

# Preferred Project & Response to Submissions Report

## Section 75W Modification Major Project MP08\_0211 (MOD 3)



23-41 Lindfield Avenue, 7 and 11 Havilah Lane

Mixed Use Development

Submitted to Department of Planning & Environment  
On Behalf of Aqualand

August 2015 ■ 14778

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## 1.0 Introduction

The third application to modify the approval of Project Application MP08\_0244 for the mixed use development at 23-41 Lindfield Avenue and 7 and 11 Havilah Lane, Lindfield was submitted to the Minister for Planning & Environment (the Minister) on 14 April 2015, on behalf of Aqualand Lindfield Pty Ltd (Aqualand). The Modification Application (herein referred to as the 'MOD 3 Application') was accompanied by an Environmental Assessment Report (EAR) pursuant to Clause 3(1) of Schedule 6A to the Environment Planning and Assessment Act 1979 (EP&A Act), that provides for the continued application of the provisions of the repealed Part 3A of the EP&A Act.

The MOD 3 Application was publically exhibited between 23 April 2015 and 29 May 2015. In total thirteen submissions were received, comprising three (3) from public authorities/ agencies and ten (10) from the general public.

Aqualand and its consultant team have reviewed and considered the Department of Planning and Environment's (the Department) comments and the public and agency submissions, and, in accordance with Clause 75H(6) of the Environmental Planning and Assessment Act 1979 E&A Act) have responded to the issues raised in this Preferred Project & Response to Submissions Report (Report).

In addition to this Report, updated plans and relevant additional consultant reports or information are included within the Appendices. Further detail is provided within this Report.

This Report should be read in conjunction with the following documents:

- the EAR prepared by JBA to accompany the original Project Application (Original Project Application) (dated November 2012);
- the Preferred Project Report for the original Project Application (Original PPR) prepared by JBA dated April 2011);
- the Section 75W Modification Application (MOD 1 Application), prepared by JBA (dated December 2012);
- the Section 75W Modification Application Preferred Project & Response to Submissions Report (MOD 1 PPR), prepared by JBA (dated May 2013);
- the Section 75W Modification Application (MOD 2 Application), prepared by JBA (dated November 2014);
- the Section 75W Modification Application Preferred Project & Response to Submissions Report (MOD 2 PPR), prepared by JBA dated March 2015; and
- the MOD 3 Application, prepared by JBA (dated April 2015).

## 1.1 Structure of the Report

The first part of this Report provides a detailed response to the key issues raised by the Department (Section 2), other Government agencies (Section 3) Ku-ring-gai Municipal Council (Section 4), and Public Submissions (Section 4).

Further minor design modifications, referred to as the 'MOD3 Preferred Project' are set out and assessed in Section 5. Section 6 sets out the final proposed modifications to the conditions of approval and the Statement of Commitments.

## 2.0 Department of Planning & Environment Issues and Proponents Response

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

### 2.1 Apartments within above ground level fronting Havilah Lane

#### 2.1.1 Shop top housing permissibility

*Residential uses are only permissible as shop top housing on the site. Further clarification and/or consideration should be given to the proposed apartments within the upper ground floor to ensure the development fits the definition of shop top housing. This should include consideration of relevant case law including *Hrsto v Canterbury City Council (No 2) [2014]* and *Blackmore Design Group v Manly Council [2014]*.*

#### Response

Aqualand have obtained legal advice in response to this item, provided at **Appendix B**. The advice confirms that the prohibition of 'residential flat buildings' as a type of residential accommodation in the Ku-ring-gal Local Environmental Plan (Local Centres) 2012 (KLEP(LC)) does not apply to prevent the Minister modifying the approval for the Approved Project (i.e this modification). This is on the basis that clause 80 of the Environmental Planning and Assessment Regulation does not apply and accordingly that the prohibition on residential accommodation in the KLEP(LC) does not prevent the Minister from modifying the approval

As such, the Minister may approve the Mod 3 S75W Application despite it including a use prohibited under the KLEP(LC).

#### 2.1.2 Acoustic assessment

*Should the proposed apartments be retained, a revised acoustic assessment report is required considering the potential noise impacts associated with the proposed operation of the loading dock on the proposed apartments.*

#### Response

As per the request, a revised Acoustic Assessment has been prepared by Acoustic Logic (provided at **Appendix C**). The Report considers the potential noise impacts associated with the operation of the loading dock on apartments, and confirmed the acoustic management treatment and controls to ensure amenity of future residencies is maintained. It is understood that these recommendations would be imposed as suitable conditions of approval. These were also set out in Section 4.7 of the S75W Environmental Assessment Report

The Report confirms that in providing all of the recommended treatments and controls detailed (**Appendix C**), the future acoustic amenity of the residences within the development will be protected and there will not be any undue adverse impact on surrounding residential receiver's (i.e properties adjoining the site in Havilah Lane) as a result of the operations within the loading dock.

In addition to the Acoustic Report, the relevant recommendations have been included as annotation on the revised Architectural Plans (**Appendix A**).

## 2.2 Urban Design

### 2.2.1 Façade treatment at Lindfield Avenue

*Further consideration should be given to the proposed façade treatment at Lindfield Avenue which may include the continuation of the approved architectural language and façade treatment at the northern extent of the Lindfield Avenue frontage.*

#### Response

It is understood that the request refers to extending the prominent white frame element for the extended length of the Lindfield Avenue Façade where the apartments address the Lindfield Avenue boundary.

As part of the development of the design for Modification 3 (MOD 3), the project architects reviewed alternatives for façade treatment for the northern extension of Building A on Lindfield Avenue while maintaining the approved architectural language.

This review included extending the prominent white frame element further north than its original location, however it was felt that this treatment amplifies the length of the façade and did not allow enough opportunity to transition to the smaller scale and bulk of the adjacent proposed development. It was considered that defining the frame as indicated on the plan achieves an appropriate balance between the horizontal proportion of the Linfield façade with the vertical break of the western most section.

As a result of further consideration to the façade treatment of Lindfield Avenue, Crone Partners believe that the current configuration as submitted provides a more sensitive transition to the adjacent development (as shown on the Architectural Plans at **Appendix A**).

