

08212
22 March 2011

Mr Sam Haddad
Director-General
Department of Planning
GPO Box 39
SYDNEY NSW 2000

Attention: Michael Woodland

Dear Mr Haddad

**MODIFICATION TO MAJOR PROJECT MP08_0057
STRATUM SUBDIVISION OF SITE**

We refer to the abovementioned Project Application for the construction of two nine storey buildings at Darling Walk, Darling Harbour.

On behalf of our client, Lend Lease Development, we write to request the Minister (or his delegate) modify the Project Approval 08_0057 under Section 75W of the *Environmental Planning and Assessment Act 1979* as described below. The modification relates to the stratum subdivision of the site, into seven (7) separate stratum lots. The stratum subdivision is required to satisfy the terms of the development arrangement between Lend Lease and the Sydney Harbour Foreshore Authority (SHFA), and is in accordance with the subdivision requirements of the *Conveyancing Act 1919* and EP&A Act.

In accordance with Section 245k of the *Environmental Planning and Assessment Regulation 2000*, please find enclosed the fee of \$750 for the assessment of the request.

1.0 BACKGROUND

The Darling Walk Concept Plan (MP06-0054) was approved on 9 July 2008 and provides for a mixed use commercial, retail, cultural, recreational and entertainment development with a maximum 68,000m² Gross Floor Area (GFA) comprising:

- a maximum 5,000m² retail GFA;
- a minimum 1000m² cultural, recreational and entertainment GFA; and
- a child care centre use may be included with the commercial GFA.

Subsequently, Project Application (MP 08-0057) was approved on 2 January 2009. The approved project included the construction of the buildings comprising:

- approximately 64,235m² GFA of commercial floorspace;
- approximately 2,592m² GFA of retail floorspace; and
- approximately 1,000m² GFA for a children's theatre.

The site is owned by SHFA, with a Lend Lease entity, Lend Lease Funds Management Limited, having the right to acquire a 99 year lease over the site. Construction of the above works is now nearing completion, and the proposed stratum subdivision is required to satisfy the terms of the head lease.

2.0 PROPOSED MODIFICATION

This modification application seeks to enable the site to be stratum subdivided into seven allotments. The location of the seven new stratum lots and easements is shown on the draft Subdivision Plans prepared by Rygate & Company Pty Ltd at **Attachment A**. A description of each of the proposed lots is provided in **Table 1** below.

Table 1 – Description of proposed stratum lots

Lot Number	Description	Ownership Arrangement
Lot 801	Comprises the North Building and is unlimited in height and limited in depth, except for basement Lot 803.	Proposed 99 year lease to Lend Lease Funds Management Limited.
Lot 802	Comprises the South Building and is unlimited in height and limited in depth to parts of basement Lots 803 and 804.	Proposed 99 year lease to Lend Lease Funds Management Limited.
Lot 803	Comprises car parking in Basement Level 1, loading docks and adjoining rooms. Limited in height to Lots 801 and 802 and unlimited in depth except for basement Lot 804.	Proposed 99 year lease to Lend Lease Funds Management Limited.
Lot 804	Public car park on Basement Levels 2, 3 and 4. Limited in height to Lots 802 and 803, and unlimited in depth.	Proposed 99 year lease to Lend Lease Funds Management Limited.
Lot 805	Land between Lot 801 and Harbour Street and abutting SHFA land to the north (generally the area between the South building and Harbour Street.	SHFA owned
Lot 806	Water harvesting site. Limited in height and depth within the residue Lot 800	SHFA owned
Lot 800	Residue lot for remaining areas of Darling Walk site (and Darling Harbour).	SHFA owned

Proposed Lots 801, 802, 803 and 804 are subject to a 99 year lease with SHFA.

The proposed lots include non-contiguous parts due to the location of certain building elements and infrastructure that service the relevant lot. The various lots will be benefited and burdened by easements for services, structural building supports and infrastructure. To the extent necessary and subject to the terms of the proposed building management statement, the final location of these easements will be detailed on the final survey plans submitted to the Land Titles Office. A Section 88B Instrument and Building Management Statement will be submitted with the final stratum plans.

