



Central Park Block 2

*State Significant
Development
Modification Assessment
(MP 09_0078 MOD 9)*

June 2019

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Cover photo

Photomontage of Central Park Block 2 (Source: Proponent's EAR for MP 09_0078)

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Glossary

Abbreviation	Definition
CIV	Capital Investment Value
Consent	Development Consent
Council	City of Sydney
Department	Department of Planning and Environment
EPA	Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPI	Environmental Planning Instrument
LEP	Local Environmental Plan
Minister	Minister for Planning
RtS	Response to Submissions
SEARs	Secretary's Environmental Assessment Requirements
Secretary	Secretary of the Department of Planning and Environment
SEPP	State Environmental Planning Policy
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SSD	State Significant Development



1. Introduction

1.1 Preamble

This report provides an assessment of an application to modify the project approval (MP 09_0078) for a mixed use residential and retail development on Block 2 at Central Park.

The modification application seeks to amend the approved stratum subdivision plan to transfer 673.1 square metres (m²) of floor area on level 4 from the commercial stratum to residential stratum.

The application has been lodged by Frasers Central Park Land No1 Pty Ltd (the Applicant) pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

1.2 Central Park

Central Park is located to the southwest of Sydney's Central Business District (CBD), within the City of Sydney (Council) Local Government Area. It has a total area of approximately 5.8 hectares (**Figure 1**). Central Park is bound by Abercrombie Street to the west, Regent Street to the east, Broadway to the north and O'Connor and Wellington Streets to the south (**Figure 2**).

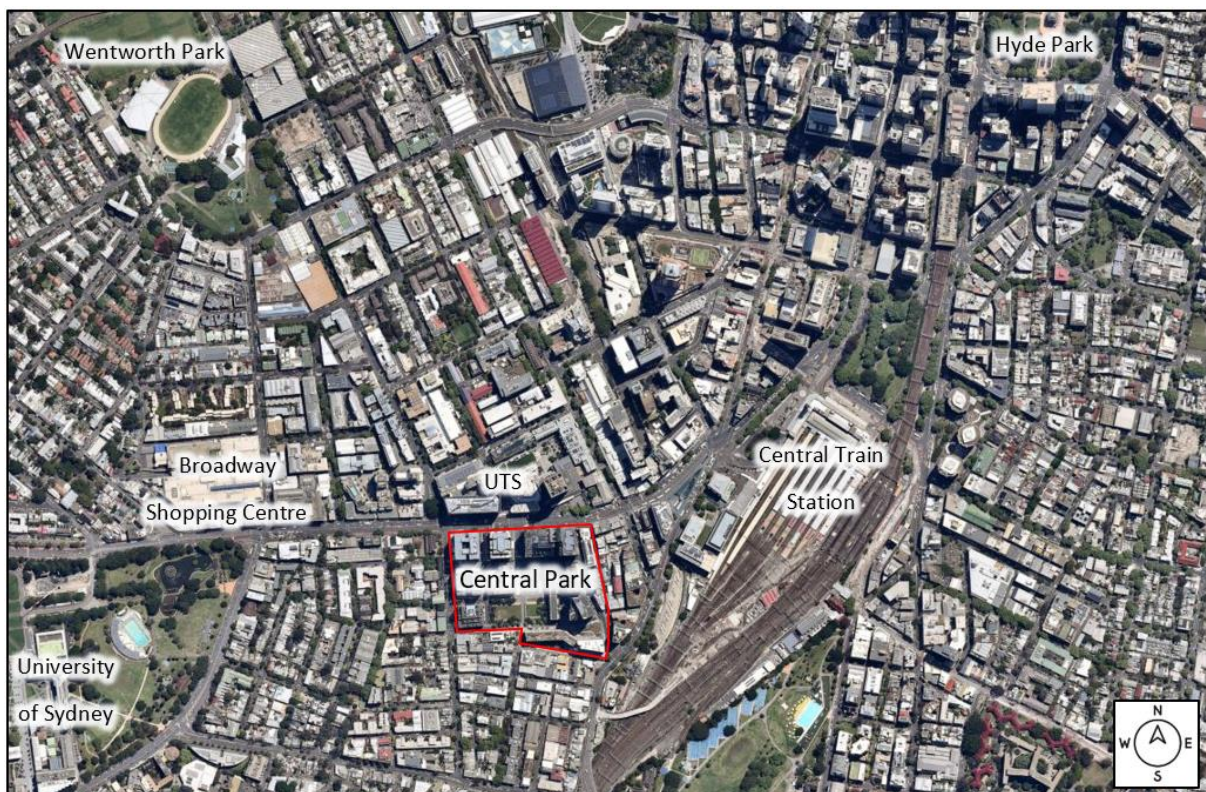


Figure 1 | Central Park location map (Base source: Nearmap)