## 2.3 Parking

### 2.3.1 Residential car parking numbers

*The residential car parking should be reduced in accordance with the original approved residential car parking rate of one car space per apartment.*

#### Response

Parking for the residential component of the development proposal has been reduced from 155 spaces to 141 spaces with a visitor component of 24 spaces, thereby satisfying Council's Parking Code which specifies a residential parking requirement in the range of 199 to 163 spaces. The resultant parking provision for the development is set out in **Table 1** below.

**Table 1** – Parking Provision – Lindfield Mod 3 S75W (August 2015)

| Component                  | MOD 3 PPR Parking Provision (August 2015) |
|----------------------------|---|
| Residential Car Spaces     | 141                                       |
| Residential Visitor Spaces | 24  |
| Retail Public Spaces       | 62  |
| Retail Staff Spaces        | 14  |
| TOTAL                      | 241                                       |

Parking for the retail component has not been increased and remains at 76 spaces. This represents a nominal shortfall of 7 parking spaces in circumstances where a substantial proportion of retail customers are expected to be railway and bus

commuters who will visit the shops when walking home from the adjacent bus/rail interchange.

The proposed supermarket and retail shops are ideally located for public transport users to facilitate the purchase of “daily needs” items such as bread, milk or fresh foods or vegetables without the need to drive a car to the site as a separate trip. The nominal shortfall of just 7 spaces is therefore considered to be appropriate in this instance.

### 2.3.2 Basement car park design

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

#### Response

A review of the basement car parking design has been carried out by the project architects and reviewed by Varga Traffic Planning Pty Ltd (**Appendix D**).

The ramp aisle width dimensions provided on Basement Levels 1 & 2 are consistent with the dimensions provided on the previously approved MOD1 & MOD2 plans. These dimensions also comply with (and exceed) the ramp width and aisle width dimensions specified in AS2890.1 – 2004.

It is noted also that Council did not raise this issue in its previous submissions when considering the original plans which were subsequently approved by the Department.

This item is addressed in further detail at **Section 4** and at **Appendix D**.

## 2.4 Residential Amenity

### 2.4.1 Loading dock operation hours

*Further consideration of reducing the loading dock operation hours to reduce the potential acoustic impact on adjoining properties is required.*

#### Response

As noted in **Section 2.1.2**, based on the acoustic treatments and controls detailed in the Acoustic Report (**Appendix C**) and compliance with the relevant noise level criteria, no unacceptable acoustic impacts will arise from the operation of the loading dock.

## 2.5 Other

### 2.5.1 Supermarket Plan of Management

*An updated Supermarket Plan of Management is required including consideration of trolley management within and outside of the site, and restricting heavy vehicle deliveries to off peak hours.*

#### Response

An updated Supermarket Plan of Management has been prepared and is provided at **Appendix E**. The Plan details the likely delivery patterns and times, noting that the majority of deliveries are ‘direct deliveries’ by small trucks and vans. The likely maximum number of larger vehicles would be approximately 3-5 per day.

A forecast delivery schedule (including waste collection) is provided as part of the Supermarket Plan of Management (**Appendix E**). This indicates that the majority of



deliveries occurring during the days are by van, with larger vehicles generally restricted to the morning and afternoon times (outside of peak hours). Furthermore, the Acoustic Report and Traffic and Parking Report confirm that there will be no adverse impacts as a result of the operation of the proposal, including deliveries.

Trolley management is considered at Section 11 of the Supermarket Plan of Management (**Appendix E**).

## 2.5.2 ESD practices for the supermarket

*An updated ESD report considering the ESD practices to be implemented as part of the proposed supermarket is required.*

### Response

An updated ESD report has been prepared by Cundall (**Appendix F**) that considers the ESD practices to be implemented as part of the supermarket and compliance with the relevant codes for energy efficiency.

The retail component of the proposal (including the supermarket) seeks to exceed the minimum ESD requirements through implementation of the following initiatives:

- Install low-flow water-efficient toilets and tap fittings;
- Install energy efficient lighting and controls;
- Separate collection and recycling of cardboard waste to minimise waste going to landfill;
- Divert from landfill (recycle and /or reuse) at least 80% of construction waste;
- Use best endeavours to select environmentally certified products and materials; and
- Use best endeavours to select responsible materials such as FSC certified timbers and best practice PVC.

The Statement of Commitments (**Appendix G**) includes the undertaking that the opponent will seek to implement all of the ESD initiative as indicated in the Cundall reports.

## 2.5.3 Visitable apartments

*Consideration should be given to designing proposed new and amended apartments as visitable apartments*

### Response

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.

A requirement for visitable apartments was not imposed on the previous Modification of the original application. The DPE is not bound to apply the Local Centres DCP to this application.

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.

## 2.5.4 Proposed Use of unallocated space in basement level 2

*Confirmation of the proposed use of the unallocated space in basement level 2 is required.*

### Response

As part of further design development and basement modifications, the 'unallocated space' on Basement Level 2 has been designed as the building manager's store. This change is shown on the revised Architectural Plans provided at **Appendix A**.

## 3.0 Government Agency Submissions and Proponent's Response

### 3.1 Roads and Maritime Service (RMS)

#### 3.1.1 Issue: SIDRA Analysis

*The RMS submission notes that it has reviewed the MOD 3 Application and requests that the applicant submits a copy of the SIDRA movement summary tables for this modification and for the previous modification (MP 08\_0244 MOD 2) to Roads and Maritime for assessment. The additional traffic volume increase is not considered significant, however the SIDRA analysis provided does not correspond with the anticipated increase in traffic volume.*

#### Response

The SIDRA movement summary tables for MOD 3 and MOD2 were submitted electronically to the Department via email on 26 June 2015. At the time of preparing this response, it understood that this has been forwarded by the Department to RMS, with no response provided at this stage.

### 3.2 Transport for NSW (TfNSW)

The TfNSW submission notes that it has reviewed the MOD 3 Application documentation and has no additional comments to provide.

Aqualand note's this response.

## 4.0 Ku-ring-gai Council Issues and Proponent's Response

The issues raised in Ku-ring-gai Council's submission are summarised in the following table, and presented with the proponent's response.

