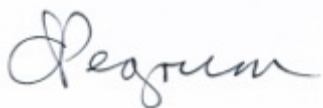


Modification of Minister's Approval

Section 75W of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning under delegation executed on 14 September 2011, we determine the modification of the project approval referred to in Schedule 1, subject to the Conditions in Schedule 2.



Member of the Commission

Member of the Commission

Sydney

29 January 2016

SCHEDULE 1

Application No.:	MP08_0244 MOD 3
Proponent:	Aqualand
Approval Authority	Minister for Planning
Land:	23-41 Lindfield Avenue, 7 and 11 Havilah Lane, Lindfield
Project:	Demolition of existing buildings, excavation, and construction of a mixed use retail and residential development.
Modification:	Modifications to provide includes: <ul style="list-style-type: none">• incorporation of 39 and 41 Lindfield Avenue into the mixed use development envelope to achieve a building height of 8 storeys;• an increase in overall GFA by 1,866m² (total of 15,487m²);• Reducing the retail/commercial floor area and provision of five apartments at the rear ground floor level addressing Havilah Lane;• reduction in setback to 9 Havilah Lane;• change in dwelling mix and provision of 19 additional apartments (total of 141 apartments);• an increase in car parking spaces from 211 spaces to 241 spaces;• increase in communal open space area by 198m² including an amended design;• revised lower and upper ground floor level layout and finished floor levels;• fitout and use of the supermarket at the upper ground floor level;• reduced maximum building height by 800mm; and• other minor amendments.

SCHEDULE 2 CONDITIONS

The above approval is modified as follows:

- (a) *The following conditions are amended by the insertion of the **bold and underlined** words /numbers and deletion of the ~~struck-out~~ words / numbers as follows:*

A1. Development Description

Development approval 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 totalling ~~13,621m²~~ **15,487m²** in GFA comprising:

- 1 level podium with ~~2,750m²~~ **2,720m²** in retail GFA;
- ~~422~~ **141** apartments in 2 residential towers above the retail podium;
- 3 levels of basement car parking for ~~244~~ **241** vehicles; and
- ~~699.5m²~~ **898m²** 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 75W Modification Application dated November 2014;
- the Section 75W Modification Application Response to Submissions dated March 2015;
- **the Section 75W Modification Application dated April 2015;**
- **the Section 75W Modification Application Response to Submissions dated August 2015;** and
- the following drawings:

Architectural (or Design) Drawings prepared by Crone Partners			
Drawing No.	Revision	Name of Plan	Date
1000	D <u>L</u>	Basement 3 Plan	13/02/2015 <u>28/07/2015</u>
1001	D <u>O</u>	Basement 2 Plan	13/02/2015 <u>28/07/2015</u>
1002	D <u>M</u>	Basement 1 Plan	13/02/2015 <u>28/07/2015</u>
1003	D <u>O</u>	Lower Ground Floor Plan	13/02/2015 <u>04/08/2015</u>
1004	D <u>O</u>	Ground Floor Plan	13/02/2015 <u>28/07/2015</u>
1005	F <u>N</u>	Level 1 Floor Plan	13/02/2015 <u>28/07/2015</u>
1006	F <u>N</u>	Level 2 Floor Plan	13/02/2015 <u>28/07/2015</u>
1007	F <u>N</u>	Level 3 Floor Plan	13/02/2015 <u>28/07/2015</u>
1008	F <u>O</u>	Level 4 Floor Plan	13/02/2015 <u>28/07/2015</u>

