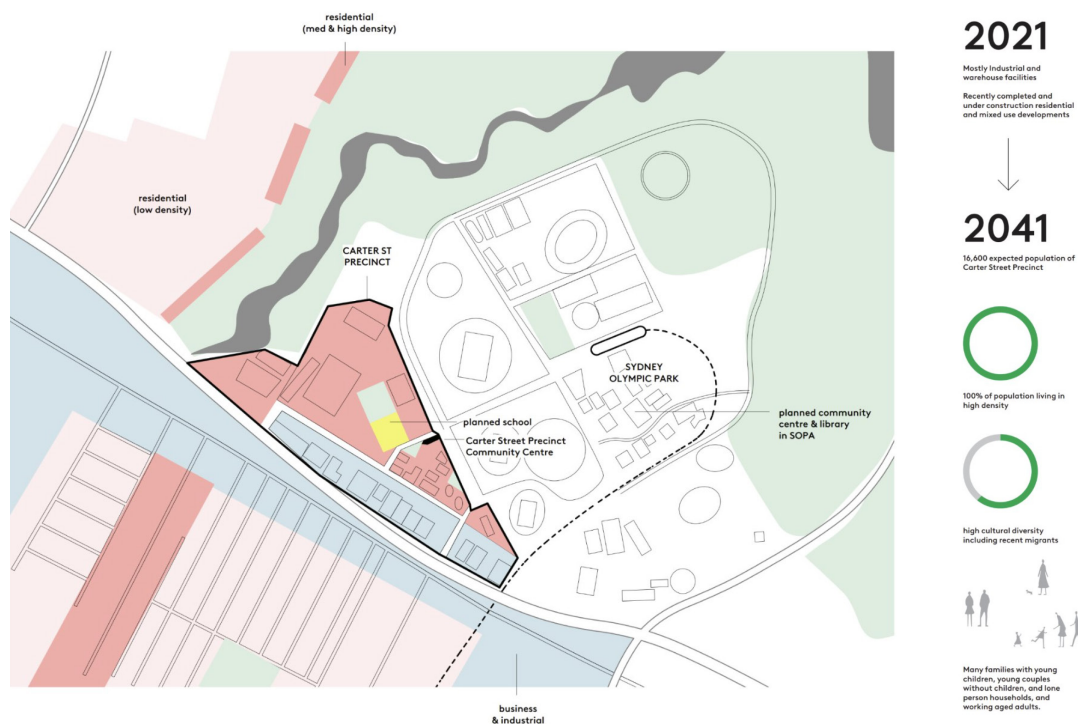
Atrium. The Retreat, 6 Uhrig Rd Lidcombe - under construction

SITE CHARACTERISTICS

Lidcombe is located north and south of Parramatta Road, with Cumberland LGA to the south and Parramatta LGA to the north. The Uhrig Road Community Centre is located on the traditional lands of the Dharug people. The land is typically flat, but generally slopes down towards the Parramatta River. Pre-European arrival this area consisted of extensive tidal wetlands and thick bush. Dharug people have lived in the area for thousands of years with stone artefacts and several scarred trees found within remnant forest found in the area.

LOCATION AND AMENITIES:

- 650m to Olympic Park train station
- 650m to the future Sydney Metro West station
- The proposed Stage 2 Parramatta Light Rail stop is across the road
- 2 min drive to the M4 Motorway
- 1.4km Lidcombe Shopping Centre with a selection of schools within 5km
- 7km to Parramatta CBD
- 15km to Sydney CBD



MERITON DEVELOPMENT

ATRIUM, THE RETREAT - A MASTER-PLANNED COMMUNITY

- 3000sqm of landscaped podium gardens
- 1,394sqm Civic Park, with a children's play space on your doorstep
- 1,000sqm Community Centre with co-work spaces and meeting rooms
- 75-place childcare centre
- Indoor Heated Pool, Spa Gym and Sauna
- Retail Shops
- Security and Building Manager



COMMUNITY CENTRE DESIGN



Artist Impression looking south



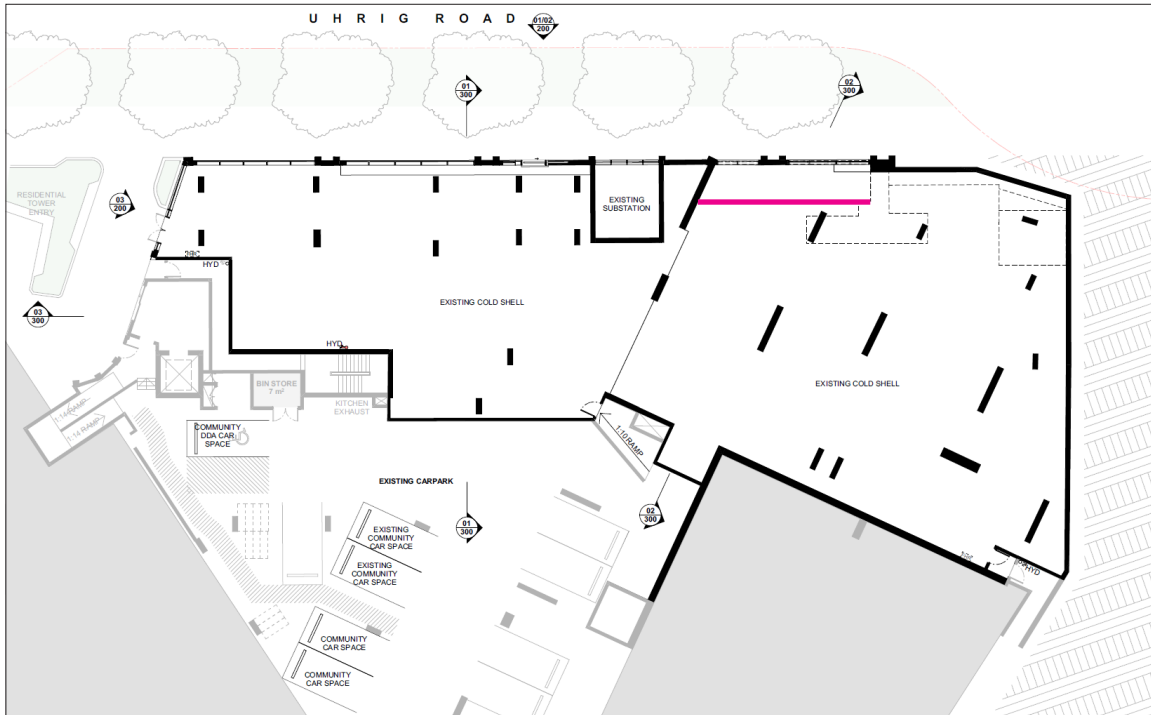
Artist Impression looking east



Artist Impression looking south east

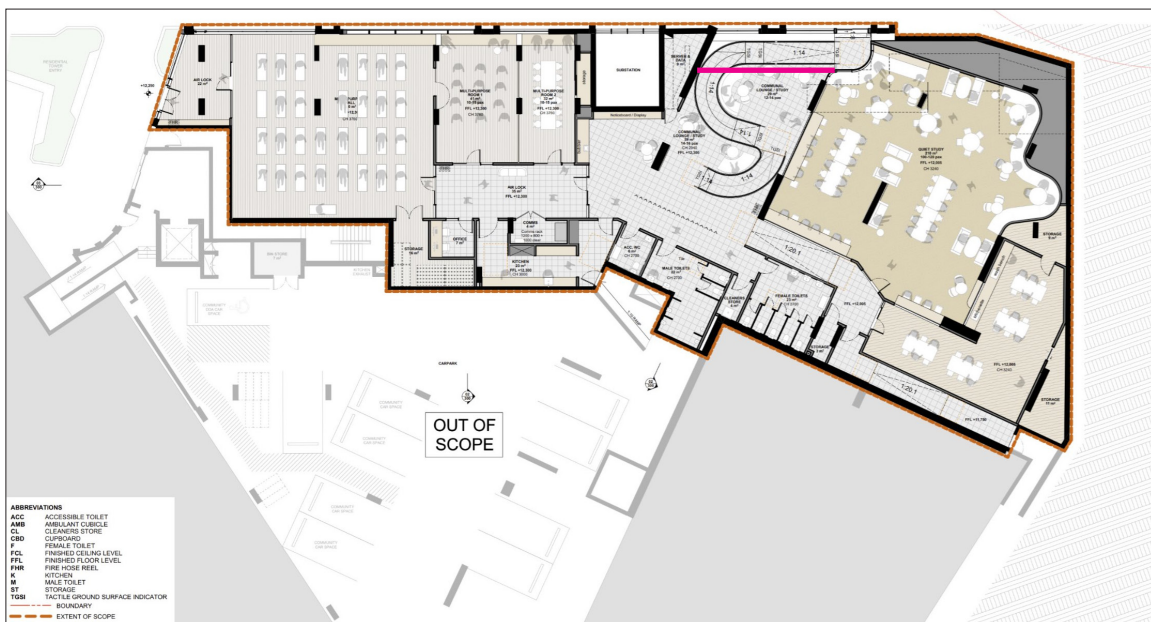
COMMUNITY CENTRE DESIGN

Bulkhead location —



Uhrig Rd Community Centre existing cold shell for fit-out

Bulkhead location —

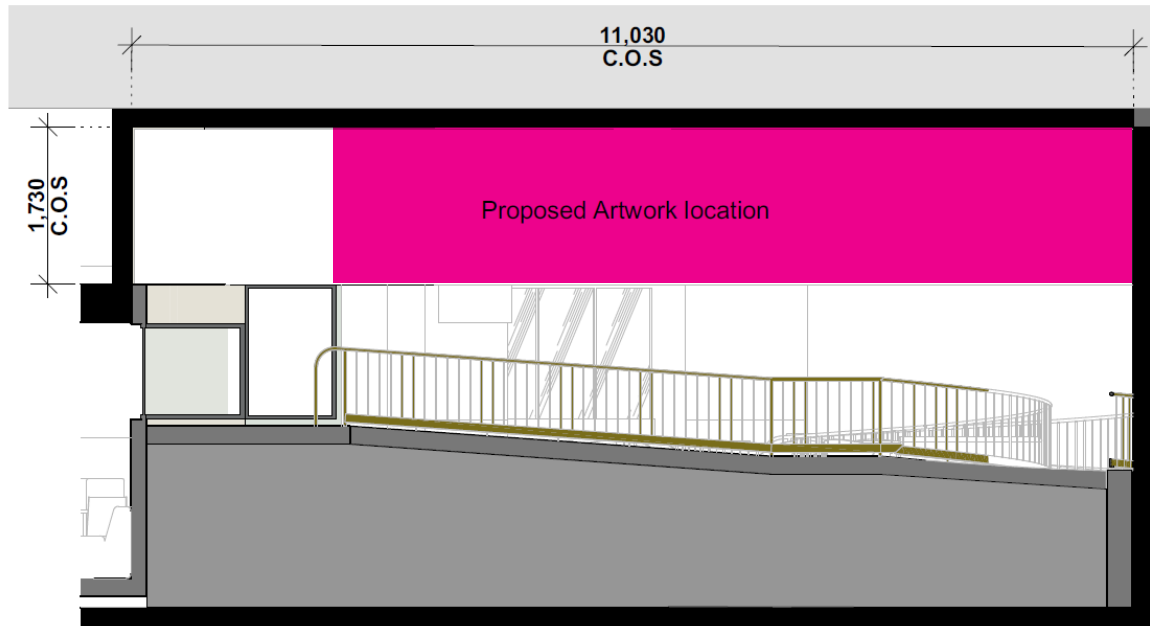


Uhrig Rd Community Centre architectural plan showing bulkhead location

PUBLIC ART LOCATION



PROPOSED ENTRY ART PERSPECTIVE VIEW



01

PROPOSED ENTRY ART LOCATION

1:50

PUBLIC ART LOCATION



01

VIEW FROM ROAD

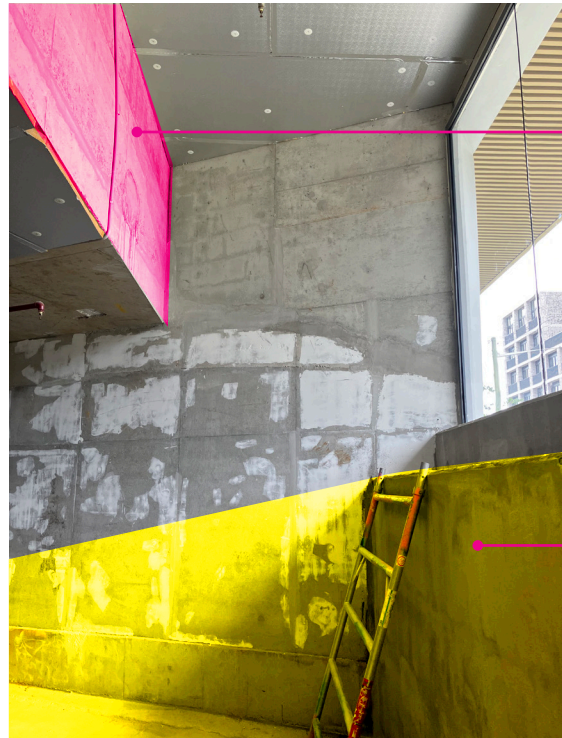
PUBLIC ART LOCATION

Bulkhead facing north west



Ramp location

Bulkhead looking south west



Ramp location

There is a pillar opposite the bulkhead which will be finished in white plasterboard with power provisioned for track lighting to light the artwork.



