

28 September 2006

Owkim Pty Ltd
Po Box 74
Brookvale NSW 2100

2006/0135MOD1
MB (PAS)

Dear Sir / Madam,

**RE: LOT 1, DP 1015163, 37-39 CHARD ROAD, BROOKVALE
MODIFICATION OF DEVELOPMENT CONSENT NO. 2006/0135 MOD1**

We are writing to advise that the request to modify the above-mentioned Development Consent has been approved on 18 September 2006 and determined as follows:

The Development Application No: 2006/135/1 for modification of consent to relocate stairwell for rooftop parking, at Lot 1, DP 1015163, 37-39 Chard Road Brookvale be Approved subject to the following special conditions and the attached conditions:

➤ **Condition No. 1** modified to read as follows:

1. Approved Plans

Development being generally in accordance with plans numbered 2558-A1, 2558-A2 and 2558-A3 (Revision B) dated 2/8/06

Reason: *To ensure the work is carried out in accordance with the determination of Council and approved plans. [A1 (1)]*

➤ Additional of **Condition No. 1 a** to read as follows:

1a. Construction Certificate for Modification

A Construction Certificate is required to be approved and issued by either Council or an Accredited Certifier, prior to the commencement of any works on the site on those parts of the building that are the subject of the modification.

Reason: *Legislative requirements. [D3A]*

This letter should therefore be read in conjunction with Development Consent 2006/0135 dated 28 April 2006. Please find attached a consolidated set of conditions incorporating both modifications of consent.

Please note that on site works cannot proceed unless a Construction Certificate application for the modified proposal has been lodged with and approved by Council or an accredited certifier, and relevant conditions of the Development Application have been carried out.

Section 97(1) of the Environmental Planning and Assessment Act confers on the applicant who is not satisfied with the determination of the Consent Authority has a right of appeal to the Land and Environment Court exercisable within 12 months of receipt of this notice.

You may request the Council to review the determination of the application under Section 82A of the Environmental Planning & Assessment Act 1979. Any request to review the application must be within 12 months after the date of determination shown on this notice.

Should you have any further enquiries in connection with this matter, please contact the referred to Enquiry Officer.

The appropriately stamped plan/s to which the modification of consent has now been granted is available for collection at Councils Customer Service Centre. Please note that if you nominate Council to assess your Construction Certificate, associated forms and information regarding what to submit is also enclosed in the determination kit.

It is Council's policy not to forward these by mail to ensure safe receipt of these important documents. When collecting your Modified Consent and accompanying documents, please bring this letter with you for identification purposes. The Customer Service Centre is open between 8.30am and 5pm Monday to Friday (excluding Public Holidays).

Work must also be in accordance with the relevant MODIFIED conditions of the Development Consent.

Should you require any further information on this matter, please contact **Phil Lane** between the hours of 9.30am and 10.30am or 3.00pm and 4.00pm, Monday to Friday, on telephone number **9942 2111**, or at any time on facsimile number **9971 4522**.

Details of development applications lodged after July 1, 2005 are also available online, to access this facility please visit our DA's Online System at www.warringah.nsw.gov.au.

Yours faithfully,

Keith Wright
Team Leader Development Assessment

CONDITIONS THAT IDENTIFY APPROVED PLANS

1. Approved Plans And Supporting Documentation

Development being generally in accordance with plans numbered 2558-A1, 2558-A2 and 2558-A3 (Revision B) dated 2/8/06

***Reason:** To ensure the work is carried out in accordance with the determination of Council and approved plans. [A1 (1)]*

1a. Construction Certificate for Modification

A Construction Certificate is required to be approved and issued by either Council or an Accredited Certifier, prior to the commencement of any works on the site on those parts of the building that are the subject of the modification.

***Reason:** Legislative requirements. [D3A]*

2. Plans on Site

A copy of all stamped approved plans, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) shall be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

***Reason:** To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information and to ensure ongoing compliance. [A2]*

CONDITIONS THAT REQUIRE SUBSIDIARY MATTERS TO BE COMPLETED PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

3. Fire Safety Measures

Submission at the Construction Certificate stage of the anticipated schedule of current and proposed fire safety measures to be implemented in the building, and such fire safety schedule shall specify the minimum standard of performance for each fire safety measure.

