Planning & Infrastructure

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SUBJECT: MP10 0060 SUPPLEMENTARY DIRECTOR-GENERAL'S REPORT – SYDNEY FISH MARKETS REFEVELOPMENT, LEVYING OF DEVELOPMENT CONTRIBUTIONS

1. BACKGROUND

This is a supplementary Director-General's Environmental Assessment Report for Major Project MP10_0060 for the redevelopment of the Sydney Fish Markets at 56-60 Pyrmont Bridge Road, Pyrmont.

On 23 May 2011, the Department presented its Director-General's Environment Assessment Report to the Planning Assessment Commission (PAC). Following consideration of the report, the PAC queried:

- the basis and quantum for the levying of development contributions identified in Condition B1; and
- the basis for requiring the Proponent to obtain separate approvals for the installation of toll booths; construction of the roundabout on Jones Street; and the operation of the public car park (referred to in Conditions A6(4) and (5)).

2. DEVELOPMENT CONTRIBUTIONS

2.1 Requirements of the Ultimo-Pyrmont Section 94 Contributions Plan

The Ultimo-Pyrmont Section 94 Contributions Plan (1994) is administered by the City of Sydney Council; and the Minister for Planning and Infrastructure on behalf of the City West Development Corporation (now part of the Sydney Harbour Foreshore Authority).

The Plan specifies 43 items of hard and soft infrastructure works (parks, road upgrades, childcare facilities, and stormwater drainage upgrades) that will be undertaken by the City West Development Corporation. The Works Schedule includes the cost of land acquisition as well as the cost of undertaking physical works Contributions are levied based on the amount of additional gross floor area or the number of additional workers a development will generate.

The cost of land acquisition and the carrying out of public domain works within Fishmarkets Square and Blackwattle Bay foreshore are identified as items for which contributions will be allocated, in the Works Schedule (5) of the Plan.

2.2. Clarification of the works to be undertaken by the Proponent, Sydney Fish Markets Pty Ltd

The project application includes the construction of public domain works within Fishmarkets Square and the Blackwattle Bay foreshore area. Fishmarkets Square and the Blackwattle Bay foreshore are owned by the State Property Authority (SPA) and NSW Maritime and are leased to Sydney Fish Markets Pty Ltd (SFM). Existing lease arrangements for this portion of the site will not change as a result of the application. It is noted that SFM is a private company that operates the facility.

In 2010, the previous government allocated up to $15 million for public domain works within Fishmarkets Square and Blackwattle Bay foreshore to SPA (not to SFM).

The previous government allocated the ongoing management of the public domain to SPA.

Up to $5.07m was also directly allocated to SFM to assist the Fish Markets to modernise the facility such as the construction of the new car park.

Notwithstanding that these works have been included in the project application, and the Proponent had been nominated as SFM, the works are to be undertaken by SPA. This has been clarified by the Department's Project Delivery Unit, who have been involved in the government steering committee for the overall redevelopment of the Sydney Fish Markets.

The Department notes that whilst the project application includes the construction of public domain works that are included within Schedule 5 of the Ultimo-Pyrmont Section 94 Contributions Plan, these works are on government land for which the government has allocated the funding. On this basis, the private, commercial component of the development, being new buildings constructed by SFM should be levied in accordance with the Contributions Plan.

On this basis the Department considers that development contributions should be levied in accordance with the Ultimo-Pyrmont Section 94 Contribution Plan. To question the rates or the range of facilities and services to be provided in the Works Schedule would require a more detailed review of the Plan and its current validity, which is not appropriate as part of assessment of this application.

2.3 Clarification of contribution calculations

The Department drafted the contributions conditions based on the advice of the Council. The Proponent's consultant reviewed these conditions and raised no objection.

The Department has now requested that the Council outline its method for determining the Section 94 contribution. The Council advised that the contribution was levied on the basis that the application would result in an increase of 7,438m^2 of retail floor space. Based on a retail rate of $134.14/m^2 of gross floor area, the contribution would equate to $997,733.32 (as indicated in Condition B1).

The Council also advised that it did not levy the warehouse component as the EA was unclear as to whether there was a net increase in warehouse floor space or not. Further, due to a misunderstanding of the information presented in the EA, the Council was of the view that the proposal entailed a net increase of 7,438m^2 of retail floor space. This figure is incorrect when cross referenced with Section 3.5 of the EA, which indicated that the GFA would be result in 5,435m^2 of retail floor space and 2,532m^2 of warehouse floor space.

