

Preferred Project Response to Submissions Report

Section 75W Modification Major Project MP08_0244- MOD 1



23-37 Lindfield Avenue and 11 Havilah Lane

Mixed Use Development

Submitted to Department of Planning & Infrastructure
On Behalf of ANKA (Civic Centre) Pty Ltd

May 2013 ■ 12170

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1.0 Introduction

An application to modify the approval of Project Application MP08_0244 for the mixed use development at 23-37 Lindfield Road and 11 Havilah Lane, Lindfield was submitted to the Minister for Planning & Infrastructure (the Minister) on the 10 December 2012. The Modified Application was accompanied by an Environmental Assessment Report (EAR) pursuant to clause 3(1) of Schedule 6A to the *Environmental Planning and Assessment Act 1979* (EP&A Act), that provides for the continued application of the provisions of the now repealed Part 3A of the EP&A Act, on behalf of ANKA (Civic Centre) Pty Ltd (ANKA).

The Modified Application was publically exhibited between the 23 January 2013 and the 1 March 2013. In total 5 agency submissions were received, including Ku-Ring-Gai Municipal Council. A total of 85 public submissions were also received, however, 67 of these submissions were pro-forma letters and one signed petition.

ANKA and its consultant team have reviewed and considered the Department of Planning and Infrastructure's (the Department) comments and the public and agency submissions, and, in accordance with clause 75H(6) of the *Environmental Planning and Assessment Act 1979* (EP&A) have responded to the issues raised in this Preferred Project and Response to Submissions Report (Report). The main issues identified within the submissions were associated with setbacks, heritage, amenity, car parking, loss of retail, access and signage.

In addition to this Report, updated plans and relevant additional consultant reports or information are included within the Appendices. Further detail is provided within this Report.

This Report should be read in conjunction with the Modified Application EAR dated December 2012 as well as the Project Application (dated November 2012) and the Preferred Project Report (PPR) for the Approved Project prepared by JBA (dated April 2011).

1.1 Structure of the Report

The first part of this Report provides a detailed response to the key issues raised by the Department (**Section 2**), other Government agencies (**Section 3**) Ku-ring-gai Municipal Council (**Section 4**), and Public Submissions (**Section 4**).

Following the response to issues, **Section 6** provides an outline of the amendments made to the project since the submission of the Modified Application. **Section 7** sets out the final modifications to the conditions of approval and the Statement of Commitments.

2.0 Department of Planning & Infrastructure Issue and Proponent's Response

The following section outlines the Department's concerns and requests and provides the proponent's (ANKA's) response to each request.

2.1 Setbacks, Building Form and Design

The Department raised concern regarding the composition and articulation of the building form and its relationship with the adjacent heritage item.

2.1.1 Issue: Setbacks to Lindfield Avenue

Justification for the departure from the setback requirements of the upper levels of the Lindfield Avenue frontage as originally approved – 2.0m between RL113.5 and RL119.5m AHD and 4.0m above RL119.5m AHD. The setback requirements were imposed to ensure the new building form related appropriately to the height lines of the adjacent heritage building at 1-21 Lindfield Avenue.

2.1.2 Anka's Response

Crone Partners and Graham Brooks & Associates have provided responses (see **Appendices B** and **C** respectively) that provides robust urban design arguments for the departure to the approved setbacks.

The intent of the imposed building setback was to 'reduce the height and visual bulk at Lindfield Avenue and provide an appropriate contextual relationship with Lindfield Avenue and Kochia Lane.

The proposed building façade along Lindfield Avenue maintains an important relationship between the nearby heritage buildings located on the other side of Kochia Lane and the new building provides a composition that has been articulated to form a distinct hierarchy of base, podium and top levels. This creates a clear transition of low-rise, linear streetscape that steps up to a new town centre form and architecture.

Grahams Brooks & Associates (**Appendix C**) notes that the imposition of the original setbacks requiring the massing of the new building to be closely aligned with the streetscape scale of the adjoining heritage building is a misguided perception. The setback requirement considered false by Graham Brooks & Associates in this circumstance as the proposed building is not set up hard against the existing heritage urban setting and is separated by Kochia Lane. The proposed building should therefore retain its unique architectural quality and integrity which also plays an important factor for the relationship to the heritage building.

The imposition of the original setbacks will weaken the composition of the building and surrounding buildings and will in the opinion of Graham Brooks Associates degrade the integrity and success of the new building by devaluing the success of the current façade and the massing composition. In addition, Crone Partners (**Appendix B**) notes that a stronger podium form and articulation with distinct 'solid' façade elements will define a more dynamic Lindfield Avenue streetscape, rather than producing multiple levels and setbacks that would result in a weaker layered appearance.

It is considered that the proposed modified building respects the relationship between the nearby heritage building whilst at the same time providing a building

façade that is appropriate to the form and the scale of building and Town Centre without the need to impose setbacks.

2.1.3 Issue: Retail Access

Consideration of a redesign of the access to the retail area, specifically the relocation of the access ramp across the street frontage on Lindfield Avenue which provides a disconnect between the footpath and the proposed retail tenancies and is contrary to the principle of street activation. The retail tenancies should have a direct interface with the Lindfield Avenue footpath and opportunities for the access ramp to be internalised should be investigated.

2.1.4 Anka's Response

Crone Partners has revised the scheme to reconfigure and relocate the ground floor retail tenancies. The modified design now incorporates a 1 in 14 gradient switch back ramp internal to the building with access from Lindfield Avenue. The ramp has been designed to comply with AS 1428- *Design for access and mobility*. This now allows the four retail tenancies fronting Lindfield Avenue to achieve direct access from the street frontage.

2.1.5 Issue: Setbacks to Kochia Lane

Further justification on the encroachments into the setback area of the upper levels of the building within the 4m setback to Kochia Lane and their impact on the future amenity and functionality of this space, having regard to Council's intentions for Kochia Lane, is required.

2.1.6 Anka's Response

As noted in the submitted EAR, the Modified Project seeks to retain the 4m setback from Kochia Lane at ground floor level to enable the future widening works to be undertaken by Council at a later date. However, it is acknowledged that the proposed building will encroach the setback from Levels 2-5 with the 'floating frame' element that sets a unique and visual interest to the Lindfield Avenue streetscape.

ANKA considers this element of the building to be an important feature to the site and marks the area as a gateway into the Town Centre. The floating frame draws attention to Kochia Lane and will in turn attract pedestrian movement down Kochia Lane into the future Town Centre Council wishes to develop at a later stage. In addition, the frame adds articulation to the Kochia Lane façade and will be constructed of lightweight, highly transparent form with a white painted finish when viewed from the south and the east.

It should be noted that the ground level setback (which accommodates the 4m setback) will be dedicated to Council. This will still allow the future widening of the laneway which will provide the strategic intent for the inclusion of safe pedestrian footpaths to both sides of Kochia Lane and is consistent with pedestrian and traffic movement as per Council's Public Domain Plan. The balconies within the airspace can be privately owned through stratum ownership, which is commonly applied elsewhere, particularly within the Sydney's CBD.

As the proposed 'floating frame' element is a lightweight, highly transparent building structure and sets a strong visual statement for the building as well as providing a gateway to the future Lindfield Town Centre, it is considered that the element should be allowed to encroach within the 4m setback within the airspace. The setback is still achieved at ground floor level which will comfortably accommodate passing vehicles and pedestrians which is in accordance with the strategic objective of the Laneways' gateway into the future Town Centre.

2.2 Parking

The Department does not agree that the 25 car spaces located within the adjoining Council car park (No. 9 Havilah Lane) can reasonably be considered in the calculation of the car parking requirements for the subject site. As such the proposal is therefore considered to be deficient in terms of the proposed on-site parking provision.

2.2.1 Issue: Additional Parking

It is requested that further consideration be given to the provision of additional parking spaces. It is noted that this may in part be achieved through redistribution of the residential parking allocation and by eliminating the proposed pedestrian connection to the existing Council car park at 9 Havilah Lane. In revisiting the on-site parking provision, the proponent should examine the methodology applies by the Department is its assessment of the original Project Application.