1009	F Q	Level 5 Floor Plan	13/02/2015 12/01/2016
1010	E Q	Level 6 Floor Plan	13/02/2015 12/01/16
1011	E R	Level 7 Floor Plan	13/02/2015 22/01/16
1012	E P	Roof Plan	13/02/2015 12/01/16
2000	E I	Elevations (Sheet 1 of 2)	13/02/2015 28/07/2015
2001	E I	Elevations (Sheet 2 of 2)	13/02/2015 28/07/2015
3000	D K	Sections (Sheet 1 of 3)	13/02/2015 12/01/16
3001	D I	Sections (Sheet 2 of 3)	13/02/2015 28/07/2015
3002	E J	Sections (Sheet 3 of 3)	13/02/2015 28/07/2015
Engineering (or Design) Drawings prepared by Insync Services			
SW-01	+ B	Stormwater Services Site Plan	14/10/2014 19/02/2015
SW-02-A	+ B	Zone A Basement Level 3 Inground Stormwater Services Plan	14/10/2014 19/02/2015
SW-03-B	+ B	Zone B Basement Level 3 Inground Stormwater Services Plan	14/10/2014 19/02/2015
SW-04-A	+ B	Zone A Basement Level 3 Stormwater Services Plan	14/10/2014 19/02/2015
SW-05-B	+ B	Zone B Basement Level 3 Stormwater Services Plan	14/10/2014 19/02/2015
SW-06-A	+ B	Zone A Basement Level 2 Stormwater Services Plan	14/10/2014 19/02/2015
SW-07-B	+ B	Zone B Basement Level 2 Stormwater Services Plan	14/10/2014 19/02/2015
SW-08-A	+ B	Zone A Basement Level 1 Stormwater Services Plan	14/10/2014 19/02/2015
SW-09-B	+ B	Zone B Basement Level 1 Stormwater Services Plan	14/10/2014 19/02/2015
SW-10-A	+ B	Zone A Lower Ground Level Stormwater Services Plan	14/10/2014 19/02/2015
SW-11-B	+ B	Zone B Lower Ground Level Stormwater Services Plan	14/10/2014 19/02/2015
SW-12-A	+ B	Zone A Ground Level Stormwater Services Plan	14/10/2014 19/02/2015
SW-13-B	+ B	Zone B Ground Level Stormwater Services Plan	14/10/2014 19/02/2015
SW-14-A	+ B	Tower A Level 1 Stormwater Services Plan	14/10/2014 19/02/2015
SW-15-B	+ B	Tower B Level 1 Stormwater Services Plan	14/10/2014 19/02/2015
SW-16-A	+ B	Tower A Level 2 Stormwater Services Plan	14/10/2014 19/02/2015
SW-17-B	+ B	Tower B Level 2 Stormwater Services Plan	14/10/2014 19/02/2015
SW-18-A	+ B	Tower A Level 3 Stormwater Services Plan	14/10/2014 19/02/2015
SW-19-B	+ B	Tower B Level 3 Stormwater Services Plan	14/10/2014 19/02/2015
SW-20-A	+ B	Tower A Level 4 Stormwater Services Plan	14/10/2014 19/02/2015
SW-21-B	+ B	Tower B Level 4 Stormwater Services Plan	14/10/2014 19/02/2015

SW-22-A	<u>4</u> B	Tower A Level 5 Stormwater Services Plan	14/10/2014 19/02/2015
SW-23-B	<u>4</u> B	Tower B Level 5 Stormwater Services Plan	14/10/2014 19/02/2015
SW-24-A	<u>4</u> B	Tower A Roof Level Stormwater Services Plan	14/10/2014 19/02/2015
SW-25-B	<u>4</u> B	Tower B Level 6 Stormwater Services Plan	14/10/2014 19/02/2015
SW-26-A	<u>4</u> B	Tower B Level 7 Stormwater Services Plan	14/10/2014 19/02/2015
SW-27-B	<u>4</u> B	Tower B Roof Level Stormwater Services Plan	14/10/2014 19/02/2015
SW-28	<u>4</u> B	OSD & Rainwater Tank Detail Sheet	14/10/2014 19/02/2015
Engineering (or Design) Drawings prepared by GHD			
Drawing No.	Revision	Name of Plan	Date
21-19509-C004	C	Sediment and Erosion Control Plan	13/04/2011
Landscape Plan (or Design) Drawings prepared by Aspect Studios			
S75WLA-01	A	Level 1 Landscape Plan	September 2014
S75WLA-02	A	View One: Level 1 Landscape Courtyard Perspective	September 2014
S75WLA-03	A	Section A-A: Level 1 Courtyard	September 2014
<u>S75W.3LAPD-01</u>	<u>D</u>	<u>S75W.Mod3 Landscape Plans Public Domain</u>	<u>March 2015</u>
<u>S75W.3LAPD-02</u>	<u>D</u>	<u>S75W.Mod3 Landscape Plans Public Domain</u>	<u>March 2015</u>
<u>S75W.3LA-01</u>	<u>C</u>	<u>S75W.Mod3 Landscape Plans</u>	<u>March 2015</u>

