

Item 12

Cloud Arch Project and Tender Report

File No: S124276.003

Tender No: RFT 1825

Summary

This report provides an update on the City Centre major public art project Cloud Arch and recommends the deferral of the project.

Despite the obligation to allow the City access to the site for the installation of the footings in the Light Rail Development Agreement, Acciona (Light Rail construction subcontractor) has to date denied access. This, together with other Light Rail construction factors, has resulted in a number of changes to the design of the footings and the superstructure for Cloud Arch, which has resulted in more complex construction needs, cost increases and time delays.

Responding to Sustainable Sydney 2030 and the transformation of George Street, Junya Ishigami's proposal for Cloud Arch was endorsed by Council in July 2014 as a unique opportunity to highlight Sydney's main boulevard and the important civic precinct of Sydney Town Hall.

Partridge Event Pty Ltd was engaged by the City as the head contractor for the project, with Junya Ishigami (the artist) engaged as a sub consultant. A revised budget and delivery strategy was endorsed by Council in August 2017.

That budget was developed with information from 60 manufacturers and five companies – all of whom expressed strong interest in building the artwork. It was based on the work being completed before Light Rail started operating and the assumption that Park Street could be temporarily closed for the installation of the footings and construction of the arch.

Following a number of major design revisions, the City received development approval for the footings in August 2016. This design was approved with conditions by Sydney Trains, Roads and Maritime Services (RMS) and Transport for NSW (TfNSW).

The City continued working to satisfy all the conditions of consent to achieve a construction certificate for the northern footing. However, Acciona denied the City access to the site, citing concerns about their own construction timeline even with revised staging and a reduced footing construction period.

Despite knowing the City's plans, Acciona then laid underground Light Rail services and rails from January 2017 to April 2017 in the area where the northern footing was to be located. However, the remaining sections of track slab, rails and services between the Queen Victoria Building and Park Street were not laid until July this year, which suggests that if the City was granted access when requested, it would not have disrupted Acciona's timeline.

As a result of the above, the City was required to develop a modified footing design with TfNSW to allow for construction under the Light Rail slab. This redesign of the footing required a complex and more expensive micro tunnelling approach.

Acciona have since installed conduits outside of the Light Rail corridor and through the modified footing area which has meant yet another redesign, delay and further expense.

The current program for the Light Rail works recently provided to the City only allows a window from January to April 2019 to install the northern footing. This time is now insufficient to undertake the necessary works.

Accordingly, it will be impossible to install the northern footing for Cloud Arch before the Light Rail opens for operation.

Tenders for the fabrication and installation of Cloud Arch were sought for the fabrication and erection of the artwork in January 2018.

All the design changes that have needed to be undertaken because of the denial of access have altered the project scope, delayed installation and increased the overall project delivery costs to approximately \$22M.

Specifically, the increase in costs is a result of:

- Acciona installing Light Rail power conduits outside of the Light Rail corridor and through the approved northern footing area, which resulted in further redesigns and the need for a much more complex and expensive footing installation;
- tenders for the arch fabrication and installation were higher than the pre-tender estimate due to high demand for metal fabrication works in Australia at the present time and because the City was not granted consent to temporarily close a section of Park Street for construction during weekdays which essentially meant the City would need to build and remove scaffolding every weekend during the construction period; and
- increased contingency costs due to the increased complexity of both the footing and arch installation.

If the project were to go ahead, there is a risk it could continue to be hampered given the complexity and current progress of the Light Rail project itself.

Therefore, given the access issues and the fact that the cost has increased, it is recommended that Council defer the Cloud Art project until after Light Rail is completed and review its installation as part of the future Town Hall Square project. Funding for the project will need to be endorsed by Council.

Recommendation

It is resolved that:

- (A) Council note that the design of the footings and superstructure for Cloud Arch has had to change on a number of occasions due to the inability for access to be provided by the Light Rail construction subcontractor Acciona at various times during the construction of the Light Rail project. This has resulted in more complex construction, cost increases and time delays;
- (B) Council note that the current program for the Light Rail works recently provided to the City would only allow a window from January to April 2019 to install the northern footing for Cloud Arch. This time is insufficient to install the footing;
- (C) Council note that, based on the reasons set out above, it is considered impossible to install the northern footing for Cloud Arch before the Light Rail opens for operations;
- (D) Council note that the current estimate for the Cloud Arch project has increased to approximately \$22M;
- (E) Council approve the deferral of the Cloud Arch project until after the construction of Light Rail is completed so that the feasibility of incorporating Cloud Arch into the future Town Hall Square project can be considered, noting that funding for the future Town Hall Square project will need to be considered in future budgets;
- (F) Council cancel the proposal for the contract in relation to the tender for the fabrication and installation of Cloud Arch (Request for Tender No 1825);
- (G) Council approve that the Chief Executive Officer terminate the remaining parts of the existing contract with Partridge Event Pty Ltd, for the design of Cloud Arch and installation of footings; and
- (H) authority be delegated to the Chief Executive Officer to finalise negotiations and enter into any documentation required to give effect to the termination as approved by Council.

