



**MODIFICATION REQUEST:
45-47 Macquarie Street, Parramatta
Modification of Project Approval (MP 09_0167
MOD 1)**



Director-General's
Environmental Assessment Report
Section 75W of the
Environmental Planning and Assessment Act 1979

March 2012

ABBREVIATIONS

CIV	Capital Investment Value
Department	Department of Planning & Infrastructure
DGRs	Director-General's Requirements
Director-General	Director-General of the Department of Planning & Infrastructure
EA	Environmental Assessment
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPI	Environmental Planning Instrument
MD SEPP	State Environmental Planning Policy (Major Development) 2005
Minister	Minister for Planning and Infrastructure
PAC	Planning Assessment Commission
Part 3A	Part 3A of the <i>Environmental Planning and Assessment Act 1979</i>
PEA	Preliminary Environmental Assessment
PFM	Planning Focus Meeting
PPR	Preferred Project Report
Proponent	Crown Investments Pty Ltd
RTS	Response to Submissions

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EXECUTIVE SUMMARY

This report is an assessment of a section 75W modification application (MP09_0167 MOD 1) lodged by Crown International Holdings Pty Ltd (the proponent) requesting a modification to project approval MP09_0167, which permitted the construction of a 26-storey mixed use development. The site is located within the Parramatta Local Government Area, approximately 25 km from the Sydney CBD.

The application seeks to modify Condition B4 of the project approval which requires the developer to pay a section 94A contribution to Parramatta City Council (council) prior to the issue of a Construction Certificate. The purpose of the modification is to link the staging of the section 94 contribution to the proposed staging of the Construction Certificates.

The Council raised no objection to staging the payment of the section 94A contribution in accordance with proponent's proposed schedule of works. Given that the Council is satisfied with the proponent's proposed program of works, and is comfortable with the proposed payment schedule, the department considers the proposed modification of Condition B4 acceptable.

1. BACKGROUND

1.1 The Site

The site is located on the south-western corner of Macquarie and Marsden Streets, in the Parramatta CBD (see **Figure 1**).

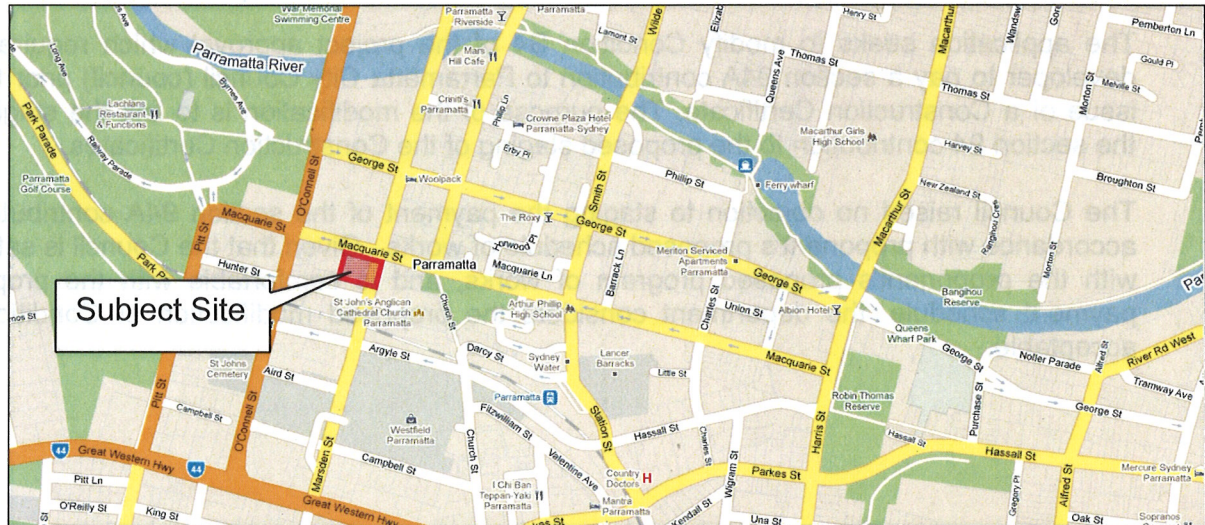


Figure 1: Location Plan

Surrounding development is generally commercial in the form of buildings between four and 10-storeys. Notwithstanding, the Jesse Centre, located to the north-west of the site is the tallest building on the western side of the Parramatta CBD. Parramatta Westfield is located approximately 100m south of the site on the southern side of the railway line (see **Figure 2**).