***Reason:** Fire Safety [C1]*

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4. Kerb Security Bond

A bond of \$550 and \$200 kerb inspection shall be deposited with Council and inspection fees paid, prior to the issue of any construction certificate, against the potential for damage to Council's footpath and road reserve infrastructure during the construction process. (See Schedule)

***Reason:** To ensure appropriate security is in place for the protection or repair of Public Infrastructure. [C16]*

5. Line Marking

Thirty six (36) off-street car-parking spaces, together with access driveways, shall be constructed, paved, line marked and signposted in accordance with the approved development plans, appropriate Australian Standards and industry best practice as appropriate. The plans shall also nominate the allocation of parking spaces for specific purposes as required by conditions of this consent. A certificate prepared and certified by an appropriately qualified and practising Civil Engineer for the construction of these areas in accordance with this requirement shall be submitted with the Construction Certificate.

***Reason:** To ensure ongoing compliance with this development consent and Australian Standards relating to manoeuvring and access of vehicles. [C38]*

6. Structural Adequacy of Existing Building

A certificate prepared by an appropriately qualified and practising Structural Engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads shall be submitted with the Construction Certificate application.

***Reason:** To ensure the structural integrity of the building is maintained. [C50]*

7. Cigarette Butt Receptacle - Commercial

That provision be made for cigarette butt receptacles on the site to minimise littering. Cigarette butt receptacles must be provided during building works on any site, and permanently provided to any restaurant/bar/retail/commercial component of the development after construction. Details of the size and the location of the receptacle are to be provided in the Construction Certificate.

***Reason:** To ensure that adequate provision is made for builder's waste and waste upon completion of the development. [C58]*

8. Security Bond Schedule

All fees and security bonds in accordance with the schedule below must be paid or in place prior to the issue of the required Construction Certificate:

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SECURITY BOND & FEE SCHEDULE	
(Property address) 37 - 39 Chard Road Brookvale	
DEVELOPMENT APPLICATION NUMBER 2006/0135	
SECURITY BONDS	AMOUNT (\$)
Builders Road/Kerb Security Bond	\$550.00
TOTAL BONDS	\$550.00
FEES	
Kerb Security Inspection Fee	\$200.00
Long Service Levy	\$341.25
TOTAL FEES	\$541.25

***Reason:** Compliance with the development consent. [C71]*

9. Fire Safety

The applicant is to engage the services of an Accredited Certifier, Building Grade 1 or 2 (NSW or equivalent) to carry out a Building Code of Australia audit that is based upon inspections(s) of the building in terms of the deemed-to-satisfy fire safety provisions. (A list of Accredited Certifiers is available on the Department of Infrastructure Planning and Natural Resources website.)

The audit must specifically cover all clauses within Section C, D and E of the Building Code of Australia (as per the most recent amendments) reflecting compliance, non-compliance or not applicable in the circumstances. The audit (checklist) is to accompany the report.

The results of the audit are to be incorporated into a report and strategy to overcome the non-compliant provisions either by performance solution or adherence to deemed-to-satisfy provisions by satisfying the fire safety objectives of Sections C, D and E of the Building Code of Australia.

The standard of satisfying the fire safety objectives of Sections C, D and E as contained within the Building Code of Australia is the specified standard for the purposes of Section 121P(1)(a) of the Act.

- a) A schedule of existing (if applicable) and the proposed Essential Fire Safety Measures, including their standard performance must be included in this strategy.
- b) The report and strategy must be submitted to the Council for written approval.
- c) The recommendations of the required report are to be implemented to the building prior to the issue of Interim/Final Occupation Certificate.

***Reason:** To ensure an adequate level of fire safety is provided within the premises for the life safety of building occupants. [C73]*

**CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY
COMMENCEMENT**

10. Silt & Sediment Control

Provision shall be made throughout the period of demolition / Excavation & Construction to prevent transmission of soil to the public road and drainage system by vehicles leaving the site.