2.2.2 Anka's Response

Referring to the Department's Major Project Assessment report dated 21 December 2011 for the Approved Project and as further endorsed by the Planning Assessment Commission on 27 Jan 2012, the availability of those 25 Council public car parking spaces on 9 Havilah Lane was recognised and considered in conjunction with the 138 other public spaces for the development's use. The proposed Modified Project has not sought to change this position.

Council has commenced a Planning Proposal (PP_2012_KURIN_004_00) to re-classify 9 Havilah Lane, Lindfield, ie: the 25 stall public car park, with the aim of selling this community asset. Council assert that these 25 stalls are underutilised. Anka are strongly opposed to Council's views and actions with regard to this re-classification. Anka have actively participated in the recent Public Hearing and has made written submissions to both Council and the Department. These submissions clearly set out the reasons for our opposition. As the outcome of the Planning Proposal is still unclear, Anka have proactively worked to address the Department's comments in relation to the parking as set out below but have done so with a complete reservation of rights with regard to the 9 Havilah Lane public car park and the availability of these community parking spaces.

Nonetheless, Anka has responded to the request of the Department and will undertake to provide the additional parking. This has been achieved by modifying the basement to provide an additional parking level allowing for various uses without relying on the additional 25 car spaces located within the adjoining Council car park. Varga has also provided a response to car parking issues in a letter provided at **Appendix E**.

As a result, the total parking provided for each use is identified within **Table 1** below and compared to the submitted Modified Application.

Table 1 – Parking Comparison

Use	No of original S75W spaces / Basement Level	No of now modified spaces / Basement Level
Residential Parking	106	118 (Basement 1,2,3)
Residential Visitor Parking	8	12 spaces (Basement 1)
Retail Parking	42 (on site only excluding the 25 car parking spaces on council car park)	44 spaces (Lower ground level)
Retail Staff Parking	6	10 (Basement 1)
Total Car Parking	162 spaces	184 spaces

Further discussion on the management of the parking in the Shared Zone is provided at Section 2.5.

2.3 Relationship to adjoining development

The Department considers that the design does not adequately address the impact of the proposal on the development potential of the adjoining site, specifically those to the north which have been zoned to permit a comparable scale of development to that which has been approved on the subject site. Similarly, the design does not reflect the potential impact of future development on the aforementioned sites on the amenity of the units which directly interface with those properties and which include windows and balconies constructed to the common boundary.

2.3.1 Department Request

It is requested that the design be modified to address the relationship to adjoining development and to demonstrate that:

- The development potential of the properties immediately to the north is not compromised; and
- The internal and external amenity of the dwellings within Building A and B which interface with the sites to the north is preserved.

2.3.2 Anka's Response

The design has been amended to address the above concerns, please see amended Architectural Plans at **Appendix A**. The design proposes setbacks to the northern boundary in the form of setting the proposed building walls and primary windows to living areas back 3m from the boundary. Where a room faces the northern elevation, windows also face the east and west elevations for additional sources of light. In addition, for amenity and privacy control, high level windows are proposed on the northern boundary which will prevent direct overlooking should future development occur on the adjoining property. Where windows occur within the 3m setback, they are proposed to be drencher protected to comply with the requirements of the BCA.

2.4 Loss of Retail Floor Space

The Department notes that two fundamental public benefits of the approved scheme were “renewing and consolidating the Lindfield Town Centre as well as improving retail servicing via an increase in retail floor space and the provision of a medical centre to meet the population growth in the locality” and “increasing employment opportunities”.

2.4.1 Issue: Retail Floor Space Loss

The Department shares Council's and the community's consent about the loss of retail floor space as a result of the proposed modification. Further justification is required in this regard which should specifically address:

- The loss of a significant public benefit of the scheme; and
- Council's Ku-ring-gai Retail Strategy;

2.4.2 Anka's Response

Loss of Significant Public Benefit

ANKA has commissioned Location IQ to prepare an independent analysis of the reduction in retail floor space. The analysis reviews the proposed Modified Application, provision of the retail development in the Approved Project and the existing retail floorspace at the site compared to the overall retail floorspace currently and proposed for the Lindfield Town Centre. The report also addresses Council's Ku-ring-gai Retail Strategy.

The report notes that the Modified Project provides for a better retail design outcome than the Approved Project as the Modified Project comprises a single level of retail floorspace which is more appropriate and convenient for shoppers in terms of accessibility between car parking and the retail levels. This compared with the Approved Project which provided retail levels above the ground floor and two levels above the car parking level. The viability of the Approved Project was therefore questionable and the Modified Project's layout is considered to be more convenient for shoppers.

It should also be noted that the Modified Project accommodates the Right of Way, which has implications on the amount and the layout of retail floorspace that can be provided as well as the floor levels and the floor levels in the development to accommodate the Right of Way height requirements.

Notwithstanding the above, the Modified Project still provides an increase in retail floor space than what currently exists on the site, including a larger sized supermarket than the existing Franklins / IGA.

With regard to the improvement and renewal of the Lindfield Town Centre retail servicing via an increase in retail floorspace, the report makes several key findings that will contribute to the vitality and capacity of the Lindfield Town Centre. These include:

- The operators of the Coles supermarket chain in Australia have acquired the car park behind the existing Coles development on the western side of the Lindfield Town Centre (to the west of the Pacific Highway). By a typical Coles supermarket standard floorspace area, the existing Lindfield Coles is relatively small in floorspace (at 2,130m²). It is therefore highly likely that an application to increase the existing Coles supermarket will be a result of this land purchase. In addition, it is noted that Ku-ring-gai Council has entered a Memorandum of Understanding with Coles Group Property Developments Limited to allow Coles to undertake design development in respect of the closure, relocation and realignment of Balfour Lane (to the south-western boundary of the Coles Land) in a manner generally consistent with council's Illustrative Concept Plan.
- The land to the immediate north of the subject site is now zoned B4 under LEP (Local Centres) 2012. This zoning will permit mixed use developments comprising retail floorspace are permissible in the zoning allowing for increased retail floorspace with potential future development.

- The subject site provides for a catchment area and does not seek to compete with the existing Coles on the western side of Lindfield Town Centre. A competitive supermarket and retail area would not provide the opportunity of a consolidated town centre.

Further to the above, the removal of the medical centre is supplemented in the Town Centre by existing medical centres located at the office development to the east of the Council car park along Tryon Road. The co-location of these medical facilities such as GP Clinics, physiotherapy, pathology and medical imaging provides a convenience for the community. If a medical facility was proposed away from this location it would be disjointed from others will not be a benefit to the community.

Ku-Ring-Gai Retail Centre Strategy

Location IQ has also made an assessment of the modified proposal against the Ku-ring-gai Retail Centre Strategy (the Strategy) which was prepared in July 2005. Location IQ note that significant changes in retail development have occurred since 2005 including the release of two (2) ABS Census of Population and Housing in 2006 and 2011.

The Strategy recognises Roseville as a better alternative for retail expansion over Lindfield, however since 2005 Roseville has not expanded in this time. Nevertheless, the Strategy makes a target expansion of 6000m² in retail floorspace for Lindfield Town Centre.

Based on the analysis provided above, it is concluded that the demand for retail floorspace expansion within Lindfield can be accommodated through the increase in retail floorspace at the subject site from the existing retail floorspace; expansion of the Coles site and the change in zoning around the subject site that will allow for mixed use development.

2.5 Access

The Department shares Council's concerns regarding the potential for conflict in the shared pedestrian and vehicle zone off Havilah Lane, which is also designed to accommodate service vehicles.

2.5.1 Issue: Vehicle and Pedestrian Safety

A Vehicle Management Plan is to be provided which sets out the mechanisms for maintaining appropriate levels of safety for pedestrians and vehicles particularly (but not limited to) the area in and around the loading dock. The Plan should also provide confirmation about the nature and capacity of trucks required to service the retail component, in particular the supermarket.

