

Planning Report

Section 75W Application

16 Thomas St, Chatswood (Thomas Street Carpark)

Amend conditions C47, E35, E37, E41, E42, E45

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Annexure 1: Amended conditions

1 Introduction

This Planning Report relates to a Section 75W Application seeking consent from Department of Planning and Infrastructure to amend Major Project Application MP09_0066.

The subject Section 75W Application seeks to amend conditions C47, E35, E37, E41, E42, E45.

This Report:

- describes the site and its surrounding area,
- details the nature of the proposed development, and
- undertakes an assessment of any likely impacts arising from the proposal.

The conclusion is reached that the proposal is acceptable with regard to all relevant planning issues.

2 Site and Surroundings

The subject site is commonly known as the Thomas Street Car Park and is located on the southern side of Thomas Street and northern side of Albert Avenue, Chatswood (**Figure 1**). The legal description of the property is Lots 13 and 22-30 in DP 2983, Lots A and 8 DP 381223, and Lot 3 in DP 1160905.



Figure 1: Site Location

The site is irregular in shape, with a northern frontage to Thomas Street of 40m, a southern frontage to Albert Avenue of 80m, providing a total site area of 4,323m². The site stretches over an existing portion of Fleet Lane.

The site is currently undergoing construction of two mixed use towers that range in height between 32 and 38 storeys and are connected by a 3 storey podium. The development was approved on 28 September 2010 by the Minister for Planning under the now repealed Part 3A of the Environmental Planning & Assessment Act, 1979, and has been modified on a number of occasions since.

3 Proposed Modifications

3.1 Existing Consent

On 28 September 2010, the Department of Planning issued its consent (MP09_0066) for the following development:

- the construction of a commercial building (Building 1) on the southern portion of the site comprising of a 3 storey retail/commercial podium and 18 storey commercial tower above;
- the construction of a residential building (Building 2) on the northern portion of the site consisting of a 3 storey retail/commercial podium and 26 storey residential tower above;
- a 5 level basement level car park containing 506 car parking spaces (including 250 public car parking spaces); and
- public domain works including:
 - publicly accessible open space and a through site pedestrian link; and
 - a vehicular right of way between Thomas Street and Fleet Lane.

3.2 Proposed Amendments

It is proposed to amend conditions C47, E35, E37, E41, E42, E45. Proposed amended conditions C47, E35, E37, E41, E42, E45 are included at **Annexure 1**.

Reasons for the proposed amended conditions are as follows:

- **Condition C47** – Amended timing is required to allow the median strip to be completed after Council car park occupation.
- **Condition E35 and E37** – Amended timing is proposed to address a situation where the R.O.W is approved by Council and lodged with the stratum plans at the LPI but not yet registered.
- **Condition E41** – Amended timing is required as the road work in Fleet Lane cannot commence until the hoarding is removed and this needs to remain in place until towers are completed and cranes removed (say mid 2016).
- **Condition 42** – Amended timing is proposed to allow for ground lease for Fleet Lane approved by Council and then lodged to LPI but not yet registered on title in time for car park occupation.
- **Condition E45** – Amended timing of this condition is for the same reason that condition E41.

4 Planning Assessment

4.1 Part 3A of the EP&A Act, 1979

Pursuant to Clause 75W continues to apply to Transitional Part 3A Projects. As such, the proposal is submitted in accordance with the requirements of the Act and the Minister (or his delegate) is the approval authority.

Transitional Part 3A Projects are defined in Clause 2 of Schedule 6A of the Act and includes a project that was approved pursuant to the now repealed Part 3A of the Act.

4.2 Environmental Impacts

The proposal will not create any adverse environmental impacts. The proposed amendments are intended to facilitate the occupation of the public carpark on the site.

The modified development will retain high levels of amenity for the future occupants, who will enjoy views of the Chatswood CBD and surrounds, within a highly sort after location.

5 Conclusion

The subject Section 75W Application seeks to amend conditions C47, E35, E37, E41, E42, E45.