**Table 2 – Summary of Council issues and Proponent Response**

| Issues   | Summary  | Proponent's Response   |
|--|--|--|
| Additional Units   | 5 new units (G01B-G05B) have been added to the Ground Floor Plan. This aspect raises a question of permissibility. The placement of these units above driveways and loading dock areas does not qualify for shop top housing as those areas are only ancillary to commercial uses. If the proposal wishes to retain these 5 units, commercial/retail floor space should be located on the ground floor facing Havilah Lane directly beneath the units. | <ul style="list-style-type: none"> <li>Refer to <b>Section 2.1</b> of this RTS/PPR and legal advice at <b>Appendix B</b>.</li> <li>The advice confirms that the prohibition of 'residential flat buildings' as a type of residential accommodation in the (KLEP(LC)) does not apply to prevent the Minister modifying the approval for the Approved Project.</li> </ul>  |
|  | The 5 units provided on the commercial floor level are highly compromised in their amenity in terms of solar access, cross ventilation and basic minimal room sizes. In addition they have poor vertical separation from the significant commercial vehicular traffic which will service and use this development.   | <ul style="list-style-type: none"> <li>The proposed development, including units fronting Havilah Lane provide high levels of amenity to residential apartments.</li> <li>The units located on the ground floor exceed minimum recommended unit sizes, are well designed, provided private open space, and achieve in excess of 2 hours solar access in mid-winter.</li> <li>As detailed in the Noise Impact Assessment Reports, the internal amenity of these apartments will satisfy the nominated criteria for the various internal spaces.</li> </ul>  |
|  | Instead of the 5 units, a continuation of the retail floor provision from Lindfield Avenue to the Havilah Lane façade should be reinstated to this MOD 3.  | <ul style="list-style-type: none"> <li>The proposed modification seeks the inclusion of units on ground floor as shown on the Architectural Plans (<b>Appendix A</b>)</li> </ul>   |
| Relationship of Proposal to 43-47 Lindfield Ave and 9 Havilah Lane | It is noted that the proposal for the development at 43-47 Lindfield Avenue and Havilah lane cannot be relied upon as it has not been approved and may not take the shape as currently shown in those documents.   | <ul style="list-style-type: none"> <li>This is not considered to be a relevant consideration for the determination of this application, given its status.</li> <li>Despite this, the revised solar access and amenity calculations have taken a conservative approach and assumed the existence of the adjoining development. Noting that the proposal exceeds the recommend RFDC Solar access guide.</li> <li>A deferred commencement consent has been granted by the JRPP for the adjoining development generally as submitted but with deferred commencement conditions to meet the requirements of State Rail before a consent is issued.</li> </ul> |
|  | The (Mod 3) proposal has habitable rooms setback between 2m and 4.5m from the boundary, which does not meet the Department's RFDC Rule of Thumb. This is inadequate and has the potential to seriously impact on the visual and acoustic privacy and/or impact daylight and outlook of these units. It is recommended that the minimum   | <ul style="list-style-type: none"> <li>Any future development of the adjoining land is required to consider separation distances from surrounding development</li> <li>Regardless, given the design and orientation of the apartments, setback and variation to the separation distance is not considered to impact upon the</li> </ul>  |

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|                                | RFDC building separation distances be employed at the property boundary interface between the subject site and 43-47 Lindfield Avenue.   | amenity of the future residents within either development.   |
| Site Isolation                 | The proponent are encouraged to make a further approach to the owners of 2 Kochia Lane and provide the landowners with information on the future restrictions under the KLEP.  | <ul style="list-style-type: none"> <li>As noted in the S75W EAR, the previous owners of the site undertook extensive negotiations with the owners of 2 Kochia Lane in regard to purchasing their building and amalgamating the site into the proposed development. A fair and reasonable agreement could not be reached in both instances. When Aqualand purchased the site, discussions with representatives of the owners corporation of 2 Kochia Lane were also undertaken. On that occasion a fair and reasonable price could not be agreed and Aqualand decided not to pursue the matter further.</li> </ul>                        |
|                                | The Department is also requested to consider the implication of the isolation of the site and encourage the proponent to negotiate given the limited possibilities on 2 Kochia Lane under the KLEP and its corresponding DCP.  | <ul style="list-style-type: none"> <li>The potential isolation of 2 Kochia Lane has been extensively assessed throughout the life of this project and it has been demonstrated that it can be redeveloped in the future as a separate development.</li> <li>It is not considered reasonable for the proponent to provide further information in relation to how the 2 Kochia Lane site can be redeveloped as a standalone development.</li> </ul>  |
| Presentation of End Elevations | It is recommended that no windows be provided to adjacent properties as they have the right to building to their property line and any openings in this development would be rendered meaningless.   | <ul style="list-style-type: none"> <li>No change to the proposal.</li> </ul>   |
|                                | This development should accommodate all the separation requirements on its own site. There should be no expectation from the adjacent sites.   | <ul style="list-style-type: none"> <li>As set out in the S75W EAR, the setbacks proposed within MOD 3 are either unchanged or are reduced to a very minor extent of the approved scheme. The minor variation to side setbacks 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.</li> <li>Despite the above, given the design and orientation of the apartments, the proposed setback is not considered to impact upon the amenity of the future residents within either development.</li> </ul> |
|                                | It is recommended that the high sill windows to the boundary of 2 Kochia Lane be removed. Thought should be given to the material treatment and appearance of this end wall for the short to medium term as this wall will be highly visible from the future Lindfield town square area. | <ul style="list-style-type: none"> <li>As part of this modification the existing condition F17 – 'Restrictive Covenant to Solar Access Rights' is not proposed to be amended. The condition requires that a restrictive covenant shall be created removing any solar access rights to 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.</li> </ul>   |
| Communal Open Space            | The proposed communal open space is 22.6% of the site. This does not meet the RFDC Rule of Thumb. It is recommended that additional  | <ul style="list-style-type: none"> <li>The provision of 22.6% of site area as communal open space provides 2.6% more communal open than the</li> </ul>   |

