



Preferred Project & Response to Submissions Report Section 75W Modification Major Project MP08_0244 (MOD 2)



23-37 Lindfield Avenue, 7 and 11 Havilah Lane

Mixed Use Development

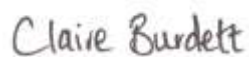
Submitted to Department of Planning & Environment
On Behalf of Aqualand

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JBA

1.0 Introduction

An application to modify the approval of Project Application MP08_0244 for the mixed use development at 23-37 Lindfield Avenue and 7 and 11 Havilah Lane, Lindfield was submitted to the Minister for Planning & Environment (the Minister) on 5 November 2014. The Modified Application (herein referred to as the 'MOD 2 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Planning and Assessment Act 1979* (EP&A Act), that provides for the continued application of the provisions of the now repealed Part 3A of the EP&A Act, on behalf of Aqualand Lindfield Pty Ltd (Aqualand).

The MOD 2 Application was publically exhibited between the 19 November 2014 and the 19 December 2014. In total 5 submissions were received, including 3 from public authorities/agencies and 2 from the general public/surrounding land owners.

Aqualand and its consultant team have reviewed and considered the Department of Planning and Environment'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 & Response to Submissions Report (Report). The main issues identified within the submissions were associated with the proposed design amendments, parking allocation and residential amenity.

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 following documents:

- the EAR prepared by JBA to accompany the original Project Application (Original Project Application) (dated November 2012);
- the Preferred Project Report for the original Project Application (Original PPR) prepared by JBA (dated April 2011);
- the Section 75W Modification Application (MOD 1 Application), prepared by JBA (dated December 2012);
- the Section 75W Modification Application Preferred Project & Response to Submissions Report (MOD 1 PPR), prepared by JBA (dated May 2013); and
- the MOD 2 Application, prepared by JBA (dated November 2014).

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).

In response to the removal of the Right of Way, and the issues raised by the Department and Council, the proposed development has undergone further minor design modifications. The modified design herein referred to as the 'MOD 2 Preferred Project' in Section 6. Section 7 sets out the final proposed modifications to the conditions of approval and the Statement of Commitments.

1.2 39-41 Lindfield Avenue

On 5 February 2015, Aqualand gained ownership of the adjoining land at 39-41 Lindfield Avenue. Whilst the additional land is not proposed to be incorporated into the development site at this stage (i.e. within the MOD 2 Application), Aqualand is exploring the opportunities the additional land presents and the potential development outcomes. However, given that the Right of Way at Lower Ground Floor is no longer required to be retained, this application seeks modifications reflecting this position. Further details are provided at Sections 6 and 7 of this Report).

2.0 Department of Planning & Environment Issues and Proponent's Response

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

2.1 Site Location and Context

2.1.1 Issue: Façade Treatment at Havilah Lane

The proposed façade treatment at Havilah Lane should be reviewed and reconsidered to provide greater articulation to reduce the scale and visual bulk presented to Havilah Lane.

Response

Revised Architectural Plans, prepared by Crone Partners are included at **Appendix A**. The proposed treatment of the Havilah Lane façade has been reviewed. In order to provide greater articulation of the ground floor and residential levels above, without affecting the amenity of the proposed apartments, the following amendments have been made:

- the colour of the terracade wall cladding has changed from grey to terracotta;
- the horizontal sun shade elements have been introduced above each of the windows on the recessed terracade sections; and
- notches have been incorporated in the roof framing feature to provide further articulation in the horizontal roof lines of the façade.

In addition, the appearance of the Havilah Lane frontage has also been amended given the proposed amendments of the design at Lower Ground Floor, as discussed in Section 6 of this Report.

2.1.2 Issue: Vehicle Crossovers at Havilah Lane

Opportunities should be explored to consolidate the four vehicle crossings at Havilah Lane to further activate the ground floor uses and improve the pedestrian amenity, safety, and visual presentation along this frontage.

Response

As discussed at Section 6 of this Report the design of the Lower Ground Floor has been revised. The number of vehicle crossings at Havilah Lane has reduced from four to three and comprise:

- one (1) combined entry/exit leading to/from the basement car parking levels, which will be used by the residential apartments, residential visitors and retail employees;
- one (1) combined entry/exit leading to/from the Lower Ground Floor which will be used by retail customers and Council Garbage Collection vehicles; and
- one (1) entry/exit leading to/from the loading dock.

2.1.3 Issue: Pedestrian ramp fronting Lindfield Avenue

The pedestrian ramp fronting retail tenancies 3 and 4 at Lindfield Avenue should be relocated to provide a zero setback at the street edge to allow activation of Lindfield Avenue and consistency with the current and future street edge.

Response

The proposed design of the pedestrian ramp fronting retail tenancies 3 and 4 on the Lindfield Avenue frontage has been amended to reflect the design which was approved under the MOD 1 PPR. The ramp is now proposed to be internalised and a 'zero' setback to Lindfield Avenue proposed at the Ground Floor Level. Refer to amended architectural plans at **Appendix A**.

2.2 Parking

2.2.1 Issue: Parking Allocation

The residential car parking should be reduced in accordance with the original approved car parking rates. The Department further encourages increased car parking provision for the retail component given the local demand and loss of the previous Council car park (9 Havilah Lane) which has been incorporated into the site.

Response

The amendments to the design of the development, as discussed in Section 6 of this Report, and the requirement to reduce the number of small car spaces within the retail parking area, results in the proposed parking provision as set out in **Table 1** below.