The Proponent has now provided figures for the **net** increase in gross floor space (using the definition in the s94 Plan), which is the appropriate basis to calculate development contributions. This was not provided in the EA. This is shown in the Table below:

Use	Proposed GFA (m^2)	Existing GFA (m^2)	Adjusted GFA (m^2)
Retail	3019	1551	1468
Restaurants	1773		1773
Kiosks	306	26	280
Wholesale	2605	1733	872
Total:	**7703**	**3310**	**4393**

Adjusted GFA takes into account buildings to be demolished. It is noted that the table above contains the GFA approved in Stage 1 by the Council. However, the Council did not levy any contributions in that development consent, on the basis that there was no net increase in GFA as more buildings were being demolished than constructed in that stage. It is therefore reasonable to look at the site as a whole for these calculations.

The resultant Section 94 contribution will be $472,306.94 for the retail/restaurant uses (3521 x $134.14 retail/restaurant rate) plus $34,794.90 (872 x $39.45 warehouse rate), which equates to a total of **$506,707.34**.

This adjustment should also be applied to the Affordable Housing Contribution required by Condition B2. Based on the net increase in 'total floor area', the contribution should be **$167,197.58**.

The Department recommends that Conditions B1 and B2 of the Instrument of Approval be adjusted accordingly, as indicated in the revised Conditions in **Attachment A**.

3. ROADWORKS AND PAID CARPARKING

Condition A6 of the Draft Instrument of Approval requires the Proponent to obtain separate development approval for the operation of the public car park within 'Building A' (A6(4)), as well as the construction of the toll booths and roundabout on Jones Street (A6(5)). Condition A6 reads as follows:

"***A6 OTHER APPROVALS***

The approval of Buildings A and B in no way implies approval for the following:

(1) the internal fit-out of the wholesale spaces and retail units;

(2) the internal fit-out and operation of the tavern and food premises;

(3) building identification signage and business identification signage;

(4) operation of the car park within Building 'A'; and

(5) the installation of the proposed toll booths and construction of the proposed roundabout on Jones Street

Separate approval(s) must be obtained from the relevant authority for the above works and uses".

A discussion outlining the rationale behind Condition A6(4) and (5) is provided below.

3.1 Operation of the Car Park within Building A

The Department considers that the application proposes limited detail in relation to:

- the hours of operation of the car park,
- the proposed fee structure (only a maximum rate is specified in the application); and
- the ongoing management of the car park, in terms of the detail of the sensory parking system the Proponent has committed to installing in its Statement of Commitments.

In order to address these issues, the Department recommended that the Proponent lodge a separate application for the operation of the car park as reflected in Condition A6(4)

The Department has reviewed this requirement, and considers that subject to the imposition of the following condition, the operational aspects of the car park could be managed.

"E11 CAR PARK MANAGEMENT PLAN

Prior to the operation of the car park, the Proponent shall prepare a Car Park Management Plan to be submitted to Council for review and to the Director-General for approval prior to the issue of the first Occupation Certificate for Building A. The Car Park Management Plan must:

a. Provide details on the hours of operation of the car park;
b. Detail all proposed fee structures; and
c. Provide details on the ongoing use and management of the car park".

Note: *The proposed fee structure should be designed to discourage commuter car parking.*

Furthermore, the Department recommends the deletion of Condition A6(4).

3.2 Toll Booths and Jones Street Roundabout

The Council advised that it raised concerns with the construction of the toll booths and roundabout on Jones Street for the following reasons:

- the toll booths would privatise Jones Street and the Council objects to the installation of the toll booths until a lease for the use of Jones Street by SFM is executed; and
- the proposed roundabout is located over two separate land parcels which are not under the same ownership (Council and SPA). In this regard, the Council objects to the construction of the roundabout until appropriate leasing arrangements are in place.

Subsequent to the finalisation of the Director-General's Report, SPA advised the Department that it is currently negotiating the purchase of Jones Street. Given the above, the Department considers that the City's concerns will be addressed once the purchase of Jones Street is finalised and recommends the deletion of Condition A6(5).

RECOMMENDATION

It is RECOMMENDED that the NSW Planning Assessment Commission:

- **consider** the information provided within the Supplementary Director-General's Environmental Assessment Report, as outlined above; and
- **approve** the project application; and
- **sign** the amended Instrument of Approval provided at **Attachment A**.

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27/5/11

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