

Notice of Modification

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

As delegate of the Minister for Planning, I modify the Project Approval referred to in Schedule 1, subject to the conditions in Schedule 2.



Anthony Witherdin
Director
Modification Assessments

Sydney 23 DECEMBER 2016

SCHEDULE 1

Development Approval: MP 08_0244, approved by the Planning Assessment Commission under delegated authority on 27 January 2012

For the following: Demolition of existing buildings and Construction of a mixed use retail and residential development.

Proponent: Aqualand Projects Pty Ltd

Approval Authority: Minister for Planning

The Land: 23-41 Lindfield Avenue, 7 and 11 Havilah Lane, Lindfield

Modification: MP 08_0244 MOD 4: the modification includes:

- The amalgamation of a one bedroom apartment (unit 303A) and a two bedroom apartment (unit 302A) to create a three bedroom apartment.

SCHEDULE 2

The above approval is modified as follows:

- (a) Schedule 2 Part A – Administrative Conditions, A1 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ 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 45,487m² **15,488.5m²** in GFA comprising:

- 1 level podium with 2,720m² in retail GFA;
- ~~141~~**140** apartments in 2 residential towers above the retail podium;

- 3 levels of basement car parking for 241 vehicles; and
 - 898m² communal courtyard at the podium level.
- (b) Schedule 2 Part A – Administrative Conditions, A2 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

A2. Development in Accordance with Plans and Documentation

The development will be undertaken in accordance with the Environmental Assessment dated February 2010 prepared by JBA 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, 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;
- **the Section 75W Modification Application, dated November 2016; and** the following drawing:

Architectural (or Design) Drawings prepared by Crone Partners			
Drawing No.	Revision	Name of Plan	Date
1000	L	Basement 3 Plan	28/07/2015
1001	O	Basement 2 Plan	28/07/2015
1002	M	Basement 1 Plan	28/07/2015
1003	O	Lower Ground Floor Plan	28/07/2015
1004	O	Ground Floor Plan	28/07/2015
1005	N	Level 1 Floor Plan	28/07/2015
1006	N	Level 2 Floor Plan	28/07/2015
1007	N 4	Level 3 Floor Plan	28/07/2015 <u>27/10/2016</u>
1008	O	Level 4 Floor Plan	28/07/2015
1009	O	Level 5 Floor Plan	28/07/2015
1010	N	Level 6 Floor Plan	28/07/2015
1011	O	Level 7 Floor Plan	28/07/2015
1012	M	Roof Plan	28/07/2015
2000	I	Elevations (Sheet 1 of 2)	28/07/2015
2001	I	Elevations (Sheet 2 of 2)	28/07/2015
3000	I	Sections (Sheet 1 of 3)	28/07/2015
3001	I	Sections (Sheet 2 of 3)	28/07/2015
3002	J	Sections (Sheet 3 of 3)	28/07/2015
Engineering (or Design) Drawings prepared by Insync Services			
SW-01	B	Stormwater Services Site Plan	19/02/2015
SW-02	B	Zone A Basement Level 3 Inground Stormwater Services Plan	19/02/2015
SW-03	B	Zone B Basement Level 3 Inground Stormwater Services Plan	19/02/2015
SW-04	B	Zone A Basement Level 3 Stormwater Services Plan	19/02/2015
SW-05	B	Zone B Basement Level 3 Stormwater Services Plan	19/02/2015

SW-06	B	Zone A Basement Level 2 Stormwater Services Plan	19/02/2015
SW-07	B	Zone B Basement Level 2 Stormwater Services Plan	19/02/2015
SW-08	B	Zone A Basement Level 1 Stormwater Services Plan	19/02/2015
SW-09	B	Zone B Basement Level 1 Stormwater Services Plan	19/02/2015
SW-10	B	Zone A Lower Ground Level Stormwater Services Plan	19/02/2015
SW-11	B	Zone B Lower Ground Level Stormwater Services Plan	19/02/2015
SW-12	B	Zone A Ground Level Stormwater Services Plan	19/02/2015
SW-13	B	Zone B Ground Level Stormwater Services Plan	19/02/2015
SW-14	B	Tower A Level 1 Stormwater Services Plan	19/02/2015
SW-15	B	Tower B Level 1 Stormwater Services Plan	19/02/2015
SW-16	B	Tower A Level 2 Stormwater Services Plan	19/02/2015
SW-17	B	Tower B Level 2 Stormwater Services Plan	19/02/2015
SW-18	B	Tower A Level 3 Stormwater Services Plan	19/02/2015
SW-19	B	Tower B Level 3 Stormwater Services Plan	19/02/2015
SW-20	B	Tower A Level 4 Stormwater Services Plan	19/02/2015
SW-21	B	Tower B Level 4 Stormwater Services Plan	19/02/2015
SW-22	B	Tower A Level 5 Stormwater Services Plan	19/02/2015
SW-23	B	Tower B Level 5 Stormwater Services Plan	19/02/2015
SW-24	B	Tower A Level 6 Stormwater Services Plan	19/02/2015
SW-25	B	Tower B Roof Level Stormwater Services Plan	19/02/2015
SW-26	B	Tower A Level 7 Stormwater Services Plan	19/02/2015
SW-27	B	Tower A Roof Level 8 Stormwater Services Plan	19/02/2015
SW-28	B	OSD & Rainwater Tank Detail Sheet	19/02/2015
Landscape Plan (or Design) Drawings prepared by Aspect Studios			
S75W.3LAPD-01		S75W.Mod3 Landscape Plans Public Domain	March 2015
S75W.3LAPD-02		S75W.Mod3 Landscape Plans Public Domain	March 2015
S75W.3LA-01		S75W.Mod3 Landscape Plans	March 2015

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

- (c) Schedule 2 Part C – Condition C5 Development Contributions is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

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;	\$231,781.28
Local social facilities	

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.~~

The nett additional contributions for Modification 3 above were calculated in the September Quarter 2015 issued on 15 December 2015 and paid on 7 June 2016 in the December Quarter 2015 issued on 22 March 2016.

Modification 4 does not result in any nett additional contributions. Please refer to *Ku-ring-gai Contributions Plan 2010* concerning the adopted policy where contributions have been paid and duly committed to Council's rolling works programme and are subsequently modified as Council has a responsibility to consider temporal nexus and is entitled to certainty in cash-flow.

Should the retail floor area, residential apartment numbers and mix change as a result of subsequent modifications, this condition may require further amendment 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 at 818 Pacific Highway Gordon.**

- (d) Schedule 2 Part F – Prior to the issue of Occupation Certificate or Commencement of Use, Condition F1 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

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 ~~44723M_08~~ **No. 446723M 10** have been complied with. Kuring-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.

End of Modification