Reason: To avoid siltation to adjoining properties and waterways. [D1]

11. Construction Certificate

A Construction Certificate is required to be approved and issued by either Council or an Accredited Certifier, prior to the commencement of any works on the site.

Reason: Legislative requirements. [D3]

12. Notice of Commencement

At least 2 days prior to work commencing on site Council must be informed, by the submission of a Notice of Commencement in Accordance with section 81A of EP & A Act 1979 of the name and details of the Principal Certifying Authority and the date construction work is proposed to commence.

Reason: Legislative requirement for the naming of the PCA. [D4]

13. WorkCover

Your attention is directed to the need to seek advice of your obligations from the WorkCover Authority prior to the commencement of any works on the site.

Reason: Statutory requirement. [D5]

14. Public Liability Insurance - Works on Public Land

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$10 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Warringah Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

(Note: Applications for hoarding permits, vehicular crossings etc will require evidence of insurance upon lodgement of the application.)

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Reason: *To ensure the community is protected from the cost of any claim for damages arising from works on public land. [D17]*

**CONDITIONS THAT MUST BE COMPLIED WITH DURING DEMOLITION
AND BUILDING WORK**

15. Progress Inspections- (Class 5, 6, 7, 8 and 9 Buildings)

The Principal Certifying Authority (PCA) SHALL BE given a minimum of two (2) working days notice for inspection of the following, where applicable:

- (a) At the commencement of the building work.
- (b) Prior to covering any stormwater drainage connections.
- (c) After the building work has been completed and prior any Occupation Certificate being issued in relation to the building.

The appointed Principal Certifying Authority MUST do the first inspection at the commencement of building work, and at completion of building work.

Notes:

- (1) The appointed Principal Certifying Authority has a discretion to determine additional inspections, or nominate other Accredited Certifiers to undertake inspections other than the first and last inspections, which are required to ensure compliance or otherwise with relevant codes and standards. In any event, the Principal Certifying Authority MUST be advised at all of the stages of construction identified above.
- (2) The PCA must advise the person with the benefit of the consent of the mandatory critical stage inspections referred to in the EP & A Regulations.
- (3) Where Warringah Council is acting as the Principal Certifying Authority for the project, notice is to be given by telephoning Council on 9942 2111 and requesting the relevant inspection. Failure to advise Council at the stages of construction identified above may result in fines being imposed.
- (4) Failure to advise the Principal Certifying Authority of the need for MANDATORY INSPECTIONS at the critical stages of construction detailed above may result in fines being imposed, works being required to be demolished, or delays experienced in obtaining final certification and occupation of the development in order to resolve issues.

Reason: *Prescribed mandatory inspections under legislation. [E9]*

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16. Construction Hours

Building construction shall be restricted to within the hours of 7.00 am to 5.00 pm Monday to Friday and on Saturday to within the hours of 8.00 am to 1.00 pm inclusive, with no work on Sundays and Public Holidays.

Demolition and excavation works shall be restricted to within the hours of 8.00 am to 5.00 pm Monday to Friday only. (Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

The builder and excavator shall display, on-site, their twenty-four (24) hour contact telephone number, which is to be clearly visible and legible from any public place adjoining the site.

***Reason:** To ensure that works do not interfere with reasonable amenity expectations of residents and the community. [E26]*

17. Installation and Maintenance of Sediment Control

Techniques used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Warringah Council guidelines. All techniques shall remain in proper operation until all development activities have been completed and the site fully stabilised. This Condition must be complied with during demolition and building work.

***Reason:** To protect the environment from the effects of sedimentation and erosion from development sites. [E28]*

18. Applicant's Cost of Work on Council Property

The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

***Reason:** To ensure the proper management of public land and funds. [E38]*

19. Maintenance of Road Reserve

The public footways and roadways adjacent to the site shall be maintained at all times during the course of the work in a safe condition.

***Reason:** Public Safety [E39]*

**OPERATIONAL CONDITIONS IMPOSED UNDER EP&A ACT AND
REGULATIONS AND OTHER RELEVANT LEGISLATION**

20. Building Code of Australia

All building work must be carried out in accordance with the provisions of the Building Code of Australia.

