

9 April 2019

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Mr Jim Betts  
Secretary  
Department of Planning & Environment  
320 Pitt Street  
Sydney NSW 2000

Dear Mr Betts,

## **SECTION 4.55(1A) MODIFICATION APPLICATION – MP09\_0078 BLOCK 2, CENTRAL PARK**

This application has been prepared by Ethos Urban on behalf of Frasers Central Park Land No1 Pty Limited, pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify MP09\_0078 relating to Block 2, Central Park (the site).

The application seeks to modify the Subdivision Plans to facilitate the transfer of the 673.1m<sup>2</sup> of floor space at Level 4 from the commercial stratum to the residential stratum. The modification does not alter the built form, land use or GFA of the Project Approval.

This application identifies the consent, describes the proposed modifications and provides an assessment of the relevant matters contained in section 4.55(1A) of the EP&A Act. This application is accompanied by the Plan of Subdivision of Common Property prepared by Denny Linker & Co (**Attachment A**).

## **1.0 Background**

### **1.1 Central Park Concept Plan**

MP 06\_0171, as modified in March 2018, is a Concept Plan approval applying to the Frasers Broadway (now Central Park) site which permits the construction of a mixed-use precinct comprising:

- 11 development blocks;
- A maximum Gross Floor Area (GFA) of 255,621m<sup>2</sup> with minimum non-residential and maximum residential floor space mix;
- Combined basement car parks, providing car parking for Blocks 1, 4 and 8 and Blocks 2, 5, 9 and the Kensington Precinct;
- A new public park;
- Tri-generation and re-cycle water treatment plants;
- Retention of heritage items;
- Public domain works; and
- Contributions.

To date, a total of 13 modifications to the Concept Plan have been approved between 2007 and 2018. The modifications have primarily related to amendments of building envelopes and reallocation of floor space in response to the delivery of each block.

## 1.2 Block 2 – MP 09\_0078 (Approval Proposed to be Modified)

On 18 June 2010, the Planning Assessment Commission granted consent to Project Approval MP09\_0078 for the construction of a mixed use building at Block 2, Central Park. Specifically, MP09\_0078 (as modified) grants approval for the construction of a mixed-use retail, commercial and residential building consisting of two towers located above a podium, accommodating:

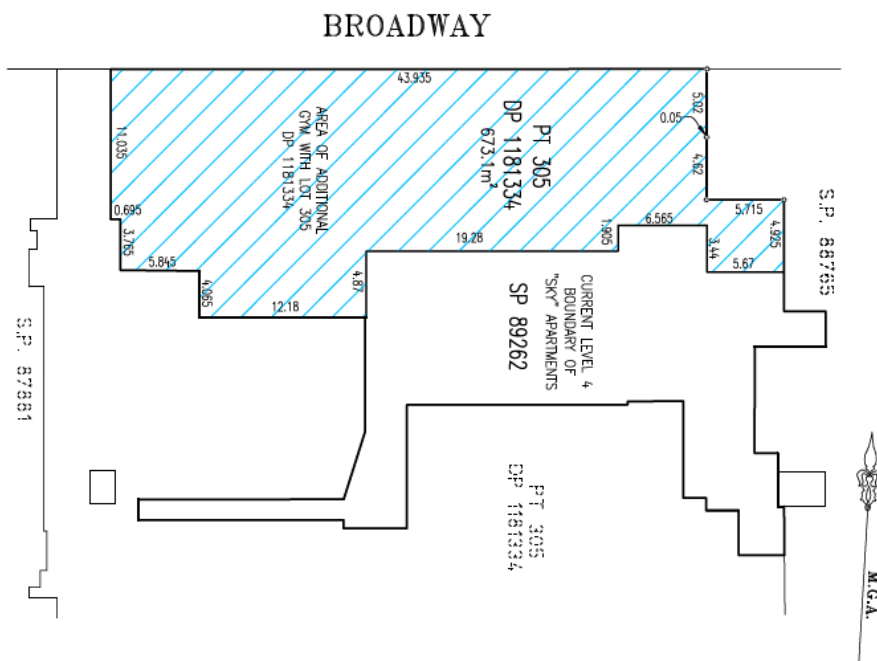
- Floor space comprising 623 residential apartments;
- Retail floor space comprising a food court, speciality retail, supermarket and a gymnasium;
- Installation of a heliostat system (consisting of mirrors which are orientated to focus light onto the podium and ground level public domain);
- Construction of the surrounding public domain; and
- Stratum subdivision of Blocks 2, 5A & 5B, 5C & basement levels below.

