

2 September 2024

Our Ref: R/2022/15/D
File No: 2024/503321
Your Ref: SSD-33258337-MOD-2

Annika Hather
Department of Planning, Housing and Infrastructure
via Major Projects Planning Portal

Dear Annika,

Request for Advice on Modification – Toga Central - SSD-332-58337-MOD-2

Thank you for your correspondence dated 16 August 2024 inviting the City of Sydney (the City) to comment on the Request for Advice on Modification in relation to MOD 2 – Design Development for the Toga Central development at 2-8A Lee Street, Haymarket.

We appreciate the opportunity to review the modification report submitted by the proponent.

We have considered the information provided and advise that the City objects to the modification of condition 59 relating to the offset of contributions. There are also several key concerns that are to be addressed.

1. Contributions

The City remains of the view that a 3% development contributions levy in accordance with the Central Sydney Development Contributions Plan 2020 should be paid in relation to the development in its entirety.

The City maintains an objection to the current wording of development contributions condition (Condition C59) which allows the cost of works in relation to the reuse of the former Parcels Post building (fPPb) to be excluded from the development cost for contributions purposes and allows works related to the embellishment of the upper level of Henry Deane Plaza to be offset from development contributions. The City asserts that Condition 59 as is currently drafted is defective and it should be amended to remove sections C59(e) and C59(f).

The City objects to the further modification of Condition C59, on the following grounds:

- The proposed works are not listed in the schedule of works in the Central Sydney Development Contributions Plan 2020 nor are they specifically identified in a Council approved DCP. The City's approach is to only allow for offsets against local contributions in instances where the applicant is proposing to provide works which have been identified for delivery through a contribution plan's schedule of works or within an approved DCP.
- There has been no offer for the proposed works to be dedicated to the City once complete. It is the City's approach that local contributions offsets only be granted for projects when completed works are to be dedicated to, owned and managed by the City as local assets.
- The structural and engineering works required are enabling development – they are critical to getting levels right in this section of the development. The lower level requires a slab above to form a roof to enclose the area – this is required for it to function.

- Despite the justification put forward by GLN Planning consultants that the primary purpose of this lower level is to provide public access and pedestrian connections from Central Station to Lee Street, it remains that this is largely an enclosed space that will have commercial and retail functions. Furthermore, the thoroughfare being delivered by the lower level is what would be expected as part of the typical planning and urban design process to bring about improvements in a location so close to a key railway station. The lower level works are not what would typically meet the threshold to be described as local infrastructure. It is unreasonable to expect offsets against contributions for such works.
- No arrangements have been put in place to ensure that the upper level is kept publicly accessible at all times (and not leased commercially), given that local contributions offsets have been granted via condition 59 in relation to this space.
- The demolition work is associated with the wider redevelopment of the site. It is needed to make the site's redevelopment possible. There is no public benefit to be derived from the demolition work itself, and therefore it would be inappropriate for offsets from contributions to be provided for demolition.
- The entry ways and vertical circulation are required as a fundamental part of the development – they are needed to make movement around the development possible and to achieve a good planning outcome. The lifts would also be required for DDA compliance, and will require ongoing upkeep and maintenance (that the City will not be involved in if the lifts are not a City asset). It is not considered appropriate to provide offsets for contributions for these aspects of the development.

In summary, the City's position on the amendments to Condition C59 is they are unacceptable and should not be agreed to.

2. Gross floor area

The development, as modified, proposes a Gross Floor Area of 43,000sqm, comprising 28,357sqm commercial office floor space, 9,576sqm hotel floor space and 5,067sqm retail floor space. This fully utilises the permissible GFA of 43,000sqm under Clause 6.53(7)(c) of the Sydney LEP (SLEP) 2012 and is referenced in Condition A12 of the consent. This is the key mechanism for ensuring the proposal complies with the maximum GFA permitted.

On 26 September 2023, City staff wrote to the Department via email correspondence raising concern about several areas that had been excluded from the GFA diagrams that should have been included in accordance with the definition of GFA in the SLEP 2012. This includes, but is not limited to, bathrooms on the ground floor, large quantities of storage, bathrooms and lobby space on the lower ground floor, and end of trip facilities (with the exception of bicycle parking), bathrooms, and habitable rooms in the basement levels.

The GFA diagrams containing incorrect exclusions have been stamped and form part of the approved drawing pack for the State Significant Development Application (SSDA). This creates an incompatibility between the approved GFA of 43,000sqm and the actual GFA accommodated within the proposed building.

The proposed modification continues to incorrectly exclude bathrooms, storage (at lower ground), lobby space and back of house areas, end of trip facilities (with the exception of bicycle parking), and habitable rooms in the basement levels. This creates an incompatibility between the approved GFA of 43,000sqm and the actual GFA accommodated within the proposed building.

Recommendation

The City does not agree with the calculation of GFA as depicted in the GFA diagrams prepared by Bates Smart. Noting the inconsistencies identified above, it is recommended that the actual GFA is adjusted to align with the definition of GFA in the SLEP 2012 and comply with the 43,000sqm maximum permitted.

