



## Planning & Environment

### ***MODIFICATION REQUEST:***

***Thomas Street Car Park, Chatswood***

***MP 09\_0066 MOD 15***



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

© Crown copyright 2014  
Published November 2014  
NSW Department of Planning & Environment  
[www.planning.nsw.gov.au](http://www.planning.nsw.gov.au)

**Disclaimer:**

While every reasonable effort has been made to ensure that this document is correct at the time of publication, the State of New South Wales, its agents and employees, disclaim any and all liability to any person in respect of anything or the consequences of anything done or omitted to be done in reliance upon the whole or any part of this document.

## CONTENTS

---

<b>1. BACKGROUND</b>	<b>2</b>
1.1 The Site	2
1.2 Previous Approvals	2
<b>2. PROPOSED MODIFICATION</b>	<b>4</b>
<b>3. STATUTORY CONTEXT</b>	<b>4</b>
3.1 Continuing Operation of Part 3A to Modify Approvals	4
3.2 Modification of the Minister's Approval	4
3.3 Environmental Assessment Requirements	5
3.4 Delegated Authority	5
<b>4. CONSULTATION AND SUBMISSIONS</b>	<b>5</b>
<b>5. ASSESSMENT</b>	<b>5</b>
<b>6. CONCLUSION AND RECOMMENDATIONS</b>	<b>6</b>
<b>APPENDIX A MODIFICATION REQUEST</b>	<b>8</b>
<b>APPENDIX B SUBMISSIONS</b>	<b>9</b>
<b>APPENDIX C RECOMMENDED MODIFYING INSTRUMENT</b>	<b>10</b>



