



***ALTERATIONS AND ADDITIONS TO
CHATSWOOD CHASE SHOPPING CENTRE
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.***

***Proposed by COLONIAL FIRST STATE
PROPERTY MANAGEMENT (CFSPM)***

Modification MP06_0301 Mod 1

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

*(prepared by Willoughby City Council under
instrument of delegation dated 2 January 2007)*

July, 2008

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1. INTRODUCTION

On 12 May 2008, Colonial First State Property Management (the Proponent) lodged an application to modify MP06_0301 **Tag B** pursuant to Section 75W of the *Environmental Planning and Assessment Act 1979* ("the Act"). The Proponent is seeking permission to make changes to the Havilah Street (eastern) elevation, construction working hours and related conditions.

2. ORIGINAL APPLICATION

On 19 December 2007, the Minister for Planning approved MP06_0301. Council assessed application under the Instrument of Delegation dated 2 January 2007. The approval provided for alterations and additions of Chatswood Chase Shopping Centre.

A copy of the original consent is at **Tag C** and a copy of the original report is at **Tag D**.

The original project cost for the development was \$103.5 million.

3. DESCRIPTION OF PROPOSED MODIFICATION

The modification seeks approval for the following amendments:

- Amend Condition A2 to identify the modified plans; and,
- Amend Condition B2(1) concerning the acoustic treatment on part of the Havilah Street façade; and,
- Amend Condition B2(3) concerning the façade design adjacent to the rear of 1-3 Havilah Street; and,
- Amend Condition D8 (and A6) concerning construction hours for works on the Victoria Avenue frontage.

4. STATUTORY CONTEXT

Modification of a Minister's approval

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

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, the proposed modification is consistent with the existing approval granted under Part 3A; however, the modification requires changes to a condition of the Minister's approval.

Environmental Assessment Requirements

It is 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.

5. 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 has been placed on the Department's website.

Nevertheless in accordance with Willoughby Council's notification requirements of Willoughby Development Control Plan the proposed modifications were by letter notified for a period of 14 days to neighbours impacted by the proposed changes.

Willoughby Council received 6 letters of which 5 made the same response and the sixth was similar but with additional matters raised. The Department of Planning received 5 submissions.

The five similar letters from Northside Strata on behalf of the Owners Corporation of 1-3 Havilah Street, Unit 9, 339 Victoria Avenue, Unit 8/1-3 Havilah Street, 2 Havilah Street, Unit 1/1-3 Havilah Street and 11 French Street, Artamon and owner of Unit 15 in 1-3 Havilah Street.

The five submissions received by the Department of Planning were from Unit 8/1-3 Havilah Street, Unit 9/1-3 Havilah Street, the owner of Unit 15/1-3 Havilah Street, 2 Havilah Street and Northside Strata. The content of the letters was the same as that received by Council. The submission to the Department of Planning from Unit 15 had a plan extract with notations and a photomontage with notations that were not attached to the letter received by Council. The plan extract does not properly locate the alignment of 1-3 Havilah Street with the position of the grille.

The responses did not raise an objection to the proposed variation in the design that seeks to amend the requirements of Condition B2(3). The responses considered that the manner in which Condition B2(3) is to be modified as requested by the applicant should be adjusted in wording to read "Provision of an additional setback to level 1 where it adjoins 1-3 Havilah Street to the satisfaction of the Council but maintaining the 2 metre setback at the top of the parapet level (indicated on ASK403-E as RL 96.5)". In this manner it is considered by the respondents that the rewording better retains the spirit and the intent of the original condition. The request is supported.

In addition two respondents from Units 8 and 15 raised concerns regarding the mechanical ventilation grille that appears in the façade near grid line 15 and near the southern boundary of 1-3 Havilah Street. The request is that as the grill is near bedrooms, it should be moved for noise reasons. The matter of this grille had previously been followed-up with the applicant in March when Council first became aware of the need for the grille in the proposed location. Council received advice from CFSPM and its architects that the grille is for fresh air intake ONLY. For a fresh air intake the noise generation is minimal and not considered to warrant significant design change to alter the location of the grille. Three-quarters of the grille is to the south of 1-3 Havilah Street, set back 4.3 metres from the boundary and it will be screened by the existing and proposed landscaping. In view of the submissions further expert information was sought from the applicant on potential noise generation from the grille. The further response from consultant Norman Disney and Young confirms the situation with air intake that "unless standing directly at the intake, no noise will be heard". It also notes that the mechanical system will not be operating beyond centre trading hours as it is switched off during the night.

