

Section 75W Modification Major Project MP08_0244 - MOD 3



23-41 Lindfield Avenue, 7 and 11 Havilah Lane

Mixed Use Development

Submitted to Department of Planning & Environment
On Behalf of Aqualand

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1.0 Introduction

This Environmental Assessment Report (EAR) has been prepared to accompany the third application to modify the Minister for Planning & Infrastructure's (the Minister's) approval of Project Application MP08_0244 for the mixed use development at 23-37 Lindfield Avenue, and 7 and 11 Havilah Lane, Lindfield. The EAR is submitted to the Minister 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Planning and Assessment Act 1979* (EP&A Act), that provides for the continued application of the provisions of the now repealed Part 3A of the EP&A Act, on behalf of the owners of the site, Aqualand.

No Environmental Assessment Requirements for the Modification Application have been notified to Aqualand by the Secretary for the Department of Planning & Environment under section 75W(3) of the EP&A Act. Accordingly, this EAR has been prepared by reference to the key issues identified in the Director General's Requirements (DGRs) (**Appendix A**) issued in respect of the Minister's approval of the original Project Application MP08_0244.

The mixed use development was originally approved by the Minister under section 75J of the EP&A Act on 27 January 2012 (Approved Project). It was subsequently modified on 14 November 2013 (MOD 1) and on 5th November 2014 a second application to further modify the approved development (i.e. the MOD 1 scheme) was submitted to the Minister. The second modification application (herein referred to as MOD 2) is currently under assessment and a Preferred Project and Response to Issues Report was submitted to the Department on 9 March 2015. Whilst the MOD 2 application has not been approved, this third modification application (MOD 3) describes and assesses the changes to the development since submission of the MOD 2 Preferred Project documentation.

This EAR has been prepared by JBA and is based on plans provided by Crone Partners and where relevant, revised or supplementary expert consultant documentation.

This EAR should be read in conjunction with the studies and other information appended to this report. The studies provide a technical assessment of the environmental impacts of the proposed modified development, and recommended proposed mitigation measures to manage potential environmental impacts associated with the revised proposal where relevant.

This EAR should also be read in conjunction with the following documents:

- the EAR prepared by JBA to accompany the 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); and
- the Section 75W Modification Application Preferred Project & Response to Submissions Report (MOD 1 PPR), prepared by JBA (dated May 2013); and
- the Section 75W Modification Application (MOD 2 Application), prepared by JBA (dated November 2014); and
- the MOD 2 Preferred Project and Response to Issues Report (MOD 2 PPR), prepared by JBA (dated March 2015).

This EAR should also be read in conjunction with the Planning Assessment Commission Report and Instrument of Approval, dated 27 January 2012 for the original Project (**Appendix B**) and the Planning Assessment Commissions Report and Instrument of Approval for MOD 1 (**Appendix C**), herein referred to as the MOD 1 Approved Project.

1.1 Major Project MP08_0244

1.1.1 Original Project Approval

The original Project Application for the development was submitted to the Minister in November 2010 and publicly exhibited for a period of four weeks between 24 November 2010 and 24 December 2010. A PPR was submitted for the project in April 2011 and the Project Application was approved by the Planning Assessment Commission on 27 January 2012.

The original Project approval related to 23-37 Lindfield Avenue and 11 Havilah Lane and sought approval for:

- the demolition of existing structures and excavation of the site;
- construction of a mixed use development with a maximum gross floor area of 11,899m², comprising:
 - 4,231m² GFA retail floorspace including a medical centre of 293m² within a two(2) storey retail podium;
 - 92 residential apartments in two (2) towers (eastern 6 storeys and western 4 storeys) above the retail podium;
 - three(3) levels of basement parking for 196 vehicles, 62 bicycle parking spaces and loading dock at Havilah Lane;
 - 629m² of communal open space at podium level between the two towers; and
 - FSR at 3.84:1 (1.37:1 retail/medical and 2.47:1 residential).

1.1.2 Modification 1

In December 2012, an application was submitted to modify the Minister's approval of Project Application MP08_0244 for the mixed use development. The application was subsequently exhibited from 23 January 2013 to 1 March 2013.

It sought substantial improvements to the development to provide a fully resolved, viable and efficient design, which was also more sympathetic to the adjacent heritage building at 1-21 Lindfield Avenue.

A Response to Submissions report was submitted in May 2013 and following meetings with Ku-ring-gai Council, the proponent (Anka (Civic Centre) Pty Ltd (the owners of the site at the time)) and a public meeting, the Planning Assessment Commission approved the application on 14 November 2013, subject to revised conditions of approval.

The description of development for the MOD 1 Approved Project 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 of 12,099m² comprising:
 - 2,714.1m² GFA retail floorspace at lower ground floor within a single storey podium;
 - 112 residential apartments in two (2) towers above the retail podium;
 - three (3) levels of parking for 184 vehicles;
 - 699.5m² of communal open space at podium level between the two towers; and
 - associated landscaping, servicing and infrastructure.
- FSR at 3.89:1 (0.77:1 retail and 3.12:1 residential).

1.1.3 Modification 2

On 5 November 2014, a second application was submitted to modify the Minister's approval of Project Application MP08_0244 for the mixed use development. The application was subsequently exhibited from 19 November 2014 to 19 December 2014.

The primary purpose of the MOD 2 application was to include land at 7 Havilah Lane into the site, which previously formed part of a Council-owned public car park and extend the Havilah Lane building. Other improvements to the development included:

- reconfiguration of the Lower Ground Floor level including the relocation of the loading dock and amendments to the vehicular access off Havilah Lane;
- increase in excavated area; and
- increase in car parking provision.

The description of development sought within the MOD 2 Preferred Project 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 within a single storey retail podium;
 - 122 residential apartments in two (2) towers above the retail podium;
 - four (4) levels of parking for 238 vehicles;
 - 699.5m² 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).

1.2 Part 3A Repeal

On 1 October 2011, Part 3A of the EP&A Act was repealed. Despite this, part 3A continues to apply to certain projects subject to the transitional provisions identified in Schedule 6A of the Act.

Clause 3 of Schedule 6A of the EP&A Act provides that the provisions of Part 3A continue to apply to 'transitional Part 3A projects', relevantly including approved projects. Accordingly, project approvals, such as the Approved Project can continue to be modified under section 75W of the EP&A Act.

Clause 3 of Schedule 6A of the EP&A Act also provides that any State Environmental Planning Policy or other instrument made under or for the purposes of Part 3A, as in force on the repeal of that Part and as amended after that repeal, continues to apply, to and in respect of, a transitional Part 3A project (as defined).

1.3 39-41 Lindfield Avenue

On 5 December 2015, Aqualand gained ownership of the adjoining land at 39 and 41 Lindfield Avenue, being Lot D in DP 347906 and Lot 4 in DP 713505. 39 and 41 Lindfield Avenue are adjoining shops with a combined area of 492m², which represents an increase of approximately 14% of the overall development area.

Accordingly, this third modification application (MP08_0244 - MOD 3), seeks approval to integrate these allotments into the site and further amend the design of the proposed mixed use development to provide a more resolved development for Lindfield town centre.

2.0 The Site

The site is located at 23-41 Lindfield Avenue and 7 and 11 Havilah Lane, Lindfield. As discussed within Section 1.3 above, approval is sought to extend the site to include Lot D in DP 347906 and Lot 4 in DP 713505, known as 39 and 41 Lindfield Avenue, respectively (refer to **Figure 1**).

The site is situated opposite Lindfield railway station and has a frontage of approximately 60m to Lindfield Avenue in the south-west and secondary frontages to Kochia Lane and Havilah Lane to the south-east and north-east respectively.

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

- Lot D in DP 347906
- Lot A in DP 418801;
- Lot 11 in DP 713206;
- Lots 3 and 4 in DP 713505;
- Lots 101, 102 and 103 in DP 1067930; and
- Lot 1 in DP 1198025.

Survey plans of the site (including Lot D in DP 347906 and Lot 4 in DP 713505) are included at **Appendix D**. The adjoining property at 2 Kochia Lane does not form part of the site.

The 23-41 Lindfield Avenue and 11 Havilah Lane currently comprises a mixed use development with ground floor retail premises and commercial and residential premises above. 7 Havilah Lane comprises a surface level car park (formerly owned by Council).

2.1 Surrounding Development

Surrounding development comprises a mix of land uses including residential, commercial and retail. A local heritage item is located to the south-east of the site (on the southern side of Kochia Lane) at 1-21 Lindfield Avenue.

2.1.1 43-49, 51, 55 and 55A Lindfield Avenue and 9 Havilah Lane

In July 2013 a development application was submitted by Arkibuilt Pty Ltd to Ku-ring-gai Council (Council) for the demolition of existing structures on 43-49, 51, 55 and 55A Lindfield Avenue and the construction of an 8 storey mixed use development comprising 62 apartments, car parking (147 spaces), a neighbourhood shop and gourmet grocer. This development application was refused by the Land & Environmental Court [*Arkibuilt Pty Ltd v Ku-ring-gai Council* [2014] NSWLEC 1161] on 14 August 2014.

A subsequent development application encompassing only 43 Lindfield Avenue and 9 Havilah Lane with an area of 1,810m² was submitted on behalf of WZRM Pty Ltd to Council for the demolition of existing structures and the construction of an 8 storey mixed use development comprising ground floor commercial (retail) space, 33 residential apartments and 4 levels of basement car parking providing 48 spaces. This application is currently under assessment by Council.



Figure 1 – Location and context plan
Source: NearMap and JBA, 2015

3.0 Description of Proposed Modified Development

Aqualand is seeking approval under Section 75W of Part 3A of the EP&A Act to modify the Approved Project. The scope of the modification application is addressed in the following sub-sections.

An Architectural Design Statement and amended Architectural Drawings, prepared by Crone Partners are included at **Appendix E** and **Appendix F** respectively, and revised Landscape Plans, prepared by Landscape Living Architecture are included at **Appendix G**.

3.1 Overview of the Proposed Modifications to the Development

The key modifications proposed to the MOD 2 Preferred Project are listed as follows:

- incorporation of 39-41 Lindfield Avenue into the site, increasing site area by approximately 492m²;
- provision of 19 additional units and amendments to the apartment mix within the Lindfield Avenue tower;
- provision of 17 additional car parking spaces overall;
- increase in overall GFA by 1,919m²;
- reduction in retail GFA by 30m²;
- increase in residential GFA by 1,949m²;
- increase in residential FSR by 0.11:1;
- reduction in retail FSR by 0.11:1;
- increase in communal open space area by 198.3m²;
- reduction in overall building height of the Lindfield Avenue tower by 0.8m;
- reduction in overall building height of the Havilah Lane tower by 0.8m; and
- provision of detail in terms of the fit-out, use and operation of the major retail tenancy as a supermarket.

For completeness, the following description re-states all aspects of the proposed modified project for which approval is sought but will clearly indicate where no change is proposed from the MOD 2 Preferred Project.

3.1.1 Project Overview

The modified description of the development is summarised 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 15,540m², comprising:
 - 2,720m² GFA retail floorspace at ground floor within a single storey retail podium;
 - 141 residential apartments in two (2) towers above the retail podium;
 - four (4) levels of parking for 255 vehicles;
 - 897.8m² of communal open space at podium level between the two towers;
 - associated landscaping, servicing and infrastructure;
 - fit-out and use of the proposed major retail tenancy as a supermarket; and
 - FSR at 3.91:1 (0.68:1 retail and 3.23:1 residential).

3.1.2 Numerical Overview

Table 1 provides a comparison summary of the key development statistics of the proposed modification (MOD 3) and the modifications under the Preferred Project Report (MOD 2) presently under assessment.