Table 1 – Car Parking Comparison

Component	Approved Project (MOD1)	MOD 2 Application (Nov 2014)	MOD 2 PPR (March 2015)
Residential Car Spaces	105	131	149
Residential Visitor Spaces	25	28	28
Retail Public Spaces	44	49	48
Retail Staff Spaces	10	13	13
TOTAL	184	221	238

Table 2, provides a comparison of the car space requirement for the MOD 2 Application and MOD 2 Preferred Project against the approved car parking ratios.

Table 2 – Car Parking Provision Assessment

	Approved Project (MOD 1 – 112 apts)		MOD 2 Application (Nov 2014 – 122 apts)		MOD 2 PPR (March 2015 – 122 apts)	
	Car Space Provision	Ratio	Car Space Requirement	Car Space Provision	Car Space Requirement	Car Space Provision
Residential Car Spaces	105	0.94 spaces/unit	114.7 spaces	131	114.7 spaces	149 spaces
Residential Visitor Spaces	25	1 space/4.48 units	27.2 spaces	28	27.2 spaces	28 spaces
Retail Public Spaces	44	1 space/54m ² retail GFA	50.3 spaces	49	50.9 spaces	48 spaces
Retail Staff Spaces	10	22.7% of retail spaces	11.4 spaces	13	11.6 spaces	13 spaces
TOTAL	184	n/a	203.6	221	204.4	238

As illustrated in **Table 2**, the MOD 2 Preferred Project provides 34 more residential spaces than the approved car parking ratio would allow. However the number of 'Residential Visitor Spaces', 'Retail Public Spaces' and 'Retail Staff Spaces' provided within the MOD 2 Preferred Project is generally in accordance with the approved car parking ratio requirement.

Given the area occupied at Lower Ground Floor has not increased, there is insufficient space to be able to increase the number of retail car spaces within the development and maintain separate parking areas for the retail and residential component of the development. As noted in Section 1.2, given 39 and 41 Lindfield Avenue has been acquired by Aqualand, the opportunity to increase the area occupied by the Lower Ground floor is currently being considered, which may in turn lead to an opportunity to provide a greater number of retail parking spaces within the development.

It should be noted however that the Department has never accepted the argument that the 25 spaces which exist within the former Council car park can be counted within the parking provision for the development. The Council reclassified the car park site and sold it on the basis it was surplus to their requirements, it is not a matter for the proponent to replace these spaces. Therefore the loss of them should not be a consideration at this point in time. Furthermore, Varga Traffic Planning (refer to the Traffic and Parking Assessment appended to the MOD 2 Application) undertook a detailed survey of car parking accumulation as part of the traffic study for MOD 1, which confirmed that substantial car parking capacity is readily available in the vicinity of the site at all times both during business hours and after hours.

2.2.2 Issue: Retail Parking Management

Clarification of how retail car spaces will be managed to prevent all day commuter parking, in particular spaces 34-49, is required.

Response

As illustrated on the Architectural Plans included at **Appendix A**, the retail car parking area at Lower Ground Floor level will be managed via entry and exit boom gates and a ticket dispenser. The location of boom gates has now been revised due to the reconfiguration of the Lower Ground Floor level and the deletion of the requirement to provide 24 hour access to the rear of 39-41 Lindfield Avenue. It is intended that the retail car park will be paid parking, but the exact details have not been agreed at this time. It is expected that there will be a limited free period to encourage shoppers, but discourage all day commuters. After hours security shutters are also to be installed to prevent pedestrian access when the shopping centre is not in operation.

2.2.3 Issue: Small Car Spaces

Consideration should be given to reducing the number of small car spaces proposed for retail users.

Response

Due to the reconfiguration of the Lower Ground Floor level, the allocation of retail car parking spaces has been amended as follows:

Table 3 – Retail Car Space allocation

Car Space Type	MOD 2 Application (Nov 2014)	MOD 2 PPR (March 2015)
Small Car	18	8
Standard	31	40
Total	49	48

Table 2 demonstrates that whilst the overall number of retail car parking spaces has reduced by 1 space, the number of standard sized spaces has increased. A total of 8 small car spaces are proposed due to the structural constraints of the development.

2.2.4 Issue: Bicycle Parking

The quality and location of bicycle parking proposed for the different users is required to be clarified.

Response

As detailed in Section 6, 127 residential bicycle racks have been deleted from the Architectural Drawings at Basement Levels 1-3, however the following bicycle parking is provided in its place:

- 5 residential bicycle lockers at Basement 3;
- 28 residential bicycle lockers at Basement 2;
- 6 retail staff bicycle lockers at Basement 1; and
- 6 double retail customer bicycle racks (providing 12 spaces) at Lower Ground Floor.

In addition, double bicycle racks providing:

- 10 public spaces are provided on Lindfield Avenue; and
- 4 public spaces are provided on Kochia Lane.

No end of trip facilities for cyclists are proposed.

2.2.5 Issue: Basement Parking Design

A review of the basement car parking design to ensure compliance with relevant standards is required.

Response

Varga Traffic Planning has undertaken a review of the basement parking design and it's compliance with Australian Standard *AS 2890.1 – 2004* (refer to **Appendix B**). Varga confirm that the proposed ramp width and aisle width dimensions comply with and exceed those specified within *AS 2890.1 – 2004*.

2.3 Residential Amenity

2.3.1 Issue: Loading Dock Noise

A revised acoustic assessment report should be provided considering the potential noise impacts of the proposed loading dock and the mechanical turntable.

Response:

Acoustic Logic has undertaken a review of the proposed loading dock and the mechanical turntable and considered the potential noise impacts upon nearby residences (refer to **Appendix C**).