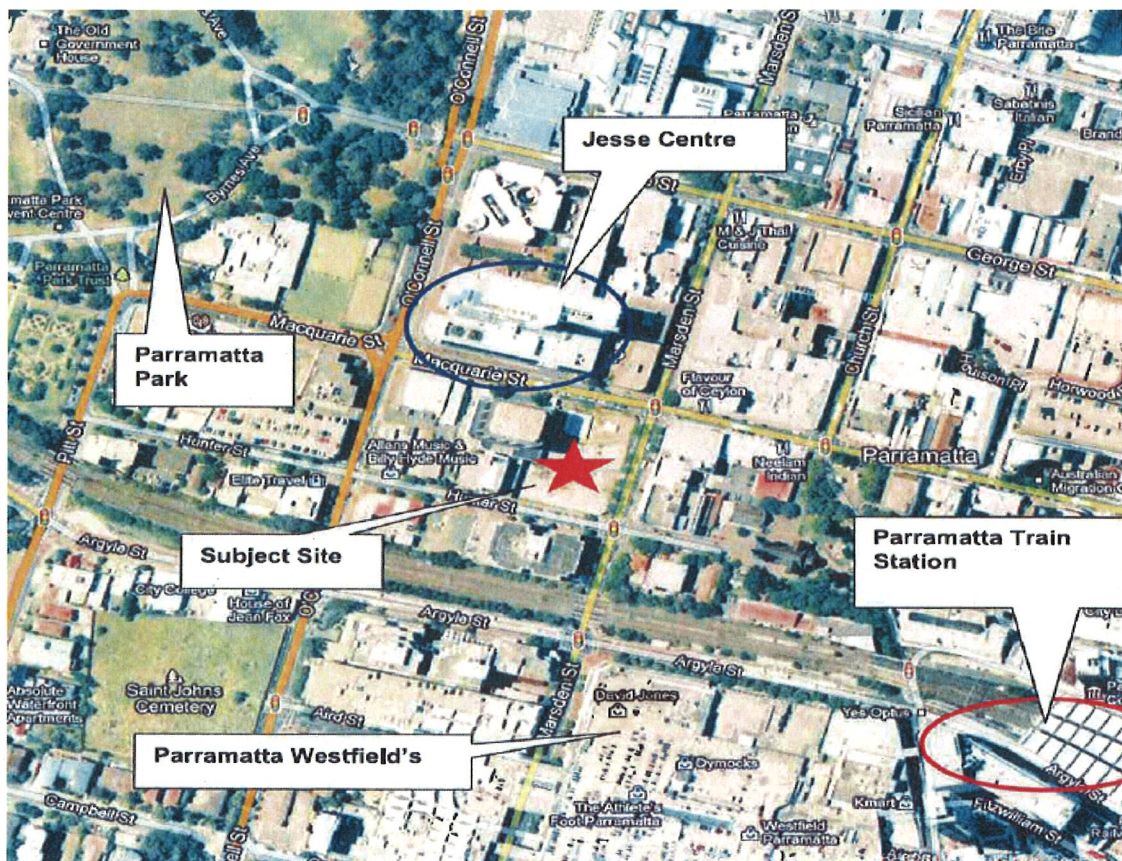


Figure 2: Surrounding Development

1.2 Approval History

On 28 October 2011, the Planning Assessment Commission (PAC) approved a project application (MP 09_0169) for the construction of a 28-storey mixed use development at 45-47 Macquarie Street and 134-140 Marsden Street, Parramatta. The approved development is comprised of:

- 376 residential apartments
- 2,952m² of commercial floor space
- 1,240m² of retail floor space (including restaurant uses)
- a 316m² archaeological interpretation centre
- six levels of basement car parking.

To date, the proponent has not commenced construction of the building.