The Plan should also provide confirmation about the nature and capacity of trucks required to service the retail component, in particular the supermarket.

Allocation and preparation of the Vehicle Management Plan should have consideration to the users of the parking space located on the lower ground floor accessed via the shared zone. It may be appropriate to allocate these spaces for use by the retail workforce, where turnover could reasonably be expected to be less frequent, thereby minimising the potential for conflict in this area.

2.5.2 Anka's Response

A Draft Vehicle Management Plan (VMP) has been prepared by Varga and included at **Attachment F**. The VMP outlines the following:

- Vehicle and pedestrian safety and circulation;
- Signage details for the Shared Zone;

- Boom gate operation and time limit restrictions for parkers;
- The Dock Manager's duties and supervision; and
- The approximate number of service vehicles using the Shared Zone per day.

2.6 Signage

2.6.1 Issue: Non –complying signage

Signage should be amended to demonstrate compliance with Council's requirements and create a consistency throughout the Lindfield Town Centre.

2.6.2 Anka's Response

The proposed signage for the Modified Proposal has been amended in accordance with Council's Draft Local Centres DCP 2012, refer to plans numbered 6500 Rev B in **Appendix A**.

2.7 Additional Information Required Comments

The Department has requested additional information. **Table 2** details the information and where it is located in this Report or Appendices.

Table 2 – Additional Information Required

Information	Located
Amended BASIX report to reflect any modifications in the architectural drawings arising from the matters identified above.	See Appendix H .
Revised basement car parking plans demonstrating: - Provision of additional car parking spaces (as described above); and - That all car parking spaces including accessible car spaces, and aisle widths satisfy the relevant Australian Standards.	See Appendix A .
Revised swept path analysis to the entry driveway to the right of way / service access to confirm access by a medium	See Appendix E .
Clarification on the capture and reuse of rainwater and/or greywater in the development- the BASIX commitments include a recycled water supply of 1200 litres / day, however this is not reflected in the hydraulic plans which accompany the application.	See Appendices G and H .
The Response to Submission should address all concerns raised by Council.	See Section 4.0

3.0 Government Agency Submissions and Proponent's Response

3.1 Roads and Maritime Service (RMS)

The RMS notes that it has reviewed the Modified Application and has no objections.

This is noted.

3.2 Sydney Water

Sydney Water note that the Modified Application is of a similar scale and design to the original development assessed by Sydney Water and has no further comments for the Department's consideration.

This is noted.

3.3 Rail Corporation NSW (RailCorp)

RailCorp has reviewed the proposal and recommends conditions of consent for the Department to impose on the modified consent. ANKA has reviewed the conditions and generally find them reasonable with the exception to the condition of consent relating to the noise and vibration assessment. This is further addressed below.

Noise and Vibration

Railcorp is concerned that the future occupants of the development will encounter rail-related noise and vibration from the adjacent rail corridor. Railcorp has therefore requested the following condition of consent:

It is requested that an acoustic assessment is to be submitted to the Department of Planning prior to the issue of a construction certificate demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads – Interim Guidelines"

Comment

An acoustic report was submitted and approved with the original Project Application (approved April 2011) which addressed the Department's document titled "Development Near Rail Corridors and Busy Roads – Interim Guidelines". As the proposed S75W Modification does not seek to change the apartment residential amenity, a revision of the assessment to the guidelines was not warranted and the conclusions of the Approved Project Acoustic Report prepared by Acoustic Logic Consulting should be read in conjunction with the now proposed S75W Modification.

4.0 Ku-ring-gai Council Issues and Proponent's Response

The issues raised in Ku-ring-gai Council's submission are summarised in the following table, and presented with the proponent's response. It should be noted that although Council raises concerns, it recognises the Modified Project is an improved architectural solution for the locality and does not object to the proposal.

Table 3 – Summary of Council issues and Proponent's Response

Issues	Summary	Proponent's Response
Height	Council recommends the height increase be refused and modified to ensure all building elements are within the height requirements of the Approved Project.	A small portion of the of the Level 7 residential floor and the roof plant of the Lindfield Avenue tower exceed the height limit set within the Ku-ring-gai's LEP. The additional height increase from the Approved Project is a result of needing to accommodate the Right of Way access at ground level of the building and will not give rise to any adverse environmental or amenity impacts. Further, the development is in keeping with the scale and built form of the Town Centre.
FSR	Council recommends the total FSR be refused and approved in accordance with the Approved Project. Reduction in commercial FSR should be refused.	The FSR decrease is a result of the Right of Way as discussed above. The FSR has decreased by 99m ² between the s75W application and the PPR submission. The reduction in commercial retail floorspace is discussed at Section 2.4.
Communal Open Space	Council recommends conditions in effect: ■ Provide minimum 25% communal open space ■ Provide 1m deep soil planting across entire communal open space level ■ Provide BBQ facilities in communal open space.	As detailed in the Modified Application EAR, 22% of the site (or 679m ²) has been provided for communal open space. This equates to more communal open space than what was provided in the Approved Project. It is considered that the Modified Project meets the intent of the RFDC 'rule of thumb' in that it will provide residents with passive and active recreational opportunities. Further, 1m of deep soil planting cannot be achieved on the site. BBQ facilities are now proposed in the communal open space area.
Impact on adjoining properties	Modify party walls provided to side boundaries to the requirements of the Approved Project.	The walls to the partying boundaries will not pose a negative impact to adjoining properties. The walls on the northern boundary, have been modified to provide a greater setback. The scheme still provides an interesting articulated façade to the boundary which is an aesthetic improvement on the blank north

		walls of the Approved Project. See response at Section 2.1.
Lindfield Avenue street activation	Access ramps on Lindfield are to be relocated	See response at Section 2.1.
Havilah Lane and Kochia Lane elevations	■ Greater architectural articulation ■ Have a clear safe and separate pedestrian access into the service area ■ Residential entry lobbies be brought forward to the boundary line to create interest and clarity at the street level ■ Vehicular access point be consolidated to take a smaller percentage of the overall street elevation ■ Glass awning be replaced with a steel box section type as stipulated in the Draft Local Centres DCP 2013.	■ See response at Section 2.1 ■ See response at Section 2.5 ■ The residential entries on Havilah Lane are prominent in the street frontage as they have generous glazed frontages revealing their use. Their disposition along the street frontage is in direct response to the location of the Rights Of Way. ■ Separate vehicle access points have been provided for the retail and residential car parking which provides clear and logical access points for the users. It should also be noted that great effort has been made to provide an activated and better articulated elevation along Havilah Lane. ■ The awning has now been modified to remove the glass and is proposed as a solid structure in accordance with the Draft Local Centres DCP 2013.
Reduced setback to Kochia Lane	No encroachment at any level within the 4m setback on Kochia Lane.	See response at Section 2.1
Reduced setbacks to Lindfield Avenue	Provide setbacks in line with the Approved Project	See response at Section 2.1.
Lindfield Avenue façade heritage	- Incorporate setbacks in the Project Approval to create 3 storey street wall that relates to the height lines of the heritage building. - Stepping up of the street awning towards the Lindfield Avenue and Kochia Lane corner to be equal height to that of the adjacent heritage building. - Removal of the ramp to Lindfield Avenue and provision of shopfront to the boundary line with direct	See response at Section 2.1.

