



Planning & Environment

MODIFICATION REQUEST:

Thomas Street Car Park, Chatswood

MP 09_0066 MOD 11



Secretary's
Environmental Assessment Report
Section 75W of the
Environmental Planning and Assessment Act 1979
September 2014

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*NSW Government
Department of Planning & Environment*

1. BACKGROUND

The purpose of this report is to assess a modification request to the major project approval MP 09_0066 for a mixed use residential and serviced apartment redevelopment of the Thomas Street Car Park site, Chatswood in accordance with section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The modification seeks approval to modify Building 1 by reducing the number of dwellings from 286 apartments to 271 apartments by modifying the apartment mix; reduce the number of adaptable units; amend the allocation of parking spaces (while maintaining the overall parking spaces within the building); modify the Section 94 Contributions and rectify an inconsistency between the conditions of approval and architectural plans.

1.1 The Site

The site, commonly known as the Thomas Street Car Park, is within the Chatswood CBD in the Willoughby Local Government Area. It was formerly owned by Council and occupied by a public car park.

The site has an area of 4,323m² and frontages to Thomas Street to the north and Albert Avenue to the south. The site is within 200 metres of the Chatswood Transport Interchange with rail and bus services to/from Sydney CBD and other centres. The site is approximately 12km north-west from Sydney CBD. The site location is shown in **Figure 1**.



Figure 1: Aerial view of the site

1.2 Previous Approvals

On 28 September 2010, the then Minister for Planning approved the construction of a mixed use commercial, retail and residential development contained within two towers, consisting of a 3 storey retail/commercial podium with:

- a 26 storey residential tower above on the northern portion of the site (Building 1);
- a 18 storey commercial tower on the southern portion of the site (Building 2);

- a basement level car park containing 506 car parking spaces (including 250 public car parking spaces); and
- public domain works including:
 - publicly accessible open space with a through site pedestrian link; and
 - a vehicular right of way between Thomas Street and Fleet Lane.

Ten applications to modify the original Project Approval have previously been made, therefore this application is modification No. 11. The previous modification applications are summarised in **Table 1** below.

	Application details	Determination
MOD 1	Staging of construction related conditions.	Approved by Acting Director Metropolitan & Regional Projects South on 7 June 2012.
MOD 2	Amendment to conditions relating to adaptable units, on-site detention, rainwater harvesting, stormwater, dilapidation report and car parking.	Approved by the Planning Assessment Commission (PAC) on 1 November 2012.
MOD 3	Change of use of commercial building (Building 2) to serviced apartments and other associated changes.	Approved by the Executive Director Major Projects Assessment on 18 February 2013.
MOD 4	Encroachment of the basement car park structure into Fleet Lane.	Approved by the Director, Metropolitan & Regional Projects North on 14 December 2012.
MOD 5	Increase in the height of the buildings, floor space, and car parking including above ground car parking.	Withdrawn by the proponent on 22 November 2012.
MOD 7	Amend basement layout within approved building envelope.	Approved by the Acting Director, Metropolitan and Regional Projects South on 21 June 2013.
MOD 8	Amend conditions of approval relating to construction hours.	Withdrawn by the proponent on 15 November 2013.
MOD 9	Amend the basement design to separate the loading dock from the public car park circulation.	Withdrawn by the proponent on 20 January 2014.
MOD 6	Increase in the height of the buildings, floor space, and car parking including above ground car parking.	Approved by the NSW Land and Environment Court on 29 January 2014.
MOD 10	The installation and display of two building identification signs on Building 2.	Approved by the PAC on 14 August 2014.

Table 1: Previous modifications

The development approved under MOD 6 consists of construction of a new mixed use serviced apartment, residential and retail development consisting of:

- a serviced apartment tower building part 32 and 33 storeys high containing 337 serviced apartments;
- a residential tower building 38 storeys high containing 286 dwellings;
- a three storey podium containing above ground car parking, apartment uses, child care, and other mixed uses;
- a five level basement containing car parking, including a public car park for 250 cars;
- a gross floor area of 51,426m²;
- total car parking of 570 spaces; and
- public domain works comprising:
 - publicly accessible open space with associated landscaping works;
 - a pedestrian through site link;

- a vehicular right-of-way between Thomas Street and Fleet Lane; and
- an accessible crossing of the vehicular right of way for pedestrians including a lift.

2. PROPOSED MODIFICATION

Modification 11 seeks approval to amend Building 1 (residential tower) by:

- reducing the number of dwellings from 286 apartments to 271 apartments by reducing the number of 1 and 2 bedroom apartments and increasing the number of 3 bedroom apartments (**Table 2**);
- reducing the number of adaptable apartments in accordance with the revised dwelling numbers;
- altering the car parking allocation (while maintaining the overall carparking spaces within the building); and
- modifying the Section 94 Contributions.

