

ASSESSMENT REPORT

**Mixed Use Development at 23-41 Lindfield Ave, and 7 and 11 Havilah Lane,
Lindfield
MP 08_0244 MOD 4**

1. INTRODUCTION

This report is an assessment of a request to modify the Project Approval for a mixed use retail and residential development at 23-41 Lindfield Ave and 7 and 11 Havilah Lane, Lindfield. The site is within the Ku-ring-gai local government area.

The request has been lodged by Aqualand Projects Pty Ltd pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). It seeks approval to amend the apartment floor plan by amalgamating a one bedroom (Unit 303A) and two bedroom apartment (Unit 302A) into a three bedroom apartment.

2. SUBJECT SITE

The subject site is located at 23-41 Lindfield Ave and 7 and 11 Havilah Lane, Lindfield (see **Figure 1**)

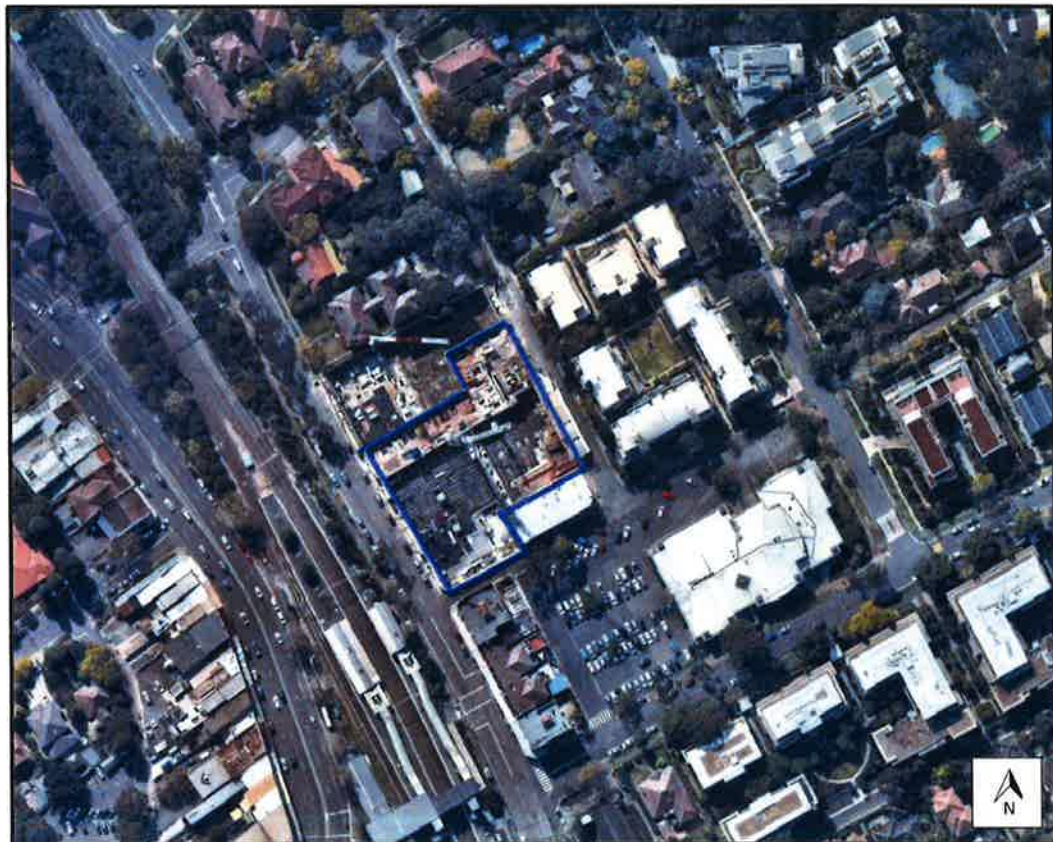


Figure 1: Site Location (Source: Applicant's submitted documentation)

The site is located opposite Lindfield railway station and has approximately 60 metres of frontage to Lindfield Avenue to the south-west and secondary frontages on Kochia Lane and Havilah Lane to the south-east and north-east.



Figure 2: View looking north from Lindfield Avenue showing site (right) site 39-41 Lindfield Avenue (middle) and 43-47 Lindfield Avenue (left)

The site has an approximate area of 3,974m², is an irregular shape and is legally described as:

- Lot D DP 347906;
- Lot A DP418801;
- Lot 11 DP 713206; and
- Lots 3 and 4 DP 713505.

3. APPROVAL HISTORY

On 27 January 2012, the Planning Assessment Commission (the Commission) approved a transitional Part 3A Project Application (MP08_244) for the construction of:

- a mixed use retail and residential development (GFA 11,899m²) comprising;
 - a 2 level podium with 4,231m² of retail GFA including 293m² of GFA for a medical centre;
 - 91 apartments contained in two residential towers above the retail podium; and
 - 3 levels of basement car parking for 196 vehicles.

On 14 November 2013, the Commission approved a Section 75W modification (MOD 1) to increase the height and floor space of the development and:

- provide 21 additional apartments (for a total of 112 apartments);
- amend the apartment mix;
- reconfigure the lower ground and ground floors including a reduction in the amount of retail floor space; and
- reconfigure the car park with a reduction of 12 parking spaces.