Table 1 – Modification to key development statistics

Component	Preferred Project Report (MOD 2)	Proposed Modification (MOD 3)	Difference
Site Area	3,482m ²	3,974m ²	+492m ²
Excavated Area	2,749m ²	2,749m ²	No change
Gross Floor Area¹			
▪ Retail	2,750m ²	2,720m ²	-30m ²
▪ Residential	10,871m ²	12,820m ²	+1,949m ²
▪ Total	13,621m ²	15,540m ²	+1,919m ²
Floor Space Ratio			
▪ Retail	0.79:1	0.68:1	-0.11:1
▪ Residential	3.12:1	3.23:1	+0.11:1
▪ Total	3.91:1	3.91:1	No change
Number of Units			
▪ Total	122	141	+19
▪ Studio	4	4	No change
▪ 1 Bed	56	64	+8
▪ 2 Bed	55	66	+11
▪ 3 Bed	7	7	No change
Private Communal Open space	699.5m ²	897.8m ²	+198.3m ²

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

Component	Preferred Project Report (MOD 2)	Proposed Modification (MOD 3)	Difference
Building Height²			
■ Building A (Lindfield Avenue)	30.64m	29.84m	-0.8m
■ Building B (Havilah Lane)	27.86m	27.06m	-0.8m
Facade Height³			
Lindfield Avenue frontage (south-west elevation)	29.3m	228.5m	-0.8m
Kochia Lane frontage (south-east elevation)	28.3m	27.5m	-0.8m
Havilah Lane frontage (north-east elevation)	27.3m	26.5m	-0.8m
North-west elevation (Lindfield Avenue tower)	29.3m	29.45m	+0.15m
North-west elevation (Havilah Lane tower)	26.8m	26.0m	-0.8m
Storey Height			
■ Building A (Lindfield Avenue)	8 storeys	8 storeys	No change
■ Building B (Havilah Lane)	7 storeys	7 storeys	No change
Basement Parking Total	238	255	+17
■ Residential Car Spaces	149	155	+6
■ Residential Visitor Spaces	28	24	-4
■ Retail Public Spaces	48	62	+14
■ Retail Staff Spaces	13	14	+1

3.1.3 Level by Level Description

Table 2 provides the level by level description of the proposed MOD 3 modifications and provides a comparison with the MOD 2 Preferred Project.

Table 2 – Changes to the Level by Level Description

Preferred Project Report (MOD2)	Proposed Modification (MOD 3)
Basement 3	
<ul style="list-style-type: none"> 73 residential car spaces (including 4 accessible spaces); 7 residential bicycle storage lockers; storage rooms; and lifts and stairwells. 	<ul style="list-style-type: none"> 73 residential car spaces (including 5 accessible spaces); 6 residential bicycle storage lockers; storage rooms; and lifts and stairwells.
Basement 2	
<ul style="list-style-type: none"> 58 residential car spaces (including 6 accessible spaces); 28 residential bicycle storage lockers; storage rooms; plant rooms; and lifts and stairwells. 	<ul style="list-style-type: none"> 58 residential car spaces (including 8 accessible spaces); 30 residential bicycle storage lockers; storage rooms; plant rooms; and lifts and stairwells.

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.

Preferred Project Report (MOD2)	Proposed Modification (MOD 3)
Basement 1	
<ul style="list-style-type: none"> 18 residential car spaces (including 2 accessible spaces); 28 residential visitor car spaces (including 1 accessible car space); 13 retail staff car spaces; 6 staff bicycle storage lockers; plant rooms; on-site-detention tank; 2 x residential garbage rooms and a bulky items room; and lifts and stairwells. 	<ul style="list-style-type: none"> 24 residential car spaces (including 2 accessible spaces); 24 residential visitor car spaces (including 1 accessible car space); 14 retail staff car spaces; 6 staff bicycle storage lockers; plant rooms; on-site-detention tank; 2 x residential garbage rooms and a bulky items room; and lifts and stairwells.
Lower Ground Floor	
<ul style="list-style-type: none"> residential car park access/egress from Havilah Lane; shared zone and retail car park access/egress accessed from Havilah Lane; loading dock accessed from Havilah Lane, including truck turntable and major retail garbage store; 48 retail car spaces (including 2 accessible spaces); 12 visitor bicycle parking spaces; 2 residential lobby entrances from Havilah Lane; mail room; 3 residential garbage storage rooms; 2 retail garbage storage room; plant rooms, water tanks and substation; 1 unallocated storage room trolley bays; travelator to Ground Floor level; lifts and stairwells; and goods lift 	<ul style="list-style-type: none"> residential car park access/egress from Havilah Lane; shared zone and retail car park access/egress accessed from Havilah Lane; loading dock accessed from Havilah Lane, including truck turntable and major retail garbage store; 62 retail car spaces (including 4 accessible spaces); 20 visitor bicycle parking spaces; 2 residential lobby entrances from Havilah Lane; mail room; 3 residential garbage storage rooms; 2 retail garbage storage room; plant rooms, water tanks and substation; trolley bays; travelator to Ground Floor level; lifts and stairwells; and goods lift
Ground Floor	
<ul style="list-style-type: none"> 2 residential lobby entrances from Lindfield Avenue; pedestrian access/egress into retail area from Kochia Lane; pedestrian access/egress into retail area from Lindfield Avenue; 1 x major retail tenancy; 8 x minor retail tenancies; public amenities; travelators from Lower Ground; plant rooms; lifts and stairwells; landscaping at Lindfield Avenue entry; outdoor dining and seating zones on Kochia Lane; 4 public bicycle parking spaces on Kochia Lane; and 10 public bicycle parking spaces on Lindfield Avenue. 	<ul style="list-style-type: none"> 2 residential lobby entrances from Lindfield Avenue; pedestrian access/egress into retail area from Kochia Lane; pedestrian access/egress into retail area from Lindfield Avenue; 1 x major retail tenancy (Supermarket); 7 x minor retail tenancies; 5 residential units in the Havilah Lane Tower; public amenities; travelators from Lower Ground; plant rooms; lifts and stairwells; landscaping at Lindfield Avenue entry; outdoor dining and seating zones on Kochia Lane; 4 public bicycle parking spaces on Kochia Lane; and 10 public bicycle parking spaces on Lindfield Avenue.
Level 1	
<ul style="list-style-type: none"> Landscaped courtyard area (699.5m²) between Lindfield Avenue Tower and Havilah Lane Tower; 10 residential units in Lindfield Avenue Tower; and 12 residential units in Havilah Lane Tower 	<ul style="list-style-type: none"> Landscaped courtyard area (897.8m²) between Lindfield Avenue Tower and Havilah Lane Tower, including a Children's Playground; 12 residential units in Lindfield Avenue Tower; and 12 residential units in Havilah Lane Tower
Level 2	
<ul style="list-style-type: none"> 10 residential units in Lindfield Avenue Tower; and 12 residential units in Havilah Lane Tower 	<ul style="list-style-type: none"> 12 residential units in Lindfield Avenue Tower; and 12 residential units in Havilah Lane Tower

Preferred Project Report (MOD2)	Proposed Modification (MOD 3)
Level 3	
<ul style="list-style-type: none"> 10 residential units in Lindfield Avenue Tower; and 12 residential units in Havilah Lane Tower 	<ul style="list-style-type: none"> 12 residential units in Lindfield Avenue Tower; and 12 residential units in Havilah Lane Tower
Level 4	
<ul style="list-style-type: none"> 10 residential units in Lindfield Avenue Tower; and 10 residential units in Havilah Lane Tower 	<ul style="list-style-type: none"> 12 residential units in Lindfield Avenue Tower; and 10 residential units in Havilah Lane Tower
Level 5	
<ul style="list-style-type: none"> 9 residential units in Lindfield Avenue Tower; and 10 residential units in Havilah Lane Tower 	<ul style="list-style-type: none"> 11 residential units in Lindfield Avenue Tower; and 10 residential units in Havilah Lane Tower
Level 6	
<ul style="list-style-type: none"> 9 residential units in Lindfield Avenue Tower; and Plant, lift overrun, acoustic screens and fire stairs on roof of Havilah Lane Tower. 	<ul style="list-style-type: none"> 10 residential units in Lindfield Avenue Tower. Plant, lift overrun, acoustic screens and fire stairs on roof of Havilah Lane Tower.
Level 7	
<ul style="list-style-type: none"> 8 residential units in Lindfield Avenue Tower. 	<ul style="list-style-type: none"> 11 residential units in Lindfield Avenue Tower.
Roof	
<ul style="list-style-type: none"> Plant, exhausts, lifts over run and fire stairs on roof of Lindfield Avenue Tower. 	<ul style="list-style-type: none"> Plant, exhausts, lifts over run and fire stairs on roof of Lindfield Avenue Tower.

3.1.4 Architectural Design

The architectural design of the proposed development has been substantially retained and has been principally amended to utilise and incorporate 39-41 Lindfield Avenue within the development. Other minor amendments to the design result from the requirement to refine the development further to meet the requirements of the landowners.

Architectural drawings prepared by Crone Partners are included at **Appendix F** and detailed descriptions of the proposed amendments are set out below.

Basement 3

At Basement 3, the amendments include:

- minor reconfiguration of parking layout;
- reallocation of standard and accessible spaces (i.e. provision of 68 standard spaces (previously 69) and provision of 5 accessible spaces (previously 4)); and
- relocation of secure bicycle lockers and increase in provision from 5 to 6.

Basement 2

At Basement 2, the amendments include:

- minor reconfiguration of parking layout;
- reallocation of standard and accessible spaces (i.e. provision of 50 standard spaces (previously 52) and provision of 8 accessible spaces (previously 6)); and
- increase in provision of secure bicycle lockers (from 28 to 30).

Basement 1

At Basement 1, the amendments include:

- minor reconfiguration of parking layout, as follows:
 - increase in residential parking from 18 to 24 spaces, with accessible residential spaces to remain consistent at 2 spaces;
 - reduction of residential visitor spaces from 28 to 24, with the number of accessible visitor spaces to remain consistent at 1 space;
 - increase in retail staff spaces from 13 to 14.
- extension of Tower A garbage room;
- relocation of bulky items garbage room;
- relocation and expansion of the On Site Detention tank.

Lower Ground Floor

At the Lower Ground level the extent of the floor area has increased to encompass the 39-41 Lindfield Avenue site and, as a result of the removal of the Right of Way the floor to ceiling height of the Lower Ground Floor level has been lowered by 1.5m. Additional amendments to the design and layout of the Lower Ground Floor level are as follows:

- reconfiguration of the parking layout and provision of 14 additional retail spaces and 8 additional bicycle rack spaces;
- relocation of the travelator, sprinkler tank and pump room;
- provision of a new waste collection area for the Tower A residential waste;
- relocation and reconfiguration of pump room and combined sprinkler and hydrant tank;
- provision of an additional substation fronting Havilah Lane;
- provision of a waste truck temporary parking zone with 2.6m head height;
- provision of additional trolley return bays; and
- relocation of the afterhours security shutters located at the entrance into the retail car parking area.

Ground Floor Level

At Ground Floor level, the extent of the floor area has increased to encompass the 39-41 Lindfield Avenue site and in order to increase the amenity of the retail floor and the provision of a level entry from Lindfield Avenue and a 1:20 ramp from Kochia Lane, the floor to ceiling height has increased by 0.7m. In addition the layout of the Ground Floor level has been reconfigured resulting in the following amendments:

- provision of three additional 1 bedroom and two 2 bedroom residential apartments fronting Havilah Lane;
- relocation and increase in size of the major retail tenancy (supermarket);
- reduction in width of internal access mall leading from Kochia Lane;
- removal of stair and provision of a 1:20 ramp leading from Kochia Lane;
- relocation of the internal travelators;
- removal of retail tenancy 8 and modification to configuration and location of other minor retail tenancies;
- removal of stairs and ramp at the Lindfield Avenue entrance;
- relocation and reconfiguration of public amenities and centre office, amenities and management rooms; and

- new tree planting on Lindfield Avenue.

Level 1

At Level 1, the amendments include:

- extension of the Lindfield Avenue tower to the north-west;
- addition of 2 residential apartments and reconfiguration of apartment layout and mix within the Lindfield Avenue tower;
- extension of the balcony within Unit 111A by 1.28m towards the south;
- minor extension and layout reconfiguration to Units 101B, 102B and 107B within the Havilah Lane tower;
- removal of clerestory windows on the north elevation of Havilah Lane tower;
- provision of planter boxes to the western corner of the Havilah Lane tower adjacent to Units 101B and 107B; and
- extension of the communal open space and amendments to landscape design including the removal of sky light and inclusion of a children's playground.

Level 2

At Level 2, the amendments include:

- extension of the Lindfield Avenue tower to the north-west;
- addition of 2 residential apartments and reconfiguration of apartment layout and mix within the Lindfield Avenue tower;
- minor extension and layout reconfiguration to Units 201B, 202B and 207B within the Havilah Lane tower; and
- removal of clerestory windows on the north elevation of Havilah Lane tower.

Level 3

At Level 3, the amendments include:

- extension of the Lindfield Avenue tower to the north-west;
- addition of 2 residential apartments and reconfiguration of apartment layout and mix within the Lindfield Avenue tower;
- minor extension and layout reconfiguration to Units 301B, 302B and 307B within the Havilah Lane tower; and
- removal of clerestory windows on the north elevation of Havilah Lane tower.

Level 4

At Level 4, the amendments include:

- extension of the Lindfield Avenue tower to the north-west;
- addition of 2 residential apartments and reconfiguration of apartment layout and mix within the Lindfield Avenue tower;
- minor extension and layout reconfiguration to Units 401B, 402B and 406B within the Havilah Lane tower; and
- removal of clerestory windows on the north elevation of Havilah Lane tower.