Ramp location

PUBLIC ART LOCATION



Services left exposed and painted white

Sprinklers on bulkhead to be relocated

Bulkhead will be finished in white plasterboard - anchors to be fixed either to battens or concrete base pending load bearing requirements

Sprinklers on bulkhead to be relocated



Services left exposed and painted white

Sprinklers on bulkhead to be relocated

Bulkhead will be finished in white plasterboard - anchors to be fixed either to battens or concrete base pending load bearing requirements

Sprinklers on bulkhead to be relocated

WAYFINDING DESIGN BY FROST*COLLECTIVE

WAYFINDING MOCK-UP: EXTERIOR MAIN IDENTIFICATION, EXTERIOR SIGNAGE AND GRAPHICS AND OVERALL ELEVATION

External Main Entrance



*Colour is from the CoP Brand Guideline



External Main Entrance



Indicative artwork shown behind to internal bulkhead

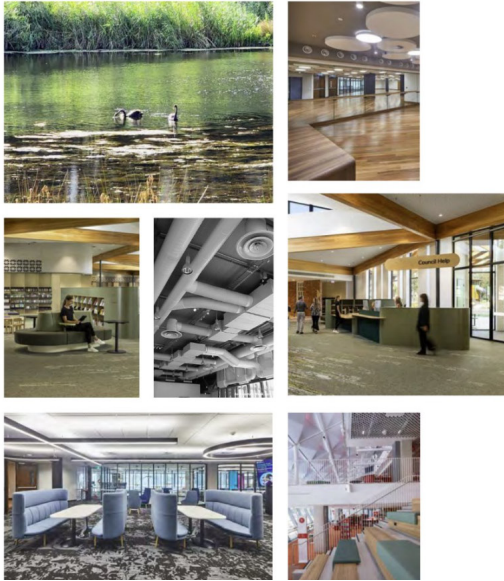
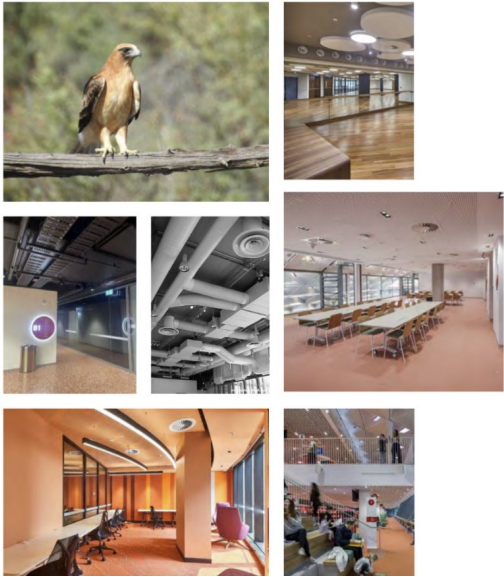


MATERIALS PALETTE

COLOURS AND TEXTURES



Little Eagle Green
 The Little Eagle is a small and powerful bird, with a short broad head and a moderately long tail. Its feathers are a mix of olive, brown, grey and black. It is a ground-dwelling bird, but it is also a skilled flier. It is a common bird in the area and is often seen in the company of other birds.
 The Little Eagle has long, broad wings, spanning over one metre. Although uncommon in the park area, the Little Eagle has been observed nesting in high trees and gliding in the sky.



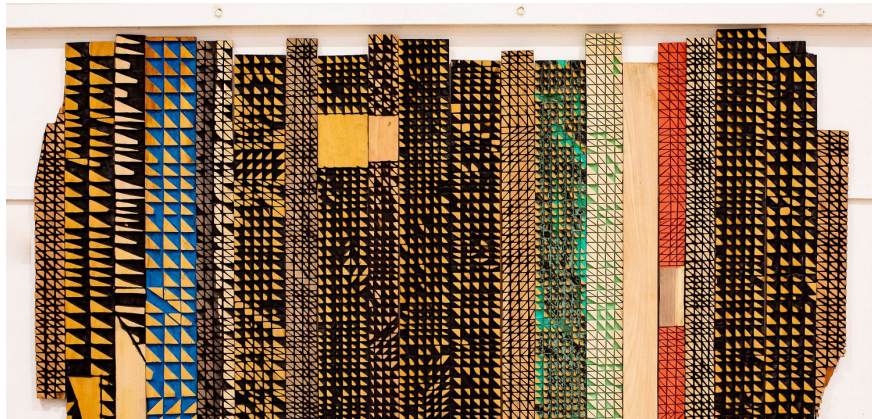
ARTWORK TYPOLOGIES

WELCOMING FORMS

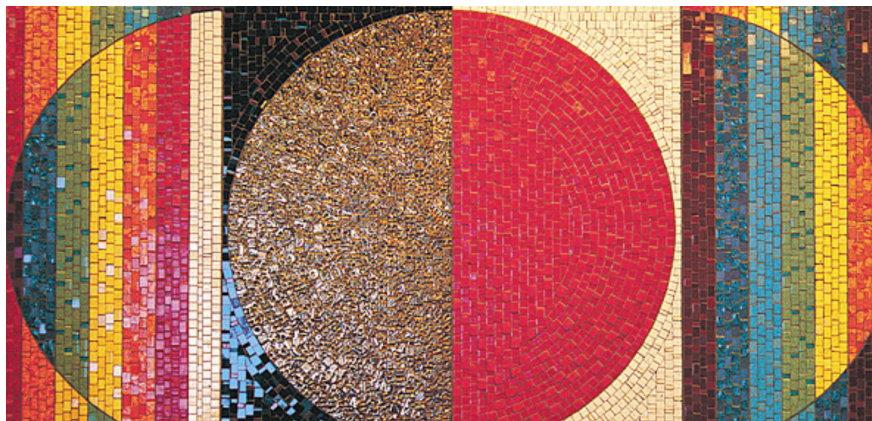
CREATE AN IMPACTFUL WELCOME WITH PATTERNS, TEXTURES AND SHAPES
Note, data and power are not provisioned to the artwork location. Concept design needs to consider fabrication and installation methodology and maintenance requirements.



Canopy II, Alex Miles Lutruwita/Tasmania. 2019 (concepts that consider substrates as features of the work combined with intricate forms should consider the specified load bearing weight limit, , fabrication timelines and installation methodologies on the bulkhead).



DNA, El Anatsui 2021 Dubai (assemblage concepts should consider the specified load bearing weight limit, fabrication timelines and installation methodologies on the bulkhead)



Day and Night, Lev Syrkin, 1986, Beersheba (concept designs that feature mosaic should consider the specified load bearing weight limit, fabrication timelines and installation methodologies on the bulkhead)

ARTWORK TYPOLOGIES

ARTISAN

BESPOKE, HANDMADE OBJECTS MADE BY ARTISANS

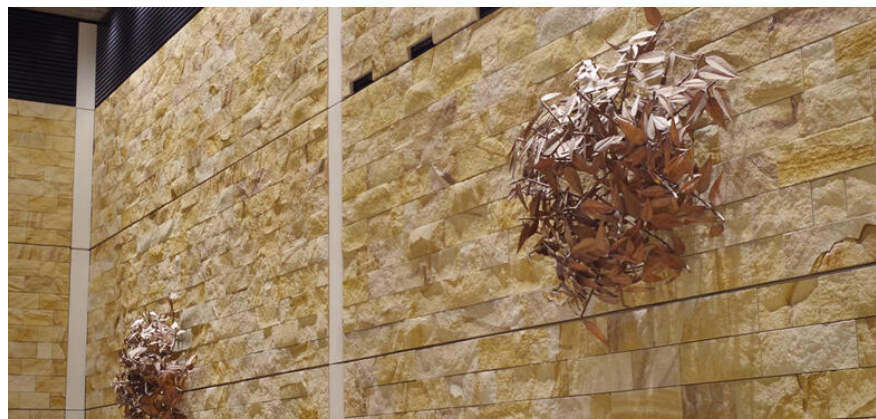
Note, data and power are not provisioned to the artwork location. Concept design needs to consider fabrication and installation methodology and maintenance requirements.



Shard Song, El Anatsui 2022, Dubai (works made from found objects should consider longevity, fabrication and maintenance methodologies in the concept design)



Prix Revelation, Dak'Art, Tejuoso Olanrewaju 2018 Abeokuta, Nigeria (works made from found objects should consider longevity, fabrication and maintenance methodologies in the concept design)



In Time We Shall, Khaled Sabsabi, 2024, Sydney (concept designs may consider individual forms that repeat across the bulkhead)

ARTWORK TYPOLOGIES

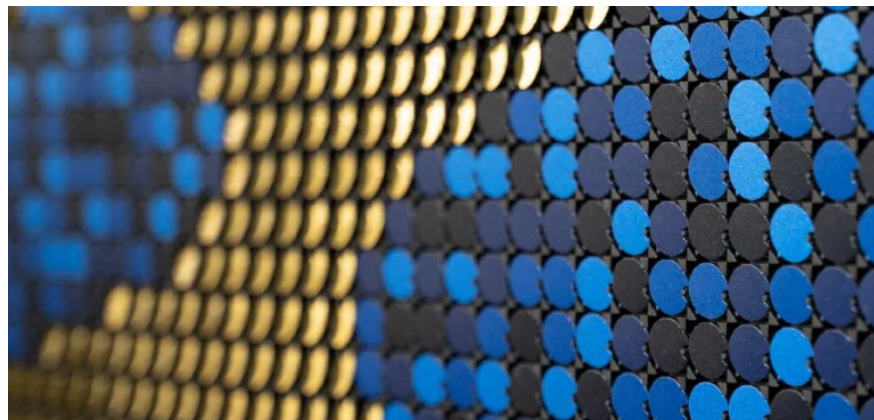
BULKHEAD BLING

BOUNCE PATTERNS AND SHADOWS AROUND THE SPACE WITH METAL FINISHES

Note, data and power are not provisioned to the artwork location. Concept design needs to consider fabrication and installation methodology and maintenance requirements.



Wind Portal, Ned Kahn, 2002, San Francisco (concept design may consider layered materials, perforations and patterning for a sparkling effect)



Portraits in Blue and Gold, 7/8, Breakfast - Andrew Zolty and Mattias Gunneras 2009, Brooklyn (metal fabrication and installation methodologies should consider the short project timeframe)



Tracing Transcendence, Shireen Taweel, 2018, Melbourne (metal fabrication methodologies should consider the short project timeframe)

ARTWORK TYPOLOGIES

LIGHT PLAY

CREATE LIGHT ILLUSIONS WITH TRANSLUCENT MATERIALS

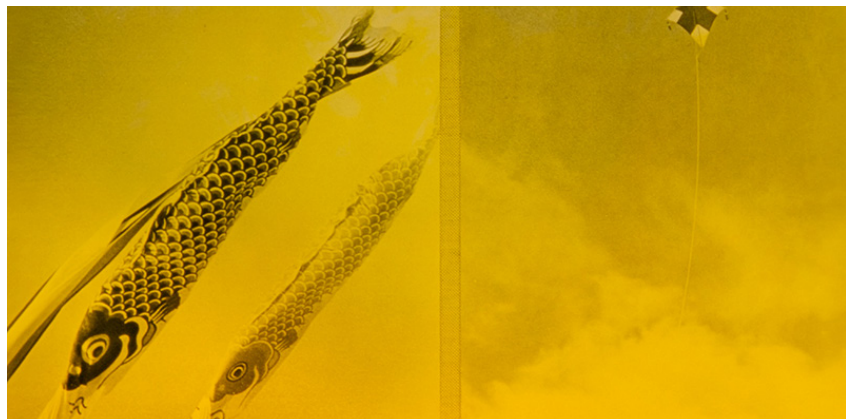
Note, data and power are not provisioned to the artwork location. Concept design needs to consider fabrication and installation methodology and maintenance requirements.



Vocabulary of Solitude, Ugo Rondinone, Auckland, OH, 2014-2021 (translucent materials and mirrored surfaces that play with light should consider the bulkhead substrate)



Making Worlds, Ugo Rondinone, Sydney, 2010 (objects made from translucent materials reflect the community back on itself)



Mnemosyne, David Noonan, London 2021 (note, this is a video still but demonstrates the effect of a back-lit image printed onto a translucent material to create depth and movement)

ARTWORK TYPOLOGIES

PATTERNS + CONNECTIONS

CULTURALLY EMBUED PATTERNS INVITE CONNECTION AND CONVERSATION

Note, data and power are not provisioned to the artwork location. Concept design needs to consider fabrication and installation methodology and maintenance requirements.

Painted artworks will need to consider the long term effects of indirect sunlight and fading.



St+Art Festival, Reko Rennie, 2016, Lodhi Colony New Delhi (painted or printed works should consider fabrication timeframe, effects of sunlight, the need for an anti-graffiti coating and substrate preparation)



Forté (Quarropas), Barbara Takenaga, 2020, White Plains NY (painted or printed works should consider fabrication timeframe, effects of sunlight, the need for an anti-graffiti coating and substrate preparation)



Visionary Reality Threshold, Saya Wollfalk, Youth group and Contemporary Arts Center (CAC), 2019, Cincinnati, OH (painted or printed works should consider fabrication timeframe, effects of sunlight, the need for an anti-graffiti coating and substrate preparation)

CURATORIAL VISION

COMMON GROUND

The relationship between a structure and its inhabitants is formed by social activity. The curatorial theme of *Common Ground* invites Artists to explore ideas of commonality, unity and transformation in this newly evolved environment on the border of Sydney Olympic Park. Interested Artists are invited to submit an Expression of Interest for a 2D or shallow profile 3D wall work to be installed on the bulkhead near the centre entrance.

Common Ground invites artists to explore how the expression or function of something is converted into another, through reinvention and shared experience. Cohesion, curiosity and connection are central themes and key to the activation of the community hub as a place of mutual exchange, shared interests, ideas and activities essential for social cohesion. *This can be expressed as face-to-face communication, co-presence, visibility, audibility, companionship, simultaneity or sequentiality.* (Clark & Brennan, 1991).