In order to ensure that the acoustic amenity of the residential receivers within the vicinity of the loading dock is preserved, Acoustic Logic recommend the following are undertaken:

- the loading dock does not accept or depart trucks during night time hours;
- the roller shutter door should be closed during periods when loading and unloading is being undertaken; and
- trucks should not be stacked waiting for access to the dock adjacent to residential properties and the use of radio equipment should be used to ensure this does not happen.

The above recommendations will be incorporated into the Loading Dock Management Plan, which is to be prepared in accordance with Condition G7 of the Instrument of Approval and implemented during the operation of the loading dock.

2.3.2 Issue: Solar Access

Clarification of solar access provided for future apartments to ensure consistency with the Residential Flat Design Code (RFDC) and draft Apartment Design Guide (ADG) is required. Options should be explored, if necessary, to maximise solar access in accordance with the RFDC and Draft ADG.

Response

On close inspection of the solar access assessment undertaken by Cundall to accompany the MOD 1 PPR, which was approved by the Planning Assessment Commission on 14 November 2013, the Approved Development provides:

- 47% of units with 2 hours of solar access directly into the living room;
- 68% of units with 2 hours of solar access into living rooms and/or private open space; and
- no southerly single aspect apartments.

Within the MOD 2 Preferred Project no amendments (as illustrated on the Architectural Drawings at **Appendix A**) have been made to the layout of the apartments. Notwithstanding this, the MOD 2 Preferred Project position provides a better outcome than the approved position under the MOD 1 PPR in that:

- 54% of units have 2 hours of solar access directly into the living room;
- 72% of units have 2 hours of solar access into living rooms and/or private open space; and
- no southerly single aspect apartments are provided.

2.3.3 Issue: Adaptable Apartments

Consideration should be given to providing additional adaptable apartments for the development.

Response

Australian Standard - AS4299 1995 *Adaptable housing* requires 1 in 10 units (i.e. 10%) to be adaptable. As shown on the Architectural Plans at **Appendix A**, 13 out of the 122 units (10.7%) will be adaptable.

Furthermore, a total of 31 units (i.e. 25.4%) will be visitable. We note, that the requirement for 70% visitable apartments is a control contained within the Ku-ring-gai Local Centres Development Control Plan 2013 (Local Centres DCP) and not within any relevant Australian Standard. Therefore whilst we have had regard to Ku-ring-gai Council's request to provide 70% visitable apartments within the proposed development, the development is not required to strictly adhere with the controls within the Local Centres DCP and therefore no further amendments to the layout of the apartments have been made to meet this request

2.3.4 Issue: Media Rooms

The design of media rooms should be reviewed to prevent the potential use of these rooms as bedrooms.

Response

The design of the media areas has been amended to remove the wall partitions and sliding doors to allow better integration with the adjoining living areas.

2.3.5 Issue: Apartment Configuration

The internal layouts for reconfigured apartments 103B, 203B, 303B and 403B should be reviewed to ensure kitchens are less than eight metres from the nearest opening as recommended by the RDFC.

Response

The Residential Flat Design Code (RDFC) states that it “sets broad parameters within which good design of residential flat buildings can occur”. By virtue that the RDFC includes ‘rules of thumb’, we consider that the RDFC is to be used as a general guideline for the assessment of residential flat development and not mandatory rules.

Whilst a review of the apartments 103B, 203B 303B and 403B has been undertaken. It is considered that the proposed layout of these units provides the best outcome in terms of amenity for future residents and the variation is only 0.58m in each apartment. Any amendments to the layout to ensure that the kitchens are no more than 8m from the balcony will result in a reduction in the overall size of the unit, which in turn reduces the attractiveness of the apartment and amenity for future residents. The variation to the RDFC ‘rule of thumb’ is not considered to be significant in terms of access to light and ventilation for the units.

2.4 Communal Open Space

2.4.1 Issue: Additional Communal Open Space

Consideration should be given to options to provide additional communal open space within the development given the increase density proposed for the site.

Response

Due to the size restriction of the site at this time, it is not possible to increase the size of the communal open space within the development. However as noted in Section 1.2 Aqualand has recently purchased 39-41 Lindfield Avenue and is currently exploring the opportunity to expand the development over these sites and expand the area of communal open space provided within the development.

It is noted that the Original Project Application, approved in January 2012 provided 20% of the total site area as communal open space. The provision of 20.08% of site area as communal open space within the proposed MOD 2 Preferred Project is considered acceptable and meets the intent of the 'rule of thumb' within the RFDC in that it will still provide residents with passive and active recreational opportunities and a pleasant outlook. It is also noted, that the provision of open space for residents is supplemented by private balconies, which have been designed to be a minimum width of 2m and minimum length of 4m in accordance with the RDFC' rule of thumb'.

3.0 Government Agency Submissions and Proponent's Response

3.1 Roads and Maritime Service (RMS)

The RMS submission notes that it has reviewed the MOD 2 Application and has no objections.

Aqualand note's this response.

3.2 Transport for NSW (TfNSW)

The TfNSW submission notes that it has reviewed the MOD 2 Application documentation and has no additional comments to provide.

Aqualand note's this response.

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.

