



NSW GOVERNMENT  
**Department of Planning**

## *Chatswood Chase Shopping Centre*

Lot 3 DP 790756, Lot 1 DP 781567, Lot 1 DP  
806034 & Lot 1 DP 74357  
345 Victoria Avenue, 19 Havilah Street &  
8 Malvern Avenue, Chatswood

Proposed by Colonial State First Property  
Management

Modification MP06\_0301 MOD 2

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

September 2008



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NSW Department of Planning  
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## 1. EXECUTIVE SUMMARY

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This is a report on a modification application seeking to modify the Chatswood Chase Shopping Centre project, approved under MP 06\_0301. The modification application was submitted by Colonial First State Property Management (the Proponent) on 8 September 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 alterations and additions to the Chatswood Chase Shopping Centre project was approved by the Minister for Planning on 19 December 2007, and comprised the following:

- Demolition of two small office buildings at 19 Havilah Street and 8 Malvern Avenue;
- Expansion of the shopping centre onto those sites to allow relocation of the supermarket located on the Lower Ground Floor with an increase in the size of the supermarket from 2,644 square metres to 3,571 square metres (927 square metres increase in floor area).
- Reconfiguration and alteration to the layout of the Lower Ground Floor to separate the fresh food service from the dining and food court facilities creating a fresh food precinct within the centre and new dining terrace;
- Provision of a new pedestrian entry from Havilah Street;
- Alteration of the Victoria Avenue entrance to open the entrance to both the Lower Ground and Ground
- Floors of the Centre by making use of the split levels between the entrance and the two floor levels.
- Alteration and extension of the Ground Floor providing a new mall connection to reconfigured car parking;
- Alteration and extension over the Victoria Avenue driveway providing a new mall with changes to circulation and connection to reconfigured car parking;
- Alteration and addition to the car parking levels to accommodate additional car parking commensurate with the additional floor area;
- Provision of external finishes and treatments to the presentation of the centre when viewed from Havilah Street and Malvern Avenue that also consider acoustic impacts and light spill;
- Renovation of the presentation of the centre when viewed from Victoria Avenue to upgrade the entry experience, provide access for people with disabilities and generally provide a more interactive frontage with the public domain;
- Landscaping to the 9 metre set backs to Havilah Street and Malvern Avenue; and
- Alterations to the Victoria Avenue facade propose encroachment of elements of the façade, awnings and a centre identification blade into the road reserve of Victoria Avenue.

The original estimated project cost of the development was \$103.5 million. Key issues considered in the Department's assessment of the original application included the following:

- Relationship of the project and its impacts on residential units adjacent at 1-3 Havilah Street;
- Relationship and impacts on adjacent commercial development;
- External presentation to the public domain;
- Management of vehicular, pedestrian and delivery access to the site;
- Sustainability initiatives proposed;
- Storm-water management implications;
- Car parking provision;
- Construction staging and impacts especially traffic management, noise and vibration; and,
- Traffic management impacts in the surrounding road network.

On 20 August 2008, modification of the Chatswood Chase Shopping Centre project was approved by the Executive Director, Strategic Sites and Urban Renewal, as delegate of the Minister for Planning, in the following way:

- Reducing the requirement for an acoustic attenuation screen adjacent to Havilah Street, to a minimum of 15 metres;

- Replacing the existing requirement of a setback of 2metres at level 1 adjacent to the rear boundary of properties fronting Havilah Street, notably 1 – 3 Havilah Street, so that a sloping façade can be incorporated, with a 2 metre setback required only at parapet level; and
- Changing the permissible construction hours to allow construction work outside of working hours on the Victoria Avenue entry and façade.

The Proponent is seeking to modify the existing approval to permit the following changes:

- The proposed modifications seek the rewording of conditions F1 and F24 to allow for the registration of the plan of consolidation and the creation of a positive covenant and restriction on use of land (in respect of OSD) to be completed prior to the issue of the Final Occupation Certificate for zones A, B, C and D (Construction Certificate CC3).
- The construction program is proceeding on the basis of the issuing of a number of Interim Occupation Certificates for the development on an area by area basis to allow the Shopping Centre to continue trading.
- The modification of Conditions F1 and F24 will allow for the release of Interim Occupation Certificates for the areas completed prior to final completion without affecting the intention of the conditions or the operation of the shopping centre.
- Willoughby City Council has provided written advice that they do not object to the proposed modifications.

