

MODIFICATION REQUEST:

**Mixed Use Development at 23-37 Lindfield Ave and
7 and 11 Havilah Lane, Lindfield**

**MP 08_0244 MOD 2 – Modifications to incorporate 7
Havilah Lane into the Development**



Secretary's
Environmental Assessment Report
Section 75W of the *Environmental Planning and
Assessment Act 1979*

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1. BACKGROUND

The purpose of this report is to assess a request to modify a Project Approval (MP 08_0244) for a mixed use development at 23-37 Lindfield Avenue and 7 and 11 Havilah Lane, Lindfield pursuant to Section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The proposal seeks to incorporate part of the adjoining former Council car park known as 7 Havilah Lane into the development resulting in an increased building footprint, FSR, dwelling yield, retail/commercial GFA and car parking provision.

1.1 Site Description

The site is located on the eastern side of Lindfield Avenue which runs parallel to the North Shore rail corridor in the Lindfield Town Centre and is known as 23-37 Lindfield Ave and 7 and 11 Havilah Lane. The site is situated directly opposite Lindfield Station, within the Ku-ring-gai Local Government Area.

The proposal (as discussed in **Section 2.1**) seeks to expand the Project Approval site by amalgamating 7 Havilah Lane (Lot 1 DP1198025) into the site. The additional site has an area of 383m² increasing the total site area to 3,482m² (**Figure 1**). The additional site currently comprises part of a former Council public car park that accommodated approximately 25 car parking spaces (**Figure 2**) and was formerly known as 9 Havilah Lane.

The Proponent has also recently acquired 39-41 Lindfield Avenue directly to the north of the development site and has lodged a separate modification request (MOD 3) to further incorporate these sites into the development (**Figure 2**).



Figure 1: Location Plan in regional context



Figure 2: Subject Site in local context

1.2 Surrounding Development

The site is surrounded by retail, commercial and community uses to the east, south and south west. This includes a Council car park to the south that has been identified to be developed as the future Lindfield Town Square, opposite the site to the south east along Kochia Lane and Chapman Lane (Figure 3).

Lindfield railway station is located to the west of the site on the opposite side of Lindfield Avenue. The Pacific Highway runs parallel to the railway line further to the west. Bus services are also available along Lindfield Avenue, and the Pacific Highway.

To the north of the site is 39-41 Lindfield Avenue which currently comprises 2 storey retail/commercial premises. Further to the north is 43-47 Lindfield Avenue comprising a service station (Figure 4).

A range of low, medium, and high density residential developments are located on the opposite side of Havilah Lane to the east of the site (Figure 5) and to the greater north and greater south of the site. The medium and high density residential developments surrounding the site range from 4 to 5 storeys in height.



Figure 3: View looking south west from Kochia Lane showing Council carpark/future Lindfield Town Square and rear of heritage listed building 1-21 Lindfield Avenue



Figure 4: View looking north from Lindfield Avenue showing 39-41 Lindfield Avenue (right) and 43-47 Lindfield Avenue (left)



Figure 5: View looking north from Havilah Lane and Kochia Lane intersection showing 5 storey high density residential flat building (right) to the east of the existing site (left)



Figure 6: View looking south from the intersection of Lindfield Avenue and Kochia Lane of heritage listed building at 1-21 Lindfield Avenue

1.3 Approvals History

On 27 January 2012, the Planning Assessment Commission (PAC) approved the transitional Part 3A Project Application (MP08_244) for the construction of a mixed use retail and residential development (GFA 11,899m²) comprising a 2 level podium with 4,231m² of retail GFA including 293m² of GFA for a medical centre; 91 apartments contained in two residential towers above the retail podium; and 3 levels of basement car parking for 196 vehicles.

On 14 November 2013, the PAC approved a Section 75W modification (MOD 1) to increase the height and floor space to provide 21 additional apartments (a total of 112 apartments), amend the apartment mix, reconfigure the lower ground and ground floors including a reduction in the amount of retail floor space and reconfigure the car park with a reduction of 12 parking spaces.

1.4 Other Applications under assessment

The Department is currently considering a separate modification proposal (MOD 3) for:

- incorporation of 39 and 41 Lindfield Avenue into the site;
- increase in the building envelope to include 39-41 Lindfield Avenue with a maximum building height of 8 storeys and an increase in overall GFA by 1,919m² (total of 15,540m²);
- change in dwelling mix and provision of 19 additional apartments (total of 141 apartments);
- increase in communal open space area by 198m²; and
- other minor amendments.

Council is also currently considering a Development Application for a mixed use residential development at 43-47 Lindfield Avenue and 9 Havilah Lane. The proposal seeks approval for:

- demolition of existing structures; and
- construction a 7 storey mixed use development comprising retail and commercial spaces, 33 residential apartments, basement parking and stratum subdivision.

2. PROPOSED MODIFICATION

The proposed modification seeks to incorporate 7 Havilah Lane into the site and make subsequent amendments to the approved development including:

- northward extension of the mixed use development envelope onto 7 Havilah Lane to achieve a building height of 7 storeys;
- increase the excavation and basement parking to provide 34 additional parking spaces (a total of 221 parking spaces);
- change the dwelling mix and provide 10 additional apartments (a total of 122 apartments);
- increase the overall GFA by 1,526m²; and
- other minor amendments including changes to conditions of approval and redesign of the ground floor retail facing Lindfield Avenue.