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.

B2 Further Approvals

The following shall be subject of separate development applications to Council under Part 4 of the Act (except where exempt and complying development applies):

- strata subdivision; and
- shop fit out and use- **for the minor retail tenancies;**
- **modifications to the proposed supermarket within the major retail tenancy;**
and
- **signage.**

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 Secretary of the Department:

- (a) The car spaces and bicycle spaces in the 3 basement levels shall be allocated as follows:

Parking Spaces	
Residential Car Spaces	122 <u>141</u>
Residential Visitor Car Spaces	28 <u>24</u>
Retail Public Car Spaces	48 <u>62</u>
Retail Employee Car Spaces	13 <u>14</u>
Total Car Spaces	211 <u>241</u>
Bicycle Spaces	
<u>Retail Staff Bicycle Spaces</u>	<u>6</u>
<u>Residential Bicycle Spaces</u>	<u>36</u>

Retail Visitor Bicycle Spaces	34
Total Bicycle Spaces	76

(b) Provision of end of trip facilities for the retail tenancies (excluding the supermarket) in accordance with Ku-ring-gai Local Centres Development Control Plan 2013 - Part 8.

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

~~*Should the residential apartment numbers and mix change, 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 1 podium **communal open space** shall be provided to the Principal Certifying Authority which demonstrates all planter boxes **within the communal open space** at the podium shall provide a minimum 1 metre soil depth in accordance with the guidelines of the Residential Flat Design Code.

C5 Development Contributions

This development was subject to a development contribution calculated in accordance with *Ku-ring-gai Contributions Plan 2010*, being a s94 Contributions Plan in effect under the Environmental Planning and Assessment Act 1979 up to and including Modification 2. The contributions, totalling \$2,700,515.33, to the June Quarter 2015 were paid on Friday 11 December 2015 broken down as follows:

Key Community Infrastructure	Amount
Local parks and local sporting facilities	\$1,298,870.52
Local recreation and cultural facilities; Local social facilities	\$231,781.28
Local roads, local bus facilities and local drainage facilities (new roads and road modifications)	\$259,849.74
Local roads, local bus facilities and local drainage facilities (townscape, transport & pedestrian facilities)	\$910,013.79
Total	\$2,700,515.33

The contributions specified above were paid in the June Quarter 2015 and were subject to indexation from the date of the original calculation in accordance with *Ku-ring-gai Contributions Plan 2010*. The Contributions applicable were based on approval for: 122 apartments comprising:

- 4 x studio
- 56 x 1 bedroom apartments
- 55 x 2 bedroom apartments
- 7 x 3 bedroom apartments
- 2,324sqm of gross lettable retail floor area.
- Nett of a credit for the existing development on the site.

Modification 3 of this development is subject to a nett additional development contribution calculated in accordance with *Ku-ring-gai Contributions Plan 2010*, being a s94 Contributions Plan in effect under the Environmental Planning and Assessment Act 1979 providing due credit for the development that has already paid a contribution under Modification 2 as well as the additional credit applicable to the new properties incorporated in this application. The nett additional Contributions to be paid as \$451,742.37 broken down as follows:

Key Community Infrastructure	Amount
Local parks and local sporting facilities	\$236,247.52
Local recreation and cultural facilities; Local social facilities	\$42,157.97
Local roads, local bus facilities and local drainage facilities (new roads and road modifications)	\$7,817.30
Local roads, local bus facilities and local drainage facilities (townscape, transport & pedestrian facilities)	\$165,519.58
Total	\$451,742.37

The nett additional contribution shall be paid to Council prior to the issue of any Construction Certificate, Linen Plan, Certificate of Subdivision or Occupation Certificate, whichever comes first in accordance with *Ku-ring-gai Contributions Plan 2010*.