The modifications are minor and will not result in amenity impacts to the surrounding properties. The Department recommends that the modification be approved, subject to conditions.

## **2. THE SITE**

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The site, at 345 Victoria Avenue, 19 Havilah Street and 8 Malvern Avenue, Chatswood, (Lot 3 in DP 790756, Lot 1 in DP 781567, Lot 1 in DP 806034 and Lot 1 in DP 74357), is located within the local government area of Willoughby.

The site forms the eastern edge of Chatswood central business district and in particular the retail precinct of Chatswood CBD. It has its main frontage, entrance and address to Victoria Avenue and a second frontage and entrance to Archer Street. Opposite in Victoria Avenue is mixed retail /commercial development. Opposite in Archer Street is retail development, the Civic Place hotel development site and the Our Lady of Dolours Catholic Parish School and Church.

The eastern side of the site abuts the commercial buildings at 341 Victoria Avenue and 5 Havilah Street and a mixed commercial/residential building at 1-3 Havilah Street. Beyond those properties on the north and east, the site has frontage to Havilah Street. To the north the site has frontage to Malvern Avenue and it extends along the rear of Mercy College Catholic Girls High School and the office buildings at 12-14 and 16-18 Malvern Avenue. Opposite in Malvern Avenue and Havilah Street is low density residential development beyond which is the North Chatswood Heritage Conservation Area.

The site is located approximately 450 metres along Victoria Avenue from Chatswood Station and Interchange.

Chatswood Chase is within the major sub-regional shopping precinct of Chatswood. Chatswood is recognised as a Major Centre in the Department of Planning's Metro Strategy.



**Figure 1: The subject site**

### **3. MAJOR PROJECT APPROVAL**

#### **3.1 ORIGINAL APPLICATION MP 06\_0301**

On 19 December 2007, the Minister for Planning approved the Major Project 06\_0301 for alterations and additions to the Chatswood Chase Shopping Centre in accordance with Section 75J(2) of the Act. MP 06\_0301 granted approval to the development described in detail below:

- Demolition of two small office buildings at 19 Havilah Street and 8 Malvern Avenue;
- Expansion of the shopping centre onto those sites to allow relocation of the supermarket located on the Lower Ground Floor with an increase in the size of the supermarket from 2,644 square metres to 3,571 square metres (927 square metres increase in floor area);
- Reconfiguration and alteration to the layout of the Lower Ground Floor to separate the fresh food service from the dining and food court facilities creating a fresh food precinct within the centre and new dining terrace;
- Provision of a new pedestrian entry from Havilah Street;
- Alteration of the Victoria Avenue entrance to open the entrance to both the Lower Ground and Ground Floors of the Centre by making use of the split levels between the entrance and the two floor levels;
- Alteration and extension of the Ground Floor providing a new mall connection to reconfigured car parking;
- Alteration and extension over the Victoria Avenue driveway providing a new mall with changes to circulation and connection to reconfigured car parking;
- Alteration and addition to the car parking levels to accommodate additional car parking commensurate with the additional floor area;
- Provision of external finishes and treatments to the presentation of the centre when viewed from Havilah Street and Malvern Avenue that also consider acoustic impacts and light spill;
- Renovation of the presentation of the centre when viewed from Victoria Avenue to up-grade the entry experience, provide access for people with disabilities and generally provide a more interactive frontage with the public domain;

- Landscaping to the 9 metre set backs to Havilah Street and Malvern Avenue; and
- Alterations to the Victoria Avenue facade propose encroachment of elements of the façade, awnings and a centre identification blade into the road reserve of Victoria Avenue.

The original projected cost of the development was \$103.5 million. A copy of the original approval is at **Tag B**.

### 3.2 MP 06\_0301 MOD 1

On 12 May 2008, Colonial First State Property Management (the Proponent) submitted an application to the Director-General to modify MP 06\_0301 pursuant to Section 75W of the *Environmental Planning and Assessment Act 1979* (the Act). The modification application sought the following amendments to the approved Project:

- Reducing the requirement for an acoustic attenuation screen adjacent to Havilah Street, to a minimum of 15 metres;
- Replacing the existing requirement of a setback of 2metres at level 1 adjacent to the rear boundary of properties fronting Havilah Street, notably 1 – 3 Havilah Street, so that a sloping façade can be incorporated, with a 2 metre setback required only at parapet level; and
- Changing the permissible construction hours to allow construction work outside of working hours on the Victoria Avenue entry and façade.