Table 4 – Summary of Council issues and Proponent Response

Issues	Summary	Proponent's Response
Developer Contributions	Council wishes to provide a new assessment of the development contributions applicable to this development to the latest inflation quarter active at the time of any consent.	Aqualand agrees to an update of Condition C5 in relation to the developer contributions applicable to the proposed development.
Lindfield Avenue Frontage	Council seeks that the previously approved treatment to the Lindfield Avenue entrance should be reinstated. Council seeks that the access ramp should be deleted. Council seeks that the shop fronts to Retail 3, Retail 4 and the residential lobby should be brought forward to the street boundary line.	As set out in Section 2.1.3, the proposed design of the pedestrian ramp and retail tenancies 3 and 4 on the Lindfield Avenue frontage has been amended to reflect the design which was approved under the MOD 1 PPR.
Relationship to Property Boundaries	Council seeks that the development provide the RFDC minimum building separation distances at the boundary interfaces with 39 & 41 Lindfield Avenue and 43-47 Lindfield Avenue.	The Lindfield Avenue tower within the MOD 2 Preferred Project adopts the same position of the MOD 1 PPR approved development in relation to the interface with 39 and 41 Lindfield Avenue. Accordingly, the retail podium is built to the north-western boundary, as are the bedrooms within Units 101A, 105A, 201A, 205A, 301A, 305A, 401A, 405A, 501A, 505A 601A, 605A, 701A and 705A. In relation to the Havilah Lane tower, within the MOD 2 Preferred Project, the retail podium is to be built to the site boundary with 43-47 Lindfield Avenue, and the proposed apartments on Levels 1-5 provide an approximate 2-3m setback from the site boundary. Whilst we acknowledge that the building separation 'rules of thumb' have not been applied to the proposed design in relation to the interface with the 43-47 Lindfield Avenue site the key objectives for the building separation rules of thumb are achieved in that: - the proposed development generally complies with the maximum height control contained within the Ku-ring-gai Local Environmental Plan (Local Centres) 2012 and seeks to only marginally increase the approved Floor Space Ratio for the site. The development therefore has been designed to support the desired area town centre character of Lindfield and provides an appropriate massing for its local context; - it ensures that visual and acoustic privacy for existing and new residents is preserved in that the proposed units do not have windows which have an outlook towards the north-western site boundary; - the units which are located adjacent to the north-western boundary do not rely on the clerestory windows on the north-western elevation for solar access or outlook; and - the proposed development does not give rise to any additional overshadowing impacts upon the 43-47 Lindfield Avenue site.
High Sill Windows to End Elevations	Council seeks removal of the clerestory windows and the condition of approval related to these windows (Condition F17)	The clerestory windows are not proposed to be deleted. They will continue to provide additional light and amenity to the rooms in which they are located.
Communal Open Space	Council seeks that additional communal open space be provided.	Refer to Section 2.4.1.

Issues	Summary	Proponent's Response
Solar Access	Council considers that the findings of the ESD report are flawed and the proposal does not meet the 70% RFDC Rule of Thumb for solar access into living rooms.	Refer to Section 2.3.2.
	Council seeks a standard condition stating that future DA's should demonstrate consistency with the provisions of the SEPP 65 – Design Quality of Residential Flat Development should be included in the Approval.	The proposed development has been and continues to be assessed against the provisions of SEPP 65 and the RFDC. A condition in the manner in which the Council are seeking is not considered necessary.
Kitchen Depth	Council consider that 4 units which have been reconfigured in MOD2 (103B, 203B, 303B, 403B) do not meet the RFDC Rule of Thumb for kitchen depth.	Refer to Section 2.3.5.
Internalised Rooms	Council consider that 11 units include internal media rooms of sufficient size to be used as a bedroom. These rooms do not have windows and there is a high risk these rooms will be used as additional bedrooms with sub-standard amenity.	Refer to Section 2.3.4
Internalised Common Circulation	Council considers that the corridors of the Lindfield Avenue tower (Levels 2-7) and the Havilah Lane tower (Levels 2-5) are internalised and not provided with natural light or air. These should be provided with a window.	The approved design does not include windows. Internalised corridors are able to be more efficiently controlled for heating and cooling with mechanical ventilation, rather than single aspect windows.
Adaptable Units & Visitable Units	Council recommends that 13 adaptable units be provided (1 in 10) and the bathroom layout is that of the adaptable requirement	Refer to Section 2.3.3.
	Council recommends that 86 units (70%) are made visitable.	
BCA Standards	The BCA report requires two separate fire exits to be provided to each floor where the building exceeds beyond 25m. The proposal only indicates 1 exit per floor and should be modified to comply.	The development will be compliant with the relevant BCA standards or alternative solutions will be implemented, as set out in the BCA report, submitted with the MOD 2 Application.
Water Management	Council considers that Conditions C15 and C29 are no longer relevant and should be removed.	Aqualand acknowledges Council's comment and has no objection to the deletion of Conditions C15 and C29.
Waste Management	Council considers that Condition C16 should be amended to include that no compaction of waste will be approved and to specify the number of containers required.	Aqualand do not agree to the proposed wording which Council seek to add to Condition C16. The Waste Consultant for the Project – The Mack Group has been in contact with Ku-Ring-Gai Council's Waste Services Co-ordinator, who has confirmed that Council is prepared to accept either, the use of 660L bins for general waste or use of a compactor for general waste.
	Council considers that Condition F14 should be amended to delete reference to Council approval being obtained in relation to the recycled water supply system.	Aqualand acknowledges Council's comment and has no objection to the deletion of the requirement for Council approval to be obtained.
	Council considers that Condition E5 should be deleted.	Aqualand acknowledges Council's comment and has no objection to the deletion Condition E5.
	Clarification should be provided regarding location of an onsite loading area for residential waste collection.	Given the layout of the Lower Ground Floor has been amended, off-street garbage collection for the residential waste can now be achieved. In accordance with Condition F10 an easement for waste collection will be created under Section 88B of the <i>Conveyancing Act 1919</i> , in order to permit Council and Council's contractors and their vehicles to be able to collect waste from the site.