The contributions specified above are as at the September Quarter 2015 and are subject to indexation and will continue to be indexed to reflect changes in the consumer price index and the housing price index until they are paid in accordance with *Ku-ring-gai Contributions Plan 2010*. Prior to payment, please contact Council directly to verify the current payable contributions.

The Contributions applicable are based on approval for:
141 apartments comprising:

- 4 x studio
- 53 x 1 bedroom apartments
- 77 x 2 bedroom apartments
- 7 x 3 bedroom apartments
- 2,319sqm of gross lettable retail floor area.
- With a credit for the development which has already paid the required contribution under Modification 2 plus the credit arising from the two additional properties added under Modification 3.

Should the retail floor area, residential apartment numbers and mix change, 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 2010 may be viewed at www.kmc.nsw.gov.au and at the Council Chambers.

Note: The September Quarter Residential Property Prices Index (including the Established House Price Index) was released on Tuesday 15 December 2015 enabling the nett additional contribution to be calculated in the latest quarter. The December Quarter figures are due for release on 22 March 2016 with future release dates following a similar programme.

C8 Noise from Road and Rail

Prior to issue of the relevant Construction Certificate, plans showing acoustic treatment to comply with "*Development Near Rail Corridors and Busy Roads- Interim Guidelines*" shall be submitted to the Principal Certifying Authority in accordance with the recommendations of the acoustic report prepared by Acoustic Logic Consultants and dated 30 September 2010, and letter dated 21 January 2015, **30 March 2015 and 15 July 2015** and submitted with the EA documentation. An updated acoustic report is required to be submitted prior to the issue of the Construction Certificate for construction of the building assessing the changes approved as part of MOD 2 **3**. Should design changes occur the acoustic report is to be updated. The plans shall demonstrate to the

Principal Certifying Authority that the development will be acoustically designed and constructed to ensure that the following LAeq levels are not exceeded:

- (a) in any bedroom in the building—35 dB(A) at any time between 10 pm and 7am; and
- (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

Plans and specifications of the required acoustic design shall be prepared by a practicing acoustic engineer.

C19 ~~Energy Australia~~ Ausgrid Requirements

Prior to issue of the Construction Certificate, the applicant must contact ~~Energy Australia~~ **Ausgrid** regarding power supply for the subject development. A written response detailing the full requirements of ~~Energy Australia~~ **Ausgrid** (including any need for underground cabling, substations or similar within or in the vicinity the development) shall be submitted to the Certifying Authority for approval prior to issue of the Construction Certificate. Any structures or other requirements of ~~Energy Australia~~ **Ausgrid** shall be indicated on the plans issued with the Construction Certificate, to the satisfaction of the Certifying Authority and ~~Energy Australia~~ **Ausgrid**. The requirements of ~~Energy Australia~~ **Ausgrid** must be met in full prior to issue of the Occupation Certificate.

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 condition of all structures which comments on any structural conditions that may be evident from the visual inspection upon the following lands, has been completed and submitted to Council:

- 2 Kochia Lane
- ~~39-41 Lindfield Avenue~~
- 19-21 Lindfield Avenue
- 43-47 Lindfield Avenue
- 9 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.