The subdivision of the site is required because the proposal is for a long term lease (99 years) to be entered into between SHFA and Lend Lease Funds Management Limited. As the lease will be greater than five years and will be for the lease of land, a subdivision must be carried out in accordance with the subdivision requirements of the *Conveyancing Act 1919* and EP&A Act. As the subdivision varies in stratum, a stratum subdivision is required.

No works are required to facilitate the subdivision, and as such, there will be no environmental impact.

The Building Management Statement will comply with the requirements of the *Conveyancing Act 1919*. The Building Management Statement will comprise a set of rules that regulate the management and operation of the Darling Walk development on the basis that the buildings comprising that development will be subdivided into stratum lots. The proposed Building Management Statement will govern the relationship between the owners of the various stratum lots, with an emphasis on the management of the building as a whole and its ongoing operation and maintenance. The proposed Building Management Statement will, in some instances, alleviate the need for individual easements for services, rights of carriageway and other specific easements to be created between relevant lot owners. This will allow for appropriate flexibility of management of the building in the near and more distant future.

2.1 Amendment to Consent

It is proposed to modify Condition A1 in Schedule 2 of the Conditions of Approval as set out below, to include the proposed stratum subdivision plans.

Words proposed to be deleted are shown in ~~bold strike through~~ and words to be inserted are shown in ***bold italics***.

A. Architectural (or Design) Drawings Prepared by FJMT as follows:			
AD000000	11	Site Plan – Site Plan	24/11/2008
AD0B4001	05	Level B4 – Reference Plan	24/11/2008
AD0B3001	05	Level B3 – Reference Plan	24/11/2008
AD0B2001	05	Level B2 – Reference Plan	24/11/2008
AD0B1001	05	Level B1 – Reference Plan	24/11/2008
AD000001	14	Level 00 – Reference Plan	24/11/2008
AD001001	17	Level 01 – Reference Plan	24/11/2008
AD002001	17	Level 02 – Reference Plan	24/11/2008
AD003001	17	Level 03 – Reference Plan	24/11/2008
AD004001	17	Level 04 – Reference Plan	24/11/2008
AD005001	17	Level 05 – Reference Plan	24/11/2008
AD006001	17	Level 06 – Reference Plan	24/11/2008
AD007001	17	Level 07 – Reference Plan	24/11/2008
AD008001	17	Level 08 – Reference Plan	24/11/2008
AD009001	17	Plant – Reference Plan	24/11/2008
AD010001	12	Roof – Reference Plan	24/11/2008
AD051001	14	Overall Elevations – Sheet 1	24/11/2008
AD051002	14	Overall Elevations – Sheet 2	24/11/2008
AD052001	13	Overall Section – Sheet 1	24/11/2008
B. Stratum Subdivision Plan prepared by Rygate and Company Pty Ltd as follows:			
<i>Deposited Plan Administration Sheet</i>		<i>Sheet 1 of 2</i>	<i>14/03/2011</i>
<i>Deposited Plan Administration Sheet</i>		<i>Sheet 2 of 2</i>	<i>14/03/2011</i>
<i>Plan of Proposed Subdivision</i>		<i>Sheet 1 of 5</i>	<i>14/03/2011</i>
<i>Plan of Proposed Subdivision</i>		<i>Sheet 2 of 5</i>	<i>14/03/2011</i>
<i>Plan of Proposed Subdivision</i>		<i>Sheet 3 of 5</i>	<i>14/03/2011</i>
<i>Plan of Proposed Subdivision</i>		<i>Sheet 4 of 5</i>	<i>14/03/2011</i>
<i>Plan of Proposed Subdivision</i>		<i>Sheet 5 of 5</i>	<i>14/03/2011</i>

3.0 CONCLUSION

The project as amended by this modification will be the same as the approved project, with no physical changes proposed. The provision of seven stratum lots will provide the opportunity for the terms of the development arrangements between Lend Lease and SHFA to be satisfied. The proposed amendment has no additional environmental impact beyond those issues considered and assessed in the approval of the original project.

Should you have any queries about this matter, please do not hesitate to contact me on 9956 6962 or kosborne@jbaplanning.com.au.

Yours faithfully

A handwritten signature in blue ink that reads "K. Osborne". The signature is written in a cursive, flowing style.

Kirk Osborne
Principal Planner