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|                           | open space be provided on the roof tops of the buildings.   | <p>approved Development (i.e. MOD 2) which was considered to be a satisfactory outcome given the site's location and development constraints.</p> <ul style="list-style-type: none"> <li>■ In addition, the proposed new apartments are afforded generous sized balconies and the proposed development overall continues to meet the intent of the 'rule of thumb' within the RFDC and Apartment Design Guidelines, in that the development continues to provide residents with passive and active recreational opportunities and a pleasant outlook.</li> </ul> |
| Solar Access              | The JBA and Cundall reports claim that there are no single aspect and south facing apartments in the development. In fact the 24 single aspect south-west facing apartments represent 17% of the apartments in the development. As the design failure has not been acknowledged no justification for the poor standard of environmental performance has been provided.  | <ul style="list-style-type: none"> <li>■ Each typical floor has been assessed in the ESD Report (<b>Appendix F</b>) and it has been concluded that all apartments are considered to either be dual aspect or do not only face in a southerly direction.</li> </ul>   |
|                           | The ESD Report and the Design Statement state that 72% of units achieve 2 hours solar access in midwinter between 9am and 3pm according to the RFDC Rule of Thumb. This is incorrect. The Section 75W Modification shows that the figure is only 51%. This does not meet the RFDC Rule of Thumb for the living rooms and private open spaces of 70% of apartments in a development to receive 2 hours sunlight between 9am and 3pm in mid-winter in dense urban areas. Further, the proposal does not meet the Draft ADG Acceptable Solution 4L-1 5 for a maximum of 15% of apartments in a building receiving no sunlight between 3am and 3pm mid-winter.  | <ul style="list-style-type: none"> <li>■ A revised ESD Report has been prepared by Cundall that confirms the 72% of apartments achieve 2 hours of solar access to living rooms and/or private open spaces. This model also accounts for the neighbouring properties (including 43-47 Lindfield Avenue).</li> </ul>   |
|                           | The design also does not maximise the northern aspect (4L-1 1), and does not minimise the number of single orientation apartments facing west and south (4L-1 3) with 30 of 141 (21%) apartments meeting this description. The poor solar access performance of the proposal is considered to be significant and is of continuing concern and is without justification. It is recommended that alternative designs be explored that maximise solar access.  | <ul style="list-style-type: none"> <li>■ The proposed design maximises outlook and solar access within the development.</li> <li>■ The proposal demonstrates a good level of solar access, exceeding the recommended target of 70% within the RFDC</li> </ul>  |
| Natural Cross Ventilation | The proposal fails the 60% natural ventilation standard in the RDFC. The RDFC is a performance based code and contains guidance on alternative methods for achieving natural ventilation for single aspect apartments. The application documentation does not explain why these methods have not been applied to the subject development. The arguments that the units are partially naturally cross ventilated through bedrooms and that habitable rooms have fresh air are not accepted. All habitable rooms without exception must have adequate fresh air to meet the BCA/NCC minimum standards. It is recommended that alternative designs be explored to improve natural cross ventilation. | <ul style="list-style-type: none"> <li>■ Based on the updated review of the proposal 77 (55%) apartments comply with the cross-ventilation requirements of SEPP65 (as indicated in the diagrams provided at <b>Appendix F</b>).</li> <li>■ A number of top floor apartments have been provided with operable skylights and roof clerestory windows, which enables them to achieve cross ventilation.</li> </ul>  |

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| Kitchen Depth                   | The Design Statement states that 11 units exceed 8m to the rear of the kitchen by approximately 600mm. However analysis of the plans shows that 34 units exceed 8m to the rear of the kitchen. The justification that the additional depth is better in the apartments than in the common corridor is not accepted.   | <ul style="list-style-type: none"> <li>As noted in the S75W EAR, the RFDC/ADG sets broad parameters within which good design of residential flat buildings can occur, and by this virtue should be used as a general guideline for the assessment of residential flat development and not mandatory rules.</li> <li>The proposal involves a minor variation to the guidelines to ensure high quality internal layout and overall unit sizes, to create good spaces within apartments. In many instances, the variation from the 8m guide is negligible.</li> </ul> |
| Internalised Rooms              | Media rooms are highly internalised and greater than 8m from a window. It is recommended that apartment layouts be revised to address this issue and that these rooms be verified for compliance with the borrowed light and air provisions of the BCA/NCC.   | <ul style="list-style-type: none"> <li>The design of the media areas has been amended to remove the wall partitions and sliding doors to allow better integration with the adjoining living areas. The proposal is required to demonstrate compliance with the BCA and NCC as part of the issue of a Construction Certificate</li> </ul>   |
| Internalised Common Circulation | 117 of 141 (83%) of units are serviced by corridors that are not provided with natural light or ventilation. Mechanical ventilation and artificial lighting will be required for these spaces. It is recommended that each residential lobby be provided with a window.   | <ul style="list-style-type: none"> <li>The approved design does not include windows. Internalised corridors are able to be more efficiently controlled for heating and cooling with mechanical ventilation, rather than single aspect windows.</li> </ul>  |
| Visitability                    | The Section 75W Modification states that 39 of 141 (28%) of units are visitable. KLDCCP2013 would require 99 of 141 (70%) to be visitable. It is considered that only very minor changes are required to provide visitability. It is considered relatively easy to accommodate and should be incorporated to the betterment of the project.   | <ul style="list-style-type: none"> <li>Refer to <b>Section 2.5.3</b></li> </ul>  |
| Adaptable Apartments            | The Adaptation Detail Plans, Drawing No 6001 shows that the accessible bathroom in the 2B type B adaptable apartments does not have an AS 1428.1 compliant shower recess at pre-adaptation stage. In addition the adaptable apartments do not meet the requirements of AS4299. It is recommended that the apartment layouts be revised to address the issues raised.  | <ul style="list-style-type: none"> <li>A revised Adaptation Details plan is provided with the revised architectural drawings at <b>Appendix A</b>.</li> </ul>  |
| Signage details                 | The modification includes the fitout of the supermarket. A conceptual signage plan with signage zones has been provided however it is unclear whether the signage details are to be the subject of a separate application or whether these are to be determined by the development at construction stage. Reference to KPSO and DCP 28 on the signage plan Drawing No 6500 should be deleted as the site is subject to the Ku-ring-gai LEP (Local Centres) and the Local Centres DCP. | <ul style="list-style-type: none"> <li>The detail of the proposed signage is to the subject of separate approval. The conceptual signage plan has been provided as a guide for the future location of tenant signage.</li> </ul>   |
| ESD Principles to Supermarket   | The application does not address ESD features for the supermarket. The ESD report considers fabric and glazing of retail area only, there is no consideration of water efficiency, energy generation, heating/cooling and lighting. The requirements in Part 3.1 'Green Buildings' of the Local Centres DCP have not been addressed.  | <ul style="list-style-type: none"> <li>Refer to <b>Section 2.5.2</b>.</li> <li>The revised ESD report prepared by Cundall addresses the relevant matter of consideration for the supermarket (including water efficiency, energy and lighting etc), as well as the numerous initiatives to exceed the minimum ESD requirements</li> </ul>  |