Level 5

At Level 5, the amendments include:

- extension of the Lindfield Avenue tower to the north-west;
- addition of 2 residential apartments and reconfiguration of apartment layout and mix within the Lindfield Avenue tower;
- minor extension and layout reconfiguration to Units 501B, 502B and 506B within the Havilah Lane tower; and
- removal of clerestory windows on the north elevation of Havilah Lane tower.

Level 6

At Level 6, the amendments include:

- extension of the Lindfield Avenue tower to the north-west; and
- addition of 2 residential apartments and reconfiguration of apartment layout and mix within the Lindfield Avenue tower.

Level 7

At Level 7, the amendments include:

- extension of the Lindfield Avenue tower to the north-west; and
- addition of 2 residential apartments and reconfiguration of apartment layout and mix within the Lindfield Avenue tower.

Roof

At Roof level, the amendments comprise reconfiguration and extension of roof plant on both the Havilah Lane and Lindfield Avenue towers.

3.1.5 Building Height

The MOD 3 proposal seeks a reduction to the overall height of the development by 0.8m, which is due to the deletion of the height requirement contained within the Right of Way easement at Lower Ground Floor level. The maximum building height of the Lindfield Avenue tower is now 29.84m and the maximum building height of the Havilah Lane tower is now 27.06m.

In addition, the maximum façade height of the Havilah Lane tower's Havilah Lane frontage and north-west elevation have both been reduced by 0.8m.

Given the overall height of the development has reduced and the Lindfield Avenue tower has been extended to the north-west, the point where the maximum façade height is measured on the Lindfield Avenue frontage and north-west elevation of the Lindfield Avenue tower has changed. Therefore the maximum height of the Lindfield Avenue façade is now 28.5m and the maximum height of the north-west elevation of the Lindfield Avenue tower is 29.45m.

As illustrated in **Figures 2 and 3**, the overall reduction in building height results in less of the development penetrating the 26.5m Ku-ring-gai Local Centres LEP height control.



Figure 2 – Lindfield Avenue tower height planes – MOD 2 PPR (left), MOD 3 proposed (right)
Source: Crone Architects Pty Ltd



Figure 3 – Havilah Lane tower height planes – MOD 2 PPR (left), MOD 3 proposed (right)
Source: Crone Architects Pty Ltd

3.1.6 Building Setbacks

Table 3 sets out the proposed setbacks.

Table 3 – Building setbacks

Boundary	Level	Minimum Setback	Change
Lindfield Avenue	Ground Floor	0m – built to site boundary	No Change
	Levels 1-5	0m – built to site boundary	No Change
	Levels 6-7	2m with minor encroachments as approved.	No Change
43-47 Lindfield Avenue	Ground Floor	0m – built to site boundary	New alignment
	Levels 1- 2	0m – built to site boundary	New alignment
	Levels 3-7	3m.	New alignment
2 Kochia Lane	Ground Floor	0m – built to site boundary	No Change
	Levels 1-5	Bedrooms built to site boundary.	No Change
Kochia Lane	Ground Floor	4m.	No Change
	Level 1	2.716m.	No Change
	Levels 2-5	1.1m.	No Change
	Levels 6-7	2.766m	No Change
Havilah Lane	Ground Floor	1m	No Change
	Levels 1-4	1m	No Change
	Level 5	3m	No Change
9 Havilah Lane (Lot 1 in DP1198025)	Lower Ground Floor	0m – built to site boundary	No Change
	Ground Floor	0m – built to site boundary	No Change
	Level 1	0m – built to site boundary	No Change
	Levels 2-5	0m – built to site boundary	Reduction of setback by 1.8m

As demonstrated in **Table 3** above, the proposed modifications within MOD 3 do not generally alter the development's relationship to the site setbacks of the development. The only exception is the encroachment of the Havilah Lane tower at Levels 2-5 into the 9 Havilah Lane side setback, resulting in a portion of the building line on these levels extending by 1.8m. The purpose of the minor extension is in order to respond to the development which is proposed on the adjoining site, which, we understand is to be built to the site boundary, as illustrated in **Figures 4-6**.

It is noted that a similar approach has been adopted for the apartments located within the north-western of the extended Lindfield Avenue tower.



Figure 4 – Composite Lindfield Avenue elevation
Source: Crone Architects Pty Ltd

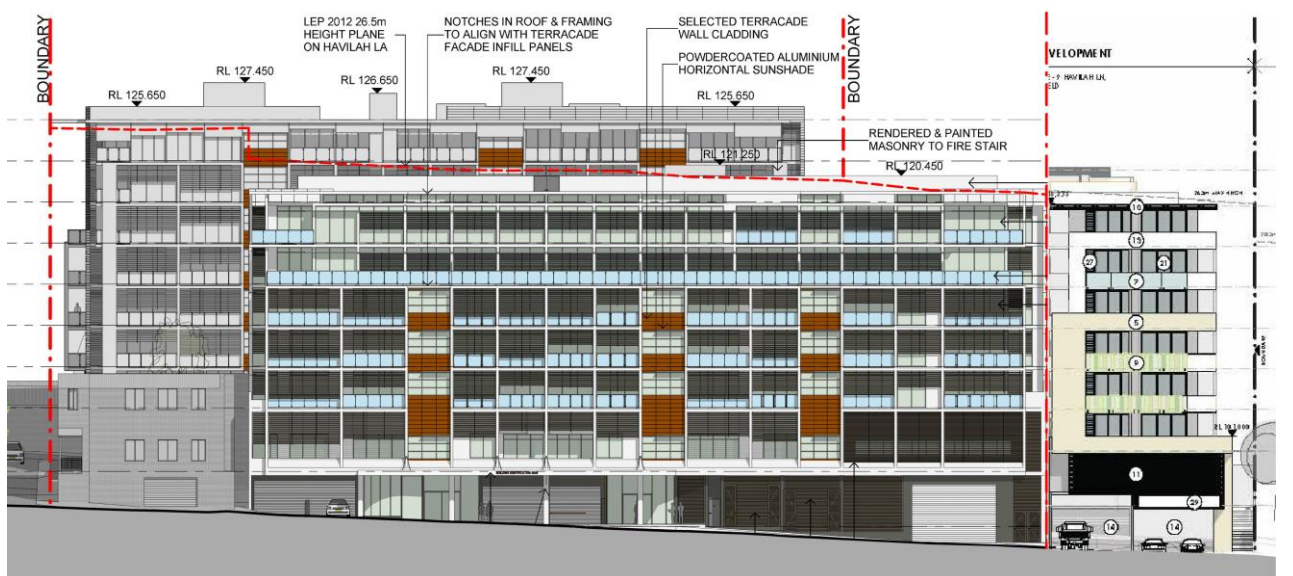


Figure 5 – Composite Havilah Lane elevation
Source: Crone Architects Pty Ltd

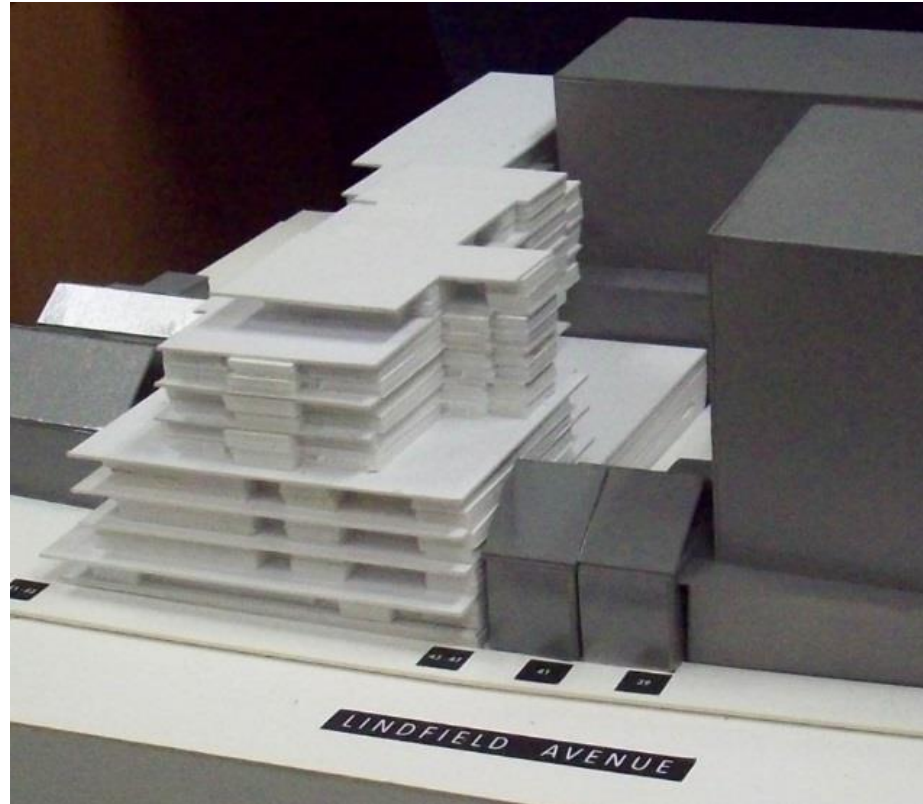


Figure 6 – 3D Model Image of proposed development at 43-47 Lindfield Avenue and 9 Havilah Lane

Source: Ku-ring-gai Council DA Tracker website

3.1.7 External Materials and Finishes

Under the MOD 2 Preferred Project, the northern elevation of the Havilah Lane tower incorporates a patterned concrete finish at Lower Ground Floor and Ground Floor levels. Given the adjoining land to the north, including 9 Havilah Lane is proposed to be redeveloped for the purposes of a mixed-use building with a nil boundary setback with the site, the decorative concrete façade pattern featured within the MOD 2 Preferred Project is no longer required as it is likely that the north-western façade of the retail podium will not be seen once the development at 43-47 Lindfield Avenue is constructed.

In this regard, the patterned concrete finish is proposed to be replaced by a white painted wall finish to match the upper elements of the building. All other materials and finishes are proposed to be retained as indicated on the revised architectural schedules at **Appendix F**.

3.1.8 Landscape Design and Public Domain Works

Amended landscape and public domain works plans, prepared by Landscape Living Architecture are included at **Appendix G**.

Plan S75W.3LAPD-02 Rev D illustrates the public domain works along Havilah Lane at Lower Ground Floor level. The key elements include:

- large format Urbanstone precast concrete pedestrian pavers along the Havilah Lane frontage; and
- full width paving across the loading dock threshold and vehicle entries.

Plan S75W.3LAPD-01 Rev D illustrates the proposed public domain works to Lindfield Avenue and Kochia Lane at Ground Floor Level. They include:

- large format Urbanstone precast concrete pavers along the Lindfield Avenue frontage;
- large formal Pebblecrete precast concrete pavers along the Kochia Lane frontage;
- five new street trees set in street tree holes; and
- seating and litter bins on Lindfield Avenue.

It is intended that all public domain works will be compliant with Ku-ring-gai Public Domain specifications. Furthermore, the street trees are proposed in lieu of the existing low level shrubs along Lindfield Avenue in order to improve the ability of passers-by to look into the retail tenancies at street level and also to improve surveillance opportunities of the street from the retail tenancies. The street trees will also soften the appearance of the development from Lindfield Avenue and Lindfield Railway Station.

Plan S75W.3LA-01 Rev C illustrates the revised landscape design concept for the Level 1 podium communal open space area. The key features of the revised design comprise:

- extension of the communal open space area by 198.5m;
- removal of the skylight;
- inclusion of a children's play area consisting of two pieces of small play equipment;
- decorative internal paving;
- informal and private landscape seating areas with low trafficable planting, seating and shade trees;
- clumping bamboo planting;
- low massed planting;
- an external BBQ area including litter bins and seating;
- medium sized deciduous trees in large deep planters; and
- privacy planters.

3.1.9 Vehicular and Pedestrian Access

Vehicular Access

Vehicular access arrangements for residents and retail patrons set out within the MOD 2 Preferred Project are not proposed to be amended within this MOD 3 application. As such the proposed development provides:

- 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.

Notwithstanding the above, the Lower Ground Floor car parking layout has been reconfigured to enable Council's Waste Trucks to access and manoeuvre within the Lower Ground Floor level and therefore collect waste internal to the development (as shown by the swept paths marked on Plan CA 2924 ADAZ 1003 Rev L included at **Appendix F**.

Pedestrian Access

At Lower Ground Floor level, the pedestrian access arrangements into the Havilah Lane tower residential lobbies have not changed.

At Ground Floor level, the pedestrian access arrangements into the Lindfield Avenue tower residential lobbies have also not been amended.

The pedestrian access arrangements into the retail area have however been greatly improved:

- the stairs and switchback ramp at the Lindfield Avenue entrance have been deleted and at-grade access is provided from the street directly into the retail circulation area;
- the travelators and stairs at the Kochia Lane entrance have been deleted and direct access via a 1:20 ramp is now provided from street level into the retail circulation area; and
- retail tenancy 7 has been relocated to allow for direct access to be gained directly from Kochia Lane.