On 20 August 2008, the Executive Director, Strategic Sites and Urban Renewal, as delegate of the Minister for Planning, approved MP 05\_0301 MOD 1.

## 4. DESCRIPTION OF PROPOSED MODIFICATIONS

On 8 September 2008, Colonial First State Property Management (the Proponent) lodged the subject application to modify MP 06\_0301 (**Tag C**), pursuant to Section 75W of the *Environmental Planning and Assessment Act 1979* (the Act). The proposed modifications to the approved project include:

- The proposed modifications seek the rewording of conditions F1 and F24 to allow for the registration of the plan of consolidation and the creation of a positive covenant and restriction on use of land (in respect of OSD) to be completed prior to the issue of the Final Occupation Certificate for zones A, B, C and D (Construction Certificate CC3).
- The construction program is proceeding on the basis of the issuing of a number of Interim Occupation Certificates for the development on an area by area basis to allow the Shopping Centre to continue trading.
- The modification of Conditions F1 and F24 will allow for the release of Interim Occupation Certificates for the areas completed prior to final completion without affecting the intention of the conditions or the operation of the shopping centre.
- Willoughby City Council has provided a letter to the Department advising that they have no objection to the proposed modifications.

### 4.1 JUSTIFICATION FOR PROPOSED MODIFICATIONS

The Proponent provides the following justification for the modification application:

- The plan of consolidation of the lots into a single allotment prior to the issue of any Occupation Certificate will take up to 8 weeks so it can be registered.
- Changing the wording of Conditions F1 and F24 to be prior to the issue of the Final Occupation Certificate also a more practical approach to the development.
- The on-site stormwater detention system will not operate until the development is complete and therefore the rewording of Condition F24 will not affect the development.

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## **5. STATUTORY CONTEXT**

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### **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, as they involve timing of the issuing of Occupation Certificates. Therefore, the power to make such a change lies with the Minister.

On 8 September 2008, the Proponent submitted an application prepared by Colonial First State Property Management, to modify the approval of the Minister for alterations and additions to the Chatswood Chase Shopping Centre, 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.

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## **6. CONSULTATION AND EXHIBITION**

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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.

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## **7. CONSIDERATION OF PROPOSED MODIFICATIONS.**

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### **7.1 REWORDING OF CONDITIONS F1 AND F24**

- The proposed modifications seek the rewording of conditions F1 and F24 to allow for the registration of the plan of consolidation and the creation of a positive covenant and restriction on use of land (in respect of OSD) to be completed prior to the issue of the Final Occupation Certificate for zones A, B, C and D (Construction Certificate CC3).
- The construction program is proceeding on the basis of the issuing of a number of Interim Occupation Certificates for the development on an area by area basis to allow the Shopping Centre to continue trading.
- The modification of Conditions F1 and F24 will allow for the release of Interim Occupation Certificates for the areas completed prior to final completion without affecting the intention of the conditions or the operation of the shopping centre.
- The proposed modifications do not require public notification as they only relate to procedural conditions regarding timing and will not result in any external environmental impacts.

- Willoughby City Council has provided a letter of support with regards to the proposed modifications (Tag D).

The Department therefore raises no issues with the change in timing of these conditions to Final Occupation Certificate.

## **8. MODIFICATIONS TO CONDITIONS OF APPROVAL**

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The Department recommends that Conditions of Approval apply to the proposed modifications, which amend the approved plans. These are included at **Tag A**.

## **9. CONCLUSION**

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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.

The proposed modifications are minor and do not result in any changes to the overall design and appearance and only require minor amendments to Conditions F1 and F24 of the development as approved.

It is considered that the proposal, as modified, achieves the same objectives as assessed for the originally approved development under Major Project 06\_0301 and does not alter the overall nature, need or justification of the approved project.

## **10. RECOMMENDATION**

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It is recommended that the Minister for Planning:

- (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 A**).

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