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| BASIX  | The revision of condition F14 seeks to change the condition relating to BASIX certificates so that BASIX requirements are only required to be satisfied prior to the issue of the final occupation certificate. Wording of the condition in this manner would allow the occupation of non-BASIX compliant apartments as an interim occupation certificate could be issued for an apartment that is not BASIX compliant. | <ul style="list-style-type: none"> <li>As required by Condition F14 all commitments listed in BASIX Certificate are to be satisfied. The proposed amendment to this condition is not so as to allow 'non-compliant' apartments to be delivered under an interim occupation certificate, but rather, to allow the flexibility for non-residential aspects of the development to be delivered without requiring the BASIX commitments to be met.</li> </ul>   |
| Increase in Construction Hours   | The proposed extension of construction work hours to 6pm weekdays and 3pm Saturdays is inconsistent with the hours permitted in Kuring-gai and the State Exempt and Complying Development Code. The justification for the variation to the hours is weak and the impacts have not been considered.  | <ul style="list-style-type: none"> <li>The key rationale for the proposed hours of works is to reduce the overall construction program, and therefore less impact on surrounding residents and businesses.</li> <li>The minor extension to hours does not propose to vary the requirement for all construction noise and vibration to comply with established Noise and vibration criteria for the construction and operational stage of the proposed building in accordance with Department of Environment and Climate Change (DECC) guidelines including the DECC's Environmental Noise Control Manual and the Industrial Noise Policy (as per the Statement of Commitments).</li> <li>On Lindfield Avenue, the site frontage adjoins the railway corridor. To the east will be a construction site at 43-47 Lindfield Avenue. To the west is a commercial building (2 Kochia Lane) and the Council Car Park. The primary sources of impact will be the residential properties in Havilah Lane for the additional time being sought. Compliance with the DECC Noise and Vibration requirements is an appropriate standard.</li> </ul> |
| Water and Waste Management   | The latest version of the water management plans by Insync is satisfactory and Condition A2 may be amended to reference those plans and the report.   | <ul style="list-style-type: none"> <li>Noted.</li> </ul>  |
|  | The Waste Management Plan by Mack Group has been amended so that residential waste is uncompacted and the WMP is referred to in the commitments. This is satisfactory.  | <ul style="list-style-type: none"> <li>Noted.</li> </ul>  |
| Comments in relation to requested amendments to the Conditions and revised Commitments | Condition C3 may be deleted.  | <ul style="list-style-type: none"> <li>Noted. Condition C3 was deleted in the MOD 2 approval.</li> </ul>  |
|  | Condition C15 may be deleted.   | <ul style="list-style-type: none"> <li>Noted. Condition C15 was deleted in the MOD 2 approval.</li> </ul>   |
|  | No objection to the modification of Condition D5.   | <ul style="list-style-type: none"> <li>Noted.</li> </ul>  |
|  | No objection to the modification of Condition D30.  | <ul style="list-style-type: none"> <li>We note that there is no Condition D30.</li> </ul>   |
|  | Condition D3 should be amended to delete the reference to access to 39 and 41 Lindfield Avenue.   | <ul style="list-style-type: none"> <li>Noted. Condition D3 was amended as per Council's comment under MOD 2.</li> </ul>   |



|             |  |  |
|-------------|--|--|
|             | Conditions D6 and D7 should be amended to include reference to the Douglas Partners report.  | <ul style="list-style-type: none"> <li>Noted. Conditions D6 and D7 were amended as per Council's comment under MOD 2.</li> </ul>   |
|             | Condition D13 refers to the GHD drawing which has been removed from Condition A2. Either the drawing should be included in Condition A2 or a new Sediment and Erosion Control Plan should be submitted.  | <ul style="list-style-type: none"> <li>Noted.</li> </ul>   |
|             | No object to the deletion of Condition D22.  | <ul style="list-style-type: none"> <li>Noted.</li> </ul>   |
|             | Condition E31 should not be deleted as it requires the written approval of Council to discharge of pumped water to the stormwater system whereas Condition E41 does not.   | <ul style="list-style-type: none"> <li>Agree to retention of Condition E31</li> </ul>  |
|             | No objection to the deletion of Conditions E39 and E40   | <ul style="list-style-type: none"> <li>Noted.</li> </ul>   |
|             | No objection to the amendment of Conditions F3, F6, F11, F12 and F13.  | <ul style="list-style-type: none"> <li>Noted.</li> </ul>   |
|             | No objection to the deletion of Condition F18.   | <ul style="list-style-type: none"> <li>Noted.</li> </ul>   |
|             | Deletion of Condition F20 is not supported, as this condition refers to on site detention whereas Condition F11 refers to the rainwater retention and re-use.  | <ul style="list-style-type: none"> <li>Agree to retention of Condition F20</li> </ul>  |
|             | No objection to the deletion of Condition F22.   | <ul style="list-style-type: none"> <li>Noted.</li> </ul>   |
|             | Conditions F23 and F24 should not be deleted, rather Condition F3 should be deleted and Condition F23 updated to refer to the Kuring-gai Local Centres Development Control Plan.   | <ul style="list-style-type: none"> <li>Condition F23 is considered to be adequate to ensure compliance with the approved stormwater plans through Certification prior to the issue the OC. If the DPE considers that Condition F23 is not sufficient then conditions F23 and F24 can be retained.</li> </ul>   |
| Commitments | Erosion and Sediment Control – the commitment has been reduced in scope and the GHD drawing has been removed from Condition A2. The required treatment of collected stormwater prior to discharge to the public drainage system may not be achieved unless Condition D13 is amended. | <ul style="list-style-type: none"> <li>The purpose of the requested changes is to rationalise condition that are duplicated and for the Commitments to be simplified where condition apply.</li> <li>Condition D13 refer to the GHD drawing and is to be retained. For the excavation and demolition, Aqualand have engaged Insync Services Pty Ltd to prepare the relevant plan that is based on the GHD drawing and is to be submitted with the relevant CC. Condition E31 requires Council approval prior to any pumping of seepage or rainwater to the Council's System. This condition can be retained as it refers to obtaining Council approval which will include treatment of stormwater prior to discharge.</li> <li>Condition E21 and D22 also impose requirements for sediment and erosion control. Condition D22 duplicates the requirements of Condition D13. Condition E21 is to remain.</li> </ul> |
|             | Construction management – the applicant proposes to close Kochia Lane temporarily. The commitments should be reworded accordingly.   | <ul style="list-style-type: none"> <li>Noted – this has been imported into the Construction Management commitment (<b>Appendix G</b>).</li> </ul>  |
|             | Construction management – the commitments in regard to re-use of demolition materials have been considerably reduced in scope.   |  |