~~D22 Erosion and Sediment Control~~

~~Erosion and sediment control devices are to be installed, as necessary, prior to the commencement of any demolition, excavation or construction works upon the site. These devices are to be maintained throughout the entire demolition, excavation and construction phases of the development where necessary.~~

E16 Drainage to Street

Stormwater runoff from all new impervious areas and subsoil drainage systems shall be piped to the street drainage system. New drainage line connections to the street drainage system shall conform and comply with the requirements of Sections 5.3 and 5.4 of Ku-ring-gai Water Management Development Control Plan No. 47 **Ku-ring-gai Local Centres DCP – Part 2, where applicable.**

E39— Services

~~Where required, the adjustment or inclusion of any new utility service facilities must be carried out by the Proponent and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Proponents full responsibility to make contact with the relevant utility authorities to ascertain the impacts of the proposal upon utility services (including water, phone, gas and the like). Council accepts no responsibility for any matter arising from its approval to this application involving any influence upon utility services provided by another authority.~~

E40— Survey and Inspection of Waste Collection Clearance and Path of Travel

~~At the stage when formwork for the ground floor slab is in place and prior to concrete being poured, a registered surveyor is to:~~

- ~~• ascertain the reduced level of the underside of the slab at the driveway entry;~~
- ~~• certify that the level is not lower than the level shown on the approved DA plans;~~
- ~~• certify that the minimum headroom of 2.6 metres will be available for the full path of travel of the small waste collection vehicle from the street to the collection area;~~
- ~~• this certification is to be provided to Council's Development Engineer prior to any concrete being poured for the ground floor slab; and~~
- ~~• no work is to proceed until Council has undertaken an inspection to determine clearance and path of travel.~~

~~At the stage when formwork for the ground floor slab is in place and prior to concrete being poured, Council's Development Engineer and Manager Waste Services are to carry out an inspection of the site to confirm the clearance available for the full path of travel of the small waste collection vehicle from the street to the collection area. This inspection must be carried out by Council because waste management is not a matter listed in Clause 161 of the Environmental Planning and Assessment Regulation 2000.~~

F2 Certifying Authority to Arrange Qualified Landscape Architect

~~The Certifying Authority shall arrange for a **A** qualified Landscape Architect / Designer **shall** to inspect the completed landscape works to certify adherence to the Approval conditions and Construction Certificate drawings. Landscape works within and adjacent to the areas the subject of the Occupation Certificate are to be fully completed prior to the issue of the **relevant** Occupation Certificate **and maintained at all times.**~~

~~F3— Works as Executed Plans~~

~~Works As Executed stormwater plans shall be submitted to the Certifying Authority prior to the issue of the Occupation Certificate, certifying that the stormwater drainage system has been constructed and completed in accordance with the approved stormwater plans. The person issuing the Occupation Certificate shall ensure that the following documentation is completed and submitted:~~

- ~~• The Work As Executed plans are prepared on the copies of the approved drainage plans issued with the Construction Certificate and variations are marked in red ink.~~
- ~~• The Work As Executed plans have been prepared by a registered surveyor certifying the accuracy of dimensions, levels, storage volumes, etc.~~

F5 Structural Inspection Certificate

A Structural Inspection Certificate or a Compliance Certificate must be submitted to the satisfaction of the Certifying Authority prior to the issue of any **the relevant** Occupation

Certificate and/or use of the premises. A copy of the Certificate with an electronic set of final drawings (contact approval authority for specific electronic format) shall be submitted to the approval authority and the Council after:

- The site has been periodically inspected and the Certifier is satisfied that the Structural Works is deemed to comply with the final Design Drawings.
- The drawings listed on the Inspection Certificate have been checked with those listed on the final Design Certificate/s.

F6 Waste and Recycling Collection Contract

Prior to an the relevant Occupation Certificate being issued and/or commencement of the use, whichever is earlier, of the building the owner must ensure that there is a contract with a licensed contractor for the removal of **all trade waste** pertaining to the relevant stage of construction. No garbage is to be placed on the public way e.g. footpaths, roadways, plazas, and reserves at any time.

~~**F7 Landscaping shall be Completed Prior to Occupation**~~

~~The landscaping adjacent to and within the areas the subject of the occupation shall be fully completed in accordance with the approval and approved plans, prior to occupation or use of the premises, and shall be maintained at all times.~~

F11 Retention and Re-Use Positive Covenant

Prior to issue of the final Occupation Certificate, the Proponent must create a positive covenant and restriction on the use of land under Section 88E of the Conveyancing Act 1919, burdening the property with the requirement to maintain the site stormwater retention and re-use facilities on the property.