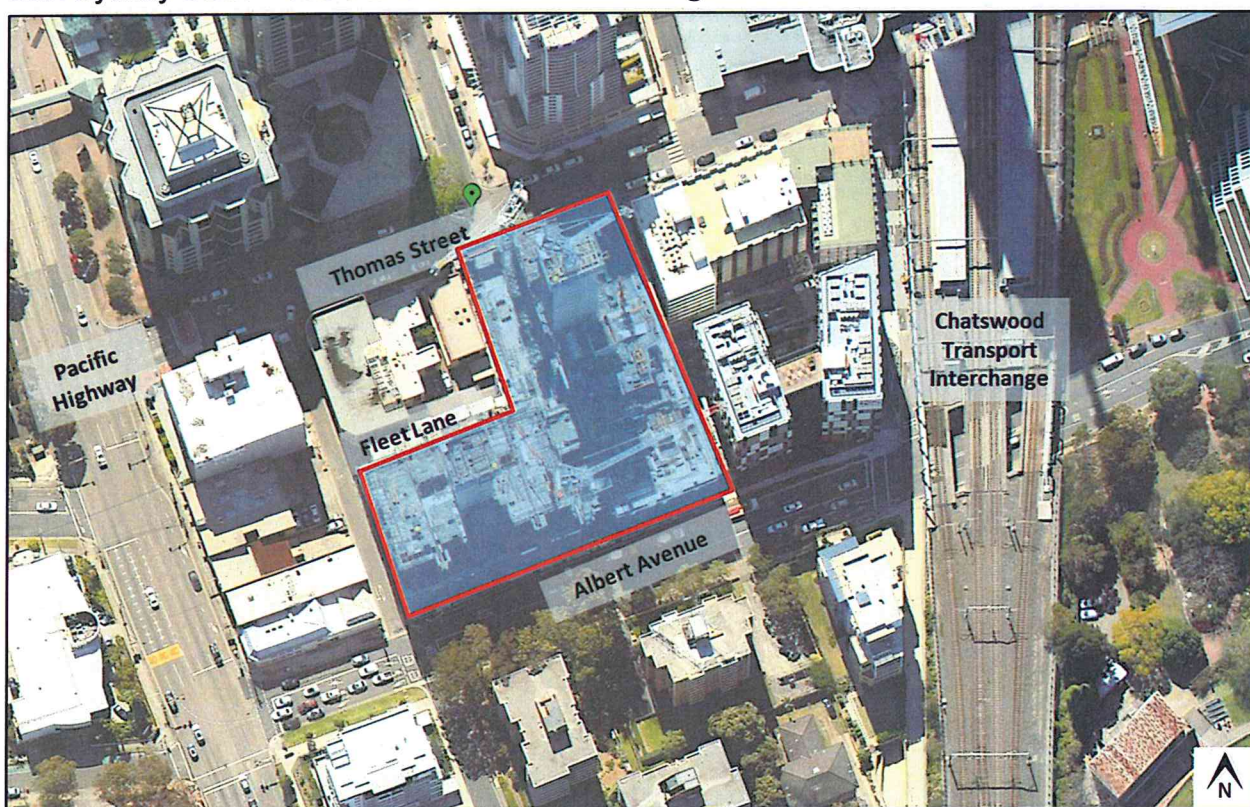
# 1. BACKGROUND

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 application seeks approval to amend the timing of satisfaction of Conditions C47, E35, E37, E41, E42 and E45.

## 1.1 The Site

The site, formerly known as the Thomas Street Car Park, is within 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 4,323m<sup>2</sup> 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 under construction (outlined in red)

Source: Nearmaps 2014

## 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.



Fourteen applications to modify the original Project Approval have previously been lodged by the proponent, therefore this application is modification No. 15 (MOD 15). The previous modification applications are summarised in **Table 1** below.

**Table 1 Previous Modifications**

	<b>Application details</b>	<b>Determination</b>
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 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 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 10	The installation and display of two illuminated building identification signs on Building 2.	Approved by the PAC on 14 August 2014.
MOD 11	To reduce the total apartment numbers and number of adaptable units within the residential tower to a total of 271 dwellings, amend the mix of units, car parking allocation and Section 94 Contributions.	Approved by the PAC 10 September 2014
MOD 12	To delete Condition B16 relating to Energy Star Ratings.	Withdrawn by the proponent on 20 August 2014
MOD 13	To make various internal and external alterations to Buildings 1 and 2.	Currently under Assessment by the Department at the time of writing this report.
MOD 14	To erect roof and wall structures to enclose the approved bridges that connect the two buildings and install a security room.	Currently under Assessment by the Department at the time of writing this report.

The development as modified 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 271 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 51,426m<sup>2</sup>;
- 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

The proposal seeks to amend the approval in order to clarify the timing for satisfying the relevant conditions. The proposed amendments are sought to facilitate the occupation of the public car park on the site.

Conditions proposed to be amended are detailed in **Table 1**.

**Table 1:** Conditions of the approval proposed to be amended

<b>Part C – Prior to Construction</b>
<b>C47</b> Albert Avenue Median Island
<b>Part E – Prior to Issue of Occupation Certificate (OC) / Prior to Operations</b>
<b>E35</b> Easement in Gross
<b>E37</b> Public Car Park
<b>E41</b> Reconstruct Pavement in Fleet Lane West
<b>E42</b> Purchase of Stratum in Fleet Lane West containing the Encroaching Structure
<b>E45</b> Reinstatement of Lighting in Fleet Lane West

## 3. STATUTORY CONTEXT

### 3.1 Continuing Operation of Part 3A to Modify Approvals

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 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 conditions 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 the 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 and the Roads and Maritime Services (RMS) for comment. Due to the nature of the proposed modification, it was not exhibited by any other means.

RMS raised concerns about the amendment to Condition C47 and advised that it does not support the proposed temporary barrier in place of the concrete median. RMS was particularly concerned that the proponent may not construct the concrete median once the OC is issued.

Council notes the existing conditions do not adequately allow for the staging of construction and timing of the occupation certificates for the various stages of the development. On this basis, Council does not object to the proposed modification subject to minor changes to the relevant conditions, which are outlined in **Appendix B**.

The Department did not receive any public submissions.

## **5. ASSESSMENT**

---

The Department's assessment of the proposed modifications to the conditions of approval is provided below:

### **5.1 Condition C47 – Albert Avenue Median Island**

Condition C47 requires the provision of a concrete median island along the centre of Albert Avenue prior to the issue of an OC.

