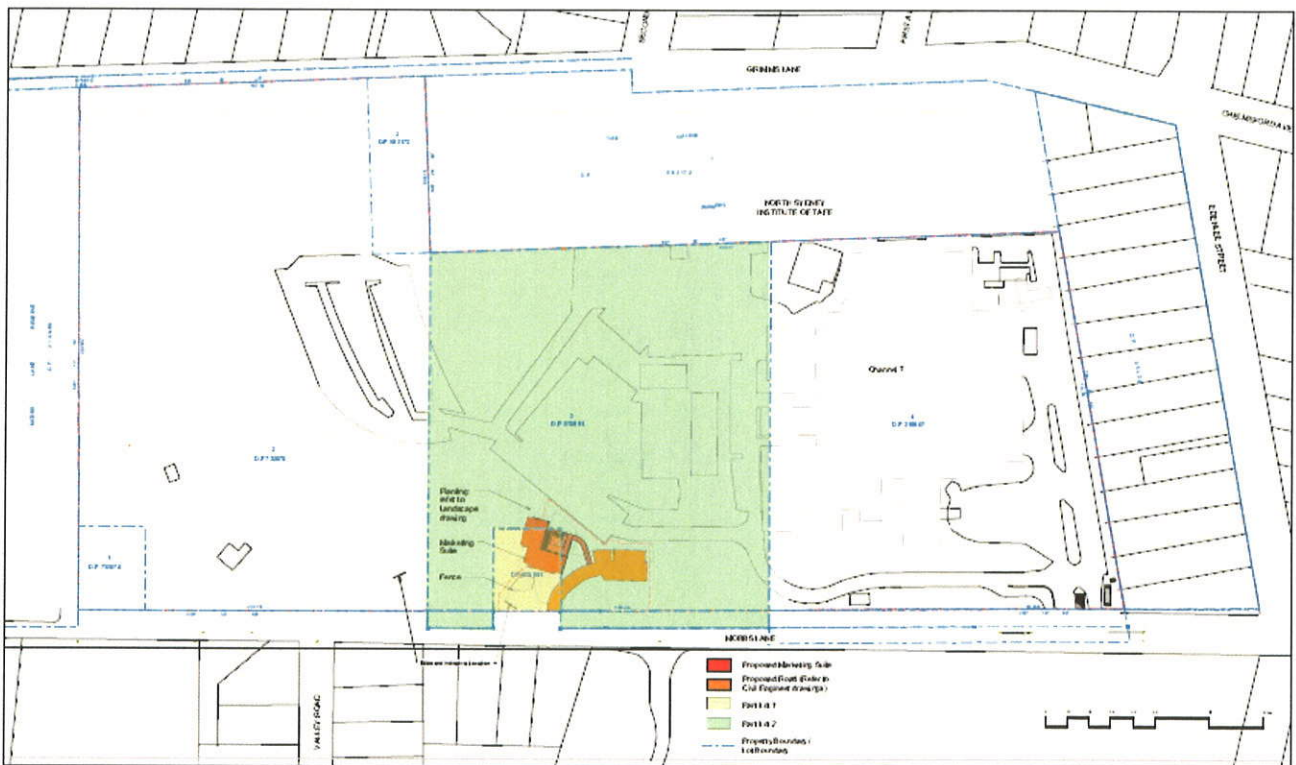




**Modification to the Channel Seven Concept
Plan Approval at
61 Mobbs Lane, Epping**

**Proposed by JBA Urban Planning
Consultants**
(on behalf of Sydney Broadcast Property Pty
Limited (SB_))

Modification MP 06_0086 MOD 1



Modification of Minister's Approval under Section 75W
of the *Environmental Planning and Assessment Act*
1979

December 2008

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NSW Department of Planning
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1. EXECUTIVE SUMMARY

This is an assessment report recommending approval for an application seeking to modify concept plan approval MP 05_0086 at the former Channel 7 site by the Minister for Planning on 22 August 2006, for a new residential and public open space development. The modification application was submitted to the Department by JBA Urban Planning Consultants, on behalf of Sydney Broadcast Property Pty Limited ('SBP') on 10 December 2008.