	street access.	
Signage	Amend signage in line with the draft Local Centre DCP 2013.	See response at Section 2.6.
Adaptable apartments	Adaptable units to locate all toilet, shower and basin fixtures in bathroom layout.	Adaptable apartments have been modified so that all adaptable apartments are capable of being easily adaptable by locating all toilet, shower and basin fixtures in final locations so that these apartments are readily adaptable for the future resident.
Solar access and cross ventilation, ESD and BASIX	Recalculate solar access and cross ventilation to apartments with clear cross referencing. BASIX is to be made consistent with the stormwater plans, ESD report and JBA SEE.	Amended BASIX plans are provided at Appendix H . Similarly a revised ESD report prepared by Cundall is provided at Appendix G .
Acoustic Measures	An amended acoustic report should be submitted showing consideration of the NSW Department of Planning "Development Near Rail Corridors and Busy Roads – Interim Guidelines, December 2008" and indicate measures that will accommodate noise generation.	See Response at Section 3.3.
Car Parking	The Council has raised concerns on the car parking calculation, safety of access points and shared vehicle and pedestrian zone, swept path movements of Medium Rigid Trucks. Details on the management of retail and residential parking.	See Response at Section 2.2.
Conditions	Council does not support deletion of Conditions: - B1 Design Modification; - C6 Amendments to approved engineering plans. Council supports modifications to the below conditions however recommends amendments: - C5 Development Contributions - Condition C1- Car and Bicycle parking provision and storage - C30 – Basement Car Parking Details. - Condition D10 – Construction and Traffic Management Plan - Condition C26-External Service Pipes and the like Prohibited. - Condition A1-to reflect proposed amended documents - Condition A2- amended to reflect proposed revised documents Council has no objection to the deletion of the following conditions: - C15, D4, D5, G5	Noted. With regard to Condition C6, revised engineering plans have been submitted (Appendix K). Anka will pay the relevant contribution sum that is estimated and finalised once the project is approved. Refer to Condition C5 at Section 7.1.

	Council has no objection to the proposed modification of the following conditions: - C2, F14.	
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5.0 Public Submission Issues and Proponent's Response

A total of 85 public submissions were received, however, 67 of these submission were pro-forma letters and 1 submission was a signed petition.

Table 4 summaries the issues of the public submission and is present with the proponent's response.

A response to the submissions is provided in the adjacent column of the Table.

Table 4 – Summary of Public Submissions

Issue	Response
Parking shortfall and relying on the 25 space Council Carpark	See response at Section 2.2
Additional Height of development excessive and out of character	The additional height is a requirement of now incorporating the Right of Way (ROW). The minor increase in height does not exceed the acceptable range of 7-9 storeys. The increase in height will not cause any significant adverse impacts on amenity as addressed within the S75W EAR.
Setbacks from Lindfield Road and northern boundary	See response at Section 2.1
Privacy loss to adjoining residents	See response at Section 2.1
Reduction in retail floorspace	See response at Section 2.4
Shared pedestrian and vehicle zone conflict	See response at Section 2.5
Overshadowing with the additional height	The plans prepared by Crone Partners (Appendix A) indicate that the proposed modified development will not have an adverse impact on overshadowing impacts in comparison to the Approved Project.
A new DA is required due to the amount of significant design changes (additional height, bulk)	The proposal is substantially the same development to the Approved Project in that it proposes a mixed use development within the same development footprint. A modification is sought under section Schedule 6A of the EP&A Act for transitional Part 3A projects.
Windows and balconies have been designed in proximity to the boundaries, contrary to an original DGR requesting a demonstration of the viability of future development of surrounding sites.	See response at Section 2.3
The proposal does not consider the relevance of the existing and applicable controls on building height and FSR.	The EAR addresses the non-compliance of the FSR and height at Section 3.2 of the report. The basis of exceeding the height and FSR is to accommodate the ROW within the development. It is considered that the modified project is still compatible with the appropriate scale of the Lindfield Town Centre.
Right of Way - How will the excavation of the residential car park and development be constructed without interfering with the use of the ROW? - The intensification of the ROW is contrary to the intent of the ROW and will cause conflict between uses.	The ROW has been designed to incorporate the rights of the properties that utilises its function. The ROW affected private properties is a matter that is a private issue that will be dealt with under the real property law which has no bearing on the environmental impacts of the development.
Contamination – there is no reference to contamination in the modification report.	Contamination was addressed in the EAR for the original Project Application and is not required to be re-addressed in the Modification.
Impacts on heritage is unacceptable	See response at Section 2.1
The additional 21 units will exceed the target of 10,000 dwelling set by the government for Ku-ring-gai.	The proposed use is in accordance with the targets proposed under the Draft Metropolitan Strategy for Sydney 2031 for the North Subregion.

Communal landscaping species are not considered appropriate for Ku-ring-gai.	Landscape planting has been designed to best suit the landscape courtyard and the for the needs of the community.
Development will cause increase traffic generation and the developer should be asked to contribute to road and intersection upgrades.	The Modified Application will provide for less traffic generation from the Approved Project. Contributions will be paid in accordance with the Ku-ring-gai Contributions Plan 2010.

6.0 Summary of Modifications

As a result of the public exhibition period and in response to the majority of the Department's concerns, the proposed scheme has made minor design modifications in response to a more robust and complete mixed use development. For ease of reference, a summary of changes since the submitted S75W modification is provided in **Table 5** below:

Table 5 – Summary of Design Changes

Modification	Original S75W Submission	Amended Design	Reason
Gross Floor Area (GFA) and Floor Space Ratio (FSR)	GFA = 12,165m ² FSR = 3.93:1	GFA = 12,066.4m ² FSR = 3.89:1	The modification to the apartment layouts on the northern boundary has modified the apartment layout to include setbacks as requested by the Department. This has slightly reduced the amount of total FSR on site.
Car Parking	Provide 162 spaces on site.	Provide 184 spaces on site.	The scheme has now been modified to provide additional car parking on site, by excavating an additional basement level.
Setback to Northern Elevation	Provide no building setback along the northern boundary for Building A.	Provide a greater setback along the northern boundary for Building A.	The building has been designed to provide for better amenity for future residents
Access to Ground Floor Retail Podium	Ground floor level of retail layout was via a 1 in 20 ramp along Lindfield Avenue, external to the building.	Retail units along Lindfield Avenue have been modified to provide direct access from the street, allowing activation on Lindfield Avenue. As a result, a 1:14 switchback gradient ramp has been incorporated within the building entrance.	In response to the Department and Council's concern that the 1:20 disabled access ramp was limiting direct retail activation along Lindfield Avenue.
Retail GFA	2,340m ²	2,379.5m ²	Due to the reconfiguration of the accessible ramp and its impact on retail floorspace to bring retail tenancies to the boundary.
Residential Lobbies	Residential lobby access via Lindfield Ave and Kochia Lane.	Modifications to the ground floor podium now have the both residential lobbies fronting Lindfield access.	In response to Council's and the Department's issues requiring street activation along Lindfield Ave, the lobby configuration is a result of the new layout.
Signage	Above awning signage proposed.	Proposed signage has been modified to comply with Council's DCP controls.	In response to the Department and Council's issues signage has been modified to comply with Council's DCP.
Awning on Havilah Lane	Glass awning proposed	Solid awning.	In response to Council's concerns to comply with Draft Local Centres DCP 2013.
Adaptable Units	Adaptable units were indicated on the plans to show these units that	The same adaptable units have been modified to show that	In response to Council's concerns.

	are capable in being adapted.	these units are capable of being adapted easily on the plans to indicate the shower, toilet and basins being post-adaptable.	
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7.0 Final Modified Conditions of Approval and Statement of Commitments

7.1 Final Modifications to the Approval

The proposed modifications to the submission as described above necessitate further amendments to the approval conditions in addition to the number of conditions Anka has sought in relation to further assessment of the proposal.

The conditions below (as modified) now supersede the modified conditions proposed within the EAR dated December 2012. Where relevant, the conditions have been restated and words proposed to be deleted are shown in ~~bold strike through~~ and words to be inserted are shown in ***bold italics***.