Issues	Summary	Proponent's Response
Access Points off Havilah Lane	Council consider that a commitment should be given that vehicles larger than 11m long will not be needed to service the site.	Vehicles longer than 11m will not be needed to service the site.
	Council consider that the vehicular access points off Havilah Lane should be consolidated to 2 access ways, one for retail/residential and the other for services.	The Lower Ground Floor of the proposed development has been reconfigured. Three access points are to be provided as shown in the Architectural Plans at Appendix A . The principal reason for the provision of separate access points is to reduce conflict between the loading area, retail and residential users. Refer to Section 2.1.2.
	Council recommend a shared vehicular access with 2 Kochia Lane. Consideration should be given to removable panels off the entry/exit ramp adjacent to the Kochia Lane site to allow construction of a future shared access way. Consideration should be given to acquire 2 Kochia Lane to increase the development's frontage to Havilah Lane.	A shared access with 2 Kochia Lane will not be provided. Furthermore, the previous owners of the site undertook extensive negotiations with the owners of 2 Kochia Lane in regard to purchasing their building and amalgamating the site into the proposed development. A fair and reasonable agreement could not be reached. When Aqualand purchased the site, discussions with representatives of the owners corporation of 2 Kochia Lane were also undertaken. On that occasion a fair and reasonable price could not be agreed and Aqualand decided not to pursue the matter further.
	Consideration should be given to acquiring 39/41 Lindfield Ave to remove the need to provide the right of way through the site.	Refer to Section 1.2, 39-41 Lindfield Avenue has been acquired by Aqualand and the need to preserve the Right of Way has been removed.
Car Parking Layout & Design	Council seeks clarification in regard to the operation of the boom gates and how spaces 34-49 on the lower ground floor will be managed.	Refer to Section 2.2.2.
	Council recommend that the number of 'small car' spaces should be reduced.	Refer to Section 2.2.3.
	Council recommend that the manoeuvring space at grid reference F2 in Basement 1 and G6 at Basement 2 should demonstrate compliance with Clause 2.5.2(c).	Refer to Section 2.2.5.
Car Parking & Access	Council consider that the amount of retail parking should be increased to a minimum of 83 spaces. The provision of parking allocated to studio and some 1 bedroom units could be reduced.	Refer to Section 2.2.1.
Bicycle Parking	Council consider that the split between residential/visitor/shopping bicycle parking should be clarified.	Refer to Section 2.2.4
	Parking for residents and employees should be located in secure areas and include lockers.	Refer to Section 2.2.4.
	Parking for shoppers and visitors should be located in visible/convenient places at ground level.	The proposed bicycle parking is located on Lindfield Avenue and Kochia Lane.
	Council considers that the configuration and location of parking should follow AS2890.3 and relevant Austroads guidelines.	The type of bicycle rack proposed has been changed to a double rack style.
	Council recommends that the 7 bicycle spaces adjacent to the breakout door on Kochia Lane be further away from the wall to improve casual surveillance.	The bicycle spaces on Kochia Lane will have good casual surveillance as the external wall is to be constructed of clear glazing.
	Council seeks that the awning should be extended further south to the site boundary.	No amendment is proposed to the extent of the awning along Kochia Lane.
	Council seeks that end of trip facilities should be provided for the retail component.	There is no requirement for end of trip facilities and as such they are not proposed.

Issues	Summary	Proponent's Response
Traffic Generation & Wider Traffic/Transport Context	Results of traffic modelling indicated the Lindfield Town Centre redevelopment would further deteriorate the performance of the 3 signalised intersections on Pacific Highway in Lindfield. Traffic improvement measures have been costed in the <i>Ku-ring-gai Contributions Plan (2010)</i>. It is considered that as a result of the development, new traffic signals could be installed at intersection Linfield Ave and Tryon Rd to manage traffic flows.	As set out in the statement provided at Appendix B, the increased traffic generation potential of the MOD 2 Preferred Project is minimal and equates to only 1 additional vehicle movement every two to three minutes during peak hours. The additional traffic flow expected to be generated by the MOD 2 Preferred project does not warrant implementation of any special traffic management measures. In addition, Aqualand is opposed to any proposal to amend the pedestrian signals to Tryon Road.

5.0 Public Submission Issues and Proponent's Response

A total of 2 public submissions were received, 1 on behalf of adjoining land owners and 1 from the general public.

Table 5 summarises the issues set out in the public submissions and presents Aqualand's response.