F12 Provision of Copy of OSD Designs if Council is not the Certifying Authority

Prior to issue of the final Occupation Certificate, the following must be provided to Council's Development Engineer:

- (a) a copy of the approved Construction Certificate stormwater detention/retention design for the site;
- (b) a copy of any works-as-executed drawings required by this approval; and
- (c) The Engineer's certification of the as-built system.

F13 Reinstatement of Redundant Crossings and Completion of Infrastructure Works

Prior to issue of the final Occupation Certificate, the Certifying Authority must be satisfied that he or she has received a signed inspection form from Council which states that the following works in the road reserve have been completed:

- (a) new concrete driveway crossing in accordance with levels and specifications issued by Council;
- (b) removal of all redundant driveway crossings and kerb laybacks (or sections thereof) and reinstatement of these areas to footpath, turfed verge and upright kerb and gutter (reinstatement works to match surrounding adjacent infrastructure with respect to integration of levels and materials);
- (c) full repair and resealing of any road surface damaged during construction; and
- (d) full replacement of damaged sections of grass verge to match existing.

This inspection must be carried out by Council because restoration of Council property outside the boundary of the site is not a matter listed in Clause 161 of the Environmental Planning and Assessment Regulation 2000.

F14 Compliance with BASIX Certificate

Prior to the issue of the relevant Occupation Certificate for residential occupation, the Principal Certifying Authority shall be satisfied that all commitments listed in BASIX Certificate No. ~~446723M-06~~ 446723M 08 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.

F17 Restrictive Covenant to Solar Access Rights

Prior to the issue of an a final Occupation Certificate, a restrictive covenant shall be created under Section 88B of the Conveyancing Act 1919, removing any solar access rights to:

- (a) the windows in the southern façade of the Eastern Tower (Levels 4 and 5) which are located on the common boundary with No. 2 Kochia Lane.

Registered title documents, showing the restriction, must be submitted and approved by the Principal Certifying Authority prior to issue of a final Occupation Certificate.

~~**F18 Easement for Waste Collection**~~

~~Prior to issue of the Occupation Certificate, an easement for waste collection is to be created under Section 88B of the Conveyancing Act 1919. This is to permit legal access for Council, Council's contractors and their vehicles over the subject property for the purpose of collecting waste from the property. The terms of the easement are to be generally in accordance with Council's draft terms for an easement for waste collection and shall be to the satisfaction of Council's Development Engineer.~~

F19 Dedication of Land

Prior to the issue of the final Occupation Certificate, a portion of the site between the finished floor level of the footpath at Ground Floor to the lower level of Level 1 (not including signage zones) up to 4 metres wide along the full frontage of Kochia Lane is to be incorporated into the Kochia Lane road reserve, dedicated to Council and embellished in accordance with any approval issued for road and footpath improvements and Council's Public Domain Plan, at no cost to Council.

Alternatively, if the roads authority (Council) formally advises that it does not wish to accept some or all of the land dedication, a public easement for access is to be created over that portion of the land to provide a total of 4 metres width of footpath along the Kochia Lane frontage of the site prior to the issue of the final Occupation Certificate. The easement is to enable full and free right of access for all members of the public.

~~**F22 Provision of Copy of OSD Designs if Council is not the Certifying Authority**~~

~~Prior to issue of the Occupation Certificate, the following must be provided to Council's Development Engineer:~~

- ~~• a copy of the approved Construction Certificate stormwater detention/retention design for the site;~~
- ~~• a copy of any works as executed drawings required by this consent; and~~
- ~~• the Engineer's certification of the as-built system.~~

F23 Certification of Drainage Works

Prior to issue of the relevant Occupation Certificate, the Certifying Authority is to be satisfied that:

