

DMPC Decision – PCD 803**Title: Empress State Building (ESB) CTOC and Agreement to Licence****Executive Summary:**

Empress State Building (ESB) was acquired in March 2018 (PCD 336) via the acquisition of the company owning the freehold. PCD 698 approved the Agreement for Licence for the co-occupation of Empress State Building (ESB) including conditions to be met before the licence could come into effect.

The purpose of this decision paper is to approve clarifications and changes since the original decision was taken in respect of the title of ESB and surrounding land which will form the basis of the final documentation to enable the Licence for co-occupation and the wider CTOC business case to be completed.

The changes made do not disadvantage MOPAC, nor introduce additional risk or onerous burdens.

Recommendation:

The Deputy Mayor for Policing and Crime is recommended to approve the clarifications and changes to the title of ESB and surrounding land to enable the completion of the licence and the wider CTOC business case.

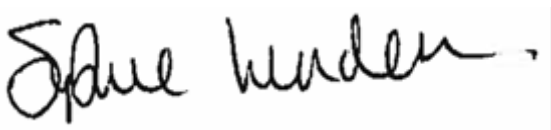
Deputy Mayor for Policing and Crime

I confirm I have considered whether or not I have any personal or prejudicial interest in this matter and take the proposed decision in compliance with the Code of Conduct. Any such interests are recorded below.

The above request has my approval.

Signature**Date**

3/8/20



PART I - NON-CONFIDENTIAL FACTS AND ADVICE TO THE DMPC

1. Introduction and background

- 1.1. Empress State Building (ESB) was acquired in March 2018 (PCD 336) via the acquisition of the company owning the freehold.
- 1.2. The selling freeholder granted leases for adjacent areas to the core area acquired to companies acquired by MOPAC.
- 1.3. PCD 698 approved the Agreement for Licence for the co-occupation of Empress State Building (ESB) as a Counter Terrorism and Organised Crime hub (CTOC). There were a number of conditions to be met before the licence could come into effect as set out in Part 2 of that decision, one of which referred to clarifications to the title of ESB and the surrounding land.
- 1.4. The clarifications and changes to the title will form part of the wider documentation around the Licence terms to be entered into with the co-occupier.

2. Issues for consideration

- 2.1. There are anomalies in the documents completed when MOPAC purchased the freehold in the Empress State Building back in 2018. These anomalies are being rectified in these documents, and the parties have also agreed some other adjustments.
- 2.2. Rectification of some of these anomalies, and documentation of the adjustments, are also required as part of the agreement for the grant of the licence. The agreement for the grant of the licence is conditional (amongst other things) upon a number of title issues being rectified, and the documents to be executed are required to be in place in order to satisfy the relevant conditions
- 2.3. The clarifications and changes are not disadvantageous to MOPAC nor introduce any significant risk or onerous contract term.
- 2.4. Due to the sensitive commercial nature of this decision, the details of the clarifications and changes are as set out in Part 2 of this decision.

3. Financial Comments

- 3.1. The completion of the licence agreement will support the development of the CTOC as envisaged in the business case set out in PCD 336.
- 3.2. The clarification and changes do not have a detrimental financial impact compared to those referenced in the original decision PCD 336.

4. Legal Comments

- 4.1. The functions and duties of MOPAC are set out at section 3(5) to (7) of the Police Reform and Social Responsibility Act 2011 (the 2011 Act). Section 3(6) provides that MOPAC must:
 - a) secure the maintenance of the metropolitan police force, and

- b) secure that the metropolitan police force is efficient and effective.
- 4.2. In addition, paragraph 7(1) of Schedule 3 of the 2011 Act, provides that MOPAC may “do anything which is calculated to facilitate, or is conducive or incidental to, the exercise of the functions of the Office.” Paragraph 2(a) and (b) provide that this includes entering into contracts and other agreements and acquiring and disposing of property (including land).
- 4.3. MOPAC must ‘make arrangements for the proper administration of its financial affairs’ and must ‘secure that one of its officers (its “chief finance officer”) has responsibility for the administration of those affairs’: section 127(2) of the Greater London Authority Act 1999 (the 1999 Act).
- 4.4. Furthermore, in carrying out its functions MOPAC ‘must have regard to any financial code of practice issued by the Secretary of State’ (section 17(4) of the 2011 Act).
- 4.5. The Home Secretary has issued the ‘Revised Financial Management Code of Practice’ for the Police Forces of England and Wales’ (July 2018) (“the Code”). This provides that the Chief Finance Officer is responsible for “ensuring regularity, propriety, feasibility and value for money in the use of public funds” (paragraph 4.1). Paragraph 12 of the Code provides that ‘Achieving value for money bears on nearly all aspects of deployment of public resources: procurement, asset management, disposals, administrative systems and financial arrangements’.
- 4.6. Under the MOPAC Scheme of Consent and Delegation, paragraph 4.16 provides that the DMPC must approve “All requests to grant or surrender a lease”.
- 4.7. TfL Legal have advised on the scope of the clarifications to be included in the decision, and the MPS property legal advisers, Michelmores, have confirmed that the clarifications are appropriate.

5. Commercial Issues

- 5.1. The clarifications and changes as outlined in in this paper do not have a detrimental impact on the commerciality of the proposed contractual agreement.

6. GDPR and Data Privacy

- 6.1. The proposal does not use personally identifiable data of members of the public, so there are no GDPR issues to be considered.

7. Equality Comments

- 7.1. Section 149(1) of the Equality Act 2010 provides that in the exercise of their functions, public authorities must have due regard to the need to:
- a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
 - b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and

c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

7.2. 7.2. The obligation in section 149(1) is placed upon the DMPC, as decision maker. Due regard must be had at the time a decision is being considered. The duty is nondelegable and must be exercised with an open mind.

7.3. The proposed clarifications have no impacts on equality or diversity.

8. Background/supporting papers

8.1. None

Public access to information

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FOIA) and will be made available on the MOPAC website following approval.

If immediate publication risks compromising the implementation of the decision it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary.

Part 1 Deferral:

Is the publication of Part 1 of this approval to be deferred? NO

If yes, for what reason:

Until what date:

Part 2 Confidentiality: Only the facts or advice considered as likely to be exempt from disclosure under the FOIA should be in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a **Part 2** form – YES

ORIGINATING OFFICER DECLARATION

Tick to confirm statement (✓)

Financial Advice:

The Strategic Finance and Resource Management Team has been consulted on this proposal.

✓

Legal Advice:

The TfL legal team and MPS appointed Michelmores has been consulted on the proposal.

✓

Equalities Advice:

Equality and diversity issues are covered in the body of the report.

✓

Commercial Issues

Commercial issues are covered in the body of the report.

✓

GDPR/Data Privacy

GDPR compliance issues are covered in the body of the report

✓

Director/Head of Service:

The interim MOPAC Chief Finance Officer has reviewed the request and is satisfied it is correct and consistent with the MOPAC's plans and priorities.

✓

Chief Executive Officer

I have been consulted about the proposal and confirm that financial, legal and equalities advice has been taken into account in the preparation of this report. I am satisfied that this is an appropriate request to be submitted to the Deputy Mayor for Policing and Crime.

Signature

Date 27/7/20

Alan Kuchford