3. Landscape

The overall design of Henry Deane Plaza is poorly resolved and does not achieve design excellence. It has not been adequately demonstrated that the water feature, nor the triangular and rectilinear forms of planters or exhaust risers within the public domain, allows for Henry Deane Plaza to continue to be an accessible multifunctional space as per 3.1.1 (Publicly accessible managed space) of the Design Guide – Western Gateway Sub-precinct.

The Landscape Plans must be updated to address the following recommendations:

Palm trees and landscaping on the Lee Street stairs

The realignment of the palm trees is supported in principle. However, the modification also includes the removal of mass planting at the base of the palm trees. Whilst the planters were requested to be removed by the Design Integrity Panel, the City contends that the current design is still a poor outcome and can be further rationalised.

The placement of palm trees may also be problematic.

- The two southernmost palm trees south of the cafe seating area are within the desire line from Lee Street to the future OSD connection.
- The single palm tree at the very top of the Lee St stairs is in a poor location.
- Two Livistonas are proposed within one of the new raised planters. Plans do not indicate allowance for soil vaults to accommodate the palm trees.

Overall design language

The City supports the inclusion of additional planters with seating in the precinct. The design of the planters in plan, section and materiality, however, are not adequately resolved, and do not present a cohesive design language with other elements in the plaza.

There are filleted triangular forms of the new planters, filleted rectilinear forms of planters near the Lee Street steps and cylindrical forms of the stone seats and exhaust risers. The forms do not take their cue from the existing site or the surrounding architecture, and do not appear to respond to the pedestrian flows and uses across the site.

Exhaust risers

The increase in exhaust risers in the plaza is not supported. As proposed, the design approach to conceal some risers and accentuate others is not adequate. The risers are an unwelcome obstruction in the plaza as they are not integrated into the public domain. The City remains unsupportive of locating the risers in the public domain, rather than accommodating them in the private domain that generated the need for the risers. The prioritisation of the private domain over the public domain is not an appropriate outcome.

Water feature

The water feature's awkward positioning in Henry Deane Plaza reduces the amount of area for people to dwell and move and creates a pinch point between the feature and Block B.

The design of the new water feature in plan, section and in materiality does not demonstrate the level of design required for a high quality public domain. The drawings do not indicate location and extent of equipment, such as tanks and pumps, required for the water feature.

Recommendations

- (a) Landscaping should be provided at the base of the palm trees in well designed planter beds integrated with the stairs and handrails. The design should make it clear that the area between the two hand rails is not accessible.

- (b) Review the design across the plaza to ensure a high quality and consistent design language. The forms of the planters, water features need further consideration, and strategies or detailing to unify the proposed materials is required.
- (c) The location of the exhaust risers within the plaza is not supported.
- (d) Confirmation is required in relation to the equipment required for the water feature, and their location.
- (e) Review location of all proposed palm trees to ensure that they do not obstruct major pedestrian movement paths.
- (f) Review design to ensure that slab design accommodates all proposed palm trees with soil vaults.
- (g) New areas of landscaping proposed in the building as part of this modification should be included in the landscape plans.

4. Tree management

Tree planting

The revised landscape plan and report by Arcadia dated July 2024 indicates that no additional tree planting has been proposed. The total number of tree plantings (23) and species selection remain unchanged to previous design plans.

The submission indicates that alterations have been made to the planting locations of the *Livistona australis* (Cabbage Palm) within the site. The increased spacing of these palms has provided a slight increase in canopy of 72sqm giving a total of 10.95% coverage. The existing canopy of the site has been indicated as 16.9%.

As a guide, the City's expectation for a site of this scale would be 30% canopy coverage in accordance with our Urban Forest Strategy. Our position is that additional canopy coverage should be achieved on the site. In previous submissions to the SSDA, the City recommended that canopy coverage is to be increased to reduce the heat island effect within the large open plaza area. This should still be considered as part of the modified design.

Soil volumes

The submission indicates that soil volumes per tree have not changed from the previous design and are consistent with the approved development. Soil volumes, however, are inadequate for the planting of the 4 large broad canopy trees (two *Angophora costata* (Sydney Red Gum) and two *Eucalyptus parramattensis* (Parramatta Red Gum)) and are not consistent with the recommended soil amounts contained in the Sydney Landscape Code Volume 2 for on structure planting.

The submitted soil report by The Urban Soil Doctor dated June 2024 has referenced the Sydney Landscape Code Vol 2 regarding minimum soil quantity amounts for on structure planting. The report states that these recommended amounts can be greatly reduced if the planting areas are irrigated regularly using well drained, fertilised soils. The report has used the Soil Volume Simulator (Leake and Haeger) to calculate sufficient soil volumes for the site and has concluded that the following tree sizes can be installed within one of the 57.5m³ areas containing the larger broad canopy trees:

- 3 x small tree
- 2 x medium trees
- 2 x tall trees

Although the report outlines that these soil amounts would support the current planting quantities, the report does not take into consideration the root mass for the proposed tree species. Cabbage

palms would be considered as tall trees however have a far less root mass than *Angophora costata* and *Eucalyptus parramattensis* which are also considered as tall trees. It is therefore inconclusive if the above soil volume calculations are correct to support the proposed planting.