Attachments

- Attachment A.** Correspondence Relating to Access to Construct Cloud Arch Footings (Confidential)
- Attachment B.** Tender Details (Confidential)

Background

1. As part of the extensive consultation undertaken for Sustainable Sydney 2030, the City heard that people wanted more public art in their city. In response to these calls, the directions for a 'Cultural and Creative City' and a 'Lively and Engaging City Centre' were articulated through Sustainable Sydney 2030.
2. Delivering on these directions, the City Art Public Art Strategy and associated public art policies were endorsed by Council in 2011. The Strategy outlines the City's commitment to the delivery of public art in the City's public spaces as an integrated part of the public domain planning for the City.
3. Building on this important work, the City Centre Public Art Plan was endorsed in June 2013 and the George Street Concept Design was adopted by Council in September 2013. The City Centre Public Art Plan outlined the City's commitment to a significant public art program as a core element of the transformation of the city centre.
4. Following an international competition, Council awarded a tender to Partridge Events for Cloud Arch by Junya Ishigami in July 2014. Cloud Arch is a painted steel arch spanning George Street, resting on two concrete footings located below ground. The northern footing is located adjacent to the Queen Victoria Building. The southern footing is located diagonally opposite in Park Street, next to the location of a future Town Hall Square. The arch spans the intersection diagonally, twisting and tapering as it rises. Cloud Arch will define our city's major transport interchange and civic heart, allowing trams and people to pass under it. The large swell made by the loop of the arch will frame the clock tower of Town Hall and contrast with the important heritage buildings at the heart of the city.
5. Following a number of major design revisions, the City received development approval for the footings in August 2016. This design was approved with conditions by Sydney Trains, Roads and Maritime Services (RMS) and Transport for New South Wales (TfNSW).
6. The City continued working to satisfy all the conditions of consent to achieve a construction certificate for the northern footing. However, Acciona, the Light Rail construction contractor which has control of the Light Rail work site, confirmed in January 2017 that there were no windows of opportunity for this footing to be constructed, even with revised staging and a reduced footing construction period (see Attachment A – TfNSW's letter dated 16 February 2017). Acciona then laid Light Rail services and rails from January/February 2017 until March/April 2017 in the area where the northern footing was to be located. The remaining sections of track slab, rails and services between QVB and Park Street has only been laid by Acciona between July and October 2018.
7. The City then developed a modified footing design with TfNSW to allow for construction under the Light Rail slab. This redesign of the footing required a complex and more expensive micro tunnelling approach.
8. Acciona have since installed conduits outside of the Light Rail corridor and through the modified footing area which has meant yet another redesign, delay and further expense to install the Cloud Arch footings.

9. Despite the obligation to provide access in the Light Rail Development Agreement relating to the installation of public art footings, the design of the footings and superstructure for the City Centre major public art project Cloud Arch has had to change on a number of occasions due to access not being provided by the Light Rail construction subcontractor Acciona at various times during the construction of the Light Rail project. This has resulted in more complex construction, cost increases and time delays.
10. The current program for the Light Rail works recently provided to the City would only allow a window from January to April 2019 to install the northern footing for Cloud Arch. This time is insufficient to undertake the necessary works to install the footing.
11. It is now evident that it is will be impossible to install the northern footing for Cloud Arch before the Light Rail opens for operations.
12. If the project were to go ahead, there is a risk it could continue to be hampered given the complexity and current progress of the Light Rail project itself.
13. Therefore, it is recommended that Council approve the deferral of the project until after the construction of Light Rail is completed so that the feasibility of incorporating Cloud Arch into the future Town Hall Square project can be considered. Funding for the future Town Hall Square project will need to be considered in future budgets.
14. It is also recommended that Council cancel the proposal for the contract in relation to the tender for the fabrication and installation of Cloud Arch (Request for Tender No 1825) and note that the Chief Executive Officer will administer the existing contract to Partridge Event, including terminating that contract, with respect to the Cloud Arch project.

Invitation to Tender

15. Development approval for the arch superstructure was granted on 23 May 2018. The City invited Expressions of Interest from companies for the fabrication and installation of the steel superstructure for Cloud Arch on 23 January 2018. The EOI closed 20 February 2018. It was advertised in the Sydney Morning Herald, The Daily Telegraph and on the City's eTender platform, Tenderlink.