1.3 Block 2 (the Site)

The site is Block 2, located towards the northeast corner of Central Park with an area of approximately 7,550m² (**Figure 2**). The site is bounded by Broadway to the north, Carlton Street to the east, Central Park Avenue to the south, and Chippendale Way to the west.

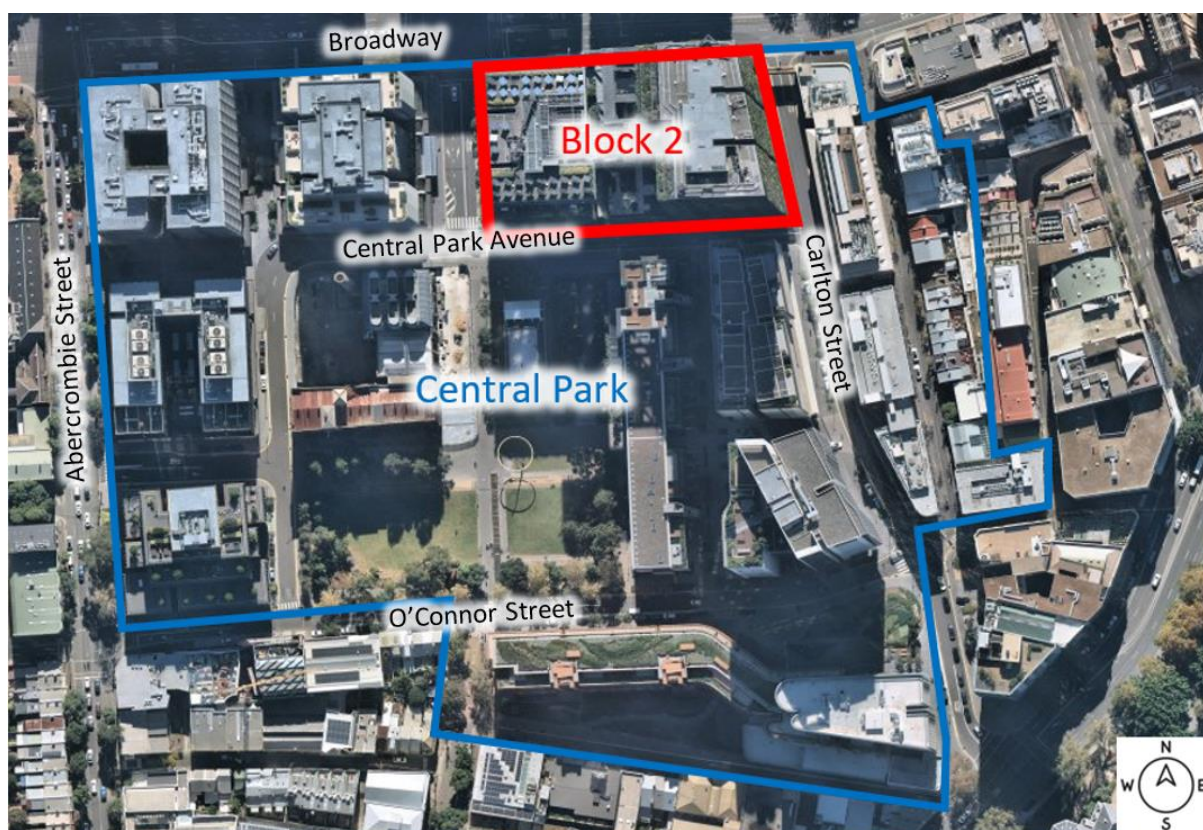


Figure 2 | Site location map (Base source: Nearmap)

1.4 Surrounding context

The site is located within an established inner-city area, which is characterised by buildings of various uses, ages, heights and architectural styles that create a diverse streetscape. UTS Broadway Campus is located to the north, opposite Broadway. St Benedict's Church and the University of Notre Dame are located to the west, opposite Abercrombie Street.