A1. Development Description

Development is granted only to carrying out the development described in detail below:

Demolition of existing buildings, excavation and construction of a mixed use retail and residential development ***of comprising 11,899m² 12,066m²*** in GFA comprising:

- ***2 1*** level podium with ***4,231m² 2,379.5m²*** in retail GFA ***(2,019m² in GLAR)*** ~~including 293m² GFA as a medical centre;~~
- ~~91~~ ***112*** apartments in 2 residential towers above the retail podium;
- ~~3 3~~ levels of basement car parking for ~~196~~ ***184*** vehicles; and
- ~~620m²~~ ***679m²*** communal courtyard at the podium level.

A2. Development in Accordance with Plans and Documentation

The development will be undertaken in accordance with the Environmental Assessment dated November 2010 prepared by JBA Planning and all Appendices, except where varied by:

- the Preferred Project Report dated April 2011 and all Appendices,
- the Proponents Statement of Commitments included in the PPR;
- ***the Section 75W Modification Application, dated December 2012;***
- ***the Section 75W Modification Application Preferred Project Report and Response to Submissions, dated May 2013;*** and
- the following drawings:

Architectural (or Design) Drawings prepared by Architecture PTI			
Drawing No.	Revision	Name of Plan	Date
00	C	Cover Sheet & Location Plan	18/04/2011
02.5	B	Basement 3 Plan	14/09/2011
03	C	Basement 2 Plan	14/09/2011
04	C	Basement 1 Plan	14/09/2011
05	E	Ground Floor Plan	14/09/2011
06	D	Level 1 Plan	18/04/2011
07	C	Level 2 Plan	18/04/2011
08	C	Level 3 Plan	18/04/2011
09	C	Level 4 Plan	18/04/2011
10	C	Level 5 Plan	18/04/2011
11	C	Level 6 Plan	18/04/2011

42	C	Level 7 Plan	18/04/2011
43	C	Roof Level	18/04/2011
44	C	Elevations Sheet 1	18/04/2011
45	C	Elevations Sheet 2	18/04/2011
46	C	Elevations Sheet 3	18/04/2011
47	B	Sections Sheet 1	18/04/2011
48	B	Sections Sheet 2	18/04/2011
Engineering (or Design) Drawings prepared by GHD			
21-19509-C001	C	Sediment and Erosion Control Plan	13/04/2011
Landscape Plan (or Design) Drawings prepared by Peter Glass & Associates			
0140-01	D	Landscape Plan for Development Application	06/04/2011

Architectural (or Design) Drawings prepared by Crone Partners

Drawing No.	Revision	Name of Plan	Date
0001	B	Cover Sheet	20/05/2013
0100	B	Context/Analysis Site Plan	20/05/2013
0101	B	Site Plan	20/05/2013
0102	B	Zone of Influence Site Plan	20/05/2013
0200	B	Perspective Sheet 1	20/05/2013
0201	B	Perspective Sheet 2	20/05/2013
0202	B	Perspective Sheet 3	20/05/2013
0203	B	Perspective Sheet 4	20/05/2013
0204	B	Perspective Sheet 5	20/05/2013
0205	B	Perspective Sheet 6	20/05/2013
0206	B	Perspective Sheet 7	20/05/2013
0207	B	Perspective Sheet 8	20/05/2013
0208	B	Perspective Sheet 9	20/05/2013
0209	B	Perspective Sheet 10	20/05/2013
1000	B	Basement 3 Plan	20/05/2013
1001	B	Basement 2 Plan	20/05/2013
1002	B	Basement 3 Plan	20/05/2013
1003	B	Lower Ground Floor Plan	20/05/2013
1004	B	Ground Floor Plan	20/05/2013
1005	B	Level 1 Floor Plan	20/05/2013
1006	B	Level 2 Floor Plan	20/05/2013
1007	B	Level 3 Floor Plan	20/05/2013
1008	B	Level 4 Floor Plan	20/05/2013
1009	B	Level 5 Floor Plan	20/05/2013
1010	B	Level 6 Floor Plan	20/05/2013
1011	B	Level 7 Floor Plan	20/05/2013
1012	B	Roof Plan	20/05/2013
2000	B	Elevations (Sheet 1 of 2)	20/05/2013
2001	B	Elevations (Sheet 2 of 2)	20/05/2013
3000	B	Sections (Sheet 1 of 3)	20/05/2013
3001	B	Sections (Sheet 2 of 3)	20/05/2013
3002	B	Sections (Sheet 3 of 3)	20/05/2013
4000	B	LEP 26.5m Height Plane Study	20/05/2013
4001	B	LEP 26.5m Height Plane Study	20/05/2013
5000	B	Shadow Diagrams- March	20/05/2013
5001	B	Shadow Diagrams- June	20/05/2013
5002	B	Shadow Diagrams- September	20/05/2013
5003	B	Shadow Diagrams- December	20/05/2013
6000	B	Vehicle Access Plan	20/05/2013

6001	B	Adaptation Detail Plans	20/05/2013
6002	B	Materials & Finishes Schedule (Sheet 1 of 2)	20/05/2013
6003	B	Materials & Finishes Schedule (Sheet 2 of 2)	20/05/2013
6500	B	Signage – External	20/05/2013

Engineering (or Design) Drawings prepared by Insync Services

SW-000	C	Hydraulic Services Cover Sheet and Legend	24/05/2013
SW-100	C	Basement Level 3 In-ground Hydraulic Services plan	24/05/2013
SW-101	C	Basement Level 3 Hydraulic Services Plan	24/05/2013
SW-102	C	Basement Level 2 Hydraulic Services Plan	24/05/2013
SW-103	C	Basement Level 1 Hydraulic Services Plan	24/05/2013
SW-104	C	Lower Ground Level Hydraulic Services Plan	24/05/2013
SW-105	C	Ground Level Hydraulic Services Plan	24/05/2013
SW-106	C	Level 1 Hydraulic Services Plan	24/05/2013
SW-107	C	Level 2 Hydraulic Services Plan	24/05/2013
SW-108	C	Level 3 Hydraulic Services Plan	24/05/2013
SW-109	C	Level 4 Hydraulic Services Plan	24/05/2013
SW-110	C	Level 5 Hydraulic Services Plan	24/05/2013
SW-111	C	Level 6 Hydraulic Services Plan	24/05/2013
SW-112	C	Level 7 Hydraulic Services Plan	24/05/2013
SW-113	C	Roof Level Hydraulic Services Plan	24/05/2013
SW-114	A	Stormwater Detention and Rainwater Storage Tank Detail Sheet	24/05/2013

Landscape Plan (or Design) Drawings prepared by Aspect Studios

LA-01	A	Level 1 Landscape Plan	November 2012
LA-02	A	Level 1 Courtyard Perspectives	November 2012
LA-03	A	Level 1 Courtyard Section	November 2012

except for:

- any modifications which are 'Exempt and Complying Development' as identified in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 or as may be necessary for the purpose of compliance with the BCA and any Australian Standards incorporated in the BCA; and
- otherwise provided by the conditions of this approval.

B1. Design Modifications

We seek approval for this condition be deleted in its entirety.

C1. Car and Bicycle Parking Provision and Storage

Prior to the issue of a Construction Certificate, plans and specifications demonstrating the following shall be provided to the satisfaction of the Director General:

- a) the car spaces in the ~~3-basement~~ **car parking** levels shall be allocated as follows:

Car Parking Space	Number
Residential Car Spaces	94 118
Residential Visitor Car Spaces	15 12
Retail Public Car Spaces	74 44
Retail Employee Car Spaces	16 10
Total car spaces	196 184

- ~~b) Residential car spaces shall be appropriately separated from retail car spaces with restricted access.~~
- ~~c) Wheel stops shall be provided to the south end of the car parking spaces at the central bays of all levels.~~
- ~~d) All accessible spaces shall be located adjacent to lifts and pedestrian ramps.~~
- ~~e) Bicycle parking shall be provided to the main entrances of the retail shopping centre at Lindfield Avenue and Kochia Lane.~~
- ~~f) Bicycle spaces proposed at the Level 2 basement car park shall be appropriately relocated to the Level 3 basement car park for future resident use and shall adjoin appropriate locker facilities for bike users.~~ All bicycle parking spaces shall be designed in accordance with AS2890.3.