|                               |   |  |
|-------------------------------|---|--|
| Car Parking                   | The total parking provision that would be required under the Ku-ring-gai Local Centres DCP for the proposal would be 226-292 spaces.  | <ul style="list-style-type: none"> <li>A total of 241 car parking spaces is proposed within the MOD 3 development, which complies with Ku-ring-gai Local Centres DCP overall rate of provision.</li> </ul>   |
|                               | The lowest provision in the Local Centres DCP for the retail component of mixed use development (i.e. 83 spaces) should be provided as a minimum.   | <ul style="list-style-type: none"> <li>The Secretary's Environment Assessment Report, prepared by the DP&amp;E for MOD 2 states that, <i>"given the retail car park and residential car park are accessed by separate driveways, it is not feasible or desirable to provide additional retail parking car parking within the residential car parking levels."</i> We agree with this comment and note that the provision of 76 retail spaces is only 4 less than Council's DCP requirement, which is considered to be a minor shortfall (refer to Traffic and Parking Report at <b>Appendix D</b>).</li> </ul> |
|                               | The amount of residential parking is at the higher end and could be reduced given close proximity to transport services.  | <ul style="list-style-type: none"> <li>The amount of residential car parking has been reduced in accordance with the DP&amp;E's requirement. Refer to <b>Section 2.3.1</b>.</li> </ul>   |
| Access                        | The proposed access point to the residential basement car park complies with the width requirements of the Local Centres DCP.   | <ul style="list-style-type: none"> <li>Noted.</li> </ul>   |
|                               | The proposed retail access point complies with the Local Centres DCP.   | <ul style="list-style-type: none"> <li>Noted.</li> </ul>   |
|                               | The service access point appears to be adequate. There is concern though that logistics operations for supermarkets are such that large rigid trucks or articulated vehicles are typically employed for the distribution of groceries. If this occurs, this may result in trucks wanting to unload in the street, or not being able to unload at all. A commitment is needed that vehicles larger than 11m long large rigid trucks will not be needed to service the site. In addition heavy access times to the loading dock should not conflict with peak pedestrian times. | <ul style="list-style-type: none"> <li>Refer to <b>Section 2.5</b> and the Supermarket Management Plan at <b>Appendix E</b>.</li> </ul>  |
|                               | The Local Centres DCP requires that all developments provide a shared vehicle entry/exit point for different uses. Any proposal seeking to provide separate vehicle entry/ exit points on large developments must justify this variation by demonstrating the combined effect does not dominate the building façade or streetscape. Also service vehicle access is to be combined with parking access, although separate access may be required in major retail/ commercial developments.   | <ul style="list-style-type: none"> <li>It is noted that the vehicle entry/exit points from Havilah Lane into the development are the same as proposed within MOD 2. Within the Secretary's Environmental Assessment Report for MOD 2, the DP&amp;E supports the separate driveways for the different uses and consider the number of vehicle crossings acceptable in the context of the primary service function of Havilah Lane.</li> </ul>   |
| Car Parking Layout and Design | The Vehicle Management Plan suggests that time limits will apply in the lower ground level. There is still very little detail on the operation of the proposed boom gates.  | <ul style="list-style-type: none"> <li>The retail car parking area at lower Ground Floor level will be managed via entry and exit boom gates and a ticket dispenser. It is intended that the retail car park will be paid parking, however the exact details have not been agreed at this time. It is expected that there will be a limited free period to encourage shoppers, but discourage all day commuters, and after hours security shutters are</li> </ul>  |

|                           |  |  |
|---------------------------|--|--|
|                           |  | also be installed to prevent pedestrian access when the shopping centre is not in operation.   |
|                           | At grid reference F2, at Basement levels 1 and 2, there is concern that there is insufficient manoeuvring space at the intersection of the ramp and aisle. The applicant should demonstrate compliance with Clause 2.5.2(c).   | <ul style="list-style-type: none"> <li>Refer to <b>Section 2.3.2</b></li> </ul>  |
| Bicycle Parking           | The quantity of bicycle parking spaces would satisfy the requirements of the Local Centres DCP however bicycle parking for residents and employees should be located in secure areas and should be fully enclosed in individual lockers to encourage their use.  | <ul style="list-style-type: none"> <li>It is noted that that Architectural Plans illustrate bicycle lockers for use by retail staff and residential occupants, at Basement Levels 1, 2 and 3. It is therefore considered that the bicycle space provision for residents and employees meets Councils requirement.</li> </ul>         |
|                           | AS2890.3 and relevant Austroads guidelines provide guidance on the configuration and location of effective bicycle parking. Ideally bicycle rails or racks for visitors should be located at ground floor level and no in the basement levels. Bicycle rails should allow wheels and frame to be locked – 'toast rack' style parking hold only one wheel and would not be acceptable.  | <ul style="list-style-type: none"> <li>The bicycle spaces provided for visitors are located at Lower Ground Floor level and Ground Floor level. The visitor/ public bicycle rack provision is considered acceptable at this stage with the exact 'design' of the bicycle racks to be determined at detailed design stage.</li> </ul> |
|                           | The suggested racks in the footpath area of the Lindfield Avenue frontage would be subject to Council approval.  | <ul style="list-style-type: none"> <li>Noted.</li> </ul>   |
|                           | The awning over the Lindfield Avenue footpath area should extend to at least the property boundary.  | <ul style="list-style-type: none"> <li>The awning over the Lindfield Avenue footpath extends from the property boundary over the public footpath.</li> </ul>   |
|                           | Lockers are indicated in the staff dining room for the major retail use, the applicant should ensure that these are adequate to contain cyclist gear such as helmet, backpack and change of clothes, as well as other staff needs.   | <ul style="list-style-type: none"> <li>The size of the lockers within the staff dining room within the proposed supermarket will be determined by the proposed supermarket tenant, however it is likely that they will be of sufficient size to be able to contain cycling gear.</li> </ul>  |
|                           | There is concern regarding the lack of other bicycle end of trip facilities for the major retail use, as well as lack of bicycle end of trip facilities for the remainder of the retail component.   | <ul style="list-style-type: none"> <li>There is no requirement for end of trip facilities and as such they are not proposed.</li> </ul>  |
| Development Contributions | The present MOD 3 to include 39-41 Lindfield Avenue does involve the demolition of floorspace that should constitute a credit however documentation on the amount and use of the floorspace involved and the number of bedrooms in any shop-top housing that exists on the site appears to be absent from the EAR date April 2015. It is noted that the onus being on the applicant to supply all relevant data to enable a credit to be calculated is documented in the Contributions Plan. | <ul style="list-style-type: none"> <li>Noted. The information will be provided to Council to enable the credit to be calculated.</li> </ul>  |