3.1.10 Car Parking

The amendments to the car parking configuration result in an overall increase of 17 car spaces. **Table 4** provides a comparison of the car parking provision by 'type, **Table 5** provides a comparison of the car parking and bicycle provision at each level, and **Table 6** provides a comparison of the number of standard and small car public retail spaces provided.

Table 4 – Car Parking Comparison by Type

Component	MOD 2 Preferred Project	MOD 3	Change
Residential Car Spaces	149	155	+6
Residential Visitor Spaces	28	24	-4
Retail Public Spaces	48	62	+14
Retail Staff Spaces	13	14	+1
TOTAL	238	255	+17

Table 5 – Car and bicycle parking allocation per level

Level	MOD 2 Preferred Project		MOD 3		Change
	Type	No. of spaces	Type	No. of spaces	
Basement Level 3	Residential Car Parking	73	Residential Car Parking	73	No change
	Bicycle Lockers - Residential	5	Bicycle Lockers - Residential	6	+1
Basement Level 2	Residential Car Parking	58	Residential Car Parking	58	No change
	Bicycle Lockers - Residential	28	Bicycle Lockers - Residential	30	+2
Basement Level 1	Residential Car Parking	18	Residential Car Parking	24	+6
	Visitor Car Parking	28	Visitor Car Parking	24	-4
	Retail Staff Car Parking	13	Retail Staff Car Parking	14	+1
	Bicycle Lockers – Retail Staff	6	Bicycle Lockers – Retail Staff	6	No Change
Lower Ground	Retail Public Car Parking	48	Retail Public Car Parking	62	+14
	Bicycle Racks – Public/ Visitor	12	Bicycle Racks – Public/ Visitor	20	+8
Ground Floor	Bicycle Public – Lindfield Ave	10	Bicycle Public – Lindfield Ave	10	No Change
	Bicycle Public – Kochia Lane	4	Bicycle Public – Kochia Lane	4	No Change

Table 6 – Public retail car space allocation

Car Space Type	MOD 2 Preferred Project	MOD 3	Change
Small Car	8	9	+1
Standard	40	53	+13
Total	48	62	+14

3.1.11 Stormwater Drainage

The proposed drainage system for the modified development has been designed by Insync Services Pty Ltd and is detailed in the report and on the plans at **Appendix H**. The system has been designed in accordance with the relevant provisions of the Ku-ring-gai Local Centres Development Control Plan.

Stormwater Connection

No amendments are proposed to the intended stormwater connection. As set out in the EAR for MOD 1 (which was not amended in MOD 2), the site will connect to the existing stormwater main within the north-east boundary of the site via a new 375mm stormwater connection.

Stormwater System Description

Stormwater detention will continue to be provided on site within separate rainwater/sprinkler storage and on-site stormwater detention storage tank (OSD tank) at or below Lower Ground Floor level (as illustrated on the Stormwater Plans at **Appendix H**), however we note the location of the OSD tank has been modified.

Rainwater from the roof levels, balconies and podium areas of the development will drain via pipes and discharge directly into the rainwater storage tank, after which any excess discharge will overflow into the stormwater detention tank.

Stormwater run-off for all balcony and podium areas will drain via pipes directly into the OSD tank. Stormwater discharge from the detention tank will be controlled by an orifice plate to limit site stormwater discharge to the maximum flow to 44.6L/s. In addition, an internal overflow weir will be provided to allow for full 100 year ARI overflow in the event of a control outlet blockage.

Overall the proposed development achieves an effective storage volume of 135.398m³.

Water Quality

The proposed development will also continue to incorporate water quality treatment in the form of:

- a dedicated vehicle wash bay which includes an oil separation plant to capture all run-off from the wash down process, and provide the required pre-treatment (oil & grease removal) prior to discharge of the waste water into the sewer drainage system;
- tank inlet screening within the rainwater tank; and
- the Stormwater 360 “Stormfilter” system incorporated within the on-site detention tank to treat all runoff, roof water and car park drainage.

3.1.12 Waste Management

Residential Waste Management

The proposed development continues to provide two residential garbage store rooms for the Lindfield Avenue tower at Basement Level 1, however these have been increased in size to cater for the additional units proposed. A bulky goods waste store is also located at Basement 1.

In addition, two residential garbage store rooms for the Havilah Lane tower are provided at the Lower Ground Floor level. An additional waste storage room which is to temporarily house the Lindfield Avenue tower residential garbage bins prior to collection is also provided at Lower Ground Floor level, alongside a temporary waste truck parking zone, which is for use by Council’s waste contractor when picking up the residential waste from the site. Refer to the Architectural Plans for MOD 3 at **Appendix F**.

Residents will drop general waste down to the compactors and bins in the garbage rooms via on-floor chutes located at each residential level. Residents will place recyclable waste in bins in the staging stores at each residential level. From there, the caretaker will take the recyclable waste to the residential waste stores via the lifts.

Retail Waste Management

As proposed in the MOD 2 Preferred Project, garbage bin storage areas are provided within the loading dock and within a retail garbage room located adjacent to the loading dock. The retail waste management handling process remains consistent to that proposed within the MOD 2 Preferred Project, with retail tenants being responsible for the storage of waste within each tenancy and the movement of the waste to the retail garbage stores at Lower Ground Floor level.

All retail waste will be collected from the loading dock by private waste contractor.

3.1.13 Retail Servicing

The proposed retail servicing (e.g. loading and unloading of goods) arrangements as set out within the MOD 2 application have not been changed and all trucks servicing the retail tenancies will utilise the loading dock.

Servicing of the supermarket will be undertaken via the goods lift from the loading dock directly into the stockroom. The smaller retail tenancies will transport goods via the ramp leading from the loading dock at Lower Ground Floor level to the travelator or public lift. Centre Management will ensure that the transport of goods to the smaller retail tenancies do not conflict with retail patrons.

As noted in Section 3.1.16 below, all loading dock operations will be conducted in accordance with the Loading Dock Management Plan, which is to be implemented in accordance with Condition G7 of the Instrument of Approval. Loading dock operations will be co-ordinated between the supermarket stock manager and the centre loading dock manager.

3.1.14 Capital Investment Value

The Capital Investment Value (CIV) of the modified development is \$60,100,661 as detailed in the Quantity Surveyors Report, prepared by Hayman-Cohen Quantity Surveyors at **Appendix I**.

3.1.15 Supermarket fit-out and use

This MOD 3 modification application seeks the inclusion of the fit out and use of the major retail tenancy as a supermarket. The fit out detail is illustrated on Plan CA 2924 ADAZ 1004 N at **Appendix F**. It includes back of house facilities within the north-western corner including cool rooms, a stock room, staff amenities, management offices, food prep areas and equipment rooms (i.e. comms room and MSB room). In addition, the main sales floor includes food preparation areas, fresh and frozen food cabinets, shopping aisles flanked by lines of shelving, checkouts and a trolley storage area.

Operational Management

A Plan of Management, prepared by Andmar Retail Pty Ltd is included at **Appendix J**. The key components are summarised as follows:

- Hours of operation:
 - 6.00am to 12.00am midnight, 7 days per week.
- Deliveries:
 - Deliveries will be undertaken between 6.00am to 7.00pm daily via the loading dock, generally in accordance with the delivery schedule included within the Plan of Management, however deliveries from the supplier's distribution centre are controlled by the supplier's NSW Transport Manager, who has complete knowledge of all delivery constraints pertaining to each individual store within NSW. The supplier's Transport Manager will ensure that any delivery constraints are not breached.
- Security:
 - All electronic and physical security devices that are used in a standard supermarket will be incorporated into the this store. This includes a CCTV system and security alarm with remote monitoring.
- Waste management:
 - Private waste contractors will collect general refuse on a daily basis.
 - Cardboard will be compressed and bailed and will then be collected by private paper and plastic recycling contractors five times per week.

- All grease and oil waste will be collected via appropriate drainage mechanisms which are routed to the grease arrestors. The grease arrestors will be emptied as required by an accredited grease waste contractor.
- Construction and fit out of food premises:
 - The deli and food preparation areas will be designed and constructed to comply with all the relevant Australian Standards and health codes.
- Fire safety:
 - All fire doors and fire safety signage will be provided to a standard to ensure compliance with all relevant BCA requirements and Australian Standards.

3.1.16 Loading dock management

In accordance with Condition G7 of the Instrument of Approval, a Loading Dock Management Plan will be prepared and submitted to and approved by the Principal Certifying Authority prior to the issue of an Occupation Certificate. The loading dock management plan will provide details in regard to:

- hours of operation;
- noise management;
- light spill management;
- vehicular and pedestrian access management;
- safety and security management;
- maintenance; and
- on-going review requirements.

The supermarket's stock manager will liaise with the Centre's loading dock manager who will be responsible for all other parties that share the loading dock. The supermarket's stock manager will supervise the efficient unloading of deliveries and co-ordinate their arrival with dispatch from the supermarket's supplier's warehouse.

In order to ensure that the acoustic amenity of surrounding residents are preserved the following will be implemented:

- the loading dock will not accept or depart trucks before 6.00am or after 7.00pm;
- the roller shutter door will be kept closed during periods when loading and unloading is being undertaken; and
- trucks will not be stacked waiting for access to the dock adjacent to residential properties and the use of radio equipment will not be used to ensure this does not happen.

3.2 Proposed Modifications to the Approval

The proposed modifications described above necessitate amendments to the approval conditions. In addition, pursuant to further assessment, Aqualand would also like to seek approval to amend a number of conditions. The proposed amendments are identified below. 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 ~~13,592m²~~ ***15,540m²*** in GFA comprising:

- 1 level podium with ~~2,721m²~~ ***2,720m²*** in retail GFA;
- ~~122~~ ***141*** apartments in 2 residential towers above the retail podium;
- 3 levels of basement car parking for ~~224~~ ***255*** vehicles; and
- ~~699.5m²~~ ***897.8m²*** 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 February 2015 prepared by JBA and all Appendices, except where varied by:

- the Preferred Project Report dated April 2011 and all Appendices (original approval);
- the Proponent's Statement of Commitments included in the PPR (original approval);
- the Section 75W Modification Application (MOD 1), dated December 2012;
- the Section 75W Modification Application Response to Submissions (MOD 1), dated May 2013;
- the Section 75 Modification Application (MOD 2) , dated 31 October 2014;
- the Section 75W Modification Application Response to Submissions (MOD 2), dated March 2015;
- ***the Section 75W Modification Application (MOD 3), dated March 2015; and***
- the following drawings:

Architectural (or Design) Drawings prepared by Crone Partners			
Dwg No.	Rev.	Name of Plan	Date
0001	C E	Cover Sheet	31/10/2014 24/02/2015
0002	C E	Location plan and Drawing List	31/10/2014 24/02/2015
0100	C E	Context/Analysis Site Plan	31/10/2014 24/02/2015
0101	C E	Site Plan	31/10/2014 24/02/2015
0102	C E	Zone of Influence Site Plan	31/10/2014 24/02/2015
0200	C F	Perspective Sheet 1	31/10/2014 30/03/2015
0201	C F	Perspective Sheet 2	31/10/2014 30/03/2015
0202	C F	Perspective Sheet 3	31/10/2014 30/03/2015
0203	C E	Perspective Sheet 4	31/10/2014 24/02/2015
0204	C E	Perspective Sheet 5	31/10/2014 24/02/2015
0205	C E	Perspective Sheet 6	31/10/2014 24/02/2015
0206	C E	Perspective Sheet 7	31/10/2014 24/02/2015
0207	C E	Perspective Sheet 8	31/10/2014 24/02/2015
0208	C E	Perspective Sheet 9	31/10/2014 24/02/2015
0209	C	Perspective Sheet 10	31/10/2014
1000	C K	Basement 3 Plan	31/10/2014 24/02/2015
1001	C N	Basement 2 Plan	31/10/2014 14/04/2015
1002	C L	Basement 1 Plan	31/10/2014 14/04/2015
1003	C M	Lower Ground Floor Plan	31/10/2014 14/04/2015
1004	C N	Ground Floor Plan	31/10/2014 24/02/2015
1005	C M	Level 1 Floor Plan	31/10/2014 24/02/2015
1006	C M	Level 2 Floor Plan	31/10/2014 24/02/2015
1007	C M	Level 3 Floor Plan	31/10/2014 24/02/2015
1008	C N	Level 4 Floor Plan	31/10/2014 30/03/2015
1009	C N	Level 5 Floor Plan	31/10/2014 30/03/2015
1010	C M	Level 6 Floor Plan	31/10/2014 30/03/2015
1011	C N	Level 7 Floor Plan	31/10/2014 30/03/2015
1012	C L	Roof Plan	31/10/2014 24/02/2015
2000	C H	Elevations (Sheet 1 of 2)	31/10/2014 24/02/2015
2001	C H	Elevations (Sheet 2 of 2)	31/10/2014 24/02/2015
3000	C H	Sections (Sheet 1 of 3)	31/10/2014 24/02/2015
3001	C H	Section (Sheet 2 of 3)	31/10/2014 24/02/2015
3002	C I	Sections (Sheet 3 of 3)	31/10/2014 24/02/2015
4000	C H	LEP 26.5m Height Plane Study -1	31/10/2014 24/02/2015
4001	C H	LEP 26.5m Height Plane Study - 2	31/10/2014 24/02/2015
5000	C F	Shadow Diagram - March	31/10/2014 24/02/2015
5001	C F	Shadow Diagram - June	31/10/2014 24/02/2015
5002	C F	Shadow Diagram - September	31/10/2014 24/02/2015
5003	C F	Shadow Diagram - December	31/10/2014 24/02/2015
6001	C G	Adaptation Detail Plans	31/10/2014 24/02/2015
6002	C E	Materials & Finishes (Sheet 1 of 2)	31/10/2014 24/02/2015
6003	C E	Materials & Finishes (Sheet 2 of 2)	31/10/2014 24/02/2015
6500	C F	Signage – External	31/10/2014 30/03/2015