Written evidence of the Director General's agreement of this shall be provided to the Principal Certifying Authority.

*Should the residential apartment numbers and mix change ~~as a result of compliance with Condition B1~~, the allocation and quantum of car parking will be required to be varied in accordance with the car parking rates applied in this approval with the written approval of the Director General.

C2. Landscape Plan

Prior to the issue of a Construction Certificate, a landscape plan for the central ~~Level 2~~ **Level 1** podium shall be provided to the Principal Certifying Authority which demonstrates all planter boxes at the podium shall provide a minimum 1 metre soil depth in accordance with the guidelines of the Residential Flat Design Code.

C3. Variation of Right of Way Benefiting 39 and 41 Lindfield Avenue

We seek approval for this condition be deleted in its entirety.

C4. Variation of Drainage Easement Benefiting 39 and 41 Lindfield Avenue

We seek approval for this condition be deleted in its entirety.

C5. Development Contributions

This development is subject to a development contribution in accordance with *Kuring-gai Contributions Plan 2010*, being a s94 Contributions Plan in effect under

the Environmental Planning and Assessment Act 1979. Ku-ring-gai Council has estimated the total Contribution to be paid is ~~\$1,960,642.19~~ **\$2,084,950.1. Sum is to be finalised once the project is approved.**

The contribution shall be paid to Council prior to the issue of any Construction Certificate, in accordance with Ku-Ring-gai Contributions Plan 2010.

The contributions specified above are as at the June 2011 quarter and are subject to indexation and will continue to be indexed to reflect changes in the consumer price index and housing price index until they are paid in accordance with Ku-ring-gai Contributions Plan 2010. Prior to payment, please contact Council to verify the current payable contributions.

The Contributions applicable is based on approval for:

- ~~91~~ **112** apartments comprising:
 - ~~4~~ **4** x studios
 - ~~45~~ **53** x 1 bedroom apartments
 - ~~38~~ **53** x 2 bedroom apartments
 - ~~7~~ **2** x 3 bedroom apartments
- ~~3,470m²~~ **2,019m²** of retail lettable floor area

Should the residential apartment numbers and mix change ~~as a result of compliance with Condition B1~~, the amount payable may be accordingly adjusted. Refer to Council for any adjustments in accordance with Ku-ring-gai Contributions Plan 2010.

Ku-ring-gai Contributions Plan may be viewed at www.kmc.nsw.gov.au and at the Council Chambers.

C6. Amendments to approved engineering plans

We seek approval to remove this condition in its entirety. Revised engineering plans have been submitted with a revised Stormwater Drainage Report prepared by Insync at **Appendices J and K**.

C15. Stormwater Management Plan

Prior to issue of the Construction Certificate, the applicant must submit, for approval by the Principal Certifying Authority, scale construction plans and specifications in relation to the stormwater management and disposal system for the development. The plan(s) may be based on ~~Drawings 21-19509-C002 Rev. B by GHD, dated 13 April 2011~~ Hydraulic Services Drawings, prepared by **Insync Services, dated 24/05/2013**, and must include the following detail:

- exact location and reduced level of discharge point to the public drainage system layout of the property drainage system components, including but not limited to (as required) gutters, downpipes, spreaders, pits, swales, kerbs, cut-off and intercepting drainage structures, subsoil drainage, flushing facilities and all ancillary stormwater plumbing - all designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence);
- details of the required on-site detention tanks required by Ku-ring-gai Water Management DCP 47, including dimensions, materials, locations, orifice and discharge control pit details as required (refer Chapter 6 and Appendices 2, 3 and 5 of DCP 47 for volume, PSD and design requirements); and
- the required basement stormwater pump-out system is to cater for driveway runoff and subsoil drainage (refer appendix 7.1.1 of Development Control Plan 47 for design).

The above construction drawings and specifications are to be prepared by a qualified and experienced civil/hydraulic engineer in accordance with Council's Water Management Development Control Plan 47, Australian Standards.

C26. External Service Pipes and the like Prohibited

Proposed water pipes, waste pipes, stack work, duct work, mechanical ventilation plant and the like must be located within the building **or screened from view**. Details confirming compliance with this condition must be shown on construction certificate plans and detailed with construction certificate specifications. Required external vents or vent pipes on the roof or above the eaves must be shown on construction certificate plans and detailed with construction certificate specifications. External vents or roof vent pipes must not be visible from any place unless detailed upon development consent plans.

Vent pipes required by Sydney Water must not be placed on the front elevation of the building or front roof elevation. The applicant, owner and builder must protect the appearance of the building from the public place and the appearance of the streetscape by elimination of all external services excluding vent pipes required by Sydney Water and those detailed upon development consent plans.

C30. Basement Car Parking Details

Prior to the Construction Certificate, certified parking layout plan(s) to scale showing all aspects of the vehicle access and accommodation arrangements must be submitted to and approved by the Principal Certifying Authority. A qualified civil/traffic engineer must review the proposed vehicle access and accommodation layout and provide written certification on the plans that:

- all parking space dimensions, driveway and aisle widths, driveway grades, transitions, circulation ramps, blind aisle situations and other trafficked areas comply with Australian Standard 2890.1 - 2004 "Off-street car parking",
- a clear height clearance of 2.6metres (required under DCP 40 for waste collection trucks) is provided over the designated garbage collection truck manoeuvring areas ~~within the basement~~ **at the Lower Ground Floor;**
- access to the garbage stores and temporary bin collection areas is to be provided at the Lower Ground Floor level for the garbage collection vehicles at all times ~~no doors or gates are provided in the access driveways to the basement car park which would prevent unrestricted access for internal garbage collection at any time from the basement garbage storage and collection area;~~ and
- the vehicle access and accommodation arrangements are to be constructed and marked in accordance with the certified plans.

D4. Dilapidation Survey and Report (Public Infrastructure)

Prior to the commencement of any development or excavation works on site, the Principal Certifying Authority shall be satisfied that a dilapidation report on the visible ~~and structural~~ condition of all structures **which comments on any structural conditions that maybe be evident from that visual inspection** of the following public infrastructure, has been completed and submitted to Council:

- Full road pavement width, including kerb and gutter, of Lindfield Avenue, Havilah Lane and Kochia Lane over the site frontage, including the full intersections.
- All driveway crossings and laybacks opposite the subject site.

The report must be completed by a consulting structural/ civil engineer. Particular attention must be paid to accurately recording (both written and photographic) existing damaged areas on the aforementioned infrastructure so that Council is fully informed when assessing any damage to public infrastructure caused as a

result of the development. The developer may be held liable to any recent damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded by the requirements of this condition prior to the commencement of works.

Note: a written acknowledgement from Council must be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any excavation works). ***The written acknowledgement is not required if Council does not provide that acknowledgement within 21 days of the receipt of the public infrastructure dilapidation report.***

D5. Dilapidation Survey and Report (Private Property)

Prior to the commencement of any demolition or excavation works on site, the Principal Certifying Authority, shall be satisfied that a dilapidation report on the visible ~~and structural~~ condition of all structures ***which comments on any structural conditions that maybe evident from the visual inspection*** upon the following lands, has been calculated and submitted to Council:

- 2 Kochia Lane
- 39-41 Lindfield Avenue
- **19-21 Lindfield Avenue**
- ~~■ 43 Lindfield Avenue~~
- ~~■ 2-6 Milray Street, buildings fronting Havilah Lane.~~

The dilapidation report must include a photographic survey of adjoining properties detailing their physical condition, both internally and externally, including such items as walls ceilings, roof and structural members. The report must be completed by a consulting structural/geotechnical engineer as determined necessary by that professional based on the excavations for the proposal and the recommendations of the submitted geotechnical report and Vibration Impact Report and subsequent reports and addendums. In the event that access for undertaking the dilapidation survey is denied by a property owner, ***or conditions imposed by the property owner are unreasonable*** the applicant must demonstrate in writing to the satisfaction of the Principal Certifying Authority that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed.

