

**SUBJECT: MP10 0171 MOD 2, 330 CHURCH STREET, PARRAMATTA**

**PURPOSE**

To determine a section 75W modification from Karimbla Constructions Services (NSW) Pty Ltd (the proponent), seeking approval to amend the timing of the execution of the Voluntary Planning Agreement (VPA) required under Condition A8 in the Instrument of Approval for MP10\_0171, to prior to the issue of an Occupation Certificate.

**BACKGROUND**

On 19 October 2012, the Deputy Director-General, Development Assessment and Systems Performance approved MP10\_0171 under delegation. The approved development included:

- demolition of the existing building;
- piling and associated earthworks;
- construction of a new mixed use building with a maximum GFA of 44,117 m<sup>2</sup>;
- operation and use of a basement car park containing 597 car parking spaces, 4 loading docks and 24 bicycle parking spaces; and
- installation of utility services.

On 23 January 2013, the Director, Metropolitan and Regional Projects North approved MP10\_0171 MOD 1 which permitted the following changes to the project approval:

- re-wording of Condition B23 to defer the timing for the final design of the wind mitigation measures to prior to the issue of the first Construction Certificate;
- re-wording of C8, C9 and C10 to facilitate the simultaneous testing and subsequent reporting and interpretation of Aboriginal and historical archaeological objects;
- deletion of Conditions D17 and D18; and
- insertion of Condition C15 to outline a process for managing human remains, if encountered during test excavations or pre-construction and/or construction works.

**PROPOSED MODIFICATION**

The section 75W application seeks approval to re-word Condition A8 to defer the execution of the VPA from within six months of the date of the project approval to prior to the issue of an Occupation Certificate.

The proponent's proposed wording of Condition A8 is as follows:

***"A8 EXECUTION OF VOLUNTARY PLANNING AGREEMENT***

*Prior to an Occupation Certificate, the proponent shall enter into a Voluntary Planning Agreement (VPA) with Parramatta Council covering the following items within six months of the date of this project approval as per Meriton Apartments Pty Ltd's letter dated 25 September 2012:*

- (1) *The transfer of part lots 2 and 3 in Deposited Plan 788637 as depicted in Drawing No. A100 Revision 9 dated March 2011, and last updated on 20/09/12 to Parramatta Council free of cost (see plan at Attachment A). This land shall be transferred to the Council prior to the issue of the final Occupation Certificate.*
- (2) *The embellishment of the river foreshore and retaining wall adjacent to the site boundary and the turfing of part lots 2 and 3 in Deposited Plan 788637 prior to the issue of the final Occupation Certificate.*

*Note: The Planning Agreement is in addition to the section 94A developer contributions applicable to the project".*

**CONSULTATION**

In accordance with section 75X of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and clause 8G of the *Environmental Planning and Assessment Regulation*,

2000 (EP&A Regulation), the modification request was made available on the department's website. Due to the minor nature of the proposed modification, the modification request was not exhibited by any other means.

Parramatta City Council (council) advised that it does support delaying the execution of the VPA until prior to the issue of an Occupation Certificate. However, the council advised that as the terms of the VPA are close to being finalised, it would rather support an extension of up to 12 months in order to ensure the VPA is executed in a timely manner.

#### **DELEGATED AUTHORITY**

On 14 September 2011, the Minister delegated his powers and functions under section 75W of the EP&A Act to Directors in the Major Projects Assessment Division in cases where:

- the relevant local council has not made an objection;
- a political disclosure statement has not been made; and
- there are less than 10 submissions in the nature of objections.

As the council does not object to the application, no political disclosure statements have been made, and no submissions were received, the Director, Metropolitan and Regional Projects North may determine the modification request under delegated authority.

#### **KEY ISSUES**

The key issue associated with the modification is ensuring that all development contributions that fall outside the scope of the Parramatta City Centre S94A Development Contribution Plan are negotiated and addressed under a VPA in a timely manner. In this regard, the department supports the council's view that the execution of the VPA should not be deferred to prior to the issue of an Occupation Certificate. As such, the department supports modifying the VPA to provide the proponent with six additional months (within 12 months of the date of the project approval) to finalise its negotiations with the Council and execute the VPA. The recommended wording of Condition A8 is provided in the Instrument of Modification (see **Tag A**).

#### **RECOMMENDATION**

It is **RECOMMENDED** that the Director, Metropolitan and Regional Projects North:

- note the information provided in this briefing;
- approve the modification request, subject to conditions; and
- sign the attached Instrument of Modification (**Tag A**).

  
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 12/3/13

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 13/3/13

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