Engineering (or Design) Drawings prepared by Insync Services			
SW-00	4 B	Stormwater Services Cover Sheet & Legend	26/09/2014 19/02/2015
SW-01	4 B	Stormwater Services Site Plan	26/09/2014 19/02/2015
SW-02-A	4 B	Zone A Basement Level 3 Inground Stormwater Services Plan	26/09/2014 19/02/2015
SW-03-B	4 B	Zone B Basement Level 3 Inground Stormwater Services Plan	26/09/2014 19/02/2015
SW-04-A	4 B	Zone A Basement Level 3 Stormwater Services Plan	26/09/2014 19/02/2015
SW-05-B	4 B	Zone B Basement Level 3 Stormwater Services Plan	26/09/2014 19/02/2015
SW-06-A	4 B	Zone A Basement Level 2 Stormwater Services Plan	26/09/2014 19/02/2015
SW-07-B	4 B	Zone B Basement Level 2 Stormwater Services Plan	26/09/2014 19/02/2015
SW-08-A	4 B	Zone A Basement Level 1 Stormwater Services Plan	09/2014 19/02/2015
SW-09-B	4 B	Zone B Basement Level 1 Stormwater Services Plan	09/2014 19/02/2015
SW-10-A	4 B	Zone A Lower Ground Level Stormwater Services Plan	09/2014 19/02/2015
SW-11-B	4 B	Zone B Lower Ground Level Stormwater Services Plan	09/2014 19/02/2015
SW-12-A	4 B	Zone A Ground Level Stormwater Services Plan	09/2014 19/02/2015
SW-13-B	4 B	Zone B Ground Level Stormwater Services Plan	09/2014 19/02/2015
SW-14-A	4 B	Tower A Level 1 Stormwater Services Plan	09/2014 19/02/2015
SW-15-A	4 B	Tower B Level 1 Stormwater Services Plan	09/2014 19/02/2015
SW-16-A	4 B	Tower A Level 2 Stormwater Services Plan	09/2014 19/02/2015
SW-17-A	4 B	Tower B Level 2 Stormwater Services Plan	09/2014 19/02/2015
SW-18-A	4 B	Tower A Level 3 Stormwater Services Plan	09/2014 19/02/2015
SW-19-A	4 B	Tower B Level 3 Stormwater Services Plan	09/2014 19/02/2015
SW-20-A	4 B	Tower A Level 4 Stormwater Services Plan	09/2014 19/02/2015
SW-21-A	4 B	Tower B Level 4 Stormwater Services Plan	09/2014 19/02/2015
SW-22-A	4 B	Tower A Level 5 Stormwater Services Plan	09/2014 19/02/2015
SW-23-A	4 B	Tower B Level 5 Stormwater Services Plan	09/2014 19/02/2015
SW-24-A	4 B	Tower A Level 6 Stormwater Services Plan	09/2014 19/02/2015
SW-25-A	4 B	Tower B Level Roof Level Stormwater Services Plan	09/2014 19/02/2015
SW-26-A	4 B	Tower A Level 7 Stormwater Services Plan	09/2014 19/02/2015
SW-27-A	4 B	Tower A Roof Level Stormwater Services Plan	09/2014 19/02/2015
SW-28	4 B	OSD & Rainwater Tank Detail Sheet	09/2014 19/02/2015
Landscape Plan (or Design) Drawings prepared by Landscape Living Architecture			
S75WLA04 S75W.3LAPD -01	A D	Public Domain – Ground Level	September 2014 March 2015
S75WLA04 S75W.3LAPD -02	A D	Public Domain – Lower Ground Level	September 2014 March 2015
S75WLA04 S75W.3LA-01	A C	Level 1 Landscape Plan	September 2014 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.

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; and*
- *modifications to the proposed supermarket within the major retail tenancy.*

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 *and the lower ground floor car parking* levels shall be allocated as follows:

Car Parking Space	Number
Residential Car Spaces	149 * 155
Residential Visitor Car Spaces	28 * 24
Retail Public Car Spaces	48 * 62
Retail Employee Car Spaces	13 * 14
Total car spaces	238 * 255

Changes proposed above on the basis that the MOD2 PPR plans are approved

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.~~

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

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 ~~26/09/2014~~ **19/02/2015** 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);

- [point deleted in MOD 2 Preferred Project;]
- [point deleted in MOD 2 Preferred Project;]

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.

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 (including any need for underground cabling, substations or similar within or in the vicinity the development) shall be submitted to the Principal Certifying Authority for approval prior to issue of the Construction Certificate. Any structures or other requirements of Energy Australia shall be indicated on the plans issued with the Construction Certificate, to the satisfaction of the Certifying Authority and Energy Australia. The requirements of Energy Australia must be met in full prior to issue of the Occupation Certificate.

C21. Compliance Report

Given we satisfy each condition singularly, we seek approval of deletion of this condition.

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

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

We seek approval to delete this condition as it is considered a replication of Condition D13.

E1. Hours of work

Demolition, excavation, construction work and deliveries of building material and equipment must not take place outside the hours of 7.00am to ~~5.00~~ **6.00pm** Monday to Friday and 8.00am to ~~12 noon~~ **3pm** Saturday. No work and no deliveries are to take place on Sundays and public holidays.

Excavation or removal of any materials using machinery of any kind, including compressors and jack hammers, must be limited to between 7.30am and 5.00pm Monday to Friday, with a respite break of 45 minutes between 12 noon 1.00pm.

The main reason for this minor extension to hours of work is to reduce the overall construction period for the project and enable the site to run efficiently and effectively, when factoring set up and clean up times at each end of the day.

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.**

E31. Disposal of Seepage and Stormwater

We seek approval to delete this condition as it is considered a replication of Condition E41.

E39. Services

We seek approval to delete this condition as it is considered a replication of Condition E15.

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

We seek approval to delete this condition as it is considered a replication of Condition E18.

F2. Principal Certifying Authority to Arrange Qualified Landscape Architect

~~The Principal Certifying Authority shall arrange for a~~ **A** qualified Landscape Architect / Designer ~~is~~ 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 Principal Certifying Authority prior to the issue of the **relevant** Occupation Certificate, certifying that the stormwater drainage system has been constructed and completed in accordance with the approved stormwater plans. The person issuing the **relevant** 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 Principal Certifying Authority prior to the issue of **any the final** 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

We seek approval to delete this condition as it is considered a replication of Condition F2. However, where appropriate additional wording is proposed to be inserted into Condition F2.

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 Principal 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 Principal 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 Cluse 161 of the Environmental Planning and Assessment Regulation 2000.

F14. Compliance with BASIX Certificate

Prior to the issue of ~~an a final~~ occupation certificate, the Principal Certifying Authority shall be satisfied that all commitments listed in BASIX Certificate no. ~~446723M06 446723M 07~~ 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: and
- ~~b) the windows in the northern façade of the Western Tower at Levels 5-7 inclusive.~~

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

F18. Easement for Waste Collection

We seek approval to delete this condition as it is considered a replication of Condition F10.

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.

F20. OSD Positive Covenant/Restriction

We seek approval to delete this condition as it is considered a replication of Condition F11.

F22. Provision of Copy of OSD Designs if Council is not the PCA

We seek approval to delete this condition as it is considered a replication of Condition F12.

F23. Certificate of Drainage Works

We seek approval to delete this condition as it is considered a replication of Condition F3.

F24. WAE Plans for Stormwater Management and Disposal

We seek approval to delete this condition as it is considered a replication of Condition F3.

F25. Basement Pump-Out Maintenance

Prior to issue of the **final** Occupation Certificate, the Principal 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 Principal Certifying Authority.

F26. Fire Safety Certificate

Prior to the issue of the **final** Occupation Certificate, the Principal 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 Principal 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 Ku-ring-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 ~~Traffic Authority~~ **Maritime Services**.

3.3 Proposed Modification to the Statement of Commitments

The proposed modifications described above and the revised assessment as set out in Section 3 necessitates some amendments to the Statement of Commitments approved as part of the Approved Project. A revised version of the Statement of Commitments is located at **Appendix K**.

4.0 Environmental Assessment

This section of the report assesses the MOD 3 Application. The assessment has been prepared to address the matters relevant to the Modified Project included in the DGRs (refer to copy included at **Appendix A**). No new Director-General's Requirements for the Modification Application were notified to Aqualand by the Director-General under section 75W (3) of the EP&A Act.

As identified at Section 2.0, the development contemplated by the MOD 3 Application is generally within the envelope of the Approved Project site and is informed by the detailed specialist technical reports and assessment that accompanied the Project Application.

Each of the detailed reports and assessments that support the Approved Project have been reviewed by the relevant specialist consultants to assess whether the findings, conclusions and recommendations within the original reports continue to apply to the Modified Project. Where it has emerged that further assessment in respect of the Modified Project is necessary, assessment has been carried out within this Section.

The following specialist technical documents have been prepared to reflect the Modified Project:

- Architectural Design and SEPP 65 Verification Statement, prepared by Crone Partners (**Appendix E**);
- Architectural Drawings, prepared Crone Partners (**Appendix F**);
- Landscape Drawings, prepared by Landscape Living Architects (**Appendix G**);
- Stormwater Drainage Report and Plans, prepared by Insync Services (**Appendix H**);
- Statement of Commitments, prepared by JBA (**Appendix K**);
- ESD Report, prepared by Cundall (**Appendix L**);
- BASIX Certification, prepared by Cundall (**Appendix M**);
- Traffic and Parking Assessment, prepared by Varga Traffic Planning (**Appendix N**);
- Statement of Heritage Impact, prepared by Graham Brooks & Associates (**Appendix O**);
- Noise Impact Assessment, prepared by Acoustic Logic (**Appendix P**);
- Waste Management Plan, prepared by the Mack Group (**Appendix Q**);
- Detailed Site Investigation Report, prepared by Douglas Partners (**Appendix R**);
- Geotechnical Investigation Report, prepared by Douglas Partners (**Appendix S**);
- Access Assessment Report, prepared by PSW Access Consulting (**Appendix T**);
- BCA Assessment, prepared by Vic Lilli & Partners (**Appendix U**); and
- Fire Engineering Statement, prepared by RAWfire (**Appendix V**).

The relevant matters that require further specific detailed assessment in relation to the Modification Application are further detailed below.

4.1 Consistency with Relevant EPIs, Policies and Guidelines

4.1.1 Environmental Planning and Assessment Act 1979

Project MP08_0244 was approved by the Minister for Planning under Part 3A of the EP&A Act. As noted in section 1.2, on 1 October 2011 Part 3A of the EP&A Act was repealed. Despite this, Part 3A continues to apply to certain projects subject to the transitional provisions identified in Schedule 6A of the EP&A Act.

Clause 3 of Schedule 6A of the EP&A Act provides that the provisions of Part 3A continue to apply to "transitional Part 3A projects", relevantly including approved projects. Accordingly, project approvals, such as this Project can continue to be modified under section 75W of the EP&A Act.

4.1.2 State Environmental Planning Instruments

The original Project Application was assessed against the following State Environmental Planning Instruments:

- State Environmental Planning Policy 55 – Remediation of Land (SEPP 55);
- State Environmental Planning Policy 65 – Design Quality of Residential Flat Development (SEPP 65) and associated Residential Flat Design Code (RFDC);
- State Environmental Planning Policy (Infrastructure) 2007 (SEP Infrastructure);
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP BASIX); and
- State Environmental Planning Policy 64 – Advertising and Signage (SEPP 64).