It aims to foster a sense of belonging, promote health and wellness and facilitate recreational activities. It will be a place where local people can come together, share resources, and work towards a common goal of building a stronger and more vibrant community.

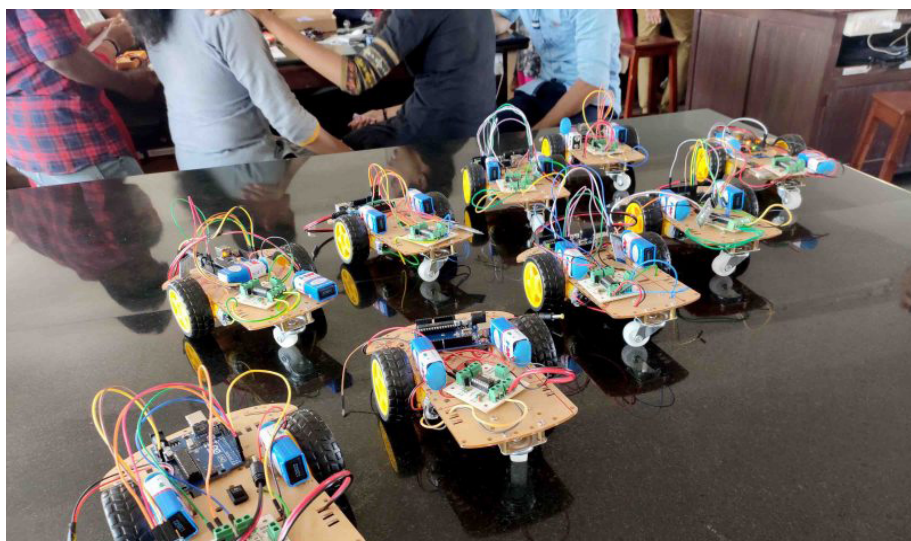
From the processing of resources to the active regeneration of a former industrial site, this location has experienced intense re-development with a change in identity, character and purpose. This Community Centre will be located on the Ground Floor of Meriton's Atrium development at 4-8 Uhrig Road, Lidcombe. The cold shell will be delivered by Meriton with the interior fit-out delivered by the City of Parramatta. This community hub is for the new high-density community of Meriton's Atrium development, and will deliver a place-based and people-centred space of connection. It will feature a purpose built intergenerational community space with activity based spaces, bookable rooms and community venues; a common ground for everyone.



Stories Under the Stars, 2024



Exercise Connection at Lincoln Park, David Geslak, 2018



Robotics and Home Automation Workshop, 2023



Traditional Lantern making Chinese New Year, Wellington, 2020



Afghan henna art workshop, Milwaukee, 2024



African drumming workshop, St Kilda, 2024

COMMUNITY PARTICIPATION MAKING THE ARTWORK



COMMUNITY PARTICIPATION MAKING THE ARTWORK

The Artist's artisans - bringing people together to make the artwork.



AREA TIMELINE

More than 20,000 years ago - At least 1,000 generations of continuous occupation by Aboriginal people in the Sydney and Homebush Bay/North Lidcombe area.

15,000 to 6,000 years ago - Aboriginal people experienced rising seas (>125m) which submerged large areas of Sydney's coast and river valleys.

6,000 years ago to early 1800s - Aboriginal people lived in and around the Bay/North Lidcombe area surrounded by varied and abundant resources.

Pre-1788 - Homebush Bay/North Lidcombe is on Dharug Country. Shell middens were known to have lined Homebush Bay but were destroyed in the lime-kilns in the eighteenth and nineteenth century and later alterations to the shoreline.

1788 - Contact between Dharug peoples and Europeans began with boat traffic along the Parramatta River between Sydney Cove and Rose Hill.

1789 - Smallpox claimed the lives of many Aboriginal people in the Sydney area and is likely to have severely changed Dharug cultural practices in the Homebush Bay/North Lidcombe area.

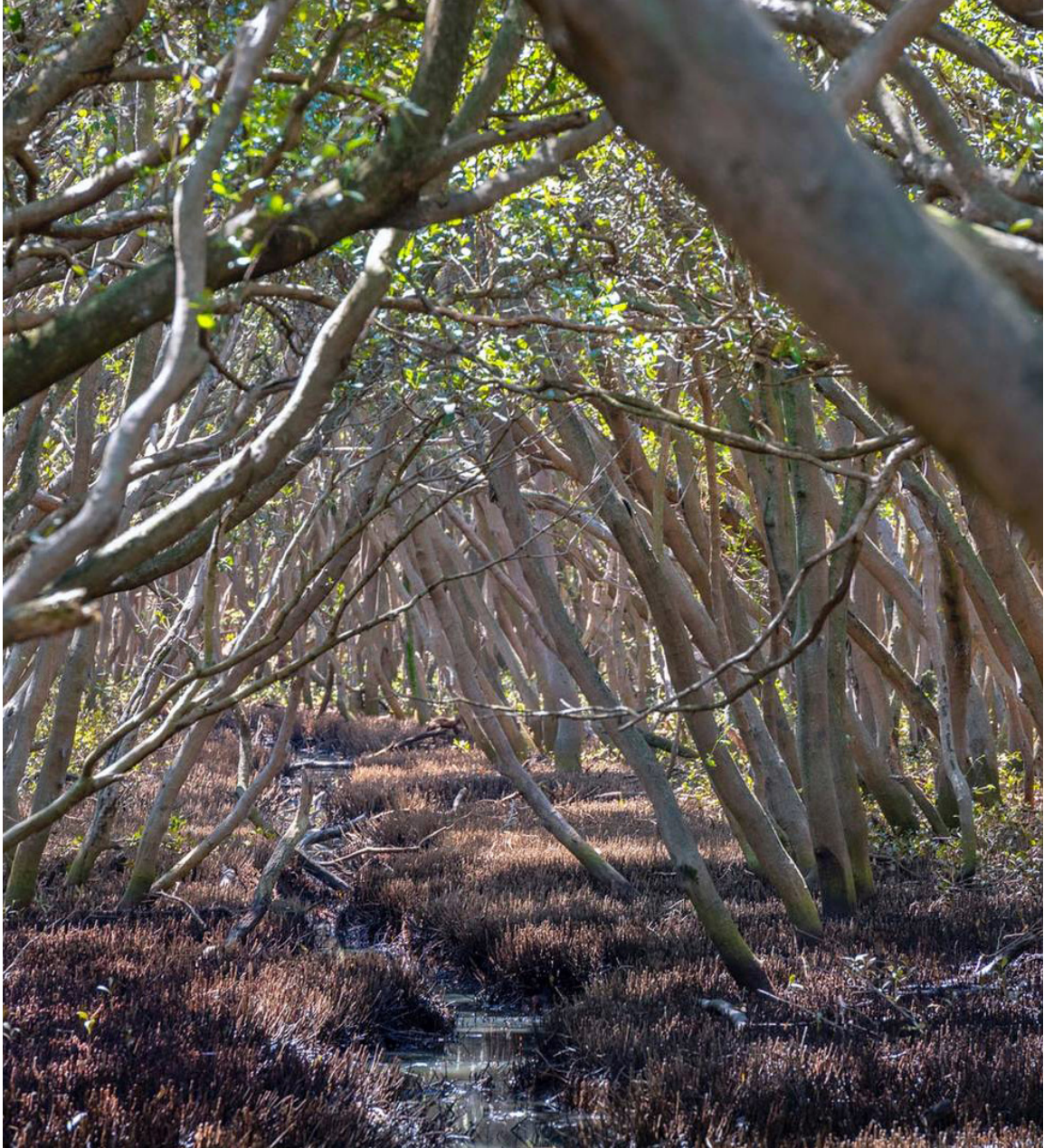
1790s - The appropriation of Dharug lands began with small land grants to settlers around the present day Bicentennial Park area. It is likely that Dharug people had some access to these areas.

Early-mid 1800s - Aboriginal people were living in several locations along the Parramatta River. In 1813, Bennelong (a Wangal man regarded as one of the most significant and notable Aboriginal people in the early history of Australia) was buried on the property of James Squires at Kissing Point (Ryde).

Late 1800s - Aboriginal people were likely still using or living at or around the Homebush Bay/North Lidcombe area.

Early to Mid 1900s - Aboriginal people from La Perouse occasionally visited the Homebush Bay mangroves to collect mangrove wood for the production of boomerangs.

ABOUT THE AREA



Badu Mangroves, located between the southern shore of Homebush Bay and Bicentennial Park at Sydney Olympic Park.

Mid 1900s - Aboriginal people were among the many industrial workers in the area, such as in the abattoir, brickworks and the Newington naval base.

1986 - Aboriginal stone artefacts were discovered at Homebush Bay near the Newington Village site, as the process of remediation and developing the site commenced.

Late 1990s - Sydney Local Aboriginal Land Councils, Traditional Owner and Descendant groups were involved in researching the Aboriginal usage of the Homebush Bay/North Lidcombe area.

2000 - First Nations Australian athlete Cathy Freeman won an Olympic Gold Medal in the 400m.

2002 - 2004 - Commencement of the Aboriginal History and Connections Program at Homebush and the inaugural *Sydney Dreaming Festival*, an Aboriginal Arts Festival.

2003 - Aboriginal stone artefacts and an axe-marked tree, used by Aboriginal people for hunting possums, were located within Newington Nature Reserve.

2012 - Education project commenced to enhance the existing school environmental excursion programs with place-based Aboriginal history and culture.

2013 - 2015 - A teacher professional development workshop *The Koori Classroom*, was created and achieved accreditation by the NSW Board of Studies for Teacher Professional Learning.

2016 - First Nations place-based environmental excursion programs *Wangal Walkabout*, *Let's go Walkabout*, *Bennelong* and *the Wangal* were developed by the Sydney Olympic Park Authority (SOPA) for primary school students.

Post 2016 - SOPA explored the feasibility of a cultural education centre on site that could provide learning, employment and community engagement opportunities as a hub for First Nations programs and events (*Murama Dance Ground and Healing Space*).

CONTEXT + KNOWLEDGE

About 14,000 years ago, the large ice sheets that characterised the glacial period began to melt rapidly. By 9,000 years ago, the sea level in Australia rose 125 metres to current levels. Two million square kilometres of inundation drove people off the continental shelf all around Australia, including the Sydney Basin. People were highly mobile as a result. One stone artefact dated to 14,000 years ago was sourced from the Megalong Valley, with earlier artefacts sourced from the Hawkesbury River.

The City of Parramatta embraces what was, is, and always will be Aboriginal Country. The Dharug people are the traditional custodians of the Homebush Bay/North Lidcombe area. Dharug people's connection to this place spans at least 1000 generations of continuous occupation and their relationship to the river and the importance of water in the landscape, ongoing connections and ceremony, and the land management techniques practiced in caring for country, are key to understanding the Community Centre location. The City of Parramatta supports and values this continuing connection to Country and recognises it as a place of shared and challenging histories: a place of early contact and colonisation; a site of resistance, dispossession and resilience.

Physical evidence of Aboriginal people living in the Homebush Bay/North Lidcombe area by has been found in the form of stone artefacts and several scarred trees found within remnant forest. Aboriginal shell middens were known to have lined Homebush Bay and the Parramatta River but were destroyed in the lime-kilns in the eighteenth and nineteenth century and subsequent alterations to the shoreline.

The Homebush Bay/North Lidcombe area played a vital role in the first British Colony in NSW. A scouting party had recorded the extensive tidal wetlands at Homebush Bay known as 'The Flats' within 10 days of the arrival of the first fleet in Australia.

The impacts of colonisation were felt deeply by the Dharug people. In 1789 Smallpox claimed the lives of many Aboriginal people in the Sydney area and likely changed cultural practices in the area. In 1793 the appropriation of Dharug lands at began

with land grants ranging from 100 to 10,000 acres within the present day Bicentennial Park area. Thomas Laycock was the first recipient of a land grant in the area. He acquired 40 hectares in 1794 and a further 40 hectares in 1795. By 1803, Laycock's estate totalled 318 hectares and was named Home Bush. Several conflicts between Europeans and Dharug people are documented in the area throughout the 1790s. By the early 1800s Aboriginal people were working for and supplying fish to European settlers.

The estuarine ecosystems provided Aboriginal communities with food, clothing and other resources, as well as a means of travelling throughout the region by water. Aboriginal people were still using the Homebush Bay/North Lidcombe area, even after their lands were taken by Europeans, scattered along several camps. From a land with moderately fertile soil and waterways that provided food and habitat for Dharug people, fauna and abundant bird life, the industrial activity in the area that began in the early 19th century led to far-reaching environmental change.

By the 1830s, Aboriginal people along the Parramatta River were living in small groups at several locations. In the early twentieth century, many Aboriginal people migrated into Sydney from elsewhere in New South Wales looking for work, or to join family already here. Some settled close to Homebush Bay and worked in local industries like abattoirs and the Naval base.

Beginning in 1807, the next 180 years saw various industries established in the area including State Abattoirs, State Brickworks, salt, lime, flour and Chemical Industries. In 1810 D'Arcy Wentworth established a horse stud and in 1825 a horse racing track was developed. In 1897 the Government acquired land which included Newington House for a new 'Aged Women's Asylum' to replace the existing asylum within the Immigrant Depot at the Hyde Park Barracks.

In 1878, John Wetherill registered a subdivision plan for the 520 hectare Newington Estate which extended well into the mud flats and mangroves of Wentworth Bay and Homebush Bay. It was hoped that the location of the subdivision in close proximity to the developing State Abattoirs and Brickworks would attract people to the area in association with the employment opportunities, however, this was not successful.