The Proponent is seeking to modify the Part 3A approval pursuant to Section 75W of the *Environmental Planning and Assessment Act 1979* (the Act).

The Proponent is seeking the following modifications to the existing approval:

- **Contamination Investigation** – An amendment to the approved Modification B8 is proposed to permit the erection of a temporary Marketing Suite by restricting the lodgement of a contamination study to an application for either earthworks or residential development only.
- **Landscaping Plan and Public Domain Management** - An amendment to the approved Modification B9 is proposed to permit the erection of a temporary Marketing Suite only by restricting the lodgement of a landscaping plan and public domain plan for the subject site for residential development.
- **Aboriginal Archaeological and Archaeological Investigation** – an amendment to the approved modification B10 to restrict the lodgement of an Aboriginal Archaeological and Archaeological Investigation to an application for earthworks or residential development only.
- **Geotechnical Investigation** – an amendment is proposed to modification B11 so that full and early compliance with this condition is only required for earthworks or residential development.

In summary, the proponent argues the proposed changes to the modifications will allow facilitation of the overall project with remaining major issues addressed prior to the initial residential application for development or at the time of applications for earthworks (as appropriate and relevant). The proposed modifications will provide the level of flexibility required to commence the initial phases of development, consistent with the approval and without raising any additional environmental planning assessment issues.

Further, the proponent argues lodgement of an application for the Marketing Suite, and its minor and temporary nature, would be unnecessarily delayed by full and early satisfaction of these modifications in their current state.

The Department recommends that the modification be approved on the basis that this will allow the proponent to submit a development application for a marketing suite.

It is envisaged that the proponent will fully satisfy the subject conditions prior to 30 March 2009 as per the latest extension granted by the Director General.

