

09389
2 February 2012

Michael Woodland
Director - Metropolitan Projects South Region
Department of Planning
23-33 Bridge Street
SYDNEY NSW 2000

Dear Michael

**SECTION 75W MODIFICATION - MP09_0167
45-47 MACQUARIE STREET, PARRAMATTA**

On behalf of Crown Landmark Pty Ltd we hereby submit an application pursuant to section 75W of the *Environmental Planning and Assessment Act, 1979* (EP&A Act) to modify Project Approval MP09_0167 relating to land at 45-47 Macquarie Street, Parramatta.

The modification relates to an amendment to Condition B4 of the Project Approval.

This application identifies the consent, describes the proposed modifications and provides a planning assessment of the relevant matters for consideration contained in section 75W of the EP&A Act. It should be read in conjunction with the Environmental Assessment Report (EAR) prepared by JBA Planning dated April 2010 and Updated Preferred Project Report dated August 2011 and is accompanied by:

- Section 75W application form;
- A copy of the Notice of Determination for MP09_0167 (**Attachment A**);

1.0 CONSENT PROPOSED TO BE MODIFIED

Project Approval MP09_0167 was granted by The Department of Planning and Infrastructure on 28 October 2011 for the following development:

Construction of a 26 storey mixed use development including:

- 367 residential apartments;
- 2,952sqm of commercial floorspace;
- 1,240sqm of retail and restaurant floorspace;
- 316sqm archaeological interpretation centre; and
- 6 levels of basement parking.

A copy of the Notice of Determination for MP09_0167 is included at **Attachment A**.

2.0 PROPOSED MODIFICATIONS TO CONDITIONS

This application seeks to modify Condition B4 of Project Approval MP09_0167, which relates to Section 94A contributions. For the sake of clarity words proposed to be deleted are shown in ~~bold strike through~~ and words to be inserted are shown in ***bold italics***. Justifications for the proposed modifications are also set out below.

Condition B4

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 certification for excavation and basement works and ground level building works (up to a maximum RL15.5);***
- ***For any other works above RL15.5 the balance of the contribution is to be paid on a pro-rata staged 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 certification for works above RL15.5,***

Justification

The proposed amendment to Condition B4 seeks to apportion payment of the Section 94A contributions to coincide with implementation of the development. Specifically following an initial payment of \$227,133 contributions are proposed to be paid to Council in stages calculated according to the value of works associated with each construction certificate for works above RL15.5. Chapter 4, Section 1(9) of the Parramatta City Centre Civic Improvement Plan sets out the circumstances in which Section 94A contributions can be deferred, including:

- *Where there is hardship demonstrated;*
- *For development in the B3 Commercial Core Zone or B4 Mixed Use Zone that meets all criteria below:*
 - a) *Predominantly commercial development (other than ground floor retail); and*
 - b) *No residential component, and*
 - c) *Has undergone an architectural design competition (in accordance with Council's LEP); and*
 - d) *Achieves a '5 star' energy rating (NABERS or Green Buildings Council of Australia or similar); and*
 - e) *Achieves an 'A grade' property rating (Property Council Criteria or similar).*

Project Approval MP09_0167 grants approval for a 26 storey mixed use development comprising residential, retail and commercial floorspace. As the approved development comprises predominantly residential floorspace it is unable to meet the circumstantial criteria required to qualify for deferred payments, whilst this is the case we note that the approved development:

- Will result in the redevelopment of a long vacant and unsightly brownfield site in Parramatta City Centre;
- Will provide circa 4,200m² of new high quality commercial and retail floorspace;
- Will result in the delivery of a new high quality building, the design of which has been informed by an extensive and iterative design review process; and
- Will provide significant public benefit in the form of a new Archaeological Interpretation Centre.

Crown Landmark Pty Ltd is committed to delivering the project and is eager to commence work as soon as possible. Whilst this is the case the requirement for a single lump sum contribution of \$1.5M prior to issue of any construction certificate represents a significant cash outlay early in the project programme, and has the potential to substantially impact cash flow during the early phases of the project lifecycle. Condition B4 is therefore considered to be onerous and unreasonable and the proposed amendment represents an appropriate solution in this instance.

In light of above it is requested that Condition B4 be amended to allow for staged payment of the s94A contribution as discussed above. This would enable payment to occur throughout the development programme to coincide with delivery of the scheme, and will still provide Council with the necessary certainty that the contribution will be paid in full prior to occupation. Such an approach will significantly assist with cash flow and enable construction to commence on site sooner rather than later.

3.0 PLANNING ASSESSMENT

Our assessment of the proposed changes is provided below.

3.1 Compliance with statutory plans

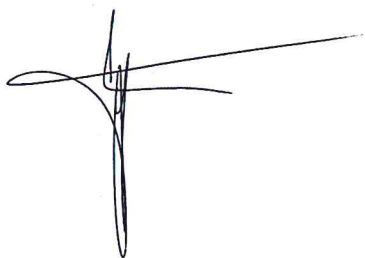
As the proposal relates solely to amending the timing of a condition of the Project Approval, it will not result in any alterations to the approved development in terms of the height, gross floor area, approved land use or building design. Accordingly the development remains unchanged and consistent with the relevant development controls and standards, particularly those contained in the *Parramatta City Centre LEP 2011* and the *Parramatta City Centre DCP 2011*.

4.0 CONCLUSION

The proposed modification to the Project Approval for land at 45-47 Macquarie Street, Parramatta does not have any material effect on the nature of the approved development, and merely seek to amend the timing for payment of the s94A contribution under Condition B4 of the Project Approval.

In light of the above, it is respectfully requested that the proposed modification be supported by the Department of Planning and Infrastructure. We trust that this information is sufficient to enable an assessment of the proposed modification, should you have any queries in relation to the above, please do not hesitate to contact me on 9956 6962 or at aduggan@jbaplanning.nsw.gov.au.

Yours faithfully



Andrew Duggan
Director