Additionally, *Eucalyptus parramattensis* is not listed on the City of Sydney Tree Species list and therefore not one of the recommended species that is expected to adapt to the City's predicted climate changes. It is recommended that this species is substituted for a large broad canopy species which is listed on the City's recommended tree species list that will thrive with future climatic conditions.

Recommendations

- (a) The soil volumes and planting distances for the canopy trees should be increased to meet the requirements of the Sydney Landscape Code Volume 2 to ensure the trees remain viable for the long term.
- (b) The two *Eucalyptus parramattensis* are to be substituted for large broad canopy species as per the City of Sydney Tree Species List recommendations.
- (c) The proposed canopy coverage remains inadequate for this site and our position remains that this should be increased for a development of this scale.

5. Waste management

The original hotel waste storage area included space for bulky waste and equipment, such as a bin press, food dehydrator, crushed glass bins and a baler. The total space provided was 47.3sqm. It appears from the comments in the Waste Statement that TOGA has advised that its brief is to provide 20sqm of waste storage per 200 rooms as this will be adequate for the hotel.

The revised architectural plans show that the smaller waste storage area stems from the basement excavation of the site being significantly cut back.

Recommendations

- (a) Insufficient detail has been provided as to the layout and functionality of the hotel waste storage. The reduction in space of the hotel waste storage area does not provide for space requirements for the source separation of waste.
- (b) Confirmation is to be provided as to whether the proposed waste storage area changes will impact the building being able to achieve a minimum five-star Green Star Design and As built rating (version 1.3). Changes to waste storage area do not appear to be in-line with Green Star benchmarks in operational waste reduction by providing facilities to collect, process and store multiple waste streams.

6. Heritage

Reorientation of internal stair

The City is concerned that the proposed stair and additional planting appears to abut the fPPb. The approved design provided a space, separating old and new, between the stair and the walls of the heritage building. This allowed for the facade to be visible. The proposal obscures the heritage fabric which is not supported. Additionally, it is recommended that the escalator be retained for ease of pedestrian movement.

South junction of brick retaining wall modified

The City raises concern with the partial removal (and non-reinstatement) of the highly significant brick retaining wall on the site boundary. This would have a negative impact on a significant element of the heritage item.

Recommendation

- (a) The south junction of the brick retaining wall should be retained and/or reinstated.
- (b) The City recommends that the stairs be separated from the external facade of the fPPb, similar to what was approved, in order to provide a level of protection to the retained building elements. More detailed drawings are to be provided to clarify how the facade of the building will be protected.

7. Urban Design

The City is generally supportive of the replacement of Juliet balconies with louvres to the hotel rooms. It is recommended that the operability of the louvres be confirmed.

It is also unclear whether the solar panels on the roof area and increase in size of the rooftop plant will encroach into the Prince Alfred sun access plane.

Recommendations

- (a) Further information is requested on the operability of the hotel room louvres, noting the upper louvre may be too high to be operated manually.
- (b) Ensure the proposed additional solar panels and rooftop plant do not encroach into the Prince Alfred sun access plane.

8. Parking and loading

The modification report states that there is no change to interim and end state vehicle access, however it is noted that application proposes interim access via a cut through to Block A and end state access via a cut through to Block B (with an adjacent cut through from Block B to A). This modification results in less separation of service vehicle and general car access movements, noting cars now drive past the active loading dock prior to entering through the boom gates. Notwithstanding, this is not atypical for developments in the City and therefore we have no objection. Further, management of the dock will need to be endorsed by the City prior to the issue of an Occupation Certificate as per consent condition F17.

No objection is raised in relation to the revised bicycle parking design on basement level 2, nor the introduction of an additional motorcycle parking space.

Recommendations

- (a) Confirmation is to be provided in relation to whether the End of Trip facilities continue to provide a bike repair station; and
- (b) It is recommended that the respondent confirm the revised design continues to align with the adjacent sites and confirm that the neighbours continue to support the revised proposal – noting they previously provided a letter of support.

In summary, the City does not support any proposal for offsets against local infrastructure contributions for the works to Henry Deane Plaza and the Lee Street tunnel.

There are also key issues with the proposal, some of which were raised in our previous submissions to the original SSDA. The recommendations provided should be implemented prior to determination to ensure all issues are adequately resolved.

Should you wish to speak to a Council officer about this advice, please contact Jessica Symons, Senior Planner on 9265 9333 or at jsymons@cityofsydney.nsw.gov.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'B. Pechey', with a stylized flourish at the end.

Benjamin Pechey
Acting Director

City Planning | Development | Transport