It is considered that the proposal provides an appropriate response to the planned development of the site and will assist in the orderly and economic development of the land.

The proposal satisfies assessment of all relevant issues and all relevant provisions of the applicable planning controls.

It is therefore submitted that the Minister grant approval to the Section 75W Application and amend the Major Project approval in the manner requested.

Annexure 1: Amended conditions

- C47. The proponent is to provide a raised concrete median along the centre line of Albert Avenue to restrict access to left-in / left-out for both the proposed entry/exit to the public and residential car park and the loading dock exit. The design for the median island shall be prepared and submitted to Council for its approval prior to any work on construction of the island starting.

Due to the close proximity of the proposed access to the traffic signals at Albert Avenue / Thomas Lane, the detailed civil design plan of the proposed median that is to be installed along Albert Avenue to regulate left-in / left-out movements from the development should also be forwarded to the RMS for review as the proposed median island works may also require the need for an amended traffic signal design plan to be submitted for consideration and approval. Should an amended traffic signal design be required to be submitted, then this should be designed to meet RMS requirements, and endorsed by a suitably qualified / Chartered Engineer.

Any RMS fees for administration, plan checking, possible works inspections and project management shall be paid by the Applicant prior to the commencement of the road works.

The median island is to be completed prior to the issue of an Occupation Certificate.

In the event that the median strip works have not been completed prior to the issue of an occupation certificate then a temporary traffic barrier is to be installed to the satisfaction of Council that prevents right turn in and right turn out of the main Albert Avenue venue carpark driveway.

- E35. Prior to any occupation certificate for the basement car parking levels, a right of footway easement in gross for the public to enter, pass, re pass, use and enjoy the plaza and access the public car park is to be lodged to LPI for registration ~~registered~~ over the land in favour Willoughby Council.

- E37. The stratum ~~containing for~~ the public car parking facility to Willoughby City Council is to be lodged to the LPI for registration ~~handed over to the ownership of Willoughby City Council~~ prior to any occupation certificate for the ground level or above ground level development in either building. Rights of vehicular, pedestrian and public access to the stratum are to be lodged to the LPI for registration ~~registered~~ in conjunction with the stratum ~~registration~~.

- E41. Reconstruct Pavement in Fleet Lane West
(Condition to be satisfied prior to issue of final occupation certificate/~~prior to operation of the basement levels~~)

The proponent shall construct the full width road pavement including any necessary associated works adjoining to the full frontage of the development site to Fleet Lane West. It shall be constructed in accordance with Willoughby City Council's approved drawings, conditions and specification (AUS-SPEC). Council's standard design for traffic for these pavements is 2 X 104 ESA.

- E42. Purchase of Stratum in Fleet Lane West containing the Encroaching Structure
(Condition to be satisfied prior to issue of occupation certificate/prior to operation of the basement levels)

The proponent is to obtain a Subdivision Certificate and the stratum subdivision is to be registered and the partial road closure shall be gazetted for sale of the stratum freehold interest to occur and consolidation of the stratum into the development site.

The stratum freehold interest (and/or interim lease) is to be valued by an independent Valuer agreed to by Willoughby Council and the Proponent and payment for the stratum interest made.

The sale in respect of the stratum lot containing the proposed encroachment of the basement building into Fleet Lane West shall be completed to the satisfaction of Willoughby City Council prior to an Occupation Certificate for the encroaching structure.

All costs associated with the registration of the stratum plan of subdivision, road closure, consolidation, valuation and sale of the stratum interest are to be borne by the Proponent of the development.

NOTE: This condition may be varied to the extent that an interim lease pursuant to the Roads Act 1993 is agreed to by Willoughby Council and is signed and lodged with LPI for registration ~~registered~~ until such time as the road closure, sale and transfer occurs.

- E45. Reinstatement of Lighting in Fleet Lane West
(Condition to be satisfied prior to issue of final occupation certificate/~~prior to operation of the basement levels~~)

The light pole at the corner of Fleet Lane West and Albert Lane is to be reinstated in a location to the satisfaction of Willoughby Council.