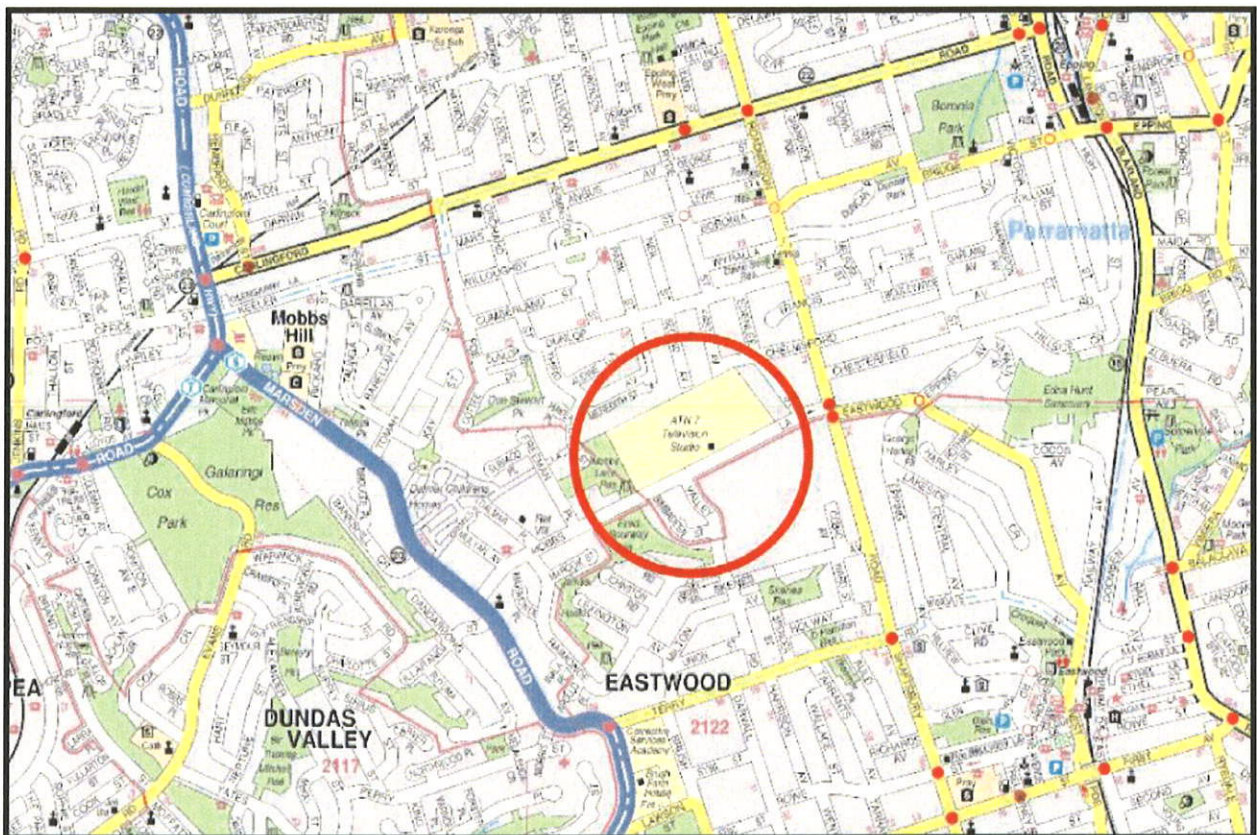
2. THE SITE

The Channel Seven site, identified in Figure 1 – Locality Map is located at 61 Mobbs Lane Epping in the Parramatta LGA. Both Epping and Eastwood town centres (and their rail stations) are located approximately 1.4 km east from the site. Carlingford town centre (and its respective rail station) is located approximately 1.5 km west of the site.

The 89,190 m² (8.9 ha) site, with a 500m primary frontage to Mobbs Lane, is comprised of several allotments and is legally described as Lots 1 & 2 DP732070, Lot 2 DP582172, Lots 1 & 2 DP570891, and Lot 4 DP219907.

The site is predominately surrounded by low density detached residential development. There are some examples of higher density residential development on the periphery of the site.

The western side of the Channel Seven site is bounded by Mobbs Lane Reserve, a publicly accessible open space area of approximately 4ha.



Source: *The Parklands Environmental Assessment*

Figure 1 – Locality Map

The topography of the site is undulating. The site falls approximately 30m from the upper eastern side (where the studios are currently located) to the western corner of the site (near the satellite dishes). The western side of the site has substantial tree cover. The site's context is depicted graphically in Figure 2 – Aerial Photo.



Source: The Parklands Environmental Assessment

Figure – 2 – Aerial Photograph

Background.

The existing studios and ancillary buildings on site comprise 22, 000m² gross floor space and are equivalent to six storey structures. The three largest satellite dishes are in the order of 15m high (i.e. equivalent to five storeys).

The site operates 24 hours a day, employing 700 staff. Approximately 2,000 vehicle movements per day are generated by the current operations which include staff, heavy vehicles and audience-participation vehicle movements.

3. MAJOR PROJECT APPROVAL

On 22nd August 2006, the Minister for Planning approved Major Project 05_0086, for a new residential development, in accordance with Section 75J (2) of the Act. MP 05_0086 granted approval to the development described in detail below:

The Concept Plan proposes a residential and open space development that comprises:

- a maximum of 650 dwellings;
- a maximum of 80, 000m² gross floor area;
- no more than 73 dwellings/ha;
- a maximum floor space ratio of 0.89:1;
- a maximum height of 6 storeys;
- child care centre; and
- 3.1ha of public open space.

The original estimated project cost of the development was \$160 million. A copy of the original approval is at **Tag 'A'** and a copy of the original report is at **Tag 'B'**.

4. DESCRIPTION OF PROPOSED MODIFICATIONS

On 10 December 2008, JBA Urban Planning Consultants (the Proponent) on behalf of Frasers Broadway Pty Ltd lodged the subject application to modify MP 05_0068 (**Tag 'C'**), pursuant to Section 75W of the *Environmental Planning and Assessment Act 1979* (the Act).