In addition, SEPP 53 and the associated Site Report for Site 4 was taken into consideration as it (and associated guidelines) formed part of the planning framework under which the original Part 3A declaration was made.

The proposed modifications within MOD 3 do not affect the assessment of the Approved Project against SEPP 53, SEPP 55, SEPP Infrastructure and SEPP 64, as such the assessment that has previously been presented in the original project and MOD 1 approvals remains unchanged.

In regard to SEPP 55, a detailed site investigation report for 23-41 Lindfield Avenue and 9-11 Havilah Lane has been prepared by Douglas Partners (refer to **Appendix R**). Overall they confirm that site is suitable for the proposed development, and therefore MOD 3 remains consistent with SEPP 55.

The residential component of the proposed modification is consistent with the ten design principles in SEPP 65 as confirmed in the Architectural Design Statement, prepared by Crone Partners (**Appendix E**). The proposed modification's compliance with the 'rules of thumb' within the RFDC is addressed in Section 4.5.

In addition, the ESD report, prepared by Cundall (**Appendix L**) along with an updated BASIX certification (**Appendix M**) confirms that MOD 3 complies with the water efficiency, energy efficiency and thermal comfort targets in SEPP BASIX.

4.1.3 Ku-ring-gai Local Environmental Plan (Local Centres) 2012

Whilst not strictly relevant to the Project, the Ku-ring-gai Local Environmental Plan (Local Centres) 2012 (Local Centres LEP) is the planning instrument for the site. The proposed development's compliance with the relevant clauses within the Ku-ring-gai LEP is discussed below.

Clause 2.1 – Land Use Zones

Under the Ku-ring-gai LEP, the site is zoned B2 – Local Centre. The proposed uses would be defined as 'Commercial premises'⁴ and 'Shop top housing'⁵, which are permissible within the zone.

The objectives of the B2 – Local Centres zone are:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To provide for residential housing close to public transport, services and employment opportunities.*
- *To encourage mixed use buildings that effectively integrate suitable business, office, residential, retail and other development.*

MOD 3 is consistent with the objectives of the B2 Local Centres zone in that it:

- provides the opportunity for a range of retail uses to be located within the proposed development, which is in a location, highly accessible by public transport and other non-car modes of transport;
- provides residential accommodation within a location which is close to public transport, services and employment opportunities; and
- provides a mixed use development which integrates residential and retail uses.

Clause 4.3 – Height of buildings

Under the Ku-ring-gai LEP, development on the site (including Lot D in DP 347906 and Lot 4 in DP 713505, being 39 and 41 Lindfield Avenue) is subject to a maximum height control of 26.5m pursuant to clause 4.3 and the Height of Buildings Map.

The overall maximum height of the development has reduced by 0.8m, as demonstrated in **Table 1** and discussed in Section 3.1.5. The building height of the proposed development is discussed further in Section 4.2.

⁴ *Commercial premises means any of the following: business premises, office premises, or retail premises in line with the Standard Instrument definition.*

⁵ *Shop top housing means one or more dwellings located above ground floor retail premises or business premises.*

Clause 4.4 – Floor Space Ratio

The maximum floorspace ratio (FSR) control is 3.0:1, and the maximum FSR for the commercial premises component on the site is 1.2:1. The retail FSR of MOD 3 is 0.68:1 which is below the FSR control for commercial premises, however the total proposed FSR is 3.91:1 which exceeds the total FSR control by 0.91: 1. The FSR of the Modified Project is discussed in Section 4.2.

Clause 6.6 – Ground floor development in business zones

Clause 6.6 of the Local Centres LEP seeks to ensure that active uses are provided at street level to encourage the presence and movement of people. The proposal maintains activation of all street frontages through retail tenancies, shopping centre entrances and various residential lobbies. These attributes are largely consistent with previous versions of this proposal and this clause is satisfied.

Clause 6.7 – Minimum street frontages for lots in business zones

Clause 6.7 requires buildings which are more than 2 storeys in height to have a primary street frontage of at least 20 metres. The proposed development satisfies this control as it provides the following street frontages:

- Lindfield Avenue – 60.2m (increased from 48);
- Kochia Lane – 32m; and
- Havilah Lane – 61.35m.

4.2 Built Form

The built form of MOD 3 substantially retains the key parameters of the approved envelope and has only been amended to utilise and incorporate Lot D in DP 347906 and Lot 4 in DP7136505 being 39 and 41 Lindfield Avenue into the development. As shown in the comparison photomontages (refer to **Appendix F**), the bulk of the development changes only to a minor extent when viewed from the south-east car park (i.e. the future Town Square), Lindfield Avenue, Havilah Avenue and Kochia Lane. Furthermore, the amendments do not result in any change to the FSR of the overall development, since the position adopted within the MOD 2 Preferred Project.

Whilst the proposed modifications increase the length of the development along Lindfield Avenue and to a minor extent Havilah Lane (i.e. by 1.8m), the articulation of both the Lindfield Avenue and Havilah Lane frontages provide a balanced and high quality design, which retains the structural grid and rhythm of the previously approved development.

Furthermore, the inclusion of 39 and 41 Lindfield Avenue within the development and the extension of the residential towers to the north-east site boundary in response to the proposed future development at 43-47 Lindfield Avenue will provide an high quality and modern streetscape appearance.

Overall, the amendments to the bulk and scale of the development are considered acceptable for the following reasons:

- the development continues to provide a high quality, architecturally designed development;
- the proposal incorporates the previously isolated land parcels at 39 and 41 Lindfield Avenue;
- the overall height of the development is reduced by 0.8m;
- the development continues to provide an overall horizontal proportion compared to its vertical proportion;

- the development continues to provide an active street frontage to both Havilah Lane and Lindfield Avenue and provides further activation to Kochia Lane;
- the setbacks are largely comparable to the approval or modified to provide a more suitable built form outcome;
- the development proposed within MOD 3 does not result in any significant additional traffic impacts;
- the development proposed within MOD 3 will not generate any additional adverse impact on neighbouring properties;
- the development continues to be consistent with the aims, objectives and principles of SEPP 65 and generally meets the key rules of thumb within the Residential Flat Design Code;
- no additional environmental impacts (which have not been considered in the Approved Project) will result from the MOD 3 amendments;
- the development will continue to positively contribute to the area and provide a high visual quality and increased amenity to the streetscape; and
- the MOD 3 development will not adversely impact upon the heritage significance of any surrounding heritage items.

4.2.1 Height

As discussed in Section 3.1.5, the overall height of the proposed development has been lowered by 0.8m due to the deletion of the height requirement contained within the Right of Way easement at Lower Ground Floor level. The maximum building height of the Lindfield Avenue building has reduced from 30.64m to 29.84m and the maximum building height of the Havilah Lane building has reduced from 27.86m to 27.06m. This overall reduction in height results in less of the development penetrating the 26.5m Ku-ring-gai Local Centres LEP height control as illustrated in **Figures 2 and 3** and the height plane drawings at **Appendix F**.

4.2.2 Setbacks

As set out in Section 3.1.6, the setbacks proposed within MOD 3 are either unchanged or are reduced to a very minor extent. As noted, the minor encroachment into the side setback adjacent to the 43-47 Lindfield Avenue and 9 Havilah Lane development site is proposed in order to respond to the proposed development's design which is to be built to the site boundary. Furthermore, the proposed setback encroachment is not considered to impact upon the amenity of the future residents within either development.

The increase in the size of the balcony within Unit 111A will provide a more useable private open space area and increase in residential amenity for that particular unit. It does not push the building line further south than the already approved minimum setback or further than the awning line at Ground Floor level.

It is considered therefore, that the minor amendments to the setbacks result in better outcome than the MOD2 Preferred Project and indeed the Approved MOD 1 Project.

4.3 Visual Impact

Perspective images have been prepared by Crone Architects Pty Ltd and are included in **Appendix F**. In addition, Crone Architects Pty Ltd have also undertaken a comparable study between the MOD 2 Preferred Project and the MOD 3 Project. It is clear from these comparison images that the MOD 3 Project provides only minor changes to the appearance of the development, and those amendments improve the architectural outcome of the development. Overall, it is considered that the MOD 3 Project continues to provide:

- a strong and visually interesting response to the Lindfield Avenue streetscape, incorporating 39 and 41 Lindfield Avenue and providing a linkage to the proposed development at 43-47 Lindfield Avenue;
- increased articulation and activation of the Kochia Lane façade, whilst ensuring that the visual privacy of neighbours is retained; and
- a high quality and contemporary entrance to the development from Havilah Lane.

4.4 Traffic and Parking

The traffic and parking characteristics of the Modified Project have been assessed by Varga Traffic Planning (**Appendix N**). Their findings are summarised below.

4.4.1 Traffic Generation and Intersection Performance

The existing two way traffic flows on the roads in the vicinity of the site during the morning and afternoon peak periods are as follows:

- Pacific Highway – 3,300-3,800 vehicles per hour (vph);
- Havilah Street – 500-700 vph;
- Lindfield Avenue – 750-1,200 vph;
- Tryon Avenue – 400 vph;
- Kochia Lane – 70-100 vph (afternoon peak only); and
- Havilah Lane (northbound) – 60 vph (afternoon peak only).

Based upon the nominated traffic generation rates for shopping centres and high density residential flat buildings within the Roads and Maritime Services (RMS) publication *“Guide to Traffic Generating Development”*, and Halcrow’s *“Trip Generation and Parking Demand Surveys of Shopping Centre Analysis Report”* (September 2011), the Modified Project is anticipated to yield the following traffic volumes:

Table 7 – Projected traffic generation potential

Component	Thursday Morning (vph)	Thursday Afternoon (vph)
Supermarket (1,667m ² GLFA)	31	65
Speciality Retail (661m ² GLFA)	13	26
Residential (141 Apartments)	41	41
TOTAL	85	132

Varga considers however, that the likely traffic generation potential of the Modified Project will be considerably less than the figures in **Table 7** suggest as:

- a substantial proportion of customers of the supermarket and retail shops are likely to be residents of the development or other high density development within the vicinity, or railway and bus commuters; and
- traffic generated by the retail component is likely to include an element of 'passing trade' or 'linked trips' drawn from existing traffic flows which are already using the adjacent road network.

Notwithstanding this, SIDRA analysis of the projected traffic generated by the proposed MOD 3 development has found that:

- the Pacific Highway & Havilah Street/ Balfour Street intersection will operate at a Level of Service 'B', which is the same level of service as the MOD 2 scheme and indeed the Approved MOD 1 scheme; and
- the Lindfield Avenue & Tryon Avenue intersection will operate at a Level of Service 'A', which is the same level of service as the MOD 2 scheme and approved MOD 1 scheme.

In conclusion, Varga considers that the proposed development will not have any unacceptable traffic implications in terms of road network capacity and will not require any upgrades to nearby roads and intersections.

4.4.2 Car Parking

The off-street parking requirements for the site are provided within the Ku-ring-gai Local Centres Development Control Plan (although this DCP is not strictly applicable to Part 3A projects). However, the parking rates for the MOD 3 Project have been generally calculated with reference to the approved ratios in the Approved Project.

Table 8 provides a comparison of the parking rates against the parking provision within the Approved Project and the MOD 2 Preferred Project.

Table 8 – Parking provision comparison

	Local Centres DCP	Approved Project (MOD 1 – 112 apts)		MOD 2 PPR (March 2015 – 122 apts)		MOD 3 Application (March 2015 – 141 apts)	
		Car Space Provision	Approved Ratio	Car Space Ratio Requirement	Car Space Provision	Car Space Ratio Requirement	Car Space Provision
Residential Car Spaces	111.4-159	105	0.94 spaces/unit	114.7 spaces	149 spaces	132.5 spaces	155
Residential Visitor Spaces	23.5	25	1 space/4.48 units	27.2 spaces	28 spaces	31.5 spaces	24
Retail Public Spaces	65.9-83.6	44	1 space/54m ² retail GFA	50.9 spaces	48 spaces	50.4 spaces	62
Retail Staff Spaces	16.5-21	10	22.7% of retail spaces	11.6 spaces	13 spaces	11.5 spaces	14
TOTAL	217.3-287.1	184	n/a	204.4	238	225.9	255

Table 8 demonstrates that the proposed split and number of car spaces provided within MOD 3:

- complies with the Local Centres DCP requirement for residential car spaces, but provides 22.5 additional spaces than the approved ratio;
- complies with the Local Centres DCP requirement for residential visitor spaces, but provides 7.5 less spaces than minimum required under the approved ratio;
- provides 4 less than the Local Centres DCP requirement for retail public spaces but provides 11.6 additional spaces than the approved ratio; and
- provides 2.5 less than the Local Centres DCP requirement for retail staff spaces but provides 2.5 additional spaces than the approved ratio.