In response to submissions from the Council and issues raised by the Department, the Proponent amended the proposal as follows:

- reconfiguration of the driveway entry/exits at Havilah Lane;
- amended eastern façade at Havilah Lane;
- reconfiguration of the ground floor level and parking;
- reconfiguration of bicycle parking provision;
- provision of an additional adaptable apartment; and
- reconfiguration of media room layouts in apartments.

The key aspects of the modification as refined in the RtS are set out in **Table 1**.

Table 1: Key Proposed Modifications

Aspect	Approval	Modification
GFA	Residential: 9,686.5m ² Commercial / Retail: 2,379.5m ² Total: 12,066m²	Residential: 10,871m ² Commercial / Retail: 2,750m ² Total: 13,621m² (+ approx. 1,555m² GFA)
FSR	Residential: 3.12:1 Commercial / Retail: 0.77:1 Overall: 3.89:1	Residential: 3.12:1 Commercial / Retail: 0.79:1 Overall: 3.91:1 (+0.02)
Residential	4 x studios (4%) 53 x 1 bedroom (47%) 53 x 2 bedroom (47%) 2 x 3 bedroom (2%) Overall: 112 apartments	4 x studios (3%) 56 x 1 bedroom (46%) 55 x 2 bedroom (45%) 7 x 3 bedroom (6%) Overall: 122 apartments (+10)
Car Parking	105 resident spaces 25 residential visitor spaces 44 retail public spaces 10 retail employee spaces Overall: 184 spaces	149 resident spaces 28 residential visitor spaces 48 retail public spaces 13 retail employee spaces Overall: 238 spaces (+54)
Communal Open space	699.5m ² (22.6% site area)	699.5m ² (20.1% site area)

The proposal also entails:

- reconfiguration of the basement car park including 54 additional car parking spaces;
- increase in the footprint of the excavated area;
- reconfiguration of the lower ground floor;
- reconfiguration of the ground floor level;
- abolition of the existing Rights of Way accessed from Havilah Lane, benefitting Nos. 39 and 41 Lindfield Avenue;
- revised loading dock location and access/entry;
- changes to the eastern tower size and form addressing Havilah Lane;
- revised external materials and finishes to the eastern tower; and

- reconfigured apartment layouts within the eastern tower.

A comparison of the approved development and proposed modification is provided in **Figure 4**.

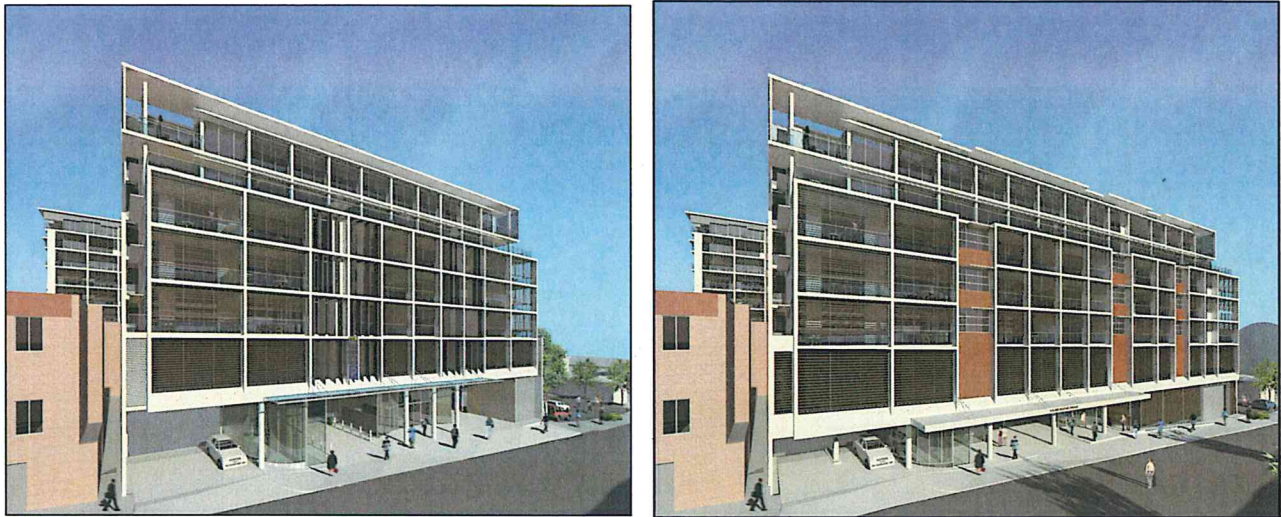


Figure 4: View of the approved (left) and proposed (right) eastern tower from Havilah Lane

3. STATUTORY CONTEXT

3.1 Continuing Operation of Part 3A to modify the Project Approval

In accordance with Clause 3 of Schedule 6A of the Environmental Planning & Assessment Act 1979 (the EP&A Act), Section 75W of the EP&A Act as in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6, continues to apply to transitional Part 3A projects. Consequently, this report has been prepared in accordance with the requirements of Part 3A and associated regulations, and the Minister (or his delegate) may approve or disapprove the modification of the project under section 75W of the EP&A Act.