- the stormwater drainage works have been satisfactorily completed in accordance with the approved Construction Certificate drainage plans;
- the minimum retention and on-site detention storage volume requirements of BASIX and Ku-ring-gai Water Management Local Centres Development Control Plan 2013 No. 47 respectively, have been achieved;
- basement and subsoil areas are able to drain via a pump/sump system installed in accordance with AS3500.3 and Appendix 7.1.1 of Ku-ring-gai Water Management Local Centres Development Control Plan 2013 No. 47;
- all grates potentially accessible by children are secured;

- components of the new drainage system have been installed by a licensed plumbing contractor in accordance with the Plumbing and Drainage Code AS3500.3 2003 and the Building Code of Australia; and
- all enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices. ~~The on-site detention certification sheet contained in Appendix 4 of DCP 47 must be completed and attached to the certification.~~

Note: Evidence from a qualified and experienced consulting civil/hydraulic engineer documenting compliance with the above is to be provided to Council prior to the issue of an **the relevant** Occupation Certificate.

F25 Basement Pump-Out Maintenance

Prior to issue of the **final** Occupation Certificate, the Certifying Authority shall be satisfied that a maintenance regime has been prepared for the basement stormwater pumpout system.

Note: A maintenance regime specifying that the system is to be regularly inspected and checked by qualified practitioners is to be prepared by a suitable qualified professional and provided to the Certifying Authority.

F26 Fire Safety Certificate

Prior to the issue of the **final** Occupation Certificate, the Certifying Authority shall be satisfied that a Fire Safety Certificate for all the essential fire or other safety measures forming part of this consent has been completed and provided to Council. **Note:** A copy of the Fire Safety Certificate must be submitted to Council.

F27 Construction of Works in Public Road – Approved Plans

Prior to issue of the **final** Occupation Certificate, the Certifying Authority must be satisfied that all approved road, footpath and/or drainage works have been completed in the road reserve in accordance with the Council Roads Act approval and accompanying drawings, conditions and specifications. The works must be supervised by the applicant's designing engineer and completed and approved to the satisfaction of Kuring-gai Council.

The supervising consulting engineer is to provide certification upon completion that the works were constructed in accordance with the Council approved stamped drawings. The works must be subject to inspections by Council at the hold points noted on the Roads Act approval. All conditions attached to the approved drawings for these works must be met prior to the Occupation Certificate being issued.

G2 Road Signage

All works/regulatory signposting associated with the development shall be carried out at no cost to the Roads and **Maritime Services** Traffic Authority.

G7 Loading Dock Management Plan

Prior to the issue an Occupation Certificate in respect of the retail tenancies, a loading dock management plan shall be submitted to and approved by the Principal Certifying Authority which provides details in regard to:

- hours of operation **being 7:00am to 6:00pm, Monday to Sundays;**
- noise management;
- light spill management;
- vehicular and pedestrian access management;
- safety and security management;
- maintenance;
- all future deliveries to the site shall be undertaken via the loading dock;

- articulated vehicles are prohibited from use or access to the loading dock; and
- ongoing review requirements.

The loading dock management, capacity and operating procedures for all deliveries (including hours of deliveries) to the development must comply with the Loading Dock Management Strategy submitted with the application documents and acoustic statement prepared by Acoustic Logic and dated 21 January 2015 **and 15 July 2015**.

Further no vehicles greater than 11m in length shall access the loading dock and basement car parking at any time.

- (b) *Insertion of the following conditions as **bold and underlined** words / numbers as follows:*

F28 Acoustic Compliance

Prior to the issue of any Occupation Certificate, evidence shall be submitted to the Certifying Authority demonstrating compliance with all recommendations of the Noise Impact Assessment reports prepared by Wood and Grieve Engineers dated 5 December 2012 as submitted with MOD1, and prepared by Acoustic Logic dated 30 March 2015 and 15 July 2015 as submitted with the EIS and RtS for MOD 3, and updated Noise Impact Assessment recommendations required as part of Condition C8.