Note: A copy of the dilapidation report is to be provided to Council prior to any excavation works been undertaken. The dilapidation report is for record keeping purposes only and may be used by an applicant or affected property owner to assist in any civil action required to resolve any dispute over damage to adjoining properties arising from works.

D10. Construction and Traffic Management Plan

The applicant must submit to Council a Construction Traffic Management Plan (CTMP), ~~which is to be approved~~ prior to the commencement of any works on site. The plan is to consist of a report with Traffic Control Plans attached. The report is to contain commitments which must be followed by the demolition and excavation contractor, builder, owner and subcontractors. The CTMP applies to all persons associated with demolition, excavation and construction of the development.

The report is to contain vehicle routes for approach and departure to and from all directions. The report is to contain a site plan showing entry and exit points. Swept paths are to be shown on the site plan showing access and egress for an 11 metre long heavy rigid vehicle. The Traffic Control Plans are to be prepared by

a qualified person (red card holder). One must be provided for each of the following stages of the works:

- demolition;
- excavation;
- concrete pour;
- construction of vehicular crossing and reinstatement of footpath; and
- traffic control for vehicles reversing into or out of the site.

Traffic controllers must be in place at the site entry and exit points to control heavy vehicle movements in order to maintain the safety of pedestrians and other road users.

The developer must comply with the CTMP.

~~When a satisfactory CTMP is received, a letter of approval will be issued with conditions attached. Traffic management at the site must comply with the approved CTMP as well as any conditions in the letter issued by Council. Council's Rangers will be patrolling the site regularly and fines may be issued for any non-compliance with this condition.~~

F14. Compliance with BASIX Certificate

Prior to the issue of an occupation Certificate, the Principal Certifying Authority shall be satisfied that all commitments listed in BASIX Certificate no. ~~309478M_05~~ **1005269533** have been complied with. Ku-ring-gai Council's approval must be obtained for the operation of the recycled water supply system. A copy of the approval must be provided to the Principal Certifying Authority.

F15. Easement for Right of Way Benefiting 39 and 41 Lindfield Avenue, Lindfield

We seek approval for this condition to be deleted in its entirety.

F16. Drainage Easement Benefiting 39 and 41 Lindfield Avenue, Lindfield

We seek approval for this condition to be deleted in its entirety.

G5. No Door Restricting Internal Waste Collection in ~~Basement~~ **Lower Ground Floor**

At all times, the ~~basement~~ **lower ground floor** garbage storage and collection area is to be accessible by Council's Waste Collection Services. No doors, grilles, gates or other devices shall be provided in any location which would prevent this service. Where a gate, door or the like is to be erected, unimpeded access to the garbage collection point is to be provided by other means through written agreement with Council's Waste Collection Services.

7.2 Final Modifications to the Statement of Commitments

The proposed modifications described above and as a result of the revised plans and documentation some minor amendments are required to the Statement of Commitments approved as part of the Approved Project.

Words proposed to be deleted are shown in ~~bold strike through~~ and words to be inserted are shown in **bold italics**.

Subject	Commitments	Timing
Heritage	An archival photographic recording of the heritage item at 1-21 Lindfield Avenue, in its context, documenting the Lindfield Avenue streetscape will be made.	Prior to demolition, excavation or construction work commencing
Erosion and Sediment Control during Construction	- Exits to the site will be provided with shaker grids to remove sediment from vehicle tyres before they leave the site; - Stormwater will be collected in a basin at the base of the excavation and after the sediment has settled out water will be pumped to the kerb on Havilah Lane; and - Adequate dust control measures will be put in place during the construction phase.	Excavation and construction
ESD initiatives	The proposed development will seek to implement as many of the ESD initiatives set out within the ESD Report, Revision 1, dated October 2010, prepared by Cundall, dated 16 May 2013 as practicable.	Construction and operation
BASIX Requirements	The initiatives set out within the 'Schedule of BASIX commitments' submitted within the Preferred project report Modification Application Preferred Project and Response to Submissions Report, dated May 2013 , will be implemented.	Construction
Security - Access Control	- Secure access will be provided to the basement carpark. - Residents will have access to the carpark via a resident card. - Secure access will also be provided to the pedestrian entry entries to the residential component of the development off Lindfield Avenue, Keeha Lane and Havilah Lane. - Secure lift access will be provided to residential floors within the development. - Security control will ensure that access to the courtyard will not be available from the retail space at level 4 as this space will be provided as communal private open space for the residential development. - An intercom security system will be installed in each apartment for authorising access to the residential areas by non-residents/visitors.	Construction and operation
Disabled Access	- The lift cars will have the appropriate controls/grab rails and emergency phone/intercom system for operation by a person with disability satisfying the requirements of AS1735.12 Part 7.2 Provision in lift cars, Part 7.3 Location & Part 7.4 Design; - The following six eight units are proposed to have the plumbing installed, as built <i>and if required</i>, to allow the units to be fully adapted following the "Post adaption" plans <i>if appropriate for that person and with the guidelines specifications of the AS4299-1995 adaptable housing "schedule of features for adaptable housing" for fittings and fixtures followed.</i> — Type B unit (two of) on level 2; Type B unit No. 104A, 110A, 204A, 210A	Construction

Subject	Commitments	Timing
	— Type B unit (two of) on level 3; Type B unit No. 103B, 106B, 203B, 206B — Type B unit (one of) on level 4; and — Type B1 unit (one of) on level 6. ▪ The bathrooms in the above adaptable units will be built with a hobless shower area of the dimensions required and walls capable of having grab rails mounted in a manner to satisfy AS1428.1 Clause 10.2.8 & Figure 21; and ▪ Relevant sections of the surrounding built environment/public domain (footpaths/kerb ramps etc along adjoining roads) are required to be completed as part of the development, to provide accessible paths of travel, are proposed to be compliant with the specifications set out in AS1428.1.	
Acoustic Treatments	▪ Where appropriate the recommendations set out within the Environmental Noise and Vibration Impact Report, prepared by Acoustic Logic Consultancy, dated 30 September 2010, submitted with the EAR will be implemented. ▪ <i>Where appropriate the recommendations set out within the Acoustic Report, prepared by Wood & Grieve Engineers, dated 15 December 2012, submitted with the Modification Application will be implemented.</i>	Construction
Vibration Monitoring	▪ Prior to any works commencing on site, dilapidation reports on adjoining buildings will be undertaken; ▪ Within 1-21 Lindfield Avenue the peak particle velocity will be limited to a threshold of 3mm/s for 10Hz to 30Hz and 3-5 for 30Hz to 60Hz; ▪ Within 21 Lindfield Avenue a real time alarm will be fitted (if allowed) and vibration logging will be undertaken; and ▪ Full time qualitative monitoring will be undertaken to confirm vibrations on adjoining structures are within tolerable limits.	Prior to commencement of construction
Developer Contributions	The following contribution rates will apply to the residential component of the development: ▪ \$12,259.05 per studio ▪ \$14,427.16 per 1 bedroom dwelling; ▪ \$20,202.07 per 2 bedroom dwelling; and ▪ \$25,070.23 per 3 bedroom dwelling. Developer contributions for the residential component of the development will be paid in accordance with the <i>Ku-ring-gai Contributions Plan 2010</i> above rates (indexed to current CPI) prior to the Occupation Certificate being issued.	Prior to issue of Occupation Certificate