3.2 Modification of the Minister's Approval

The modification application has been lodged pursuant to Section 75W of the EP&A Act. Section 75W provides for the modification of a Minister's approval including "changing the terms of any determination made by the Minister".

In this regard, the proposal seeks to amend the building form as originally approved and therefore, approval to modify the application is required.

3.3 Environmental Assessment Requirements

No additional environmental assessment requirements were issued with respect to the proposed modification, as sufficient information has been provided to consider the application. Further, the issues raised remain consistent with the key assessment requirements addressed in the original Project Application.

3.4 Permissibility

The site and additional site is zoned B2 Local Centre under the Ku-ring-gai Local Environmental Plan (Local Centres) 2012 (KLEP 2012). The proposed mixed use residential development is permissible with consent on the site.

3.5 Delegation

Under the Minister for Planning's delegation of 16 February 2015, the Department of Planning and Environment may determine applications under delegated authority in cases where:

- the relevant local Council has not made an objection;
- a political disclosure statement has been made, but only in respect of a previous related application; and
- there are less than 10 public submissions in the nature of objections to the proposal.

As a political disclosure statement has been made, but only in respect of a previous related application the matter is to be determined by the Executive Director, Infrastructure and Industry Assessments.

4. CONSULTATION AND SUBMISSIONS

4.1 Exhibition

The Department publically exhibited the modification request from Wednesday 19 November 2014 until Friday 19 December 2014 (31 days) on the Department's website. The public exhibition was advertised in the Sydney Morning Herald, Daily Telegraph and the North Shore Times on Wednesday 19 November 2014 and nearby land owners and the relevant State and local government authorities were notified in writing.

The Department received five submissions during the exhibition. This includes three submissions from public authorities commenting on the proposal, and two public submissions objecting to the development.

The Department received a further submission from Council commenting on the Proponent's Response to Submissions

A summary of the issues raised in submissions is provided below.

4.2 Public Authority Submissions

A total of four submissions were received from public authorities comprising three submissions in response to the exhibition and one submission in response to the RtS. The issues raised by public authorities are summarised in the **Table 3** below.

Table 3: Summary of public authority submissions

Ku-ring-gai Council	
Modification Request	Council supports the development in principal but raised a number of concerns including: • site isolation of 2 Kochia Lane and the need to further explore opportunities to acquire adjoining sites; • relationship with adjoining properties and lack of building separation; • vehicular access points off Havilah Lane should be consolidated. Shared access should be provided to accommodate future redevelopment of 2 Kochia Lane; • the demand for increased provision of retail car parking and reduced residential car parking provision given the site's proximity to transport and services; • additional communal open space should be provided; • aspects of the design of apartments should be improved for better amenity outcomes; • management of retail car spaces to prevent all day commuter parking and excessive number of small car spaces; • all waste is to be collected on site (not on street) and compaction of waste will not be approved; • activation of Lindfield Avenue (the pedestrian ramp fronting retail tenancies 3 and 4 at Lindfield Avenue should be relocated to provide a zero setback);

	- location of bicycle parking; - the need to update Section 94 contributions applicable to the proposal; and - BCA compliance with regards to fire exit and stair provision.
RtS	Council note the Proponent has made some positive changes with regards to acquiring 39 and 41 Lindfield Avenue as part of the development and to the retail frontages at Lindfield Avenue. Council continues to raise concerns about: - the isolation of 2 Kochia Lane from the development; - relationship to adjoining sites and building separation; - reducing residential car parking provision given the site's proximity to transport and services; - additional communal open space should be provided within the rooftop space; - the design of apartments including: - an alternative design to maximise solar access; 'clerestory' windows on the northern elevation; - apartments depths (exceeding 8m to the back of the kitchen); - the amenity of media rooms; - provision and design of visitable apartments; - the amenity of common corridors; - provision of end of trip bicycle facilities for retail staff; and - waste management and compaction.
Transport for NSW (TfNSW)	
Modification Request	TfNSW advised that it had no comments on the proposal.
Roads and Maritime Services (RMS)	
Modification Request	The RMS raise no objection to the proposal.

4.3 Public Submissions

Two public submissions were received objecting to the proposal. The key issues raised in public submissions relate to:

- potential isolation of 2 Kochia Lane;
- potential overshadowing; and
- traffic impacts.

The Department has considered the issues raised in submissions in its assessment of the proposed modification.

5. ASSESSMENT

The Department considers that the key environmental issues for the proposal are:

- built form;
- relationship to adjoining properties;
- car parking and access; and
- residential amenity.

5.1 Built Form

A key issue in the Department's assessment of the approved development was built form and compatibility with the surrounding locality. The Department concluded that the approved height and form of the development is generally acceptable in the context of the Lindfield Town Centre and the relationship to adjoining properties. Further, the approved development retains a reasonable level of amenity to surrounding sites and will not prejudice their future development.

The Department has assessed the proposed extension of the building envelope of the eastern tower to incorporate the additional site at 7 Havilah Lane in terms of:

- density;
- height; and
- bulk and urban design.