Unit Type	Approved No. of Dwellings	Proposed No. of Dwellings	Total
1 bedroom	124	109	-15
2 bedroom	141	111	-30
3 bedroom	21	51	+30
Total	286	271	-15

Table 2: Dwelling Mix

No change is proposed to the total gross floor area of Building 1.

The proposal also seeks approval to modify Condition F6 in relation to car parking allocation to rectify an inconsistency between the condition and the approved architectural plans approved by the NSW Land and Environment Court under MOD 6.

Further details of the proposed modifications are provided in **Appendix A**.

3. STATUTORY CONTEXT

3.1 Continuing Operation of Part 3A

In accordance with clause 3 of Schedule 6A of the EP&A Act, section 75W of the EP&A Act as in force immediately before its repeal on 1 October 2011, and as modified by Schedule 6A, continues to apply to transitional Part 3A projects.

Consequently, this report has been prepared in accordance with the requirements of Part 3A and associated regulations. The Minister for Planning, or her delegate, may approve or disapprove of the modification request pursuant to section 75W of the EP&A Act.

3.2 Modification of the Minister's Approval

The modification application has been lodged with the department pursuant to section 75W of the EP&A Act. Section 75W provides for the modification of a Minister's approval including "revoking or varying a condition of the approval or imposing an additional condition of the approval."

The Minister's approval of a modification is not required if the project as modified will be consistent with the existing approval. In this instance, the proposal seeks to modify aspects of the project approval which requires further assessment. Therefore, approval to modify the application is required.

3.3 Environmental Assessment Requirements

Section 75W(3) of the EP&A Act provides that the department may notify the proponent of Secretary's Environmental Assessment Requirements with respect to the proposed modification that the proponent must comply with before the matter will be considered by the Minister.

No additional environmental assessment requirements were issued with respect to the proposed modification, as sufficient information has been provided to the department in order to consider the application.

3.4 Delegated Authority

Consistent with the Minister for Planning's delegation, the application can be determined by the Planning Assessment Commission.

4. CONSULTATION AND SUBMISSIONS

In accordance with section 75X of the EP&A Act and clause 8G of the EP&A Regulation, the department must make the modification request publicly available. The department placed the modification request on its website and referred it to Willoughby City Council for comment. Due to the nature of the proposed modification, it was not exhibited by any other means.

Council raised no concerns with the modification. No public submissions were received. Further details are provided in **Appendix B**.

5. ASSESSMENT

The key issues in the department's assessment are:

- residential amenity of the modified units;
- adaptable units;
- modified Section 94 Contributions; and
- car parking.

5.1 Residential amenity

The proposal seeks to modify the layout of the southeast portion of Building 1 across Levels 22-36 to reduce the number of apartments from 286 to 271. On each level, 2 x 2 bedroom and 1 x 1 bedroom apartments would be replaced with 2 x 3 bedroom apartments. Minor internal and external alterations are also proposed.

The department supports the amendment and considers the revised layout will provide a good level of residential amenity consistent with *State Environmental Planning Policy 65 – Design Quality of Residential Flat Development* (SEPP 65) and accompanying *Residential Flat Design Code* (RFDC). In particular:

- the proposal will achieve at least 2 hours of sunlight to living and private open spaces of the south eastern corner unit, which provides a higher level of amenity than the previously approved south facing apartment in this location;
- the units will be naturally cross ventilated;
- the units will range from 104m² to 113m², which exceeds the 95m² minimum as referred to in the RFDC for housing affordability;
- despite the back of kitchens being more than 8 metres from a window (maximum is approximately 9 metres), the proposed apartment layout includes either a full width sliding door onto balconies or windows that will provide access to cross flow ventilation and also access to daylight; and

- each unit is provided with balcony spaces off bedrooms and living areas that are a minimum width of 2 metres and the majority facing east for solar access.

5.2 Car parking

The application seeks to modify the car parking allocation for the different types of residential apartments in Building 1 and also rectify an inconsistency between the overall parking spaces for the development and the plans approved by the NSW Land and Environment Court.

Building 1

The approval requires 253 underground car parking spaces to be provided for Building 1, which includes 29 visitor spaces. Although the revised dwelling mix and overall reduction in apartments requires only 245 spaces (**Table 3**), it is proposed to retain the approved (and already constructed) 253 spaces. The surplus 8 spaces is sought to be allocated to apartments.

Unit Type	Approved		Proposed		Total
	No. of Dwellings	Car Parking	No. of Dwellings	Car Parking	
1 bedroom	124	62	109	55	-7
2 bedroom	141	141	111	111	-30
3 bedroom	21	21	51	51	+30
Visitors	-	29	-	28	-1
Total	286	253	271	245	-8

Table 3: Car parking allocation

Council raised no concerns with the allocation of car parking spaces.