## 5.0 Public Submission Issues and Proponent's Response

A total of ten public submissions were received during the public exhibition period.

**Table 2** summarises the issues set out in the public submissions and presents Aqualand's response.

**Table 3** – Summary of Public Submissions

| Issue |   | Response  |
|-------|---|---|
|       | Loss of retail space.   | The proposed modification to the design arose out of further design development and commercial investigation, which clarified the commercial viability of providing one level of retail within the development  |
|       | Loss of residential parking v the number of car parking spaces, despite the number of trains stopping at Lindfield Station being reduced.   | The proposal involves a reduction in the number of residential car parking spaces given a reduction in the size of the basement.<br>The proposal is restricted in its ability to provide increased car parking due to the requirements of Council and the original PAC decision that constrains the amount of on-site parking.                      |
|       | The appearance of the development is not in character with and has a detrimental impact upon the existing streetscape. The contrasting design of the upper 3 levels emphasizes the overwhelming and uncertain character of the whole. | The proposed design has been carefully designed by project architect to be sympathetic to surrounding building character and form, activate the streetscape, provide visual interest and residential amenity. As noted in <b>Section 2.2</b> of this report, the design of the building façade has been reviewed in light of comments from the DPE. |

## 6.0 Summary of Modifications

### 6.1 Overview of Proposed Modification in Preferred Project

The key modifications proposed to the MOD 3 Preferred Project are listed as follows:

- decrease in overall GFA by 11.1m<sup>2</sup> ;
- decrease in in residential FSR by 0.1:1;
- decrease of one bedroom apartments from 64 to 53
- increase in two bedroom units from 66 to 77
- decrease in overall parking from 255 to 241; and
- decrease in residential parking spaces from 155 to 141

### 6.2 Description of Preferred Project

The modified description of the development, which supersedes the description in the MOD 3 Application is as follows:

- demolition of existing structures on the site;
- excavation of the site;
- construction of a mixed use development with a maximum gross floor area (GFA) of 15,487m<sup>2</sup>, comprising:
  - 2,720m<sup>2</sup> GFA retail floorspace at ground floor within a single storey retail podium;
  - 141 residential apartments in two (2) towers above the retail podium;
  - three (3) levels of parking for 241 vehicles;
  - 897.8m<sup>2</sup> 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 3.90:1 (0.68:1 retail and 3.22:1 residential).

### 6.3 Modifications to Conditions of Approval

The modification of the RTS/PPR described above necessitate the following variation to requested amendments of conditions. These have been provided for clarity and consistency between the MOD 3 S75W EAR and the MOD 3 RTS/PPR.

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 ~~13,592m<sup>2</sup>~~ ***15,487m<sup>2</sup>*** in GFA comprising:

- 1 level podium with ~~2,721m<sup>2</sup>~~ **2,720m<sup>2</sup>** in retail GFA;
- ~~122-141~~ apartments in 2 residential towers above the retail podium;
- 3 levels of basement car parking for ~~221~~ **241** vehicles; and
- ~~699.5m<sup>2</sup>~~ **897.8m<sup>2</sup>** 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;***
- ***the Section 75W Modification Application Response to Submissions (MOD 3), dated August 2015;***
- the following drawings:

| <b>Architectural (or Design) Drawings prepared by Crone Partners</b> |             |                                |             |
|--|-------------|--------------------------------|-------------|
| <b>Dwg No.</b>   | <b>Rev.</b> | <b>Name of Plan</b>            | <b>Date</b> |
| 0001   | E           | Cover Sheet                    | 24/02/2015  |
| 0002   | E           | Location plan and Drawing List | 24/02/2015  |
| 0100   | E           | Context/Analysis Site Plan     | 24/02/2015  |
| 0101   | E           | Site Plan                      | 24/02/2015  |
| 0102   | E           | Zone of Influence Site Plan    | 24/02/2015  |
| 0200   | F           | Perspective Sheet 1            | 30/03/2015  |
| 0201   | F           | Perspective Sheet 2            | 30/03/2015  |
| 0202   | F           | Perspective Sheet 3            | 30/03/2015  |
| 0203   | E           | Perspective Sheet 4            | 24/02/2015  |
| 0204   | E           | Perspective Sheet 5            | 24/02/2015  |
| 0205   | E           | Perspective Sheet 6            | 24/02/2015  |
| 0206   | E           | Perspective Sheet 7            | 24/02/2015  |
| 0207   | E           | Perspective Sheet 8            | 24/02/2015  |
| 0208   | E           | Perspective Sheet 9            | 24/02/2015  |
| 1000   | L           | Basement 3 Plan                | 28/07/2015  |
| 1001   | O           | Basement 2 Plan                | 28/07/2015  |
| 1002   | M           | Basement 1 Plan                | 28/07/2015  |
| 1003   | O           | Lower Ground Floor Plan        | 28/07/2015  |
| 1004   | O           | Ground Floor Plan              | 28/07/2015  |
| 1005   | N           | Level 1 Floor Plan             | 28/07/2015  |
| 1006   | N           | Level 2 Floor Plan             | 28/07/2015  |
| 1007   | N           | Level 3 Floor Plan             | 28/07/2015  |