5.1.1 Density

The Project Approval allows for a total maximum GFA of 12,066m² across a site area of 3,099m² (FSR of 3.89:1). The proposed additional site has an area of 383m² and the proposal seeks to provide an additional 1,555m² of GFA across the enlarged site area of 3,482m² (FSR of 3.91:1). A summary of the proposed change in site area and GFA for the Project Approval is provided in **Table 4** below.

Table 4: Summary of approved and proposed FSR against Ku-ring-gai Local Environmental Plan 2012 provisions

	Approved		Proposed		KLEP 2012	
	FSR	GFA	FSR	GFA	FSR	GFA
Retail	0.77:1	2,379.5m ²	0.79:1 (+0.02)	2,750m ²	1.0:1	-
Residential	3.12:1	9,686.5m ²	3.12:1	10,871m ²		
Total	3.89:1	12,066m ²	3.91:1 (+0.02)	13,621 (+1,555m ²)	3.0:1	-

Ku-ring-gai Local Environmental Plan (Local Centres) 2012 (KLEP 2012) allows for a maximum FSR of 3:1 for the site including a maximum FSR of 1.0:1 for retail/commercial uses. The Department previously concluded that the approved density of 3.89:1 was acceptable and provided higher density housing within an existing centre site with good access to public transport services. Further the built form, open space, and traffic impacts were acceptable.

The increase in GFA is a result of seeking an additional 1,555m² within the expanded site area. This equates to an additional 0.02:1 FSR across the site mainly as a result of increased retail floor space.

The Department concludes that the marginal increase in density is acceptable for the following reasons:

- the bulk, scale and height of the proposed building is generally consistent with the approved development which is an extension of the approved eastern tower. The built form is compatible with the Havilah Lane streetscape (as discussed in **Section 5.1.2**);
- the residential density remains consistent with the Project Approval and the provision of 10 additional apartments is consistent with strategic policy to provide additional residential dwellings within existing centres with good access to public transport;

- the marginal increase in retail density of 0.02 (additional 370.5m²) of retail GFA is consistent with the KLEP 2012 FSR control and will contribute to strengthening the role of Lindfield as a town centre;
- the proposal will allow for a more holistic development outcome for the Lindfield town centre;
- subject to recommended changes, the additional density will not result in any unacceptable adverse impacts to traffic and residential amenity for future and adjoining residents (as discussed in **Sections 5.2, 5.3 and 5.4**); and
- the payment of Section 94 contributions will assist Council in funding local services and facilities to benefit the wider community as well as residents of the proposed development.

The expanded site continues to provide an excellent opportunity to provide higher density housing within an existing centre with excellent access to public transport services and will maintain a good level of residential amenity within the development and in the surrounding locality.

5.1.2 Height

The height of the development varies across the site due to cross fall of approximately 5.5 metres from the south western corner to the north eastern corner. The approved 7 storey eastern tower facing Havilah Lane has a maximum roof height 26.5 metres (RL120.15m) and maximum building height of 27.6 metres (RL122.05m) to the top of plant. KLEP 2012 allows a maximum building height of 26.5m for the site.

The proposal seeks to extend the eastern tower to incorporate the additional site at 7 Havilah Lane. Whilst the 7 storey height is maintained, due to the fall of the site at Havilah Lane, the maximum roof height is 27.4 metres (RL120.15m) in this location. The heights of all other levels remain the same (**Figure 5**).

No changes to the building envelope of the western tower are proposed.