The neighbouring blocks within Central Park comprise high-density mixed-use commercial / residential developments. The area to the southeast is the remaining brewery building, brewery yard and an area of publicly accessible open space.

1.5 Approval history

On 18 June 2010, the Planning Assessment Commission granted project approval (MP 09_0078) for a mixed use residential, retail and commercial development on Block 2 consisting of two towers (east tower measuring 133 m AHD and the west tower measuring 79.5 m AHD) above a podium.

The project approval has been modified on eight occasions (see **Table 1**).

Table 1 | Summary of Modifications

Mod No.	Summary of Modifications	Approval Authority	Type	Status
MOD 1	• Increase approved number of dwellings from 593 to 623. • Delete commercial floor space • Include a gymnasium	Department	S75W	Approved

MOD 2	Administrative changes to enable staged construction certificates	Department	S75W	Approved
MOD 3	• Various internal and external design changes • Stratum subdivision	Department	S75W	Approved
MOD 4	Administrative changes to ESD condition	Department	S75W	Approved
MOD 5	Administrative changes to extend construction hours	Department	S75W	Approved
MOD 6	Administrative changes to ensure consistency with subsequent amendments to the concept approval	Department	S75W	Approved
MOD 7	Administrative changes to permit extended construction hours	Department	S75W	Approved
MOD 8	Administrative changes relating to restrictions on car and storage spaces	Department	S75W	Approved

1.6 Other relevant approvals

On 9 February 2007, the Minister for Planning approved a Concept Plan (MP 06_0171) for the redevelopment of the former Carlton and United Brewery site for a mix of residential, commercial, retail uses and public open space, comprising:

- 11 development blocks
- maximum gross floor area (GFA) of 255,621m²
- combined basement car parking
- new public park and public domain works
- tri-generation and re-cycle water treatment plant
- retention of heritage items.

The Concept Plan has been modified on 13 occasions.

On 24 April 2014, Council granted development consent (D/2014/71) for the use of part of Level 4 as a gymnasium. The consent has been modified once to extend the approved hours of operation.



2. Proposed Modification

On 21 May 2019, the Applicant lodged an application (MP 09_0078 MOD 9) under section 4.55(1A) of the EP&A Act to modify the project approval.

The application seeks to transfer 673.1m² of floor area on level 4 (currently used as a gymnasium) from the commercial stratum to the residential stratum. No physical building works are proposed.

The proposed changes are shown in **Figure 3** below:

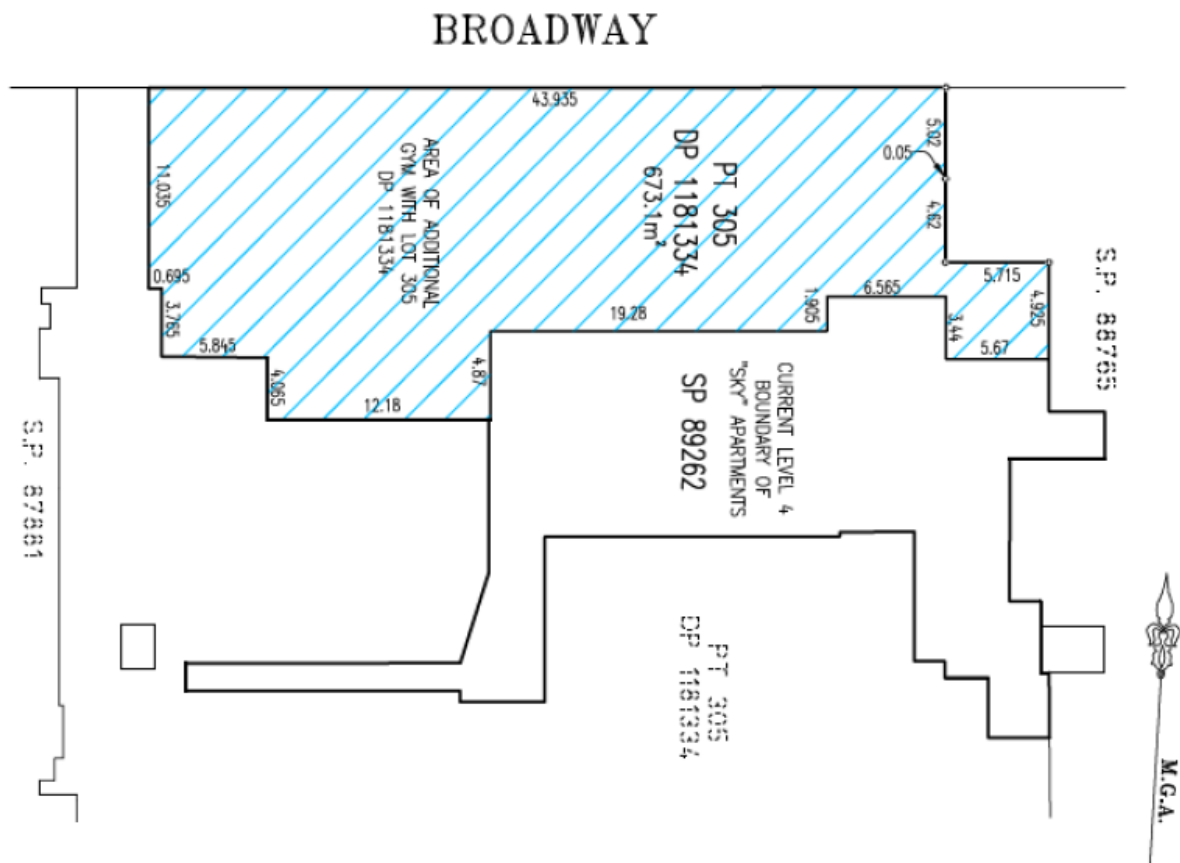


Figure 3 | Area to be transferred shown in blue hatching (Source: Applicant's Modification Report)



3. Strategic Context

The Department considered that the development complied with the strategic planning context for the site in its original assessment. The Department has considered the proposed changes against the strategic planning context and is satisfied that the proposal remains consistent with the strategic planning context.



4. Statutory Context

4.1 Scope of Modifications

The project approval was originally granted under Part 3A of the EP&A Act. This means the project satisfied the definition of a 'transitional Part 3A project' under clause 2(1) Schedule 2 to the *Environmental Planning & Assessment (Savings, Transitional and Other Provisions) Regulation 2017* (ST&OP Regulation), which came into effect on 1 March 2018.

Under the ST&OP Regulation, projects subject of existing Part 3A approvals remain transitional Part 3A projects until they are transitioned to State significant development (SSD) (clause 3(1)-(2), Schedule 2). As of 1 March 2018, new proposals to modify existing Part 3A project approvals can only be determined once the project has been declared to be SSD (or SSI) and the relevant provisions under Part 4 of the EP&A Act to modify such an approval then apply

On 18 April 2019, an Order was published in the New South Wales Government Gazette (No. 36) having the effect of transitioning the Part 3A project approval (MP 09_0078) to SSD.

As such, section 4.55 of the EP&A Act outlines the matters that a consent authority must take into consideration when determining an application that seeks to modify an SSD application.

The relevant matters that apply to the subject modification application have been considered below (**Table 2**).

Table 2 | Section 4.55(1A) Modification involving minimal environmental impact

Section 4.55(1A) Evaluation	Consideration
a) that the proposed modification is of minimal environmental impact, and	Section 6 of this report provides an assessment of the impacts associated with the modification application. The Department is satisfied that the proposed modification will have minimal environmental impact, as no physical works are proposed, the character and land uses remain as approved and the transfer of ownership does not affect the overall operation of the building.
b) 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), and	The Department considers the proposed modification remains substantially the same as the originally approved development. The physical appearance, scale and character of the approved development remains unchanged.
c) the application has been notified in accordance with the regulations, and	In accordance with the <i>Environmental Planning and Assessment Regulation 2000</i> (EP&A Regulation), the modification application was not required to be exhibited, however Council was notified of the proposal. Details of the notification are provided in Section 5.1 of this report.
d) any submission made concerning the proposed modification has been considered.	The Department received one submission on the proposal from Council, who advised that it did not object.