Table 5 – Summary of Public Submissions

Issue	Response
Issues from 2 Kochia Lane	
Potential isolation of 2 Kochia Lane. The chairman believes the owner of 23-37 Lindfield Ave is not interested in adding more sites to the project.	The potential isolation of 2 Kochia Lane has been extensively assessed throughout the life of this project and it has been demonstrated that it can be redeveloped in the future as a separate development. The previous owners of the site undertook extensive negotiations with the owners of 2 Kochia Lane in regard to purchasing their building and amalgamating the site into the proposed development. A fair and reasonable agreement could not be reached. When Aqualand purchased the site, discussions with representatives of the owners corporation of 2 Kochia Lane were also undertaken. On that occasion a fair and reasonable price could not be agreed and Aqualand decided not to pursue the matter further. It is not considered reasonable for the proponent to provide further information in relation to how the 2 Kochia Lane site can be redeveloped as a standalone development.
The building separation is not adequate to address loss of solar access, privacy and views between the western tower and its eastern façade.	The interface between the development as approved in the MOD 1 PPR and 2 Kochia Lane has not been amended in the MOD 2 application. Therefore the modifications to the development proposed within the MOD 2 Application or MOD 2 Preferred Project raise no impacts in addition to those which have previously been assessed
Issues from a member of the public	
Overshadowing of Linfield village.	The changes within the Preferred Project do not alter the proposed height or mass of the development. Therefore the shadow diagrams, prepared by Crone Partners and submitted with the MOD 2 Application demonstrated that no additional shadows will be cast over the 'future Town Square' area, 2 Kochia Lane building or 1-21 Lindfield Avenue building than the previously approved development.
Traffic congestion along Lindfield Ave and the Havilah Road under bridge to Pacific Highway.	The additional traffic flow expected to be generated by the MOD 2 Preferred project does not warrant implementation of any special traffic management measures.

6.0 Summary of Modifications

In response to the removal of the Right of Way, and the issues raised by the Department and Council, the proposed development has undergone further minor design modifications. The 'MOD 2 Preferred Project' is explained in the proceeding sections. Revised Architectural Drawings, prepared by Crone Partners are included at **Appendix A**.

6.1 Overview of Proposed Modifications in Preferred Project

The key modifications proposed within the MOD 2 Preferred Project in comparison to the MOD 2 Application are listed as follows:

- increase in excavated area by 349m²;
- increase in the size of Basement Level 3;
- increase in the overall number of car parking spaces;
- reconfiguration of the bicycle space provision;
- reconfiguration of Lower Ground Floor Level;
- increase in overall GFA by 29m²;
- increase in retail GFA by 29m²;
- increase in overall FSR by 0.01:1; and
- increase in retail FSR by 0.01:1.

6.2 Description of Preferred Project

The modified description of the development, which supersedes the description in the MOD 2 Application is as follows:

- demolition of existing structures on the site;
- excavation of the site;
- construction of a mixed use development with a maximum gross floor area (GFA) of 13,621m², comprising:
 - 2,750m² GFA retail floorspace at ground floor with a single storey retail podium;
 - 122 residential apartments in two (2) towers above the retail podium;
 - four (4) levels of parking for 238 vehicles;
 - 669.5m² of communal open space at podium level between the two towers; and
 - associated landscaping, servicing and infrastructure.
- FSR at 3.91:1 (0.79:1 retail and 3.12:1 residential).

6.3 Numerical Overview

Table 5 provides a comparison summary of the key development statistics.

Table 6 – Comparison of key development statistics

Component	Approved Project (MOD 1)	MOD 2 Application (Nov 2014)	MOD 2 PPR (March 2015)
Site Area	3,099m ²	3,482m ²	3,482m ²
Excavated Area	1,493m ²	2,373m ²	2,749m ²
GFA¹			
▪ Retail	2,379.5m ²	2,721m ²	2,750m ²
▪ Residential	9,686.5m ²	10,871m ²	10,871m ²
▪ Total	12,066m ²	13,592m ²	13,621m ²
FSR			
▪ Retail	0.77:1	0.78:1	0.79:1
▪ Residential	3.12:1	3.12:1	3.12:1
▪ Total	3.89:1	3.9:1	3.91:1
No. of Units			
▪ Total	112	122	122
▪ Studio	4	4	4
▪ 1 Bed	53	56	56
▪ 2 Bed	53	55	55
▪ 3 Bed	2	7	7
Private Communal Open space	699.5m ² (22.57%)	699.5m ² (20.08%)	699.5m ² (20.08%)
Building Height²			
▪ Building A (Lindfield Avenue)	30.64m	30.64m	30.64m ²³
▪ Building B (Havilah Lane)	27.86m	27.86m	27.86m ²
Facade Height³			
Lindfield Avenue frontage (south-west elevation)	29.3m	29.3m	29.3m
Kochia Lane frontage (south-east elevation)	28.3	28.3m	28.3m
Havilah Lane frontage (north-east elevation)	26.5m	27.3m	27.3m
North-west elevation	25.7m	26.8m	26.8m
Storey Height			
▪ Building A (Lindfield Avenue)	8 storeys	8 storeys	8 storeys
▪ Building B (Havilah Lane)	7 storeys	7 storeys	7 storeys
Basement Parking Total	184	221	238
▪ Residential Car Spaces	105	131	149
▪ Residential Visitor Spaces	25	28	28
▪ Retail Public Spaces	44	49	48
▪ Retail Staff Spaces	10	13	13

¹ GFA is measured in accordance with the Standard Instrument definition.

² Building Height is measured in accordance with the Standard instrument definition.

³ The facade heights are measured in the same manner as the building height i.e. measured between the highest built form on the facade and the existing ground level directly beneath it.

6.4 Architectural Design

The architectural design of the MOD 2 Preferred project substantially retains the key elements of the development as approved under the MOD 1 PPR. However, due to the removal of the need to retain the Right of Way at Lower Ground Floor Level, this level has been reconfigured significantly to reduce the number of vehicle access points from/to Havilah Lane and provide an operationally more management layout.

The Architectural Drawings, prepared by Crone Partners are included at **Appendix A** and a detailed description of the proposed amendments level by level between the MOD 2 Application and MOD 2 Preferred Project are set out below.

Basement

The MOD 2 Preferred Project further extends the extent of Basement Levels 1, 2 and 3. In total the excavated area will be 2,749m², which is an increase of 1,256m² from the approved MOD 1 PPR position and an additional increase of 376m² from the MOD 2 Application.