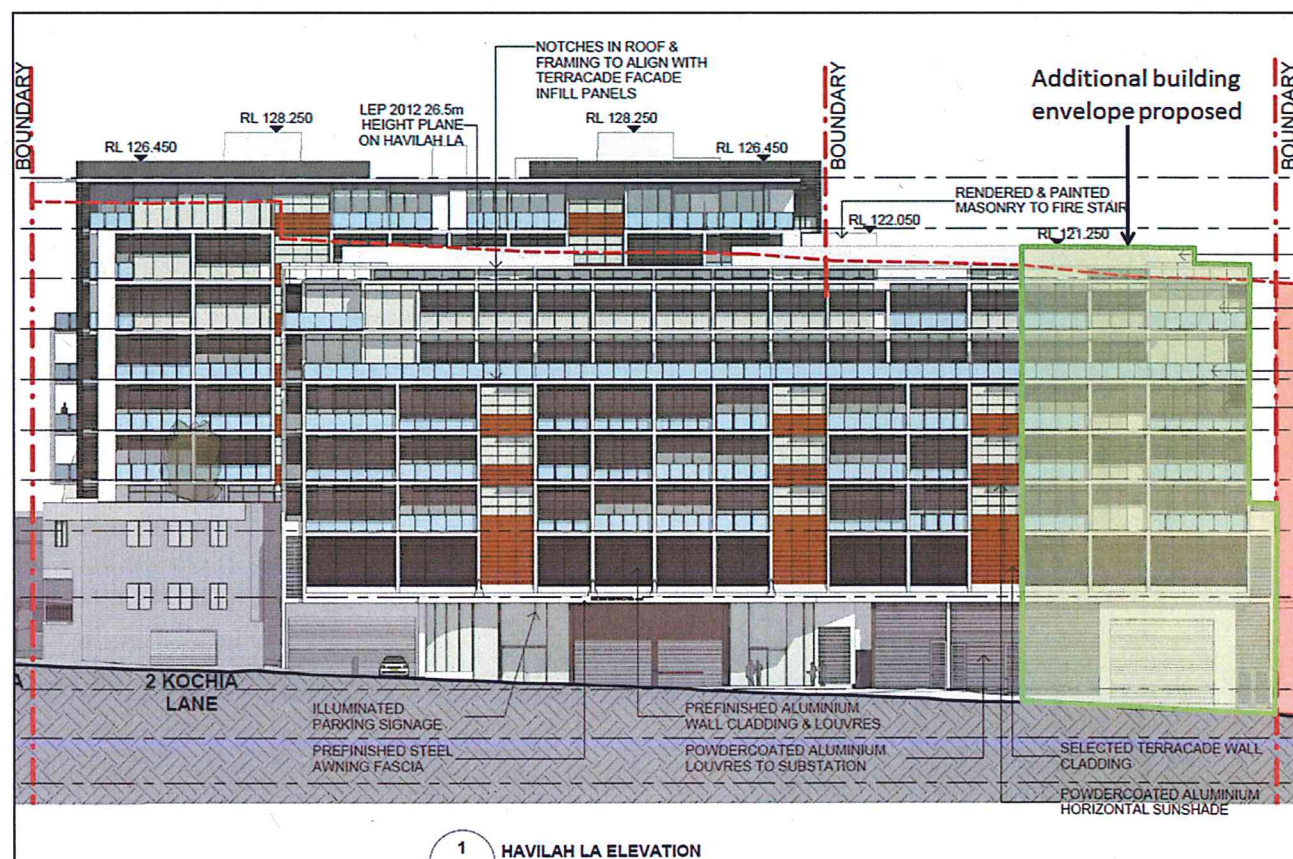


Figure 5: Havilah Lane elevation with additional proposed building envelope shown in green and KLEP 2012 height limit shown in dotted red

The proposed additional building envelope therefore results in a non compliance of up to 0.9 metres from Council's height limit (**Figure 5**). The proposal will however maintain the approved 7 storey building form approved at Havilah Lane.

Despite the minor variation to the LEP height requirements, the Department's original assessment concluded that heights of up to 7 storeys were appropriate for the eastern tower noting the surrounding context of 4-5 storey building heights, the town centre context of the site and the acceptable impacts on the amenity of adjoining properties.

The Department's assessment of this modification application similarly concludes that the proposed building height and form is acceptable for the following reasons:

- the proposed additional building envelope is an extension of the approved eastern tower building envelope and is in keeping with the context of the approved building envelope;
- the approved 7 storey building height and form is maintained;
- stepping of the eastern tower to achieve compliance with the height control would compromise the design and cohesion with the approved development and the Havilah Lane streetscape;
- the additional residential and retail floor space is supported as discussed in **Section 5.1.1**; and
- the amenity of adjoining properties is generally retained as discussed in **Section 5.2**.

5.1.3 Bulk and Urban Design

The proposal seeks to increase the length of the eastern tower by 15.63 metres (from 45.72 metres to 61.35 metres) at the Havilah Lane frontage (**Figure 6**). The proposal also includes a redesign of the ground floor at Havilah Lane as a result of consolidating the retail driveway entry/exit.



Figure 6: Approved (left) and proposed (right) façade treatment at Havilah Lane with additional building envelope highlighted in yellow

The proposed building design generally maintains the design character of the approved building at Havilah Lane with the exception of three introduced recessed terracade walls and associated notches in the architectural roof extension (**Figure 6**).

The Department is satisfied that the design and bulk of the proposed building is acceptable as an extension of the eastern tower form. Despite the increased length of the building, the introduced design features provide improved articulation and a break in the rhythm of the façade. The vertical elements break up the horizontal emphasis reducing the visual impact of the eastern tower presented at Havilah Lane.

Overall, the Department concludes that the proposed building form and design retains the approved design character and is therefore acceptable.

5.2 Relationship to adjoining properties

Noting that the site is proposed to be expanded to include 7 Havilah Lane, and the concerns raised by Council in relation to the development potential of adjoining properties, the Department has considered the impacts of the proposal on:

- 2 Kochia Lane.
- 39-41 Lindfield Avenue;
- 43-47 Lindfield Avenue; and
- 9 Havilah Lane.

2 Kochia Lane (site to the south)

The subject site shares a common boundary with 2 Kochia Lane to the south (**Figure 2**).

Consistent with concerns raised with the original development, Council remains concerned that the development isolates 2 Kochia Lane and restricts its development potential pursuant to KLEP 2012. Council encourages further discussions with the adjoining landowners to allow for the amalgamation and development of the sites as one development to allow for appropriate activation towards the future Lindfield town square (current Council car park and library). Further, Council reiterates previous concerns about the treatment of the southern façade and its high visibility from the future Lindfield town square (**Figure 7**).



Figure 7: The approved development and 2 Kochia Lane from the future Lindfield town square

The issues of site isolation and the future development potential of the property at 2 Kochia Lane were carefully considered as part of the Department's original assessment and MOD 1. The Department remains satisfied that 2 Kochia Lane is able to be developed appropriately achieving a building form in the order of 4-5 storeys.