Homebush was further subdivided in 1883. The subdivision affected approximately half of the Wentworth Estate and extended from Parramatta Road in the south to the

Parramatta River in the north. This proved unsuccessful and the estate remained almost intact until its resumption by the Public Works Department in 1907 for the establishment of the State Abattoirs. The operations of the Abattoir were reviewed and in the 1984 an Advanced Technology park was established. The Abattoir officially closed in June 1988. After quarrying activity ceased at the brickworks, the Brickpit was developed into a freshwater wetland. Once the Green and Golden Bell Frog was found, the site was developed as water storage and frog habitat.

The Homebush Bay Development Corporation oversaw the urban renewal of the Homebush Bay area with works completed in 2000. The successful bid for the 2000 Olympic and Paralympic Games in 1993 significantly increased the pace and scope of development within the area and it became one of Australia's largest urban renewal projects. The parklands which surround the site of the 2000 Sydney Olympics at Homebush Bay cover an area slightly larger than New York City's Central Park. The parklands, which were designed to be dry and self-sustaining, reconnect residents of the western suburbs to Sydney's major waterway and provide recreation and education opportunities for 2.5 million visitors annually.

One of the redevelopment projects was the establishment of Bicentennial Park where Powells Creek and Haslam's Creek join before entering the Parramatta River at Liberty Grove. The park was created has been turned into Sydney's newest urban parkland with lawns, ponds and recreational facilities alongside a tract of natural vegetation that includes a series of boardwalks through a natural stand of mangroves. Bicentennial Park is now part of the Sydney Olympic Park Millennium Parklands.

Newington Armory is a heritage-listed former Royal Australian Navy armament depot, now used for tourism. Newington was chosen as a replacement for the storage of gunpowder and other explosives for its relative isolation. Over the years the site was enlarged, 200 acres of mudflats were drained, and the foreshore had moved out into the bay and been straightened. The site closed as a military base in December 1999.

Newington Armory has evolved from its military-industrial origins into a unique arts precinct, including a theatre, outdoor amphitheatre, artist studios and an exhibition space, which features the longest continuous gallery wall in Australia. The Armory has free exhibitions throughout the year, plus film festivals, public art, cultural activities and kids activities.



Murama Dance Ground and Healing Space. Sydney Olympic Park, 2020



Newington Armory from 1921 when the site became a Navy establishment, to the end of its working life in 1999.



Sydney Olympic Park's historic Brickpit was used to make the millions of clay bricks used to build Sydney. The 18.5m high, 500m ring walk looks over the evolved ecosystem now home to the Golden Bell frog.



Haslam's Marker at Southern End of Hill Road, Sydney

ARTIST SELECTION

STAGE ONE: EXPRESSION OF INTEREST

The City of Parramatta invites Artists residing in Australia to submit an Expression of Interest (EOI) for the Uhrig Road Community Centre Public Art commission. This commission is for a wall based artwork located on the entry foyer bulkhead. All submissions are assessed against the EOI Selection Criteria from which a shortlist of up to three (3) suitably qualified Artists will be selected.

EOI SELECTION CRITERIA

Mandatory Compliance Criteria:

- Application submitted prior to the EOI deadline
- Min five (5) submitted artwork examples relevant to the project
- The Artist's demonstrated professional experience is adequate to meet the demands of the project
- Read and accepted the Conditions of this Expression of Interest (EOI)
- The Artist's ability to comply with the Sample Contract and Annexures
- Artist's CV
- Provision of two (2) references
- Insurances as follows:
 - Public Liability: \$20 million
 - Professional Indemnity Insurance: \$5 million and \$5M in the aggregate
 - Workers Compensation (as required by law)

Qualitative Criteria:

- The Artist's demonstrated understanding of creating a wall based Public Artwork for the public domain
- The Artist's demonstrated ability to deliver creative and intelligent responses to project challenges

- The Artist's demonstrated ability to work productively with various project stakeholders
- The Artist's demonstrated ability to facilitate community art making workshops
- The Artist's practical understanding of engineering certification, safety in design, materiality and fabrication methodologies

STAGE TWO: CONCEPT DESIGN

A shortlist of up to three (3) Artists will be invited to develop a conceptual proposal in response to the Stage Two Selection Criteria. An Artist Selection Panel will review the conceptual proposals to select the Artist for commission.

STAGE TWO SELECTION CRITERIA

1. Artistic Response:

- The concept design reflects artistic excellence, innovation, and originality in response to Council's Curatorial Vision for the project
- Considers place, belonging, connection and identity

2. Suitability of Response:

- The concept design is judged to be appropriate for the Scope of Works
- Suitability of response to the functional and performance requirements of the artwork location

3. Site Responsiveness:

- Suitability of the response to the characteristics, conditions, function, activities, and location of the site

4. Project Management:

- Submit a detailed budget in response to the specified Artist's fee (all inclusive)
- Submit an indicative program of works based on project program with a 31 August 2025 completion date.
- Demonstrated ability to work professionally with stakeholders including client, Principal Contractor and community
- Demonstrated ability to coordinate and work closely with subcontractors
- Demonstrated ability to deliver an end-to-end project

SCOPE OF WORKS

This Scope of Works describes the services to be provided by the Artist to create a wall based public artwork for the entry bulkhead of the Uhrig Road Community Centre. The Scope of Works outlines the requirements and parameters for an artwork to be fixed to the bulkhead. This commission will be developed in consultation with community and cultural knowledge holders as well as architectural and fabrication teams to successfully realise the artwork. Depending on the artwork selected for commission, the design may require engineering certification and a Safety in Design review as part of the Detailed Design approval process. All information contained in this Scope of Works is correct at the time of publishing, and subject to change.

CONTRACT

Full terms of the contract are detailed in the Sample Contract and Annexures. Council requires the Artist to read the Sample Contract and Annexures before submission. The Artist's capacity to comply with the Sample Contract and Annexures is a mandatory criteria requirement of the EOI stage, and there will be an opportunity to seek clarification on any contract clauses, terms and conditions which are unclear.

LICENCE

The artist will grant the City of Parramatta a non-exclusive, perpetual worldwide licence of the artwork.

BUDGET:

The budget for this commission is \$60,000 (ex GST) inclusive of all costs including artist fees, consultation, design development, detailed design, fabrication and installation and maintenance manual, and all approval stages therein.

ARTWORK LIFESPAN

A minimum period of 10-years.

SCALE:

The wall-based artwork can occupy the entire span of the bulkhead. Council will support 2D or shallow depth 3D artworks (<125mm) that do not impact negatively in the relatively tight space between the ramp and the bulkhead.

DIMENSIONS + WEIGHT:

- The design must fit within the dimensions of the bulkhead (11030mm x 1730mm x <125mm)
- Artwork cannot extend outside the bulkhead dimensions, especially below the bulkhead
- The artwork must not exceed a maximum weight of 150kgs.

ARTWORK ORIENTATION

The artwork must consider structural adjacencies, ramp proximity, functional and aesthetic design, north west orientation, desire lines, curtilage requirements, egress and pedestrian movements, and any Australian Standards relevant to the artwork design.

MATERIALS

To withstand the interior north west facing bulkhead location the Artist must ensure the artwork design is light fast, has material and structural integrity and incorporates fabrication methodologies that are easily repaired or replaced, and constructed from high quality materials designed to meet the required minimum 10-year lifespan. Materials that are toxic or emit toxic gases, fumes, or droplets are not permitted. All materials used must comply with Australian regulatory and fire safety requirements and all fixtures and fittings must be made from high quality warrantied materials. Recommended materials include wood, paint, aluminium, printed aluminium, copper, brass, plastic, glass, tile, cleaned found materials and textiles with a consideration of the architectural colour palette which draws from the local Haslam's Creek environment.

Public artwork in this context to consider:

- Vertical and horizontal plane
- Patina/colour/ porosity/ patternation

- Project timeline - fabrication and installation lead times
- Environment and ecology of the location
- Performance specification
- Significance of this artwork as a welcome to the community centre
- Desire lines

LIGHTING

There is no provision for data or power at the artwork location. There is a pillar opposite the bulkhead which will be finished in white plasterboard with power provisioned for track lighting to light the artwork.

SAFETY IN DESIGN

- Safety in design must apply to every stage in the lifecycle of the artwork from conception through to decommission
- The artwork must be designed to prevent or reduce the risk of injury through systematically identifying, assessing, and controlling identified hazards
- No sharp/rough edges left in a position that may present a safety hazard
- All bolts or other fastenings must be set flush to adjoining surfaces or covered over with smooth plugs that are not readily removable
- Structure and surface treatments must avoid entrapment hazards
- Artwork must address ramp adjacency and access requirements
- Artwork must not include any accessible hand holds and foot holds
- Artwork must comply with Australian Safety Standards
- A Safety in Design review may be required, pending design resolution

DATA AND POWER

There is no provision for data or power at the artwork location. There is a pillar opposite the bulkhead which will be finished in white plasterboard with power provisioned for track lighting to light the artwork.

ENGINEERING CERTIFICATION

The design must comply with all relevant Australian Standards and where required

undergo a structural engineering review and obtain engineering certification as part of Detailed Design.

ARTWORK PROCESS

The Artist is required to provide an end-to-end solution and is responsible for design development, detailed design, fabrication, installation and the maintenance manual for the artwork. The Artist is required to manage nominated subcontractors and work closely with Council and the Principal Contractor through the lifecycle of the project.

SUSTAINABILITY IN DESIGN

The Artist must demonstrate a contribution to environmental sustainability via artistic themes, consultation strategies, materiality or process to contribute to the quality of the physical environment for future generations.

ENVIRONMENTAL HAZARDS

Chemical Hazards

Exposure to substances such as corrosives, fumes, vapours, liquids, and dust can be extremely harmful and may lead to irritation, sensitisation, and carcinogenicity. The Artist is required to adhere to all WHS safety protocols instigated by the Principal Contractor during fabrication and installation to minimise or eliminate the possibility of inhaling or ingesting substances or absorbing them through their skin. Offsite works are not part of this remit.

Biological Hazards

Interaction with other people, animals, or contagious conditions are prime candidates for exposure to biological hazards. The Artist is required to adhere to all WHS safety protocols instigated by the Principal Contractor during fabrication to minimise or eliminate the possibility of coming into contact with biological hazards. Offsite works are not part of this remit.

Unseen Hazards

Working conditions that involve extremes of temperature, radiation, ultraviolet rays, or loud noise, pose the risk of injury with or without any contact. The Artist is required to wear adequate industry standard PPE relevant to the work performed whilst onsite. Offsite works are not part of this remit.

Ergonomic Hazards

Work involving manual labour poses a risk for ergonomic hazards, which can result in disabling injuries, (caused by working at height, material and manual handling, slips, trips and falls). The Artist is required to adhere to any Safe Work Method Statements (SWMS) provided by the Principal Contractor which outline the correct procedures to safely conduct the work whilst onsite. Offsite works are not part of this remit.

Electrical Hazards

Most electric hazards and incidents of electric shock involve people contacting power cables or the incorrect handling of electrical tools or machinery. All electrical and data works must be conducted by a qualified electrician. The Artist is required to adhere to any Safe Work Method Statements (SWMS) provided by the Principal Contractor whilst onsite which outline the correct procedures to safely conduct the work. Offsite works are not part of this remit.

WHS

The Artist is required to cooperate and comply with any WHS processes instigated by the Principal Contractor, consistent with WHS legislative requirements, subject to onsite conditions and risks. Offsite works are not part of this remit.

Work Safety

The Artist is required to adhere to compliance and coordination processes for WHS matters which are consistent with WHS legislative requirements under the direction of the Principal Contractor. Note, where your work under the Contract includes design of structures, design of a part of a structure, or installation of a structure you must:

- Provide documentation which demonstrates risk mitigation
- Engage competent and trained resources
- Conduct due diligence checks including Safety in Design
- Ensure Engineering Certification for all structural elements in the design
- Manage risks to health and safety arising from the installation of the structure in accordance with SafeWork NSW Safe Design of Structures Code of Practice.

PPE

When on site all authorised personnel are required to wear all industry standard PPE relevant to the work performed whilst onsite as directed by the Principal Contractor. Offsite works are not part of this remit.

Heavy Vehicles and Plant Equipment

The Artist is responsible for the delivery of the artwork to site, and as such is responsible for providing and implementing traffic management plans and obtaining required permits. This includes trucks and plant equipment.

MAINTENANCE

- The Artist must ensure the artwork is designed in a way that it can easily be maintained and presented to the highest standard over its lifespan
- The artwork asset will be managed by Council after Practical Completion
- Handover of the asset to Council runs parallel to the Defects Liability period
- The artwork design should endeavour to minimise and avoid any unnecessary maintenance requirements which would otherwise impact the day-to-day operations of the community centre
- The Artist is required to provide a Maintenance Manual to Council at the end of the project
- The Maintenance Manual will include thorough documentation of any specific processes and methodologies involved in the future care, maintenance, and remediation of the artwork. This includes reactive and preventative measures.
- The manual should include the following:
 - Contact details for key subcontractors
 - Supplier details for all components, fixtures, and fittings

- Design Documentation including all technical drawings
- Warranty and lifespan details of all components (eg anchor points)
- Instruction for remedial work to any damaged artwork components

WARRANTY

The Artist will provide manufacturer's warranty against faulty workmanship, materials or components and/or 24-month warranty on supplied raw materials, subject to the definition of normal wear and tear.

Warranty Inclusions

This warranty must cover parts and labour for rectification or replacement of damaged or failed components supplied under the Artist Contract.

Warranty Exclusions

- Damage or harm caused by severe weather, force majeure, or any malicious or negligent act of the client, their agents, contractors or third parties
- Alteration or disassembly by unauthorised personnel
- Intentional or accidental misuse
- Non-adherence to the Maintenance Manual requirements

DEFECTS LIABILITY

The Defects Liability period commences after practical completion of the artwork and handover of the asset to Council. The Artist will develop the Performance Specification and is liable to remedy any defects in the fabrication and installation of the artwork during the 12-month Defect Liability Period.