The allocation of car parking is considered to be appropriate and maintains the overall car parking numbers for Building 1. Each of the apartments are provided with car parking at a rate consistent with the previous approvals on the site, being 1 space per 2 and 3 bedroom apartments and 0.5 spaces per 1 bedroom apartments. The surplus 8 spaces may be allocated to 1 bedroom apartments which do not have a space or 2 or 3 bedroom apartments who wish to have 2 spaces.

The department considers that the surplus of 8 spaces is minor and their reallocation will not materially affect the parking rate for the development. The overall parking provision and allocation is appropriate, noting the sites proximity to public transport and services.

Condition F6

Condition F6 requires 570 parking spaces to be provided for the overall development. However, the approved architectural plans (approved under MOD 6 by the NSW Land and Environment Court) included a total parking for 573 vehicles and a modified allocation of spaces between the residential and serviced apartment uses. It is proposed to amend the Condition F6 to rectify this inconsistency.

Table 4 provides a comparison between the parking allocation and total as depicted in Condition F6 compared to the approved architectural plans.

	Car Parking Approved	Car Parking Proposed	Total
Public Spaces	250	250	0
Resident Spaces	222 (including 29 visitor spaces and 9 disabled spaces for adaptable units)	253 (includes 28 visitor spaces and 9 disabled spaces for adaptable units)	+31 (includes a reduction in visitor spaces)

Serviced Apartment Spaces	84 (including 4 disabled spaces for adaptable units)	56 (includes 4 disabled spaces for adaptable units)	-28
Child care centre spaces	10	10	0
Commercial / retail spaces	4	4	0
Total	570	573	+3

Table 4: Car parking allocation

Council raised no concerns with the amendment to correctly reflect the approved plans.

The allocation and total parking is consistent with that illustrated on the approved architectural plans. The department notes that the car parking allocation and total figure in Condition F6 is an error as the Court, in approving MOD 6, never sought to amend the parking total or allocation as proposed.

The department further notes that the Court included a reference that 3 parking spaces allocated as serviced apartment parking shall be redesignated as courier spaces/service bays. To ensure that the allocation complies with this requirement, the department proposes to amend the existing condition to require 3 spaces to be designated as courier spaces/service bays.

The proponent has raised no concerns with this amendment.

Noting the above, the department supports the proposed modified condition as this rectifies an inconsistency between the conditions of approval and approved architectural plans.

Condition F6 is therefore recommended to be amended as follows:

F6. The on-site car parking provision shall be arranged as follows:

- 250 public spaces;
- ~~222~~ **253** resident spaces (including 29 ~~28~~ visitors spaces and 9 disabled spaces for adaptable units);
- ~~84~~ **56** serviced apartment spaces (including 4 disabled spaces for adaptable units **and 3 designated as courier spaces/service bays**)
- 10 child care centre spaces
- 4 commercial/retail spaces
- Total ~~570~~ **573** spaces

Two car spaces are to be provided within the secure car park for the residential flat building that allows for the parking of a car share vehicle being used by a resident of the building. (Note these are in addition to any car share space that may be allocated by Council in the public car park for storage of a car share vehicle when not in use).

Parking spaces numbered 1 to 3 located in the loading dock (and allocated as serviced apartment parking) shall be redesignated as courier spaces/service bays.

5.3 Adaptable units

Condition B9 of the approval requires at least 20% (57) of apartments to be provided as adaptable dwellings. As a consequence of reducing the number of apartments from 286 to 271, the number of adaptable units also reduces from 57 to 54.

This reduction is acceptable noting that 54 units equates to 20% of the overall number of apartments. A modified Condition B9 is recommended accordingly.

5.4 Section 94 Contributions

Section 94 Contributions imposed on the original approval are to be paid based on the number of 1, 2 and 3 bedroom apartments. Given the proposed reduction of 15 apartments from the site and the change in dwelling mix, a reduced Section 94 Contribution is to be paid by the proponent. A modified Condition B4 is recommended accordingly.

6. CONCLUSION

The department has assessed the application on its merits and is satisfied that the proposal is reasonable and generally consistent with the approval (as modified).

The modified apartment layouts will result in improved residential amenity for occupants within Building 1. The proposed amended car parking allocation, modified number of adaptable units and amended Section 94 Contributions are also considered to be appropriate.

Having regard to the above, the department is satisfied that the proposed modifications are acceptable.

7. RECOMMENDATION

It is recommended that the Planning Assessment Commission as delegate for the Minister for Planning:

- **consider** the findings and recommendations of this report;
- **approve** the modification request subject to conditions under Section 75W of the EP&A Act; and
- **sign** the attached Instrument of Modification (**Appendix C**).

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APPENDIX A MODIFICATION REQUEST

See the department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6597

APPENDIX B SUBMISSIONS

See the department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6597

APPENDIX C RECOMMENDED MODIFYING INSTRUMENT