4.2 Consent Authority

The Minister for Planning is the consent authority for the application under section 4.5(a) of the EP&A Act. However, under the Minister's delegation dated 11 October 2017, the Director Key Sites Assessments, may determine the application as:

- the relevant local council has not made an objection
- a political disclosure statement has not been made
- there are no public submissions in the nature of objection.

4.3 Environmental Planning Instruments

The following environmental planning instruments (EPs) are relevant to the modification application:

- State Environmental Planning Policy (State and Regional Development) 2011
- Sydney Local Environmental Plan 2012.

The Department undertook a comprehensive assessment of the development against the abovementioned EPs in its original assessment. The Department has considered the above EPs and is satisfied the modification does not result in any inconsistency with these EPs.

4.4 Objects of the EP&A Act

The Minister or delegate must consider the objects of the EP&A Act when making decisions under the Act. The Department is satisfied the proposed modification is consistent with the objects of the EP&A Act.



5. Engagement

5.1 Department's Engagement

In accordance with the EP&A Regulation, the Department was not required to formally exhibit the section 4.55(1A) modification application. However, the Department made the application publicly available on its website and referred the application to Council for comments between 24 May and 7 June 2019 (14 days).

No public submissions were received from and Council advised that it had no objection to the proposed modification application.



6. Assessment

The subject application seeks to transfer 673.1m² of floor area on level 4 (currently used as a gymnasium for residents) from the commercial stratum to residential stratum. No physical building works or change of use are proposed.

Council was notified of the proposed changes and raised no objection to the application.

The Applicant contends the proposed changes will have minimal environmental impact and are substantially the same development as approved, given the proposal:

- will not alter the built form, design, uses, or any other matter relating to the physical building
- will not alter the approved GFA
- will have no environmental impacts.

The Department notes the transfer of floor area between the commercial and residential stratum does not alter the approved use of the space, or impact on the amenity surrounding residential apartments. Further, the Department considers that by having the gymnasium within the residential stratum provides the owners corporation more control to ensure the operation of the gymnasium does not impact on the amenity of the adjoining residential apartments.

The Department notes the proposal remains consistent with the objects of the EP&A Act and concludes the impacts of the development are satisfactory and the proposal is approvable.

In assessing the proposal, the Department also notes that previous modifications have amended Condition A2, which lists the plans and documents that the development must be in accordance with. However, several of these modifications have only partially amended this condition, without showing the most up to date condition in full.

The Department recommends minor administrative changes to Condition A2 to ensure it provides certainty about the list of plans and documents. The Department notes the administrative changes do not affect the approved development, but simply and clarify the relevant list plans and documents.



7. *Evaluation*

The Department has assessed the modification application and supporting information in accordance with the relevant requirements of the EP&A Act. The Department's assessment concludes that the proposed modification request is appropriate as it meets the relevant statutory requirements and is of minimal environmental impact.

The Department's assessment concludes that the proposed modification is appropriate as it:

- does not result in any adverse environmental impacts
- complies with relevant statutory provisions and remains consistent with relevant EPIs
- is substantially the same development as originally approved.

Consequently, the Department concludes the modification request is in the public interest and should be approved, subject to the recommended changes to the existing conditions of consent as outlined in **Appendix B**.



8. Recommendation

It is recommended that the Director, Key Sites Assessments, as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report
- **Determines** that the application MP 09_0078 MOD 9 falls within the scope of section 4.55(1A) of the EP&A Act
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to grant approval to the application
- **modify** the approval MP 09_0078
- **signs** the attached Modification of Development Consent (**Appendix B**).

Recommended by:

Brendon Roberts

Team Leader

Key Sites Assessments



9. Determination

The recommendation is: **Adopted / Not adopted by:**

David McNamara

Director

Key Sites Assessments



Appendices

Appendix A – List of Documents

- Project approval MP 09_0078, granted by the Planning Assessment Commission on 18 June 2010, together with submissions raised, Applicant's response to submissions, and Department's assessment report.
- Associated modifications to the project approval (MP 09_0078).
- Modification Report and accompanying documentation
(<https://www.planningportal.nsw.gov.au/major-projects/project/13946>)
- Agency submissions
(<https://www.planningportal.nsw.gov.au/major-projects/project/13946>)

Appendix B – Modification of Development Consent

<https://www.planningportal.nsw.gov.au/major-projects/project/13946>