Whilst there is a minor shortfall in the provision of retail spaces when assessed against Council's DCP requirements, the actual retail provision exceeds the minimum required if the approved car parking ratio is applied.

Furthermore as set out within the Traffic and Parking Assessment (**Appendix N**) there is substantial car parking capacity which is readily available for retail patrons and retail staff within the vicinity of the site at all times of the day during both business hours and after hours. Therefore the proposed parking provision is considered to be acceptable especially as it is considered that the actual parking demand expected to be generated by the development is anticipated to be less than the Local Centres DCP envisages, due to a substantial proportion of retail customers expected to be railway and bus commuters.

In addition, Varga confirms that the geometric design layout of the proposed car parking facilities have been designed to comply with the relevant requirements specified in AS2890.1 in respect of parking bay dimensions, ramp gradients and aisle widths.

4.5 Residential Amenity

The residential component of the proposed development has been designed to achieve a high level of residential amenity. The key elements that warrant consideration in regard to MOD 3 are set out below.

4.5.1 Solar Access

Within the Residential Design Flat Code (RFDC) the 'rule of thumb' for solar access seeks that at least 70% of living rooms and private open spaces receive a minimum of three hours direct sunlight access between 9am and 3pm in mid-winter and in dense urban areas a minimum of two hours may be acceptable.

In relation to this, we note that the Department of Planning & Environment has previously accepted that the site is located within a dense urban area and that the provision of 2 hours of solar access into the living rooms and/or private open spaces of the residential units between 9am and 3pm is acceptable.

Furthermore, the 'rule of thumb' seeks the number of south-facing single aspect units to be limited to 10% of the total number of units. Accordingly, the overall solar access to living areas and private open spaces within MOD 3 between 9am and 3pm on June 21 (winter solstice) has been assessed by Cundall (**Appendix L**).

The results of the assessment confirm that:

- 51% of units have 2 hours of solar access directly into the living room;
- 72% of units have 2 hours of solar access into the living rooms and/or private open space; and
- no southerly single aspect apartments are proposed.

Table 9 provides a comparison between the Approved (MOD 1) Project, the MOD 2 Preferred Project and the MOD 3 development.

Table 9 – Solar access provision comparison

	Approved Project (MOD 1)	MOD 2 Preferred Project	MOD 3
Total number of units	112	122	141
% of units with 2 hours solar access into living rooms	47%	52%	51%
% of units with 2 hours solar access into living rooms and/or private open space	68%	72%	72%
Number of southerly single aspect apartments	0	0	0

Table 9 demonstrates that the proportion of residential units within the MOD 3 development continues to achieve a better outcome than the approved position under the MOD 1 scheme and a similar outcome to the MOD 2 Preferred Project.

4.5.2 Natural Ventilation

The RFD 'rule of thumb' for natural ventilation seeks that 60% of units be naturally cross ventilated. The natural ventilation characteristics of the residential apartments within the MOD 3 development has been assessed by Cundall (**Appendix L**) and the results confirm that 55% of apartments (those that are through apartments or corner apartments) will be naturally cross-ventilated within the recommended maximum building depth of 10m-18m. This represents a deficit of 9 apartments.

Notwithstanding this, it is noted that an additional 56 single aspect apartments (which were not counted as being naturally cross-ventilated) are proposed within the MOD 3 development. These apartments have been planned so that the bedroom is situated on the external line of the façade adjacent to the balconies enabling these bedrooms to have openings on to two facades providing cross-ventilation to these rooms. Whilst 93% of the single-aspect apartments that are not counted as fully ventilated they are considered to be partially cross-ventilated.

It is therefore considered that the objectives of the RFD in this respect are generally achieved in that:

- the lounge areas and bedrooms (habitable rooms) have direct access to fresh air; and
- the open plan nature of the single aspect apartments will assist in the natural ventilation of the non-habitable areas.

4.5.3 Communal Open Space

The RDFC requires a minimum 25% of the total site area to be communal open space. The proposed development provides 22.6%. Whilst this is below the RDFC 'rule of thumb', the actual size of the communal open space area has increased by 198.3 m² when compared to the MOD 2 Preferred Project and provides slightly more (in percentage terms) than the MOD 1 Approved Project (which provides 22%).

Given its location within a shopping centre, proximity to the railway station and the emphasis of the Local Centres LEP and DCP controls to activate the street frontages, the proposed communal open space provision is considered acceptable.

Furthermore, the revised design, as illustrated in the Landscape Plans at **Appendix G**, provide an area which is free of mechanical plant infrastructure and the skylight therefore provides a better quality environment for the residential occupiers of the development than previously.

4.5.4 Overshadowing

The shadow diagrams included at **Appendix F**, illustrate that whilst the proposed development results in a larger area being overshadowed at certain times, at other times the extent of the shadows are reduced due to the reduction in overall development height. In particular, the anticipated shadows that will be cast over the 'future Town Square' area and the 1-21 Lindfield Avenue building on June 21 will be reduced and any additional shadows are generally only cast over Lindfield Avenue, the Lindfield Railway platforms and the development itself. Furthermore, any additional shadows will not result in less than 3 hours of solar access being achieved by any surrounding residential properties.

4.5.5 Building Separation

The building separation of 18.25m between the internal facing apartments of Lindfield Avenue tower and the Havilah Lane tower remains unchanged as does the separation distance between the apartments fronting Havilah Lane and the neighbouring apartments located on the north-eastern side of Havilah Lane.

At the time of submitting the original Project Application or subsequent Modification Applications, no other forms of development were proposed or in the pipeline on the adjacent site to the north. However as noted in Section 2.1.1, an application for a mixed use development, including 33 residential apartments, which encompasses 43 Lindfield Avenue and 9 Havilah Lane is currently being considered by Ku-ring-gai Council.

Accordingly, minor design changes have been incorporated into the MOD 3 application in order for the development to respond to the proposed neighbouring development. As shown in **Figures 4 and 5**, the neighbouring development is proposed to be built with elements built to the boundary at all levels adjacent to both Lindfield Avenue tower Havilah Lane tower. Therefore the northern ends of the Lindfield Avenue tower extends to the boundary for a portion up to Level 2 only and the Havilah Lane tower has extended to the boundary for a portion at every level in response to the proposed neighbouring development. It is considered that the proposed response improves the design outcome at the interfaces between both developments and prevents narrow slots between the buildings.

Neither development achieves the required building separation distances as set out within the RDFC 'rules of thumb', notwithstanding this, it is considered that the proposed design modifications within MOD 3 are acceptable and are consistent with the building separation objectives in that:

- both developments are scaled with an appropriate massing to support the desire of Council to provide an eastern retail core and 'main street' along Lindfield Avenue, with a consistent street wall, and contiguous awnings of a commercial nature;
- the visual and acoustic privacy of future residents will not be adversely impacted;
- the proposed design modifications as set out in Section 3.1.6 do not give rise to any unacceptable overshadowing impacts upon any adjacent residential developments (refer to Section 4.5.4); and
- the provision of communal open space within the development is maximised within the site's urban context.

4.6 Heritage

The subject site is not listed as an item of heritage significance in any statutory instrument applicable to the site. However it is in the vicinity of a row of shops at 1-21 Lindfield Avenue and St Albans Anglican Church at 1-5 Tryon Road, which are listed as items of local heritage significance. Furthermore, the site is also in the vicinity of the Lindfield Railway Station Group, which is listed as a heritage item on the *Railcorp S170 Register*.

Given the proposed amendments to the development primarily relate to the Lindfield Avenue part of the development, a Statement of Heritage Impact (**Appendix O**) has been prepared by Graham Brooks & Associates to assess the overall heritage impact of the Modified Project upon the established significance of the local heritage items.

The key findings of the assessment are as follows:

- The proposed extension of the balcony of apartment 111A and the inclusion of a full height screen on the south-eastern corner of the building does not protrude beyond the established line of the development or awning and therefore does not have an additional impact upon 1-21 Lindfield Avenue. It is a modest, contemporary design response using neutral materials and is considered acceptable within the buildings context.
- The proposed extension of the retail podium and Lindfield Avenue residential tower within the north-western part of the site is a considerable distance from 1-21 Lindfield Avenue and therefore will have no impact upon the heritage significance of the heritage item.
- The proposed modifications will not affect the significance or presentation of the Lindfield Avenue Railway Station Group.
- The proposed modifications will have no adverse impact upon the established views to and from either 1-21 Lindfield Avenue or the Lindfield Avenue Railway Group.

Overall, the Statement of Heritage Impact concludes that the proposed modifications to the design of the development will have a neutral outcome in heritage terms, as the work is regarded as having no greater impact upon the nearby listed items than the Approved Development (i.e. MOD 1) and have no impact on the heritage quality of the locality.

4.7 Acoustic Impacts

Acoustic Logic have prepared an Environmental Noise and Vibration Impact assessment for the proposed MOD 3 development which assesses the potential rail noise and vibration and traffic noise impact on the amenity of the future residents within the development and existing residents in surrounding residential properties.

This assessment updates their assessment, dated 30 September 2010, which was approved with the original Project Application and is referred to in the Statement of Commitments. The revised assessment report (**Appendix P**) confirms that the previously approved recommendations in regard to glazing of windows and sliding doors will ensure that the noise from the surrounding roads and the railway line will reduce internal noise levels to within the nominated criteria for the various internal spaces.

Furthermore an acoustic assessment of the loading dock has been conducted which identifies the potential acoustic impacts which could arise during the operation of the loading dock and predicts the resultant noise levels at the nearest surrounding residence. Acoustic Logic confirm that provided the following acoustic treatments are installed and/ or implemented, no unacceptable acoustic impacts arising from the operation of the loading dock will arise:

- operating hours for the loading dock, deliveries, garbage removal, etc are not to be conducted during night time hours;
- bail and/or garbage compactors are to be used only within the loading dock areas or waste rooms;
- loading dock perimeter walls are to be fully enclosed from the external environment;
- neoprene rubber buffers are to be installed on the vertical face of the loading dock where vehicles park to absorb impacts;
- vibration isolated floor matting is to be installed to the areas of the loading dock where stacking of pallets and the like are required;
- all entry grates and grills are to be securely fixed;
- the loading dock does not accept or depart trucks during night time hours;
- the roller shutter door is to be closed during periods when loading and unloading is being undertaken; and
- trucks are not to be stacked waiting for access to the dock adjacent to residential properties and the use of radio equipment is to be used to ensure this does not happen.

In accordance with Condition G7, the loading dock management plan will include the above operational requirements.

Furthermore, in accordance with Condition F2 of the Project Approval, the proposed mechanical ventilation system (in isolation and/or in association with other mechanical ventilation equipment), will not be audible when in operation within a habitable room in any other residential premises during the following times:

- before 7am and after 10pm Monday to Friday
- before 8am and after 10pm Saturday, Sunday and public holidays.

The operation of the unit outside the above hours will not emit noise greater than 5dBA above the background noise level when measured at the nearest adjoining boundary. Written confirmation from an acoustic engineer that the development achieves the above requirements will be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

4.8 Water Cycle Management

Insync Services has prepared the stormwater drainage system for MOD 3 (**Appendix H**). Overall, it can be concluded that subject to implementation of the proposed stormwater drainage system, no major impacts relating to water cycle management would preclude the proposed development.

4.8.1 Stormwater Drainage

The proposed stormwater drainage system for the proposed development will allow water to drain from the roof levels, balconies and the landscaped podium to the rainwater storage tank, and then any overflow will be directed to the on-site detention storage tank.

Insync Services has calculated that the total minimum storage requirement of 120.18 m³ has been achieved through the provision of the on-site detention tank which has an effective storage volume of 135.398m³.

4.8.2 Rainwater Retention

The rainwater harvesting system will enable the development to readily comply with the BASIX requirements and conserve and reuse water for the following purposes:

- irrigation to the communal open space located at the Level 1 podium to an area of not less than 476.5m²; and
- water supply to the communal car wash facility.

Furthermore, Insync Services confirm that the total available rainwater supply for the development is 43.508kL/week, which readily exceeds the minimum BASIX requirement and capacity of the rainwater storage system is 89.208m³, which considerably exceeds the minimum required tank capacity of 33.693m³.

4.8.3 Water Quality Treatment

In order to minimise any potential adverse impacts from the proposed development, the proposed water quality treatment processes as described in the Stormwater Drainage Report (**Appendix H**) and in Section 3.1.11 will ensure that the proposed development will meet Council's water quality control objectives and minimum requirements in terms of water quality.

4.9 Waste Management

A Waste Management Plan (WMP) has been prepared by The Mack Group for the operational stage of the development (**Appendix Q**). Based on the waste generation rates set out in Ku-ring-gai DCP No 40 (dated May 1998), the estimated volumes of waste generated are set out in **Tables 10** and **11** below.

