

**ITEM 3. SYDNEY LIGHT RAIL PROJECT – PROPOSAL TO VARY DEVELOPMENT AGREEMENT****FILE NO: S124266****SUMMARY**

The CBD and South East Light Rail is a new light rail route for Sydney, currently under construction by Transport for NSW (TfNSW). The project budget is \$2.1 billion and the City is contributing \$220 million to the project for public domain upgrades and improvements, including the pedestrianisation of George Street between Hunter and Bathurst Streets.

In December 2013, Council approved a Development Agreement (the Agreement) with TfNSW, which included the City's requirements for world class urban design outcomes, protocols and conditions for the payment of the City's financial contribution. The City has been working with TfNSW and the light rail private consortium, ALTRAC, to develop and refine the design of the project, with particular reference to public domain outcomes included in the Agreement.

TfNSW has formally requested that the City vary the Agreement (Attachment A), moving proposed trees, lighting poles and other street fixtures in the George Street pedestrian zone further away from the light rail tracks than was specified in the Agreement, in order to accommodate findings of the Independent Safety Consultant (Attachments H and I).

Following careful consideration, the City has agreed with the consultant's advice. Transport for NSW requests the City urgently consider and approve the variation to the light rail offset requirement for fixed street elements so as not to delay or hinder construction and completion of the light rail.

This report provides detailed background information regarding the variation request and seeks Council approval to vary the Agreement. This report also updates Council on other current compliance issues, which City officers, together with TfNSW, are continuing to resolve.

**RECOMMENDATION**

It is resolved that:

- (A) Council approve the variation to the Development Agreement as per amendments shown in Attachment B to the subject report;
- (B) authority be delegated to the Chief Executive Officer to finalise the variation and enter into any documentation required to vary the Development Agreement;
- (C) Council note the status of obligations under the Agreement, as shown in Attachments F and G to the subject report; and
- (D) Council note that Council officers will continue to take all actions under the Development Agreement to ensure that Transport for NSW complies with its obligations under the Development Agreement, including further resolution of tree, paving and surface gradient issues, to achieve a world class, functional and high quality public domain in the pedestrianised area between Hunter and Bathurst Streets, in accordance with the Agreement.

**ATTACHMENTS**

- Attachment A:** Transport for NSW proposal to vary the Development Agreement
- Attachment B:** City of Sydney amended proposal to vary the Development Agreement
- Attachment C:** Tree numbers and locations
- Attachment D:** Stop Infrastructure (Kit) and Canopies
- Attachment E:** Effect of DKE Offset Increase on Flex-Zone
- Attachment F:** Current compliance with Fundamental Obligations
- Attachment G:** Current compliance with Other Obligations
- Attachment H:** Report – George Street Pedestrian Zone – DKE Offset Safety Assessment (Confidential)
- Attachment I:** Report – George Street Pedestrian Zone: Offset of Objects from LRV DKE (Confidential)
- Attachment J:** Presentation – Public Domain DKE Offset Pedestrian Precinct (Confidential)
- Attachment K:** Paving Gradients Analysis (Confidential)

**(As Attachments H to K are confidential, they will be circulated separately from the agenda paper and to Councillors and relevant senior staff only.)**

## BACKGROUND

1. The CBD and South East Light Rail is a new light rail route for Sydney, currently under construction by TfNSW. The project budget is \$2.1 billion and the City is contributing \$220 million to the project for public domain upgrades and improvements, culminating in the pedestrianisation of George Street between Hunter and Bathurst Streets, and other improvements in Surry Hills.
2. The City's financial contribution is to be paid over the life of the project to an agreed payment schedule listed in the Agreement and is dependent on the project delivering certain urban design outcomes outlined in the Agreement's Fundamental Obligations.
3. The Sydney Light Rail Project Deed between TfNSW and ALTRAC nominates a crucial role for the Independent Certifier in ensuring that the works are carried out in compliance with the Project Deed, the Project Deed's Scope and Performance Requirements, planning approval conditions and in accordance with the City's requirements under the Agreement. The Independent Certifier has oversight of the quality assurance systems, inspection and test plans for all works, including design, construction and in-ground services and drainage.
4. The Agreement's Recital (Part A, Recital F) outlines the City's wish 'to ensure the effective integration of the Project and the Public Domain to achieve a world class, functional and high quality Public Domain.' The parties agreed that the purpose of the Agreement was to 'integrate the Project and the Public Domain as contemplated in this Agreement in a manner that achieves a world class, functional and high quality Public Domain (to the extent impacted by the Project) and realises value for money for the City Contribution' (Clause 1.1 (v)).
5. This report outlines the request from TfNSW to vary the Agreement and covers the status of the Fundamental Obligations and other general outstanding issues.

