

Modification of Minister's Approval

Section 75W of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning under delegation executed on 10 November 2014, we, the Planning Assessment Commission approve the modification of the Project Approval referred to in Schedule 1, subject to the Terms of Approval in Schedule 2.

Member of the Commission

Sydney

2014

SCHEDULE 1

Application No.:

MP 09_0066

Proponent:

Karimbla Constructions Services (NSW) Pty Ltd

Approval Authority:

Minister for Planning

Land:

Lots 22 – 30 in DP 2983
Lot 13 in DP 2983
Lots A & B in DP 381223
Part of Fleet Lane

Project:

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 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.

Modification:

MP 09_0066 MOD 15: modification to conditions C47, E35, E37, E41, E42 and E45.

SCHEDULE 2

PART A - ADMINISTRATIVE CONDITIONS

The above approval is modified as follows:

1. *In Part C, Condition C47 is amended and renamed Condition C21 by the insertion of **bold** and underlined words and deletion of ~~struck-out~~ words as follows:*

Albert Avenue Median Island

~~C47.~~

- C21.** 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 for the public car park then a temporary traffic barrier is to be installed to the satisfaction of Willoughby City Council that prevents right turn in and right turn out of the Albert Avenue basement car park driveway. The temporary traffic barrier is to be replaced by the completed Median Island prior to the issue of the occupation certificate or use of the above ground development.

2. *In Part E – Condition E35 is amended by the insertion of **bold** and underlined words/numbers and deletion of ~~struck-out~~ words/numbers as follows:*

Easement in Gross

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

3. *In Part E – Condition E37 is amended by the insertion of **bold** and underlined words/numbers and deletion of ~~struck-out~~ words/numbers as follows:*

Public Car Park

- E37. The **subdivision to create the stratum lot for** ~~containing~~ the public car parking facility **for hand over to Willoughby City Council** is to be **have the Subdivision Certificate issued by Willoughby City Council and be lodged with the LPI for final registration** ~~handed over to the ownership of Willoughby City Council prior to~~ **the** any occupation certificate for the ground level or above ground level development in either

building. Rights of vehicular, pedestrian and public access to the public car park stratum lot are to be registered **approved by Willoughby City Council and lodged with the LPI for registration** in conjunction with the stratum subdivision registration. **Hand-over of the public car park stratum lot to Willoughby City Council shall follow immediately upon registration of the subdivision.**

4. In Part E – Condition E41 is amended by the insertion of **bold** and **underlined** words/numbers as follows:

Reconstruct Pavement in Fleet Lane West

- E41. 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.
The road and road pavement in Fleet Lane is to be reconstructed prior to the issue of an occupation certificate and use of the above ground development.

5. In Part E – Condition E42 is amended by the insertion of **bold** and **underlined** words/numbers and deletion of ~~struck out~~ words/numbers as follows:

Purchase of Stratum in Fleet Lane West containing the Encroaching Structure

- E42. 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 **ready for signing. The subdivision of Fleet Lane to create the leasehold lot below Fleet Lane is to have the Subdivision certificate issued by Willoughby City Council and lodged with LPI for final registration.** ~~signed and registered until such time as the road closure, sale and transfer occurs.~~

6. In Part E – Condition E45 is amended by the insertion of **bold** and **underlined** words/numbers and deletion of ~~struck out~~ words/numbers as follows:

Reinstatement of Lighting in Fleet Lane West

- E45. The light pole at the corner of Fleet Lane West and Albert Lane is to be reinstated **prior to an occupation certificate and use of the above ground development** in a location to the satisfaction of Willoughby Council.

END OF MODIFICATIONS TO MP 09_0066 MOD 15