The proposed modifications to the approved project are as a result of reviewing the conditions of approval. The amendments to the conditions are as follows:

- **Contamination Investigation** – An amendment to the approved Condition B8 is proposed to permit the erection of a temporary Marketing Suite by restricting the lodgement of a contamination study to an application for either earthworks or residential development only. It is the proponent's view that the intent of the conditions was not to limit minor works required to facilitate the development but rather to relate to the commencement of major or residential redevelopment of the site.
- **Landscaping Plan and Public Domain Management** - An amendment to the approved Condition B9 is proposed to permit the erection of a temporary Marketing Suite only by restricting the lodgement of a landscaping plan and public domain plan for the subject site for residential development. Justification by the proponent is based on the marketing suite application being of a minor and temporary nature which would be unnecessarily delayed by awaiting finalisation and formalisation of the condition in its current guise.
- **Aboriginal Archaeological and Archaeological Investigation** – an amendment is proposed to modify Condition B10 to restrict the lodgement of an Aboriginal Archaeological and Archaeological Investigation to an application for earthworks or residential development only. The proponent argues minor and temporary nature of the marketing suite proposal does not warrant full and early compliance with this condition in its current guise.
- **Geotechnical Investigation** – an amendment is proposed to modify condition B11 so that full and early compliance with this condition is only required for earthworks or residential development. The proponent argues it would be more appropriate to address geotechnical matters when major earthworks and permanent development is proposed.

In summary, the proponent argues the proposed changes to the conditions will allow facilitation of the overall project with remaining major issues addressed prior to the initial residential

application for development or at the time of applications for earthworks (as appropriate and relevant). The proposed modifications will provide the level of flexibility required to commence the initial phases of development, consistent with the approval and without raising any additional environmental planning assessment issues.

Further, the proponent argues lodgement of an application for the Marketing Suite, and its minor and temporary nature, would be unnecessarily delayed by full and early satisfaction of this condition in its current state.

Supporting documentation has been submitted justifying the proposed modifications. The above amendments are discussed in detail below.

5. STATUTORY CONTEXT

5.1 MODIFICATION OF A MINISTER'S APPROVAL

The modification application has been lodged with the Director-General pursuant to Section 75W of the Act, which provides for the modification of the Minister's approval, including revoking or varying a condition of the approval or imposing an additional condition of the approval.

Under Section 75W (2), the Minister's approval for a modification is not required if the project, as modified, will be consistent with the existing approval under this Part. In this instance, it was concluded that the proposed modifications (as listed above) required a formal application to modify the approval.

On 10 December 2008, the Proponent submitted an application on behalf of Sydney Broadcast Pty Limited, to modify the approval of the Minister to enable the erection of a temporary Marketing Suite, pursuant to Section 75W (3) of the Act.

5.2 ENVIRONMENTAL ASSESSMENT REQUIREMENTS (DGRS)

Section 75W (3) of the Act provides that the Director-General may notify the Proponent of environmental assessment requirements (DGRs) with respect to the proposed modification that the Proponent must comply with before the matter will be considered by the Minister.

In this instance, following an assessment of the modification request, it was not considered necessary to notify the Proponent of environmental assessment requirements pursuant to Section 75W (3) with respect to the proposed modification, as sufficient information was provided to the Department to consider the application.

6. CONSIDERATION OF PROPOSED MODIFICATIONS.

The applicant proposes the following amendments to the conditions of approval (words proposed to be deleted are shown in ~~**bold strike through**~~ and words to be inserted are shown in ***bold italics***):

6.1 MODIFICATION TO CONDITION NO. B8 – Contamination Investigation

The Proponent proposes to amend the condition so that the need to submit a contamination investigation is only triggered by an application for earthworks or residential development and not for a minor development such as a temporary marketing suite application. The proponent proposes to amend the condition to the following:

*Prior to the lodgement of an initial application for **earthworks or residential** development (**whichever is the sooner**) on the subject site a contamination study for the subject site will be formalised by the proponent and agreed by the Department, in consultation with Council where appropriate and implemented by the proponent to the satisfaction of the Department, in consultation with Council, and other agencies where appropriate. The contamination investigation will be prepared and undertaken by a suitably qualified person(s).*

Department of Planning Comment

The proponent advises the contamination investigation has determined that the location of the Marketing suite is not affected by contaminants.