The Department notes that no changes are proposed to the southern façade of the proposal. The Department carefully considered Council's concerns about the potential for the façade to compromise the development potential of 2 Kochia Lane in its assessment of the original application and MOD 1. The clerestory windows at these facades are secondary windows to bedrooms and are not required for light or ventilation. The existing conditions of approval include the requirement for a restrictive covenant removing any solar access rights to these windows.

Whilst the Department acknowledges the advantages of developing 2 Kochia Lane as part of a large consolidated site, the Department remains satisfied that the relationship to the southern site is acceptable.

39-41 Lindfield Avenue (sites to the north)

The Department's assessment notes that the western building is sought to remain as approved and therefore its relationship with 39-41 Lindfield Avenue will remain unchanged. The Department also notes that the Proponent has acquired these sites and a proposal (MOD 3) is currently being considered by the Department seeking to incorporate and develop the sites as part of the development.

43-47 Lindfield Avenue and 9 Havilah Lane (sites to the north)

As 7 Havilah Lane is located to the north of the approved development, the Department has carefully considered the impacts of the development on 43-47 Lindfield Avenue and 9 Havilah Lane, which are located north of the expanded site.

Council is currently assessing a Development Application for the development of a 7 storey mixed use residential and retail development at 43-47 Lindfield Avenue and 9 Havilah Lane. The proposal comprises ground floor retail and residential above (**Figure 8**).

Council suggest that the relationship of the proposal to 43-47 Lindfield Avenue and 9 Havilah Lane is a key consideration and further setbacks should be provided by the proposed development to meet the RFDC guidelines (between 6 and 9 metres for where no habitable rooms face each other).

The Department has reviewed the proposed setbacks in both proposals and notes that the following building separation will be achieved:

- east west separation of between 6.3 metres and 25 metres; and
- north south separation of between 1.5 metres and 3 metres (**Figure 8**).

The east west separation generally exceeds the minimum building separation recommended by the RFDC (18 metres). However, a small portion between the proposed additional envelope and adjoining development results in a reduced east west separation distance of approximately 6.3 metres (**Figure 8**). The proposed design at 43-47 Lindfield Avenue and 9 Havilah Lane has responded appropriately to the variation through orientating habitable rooms towards the south and providing no east facing openings (**Figure 8**).

With regards to the north south separation, it is noted the proposed development at 43-47 Lindfield Avenue and 9 Havilah Lane is to be built to the eastern boundary. No openings are proposed at this boundary. The proposed development at the northern façade comprises a single three bedroom apartment at each level with tri aspects orientated to the open areas to the east and west. The third aspect (north), where there is reduced separation, only provides clerestory windows for non-habitable rooms or secondary windows to bedrooms and are not required for light or ventilation (**Figure 8**).

Further, the Department considers that the minimal north south separation provided is acceptable in the context of the site's location in the higher density Lindfield town centre. The minimal separation will maintain a prominent street edge to Havilah Lane appropriate for the town centre context.

The Department is satisfied that no unacceptable privacy and acoustic impacts will result despite the non compliances and that the proposed building separation is acceptable in this higher density urban location.