|      |   |                                     |            |
|------|---|-------------------------------------|------------|
| 1008 | O | Level 4 Floor Plan                  | 28/07/2015 |
| 1009 | O | Level 5 Floor Plan                  | 28/07/2015 |
| 1010 | N | Level 6 Floor Plan                  | 28/07/2015 |
| 1011 | O | Level 7 Floor Plan                  | 28/07/2015 |
| 1012 | M | Roof Plan                           | 28/07/2015 |
| 2000 | I | Elevations (Sheet 1 of 2)           | 28/07/2015 |
| 2001 | I | Elevations (Sheet 2 of 2)           | 28/07/2015 |
| 3000 | I | Sections (Sheet 1 of 3)             | 28/07/2015 |
| 3001 | I | Section (Sheet 2 of 3)              | 28/07/2015 |
| 3002 | J | Sections (Sheet 3 of 3)             | 28/07/2015 |
| 4000 | I | LEP 26.5m Height Plane Study -1     | 28/07/2015 |
| 4001 | I | LEP 26.5m Height Plane Study - 2    | 28/07/2015 |
| 5000 | F | Shadow Diagram - March              | 24/02/2015 |
| 5001 | F | Shadow Diagram - June               | 24/02/2015 |
| 5002 | F | Shadow Diagram - September          | 24/02/2015 |
| 5003 | F | Shadow Diagram - December           | 28/07/2015 |
| 6001 | H | Adaptation Detail Plans             | 24/02/2015 |
| 6002 | E | Materials & Finishes (Sheet 1 of 2) | 24/02/2015 |
| 6003 | E | Materials & Finishes (Sheet 2 of 2) | 24/02/2015 |
| 6500 | F | Signage – External                  | 30/03/2015 |

#### Engineering (or Design) Drawings prepared by Insync Services

|       |   |   |            |
|-------|---|---|------------|
| SW-00 | B | Stormwater Services Cover Sheet & Legend                  | 19/02/2015 |
| SW-01 | B | Stormwater Services Site Plan                             | 19/02/2015 |
| SW-02 | B | Zone A Basement Level 3 Inground Stormwater Services Plan | 19/02/2015 |
| SW-03 | B | Zone B Basement Level 3 Inground Stormwater Services Plan | 19/02/2015 |
| SW-04 | B | Zone A Basement Level 3 Stormwater Services Plan          | 19/02/2015 |
| SW-05 | B | Zone B Basement Level 3 Stormwater Services Plan          | 19/02/2015 |
| SW-06 | B | Zone A Basement Level 2 Stormwater Services Plan          | 19/02/2015 |
| SW-07 | B | Zone B Basement Level 2 Stormwater Services Plan          | 19/02/2015 |
| SW-08 | B | Zone A Basement Level 1 Stormwater Services Plan          | 19/02/2015 |
| SW-09 | B | Zone B Basement Level 1 Stormwater Services Plan          | 19/02/2015 |
| SW-10 | B | Zone A Lower Ground Level Stormwater Services Plan        | 19/02/2015 |
| SW-11 | B | Zone B Lower Ground Level Stormwater Services Plan        | 19/02/2015 |
| SW-12 | B | Zone A Ground Level Stormwater Services Plan              | 19/02/2015 |
| SW-13 | B | Zone B Ground Level Stormwater Services Plan              | 19/02/2015 |
| SW-14 | B | Tower A Level 1 Stormwater Services Plan                  | 19/02/2015 |
| SW-15 | B | Tower B Level 1 Stormwater Services Plan                  | 19/02/2015 |
| SW-16 | B | Tower A Level 2 Stormwater Services Plan                  | 19/02/2015 |
| SW-17 | B | Tower B Level 2 Stormwater Services Plan                  | 19/02/2015 |
| SW-18 | B | Tower A Level 3 Stormwater Services Plan                  | 19/02/2015 |
| SW-19 | B | Tower B Level 3 Stormwater Services Plan                  | 19/02/2015 |
| SW-20 | B | Tower A Level 4 Stormwater Services Plan                  | 19/02/2015 |

|  |   |   |            |
|--|---|---|------------|
| SW-21  | B | Tower B Level 4 Stormwater Services Plan          | 19/02/2015 |
| SW-22  | B | Tower A Level 5 Stormwater Services Plan          | 19/02/2015 |
| SW-23  | B | Tower B Level 5 Stormwater Services Plan          | 19/02/2015 |
| SW-24  | B | Tower A Level 6 Stormwater Services Plan          | 19/02/2015 |
| SW-25  | B | Tower B Level Roof Level Stormwater Services Plan | 19/02/2015 |
| SW-26  | B | Tower A Level 7 Stormwater Services Plan          | 19/02/2015 |
| SW-27  | B | Tower A Roof Level Stormwater Services Plan       | 19/02/2015 |
| SW-28  | B | OSD & Rainwater Tank Detail Sheet                 | 19/02/2015 |
| <b>Landscape Plan (or Design) Drawings prepared by Landscape Living Architecture</b> |   |   |            |
| S75W.3LAP D-01   | D | Public Domain – Ground Level                      | March 2015 |
| S75W.3LAP D-02   | D | Public Domain – Lower Ground Level                | March 2015 |
| S75W.3LA-01  | C | Level 1 Landscape Plan                            | 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.

### 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:

- 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         | <del>149</del> 141 |
| Residential Visitor Car Spaces | <del>28</del> 24   |
| Retail Public Car Spaces       | <del>48</del> 62   |
| Retail Employee Car Spaces     | <del>13</del> 14   |
| Total car spaces               | <del>238</del> 241 |

### 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.

### E31. Disposal of Seepage and Stormwater

Retention of this condition is agreed.

### F20. OSD Positive Covenant/Restriction

Retention of this condition is agreed.



## 6.4 Amendments to the Statement of Commitments

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

## 7.0 Conclusion

This Preferred Project and Response to Submissions Report and appendices have addressed the issues raised within each submission during the public exhibition process as well as the Department's key issues. This Report and the proposed amendments to the MOD 3 Application should be read in conjunction with the S75W Environmental Assessment Report for MOD 3 which demonstrates that the proposed modified development will not give rise to any adverse environmental impacts that cannot be managed or mitigated.

In light of the benefits of the proposed development, we have would therefore request that the Minister approve the Modification Application.