At the Basement 3 level, the amendments comprise:

- expansion in the basement floor area;
- provision of additional parking spaces (i.e. increase from 55 in MOD 2 Application to 73 spaces in MOD 2 Preferred Project);
- deletion of 52 bicycle racks and provision of 5 bicycle lockers.

At the Basement 2 level, the amendments comprise:

- minor expansion of basement floor area;
- minor increase to the area occupied by the Fan Room;
- minor relocation of fire stair 3;
- deletion of 44 bicycle racks and provision of 28 bicycle lockers.

At the Basement 1 level, the amendments comprise:

- minor expansion of basement floor area;
- minor increase to area occupied by the Main Switch room;
- minor relocation of fire stair 3; and
- deletion of 31 bicycle racks and provision of 6 bicycle lockers

Lower Ground

At Lower Ground Floor the amendments principally relate to the area previously occupied by the Right of Way and the eastern part of the site. The proposed amendments comprise:

- removal of Right of Way;
- removal of separate retail vehicular entry/exits from Havilah Lane and consolidation of accessways to provide a single entry/exit access point;
- provision of boom gates, ticket dispenser and security roller shutters at retail vehicular access;
- reconfiguration of car space provision;
- reconfiguration of layout of residential garbage bin rooms, substation rooms, mail room, Tower A bin collection area; retail garbage room;

- reconfiguration of the Havilah Lane façade presentation;
- deletion of 19 single bicycle racks and provision of 6 double bicycle racks to provide 12 spaces;
- reduction of 1 public retail car space;
- addition of a dock manager room adjacent to the loading dock;
- provision of new Fire Stairs 6 within the north-western corner of the site; and
- removal of 10 small car spaces.

Ground

At the Ground Floor, the amendments include:

- reconfiguration of the Lindfield Avenue access into the retail area to include an internalised pedestrian ramp and at grade access from Lindfield Avenue into retail tenancies 3 and 4;
- expansion of retail tenancies 3 and 4;
- reduction in the number of public bicycle spaces at Kochia Lane and Lindfield Avenue;
- minor reconfiguration to Fire Stairs 3 and 4; and
- provision of new Fire Stair 6 within the north-western corner of the site.

Levels 1-5

At Level 1-5, the amendments are limited to the removal of the sliding door and stud wall partitioning to the Media Room spaces for Units 101B, 102B, 103B, 107B, 201B, 202B, 203B, 207B, 301B, 302B, 303B, 307B, 401B, 403B, 406B, 501B and 506B.

Roof

At roof level on the Havilah Lane tower, amendments comprise the inclusion of three architectural notches into the roof framing feature.

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 in Section 6 and Council's comments necessitate further amendments to the approval conditions. The conditions below (as modified) now supersede the modified conditions proposed within the EAR dated November 2014. 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 comprising ~~12,066m²~~ ***13,621m²*** in GFA comprising:

- 1 level podium with ~~2,379.5m²~~ ***2,750m²*** in retail GFA;
- ~~112~~ ***122*** apartments in 2 residential towers above the retail podium;
- 3 levels of basement car parking for ~~184~~ ***238*** vehicles; and
- 699.5m² 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 Proponent's Statement of Commitments included in the PPR;
- the Section 75W Modification Application, dated December 2012;
- the Section 75W Modification Application Response to Submissions dated May 2013;
- ***the Section 75 Modification Application (MOD2) , dated 31 October 2014;***
- ***the Section 75W Modification Application Preferred Project and Response to Submissions Report dated March 2015;*** and
- the following drawings:

Architectural (or Design) Drawings prepared by Crone Partners			
Drawing No.	Revision	Name of Plan	Date
0001	C	Cover Sheet	31/10/2014
0002	C	Location plan and Drawing List	31/10/2014
0100	C	Context/Analysis Site Plan	31/10/2014
0101	C	Site Plan	31/10/2014
0102	C	Zone of Influence Site Plan	31/10/2014
0200	C	Perspective Sheet 1	31/10/2014
0201	C	Perspective Sheet 2	31/10/2014
0202	C	Perspective Sheet 3	31/10/2014
0203	C	Perspective Sheet 4	31/10/2014
0204	C	Perspective Sheet 5	31/10/2014
0205	C	Perspective Sheet 6	31/10/2014
0206	C	Perspective Sheet 7	31/10/2014
0207	C	Perspective Sheet 8	31/10/2014
0208	C	Perspective Sheet 9	31/10/2014
0209	C	Perspective Sheet 10	31/10/2014
1000	D	Basement 3 Plan	13/02/2015
1001	D	Basement 2 Plan	13/02/2015
1002	D	Basement 1 Plan	13/02/2015
1003	D	Lower Ground Floor Plan	13/02/2015
1004	D	Ground Floor Plan	13/02/2015
1005	F	Level 1 Floor Plan	13/02/2015
1006	F	Level 2 Floor Plan	13/02/2015
1007	F	Level 3 Floor Plan	13/02/2015
1008	F	Level 4 Floor Plan	13/02/2015
1009	F	Level 5 Floor Plan	13/02/2015
1010	E	Level 6 Floor Plan	13/02/2015
1011	F	Level 7 Floor Plan	13/02/2015
1012	E	Roof Plan	13/02/2015
2000	E	Elevations (Sheet 1 of 2)	13/02/2015
2001	E	Elevations (Sheet 2 of 2)	13/02/2015
3000	D	Sections (Sheet 1 of 3)	13/02/2015
3001	D	Section (Sheet 2 of 3)	13/02/2015
3002	E	Sections (Sheet 3 of 3)	13/02/2015
4000	D	LEP 26.5m Height Plane Study -1	13/02/2015
4001	D	LEP 26.5m Height Plane Study - 2	13/02/2015
5000	D	Shadow Diagram - March	31/10/2014
5001	D	Shadow Diagram - June	31/10/2014
5002	D	Shadow Diagram - September	31/10/2014
5003	D	Shadow Diagram - December	31/10/2014
6001	C	Adaptation Detail Plans	31/10/2014