On 29 June 2015, the Acting Executive Director of Infrastructure and Industry Assessments approved a Section 75W modification application (MOD 2) to:

- incorporate 7 Havilah Lane into the site envelope to achieve a building height of 7 storeys;
- increase the excavation and basement parking;
- change in dwelling mix with the provision of 10 additional apartments (bringing the total to 122 apartments);
- increase in overall GFA by 1,555m²; and
- other minor amendments.

On 29 January 2016 the Commission approved a Section 75W modification application (MOD 3) which made the following key modifications:

- incorporate 39 and 41 Lindfield Avenue into the development resulting in an increased building footprint, residential GFA and dwelling yield (increased to 141 apartments);
- a reduction in retail/commercial floor area at the upper ground level and provision of an additional five apartments at the upper ground level fronting Havilah Lane; and
- the fit out and use of the approved supermarket floor space, and amendments to setbacks, building heights, car parking, communal open space, internal layouts and apartment mix.

4. PROPOSED MODIFICATION

On 3 November 2016, the Proponent lodged a section 75W modification application (MP 08_0244 MOD 4) seeking approval to amend the internal floor plan, by combining a one bedroom and two bedroom apartment to create a three bedroom apartment. This would reduce the total number of approved apartment from 141 to 140. No other changes are proposed as part of this application.

The modification is requested on the basis that it allows the Proponent to meet a purchaser's request for a three bedroom apartment.

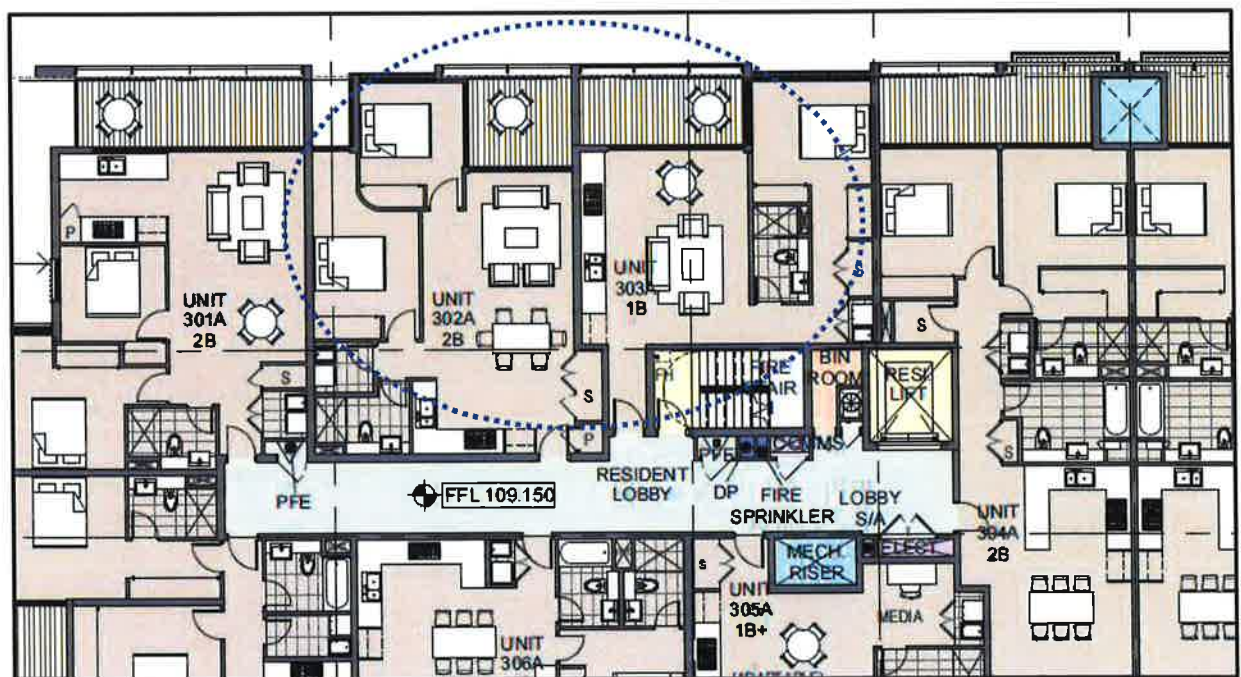


Figure 3: Approved floor plan showing subject apartments circled (Source: Applicant's submitted plans)