The respondent from Unit 8 has also requested that the proposed columns be moved to the south and west away from their unit. The columns are the supporting structure to the extensions above the entry driveway and were shown in the approved drawings. For manoeuvring reasons for trucks leaving the existing Victoria Avenue loading dock, the columns positions are proposed to be adjusted under the building. Two of the columns are proposed to become "engaged columns" to provide the required manoeuvring space. In addition the landscaped buffer planting has been increased in width. The set back to the building of 4.3 metres is unchanged in the location and only the two "engaged columns" will encroach into the set back by the width of their diameter. The change to two of the columns will introduce a variation to the façade presentation that will add a shadow line, and it is considered, will add to the articulation to the presentation of the façade. The combination of the set back, buffer landscaping and subtle but interesting change to the façade presentation, it is considered, will not cause an adverse impact on neighbours. On balance, the proposed variation is considered acceptable.

6. CONSIDERATION OF PROPOSED MODIFICATIONS

The modifications relate to the following:

Modification Area: Amendment of Condition A2 to identify the plans that have been varied.

Comment: This variation is procedural should the proposed changes to the development be found to be acceptable.

Modification Area: Condition B2(1) which required that the acoustic attenuation to the open car park be retained up to a height of RL 92 AHD including along the southern façade adjacent to 5-7 Havilah Street.

Comment: The variation proposes to limit the extent of acoustic attenuation along the southern façade to 15 metres following acoustic advice that noise generation beyond that is not an issue and it enables and it assists

with providing some natural ventilation to the car park. The variation is supported noting that the distance of 15 metres takes the acoustic attenuation beyond the balconies of the neighbouring commercial building at 5-7 Havilah Street. Currently the existing open deck car park is not provided with any form of acoustic treatment but it was previously screened by vegetation. The proposed external finish will improve the presentation of the car park as well as maintain a level of natural ventilation.

Modification Area: Condition B2(3) which required provision of a 2 metre set back at Level 1 of Chatswood Chase where it adjoins 1-3 Havilah Street in response to concerns of mass and bulk, sense of enclosure and air circulation for the dwellings in 1-3 Havilah Street. The varied solution proposes a sloping facade from Level 1 to the roof parapet where the 2 metre set back is achieved. The reason for the proposed variation is security and to reduce the problem of debris build up on the ledge that would be created with a complying design. The sloping form will still achieve a change to the building mass and separation and provide day light access and air circulation.

Comment: As noted in Section 5 the proposed variation is supported subject to the changed wording to the conditions as suggested by the submissions. The proposed change addresses the objectives of the condition and considers the problems that arise with strict compliance.

Modification Area: Condition D8 (and Condition A6) which establish permissible construction working hours. The proposal is to vary the hours for construction works on the Victoria Avenue façade and entry changes on Vitoria Avenue. It is noted that the application only requested variation to Condition D8 but this does not adequately deal with the request.

Comment: The construction work on Victoria Avenue entry and façade will require construction works above the footpath and from time to time use of a crane. This will cause significant disruption to pedestrians, vehicular and bus traffic in the location and the operation of the still trading centre as well as the neighbouring businesses. It is proposed to carry out construction work out of normal work hours and trading hours of the businesses to minimise the disruption to the area. This proposal is supported.

7. CONCLUSION

A number of relatively minor variations are proposed to the approved design and conditions for alterations and additions to Chatswood Chase Shopping Centre. The proposed variations are considered appropriate in the circumstances and are supported.

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

8. DELEGATION

Under the instrument of delegation dated 7 June 2007, the Minister has delegated his functions under Section 75W of the Act relating to modifying Part 3A approvals to the Executive Director Strategic Sites and Urban Renewals.

Having regard to the Urban Assessments Guidelines for Delegates, it is considered appropriate that the application be determined under delegation as the proposed modification does not increase the height or the GFA calculation of the approved building.

9. RECOMMENDATION

It is recommended that the Executive Director Strategic Sites and Urban Renewals, as delegate of the Minister for Planning:

- (A) **consider** the findings and recommendations of this report;
- (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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