Architectural (or Design) Drawings prepared by Crone Partners			
Drawing No.	Revision	Name of Plan	Date
6002	C	Materials & Finishes Schedule (Sheet 1 of 2)	31/10/2014
6003	C	Materials & Finishes Schedule (Sheet 2 of 2)	31/10/2014
6500	C	Signage - External	31/10/2014
Engineering (or Design) Drawings prepared by Insync Services			
SW-00	1	Stormwater Services Cover Sheet & Legend	26/09/2014
SW-01	1	Stormwater Services Site Plan	26/09/2014
SW-02-A	1	Zone A Basement Level 3 Inground Stormwater Services Plan	26/09/2014
SW-03-B	1	Zone B Basement Level 3 Inground Stormwater Services Plan	26/09/2014
SW-04-A	1	Zone A Basement Level 3 Stormwater Services Plan	26/09/2014
SW-05-B	1	Zone B Basement Level 3 Stormwater Services Plan	26/09/2014
SW-06-A	1	Zone A Basement Level 2 Stormwater Services Plan	26/09/2014
SW-07-B	1	Zone B Basement Level 2 Stormwater Services Plan	26/09/2014
SW-08-A	1	Zone A Basement Level 1 Stormwater Services Plan	26/09/2014
SW-09-B	1	Zone B Basement Level 1 Stormwater Services Plan	26/09/2014
SW-10-A	1	Zone A Lower Ground Level Stormwater Services Plan	26/09/2014
SW-11-B	1	Zone B Lower Ground Level Stormwater Services Plan	26/09/2014
SW-12-A	1	Zone A Ground Level Stormwater Services Plan	26/09/2014
SW-13-B	1	Zone B Ground Level Stormwater Services Plan	26/09/2014
SW-14-A	1	Tower A Level 1 Stormwater Services Plan	26/09/2014
SW-15-B	1	Tower B Level 1 Stormwater Services Plan	26/09/2014
SW-16-A	1	Tower A Level 2 Stormwater Services Plan	26/09/2014
SW-17-B	1	Tower B Level 2 Stormwater Services Plan	26/09/2014
SW-18-A	1	Tower A Level 3 Stormwater Services Plan	26/09/2014
SW-19-B	1	Tower B Level 3 Stormwater Services Plan	26/09/2014
SW-20-A	1	Tower A Level 4 Stormwater Services Plan	26/09/2014
SW-21-B	1	Tower B Level 4 Stormwater Services Plan	26/09/2014

Engineering (or Design) Drawings prepared by Insync Services (continued)			
SW-22-A	1	Tower A Level 5 Stormwater Services Plan	26/09/2014
SW-23-B	1	Tower B Level 5 Stormwater Services Plan	26/09/2014
SW-24-A	1	Tower A Level 6 Stormwater Services Plan	26/09/2014
SW-25-B	1	Tower B Level Roof Level Stormwater Services Plan	26/09/2014
SW-26-A	1	Tower A Level 7 Stormwater Services Plan	26/09/2014
SW-27-A	1	Tower A Roof Level Stormwater Services Plan	26/09/2014
SW-28	1	OSD & Rainwater Tank Detail Sheet	26/09/2014
Landscape Plan (or Design) Drawings prepared by Aspect Studios			
S75WLA01	A	Level 1 Landscape Plan	September 2014
S75WLA02	A	Level 1 Courtyard Perspectives	September 2014
S75WLA03	A	Level 1 Courtyard Section	September 2014

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 to 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	105 149
Residential Visitor Car Spaces	25 28
Retail Public Car Spaces	44 48
Retail Employee Car Spaces	10 13
Total car spaces	187 238*

Written evidence of this shall be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate.

*Should the residential apartment numbers and mix, 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.

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

Given Aqualand has now acquired 39 and 41 Lindfield Avenue, there is no need to retain the Right of Way and therefore we seek Condition C3 to be deleted.

C5. Development Contributions

By virtue of the proposed amendments to the development, it is expected that this Condition will be updated to reflect the revised apartment mix and the latest Development Contributions rates.

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 Hydraulic Service Drawings prepared by Insync Services ~~dated 24/05/2013~~ **dated 26/09/2014** 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 3500.2 and 3500.3 – Plumbing and Drainage Code and the Building Code of Australia.

C29. Stormwater Management Plan

As referenced in Council's submission in relation to Water Management, we seek deletion of Condition C29.

E5. Approval for Recycled Water Supply System

As referenced in Council's submission in relation to Waste Management, we seek deletion of Condition E5.

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. ~~1005269533 446723M_06~~ 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.

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

We request the title of Condition G5 be amended, as the wording of Condition no longer relates to the Basement.

7.2 Final Modification to the Statement of Commitments

The proposed modifications described above necessitate only one minor amendment to the Statement of Commitments. A revised version of the Statement of Commitments is included at **Appendix D**.

8.0 Conclusion

This Preferred Project and Response to Submissions Report and appendices have 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 MOD 2 Application should be read in conjunction with the S75W Environmental Assessment Report for MOD 2 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 approve the Modification Application.