Subject	Commitments	Timing
Geotechnical and Hydrogeological	The recommendations contained within the Geotechnical and Hydrogeological Assessment, prepared by Jeffery and Katauskas, dated 31 March 2011 (submitted with the preferred project Application) will be implemented.	Excavation and Construction
Contamination	▪ Prior to the demolition of the existing site buildings, a suitably qualified consultant will undertake a hazardous building materials survey. ▪ The buildings will be demolished in accordance with the recommendations made within the hazardous building materials report. ▪ A preliminary soil and groundwater investigation will be undertaken at the site to make a preliminary assessment of the soil and groundwater contamination conditions at the site and assess the potential for significant widespread soil and groundwater contamination; and ▪ After the investigation waste classification documentation will be prepared for off-site disposal of soil and rock associated with the proposed basement excavation works. ▪ If it is not feasible to complete the preliminary investigation prior to demolition, those parts of the investigation that can be completed will be undertaken. ▪ The investigation will include soil sampling from a minimum of five boreholes distributed evenly across the site. This sampling density is approximately half that recommended by the EPA (DECCW) and is considered adequate for a preliminary investigation. Fill and natural soil/bedrock samples will be obtained and analysed for soil contaminants of concern. ▪ The preliminary investigation will include the installation of two temporary groundwater monitoring wells. One of the monitoring wells will be located adjacent to the north-east site boundary (i.e the north section of number 11 Havilah Lane), in the vicinity of the service station. Groundwater samples will be screened for Heavy metals, VOCs and TPH (as a minimum). ▪ In the event that the preliminary soil and groundwater investigation encounters elevated levels of contaminants at the site, additional investigation work will be undertaken if required. ▪ The site will be inspected by experienced environmental personnel during demolition and excavation works to assess any unexpected conditions or subsurface facilities that may be discovered.	Prior to demolition
Waste Management	▪ A waste caretaker will manage the garbage system of this development. The caretaker's duties will include the following: - generally maintaining and cleaning the garbage rooms. (Recommended at least once per week); - organising, maintaining and cleaning the general and recycled waste holding areas. Due to the nature of the waste it is recommended that in addition to cleaning, the garbage rooms be deodorised	Operation

Subject	Commitments	Timing
	(recommended at least once per week); - sorting recycled waste into appropriate receptacles; - organising for both Garbage and Recycled Waste pick-ups as required; - transporting appropriate waste containers between garbage rooms and collection areas to coincide with collection cycles and vice versa; and - assisting with the emptying of bins during collection. ■ Organic waste will be handled and managed by the personnel responsible for maintaining landscaped areas. ■ A total of 12 (1,000 litre) 20 (660L) standard general waste bins and 16 (240 litre) recycle bins, 12 (660L) comingled waste bins and 12 (660L) paper waste bins will be provided for the residential component of the development. ■ A total of 6 (1,000 litre) 5 (660L) and 3 (240L) standard bins and 5 (1,000 litre) 5 (660L) and 3 (240L) recyclable bins will be provided for the retail component of the development. ■ Garbage Chute with 510mm diameter specifications to meet council requirements will be supplied. ■ Construction of both the garbage areas and garbage rooms will meet all requirements set out in Ku-ring-gai City Council Codes, BCA and Australian Standards. ■ The waste management system will be monitored in the initial stages to ensure that sufficient bins have been provided to handle the waste generated.	
Construction Management	■ The construction will be under the control of a Head Contractor who will be appointed after the Approval is granted. Upon appointment and once they have become familiar with the site and developed a methodology for the construction of the project, the Contractor will prepare a Detailed Construction Management Plan for the development. ■ Prevention of unauthorised access to the site is a high priority and will be managed throughout the construction period. When the Contractor is appointed, the site will be secured with fences and barriers and, if necessary, hoardings to an approximate of height of 2.4m. ■ Alternate pedestrian routes around the site will be created and clearly signed. Particular attention will be paid to maintaining access and amenity for pedestrians and vehicles to each of the three street frontages. ■ Appropriate signage will be placed on areas at street level, indicating the works area and restricted access to the site.	Excavation, demolition and construction

Subject	Commitments	Timing
	■ The contractor will prepare demolition and excavation management plans. The applicant's representatives will review the demolition and excavation management plan issued by the contractor to ensure appropriate measures are in place for the works. ■ All works will be undertaken in line with the requirements of Workcover NSW as well as the relevant standards and codes of practice. ■ Contractors will be required to undertake a thorough induction specific to the site and hold on-site briefings periodically as the project and site evolves. ■ All demolition and excavation works will be undertaken by appropriately licensed and experienced contractors, utilising the relevant codes of practice with regards to the generation of dust. ■ Wet demolition practices are likely to be employed by demolition contractors to afford further protection against dust generation. ■ Noise and vibration criteria will be established for the construction and operational stage of the proposed building in accordance with Department of Environment and Climate Change (DECC) guidelines including the DECC's Environmental Noise Control Manual and the Industrial Noise Policy. ■ Control of noise and vibration will be achieved through the use of appropriately licensed and experienced contractors coupled with monitoring. ■ Plant and equipment utilised during demolition will be required to meet relevant guidelines with regards to noise levels. ■ Waste management & re-use principals will be applied to both the demolition as well as the construction stages of this development. The general principals include - minimising waste generation to landfills and maximising waste material avoidance, reuse & recycling. - increasing awareness of all employees and subcontractor employees to ensure they understand their responsibilities for waste management. - to comply with all relevant legislation and regulatory requirements relating to waste minimisation and waste management. ■ During demolition of the existing building, all demolition waste that can be recycled (bricks, concrete, steel, timber and glass) will be taken off-site and sorted for recycling by specialist waste handling contractors where possible. ■ Any waste from demolition or construction that cannot be recycled or reused either on-site or off-site, will be removed from the site and disposed of accordingly at approved landfill sites. ■ Regular removal and emptying of bins and skips will be done via trucks that will be covered to stop	

Subject	Commitments	Timing
	waste from falling off during transport. ▪ All trucks will have their wheels cleaned prior to leaving the site so as not to deposit residue and dirt onto public roads. ▪ The contractor will be responsible for ensuring excavated earth will be disposed off-site at an approved location for possible reuse as fill. ▪ During design and construction, consideration will be given to material options that minimise waste produced compared to alternatives that generate higher waste where possible. Where material waste is inevitable, efforts will be made to ensure that excess materials will be seen as a resource and used either on-site or off-site on other projects if economical to do so. ▪ To promote and increase awareness of waste management on-site, signs advertising waste management practices will be displayed in and around the site at all times. ▪ Waste separation bins and areas will be clearly labelled to encourage waste reuse and reduce disposal to landfill. ▪ CONCRETE/ BITUMIN - As much as possible, the concrete waste along with any surplus new concrete will be separated from other waste materials. Waste concrete will be taken to an appropriate facility for recycling, or disposed of accordingly. ▪ WOOD/ TIMBER - All wood should be reused or recycled unless it has been treated or contaminated and deemed not fit for any purpose. Where possible, wood pallets and packaging will be returned to the supplier for reuse. Where possible, wood materials used during the construction process (formwork, hoardings etc) will be reused. Wood unsuitable for reuse will be stored at designated areas on-site for collection and taken to recycling facilities. ▪ METALS - Where possible, metal drums will be returned to the supplier for reuse. Metal waste will be separated from other waste materials. Any metals not suitable for reuse will be stored and transported to an appropriate recycling facility ▪ PLASTICS/ GLASS - Glass and plastic waste will be stored on-site in collection bins and transported to recycling facilities. ▪ WALL/ CEILING LININGS - To minimise wall and ceiling lining waste during construction, plaster board and fibre cement, off-cuts will be encouraged to be used where possible. All waste plaster board and fibre cement sheets not suitable for reuse will be stored and transported to an appropriate recycling facility. ▪ At no time will hoses be used to clean roads. The use of water on site will be monitored and minimal usage will be encouraged.	

8.0 Conclusion

This Preferred Project and Response to Submissions Report and appendices has addressed the issues raised within each submission during the public exhibition process as well as the Department's key issues. This Report and the proposed amendments to the Modified Application should be read in conjunction with the S75W Environmental Assessment Report which demonstrates that the proposed modified development will not give rise to any adverse environmental impacts that cannot be managed or mitigated.

In light of the benefits of the proposed development, we have would therefore request that the Minister or his delegate approve the Modification Application.