MP09\_0078 has been modified a total of eight times and the building is now completed and occupied.

## 2.0 Proposed Modifications to the Consent

The proposed modification relates to the stratum subdivision approved as part of MP09\_0078. This modification seeks to transfer 671.3m<sup>2</sup> of floor space at Level 4 from the commercial stratum (being Lot 305, proposed as Lot 327) to the residential stratum (being Lot 302/SP89262, proposed as Lot 326). The area to which the modification relates is shown in **Figure 2**.

The proposed modification will facilitate the transfer of ownership of the floor space identified as a ‘gymnasium’ to the Strata Plan. The use of the area will remain a gymnasium, consistent with the definition of a recreation facility (indoor)<sup>1</sup>. No works are associated with the modification to the subdivision and the total GFA of MP09\_0078 will remain unchanged.



**Figure 1** Area to be transferred from Lot 305 to Lot 302 (SP89262)

<sup>1</sup> recreation facility (indoor) means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

## 2.1 Modifications to Conditions

The proposed modifications described above necessitate amendments to the consent conditions which are identified below. Words proposed to be deleted are shown in ~~bold strike through~~ and words to be inserted are shown in ***bold italics***.

### A2 Development in Accordance with Plans and Documentation

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~~Subdivision Plans prepared for the Section 75W Application by Denny Linker & co., dated 7 December 2012~~  
***Plan of Subdivision of Common Property prepared for the Section 4.55(1A) Application by Denny Linker & co., dated 5 April 2019***

## 3.0 Substantially the Same Development

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if "*it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)*".

The development, as proposed to be modified, is substantially the same development as that originally approved in that it:

- Will not alter the built form, design, uses, or any other matter relating to the physical building;
- Will not alter the GFA, nor any other metric of the development;
- Will not alter the use of the gym (or any other element of the building) from current arrangements; and
- Will be of no environmental impact.

## 4.0 Environmental Assessment

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if "*it is satisfied that the proposed modification is of minimal environmental impact*". Under section 4.55(3) the consent Authority must also take into consideration the relevant matters to the application referred to in section 4.15(1) of the EP&A Act and the reasons given by the consent authority for the grant of the original consent.

The following assessment considers the relevant matters under section 4.15(1) and demonstrates that the development, as proposed to be modified, will be of minimal environmental impact.

### 4.1 Consistency with the Central Park Concept Plan

The modification proposed in this application remains consistent with the provisions of the Central Park Concept, Plan as well as the relevant commitments. Specifically, the proposal does not alter consistency with the following:

- Land Use;
- Gross floor area;
- Building envelope; or
- Statement of Commitments – including design excellence, and sustainability.

Due to the abovementioned consistency with the Central Park Concept Plan and the minor nature of the proposed modifications to consent, no further environmental assessment is required.

There are no other matters relevant to this modification.

## 5.0 Conclusion

The proposed modification relates a minor modification to the approved subdivision plan to facilitate the transfer of ownership of 673.1m<sup>2</sup> of floor space at Level 4, identified as gymnasium, from the commercial stratum to the residential stratum. The use of the area will remain a gymnasium. No works are associated with the modification to the subdivision and the total GFA of MP09\_0078 will remain unchanged.

In accordance with section 4.55(1A) of the EP&A Act, the Department may modify the consent as:

- the proposed modification is of no environmental impact; and
- is substantially the same development as development for which the consent was granted.

We trust that this information is sufficient to enable a prompt assessment of the proposed modification request.

Yours sincerely,



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