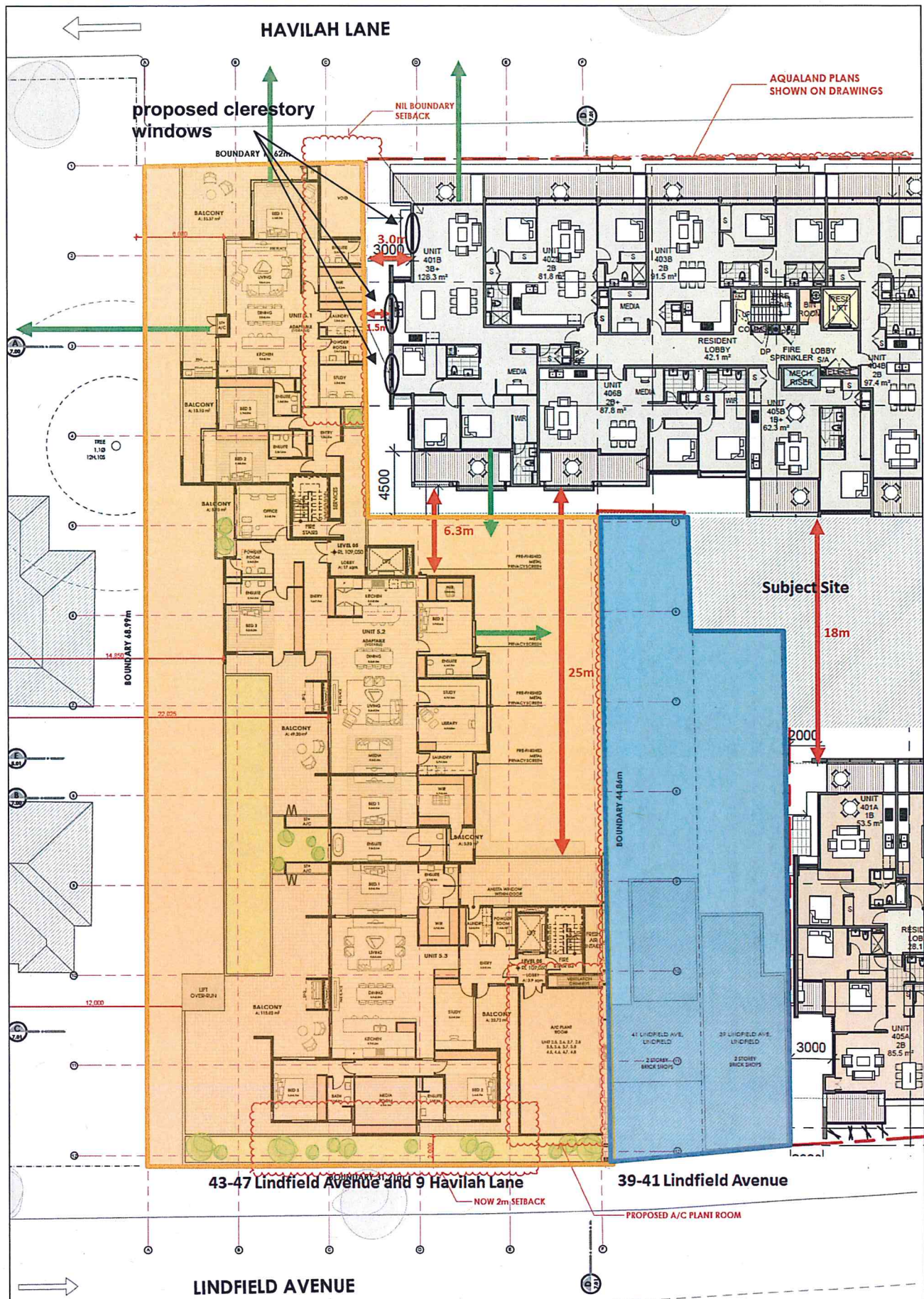


Figure 8: Extract of typical floor plan layout of proposed development at 43-47 Lindfield Avenue and 9 Havilah Lane (orange) superimposed with proposed development showing approximate setbacks

5.3 Car Parking and Access

Car Parking

The approval allows 184 car spaces comprising 44 retail car spaces at the lower ground floor and 140 car spaces for 10 retail staff, 105 residential, and 25 residential visitors over 3 levels of basement car parking.

The proposal seeks to provide a total of 238 car parking spaces for the additional retail and residential floor space (an increase of 54 spaces) comprising 48 retail car spaces at the lower ground floor and 190 car spaces for 13 retail staff, 149 residential, and 28 residential visitors over 3 levels of basement car parking.

The Department has assessed the residential and retail car parking provision below.

Residential Car Parking

The proposal seeks to provide 149 resident and 28 visitor spaces for a total of 177 apartments.

Council has raised concern with residential car parking provision and recommend that residential car parking should be reduced noting the site's high accessibility to transport and services.

The Department's assessment of car parking, within the original Project Application and MOD 1, took into account the central location of the site within an existing town centre and its accessibility to public transport including rail and bus services, which provide for suitable alternatives to car use for future residents. The Department recommended that 103 residential car parking spaces should be provided at a rate which was the average of RMS and Council's Development Control Plan No. 43 (DCP 43) requirements (which was the applicable DCP at the time of the original assessment). This equated to an average of:

- 0.8 space per 1 bedroom apartment;
- 0.95 spaces per 2 bedroom apartment;
- 1.45 spaces per 3 bedroom apartment; and
- 0.225 visitor spaces per apartment.

However, it is noted that in its determination of the original Project Application, the PAC allowed for a total of 106 residential car parking spaces at a general rate of one car space per apartment.

In the circumstances of the proposed modification, the Department accepts that it is appropriate and reasonable to apply the PAC's adopted rate of one car space per apartment and 0.225 spaces per apartment for visitors. A summary is provided in **Table 4**.

Table 4: Summary comparison of proposed and recommended residential car parking provision

	Proposed no. of apartments (total)	Proposed parking in Mod Application	Department recommended rate	Required parking (per current approval rate)	Comment
Residential	122 apartments	149	1 space per apartment	122	Exceeds by 27 spaces
Residential Visitor	-	28	0.225 spaces per apartment	28	Complies
Total	-	177		150	Exceeds by 27 spaces

Following discussions between the Department and the proponent regarding the appropriateness of reduced on-site parking given the site's town centre location and excellent accessibility to amenities and services, the Proponent has agreed to reduce the residential parking from 149 to 122 spaces in accordance with the original PAC approved rate.

The Department recommends that condition C1 be amended requiring revised plans be submitted to the Department showing a maximum of 122 residential car spaces prior to issue of a Construction Certificate for construction of the basement.

Retail Car parking

The proposal seeks to increase retail GFA by 370.5m² (total 2,750m²) and provide seven additional retail spaces (from 54 to 61 retail car parking spaces including 13 spaces for staff) equating to a rate of one car space per 45m².

Council commented that retail car parking (including staff spaces) should be increased to a minimum of 83 car spaces consistent with the minimum required under KDCP 2013 (a rate of one car space per 33m²)

The Department notes in the PAC's determination of the original Project Application, following allowance of one residential car parking per apartment, the PAC redistributed the remaining car spaces resulting in retail car parking provision at a rate of one car space per 47m². Further, the PAC's determination of MOD 1 allowed a retail parking provision that equated to car parking at a rate of one space per 44m².