DEACCESSION PLAN

The artwork will be designed as an applied wall work installed to the primary entry bulkhead with a minimum lifespan of 10-years. Council may at any time decide that the condition of the artwork has deteriorated, or it is no longer suitable for the Site and may in its sole discretion remove, relocate, destroy or otherwise dispose of the artwork.

INSURANCES

The following insurances are required for the duration of the Contract:

- Public Liability: \$20 million
- Professional Indemnity Insurance: \$5 million and \$5M in the aggregate
- Workers Compensation as required by law

CONTACT DETAILS

ALL EXPRESSION OF INTEREST INQUIRIES CAN BE
DIRECTED TO:

Suzanne Buljan via sbuljan@cityofparramatta.nsw.gov.au



SAMPLE CONTRACT FOR PUBLIC ART

CITY OF PARRAMATTA COUNCIL

AND

**THE CONSULTANT OR ARTIST IDENTIFIED IN ITEM 2
OF THE SCHEDULE**

THIS AGREEMENT is made on the date set out in Item 1 of Annexure A.

BETWEEN

CITY OF PARRAMATTA COUNCIL (ABN 49 907 174 773) of 126 Church Street, Parramatta, NSW, 2150 (**Council**),

AND

THE PARTY set out in Item 2 of Annexure A (**Consultant**)

BACKGROUND

- A. Council wishes to commission the design, creation, fabrication, delivery and installation of the Installation at the Site.
- B. The parties have agreed that the Installation will be designed, engineered, fabricated, transported, installed and maintained on the terms of this Agreement.

OPERATIVE PART

1 INTERPRETATION

1.1 In this Agreement, unless the context otherwise requires:

“Agreement” means this document including all annexures and attachments.

“Annexure” means an annexure attached to this Agreement and forming part of this Agreement.

“Artist” means the person identified in Item 4 of Annexure A.

“Catalogue” has the meaning given in clause 26.1.

“Claim” means any claim, allegation, debt, cause of action, demand, remedy, suit, injury, damage, loss, cost, charge, expense, liability, action, proceeding and right of action of any nature howsoever arising and whether present, future, fixed or unascertained, actual or contingent whether at law, in equity, under statute or otherwise.

“Completion Date” means the date on which Council issues a notice of completion to the Consultant under clause 9.

“Confidential Information” means the terms of this Agreement and information of a party (and its employees, officers, agents and contractors) (disclosing party) that is: (i) made available to or otherwise obtained by the other party (or its employees, officers, agents or contractors) (receiving party); or (ii) by its nature confidential or the receiving party knows, or ought reasonably to know, is confidential. Confidential Information does not include information that: (a) is in or enters the public domain through no fault of the receiving party; (b) is or was made available to the receiving party by a person (other than the disclosing party) who is not or was not then under an obligation of confidence to the disclosing party in relation to that information; or (c) is or was developed by the receiving party independently of the disclosing party.

“Consultant” means the person identified in Item 2 of Annexure A commissioned by Council to undertake the Installation on the terms and conditions set out in this Agreement.

“Consultant’s Fee” means the fee payable to the Consultant for the Project as specified in Item 9 of Annexure A.

“Council’s Representative” means the person specified in Item 3 of Annexure A or as otherwise advised by Council in writing from time to time.

“**COVID-19 Pandemic**” has the meaning given in clause 34.1.

“**Defect**” includes:

- (a) any defect or deficiency in design, materials or workmanship;
- (b) any defect, shrinkage or fault in Installation;
- (c) any omission in the Installation;
- (d) any aspect of the Installation, or any part thereof, which is not in accordance with the requirements of the Agreement or Specification (including a breach of any express warranty or non-compliance with any performance level or performance requirement stated in the Agreement or Specification);
- (e) any physical damage to Installation, or any part thereof, resulting from any such defect, deficiency, shrinkage, fault, omission or non-compliance; and
- (f) any other condition or event stated in the Agreement to constitute a defect.

“**Defects Liability Period**” means the period of 12 months from the Completion Date.

“**Estimate**” means the Consultant’s estimate of the costs to perform a Variation the subject of a notice from Council pursuant to clause 4 being either, as directed in that notice:

- (a) a fixed lump sum;
- (b) the amount calculated by reference to the rates set out in the Schedule of Rates and the estimated quantities in the notice; or
- (c) where the rates specified in the Schedule of Rates are not appropriate for the work the subject of the Variation, the amount calculated by reference to appropriated rates and the estimated quantities in the notice.

“**Force Majeure Event**” means any of the following events or circumstances or combination of those events and circumstances which is beyond the control of the party affected:

- (a) fire, explosion, mudslide, natural disaster, lightning, flood, earthquake, tsunami or other act of God;
- (b) riots, civil commotion, pandemic (but excluding the COVID-19 pandemic), sabotage, terrorism, act of a public enemy, war (declared or undeclared), revolution, blockade or embargo;
- (c) shipwreck, train or plane crashes; or
- (d) radioactive contamination or toxic or dangerous chemical contamination,

which prevents the affected party from completing any of its obligations under the Agreement or allowing completion of the Project and, in the case of the Consultant, subject to the Consultant meeting all of the following requirements:

- (e) an experienced consultant would not have foreseen or reasonably have made provision for the event, circumstance, default or delay; or
- (f) the event, circumstance, default or delay was not caused or contributed to by any act or omission or breach of the Agreement by the Consultant; and
- (g) the event could not reasonably be prevented, overcome or remedied by the exercise of a standard of care and diligence consistent with that of a prudent and competent consultant.

“**Installation**” means the artwork, creative design and works described in Item 6 of Annexure A and as further developed in the course of this Agreement.

“**Intellectual Property Rights**” means all present and future rights conferred in law in relation to any copyright, trademarks, designs, patents, circuit layouts, plant varieties, business and domain names, inventions and Confidential Information, and other results of intellectual activity in the industrial, commercial, scientific, literary or artistic fields, throughout the world, whether or not registrable, registered or patentable that exist or that may come to exist anywhere in the world.

“**Item**” means an item identified in Annexure A,

“**Maintenance Period**” means the period of time identified in Item 15 of Annexure A from the Completion Date.

“**Manual**” has the meaning given in clause 27.1.

“**Moral Rights**” means any of the rights described in Article 6b of the Berne Convention for the Protection of Literary and Artistic Works 1886, being “droit moral” or other analogous rights arising under any statute (including the *Copyright Act 1968* (Cth)) or any other law (including any law outside Australia), that exist, or that may come to exist, anywhere in the world.

“**Program**” means the program for completion of the Project in accordance with the stages in identified in Item 14 to be provided to the Consultant in accordance with clause 5 and as amended from time to time.

“**Project**” means the commissioning of the Consultant to undertake the Installation in accordance with this Agreement (including the Specification) and for the avoidance of doubt includes the maintenance obligations stated in this Agreement.

“**Project Stages**” mean the stages of the Project described in Item 16 and/or the Program.

“**Schedule of Rates**” means the schedule of rates (if any) set out in Annexure E.

“**Site Manager**” means the manager of the Site, being the person/entity specified in Item 8 of Annexure A or such other site manager nominated in Council in writing to the Consultant from time to time.

“**Site**” means the location for the Installation on part [#insert particulars] as specified in Item 7 of Annexure A.

“**Specification**” means Annexure B and any other the documentation developed by the Consultant and approved by Council in accordance with clause 4, as amended from time to time.

“**Variation**” means:

- (a) an increase, decrease or omission of any part of the Project;
- (b) any change in the character, quality or extent of the Project or of anything described in the Specification; and
- (d) the execution of additional services or works including additional work not included in the Specification,

and ‘**Vary**’ has a corresponding meaning.

“**WHS Laws**” means the *Work Health and Safety Act 2011* (NSW), the *Work Health and Safety Regulation 2017* (NSW) and other instruments under them including any codes of practice and any consolidations, amendments, re-enactments, or replacements of them.

“WHS Principal Contractor” means the principal contractor under WHS Laws.

- 1.2 Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this Agreement, except where the context makes it clear that a rule is not intended to apply.
- 1.3 A reference to:
- (a) a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
 - (b) a document (including this document) or agreement, or a provision of a document (including this document) or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
 - (c) a party to this document or to any other document or agreement includes a permitted substitute or a permitted assign of that party;
 - (d) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
 - (e) anything (including a right, obligation or concept) includes each part of it.
- 1.4 A singular word includes the plural, and vice versa.
- 1.5 A word which suggests one gender includes the other genders.
- 1.6 If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
- 1.7 If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- 1.8 The words subsidiary, holding company and related body corporate have the same meanings as in the *Corporations Act 2001* (Cth).
- 1.9 A reference to dollars or \$ is to an amount in Australian currency.
- 1.10 Words defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (**GST Act**) have the same meaning in clause 10.
- 1.11 This Agreement is not to be interpreted against the interests of a party merely because that party proposed this document or some provision in it or because that party relies on a provision of this document to protect itself.
- 1.12 This Agreement applies to the performance of all stages of the Project whether carried out before or after the date of this Agreement.

2 THE PROJECT

- 2.1 The Consultant must design, create, transport, project manage, deliver and install the Installation at the Site on the terms of this Agreement.

3 PERFORMANCE

3.1 Warranty

The Consultant warrants that it has the skill and ability to undertake the Project in accordance with the requirements of this Agreement and acknowledges that Council has entered into this Agreement in reliance on this warranty.

3.2 Performance Standards

The Consultant must:

- (a) undertake the Project with the standard of skill, care and diligence expected of a skilled professional artist experienced in commissions and projects of that type; and
- (b) ensure that the Installation is fit for purpose and all materials used in the Installation (“materials”) and the construction, installation and Project comply with all applicable statutory requirements and Australian Standards.

3.3 Materials

- (a) The Consultant must use high quality materials which are safe and suitable for the proposed use of the Installation.
- (b) The Consultant must (at its cost) store the materials in a secure facility and be protected from damage and theft until they are installed at the Site.
- (c) The Consultant must, and must ensure that any subcontractors:
 - (i) permit Council and its contractors to inspect the materials and storage facilities prior to installation of the material at the Site;
 - (ii) clearly label the materials as being owned by Council; and
 - (iii) ensure that Council and its contractors can take possession of the materials if the Consultant or its subcontractors are in breach of their obligations under this Agreement or if they suffer an insolvency event.
- (d) Unless otherwise provided the Consultant shall use suitable new materials and proper tradesman like workmanship.

3.4 Stages

- (a) The Consultant must create, project manage, design, transport deliver and install the Installation in accordance with the requirements set out in the Program, and ensure the Installation meets the requirements of the following:
 - (i) the Agreement;
 - (ii) legislative requirements;
 - (iii) Council’s instructions;
 - (iv) relevant Australian Standards; and
 - (v) if no other standard is specified in the Agreement, good industry standards in respect of public art and applicable to the Installation.
- (b) The Consultant must not commence work on new Project Stage of the Program until Council has given written notice of its acceptance of the performance of the previous Project Stage. Council may decide not to proceed with a new stage of the Program in its absolute discretion.

3.5 Consultant’s Design Responsibilities

- (a) The Consultant is responsible for the design of the Installation.
- (b) The Consultant must complete the design of the Installation and carry out all other design necessary in connection with the Project.

- (c) The Consultant must carry out its design responsibilities so that the Installation is fit for purpose and complies with the requirements of the Agreement.
- (d) Design or design development does not cause a Variation or reduce the Consultant's design responsibilities under this Agreement.
- (e) The Consultant must produce the Consultant's design documents in respect of the Installation which:
 - (i) will ensure that the Installation is fit for the purposes required by the Agreement; and
 - (ii) meet the requirements of all of the following:
 - (A) the Agreement;
 - (B) legislative requirements;
 - (C) Council's instructions;
 - (D) the Building Code of Australia and relevant Australian Standards; and
 - (E) if no other standard is specified in the Agreement, good industry standards in respect of public art and applicable to the Installation.
- (f) Unless the Agreement provides otherwise, the Consultant must submit Consultant's design documents to Council at least 21 days before the date the Consultant proposes to use them for any procurement, manufacture, fabrication or construction in respect of the Installation. Consultant's design documents must be submitted progressively to Council with sufficient detail to demonstrate what is proposed.
- (g) If Council objects to the Consultant's design documents, the Consultant must take the objections into account and discuss them with Council. The Consultant must correct any fault, error or omission in the Consultant's design documents. The parties will liaise in good faith in respect of the design development of the Installation and the Consultant must comply with Council's reasonable instructions in respect of the Installation's design development.
- (h) Notwithstanding anything else contained in this Agreement, nothing Council does or omits to do in connection with any approval or acceptance of the Consultant's design documents makes Council responsible for the Consultant's design documents or prevents Council from relying on or enforcing any right under the Agreement or otherwise. The Consultant shall remain responsible for the design of the Installation.

3.6 Setting out the Installation

- (a) The Consultant must install, orientate and set out the Installation at the exact part of the Site identified in item 1 of Annexure D.
- (b) The Consultant must rectify any error in the position, level, dimensions or alignment of any element of the Installation, so that it complies with Annexure D.
- (c) The Consultant must:
 - (i) coordinate all traffic management and safety management in respect of any traffic accessing the Site;
 - (ii) ensure that any traffic accessing the Site adheres to:
 - (A) the access routes and swept paths shown in item 2 of Annexure D; and

- (B) the vehicle maximum weight descriptions described in item 3 of Annexure D; and
- (iii) ensure that its use of the Site, access to the Site and the construction of the Installation does not result in any exceedance to the maximum kilopascals for each area shown in the plan at item 4 of Annexure D.