Reason: Prescribed - Statutory. [F1]

21. Demolition

Demolition work must be undertaken in accordance with the provisions of AS2601- Demolition of Structures.

Reason: To ensure that work is undertaken in a professional and responsible manner and protect adjoining property and persons from potential damage. [F6]

22. Site Sign

- (1) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - (a) stating that unauthorised entry to the work site is prohibited;
 - (b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
 - (c) showing the name, address and telephone number of the Principal Certifying Authority for the work.
- (2) Any such sign must be maintained while to building work or demolition work is being carried out, but must be removed when the work has been completed.
- (3) This condition does not apply to building works being carried out inside an existing building.

Reason: Statutory requirement. [F9]

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23. Toilets

- (1) Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
- (2) Each toilet provided:
 - (a) must be a standard flushing toilet, and
 - (b) must be connected:
 - (i) to a public sewer; or
 - (ii) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
 - (iii) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.
- (3) The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.
- (4) In this clause:

accredited sewage management facility means a sewage management facility to which Part 2 Division 4 of the Local Government Regulation 2005 applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in of the Regulation.

approved by the Council means the subject of an approval in force under the Local Government Regulation 2005.

public sewer has the same meaning as it has in the Local Government Regulation 2005.

sewage management facility has the same meaning as it has in the Local Government Regulation 2005.

Reason: *To ensure adequate facilities are provided for workers on the site. [F10]*

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24. Long Service Levy

Payment of the Long Service Levy is required prior to the release of the Construction Certificate. This payment can be made at Council or to the Long Services Payments Corporation.

Advisory note: The rate of the Long Service Levy at the time of consent is 0.35% of the building construction works. At the time of consent, payment is not required where the value of the works is less than \$25,000. For works that are \$25,000 or over, a fee is required at the prescribed rate. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply and is based on the building construction works identified in the Construction Certificate.

Reason: Prescribed - Statutory. [F12]

**CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO ISSUE OF
OCCUPATION CERTIFICATE**

25. Occupation Certificate Required

An Interim / Final Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of those parts of the building.

Reason: To ensure compliance with the provisions of the Environmental Planning and Assessment Act. [G1]

26. Fire Safety Certificate

To ensure the safety of occupants of the building a "Fire Safety Certificate" which identifies the schedule of "Fire Safety Measures" that have been completed to satisfactory standard shall be provided to the Principal Certifying Authority prior to the issue of an "Occupation Certificate" as required in the "Environmental Planning and Assessment Act & Regulation.

Reason: To ensure an adequate level of fire safety is provided within the premises for the life safety of building occupants. [G3]

27. Annual Fire Safety Statement for the building

In accordance with the EPA Act & Regulation the owner of a building is to provide Council with an Annual Fire Safety Statement for the building.

Reason: To ensure an adequate level of fire safety is provided within the premises for the life safety of building occupants. [G4]

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28. Required Car Spaces (Schedule 17)

The installation of thirty-six car spaces is required for the proposed development in accordance with Warringah Local Environmental Plan 2000. The allocation of the car spaces must be installed prior to the occupation of the new tenancy at 37-39 Chard Road Brookvale.

Reason: *Compliance with Schedule 17 of Warringah Local Environmental Plan 2000.*

**CONDITIONS THAT MUST BE COMPLIED WITH PRIOR TO FINAL
COMPLETION**

29. Carparking Layout

All car spaces being line marked in accordance with the carparking layout on the approved plans.

Reason: *To clearly identify carparking spaces in accordance with the approved plans. [H5]*

30. Allocation of Spaces

Thirty-six (36) car parking spaces provided be shall provided and maintained at all times on the subject site. The spaces shall be allocated in the following proportions:

Thirty-six (36)	-	Commercial
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Such spaces are to be identified on-site by line marking and numbering upon the completion of the works. Car-parking provided shall only be used in conjunction with the uses contained within the development and in the case of strata subdivision, shall be individually allocated to residential units. Under no circumstances shall Strata By-Laws be created to grant exclusive use of nominated Visitors Parking spaces to occupants/owners of units or tenancies within the building.

Reason: *To ensure that adequate parking facilities to service the development are provided on site. [H6]*