Table 10 – Estimated volume of residential waste

	General Waste (L/week)	Comingled Waste (L/week)	Paper Waste (L/week)
Lindfield Avenue (Building A)	9,900	4,620	4,620
Havilah Lane (Building B)	7,260	3,960	3,960

Table 11 – Estimated volume of retail waste

	General Waste (L/week)	Recyclable Waste (L/week)
Supermarket	28,006	28,006
Other	2,314	2,314

In order to cater for these anticipated volumes of residential waste, the number and type of bins, as set out in **Table 12** and as shown on the Architectural Drawings at **Appendix F** will be located within the relevant garbage storage areas.

Component	General Waste	Comingled Waste	Paper Waste
Lindfield Avenue (Building A)	15x 660L bins	7 x 660L bins	7 x 660Lbins
Havilah Lane (Building B)	11 x 660L bins	6 x 660L bins	6 x 660L bins

In terms of the retail tenancies, the supermarket will provide a suitably sized bin(s) for comingled waste, which will be determined by the waste contractor based on the store requirements. The bin(s) will be collected as required by a private waste collector. For the other retail tenancies **Table 12** sets out the number and type of bins and number of pickups (by private contractor) per week.

Table 12 – Number of bins provided within the retail garbage storage areas

	General Waste	Pick Up	Recyclable Waste	Pick Up
Speciality retail	3 x 240L bins	4 pick-ups/week	3 x 240L bins	4 pick-ups/ week

The WMP sets out that the long terms aim of the waste management strategy for the proposed development is to provide an ongoing and co-ordinated waste management service that satisfies mandatory authority requirements and is adaptable to changing operation needs. Accordingly, the waste management strategy will continually be evaluated by Centre Management to improve the service provided and to achieve NSW Government's residential and retail waste reduction targets, through improved recycling methods and aiming to minimise waste.

4.10 Contamination

Douglas Partners have undertaken detailed site investigations at 23-41 Lindfield Avenue and 9-11 Havilah Lane and have prepared a report which updates the assessment regarding the potential for contamination on the site (**Appendix R**). Overall, Douglas Partners confirm that the site is suitable for the proposed development subject to the implementation of the recommendations contained within the report.

4.11 Geotechnical and Hydrogeological Implications

An updated Geotechnical and Hydrogeological Investigation report has been prepared by Douglas Partners (**Appendix S**) which details the findings of recent geotechnical and hydrogeological investigations of 23-41 Lindfield Avenue and 9-11 Havilah Lane. In addition, Douglas Partners provides a number of detailed recommendations in relation to site excavation, retention, foundations and site drainage. All relevant recommendations will be implemented during the construction process to ensure that no off-site impacts are generated.

4.12 Accessibility

PSE Access Consulting have assessed the MOD 3 development against the relevant provisions of the Building Code of Australia/ National Construction Code 2014 (BCA/NCC), Australian Standards, Ku-ring-gai Council DCP, and the *Disability Discrimination Act 1992* (DDA). Their report is included at **Appendix T**.

The report specifically assesses:

- Car parking;
- Residential/adaptable housing;
- Common features; and
- Security and accessibility separation.

Overall, PSE confirm that all the areas of compliance have been catered for and the requirements of the Ku-ring-gai Local Centres DCP have generally been implemented in the design and 15 of the 141 units (i.e. 10.6%) will be adaptable. Furthermore a total of 39 units (i.e. 27.7%) will be visitable and whilst this falls short of the required 70% stipulated within Council's Local Centres DCP, there is no minimum standard required within any relevant Australian Standard.

Furthermore, it is considered that equitable access to and within the development, the retail component and residential dwellings will be provided in accordance with AS 1328.1, AS 4299, the DDA and BCA/NCC-2014 Part D3.

4.13 BCA and Fire Engineering

BCA Logic has undertaken an assessment of the proposed development against the provisions of the Building Code of Australia 2014 (BCA 2014) (**Appendix U**).

The assessment confirms that the proposed development can readily achieve compliance with the Performance Requirements of the BCA 2014. However where full compliance cannot be achieved alternative solutions will be applied.

Furthermore, RAWfire (**Appendix V**) confirm that the modifications to the design of the development do not compromise the proposed fire safety strategy, or compromise conformance with the building regulations. However, RAWfire will develop a fire safety strategy that will satisfy the fire safety Performance Requirements of the BCA 2014.

5.0 Justification for Modifications to Conditions

The justifications for the proposed modifications to the Conditions as set out in Section 3.2 are provided below.

A1. Development Description

In line with the modifications sought to the development, the amendments to Condition A1 are sought to ensure that the description of development accurately describes the Project as modified.

A2. Development in Accordance with Plans and Documentation

In line with the modifications sought to the development, the amendments to Condition A2 are sought to ensure that the description of development accurately describes the Project as modified.

B2. Further Approvals

As a result of the proposed modifications to the project, wording has been revised to delete the further approval requirement for fit-out and use of the major retail tenancy as a supermarket, but seek that any modifications to the proposed supermarket would be dealt with under Part 4 of the EP&A Act.

C1. Car and Bicycle Parking Provision and Storage

In line with the modifications sought to the development, the number of car spaces required for the development has been modified. Accordingly, an amendment is sought to Condition C2 to apportion the car spaces in a similar manner as proposed.

C2. Landscape Plan

In line with the modifications sought to the development to provide planter boxes within northern section the residential levels in both towers, wording is proposed to clarify that the 1m soil depth is to apply to the communal open space podium only.

C5. Development Contributions

As a result of the proposed modifications to the apartment mix and amount of retail floorspace within the development, Conditions C5 is sought to be amended to reflect the modified Project.

C15. Stormwater Management Plan

The proposed amendment to Condition C15 is to update the date reference in the wording of the condition, given the plans referenced will be superseded by the submitted Hydraulic Service Drawings.

C19. Energy Australia Requirements

Revision of wording to reflect the name change from Energy Australia to Ausgrid.

C21. Compliance Report

This condition is proposed to be deleted entirely as Aqualand seeks to satisfy all conditions of this approval singularly and therefore a report which addresses compliance with all relevant conditions is not considered necessary.

D5. Dilapidation Survey and Report (Private Property)

Reference to 39-41 Lindfield Avenue is proposed to be deleted within this condition as this property is now under the ownership of Aqualand and is to be brought into the proposed development under MOD3.

D22. Erosion and Sediment Control

This condition is proposed to be deleted entirely as it is considered a replication of Condition D13.

E1. Hours of Work

This condition is proposed to be amended in order to extend the hours of work on the site from 5pm to 6pm on weekdays and from 12noon to 3pm on Saturdays. Start work times and a ban on work on Sundays and Public Holidays is to remain as approved.

The main reason for the minor extension to hours of work is to reduce the overall construction period for the project and enable the site to run efficiently and effectively, when factoring set up and clean up times at each end of the day.

E16. Drainage to Street

This condition is proposed to be amended to reference the Ku-ring-gai Local Centres DCP – Part 2, where applicable.

E31. Disposal of Seepage and Stormwater

This condition is proposed to be deleted entirely as it is duplicated by Condition E41.

E39. Services

This condition is proposed to be deleted entirely as it is duplicated by Condition E15.

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

This condition is proposed to be deleted entirely as it is duplicated by Condition E18.

F2. Principal Certifying Authority to Arrange Qualified landscape Architect

Amendments are proposed to this condition to allow the consolidation of Condition F7 into a single condition under F2 and avoid replication.

F3. Works as Executed Plans

This condition is proposed to be amended to reference the relevant Occupation Certificate, as Aqualand propose to pursue a staged occupation certificate process.

F5. Structural Inspection Certificate

This condition is proposed to be amended to reference the relevant Occupation Certificate, as Aqualand propose to pursue a staged occupation certificate process.

F6. Waste and Recycling Collection Contract

This condition is proposed to be amended to reference the relevant Occupation Certificate, as Aqualand propose to pursue a staged occupation certificate process.

F7. Disposal of Seepage and Stormwater

This condition is proposed to be deleted entirely as it is to be incorporated into a revised condition F2.

F11. Retention and Re-use Positive Covenant

This condition is proposed to be amended to reference the relevant Occupation Certificate, as Aqualand propose to pursue a staged occupation certificate process.

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

This condition is proposed to be amended to reference the relevant Occupation Certificate, as Aqualand propose to pursue a staged occupation certificate process.

F13. Reinstatement of Redundant Crossings and Completion of Infrastructure Works

This condition is proposed to be amended to reference the relevant Occupation Certificate, as Aqualand propose to pursue a staged occupation certificate process.

F14. Compliance with BASIX Certificate

The proposed modification to Condition F14 is to be updated to reference the final Occupation Certificate and update reference to the BASIX Certificate as submitted as part of this modification application.

F17. Restrictive Covenant to Solar Access Rights

This condition is proposed to be amended to reference the final Occupation Certificate and wording change to point (b) as the configuration of the building no longer requires windows in the northern facade of the Western Tower at Levels 5-7, inclusive.

F18. Easement for Waste Collection

This condition is proposed to be deleted entirely as it is to be incorporated into a revised Condition F10.

F19. Dedication of Land

This condition is proposed to be amended to reference the final Occupation Certificate and reference the dedication of land which is between the finished floor level of the footpath at Ground Floor to the lower level of Level 1, not including signage zones.

F20. OSD Positive Covenant/Restriction

This condition is proposed to be deleted entirely as it is to be incorporated into a revised Condition F11.

F22. Provision of Copy of OSD is Council is not the PCA

This condition is proposed to be deleted entirely as it is to be incorporated into a revised condition F12.

F23. Certification of Drainage Works

This condition is proposed to be deleted entirely as it is to be incorporated into a revised Condition F3.

F24. Disposal of Seepage and Stormwater

This condition is proposed to be deleted entirely as it is to be incorporated into a revised condition F3.

F25. Basement Pump-Out Maintenance

This condition is proposed to be amended to reference the relevant Occupation Certificate, as Aqualand propose to pursue a staged occupation certificate process.

F26. Fire Safety Certificate

This condition is proposed to be amended to reference the relevant Occupation Certificate, as Aqualand propose to pursue a staged occupation certificate process.

F27. Construction Works in Public Road – Approved Plans

This condition is proposed to be amended to reference the relevant Occupation Certificate, as Aqualand propose to pursue a staged occupation certificate process.

G2. Road Signage

Wording amended to reference Roads and Maritime Services.

6.0 Conclusion

This Environmental Assessment Report (EAR) has been prepared to accompany the third application to modify the Minister for Planning & Infrastructure's (the Minister's) approval of Project Application MP08_0244 for the mixed use development at 23-37 Lindfield Avenue, and 7 and 11 Havilah Lane, Lindfield.

The driving factor in amending the Project once again is the integration of 39-41 Lindfield Avenue into the development and the requirement to refine the development further to meet the requirements of Aqualand.

The key modifications proposed to the MOD 2 PPR presently under assessment comprise:

- incorporation of 39-41 Lindfield Avenue into the site, increasing site area by approximately 492m²;
- provision of 19 additional units and amendments to the apartment mix within the Lindfield Avenue tower;
- provision of 17 additional car parking spaces overall;
- increase in overall GFA by 1,919m²;
- reduction in retail GFA by 30m²;
- increase in residential GFA by 1,949m²;
- increase in residential FSR by 0.11:1;
- reduction in retail FSR by 0.11:1;
- increase in communal open space area by 198.3m²;
- reduction in overall building height of the Lindfield Avenue tower by 0.8m;
- reduction in overall building height of the Havilah Lane tower by 0.8m; and
- provision of detail in terms of the fit-out, use and operation of the major retail tenancy as a supermarket.

Notwithstanding this, the architectural design of the proposed development has been substantially retained and the bulk and scale of the development has not considerably been altered.

Overall, the proposed amendments are considered acceptable for the following reasons:

- the development continues to provide a high quality, architecturally designed development;
- the development continues to provide an overall horizontal proportion compared to its vertical proportion;
- the development continues to provide an active street frontage to Havilah Lane;
- the overall height of the development has been reduced;
- the setbacks are either unchanged or modified in order to provide a more suitable built form, respecting the development under assessment to the north;
- the modified development does not result in any additional traffic impacts;
- the modified development will not generate any additional adverse impact on neighbouring properties;

- the development continues to be consistent with the aims, objectives and principles of SEPP 65 and generally meets the key rules of thumb within the Residential Flat Design Code;
- no additional environmental impacts (which have not been considered previously) will result from the modified Project;
- the development will continue to positively contribute to the area and provide a high visual quality and increased amenity to the streetscape; and
- the modified Project will not adversely impact upon the heritage significance of any surrounding heritage items.

The assessment of the MOD 3 Project therefore demonstrates that it will have no adverse environmental impacts that cannot be managed or mitigated.

We therefore request that the Secretary for the Department of Planning & Environment or her delegate approve this Modification Application.