The Department agrees with the proponent that the minor and temporary nature of the marketing suite proposal does not warrant full and early compliance with this modification in its current form and will enable commencement of the initial phases of development. Further given that no unacceptable consequences are envisaged over that part of the site where the marketing suite is to be located that it would be more appropriate to address contamination investigation issues when major earthworks and permanent development are proposed.

However, in order to ensure the intention of the original condition is maintained, an amendment is recommended which reads as follows:

*Prior to the lodgement of an initial application for development, (**other than the erection of a temporary marketing suite as detailed in Project No. 208.044.11, dated December 2008, MSA000, MSA100 - 101, MSA110, MSA200 - 203, MSA400, MSA306 - MSA309**), on the subject site a contamination study for the subject site will be formalised by the proponent and agreed by the Department, in consultation with Council where appropriate and implemented by the proponent to the satisfaction of the Department, in consultation with Council, and other agencies where appropriate. The contamination investigation will be prepared and undertaken by a suitably qualified person(s).*

This will allow a development application to be submitted for the marketing suite in keeping with the proponent's need for flexibility to commence the initial phases of development but without raising any additional environmental planning issues that could alter the intention of the original condition and or approval issued.

6.2 MODIFICATION TO CONDITION NO. B9 – Landscaping Plan and Public Domain Management

The proponent proposes to amend the condition to the following:

*Prior to the lodgement of an initial application for **residential** development on the subject site a landscaping plan and public domain management plan of the subject site will be formalised by the proponent and agreed by the Department, in consultation with Council where appropriate and implemented by the proponent to the satisfaction of the Department, in consultation with Council.*

The landscaping plan and public domain management plan will be prepared and undertaken by a suitably qualified person(s) and will provide (but not be limited to):

- (1) A safe pedestrian environment that seeks to minimise contacts and conflicts with the road network, by providing green linkages/corridors to/from the main open space areas.*
- (2) Open space that is perceived unequivocally by members of the public, by its proper site planning and design, to be welcoming, accessible and inclusive.*
- (3) Well designed engineering functions that do not dominate or alienate the use and enjoyment of open space.*
- (4) Facilities that will attract users to the park, including facilities that normally associates with successful design of open space.*
- (5) Retention of significant vegetation that will enhance the amenity of the development, helping to place the development within its local context.*

Department of Planning Comment

The Department agrees with the proponent that the minor and temporary nature of the marketing suite proposal does not warrant full and early compliance with this condition in its current form. It considers it would be more appropriate to address landscaping and public domain management issues when major permanent development is proposed.

However, in order to ensure the intention of the original condition is maintained, an amendment is recommended which reads as follows:

Prior to the lodgement of an initial application for development, (other than the erection of a temporary marketing suite as detailed in Project No. 208.044.11, dated December 2008, MSA000, MSA100 - 101, MSA110, MSA200 - 203, MSA400, MSA306 - MSA309), on the subject site a landscaping plan and public domain management plan of the subject site will be formalised by the proponent and agreed by the Department, in consultation with Council where appropriate and implemented by the proponent to the satisfaction of the Department, in consultation with Council.

The landscaping plan and public domain management plan will be prepared and undertaken by a suitably qualified person(s) and will provide (but not be limited to):

- (1) A safe pedestrian environment that seeks to minimise contacts and conflicts with the road network, by providing green linkages/corridors to/from the main open space areas.
- (2) Open space that is perceived unequivocally by members of the public, by its proper site planning and design, to be welcoming, accessible and inclusive.
- (3) Well designed engineering functions that do not dominate or alienate the use and enjoyment of open space.
- (4) Facilities that will attract users to the park, including facilities that normally associates with successful design of open space.
- (5) Retention of significant vegetation that will enhance the amenity of the development, helping to place the development within its local context.