## KEY IMPLICATIONS

### Formal Request from TfNSW to vary the Agreement

6. The City has received a formal request from TfNSW (Attachment A) to vary the Agreement (Schedule 4 Fundamental Obligations, Items 2 and 7); to move the line of proposed Smartpoles and trees within the pedestrianised area (between Hunter and Bathurst Streets) away from the Light Rail tracks based on advice from the project's consultants and endorsed by the Independent Safety Assessor. The City has proposed amendments to the Agreement variation proposal (Attachment B). The amendments have been accepted by TfNSW.
7. Annexure H of the Agreement specifies the alignment of Smartpoles, trees, and public domain furniture as being between 0.9m to 1.4m from the outer reach of the light rail vehicle zone of influence (DKE), maximising the extent of continuous new pedestrian space.
8. TfNSW has requested, based on the advice provided by the Independent Safety Assessor, and safety studies (Attachments H, I and J), that the alignment move to 2.1m from the outer face of Smartpoles and trees. Over recent months, the City, with TfNSW, has tested this proposal, including workshops with safety experts.

9. The impact on the proposed flexible area of the George Street pedestrian zone (outlined in George Street 2020) is substantial. The flexible area is located between the clear footpath thoroughfare and the light rail track area, allowing seats, benches, outdoor dining and other activation activities. Illustrated in Attachment E, the impact of the variation represents a 20% reduction in the total flexible area in the pedestrian zone.
10. While the City recognises the significant impact to the City's original vision, following considerable testing and examination, it is acknowledged that this issue is driven by pedestrian safety assessments and requirements.
11. The City has also been working with TfNSW to ensure that realignment of street trees and fixtures, in accordance with expert safety advice, results in an acceptable public domain outcome for the City, largely reflecting the City's original vision for George Street pedestrian area.
12. The City maintains that any alignment changes should not impact the number of proposed trees. The adjustment of tree and pole locations has been checked on site and gives the City confidence that an acceptable number of trees (68 likely locations) can be planted (Attachment C) compared to the alignment currently nominated in the Agreement. The new alignment also shifts potential tree locations further away from proposed underground services adjacent to light rail tracks, increasing the number of likely tree locations. While there is a reduction in the amount of flexible space in the street, there is still adequate opportunity for activation. It is, however, imperative that paving and surface gradients be further resolved to achieve a world class, functional and high quality public domain in the pedestrianised area.
13. Following careful consideration, the City has agreed with the consultant's advice. Transport for NSW requests the City urgently consider and approve the variation to the light rail offset requirement for fixed street elements so as not to delay or hinder construction and completion of the light rail.

#### **Status of Obligations under the Agreement**

14. In order to provide Council with a full picture when making its decision to vary the Agreement, Attachment F outlines current compliance with light rail design documentation against the fundamental obligations in the Agreement.
15. Attachment G outlines current compliance with other obligations in the Agreement. These include public art, provision of spare conduits for underground utilities, pocket park and intersection design in Surry Hills, public domain surface finishes, flooding, non-potable water infrastructure, substations, permanent city asset locations, Green Square light rail interface and thermal reticulation.
16. During the design process, the City has raised a number of issues in relation to the proposed canopy lengths it considers extensive within the pedestrian area on George Street and stop infrastructure designs that are not minimal, particularly on the QVB and Wynyard stops. The Independent Certifier has ruled that these issues are compliant with the Agreement. The City does not concur with this ruling and reserves its rights under the Agreement.
17. Notwithstanding Council's endorsement of the recommendation of this report, the City will reserve its right under the Development Agreement to pursue compliance of all obligations.

## Strategic Alignment

18. The completion of the light rail and pedestrianisation of George Street deliver on several of the key Big Moves and Directions in Sustainable Sydney 2030. Sustainable Sydney 2030 is a vision for the sustainable development of the City to 2030 and beyond. It includes five big moves and 10 strategic directions to guide the future of the City, as well as 10 targets against which to measure progress. *The Sydney Light Rail* is aligned with the following big moves and strategic directions:
- (a) Big Move 2 – Integrated Transport – The Sydney Light Rail provides a sustainable high-volume transport alternative which works towards delivering a city centre light rail loop, integrating and connecting with other public and private transport modes.
  - (b) Direction 1 – A Globally Competitive and Innovative City – The Sydney Light Rail offers a high degree of connectivity to the civic heart of the City and its job market. Combined with other transport modes, the light rail enhances accessibility across the City’s local government area (LGA), making it a more attractive place to live, work and visit. The pedestrianisation of George Street, delivered as part of the light rail, will make the City much more pedestrian friendly, attracting investment and businesses to the City central spine. All these initiatives will strengthen the city’s competitiveness, locally and globally.
  - (c) Direction 3 – Integrated Transport for a connected City – The Sydney Light Rail will provide a high-volume public transport option for residents, workers and visitors. By connecting to other transport modes and providing an integrated transport network, increased accessibility across the LGA has the potential to further encourage public transport usage, reducing road congestion, therefore enhancing the urban environment in the City.
  - (d) Direction 4 – A City for Walking and Cycling – By reducing road congestion in the City, and improving the public domain and pedestrianising parts of George Street, the light rail will improve the City’s walkability, further encouraging both modes of ‘healthy’ movement.
  - (e) Direction 5 – A Lively and Engaging City – Proposed public domain improvements along the light rail corridor will enhance the City’s public domain identity and allow for more places in the City to meet, play or just sit. The proposed George Street Boulevard through which the light rail travels, will provide the city with an identifiable high-street; an activity focus for city centre worker and visitor communities.
  - (f) Direction 7 – A Cultural and Creative City – The light rail project has provided the catalyst for significant public art projects which have the potential to become a symbol for the public life of Sydney, both in Australia and around the world. These artworks have the potential to delight people as they travel north-south through our City providing legibility to the civic spine of George Street, further cementing Sydney’s reputation for creativity and culture in the 21<sup>st</sup> Century. The reinforcement and visibility of the City’s cultural life in our public spaces will contribute to the establishment of Sydney as a cultural and creative city both nationally and internationally.