3.7 Artist and Other Key Personnel

- (a) The Consultant warrants that the Installation will be designed, created and installed by the Artist nominated in Item 4 of Annexure A. The parties acknowledge and agree that this is a fundamental term of this Agreement.
- (b) The Consultant must not use any alternate artist to the Artist nominated in Item 4 of Annexure A in respect of the creation, design or installation of the Installation without Council's prior written consent.
- (c) The Consultant must use the key personnel nominated in Item 10 of Annexure A in connection with the items of work described in Item 10 of Annexure A.

3.8 Warranties from subcontractors

- (a) The Consultant shall assign to Council the benefit of all warranties obtained by the Consultant from subcontractors and from manufacturers and suppliers of plant, equipment, materials and other items incorporated into the Installation where such warranties continue to operate beyond the expiration of the Defects Liability Period. These warranties and the assigned rights must be such that they can be directly enforced by Council against the parties giving the warranties. The warranties and documents evidencing the assignment of rights must be delivered to Council at the times required by the Agreement, and if no time is stated, then prior to the Completion Date.
- (b) In addition to its obligations elsewhere under this Agreement and at law, if Annexure F has been completed, the Consultant warrants to Council there will be no failures or deterioration, apart from the deterioration caused by ordinary wear and tear, in the items of the Installation referred to in Annexure F (**Warranty Requirements**) for the periods referred to in that Annexure F from the Completion Date.
- (c) Nothing in this subclause 3.8, nor assignment of rights as contemplated by this subclause, will limit or affect any of the Consultant's obligations or liabilities, or derogate from any rights which Council may have against the Consultant, in respect of the assigned warranties.

4 VARIATIONS

- 4.1 Council may from time to time request the Consultant to Vary the Project.
- 4.2 The Consultant must not Vary the Project unless it receives an express direction in writing from Council.
- 4.3 Prior to undertaking a Variation the Consultant will prepare and submit an Estimate to Council.
- 4.4 If:
 - (a) Council accepts the Consultant's Estimate; or
 - (b) the parties reach agreement on the price of the Variation,

Council may direct the Consultant in writing to Vary the Project specifically identifying that the direction is issued pursuant to clause 4.4.

- 4.5** Upon receipt of a direction pursuant to clause 4.4 above, the Consultant must vary the Project:
- (a) from the date specified in Council's written direction or if no date is specified in the written direction, from the date agreed between the parties;
 - (b) consistently with Council's requirements (if any) set out in the written direction; and
 - (c) otherwise in accordance with this Contract.
- 4.6** If the Consultant receives a direction or any other communication from Council, which the Consultant considers constitutes a Variation but was not issued in accordance with clause 4.1 or 4.4, then within 14 days of receipt of the direction or communication, the Consultant must notify Council in writing that it considers that it has been given a direction constituting a Variation.
- 4.7** Within 7 days of receipt of a notice pursuant to clause 4.6, Council shall:
- (a) confirm that the direction constitutes a Variation in which case clause 4.3 shall apply;
 - (b) withdraw the direction or communication; or
 - (c) confirm that the direction or communication does not constitute a Variation and require the Consultant to comply with the direction or communication.
- 4.8** If the Consultant does not give either notice within the time required by clause 4.6 the Consultant waives any entitlement to payment in respect of the direction or communication and is barred from making a Claim in respect of such direction or communication.
- 4.9** The Consultant acknowledges and agrees that:
- (a) a direction from Council to the Consultant to Vary the Project may involve the removal or omission of work or services from the scope of Project described under this Agreement;
 - (b) if Council gives the Consultant a direction to remove or omit work or services, Council may itself, engage others to carry out those work or services removed or omitted from the Consultant's services under this Agreement; and
 - (c) any one or more omissions will not constitute a basis to allege that Council has repudiated the Contract notwithstanding the extent or timing of the omission.
- 4.10** Council shall, as soon as possible, price each Variation using the following order of precedence:
- (a) prior agreement;
 - (b) applicable rates or prices in the Agreement (including Schedule of Rates) to the extent they are applicable to, or it is reasonable to use them for valuing, the Variation;
 - (c) if such rates are not applicable, at reasonable rates determined by Council.
- 4.11** The price of each Variation shall be added to or deducted from the Consultant's Fee.
- 4.12** The Consultant shall promptly perform any Variation directed under clause 4.4 without delay.
- 4.13** If a Variation the subject of a direction by Council omits any part of the Project, Council may thereafter carry out the omitted services either itself or by engaging another supplier.

5 VARIATIONS TO THE PROGRAM & HOLD POINTS

- 5.1** The Consultant must complete the Installation by the time stated in the Program.
- 5.2** Council may change the Program by issuing a revised Program (acting reasonably).
- 5.3** If the Consultant will be delayed in completing the Installation because of one of the reasons set out in clause 5.4, it may request Council to issue a revised Program. The Consultant must provide Council with written reasons for the delay and the anticipated length of the delay.
- 5.4** Council will issue a revised Program following a request under clause 5.3 if it is satisfied that the delay is due to:
- (a) an event beyond the reasonable control of the Consultant (including for the avoidance of doubt, the COVID-19 Pandemic);
 - (b) delay caused by Council, its employees, contractors or other agents; or
 - (c) breach of this Agreement by Council
- 5.5** The Consultant will not be entitled to claim any additional costs incurred by it as a result of the issue of the revised Program.
- 5.6** The Consultant must not commence the performance of any works at the Site (including any fabrication of any part of the Installation) until Council has issued the Consultant a written notice approving the final design of the Installation. The parties will liaise in good faith in respect of the Consultant's final development of the design of the Installation.
- 5.7** Notwithstanding that the Consultant is not entitled to or has not claimed an extension of time to the Program, Council may by written notice at any time before the Completion Date in its absolute discretion, and without being obliged to do so for the benefit of the Consultant or otherwise, extend the Program or the date for completion of the Project.

6 LIAISON BETWEEN THE CONSULTANT AND COUNCIL

- 6.1** Council's Representative will be available on reasonable notice to the Consultant to discuss the Installation as required.
- 6.2** The Consultant must be available for discussions with Council's Representative, the Site Manager or other persons nominated by Council on reasonable notice.
- 6.3** If required in accordance with any legislative requirements, the Consultant will apply for consents, permits and other approvals needed to install the Installation at the Site. Council may terminate this Agreement immediately if the consents, permits or other approvals are not granted or if an authority prevents the Project from proceeding as set out in this Agreement.
- 6.4** The Consultant must support Council with:
- (a) consultation with key stakeholders and subcontractors; and
 - (b) marketing and promoting the Project.

The Consultant must secure all permits and other approvals required by any legislative requirements to install the Installation.

7 MINIMUM LIFESPAN OF INSTALLATION

- 7.1** The Consultant acknowledges and agrees that as at the date of this Agreement, the Installation intended to be used by the Council for display in the internal public domain at the Site, for at least 10 years and may be subject to the relevant conditions of the Site. The

Installation must be suitable for such use.

- 7.2 For the avoidance of any doubt, nothing in this Agreement compels Council to display the Installation for a minimum period.

8 CARE OF SITE AND INSTALLATION

- 8.1 The Consultant acknowledges and agrees that upon being granted access to the Site, it will be responsible for the care of the Site.
- 8.2 The Consultant must keep the Site in a safe and clean condition until the installation of the Installation is completed and Council issues a completion notice under clause 9.
- 8.3 Council may at any time direct the Consultant to undertake any restoration of the Site which Council reasonably considers necessary. The Consultant must comply with the direction within the time specified in the direction at its own cost.
- 8.4 If the Consultant does not comply with a direction under clause 8.3:
- (a) Council may engage others to carry out the restoration of the Site;
 - (b) the Consultant will be responsible for the costs of the restoration;
 - (c) the Consultant must pay those costs on demand, and Council may offset those costs against any money Council owes the Consultant.
- 8.5 The Consultant shall be responsible for care of:
- (a) the whole of Installation from and including the date of commencement of this Agreement to 4:00pm on the Completion Date, at which time responsibility for the care of the Installation (except to the extent provided in clause 8.4(b)) shall pass to Council; and
 - (b) outstanding work and items to be removed from the Site by the Consultant after 4:00pm on the Completion Date until completion of outstanding work.
- 8.6 Without limiting the generality of paragraph 8.5(a), the Consultant shall be responsible for the care of unfixed items accounted for in any payment claim and the care and preservation of things entrusted to the Consultant by Council or brought onto the Site by subcontractors for carrying out the Project.
- 8.7 If loss or damage occurs to the Installation or the Site occurs during the period of the Consultant's care, the Consultant shall at its cost, rectify such loss or damage.
- 8.8 The Consultant is responsible for and shall make good (and is liable for all costs and charges associated with making good) any damage to footways, roadways, kerbs and gutters, pits and covers, surfaces, structures, services, whether on or adjacent to the Site disturbed or damaged during and as a result of the execution of the work of the Agreement and incidental work, including movement of material, plant and equipment, and the Consultant must leave the whole Site in as good a state or repair as it was when the Consultant commenced the Installation (save for the addition of the Installation itself).

9 COMPLETION AND DEFECTS

- 9.1 Subject to the Consultant's provision of the manual in accordance with clause 27, when the Consultant is of the opinion the Installation is satisfactorily completed in accordance with this Agreement the Consultant must deliver to Council a written notice requesting Council to inspect the Installation and the Site.
- 9.2 Following receipt of a notice under clause 9.1, Council will inspect the Installation and the Site and if Council is satisfied that:

- (a) the Installation has been satisfactorily completed; and
- (b) the Site has been restored to the satisfaction of Council and the Site Manager,

Council will issue a notice of completion to the Consultant nominating the Completion Date. Upon issue of the notice of completion, all title and risk in the Installation will pass to Council.

9.3 If Council disputes that the Installation has been satisfactorily completed according to the Agreement, the Specification or that the Site has been satisfactorily restored, Council must provide to the Consultant within 14 days of the inspection a written notice stating the nature of the dispute and the required action by the Consultant to achieve completion within a reasonable specified period.

9.4 If the Consultant does not comply with a direction under clause 9.3:

- (a) Council may engage others to carry out the work required to achieve completion of the Project;
- (b) the Consultant will be responsible for the reasonable costs of any work required to achieve completion of the Project;
- (c) the Consultant must pay those costs on demand, and Council may offset those costs against any money Council owes the Consultant.

9.5 The Consultant must promptly rectify any Defects directed by Council to the Consultant in writing during the performance of the Installation, at completion of the Installation and during the Defects Liability Period.

9.6 If the Consultants fails to do so, Council may have the Defects rectified and any costs incurred will be a debt due and payable by the Consultant to Council. Council may offset those costs against any money Council owes the Consultant.

9.7 The Consultant must, on or before the Completion Date, meet with Council in good faith to agree upon a Defects rectification program to be followed during the Defects Liability Period.

9.8 Instead of a direction under clause 9.5, Council may direct the Consultant that Council elects to accept the subject work, whereupon there shall be a deemed Variation.

10 PAYMENT & GST

10.1 Council will pay to the Consultant the Consultant's Fee in milestone payments in accordance with Item 9 of Annexure A following the Consultant's performance of each milestone to Council's satisfaction in accordance with the terms of this Agreement and the receipt of a valid tax invoice.

10.2 The Consultant's Fee is fixed and payable in Australian dollars.

10.3 Subject to satisfactory performance of the Consultant under this Agreement, the Consultant's Fee must be paid to the Consultant at the completion of each stage of the Project, or at other such times as agreed between the Consultant and Council. The Consultant must provide Council with a claim for payment supported by evidence of the completion of the relevant milestone stage and the amount due to the Consultant in respect of that relevant stage.

10.4 Council must:

- (a) where Council does not dispute a claim, pay the Consultant the amount claimed within 30 days of Council's receipt of a valid tax invoice from the Consultant for the undisputed claim; or
- (b) notify the Consultant that it disputes the amount claimed.

- 10.5** If the Consultant and Council are unable to resolve a dispute which arises under clause 10.4(b), Council will pay the Consultant any undisputed amounts and clause 20 will apply.
- 10.6** Amounts referred to in this Agreement are exclusive of GST.
- 10.7** If one party (Supplying Party) makes a taxable supply and the consideration for that supply does not expressly include GST, the party that is liable to provide the consideration (Receiving Party) must also pay an amount (GST Amount) equal to the GST payable in respect of that supply.
- 10.8** Subject to first receiving a tax invoice or adjustment note as appropriate, the Receiving Party must pay the GST Amount when it is liable to provide the consideration.
- 10.9** If one party must indemnify or reimburse another party (Payee) for any loss or expense incurred by the Payee, the required payment does not include any amount which the Payee (or an entity that is in the same GST group as the Payee) is entitled to claim as an input tax credit, but will be increased under clause 10.7 if the payment is consideration for a taxable supply.
- 10.10** Council will not be liable to pay for unfixed plant and materials unless the Consultant satisfies Council by providing Council with copies of paid invoices, such reasonable additional evidence as Council may require from time to time and that the unfixed plant and materials have been paid for, title has passed to Council, the plant and equipment are properly stored, protected and labelled property of Council. The Consultant agrees that Council may, but is not obliged to, perfect, for the purposes of the *Personal Property Securities Act 2009* (Cth) and the *Personal Property Securities Regulations 2010* (Cth) (**PPS Laws**), any security interest (as defined in the PPS Laws) it holds in the unfixed plant and materials for which Council pays.

11 CONTRACTOR STATUS

- 11.1** The Consultant is an independent contractor without authority to bind Council by contract or otherwise and the Consultant is not an agent or employee of Council.
- 11.2** The Consultant must not assign or novate its rights or interests under this Agreement.
- 11.3** If the Consultant is more than one person then the obligations of those persons are joint and several.