This will allow a development application to be submitted for the marketing suite in keeping with the proponent's need for flexibility to commence the initial phases of development but without raising any additional environmental planning issues that could alter the intention of the original condition and or approval issued.

6.3 MODIFICATION TO CONDITION NO. B10 – Aboriginal Archaeological and Archaeological Investigation

The Proponent proposes to amend the modification to the following:

*Future applications for **earthworks or residential** development on the subject site will be accompanied by an Aboriginal heritage and archaeological investigation to be formalised by the proponent and agreed by the Department, in consultation with Council where appropriate and implemented by the proponent to the satisfaction of the Department, in consultation with Council, and other agencies where appropriate. The Aboriginal archaeological and archaeological investigation will be prepared and undertaken by a suitably qualified person(s).*

The proponent has advised the minor and temporary nature of the marketing suite proposal does not warrant full and early compliance with this condition in its current form. Further, the recently submitted Archaeological study indicates there is no archaeological potential in the vicinity of the site.

The Department agrees with the proponent that the minor and temporary nature of the marketing suite proposal does not warrant full and early compliance with this condition in its current form and that it would be more appropriate to address archaeological investigation when major earthworks and permanent development is proposed.

However, in order to ensure the intention of the original condition is maintained, an amendment is recommended which reads as follows:

*Future applications for development, (**other than the erection of a temporary marketing suite as detailed in Project No. 208.044.11, dated December 2008, MSA000, MSA100 - 101, MSA110, MSA200 - 203, MSA400, MSA306 - MSA309**), on the subject site will be accompanied by an Aboriginal heritage and archaeological investigation to be formalised by the proponent and agreed by the Department, in consultation with Council where appropriate and implemented by the proponent to the satisfaction of the Department, in consultation with Council, and other agencies where appropriate. The Aboriginal archaeological and archaeological investigation will be prepared and undertaken by a suitably qualified person(s).*

This will allow a development application to be submitted for the marketing suite in keeping with the proponent's need for flexibility to commence the initial phases of development but without raising any additional environmental planning issues that could alter the intention of the original condition and or approval issued.

6.4 MODIFICATION TO CONDITION NO. B11 – Geotechnical Investigation

The Proponent proposes to amend the modification to the following:

*Future applications for **earthworks or residential** development on the subject site will be accompanied by a geotechnical investigation to be formalised by the proponent and agreed to by the Department, in consultation with Council where appropriate and implemented by the proponent to the satisfaction of the Department, in consultation with Council, and other agencies where appropriate. The geotechnical investigation will be prepared and undertaken by a suitably qualified person(s).*

Department of Planning Comment

The Department agrees with the proponent that the minor and temporary nature of the marketing suite proposal does not warrant full and early compliance with this condition in its current guise

and that it would be more appropriate to address geotechnical matters when major earthworks and permanent development is proposed.

However, in order to ensure the intention of the original condition is maintained, an amendment is recommended which reads as follows:

Future applications for development, (other than the erection of a temporary marketing suite as detailed in Project No. 208.044.11, dated December 2008, MSA000, MSA100 - 101, MSA110, MSA200 - 203, MSA400, MSA306 - MSA309) on the subject site will be accompanied by a geotechnical investigation, to be formalised by the proponent and agreed to by the Department, in consultation with Council where appropriate and implemented by the proponent to the satisfaction of the Department, in consultation with Council, and other agencies where appropriate. The geotechnical investigation will be prepared and undertaken by a suitably qualified person(s).

This will allow a development application to be submitted for the marketing suite in keeping with the proponent's need for flexibility to commence the initial phases of development but without raising any additional environmental planning issues that could alter the intention of the original condition and or approval issued.

7. CONSULTATION AND EXHIBITION

Under Section 75W of the Act, a request for a modification of an approval does not require public exhibition. However, under Section 75X (2) (f) of the Act, the Director-General is to make publicly available requests for modifications of approvals given by the Minister. In accordance with Clause 8G of the *Environmental Planning and Assessment Regulation 2000*, the request for the modification was placed on the Department's website.

The modification application was referred to Parramatta City Council for comment.