Tender Submissions

16. The City received six submissions from the following companies:
 - Beenleigh Steel Fabrication Pty Ltd;
 - F&D Normoyle Engineering;
 - NVEC Pty Ltd;
 - S+L Steel;
 - ShapeShift Design Technologies; and
 - UAP Australia Pty Ltd.

17. No late submissions were received. One submission was deemed non-conforming. The remaining five companies progressed to the select tender stage.

Tender Evaluation

18. All members of the Tender Evaluation Panel signed Pecuniary Interest Declarations. No pecuniary interests were noted.
19. The City's select tender process commenced on 31 May 2018, with tenders closing on 5 July 2018. As part of the tender, bidders were required to submit a fabrication sample based on the construction specification. The City received one conforming tender, one non-conforming tender and one late tender.
20. The City's pre-tender estimate for the project was developed with information from 60 manufacturers and five different companies. It was based on the work being completed before Light Rail started operating. Tenders received were higher than the pre-tender estimate.

Financial Implications

21. The estimated cost of the project has risen to approximately \$22M. This is due to:
 - (a) the extensive and numerous changes that were required to be made with regard to the footings and arch superstructure access at key times during the Light Rail construction and the technical constraints including underground tunnels and utilities. These impacts have resulted in a wider span and more complex footing design;
 - (b) delays to the program of work which means the City would not be able to build Cloud Arch footings prior to the testing and commissioning phase of Light Rail project which further complicates the construction; and
 - (c) other costs for legal fees, surveys and Development Application costs increasing because of the extended delays and reworks.

Relevant Legislation

22. The tender has been conducted in accordance with the Local Government Act 1993, the Local Government (General) Regulation 2005 and the City's Contracts Policy.
23. Attachments A and B contain confidential commercial information which, if disclosed:
 - (a) would confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business; and
 - (b) prejudice the commercial position of the person who supplied it.
24. 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 to achieve the best outcome for its ratepayers.

25. The delivery on any works under the current contract and any future contracts will be in accordance with the Local Government Act 1993, the Local Government (General) Regulation 2005 and the City's Contracts Policy.

Critical Dates / Time Frames

26. The Light Rail program remains unclear and access to a site during Light Rail construction remains unresolved.
27. The latest Light Rail program submitted to the City indicated that the northern footing be completed by April 2019. This is unachievable.
28. The installation of the arch was intended to occur prior to Light Rail being operational in George Street. This is now unachievable.

Public Consultation

29. Sustainable Sydney 2030 is a vision for the sustainable development of the City to 2030 and beyond. It includes 10 strategic directions to guide the future of the City, as well as 10 targets against which to measure progress. Cloud Arch is aligned with the following strategic directions and objectives:
 - (a) Direction 1 - A Globally Competitive and Innovative City - Cloud Arch will be an icon for people in the civic heart of the City. The delivery of this artwork as part of the transformation of the city centre will assist in building Sydney's reputation as a globally competitive and innovative city and will be a major attraction for tourism boosting the City's economy.
 - (b) Direction 4 - A City for Walking and Cycling - Cloud Arch will claim a space for people in the heart of the city, and assist with wayfinding, making the city more enjoyable and easier to navigate on foot or by bike. Gehl Architect's 2007 study revealed that most visitors to our city walk south from the harbour; the study identified the need for visitors to have more landmarks and public spaces as they progressed south down the City's main street away from the harbour and into the heart of the city. Cloud Arch fulfils this function by improving the amenity and legibility of the city.
 - (c) Direction 5 - A Lively and Engaging City - the addition of Cloud Arch to this important civic precinct in the heart of the city, adjacent to the Town Hall, the Queen Victoria Building and close to St Andrew's Cathedral, addressing the future Town Hall Square and reinforcing Jan Gehl's recommendation for three linked squares on George Street, will contribute to a lively and engaging City Centre, both day and night, through its elegant and iconic contribution as a work of public art.

- (d) Direction 6 - Vibrant Local Communities and Economies - Located at a major transport interchange in close proximity to Town Hall, the Queen Victoria Building and the future Town Hall Square, Cloud Arch will become a marker for this important precinct and attract the attention of Sydneysiders and visitors alike. The artwork will become an attraction in its own right and contribute to the local community and economy in ways that artworks of a similar scale and ambition have in other global cities around the world.
- (e) Direction 7 - A Cultural and Creative City - As a major work of public art designed in response to Sydney, its people and the sensitive heritage context in which it sits, Cloud Arch will become a symbol for the public life of Sydney, both in Australia and around the world. This work of art builds on our existing icons.

KIM WOODBURY

Chief Operating Officer

Michael Harvey, Program Manager, Urban Design