2. PROPOSED MODIFICATION

2.1 Modification Description

The proponent is seeking to modify Condition B4 of the project approval, which requires the payment of \$1,500,000 to the Council prior to the issue of a Construction Certificate. In this regard, the proponent is seeking to stage the payment of the section 94 contribution as follows:

- the payment of \$227,133 prior to the issue of a Construction Certificate for excavation and works up to the ground level of the building (up to a maximum RL 15.5 m)
- for all works above RL 15.5 m, the balance of the contribution will be paid on a pro-rata basis based upon the value of works associated with each Construction Certificate.

In addition, the proponent has advised that it will confirm the amount of each staged payment with the Council prior to the issue of each Construction Certificate for works above RL 15.5 m.

2.2 Justification for Modification

The proponent has advised that the requirement to pay a single lump sum contribution prior to issue of any Construction Certificate would impact cash flow during the early phases of the development. In order to ensure the project is viable during the early stages of construction, the proponent is seeking to stage the payment of contributions in accordance with its development schedule.

3. STATUTORY CONTEXT

3.1 Changes to Part 3A

In accordance with clause 3 of Schedule 6A of the *Environmental Planning and Assessment Act 1979* (the Act), section 75W of the 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, and the Minister (or his delegate) may approve or disapprove of the carrying out of the project under section 75W of the Act.

3.1 Modification of the Minister's Approval

Section 75W (2) of the Act provides that a proponent may request the Minister to modify the Minister's approval of a project. The Minister's approval of a modification is not required if the approval of the project, as modified, would be consistent with the original approval. As the proposed modification seeks to amend Condition B4 to alter the timing of payment of section 94A contributions, the modification will require the Minister's approval.

3.2 Environmental Assessment Requirements

Section 75(3) of the Act provides the Director-General with scope to issue Environmental Assessment Requirements (DGRs) that must be complied with before the matter will be considered by the Minister. DGRs were not issued for this modification as the proponent has addressed the key issues related to the modification requests.

3.3 Delegated Authority

The Minister delegated his functions to the department to determine modification requests under section 75W of the Act where:

- the relevant local council has not made an objection
- a political disclosure statement has been made but only in respect of a previous application
- there are less than 10 public submissions in the nature of objections.

As previously outlined, the Council raised no objection to the application, and no public submissions were received. In addition, the proponent has made a political donation in relation to a previous application. As such, the application can be determined under delegation by the Deputy Director-General, Development Assessment and Systems Performance.

4. CONSULTATION AND SUBMISSIONS

4.1 Exhibition

Under section 75X(2)(f) of the Act and clause 8G of the Environmental Planning & Assessment Regulation 2000, the modification request was made publically available on the department's website. The department also consulted with the Council.

4.2 Submissions by public agencies

The Council reviewed the proposed modifications and raised no objection to the application.

4.2 Public Submissions

No submissions were received from the public.

5. ASSESSMENT

The application seeks approval to alter Condition B4 to facilitate the stage payment of section 94 contributions. The existing wording of Condition A4 is as follows:

"B4 Section 94A Contribution

A monetary contribution comprising of \$1,500,000.00 is payable to Parramatta City Council pursuant to section 94A of the *Environmental Planning and Assessment Act 1979* and the *Parramatta City Centre Improvement Plan*. Payment must be cash, EFTPOS, bank cheque or credit card only. The contribution is to be paid prior to the issue of a Construction Certificate".

The proponent seeks to alter the condition as follows:

"B4 Section 94A Contribution

A monetary contribution comprising of \$1,500,000.00 is payable to Parramatta City Council pursuant to section 94A of the *Environmental Planning and Assessment Act 1979* and the

Parramatta City Centre Improvement Plan. Payment must be cash, EFTPOS, bank cheque or credit card only. The contribution is to be paid in stages to the Council as follows:

- \$227,123 is to be paid prior to the issue of a Construction Certificate for excavation and basement works and ground level building works (up to a maximum of RL 15.5)
- For any other works above RL 15.5 the balance of the contribution is to be paid on a pro-rata staged basis based on the value of the works associated with each Construction Certificate.

The value of each staged payment is to be agreed with Parramatta City Council prior to the issue of each Construction Certificate for works above RL 15.5".