- (g) Direction 9 – Sustainable Development Renewal and Design – The Sydney Light Rail project, in addition to providing a sustainable transport option for its citizens and visitors, has the potential for good urban design which contributes to the liveability of the City. By improving the City's central boulevard, George Street, in alignment with the George Street 2020 Strategy, the proposed public domain has the potential to enhance public life within the city centre.

### **Economic**

19. According to TfNSW's Business Case (November 2013), the Sydney Light Rail will deliver an estimated \$4 billion in benefits to Sydney and NSW. A breakdown of benefits includes: \$308 million in environmental and health benefits; \$333 million in benefits for pedestrians; over \$2 billion in benefits for public transport customers; \$264 million in benefits for road users; \$707 million in operating savings; and \$222 million in wider economic benefits. In addition to fiscal benefits, an estimated 10,000 jobs will be created.
20. Design of the George Street pedestrianised area is intended to provide opportunities for activation of public spaces between the building line and the light rail corridor clearance. This will create commercial opportunities, to be realised by the various building owners and businesses.
21. This economic uplift will be affected by the proposed change to the DKE offset distance. The original flexible area ranged in width from 6.1m to 3.3m, but this has been reduced to a range between 4.8m to 2m (Attachment E). While there is a reduction in the amount of flexible space in the street, there is still adequate opportunity for street activation. New flexible space will still exist, however it will not be contiguous in the pedestrian area. Rather, it will be co-located in line with street trees.

### **Social / Cultural / Community**

22. There are significant benefits to City stakeholders in the successful completion of the project in accordance with the Agreement. Benefits include better pedestrian amenity and safety, and greatly improved environmental conditions in the CBD, as well as more opportunities for retail activity.

### **Environmental**

23. Light rail will remove a large number of buses from the CBD and provide a reliable mode of public transport with increased capacity.
24. The urban environment will be greatly improved as a result of the requirements of the Agreement, with increased tree canopy cover throughout the city centre.
25. Overall, the project will provide 25,000m<sup>2</sup> of new public space and approximately 68 new trees in the pedestrian area, where there are currently only two.

### **BUDGET IMPLICATIONS**

26. The December 2016 contribution amount of \$47.1 million (plus GST) was paid as per the Development Agreement, upon receipt of invoice in May 2017.
27. To date, the City has paid \$115.3 million (plus GST) of the full contribution of \$220 million approved by Council in December 2013.

28. The next contribution of \$63.6 million (plus GST) is scheduled for December 2017, subject to compliance with the Agreement.

**RELEVANT LEGISLATION**

29. The project was approved as State Significant Infrastructure under Section 115ZB of the Environmental Planning and Assessment Act 1979.
30. TfNSW has requested that Attachments H, I, J and K remain confidential, as they relate to ongoing matters that have not been fully resolved. The Attachments contain intellectual property and commercial information which, if disclosed, may confer a commercial advantage on a party with whom TfNSW is conducting (or proposes to conduct) business; and prejudice the commercial position of the person who supplied it. Attachments H, I and J have been provided to the City by TfNSW and Attachment K has been generated from data provided by TfNSW. In accordance with the Local Government Act 1993 Clauses 14-16, discussion of the matter in an open meeting would, on balance, be contrary to the public interest because it would compromise Council's ability to negotiate fairly and commercially with TfNSW to achieve the best outcome for its ratepayers.
31. The City has signed a Confidentiality Deed Poll with TfNSW (June 2013).

**CRITICAL DATES / TIME FRAMES**

32. Transport for NSW requests the City urgently consider and approve the variation to the light rail offset requirement for fixed street elements so as not to delay or hinder construction and completion of the light rail.
33. The light rail is scheduled to commence revenue services by the first quarter of 2019. While the contractor remains confident of this date, parts of the construction works are behind the original published schedule. This has resulted in a number of changes to start and finish dates for some zones, in particular Zones 16, 17 and 18 in Surry Hills.

**PUBLIC CONSULTATION**

34. Public consultation is being managed by TfNSW through the CBD Coordination Office. The City is working closely with this office on all aspects of community involvement.
35. TfNSW have released a number of videos and images of the project on the Light Rail website at <http://www.sydneylightrail.transport.nsw.gov.au/gallery>
36. Other images of the progress of the works are available at: <https://www.flickr.com/groups/2678362@N22/pool/with/19127986649/>

**KIM WOODBURY**

Chief Operating Officer

Bridget Smyth, Design Director