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Mary Garland
Team Leader
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Department of Planning & Environment
GPO Box 39
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By post and email: Mary.Garland@planning.nsw.gov.au

Dear Ms Garland

WestConnex New M5 SSI 6788 Modification (MOD 4)

Thank you for your letter of 30 January addressed to Monica Barone, Chief Executive Officer, City of Sydney, inviting the City's comments on the requested WestConnex modification 4. Ms Barone has asked me to comment on her behalf.

Conditions B62 (b) and B62 (c)

The proposed "administrative" modifications to Conditions B62(b) and B62(c) remove the requirement for the project approval to have any regard to the required changes to Sydney Park as a result of WestConnex, this cannot be termed an "administrative modification". RMS make a claim that the "Sydney Park Enhancement Sub-plan" does not exist and is an incorrect reference, however, it is clear on the Terms of Conditions B62(b) and B62(c) that a plan which addresses the impacts on the Park by WestConnex was to be addressed in the requirements of those conditions.

Such a plan does not exist because RMS has not prepared it. If the removal of any reference to a plan addressing the impacts on Sydney Park were to proceed, this would severely prejudice the City's ability to maintain the integrity and quality of Sydney Park for its users. The amendment proposed by RMS will remove the only requirement for the Terms' project approval to have any regard to the required design amendments to the Park. Such a modification is not supported by the City and at a minimum should be subject to thorough environmental assessment and public consultation. It cannot be termed an administrative modification.

In support of Modification 4, RMS submitted the Sydney Park Impact Mitigation Plan, prepared on behalf of the City of Sydney by Turf Design (**Mitigation Plan**). The Mitigation Plan is the City's planned restorative works for Sydney Park along the park edge at Campbell and Euston Roads only, following the completion of construction activities for WestConnex. It does not address other impacts on the Park caused by other WestConnex works, such as the Campbell Road Land Bridge and increased cycle usage in the Park.

city of villages



The project approval should clarify the content and timing of the “Sydney Park Enhancement Sub-plan”

Whilst the Mitigation Plan has a different name, it is a plan which goes some way to addressing the impacts on the Park by WestConnex. A more accurate “administrative” modification to the project approval would be to clarify the content and timing of the “Sydney Park Enhancement Sub-plan”, as follows:

- mitigate to an equivalent condition any areas of the Park affected by the works
- improve the paths within in the park where they require redirection or will have increased bicycle use as a result of the project and other Sub plans
- provide additional plantings, earthworks or the like to alleviate the park from any effects of noise and pollution to return the maximum area of the park possible to the environmental conditions that existed prior to the project
- where any area of the park is lost or its amenity diminished as a result of the project, provide equivalent areas of amenity to replace the diminished areas
- provide any works required for the safe use of the park, wherever the safety of users are effected
- consult closely and acquire the support of the City of Sydney in relation to any works within the park

These requirements could form a new sub-condition 62(g) as part of the Urban Design Landscape Plan, which appears to be envisaged by Condition 62 already.

The Mitigation Plan relates to compulsory acquisition litigation

It is important to highlight the purpose for which the Sydney Park Impact Mitigation Plan was developed by the City and provided to RMS. By way of background, to facilitate the construction of WestConnex, RMS compulsorily acquired by lease from the City areas of park land adjacent to Campbell and Euston Roads. The City’s property rights to that land was converted to a claim for compensation under the *Land Acquisition (Just Terms Compensation) Act 1991*. The amount of compensation offered by RMS is under dispute in the NSW Land and Environment Court. The hearing is scheduled for August 2018.

The Sydney Park Impact Mitigation Plan was provided by the City to RMS as part of those Court proceedings to assist in determining the amount of compensation to be paid to the City by RMS. The scope of the Court proceedings solely relates to monetary compensation. RMS has no legal obligation to implement or have regard to the Mitigation Plan in the design or construction of WestConnex, further the Court has no power to order RMS to implement or have regard to the Mitigation Plan as the Court’s power is limited to awarding monetary compensation. To date the City has not received any response from RMS on the content of the plan and was surprised to see it submitted in support of Modification 4. Therefore, the only avenue to ensure that the Park is properly mitigated and any such plan is considered in the project approval is through Condition B62.

Finally, the City notes that the Mitigation Plan was provided to the Department by RMS without the knowledge or consent of the City, where it appears RMS is using it to further erode the City’s rights to maintain the integrity of Sydney Park. If the Department is not minded to clarify the content of the “Sydney Park Enhancement Sub-plan”, then at an absolute minimum a modification to Conditions B62(b) and B62(c) should substitute the term “Sydney Park Enhancement Sub-plan” with “Sydney Park Impact Mitigation Plan”, as this plan goes some way to addressing the impacts on Sydney Park. However, we reiterate that the Mitigation Plan alone is not sufficient, due to its narrow scope.

Should you wish to discuss the City's comments, please contact Elise Webster, Manager Transport Major Projects on 9288 5967 or at ewebster@cityofsydney.nsw.gov.au.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Kim Woodbury', with a long horizontal stroke extending to the right.

Kim Woodbury
Chief Operating Officer