G8 Supermarket Operation

The development shall at all times be carried out in accordance with the:

- **Supermarket Plan of Management dated 28 July 2015;**
- **ESD report prepared by Cundall dated 17 August 2015; and**
- **Noise Impact Assessment report prepared by Acoustic Logic dated 30 March 2015 and 15 July 2015 as submitted with the EIS and RtS for MOD 3, and updated Noise Impact Assessment recommendations required as part of Condition C8.**

Hours of Operation are restricted to 6:00am to 12:00am midnight, 7 days per week.

Loading dock deliveries shall be restricted to between the hours of 7:00am to 6:00pm, Monday to Sundays. Where possible deliveries should be limited to outside of peak pedestrian times for the town centre.

G9 Noise- General

Noise associated with any plant, machinery or other equipment on any part of the site, including operation of the supermarket and retail, shall not exceed 5dB(A) (Leq) above the background noise level when measured at the nearest residential receiver.

- (c) *The Statement of Commitments is replaced with the following:*

Statement of Commitments – MP08_0244 - MOD 3

Revised – August 2015

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	Prior to any excavation or construction works commencing an erosion and sediment control plan will be submitted to and approved by the Principal Certifying Authority.	Excavation and construction
ESD initiatives	The proposed development will seek to implement as many of the ESD initiatives set out within the ESD Report Reports prepared by Cundall, dated 30 March 2015, and 17 August 2015 and as practicable.	Construction and operation
BASIX Requirements	The initiatives set out within the relevant BASIX Certification material submitted within the Modification Application MOD 3, will be implemented.	Construction
Security - Access Control	<ul style="list-style-type: none"> ▪ Secure access will be provided to the basement car park. ▪ Residents will have access to the car park via a resident card. ▪ Secure access will also be provided to the pedestrian entries to the residential component of the development off Lindfield Avenue, 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 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	<ul style="list-style-type: none"> ▪ 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 15 units are proposed to have the plumbing installed, as built and if required, to allow the units to be fully adapted following the “Post adaption” plans if appropriate for that person: <ul style="list-style-type: none"> - 105A; 112A; 205A; 206A; 212A; 305A ;312A; 405A & 412A and - 105B; 108B; 205B; 206B; 208B; 305B & 308B. ▪ 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. 	Construction

Subject	Commitments	Timing
Acoustic Treatments	<ul style="list-style-type: none"> ▪ Where appropriate the recommendations set out within the Noise Impact Report, prepared by Acoustic Logic Consultancy, dated 30 March 2015, submitted with the MOD 3 Modification Application and Acoustic Report dated 15 July 2015 will be implemented. 	Construction
Vibration Monitoring	<ul style="list-style-type: none"> ▪ 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	Developer contributions will be paid in accordance with the Ku-ring-gai Contributions Plan 2010.	Prior to issue of Construction Certificate
Geotechnical and Hydrogeological	The recommendations contained within the Geotechnical and Hydrogeological Assessments, prepared Douglas Partners, dated January 2015 (submitted with the MOD 3 Application) will be implemented.	Excavation and Construction
Contamination	<ul style="list-style-type: none"> ▪ 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

Subject	Commitments	Timing
Waste Management	<ul style="list-style-type: none"> ▪ A waste caretaker will manage the garbage system of this development. The caretaker's duties will include the following: <ul style="list-style-type: none"> - 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 (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. ▪ Bins for the residential and retail component of the development will be provided in accordance with the requirements in the Waste Management Plan, prepared by The Mack Group, dated 30/10/2014. ▪ Garbage Chute with 510mm diameter specifications to meet council requirements will be supplied. ▪ Construction of 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. 	Operation
Construction Management	<ul style="list-style-type: none"> ▪ 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. ▪ Any proposal to temporarily close Kochia Lane will be required to seek approval from the relevant authority ▪ Appropriate signage will be placed on areas at street level, indicating the works area and restricted access to the site. ▪ 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. 	Excavation, demolition and construction

Subject	Commitments	Timing
	<ul style="list-style-type: none"> ▪ 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 <ul style="list-style-type: none"> - 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. 	