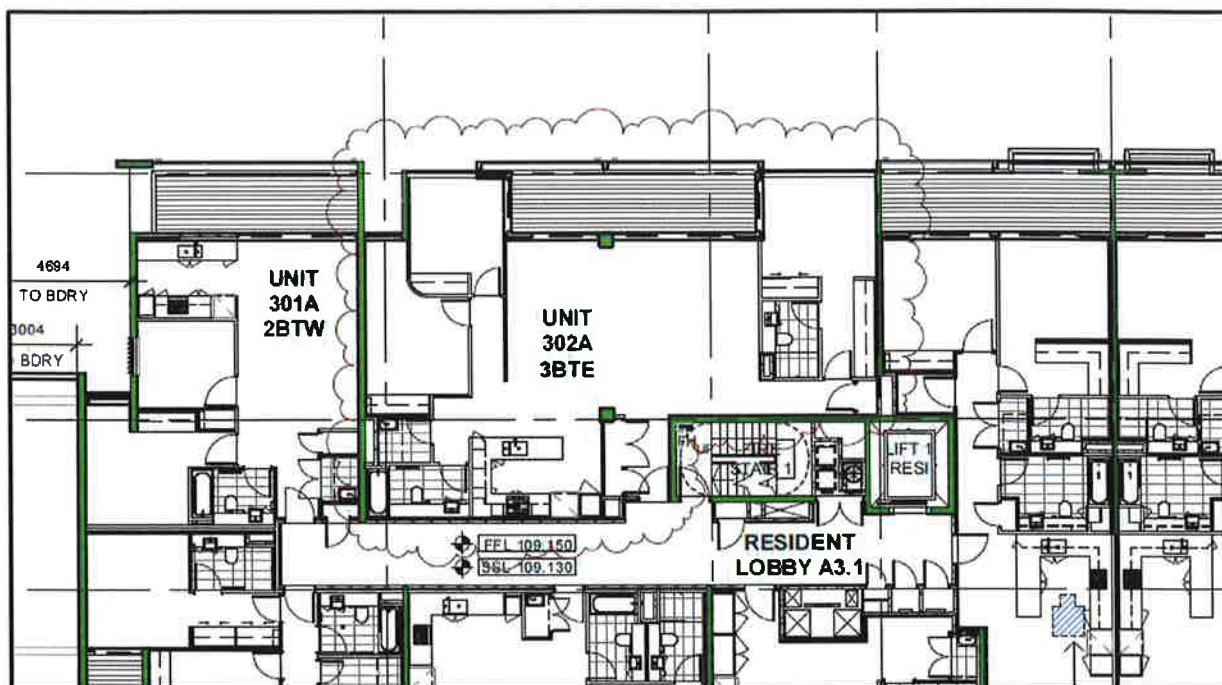


Figure 4: Proposed floor plan showing subject apartments, including balconies being amalgamated into one three bedroom apartment (Source: Applicant's submitted plans)

5. STATUTORY CONSIDERATION

5.1 Section 75W

The project was originally approved under Part 3A of the EP&A Act. Although Part 3A was repealed on 1 October 2011, the project remains a 'transitional Part 3A project' under Schedule 6A of the EP&A Act, and hence any modification to this approval must be made under the former section 75W of the Act.

The Department is satisfied that the proposed changes are within the scope of section 75W of the EP&A Act, and do not constitute a new application.

5.2 Approval Authority

The Minister for Planning is the approval authority for the application. However, the Director, Modification Assessments, may determine the application under delegation as:

- the relevant local council has not made an objection; and
- a political disclosure statement has not been made; and
- there are no public submissions in the nature of objections.

6. CONSULTATION

The Department made the modification application publicly available on its website, and consulted with Ku-ring-gai Council (Council) about the proposed modification.

Council provided comments on 21 December 2016 raising no objections to the proposed modification. Council also suggested an amended Section 94 Condition which included administrative changes and confirmation that no additional Section 94 contributions were payable as a result of MOD 4. The Department has included the suggested condition in the Notice of Modification.

No public submissions received on the proposal.

7. ASSESSMENT

The Department considers the modification to be of a minor nature; involving the removal of a dividing wall and the combination of two apartments and balconies.

The Department considers the proposed is acceptable for the following reasons:

- there would be no change to the height, bulk or scale of the building or any noticeable change to the building's external appearance;
- the proposal would retain a high level of residential amenity as previously approved as well as its consistency with SEPP 65 and the APG;
- the proposed modification would not impact on car parking and traffic as there are no changes proposed to the provision of car spaces associated with the development; and
- an amended BASIX certificate was provided and this is to be reflected in an amended BASIX condition.

The modification application (MOD 4) does not give rise to any new issues that were not already considered in the original application and subsequent modification applications. The Department's assessment therefore concludes the proposal is acceptable.

8. CONCLUSION

The Department has assessed the modification application and supporting information in accordance with the relevant requirements of the EP&A Act. The Department's assessment concludes that the proposed modification is appropriate on the basis that:

- the proposal is of a minor nature and would not result in any additional impacts beyond those not already been assessed and approved previously; and
- the modification enables the developer to meet market demand.

Consequently, it is recommended that the modification be approved subject to the recommended conditions.

9. RECOMMENDATION

It is **RECOMMENDED** that the Director, Modification Assessments, as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report;
- **approves** the application under section 75W, subject to conditions; and
- **signs** the notice of modification (**Appendix A**).

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 23/12/16

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APPENDIX A: NOTICE OF MODIFICATION

A copy of the notice of modification can be found on the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8048

APPENDIX B: SUPPORTING INFORMATION

The following supporting documents and supporting information to this assessment report can be found on the Department of Planning and Environment's website as follows:

1. Modification request

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8048

2. Submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8048

3. Response to Submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8048