12 SUBCONTRACTORS

- 12.1** The Consultant must not engage any subcontractor other than those listed in Item 4 and Item 11 of Annexure A without Council's prior written consent. Council may withhold or condition its consent in its absolute discretion.
- 12.2** The appointment of one or more subcontractors does not relieve the Consultant of its obligations under this Agreement. The Consultant:
- (a) is responsible for ensuring each subcontractor performs its subcontract in accordance with this Agreement; and
 - (b) is liable to Council for the acts and omissions of the Consultant's subcontractors as if they were acts or omissions of the Consultant.
- 12.3** The Consultant:
- (a) agrees that Council may direct the Consultant to remove any subcontractor from performing any part of the Project:
 - i) for misconduct; or
 - ii) for failure to perform its obligations; and

- (b) must comply with a direction given in accordance with clause 12.3(a) within the period specified by Council.

12.4 The Consultant must ensure that each subcontract contains a requirement that the subcontractor novates the subcontract to Council if directed by Council.

13 WORK HEALTH AND SAFETY

13.1 The Consultant must:

- (a) comply with all applicable legislation, including the WHS Laws;
- (b) have a work health and safety management system in place that is capable of complying with this Agreement and the WHS Laws;
- (c) comply with Council's reasonable direction regarding matters of work health and safety; and
- (d) provide Council with any safety documentation, White Cards (or general construction induction cards) or safe work method statements requested by Council from time to time.

13.2 The Consultant and Council will if necessary, consult, cooperate and coordinate activities with each other and with any other persons who have a common duty under the WHS Laws.

13.3 Without limiting or in any way affecting the Consultant's obligations under this Agreement, Council appoints and engages, and the Consultant accepts its appointment and engagement as WHS Principal Contractor for the work under this Agreement.

13.4 The Consultant shall have sufficient access to the Site for the purpose of discharging its obligations as WHS Principal Contractor.

14 INSURANCE

14.1 The Consultant must effect and keep current until the Completion Date insurance policies as specified in Item 12 of Annexure A.

14.2 On signing this Agreement and when requested in writing the Consultant must give Council:

- (a) acceptable proof of the insurance policies taken out; and
- (b) acceptable proof of the maintenance of insurance for the period required.

15 INTELLECTUAL PROPERTY

15.1 The Consultant or its Artist will retain ownership of the Intellectual Property Rights in the Installation.

15.2 The Consultant must ensure Council is granted a perpetual, worldwide, irrevocable, royalty free and nonexclusive licence to use and reproduce the Intellectual Property Rights in the Installation including:

- (a) the right to retain a digital copy of the Installation for archival purposes;
- (b) the right to reproduce the Installation in annual reports, on the Council's website, print media or any other promotional publications; and
- (c) the right to reproduce images of and materials about the Installation for displays, documentaries' and exhibitions.

- 15.3** Council may sublicense the rights in clause 15.2 to its contractors for the purposes of the Council enjoying its licence rights.
- 15.4** The Consultant warrants that:
- (a) it has the authority to enter into this Agreement; and
 - (b) the Installation will be an original work and will not infringe the Intellectual Property Rights of any person; and
 - (c) where the Installation contains third party material, the Consultant has obtained all consents and licences necessary to permit the use of the material in accordance with this Agreement (including for the avoidance of any doubt, consents and licenses from the Artist).
- 15.5** Council must not grant any third party the right to exploit the Installation commercially.
- 15.6** Not used.
- 15.7** The Consultant (including its subcontractors and Artist) must not at any time breach or infringe any Intellectual Property Rights of the Council or of any other person whether in the course of performing the Project or otherwise.
- 15.8** The Consultant agrees to indemnify and keep indemnified the Council and its officers, employees and agents from and against any claims and losses arising from or in connection with any infringement or alleged infringement of any Intellectual Property Rights.
- 15.9** The indemnity contained in this clause is not the exclusive remedy of the Council. The Council may at its option, in addition or in the alternative, pursue remedies at common law, in equity or under statute.
- 15.10** The Consultant must not use any Intellectual Property Rights of the Council other than for the purposes of complying with its obligations under this Agreement and must not:
- (a) purport to register, sell, license or otherwise deal with or dispose of any such Intellectual Property Rights; or
 - (b) disclose the existence or detail of any such Intellectual Property Rights to a third party without the prior written consent of Council.
- 15.11** Without limiting Council's rights conferred by this Agreement, the Consultant acknowledges and agrees that the Council may:
- (a) make and keep records of the Installation in such form as it chooses;
 - (b) retain a digital copy of the Installation for any purposes;
 - (c) reproduce images of the Installation in annual reports, on Council's website, print media or other promotional publications;
 - (d) reproduce images of and materials about the Installation for displays, documentaries' and exhibitions;
 - (e) carry out work described in clause 15.12, 16, 29 and 30; and
 - (f) move or remove the Installation at Council's sole discretion (including permanently decommissioning the Installation at any time).
- 15.12** Subject to clauses 15.11(f) and 16, the Consultant acknowledges and agrees that following completion of the Installation, Council, the Site Manager or Council's authorised agents or contractors may at any time maintain and make alterations to any part of the Installation (provided that such alterations are not material) and the Consultant shall not be entitled to any

claim arising from Council, the Site Manager or Council's contractors maintaining or making any such alterations to any part of the Installation.

- 15.13** The parties acknowledge and agree that nothing in this Agreement limits or restricts Council's powers or rights to make any changes land in the vicinity of the Installation at any time. If Council proposes to make any changes to any areas or land within the vicinity of the Installation, Council will not be required to consult with the Consultant or the Artist in respect of such matters. The Consultant shall not be entitled to make any claim against Council arising out of or in connection with any changes that Council makes, or proposes to make, to any areas or land within the vicinity of the Installation.

15.A INDIGENOUS CULTURAL AND INTELLECTUAL PROPERTY

- 15.A1** The parties acknowledge and agree:

- (a) There are ethical and moral considerations associated with the use of Indigenous cultural material in art and cultural projects; and
- (b) Australia's unique Indigenous artistic and cultural expression is rooted in thousands of years of heritage and continuing practice.

- 16.A2** Council supports the rights of Indigenous people to own and control their cultural heritage and supports Indigenous creative practice. Accordingly, the Consultant must not incorporate any form of Indigenous Cultural and Intellectual Property in the Installation without first complying with clause 15A.3.

- 15.A3** If the Consultant proposes to incorporate any form of Indigenous Cultural and Intellectual Property in connection with the Installation, the Consultant must first:

- (a) consult and liaise in good faith with Council and any impacted Indigenous owners regarding any proposed Indigenous Cultural and Intellectual Property to be used in connection with the Installation; and
- (b) not incorporate the Indigenous Cultural and Intellectual Property in any part of the Installation without Council's prior written consent.

- 15.A4** Any prior consent provided by Council under clause 15A.3 may be granted or withheld in Council's sole discretion and may be subject to the informed consent of relevant Indigenous owners being provided in respect of the use of any Indigenous Cultural and Intellectual Property in the Installation.

- 15.A5** In this clause 15A, reference to 'Indigenous Cultural and Intellectual Property' refers to all aspects of Indigenous peoples' cultural heritage that is tangible and intangible, including but not limited to:

- (a) traditional knowledge (scientific, agricultural, technical and ecological knowledge, ritual knowledge);
- (b) traditional cultural expression (stories, designs and symbols, literature and language);
- (c) performances (ceremonies, dance and song);
- (d) cultural objects (including, but not limited to arts, crafts, ceramics, jewellery, weapons, tools, visual arts, photographs, textiles, contemporary art practices) human remains and tissues the secret and sacred material and information (including sacred/historically significant sites and burial grounds); and
- (e) documentation of Indigenous peoples' heritage in all forms of media such as films, photographs, artistic works, books, reports and records taken by others, sound recordings and digital databases.

16 LIFE OF AND SUBSEQUENT DEALINGS WITH THE INSTALLATION

Council may at any time decide that the condition of the Installation has deteriorated or it is no longer suitable for the Site and Council may in its sole discretion remove, relocate, destroy or otherwise dispose of the Installation.

17 CONFIDENTIALITY

17.1 A party (receiving party) which acquires Confidential Information of another party (disclosing party) must not:

- (a) use any of the Confidential Information except to the extent necessary under this Agreement; or
- (b) disclose any of the Confidential Information to any third party without the other party's prior consent unless required by law (including the *Government Information (Public Access) Act 2009* (NSW), a stock exchange or government agency, or in the case of Council to its agents, contractors and advisors necessary to exercise its rights under this Agreement.

17.2 The receiving party must ensure that any person to whom Confidential Information is disclosed must, keep the Confidential Information confidential.

18 MORAL RIGHTS

18.1 The Consultant must ensure that it does not infringe the Moral Rights of any author of any work in performing the Project.

18.2 The Consultant indemnifies the Council, its officers, agents, employees, contractors and consultants against all claims, liability, cost, loss, damage or expense suffered or incurred arising out of breach of this clause 18.

18.3 Upon completion of the Installation and at all times whilst the Installation is being exhibited to the public, Council will, as far as practicable and reasonable in the circumstances, ensure that the Artist is identified as the creator of the Installation.

Subject to clauses 15.11(f) and 16, the Installation will not be subject to any material alternation, distortion, or mutilation that is prejudicial to the Installation or the reputation of the Artist without the Artist's prior consent.

Notwithstanding anything else contained in this Agreement, nothing in this Agreement will limit the Council's rights to move or remove the Installation at Council's sole discretion (including permanently decommissioning the Installation at any time) without the need of any prior consultation with, or consent from, the Artist.

The parties will liaise in good faith regarding the naming of the Installation. The parties will ensure that the naming of the Installation is not offensive or similar to other artworks. In the event that the Artist and Council cannot mutually agree to the name of the Installation, Council may determine the name of the Installation (acting reasonably).

19 TERMINATION

19.1 Termination by Council

In addition to the other termination rights set out in this Agreement, Council may terminate this Agreement by notice in writing if:

- (a) Council decides not to proceed to Project Stages as outlined in the Program or Item 16;
- (b) the Consultant is in breach of this Agreement and the Consultant does not remedy the breach within 21 days of receiving written notice from Council requiring the breach to be remedied;
- (c) the Consultant or the Artist becomes bankrupt, insolvent, or enters into an arrangement with its creditors; or
- (d) the Consultant breaches any law, statutory requirement or work health and safety

obligation; or

- (e) for Council's sole convenience upon providing 30 days' prior written notice.

19.2 If this Agreement is terminated in accordance with clause 19.1(a), 19.1(e) or 6.3:

- (a) Council must pay the Consultant in accordance with clause 10 the portion of the Consultant's Fee due for performance of the Project in the relevant period up to the date of termination or the date the Consultant ceased performance of the Project;
- (b) Council may deduct from the portion of the Consultant's Fee paid in accordance with clause 19.2(a) any costs incurred or likely to be incurred by Council as a result of a breach of any Agreement by the Consultant; and
- (c) the Consultant is not entitled to any other payment, including for any consequential costs, losses (including loss of profits) or damages.

19.3 Termination by Consultant

- (a) The Consultant may terminate this Agreement by written notice if:
 - (i) Council is more than ninety (90) days late in making payment pursuant to this Agreement; and
 - (ii) the Consultant has given Council written notice that Council of the fact in (i) above; and
 - (iii) Council subsequently fails to pay the Consultant the amount due within 30 days of receiving the notice in (ii) above.

The Consultant shall thereupon be entitled to receive and retain payment for all work done up to the date of sending such notice.

- (b) This Agreement will terminate automatically on the death or incapacity of the Artist in which case the Consultant shall retain all payment made and owed to the Consultant for work performed prior to the termination of this Agreement and Council shall have the right to keep copies of the design documents in respect of the Installation and to keep the work in progress for the sole purpose of completing the Installation. The Installation may be completed by an artist appointed by Council in its absolute and sole discretion however following consultation with the Consultant and the Artist's estate. If Council does not wish to have the Installation completed all copies of the design documentation, project record of the Installation and the Installation in progress will become the property of Council on payment of all fees due to the Consultant for the amount of artistic work completed at the time.

19.4 Effect of Termination

Termination of this Agreement is without prejudice to the accrued rights or remedies of either party. Upon termination, the Installation, whether complete or incomplete, will become the property of Council.

20 **DISPUTES**

20.1 If a dispute arises at any time, the party raising the dispute is to notify the other party in writing of the nature of the dispute, including adequate particulars. Within 7 days of giving the written notice the dispute must be referred to a dispute resolution committee consisting of:

- (a) a nominee of the Consultant; and
- (b) a nominee of Council.

20.2 If the dispute resolution committee cannot resolve the dispute within 21 days of the dispute

being referred to it, then the dispute must be referred to senior representatives of each party for further negotiation for a period of 14 days.

20.3 Despite the provisions of clauses 20.1 and 20.2:

- (a) the Consultant must proceed without delay to continue to perform the Project; and
- (b) both parties must perform their other obligations under this Agreement.

21 COSTS

The parties must each bear their own respective costs and expenses of and incidental to the preparing of this Agreement.

22 STEP-IN RIGHTS

22.1 If the Consultant fails to perform a material obligation strictly in accordance with the terms of this document and fails to rectify that failure within ten days of being required by written notice from Council to do so, then Council may, either by itself or through a third party, perform that obligation.

22.2 If Council:

- (a) has not yet paid the Consultant in relation to the obligation that the Consultant has failed to perform, then the costs, expenses, losses and damages incurred by Council in performing that obligation will be a debt due from the Consultant to Council; and
- (b) has already paid the Consultant in relation to the obligation that the Consultant has failed to perform, then any costs, expenses, losses and damages in excess of the proportion of the payment applicable to the obligation, incurred by Council in performing that obligation will be a debt due from the Consultant to Council.

Council will offset any debt from the Consultant arising under this clause or make appropriate adjustments to the future payments to the Consultant.