8. MODIFICATIONS TO CONDITIONS OF APPROVAL

The Department recommends that Conditions of Approval apply to the proposed modifications. These are included at **Tag 'A'**.

9. CONCLUSION

Under Section 75W (4) of the Act, the Minister may modify the approval (with or without conditions) or disapprove the modification. The preceding report describes the Department's assessment of the requested modifications and supporting documentation as provided by the Proponent, and recommends approving the proposed modifications, subject to the amendments as discussed.

The proposed modifications are minor and, subject to modification, do not result in significant change to the overall development and or meaning of the original conditions. The proposal achieves the same objectives as assessed for the originally approved development under Major Project 05_0086 and does not alter the overall nature, need or justification of the approved project.

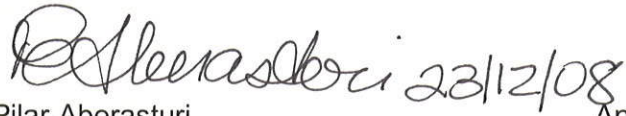
10. RECOMMENDATION

It is recommended that the Executive Director, Strategic Sites and Urban Renewal, as delegate of the Minister for Planning, under Instrument of Delegation dated 7 June 2007:

- (a) **Consider** the findings and recommendations of this report; and
- (b) **Approve** the modification, subject to conditions, under Section 75W of the *Environmental Planning and Assessment Act, 1979*; and
- (c) **Sign** the attached Instrument of Modification (**Tag B**).

Prepared by:

Endorsed by:

 23/12/08

Pilar Aberasturi
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Anthony Witherdin
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 23/12/08

Michael Woodland
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23/12/08

Department of Planning

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

Instrument of Delegation

I, the Minister for Planning and the Minister administering the Environmental Planning and Assessment Act 1979 ("EP&A Act"), pursuant to section 23 of the EP&A Act, delegate to the Planning Assessment Commission ("the Commission"), the powers and functions listed in Schedule 1 to this Instrument in relation to project applications specified in Schedule 2 of this Instrument, subject to the terms, limitations and restrictions specified in Schedule 3 to this Instrument.

Dated this 18th day of November 2008.

The Hon. KRISTINA KENEALLY, M.P.,
Minister for Planning

SCHEDULE 1

My powers and functions under section 75I and 75JA of the EP&A Act.

SCHEDULE 2

Project applications lodged before or after the date of this Instrument:

1. in relation to which a statement has been made disclosing a reportable political donation; or
2. that relate to the carrying out of development within the boundaries of the State electoral district represented by the Minister for Planning (where the Minister is a member of the Legislative Assembly); or
3. that relate to the carrying out of development in which the Minister for Planning has a pecuniary interest; other than a project application for an infrastructure project where the proponent is a public authority, other than a local authority.

SCHEDULE 3

Where the Commission proposes to impose a condition on an approval which would require a proponent to enter into a voluntary planning agreement to which the Minister for Planning or the Corporation is a party, the Commission must consult with the Minister for Planning in relation to any such condition before determining the project application.

Definitions:

Corporation is the corporation sole incorporated under section 8 of the EP&A Act.

Electoral district is the relevant district as proclaimed under section 15 of the Parliamentary Electorates and Elections Act 1912.

Major infrastructure development has the same meaning as in section 75A of the EP&A Act.

Pecuniary interest is an interest that the Minister is required to, or otherwise discloses in a primary, ordinary or discretionary return made under the Constitution (Disclosures by Members) Regulation 1983.

Project applications are applications made under section 75E of the EP&A Act.

Proponent has the same meaning as in section 75A of the EP&A Act.

Public authority has the same meaning as in section 4 of the EP&A Act.

Statement is statement of a disclosure required to be made under section 147(3)(a) of the EP&A Act required to be made in accordance with section 147(6) of the EP&A Act.

Note:

This instrument of delegation does not apply to:

- concept plan applications, or
- project applications for project that has been declared to be a critical infrastructure project, as provided by section 23(8) of the EP&A Act.