The proponent notes that the application does not meet the criteria for deferring developer contributions under chapter 4 section 1.9 of the *Parramatta Civic Centre Improvement Plan*, however the proponent has requested deferment of payment on the basis that the development will:

- result in the redevelopment of a long standing vacant block within the Parramatta City Centre
- provide 4,500m² of high quality commercial and retail floor space
- result in the delivery of a new high quality building
- provide a public benefit in the form of an archaeological interpretation centre.

Furthermore, the proponent has advised that a lump sum payment of \$1,500,000.00 prior to the issue of a Construction Certificate would impact on cash flow during the early stages of the project. Staging the payment to coincide with the delivery of each stage of works would assist in overcoming this issue.

The department has reviewed the proposed modification to Condition B4 in consultation with Parramatta City Council and is satisfied that the proposed modifications to Condition B4 are acceptable.

6. CONCLUSION

The department has considered the modification application and has assessed the proposed amendments. The department considers that the modifications of Condition B4 are appropriate and will assist the proponent deliver the project in an efficient manner, without compromising the Council's ability to collect the section 94A contribution applicable to the development.

It is therefore recommended that the modification application be approved.

7. RECOMMENDATIONS

It is recommended that the Deputy Director-General, Development Assessment & Systems Performance:

- (a) **Consider** the findings and recommendations of this report;
- (b) **Approve** the modification (MOD 1), under section 75W of the Environmental Planning and Assessment Act, 1979; and
- (c) **Sign** the attached Instrument of Modification Approval (Tag A).


Director
Metropolitan and Regional Projects North

14/3/12
Executive Director
Major Projects Assessment

18.3.12
22/3/12
Deputy Director-General
Development Assessment & Systems Performance

APPENDIX A MODIFICATION REQUEST

See the department's website at:

<https://majorprojects.affinitylive.com>

APPENDIX B SUBMISSIONS

See the department's website at:

<https://majorprojects.affinitylive.com>

APPENDIX C RECOMMENDED MODIFYING INSTRUMENT

Modification of Minister's Approval

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

I, the Deputy Director-General, Development Assessment & Systems Performance, as delegate of the Minister for Planning and Infrastructure under delegation executed on 1 October 2011, approve the modification of the project application referred to in schedule 1, subject to the conditions in schedule 2.


Deputy Director-General, Development Assessment & Systems Performance

Sydney

22 March

2012

SCHEDULE 1

Application No:

MP09_0167 MOD 1

Proponent:

Crown International Holdings Pty Ltd

Approval Authority:

Minister for Planning and Infrastructure

Land:

45 – 47 Macquarie Street and 134 – 140 Marsden Street,
Parramatta.

Project:

26 Storey Mixed Use Development, including:

- 367 residential apartments (115 x 1, 204 x 2 and 48 x 3 bedroom units)
- 2,952m² of commercial floor space
- 1,240m² of retail and restaurant floor space
- 316m² Archaeological interpretation Centre
- 6 levels of basement parking

Modification Number:

MP09_0167 MOD 1

Modification

The proposed changes include:

- Amendment of Condition B4 to permit the staged payment of section 94A contributions.

SCHEDULE 2

PART B – PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

In Part B, delete Condition B4 – Section 94A Contribution in its entirety and replace it with the following:

Condition B4 – Section 94A Contribution

A monetary contribution comprising \$1,500,000 is payable to Parramatta City Council pursuant to Section 94A of the *Environmental Planning and Assessment Act 1979* and the *Parramatta City Centre Improvement Plan*. Payment must be by cash, EFTPOS, bank cheque or credit card only. The contribution is to be paid in stages to Council as follows:

- \$227,133 is to be paid prior to the issue of a Construction Certificate for excavation, basement works and ground level building works (up to a maximum RL 12.5);
- for all works above RL 15.5 the balance of the contribution is to be paid on a pro-rata basis based upon the value of works associated with each Construction Certificate
- the value of each staged payment is to be agreed with Parramatta City Council prior to the issue of each Construction Certificate for works above RL 15.5.

END OF MODIFICATIONS TO MP09_0167 MOD 1