In the event the median island is not completed prior to the completion of the public car park, the proponent seeks to install a temporary traffic barrier to the satisfaction of Council to prevent right turn access movements to the car park driveway at Albert Avenue.

Council does not object to the provision of a temporary traffic barrier providing it is removed once the works for the permanent median island are complete.



As outlined in Section 4, the RMS does not support the proposal to provide a temporary barrier prior to issue of an OC, given the uncertainty of provision of a permanent concrete median.

The Department notes RMS' concerns and agrees that the condition of approval should be amended to provide certainty that the permanent concrete median will be provided. Therefore the Department recommends that the condition be amended to allow the temporary traffic barrier to be installed in the event the median island is not complete prior to OC for the public car park, however prior to the issue of the OC or use of the above ground development. It is to be replaced with the completed median island to the satisfaction of Council. Subject to the revised condition, the Department concludes that the proposed temporary and permanent access arrangements to the car park driveway at Albert Avenue are acceptable.

## **5.2 Amending Conditions to Clarify Staging of Occupation**

The proposal seeks to amend conditions E35, E37, E41, E42 and E45 in Part E of the approval to clarify the timing for satisfying relevant conditions prior to the issue of occupation certificates.

Conditions E35, E37 and E42 require stratum subdivision plans and easements for the public car park and encroachments into Fleet Lane to be registered and/or handed over to Council ownership prior to issue of an OC.

The proponent seeks to amend these conditions to allow the release of an OC once the stratum plans and easements for the public car park and encroachments into Fleet Lane are lodged with Land and Property Information (LPI).

Council raised no objection to the proposed modification of these conditions subject to the stratum subdivision plans and associated easements being approved by Council prior to issue of the OC.

Conditions E41 and E45 require the reconstruction of pavement and reinstatement of lighting in Fleet Lane West prior to issue of an OC or operation of the basement levels. The proponent seeks to amend these conditions to defer these requirements to prior to issue of a final OC.

Council raises no objection to the proposed modification subject to these works being completed prior to an OC and use of the above ground development. The proponent has accepted the revised timing of the conditions.

The Department has assessed the proposed amendments to conditions and the additional recommendations made by Council. The modifications relate to the staging of OCs only and will not impact on the overall outcome of the approved development. The Department and Council are also satisfied that the deferral of the reconstruction of pavement and lighting in Fleet Lane West will not detrimentally impact on the use of the public car park and will ensure the timely restoration of the public domain adjacent to the site.

## **6. CONCLUSION AND RECOMMENDATIONS**

---

The Department has assessed the proposed amendments to the Project Approval and has considered Council and RMS' submissions. Council supports the proposed modifications subject to a number of minor amendments to provide certainty the development will be completed in a staged manner consistent with the overall project approval.

The RMS does not support the proposed amendment to allow a temporary barrier as suggested by the proponent, however the Department has addressed RMS' concern through an amended recommended condition of approval which allows a temporary barrier for the operation of the public car park with the permanent concrete median required prior to issue of an OC or use of the



above ground development. On this basis, the Department supports the proposed modifications subject to the amended conditions.

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**).

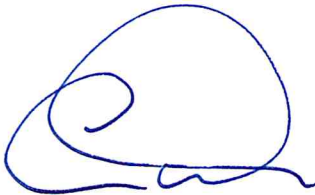
Endorsed by:

*AWatson*

Amy Watson  
**Team Leader**  
**Metropolitan Projects**



Ben Lusher  
**Manager**  
**Key Sites and Social Projects**



25.11.14

Chris Wilson  
**Executive Director**  
**Infrastructure and Industry Assessments**

## APPENDIX A    MODIFICATION REQUEST

---

See the Department's website at

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=6700](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6700)



## APPENDIX B SUBMISSIONS

---

See the Department's website at

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=6700](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6700)

## **APPENDIX C    RECOMMENDED MODIFYING INSTRUMENT**

---