This clause 22 does not limit any other remedy which Council may have against the Consultant for any breach of this document.

23 GENERAL

23.1 This Agreement and the attached Annexures contain the entire agreement between the parties and any previous negotiations, agreements, representations or warranties relating to the subject matter of this Agreement are of no effect.

23.2 The waiver by either party of a particular breach is not a waiver of any other breach.

23.3 Nothing in this Agreement in any way restricts or otherwise affects Council's unfettered discretion to exercise its statutory powers as a public authority.

23.4 The invalidity, illegality or unenforceability of any provisions of this Agreement will not affect the validity or enforceability of any other provisions.

23.5 This Agreement may only be varied in writing by the agreement of the parties.

23.6 This Agreement is governed by, and construed in accordance with, the law for the time being in the State of New South Wales.

23.7 The parties submit to the non-exclusive jurisdiction of the courts of New South Wales in relation to all matters arising under, or relating to, this Agreement.

24 NOTICES

- 24.1 A notice or demand under this Agreement must be in writing and posted, delivered by email or delivered to the address of the recipient shown in Item 13 of Annexure A.
- 24.2 A notice is taken to be received:
- (a) if hand delivered, on delivery;
 - (b) if sent by pre-paid post, three days (excluding Saturday, Sunday and any public holidays) after the date of posting;
 - (c) if sent by email:
 - (i) when the sender receives an email acknowledgement from the recipient's information system showing the notice has been delivered to the email address stated in the Schedule;
 - (ii) when the notice enters an information system controlled by the recipient; or
 - (iii) when the notice is first opened or read by the recipient,whichever occurs first.
- 24.3 If a notice would be taken to be given or made on a day that is not a business day in the place to which the notice is sent, or later than 4.00 pm (local time), it will be taken to have been given or made at the start of business on the next business day in that place.

25 PUBLICITY

- 25.1 The Consultant agrees that it and its Artist will make themselves available for reasonable media appearances in respect of the Installation, and if requested by Council, record an oral history about the Installation and the Artist's previous work as reasonably required by Council for the purpose of promotion of the Installation. No additional fee is payable by Council for any media appearance or recording.
- 25.2 The Consultant and its Artist must not issue any media release about the Installation, or participate in any media interviews regarding the Installation without Council's prior written consent. The Consultant must ensure that any media statements or publicity issued by the Consultant or the Artist in connection with the Installation adequately attributes Council's involvement in the Project.
- 25.3 The Consultant consents to Council or persons authorised by Council taking photos or recordings of the Installation, including the progressive development of the Installation.
- 25.4 The Consultant agrees that Council may use any recording or photo of the Installation (in whole or part) in any media format to promote the Installation. No additional fee is payable by Council for these rights.
- 25.5 The Consultant is responsible for promoting the installation in accordance with the obligations set out in Item 5 of Annexure A.

26 CATALOGUE

- 26.1 If Council publishes a catalogue or online record regarding the Installation ("**Catalogue**"), Council will have full responsibility for the selection of its writers, editing, text and design.
- 26.2 At Council's request, the Consultant agrees to provide suitable material for inclusion in the Catalogue, or for use in the media including:
- (a) a recent photograph and biography of the Artist; and

- (b) reproduction-quality images of its earlier works of the Artist.

26.3 Council will endeavor to consult with the Consultant about:

- (a) the proposed text in the Catalogue as it relates to the Consultant; and
- (b) the quality of the reproduction of the Installation.

27 MANUAL

27.1 At least 14 days prior to the completion of the Installation, the Consultant will provide Council with a written Manual containing comprehensive instructions for the proper cleaning, operation and maintenance of the Installation ("**Manual**").

27.2 The Manual will include:

- (a) a detailed description of the materials used and any other key information reasonably requested by Council;
- (b) equipment operating procedures and any details of any subcontractors and suppliers of the Consultant including names, addresses and telephone numbers;
- (c) an inspection, testing and maintenance program detailing the routine required to maintain the Installation; and
- (d) As-built drawings of the Installation.

27.3 If the Manual does not comply with the requirements of this Agreement (including Annexure B) Council may direct the Consultant to update the Manual which the Consultant must do within 14 days of the direction.

27.4 The parties will liaise in good faith in respect of the requirements of the Manual and the Consultant and Artist will, if requested by Council, attend a handover meeting with Council to discuss the Manual and cleaning and maintenance requirements of the Installation.

28 INDEMNITY

The Consultant indemnifies Council and each of its officers, employees, agents and contractors from and against all losses, liabilities, costs, expenses and taxes arising out of or incurred in connection with:

- (a) any injury to or death of any person, or, any damage to or loss of property caused by any negligence, wrongful act or omission, breach of contract or breach of statutory duty by the Consultant or its subcontractors (including for the avoidance of any doubt, the Artist);
- (b) any negligence, wrongful act or omission, or breach of statutory duty by the Consultant or its subcontractors (including for the avoidance of any doubt, the Artist); or
- (c) any claim that the Installation, its use or any material provided by the Consultant or its subcontractors (including for the avoidance of any doubt, the Artist) infringes the Intellectual Property Rights of any person, except to the extent that any loss is caused by Council's negligence.

29 MAINTENANCE DURING MAINTENANCE PERIOD

29.1 Subject to clause 29.4, during the Maintenance Period, the Consultant must, at the Consultant's cost, maintain the Installation and repair any damage caused to the Installation (excluding damage to the Installation caused by vandalism) in accordance with Annexure H.

- 29.2** Subject to clause 29.4, during the Maintenance Period, the Consultant must ensure that the Installation is maintained in accordance with the requirements of the Manual supplied by the Consultant pursuant to clause 27.
- 29.3** Council may notify the Consultant in writing from time to time during the Maintenance Period of any repair or maintain work required to be undertaken to the Installation. Subject to clause 29.4, the Consultant must at the Consultant's cost, promptly (and in any event within 7 days) undertake such repair work at the Site. Subject to clause 29.4, if Council identifies any urgent repair work required to be undertaken to the Installation, the Consultant must use reasonable endeavours to comply with Council's request for such urgent repair work to be undertaken promptly at the Consultant's cost.
- 29.4** The Consultant shall be entirely responsible for the care and protection of the Installation and any part of the partially completed Installation prior to the final completion of the Installation in accordance with this Agreement.

30 REPAIRS AND RESTORATION AFTER EXPIRY OF MAINTENANCE PERIOD

- 30.1** If any repair or restoration work is required in respect of the Installation due to damage to the Installation after the expiry of the Maintenance Period, or vandalism to the Installation at any time after the Completion Date (**Repair Work**), Council, or its contractor nominated from time to time may (but is not required to) arrange for the Consultant to perform such Repair Work. The cost of that Repair Work performed after the conclusion of the Maintenance Period will be agreed in writing between the parties.
- 30.2** Nothing in this Agreement prevents Council or any of Council's employees, contractors and agents from performing any Repair Work without consultation with the Consultant or the Artist.

31 SUSPENSION

- 31.1** Council may immediately suspend the performance of any or all of the Project at any time and for any reason by giving notice to the Consultant (whether or not the Consultant is in default under this Agreement or otherwise).
- 31.2** On receipt of a notice of suspension the Consultant must:
- (a) stop work as specified in the notice;
 - (b) take all available steps to minimise loss resulting from that suspension; and
 - (c) continue work on any part of the Project not affected by the notice.
- 31.3** If Council suspends any of the Project under this clause 31, Council may at any time give the Consultant a notice requiring the Consultant to resume performing the suspended Project. The Consultant must resume performing those parts of the Project as soon as practicable after the date of the notice, and in any event no later than 14 days after the date of the notice.
- 31.4** If Council requires suspension of any of the Project under this clause 31, then provided that the Consultant has complied with its obligations and the Installation has been delivered as required under this Agreement:
- (a) Council must pay those Consultant Fees due and payable for the Installation rendered before the effective date of suspension; and
 - (b) Council must meet the additional reasonable costs incurred by the Consultant and directly attributable to the suspension, but Council shall not be required to compensate the Consultant for loss of profit or other costs, expenses or overheads incurred by the Consultant in deploying or re-deploying.

32 PARTIES' REPRESENTATIVES

- 32.1** The parties appoint as representatives the persons named in Item 2 and Item 3 of Annexure

A, or another person the parties may nominate and notify to each other from time to time.

32.2 Each of the parties' representative has authority to:

- (a) exercise all of the powers and functions of their party arising out of or in connection with this Agreement; and
- (b) bind their party in relation to any matter arising out of or in connection with this Agreement.

32.3 The Consultant must communicate directly with Council's representative in relation to any matters within the authority of the Council's representative.

32.4 An instruction given to the Consultant's representative is deemed to be given to the Consultant.

32.5 The Consultant must ensure that the Consultant's representative and the Artist are available to attend on and provide advice to the Council and the Council's representative at all reasonable times during the currency of this Agreement.

32.6 Either party may terminate the appointment of its representative by notice in writing to the other party. The notice must identify and provide contact details for the party's new representative.

33 FORCE MAJEURE

33.1 If Council forms the view that a Force Majeure Event is, or the consequences of a Force Majeure Event are, likely to continue for more than 3 months, Council may terminate the Contract by notice in writing to the Consultant, effective from the time stated in the notice or, if no time is stated, at the time the notice is given.

33.2 Upon termination under clause 33.1, clause 19.2 will apply.

34 COVID-19

34.1 The parties acknowledge and agree that as at the date of this Agreement a pandemic, being an epidemic affecting a large geographical area of the world exists for a fast-spreading contagious disease known as "COVID-19" or the "Corona Virus" (**COVID-19 Pandemic**) is in existence;

34.2 Notwithstanding anything else contained in this Agreement, the parties acknowledge and agree that the COVID-19 Pandemic is not a Force Majeure Event for the purpose of this Agreement.

34.3 If the Project or any work under this Agreement is impacted by the COVID-19 Pandemic:

- (a) the Consultant will not be entitled to make any claim, action or demand for any costs, loss or expenses, arising from or in connection with the impact of the COVID-19 Pandemic, including any increase to the Consultant's Fee; and
- (b) Council will, acting reasonably, issue a revised Program in accordance with clause 5.4(a).

35 COORDINATION AROUND CONSTRUCTION ZONE

35.1 The parties acknowledge and agree that the construction of the [insert] public domain area may be occurring in the vicinity of the Site at the same time as construction of this Project.

35.2 If requested by Council, the Consultant must coordinate its performance of the Project and access to the Site with the activities of any other contractors performing works at, or in the vicinity of, the Site.

- 35.3** The Consultant must comply with any directions by Council, Council's nominated contractors or the Site Manager in respect of the Consultant's access to the Site, co-ordination of the Project and performance of any works at the Site.
- 35.4** The parties must liaise with one another in good faith in respect of such coordination activities.

SAMPLE

**ANNEXURE A
REFERENCE SCHEDULE**

Item	Name	Description	
Item 1	Date of Agreement		
Item 2	Consultant's Name: Consultant's ABN: Consultant's Address: Consultant's Representative:		
Item 3	Council's Representative		
Item 4	Artist		
Item 5	Promotion Obligations		
Item 6	Installation	The design, creation, fabrication, delivery and installation of the artwork and works described in the Specification.	
Item 7	Site	The area identified in the plan at Annexure D.	
Item 8	Site Manager	Name: City of Parramatta Council Address: 126 Church St, Parramatta NSW 2150 Contact: Suzanne Buljan Telephone: (02) 9806 5351	
Item 9	Consultant's Fee	Subject to clause 10 of the Agreement, the Consultant's Fee shall be paid in stages upon the Consultant's achievement of the deliverables described in Annexure G to Council's satisfaction.	
Item 10	Key Personnel	Key Personnel	Key Personnel Work Item
Item 11	Approved Sub-consultants	The Artist Add additional here.	
Item 12	Insurance	The Consultant must hold and maintain the following insurances: <ul style="list-style-type: none"> • Public Liability: \$20 million • Professional Indemnity Insurance: \$5 million and \$5million in the aggregate • Contract works insurance in respect of the Installation for the value of the Installation under this Agreement • Workers Compensation as required by law 	
Item 13	Notices	City of Parramatta Council:	

		<p>Postal Address: City of Parramatta Council 126 Church Street Parramatta, NSW 2150</p> <p>Attention: Suzanne Buljan, Senior Officer – Cultural Projects and Public Art</p> <p>Email Address: sbuljan@cityofparramatta.nsw.gov.au</p> <p>Consultant: Postal Address: Attention: Email Address:</p>
Item 14	Program	A copy of the Program as at the date of this Agreement is included at Annexure C.
Item 15	Maintenance Period	12 months
Item 16	Project Stages	<p>The Project shall comprise the following stages of work.</p> <ol style="list-style-type: none"> 1 Stage 1 - Design Development 2 Stage 2 - Detailed Design 3 Stage 3 – Fabrication 4 Stage 4 – Installation 5 Stage 5 – Practical Completion 6 Stage 5a – 12 Months Defects Liability 7 Stage 5b – Maintenance Regime <p>The Consultant must not proceed with a new stage of work until written notice is provided by Council of the Consultant’s satisfactory completion of the prior Project Stage.</p>

EXECUTED AS AN AGREEMENT

Signed for and on behalf of **CITY OF**)
PARRAMATTA COUNCIL (ABN 49 907)
174 773) by its authorised officer in the)
presence of:

.....
Signature of Witness

.....
Name of Witness

.....
Signature of Authorised Officer

.....
Name of Authorised Officer

.....
Position of Authorised Officer

.....
Date

Signed for and on behalf of **CONSULTANT**)
by its authorised officer in the presence of:)
)

.....
Signature of Witness

.....
Name of Witness

.....
Signature of Authorised Officer

.....
Name of Authorised Officer

.....
Date