Although Council has requested that additional retail parking be provided, the Department concludes the proposed retail car parking is generally consistent with the previously adopted rates. Further, the development has consistently provided a single level of retail car parking within the lower ground floor. Given that the retail car park and residential car park are accessed by separate driveways, it is not feasible or desirable to provide additional retail parking within the residential car park levels. The Department notes, however, that additional retail car parking (76 spaces) is proposed within an expanded retail car parking level as part of MOD 3 currently under assessment.

The Department concludes that the proposed retail car parking provision is acceptable noting that the proposal is for a minor increase in retail GFA.

Conclusion

Noting the above, the Department concludes that subject to a reduction in residential car parking provision (as agreed by the Proponent), the provision of car parking on site for a total of 211 car spaces is acceptable. Further, the Department is satisfied the overall increase in 27 car spaces (184 to 211 car spaces) will have a negligible impact on the local road network.

Vehicular Access

As approved, the development provides 3 vehicular crossings to the site via Havilah Lane comprising:

- an entry driveway and exit driveway to the retail ground floor car parking (to accommodate right of way easement benefitting 39-41 Lindfield Avenue); and
- a combined entry/exit driveway to the lower basement residential/retail staff car parking.

The proposal seeks to redesign vehicular access to the site at Havilah Lane by retaining the existing entry/exit residential and retail staff driveway, consolidating the retail ground floor parking entry and exit to one driveway, and providing a new entry/exit driveway to the proposed loading dock. Consolidation of the retail ground floor parking entry and exit has been made possible through the proposed extinguishment of the right of way easement benefitting 39-41 Lindfield Avenue as these sites have been acquired by the Proponent.

Council commented that the proposed changes to the driveway design are positive.

5.4 Residential Amenity

[illegible]

Whilst the overall development remains generally consistent with the aims and objectives of the *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings (SEPP 65)*, the accompanying *Residential Flat Design Code (RFDC)*, and the draft *Apartment Design Guide (ADG)*, the changes to the design require further assessment in terms of solar access, communal open space, and internal layout.

The RFDC and draft ADG recommend that a minimum of 70% of apartments receive at least 2 hours of sunlight during the winter solstice to both living areas and private open space. In MOD 1, the Proponent demonstrated that 70% of apartments received at least 2 hours of sunlight during the winter solstice to living areas and/or private open space. The Department considered this was acceptable.

Council raised concern that the proposal fails to comply with both the RFDC and draft ADG recommendations in that both living rooms and private open space should receive 2 hours or more of sunlight. Council recommended that the proposal be redesigned to minimise single orientation south and west facing apartments.

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despite the variation from the RFDC and draft ADG, the proposed modification will provide improved solar amenity for future residents from the approved scheme and is therefore acceptable.

Communal Open Space

The RFDC and draft ADG recommends that 25-30% of the site be provided as communal open space. As approved, the development provides 699.5m² (22.6% of the site area) of communal open space on the podium roof top between the eastern and western towers.

Despite the increase in site area and GFA, the proposal does not seek to increase the amount of communal open space. The total communal open space therefore reduces to 20.1% of the site area.

Council has raised concern that no additional communal open space has been provided to cater for additional residents.

The Department's original assessment noted that at higher densities and in existing built up urban areas, provision of communal open space as recommended by the Code may be difficult to achieve in all circumstances. The Department notes that the additional site area being incorporated into the development does not facilitate the opportunity to extend the approved communal open space given its physical separation from the podium roof top between the two towers (**Figure 10**). Despite this the Department is satisfied that the proposed communal open space is satisfactory noting adjoining new apartments have been afforded generous sized balconies (**Figures 9 and 10**) consistent with the recommendations of the RFDC and draft ADG where compliance is not achieved.

Further, it is noted MOD 3 seeks to provide additional communal open space as part of the podium area within 39-41 Lindfield Avenue. The merits of the proposal are being assessed separately.

Apartment Depth

The RFDC and draft ADG recommend that kitchens be a maximum of 8 metres from a window.

Council raised concern that 5 proposed apartments have depths greater than 8 metres. Further, Council note that 12 approved cross through apartments have depths greater than 8 metres. Council commented that there is opportunity to redesign apartments to achieve compliance.

Apartments range in depth from 7.8 metres to 18 metres with some kitchens having a maximum distance of 9.2 metres from a window. The Department notes where kitchens are further than 8 metres from a window, it adjoins a dining/living area with full floor to ceiling glazing to maximise access to daylight and natural ventilation. Further, generous ceiling heights of 3.1 metres and open plan internal layouts maximise daylight and natural ventilation through providing satisfactory levels of amenity for apartments. The Department is satisfied that the apartment depths and kitchen locations are therefore acceptable.

Internal Circulation

Council commented that the design of internal corridors provides low amenity with no natural sunlight and ventilation. Council recommended that internal corridors be redesigned to provide natural sunlight and airflow.

The approval provides 2 internal corridors per residential tower. The proposal retains the approved design of internal corridors with minor modifications to extend the northern internal corridor of the eastern tower to incorporate the proposed two additional apartments per floor (**Figure 9**).

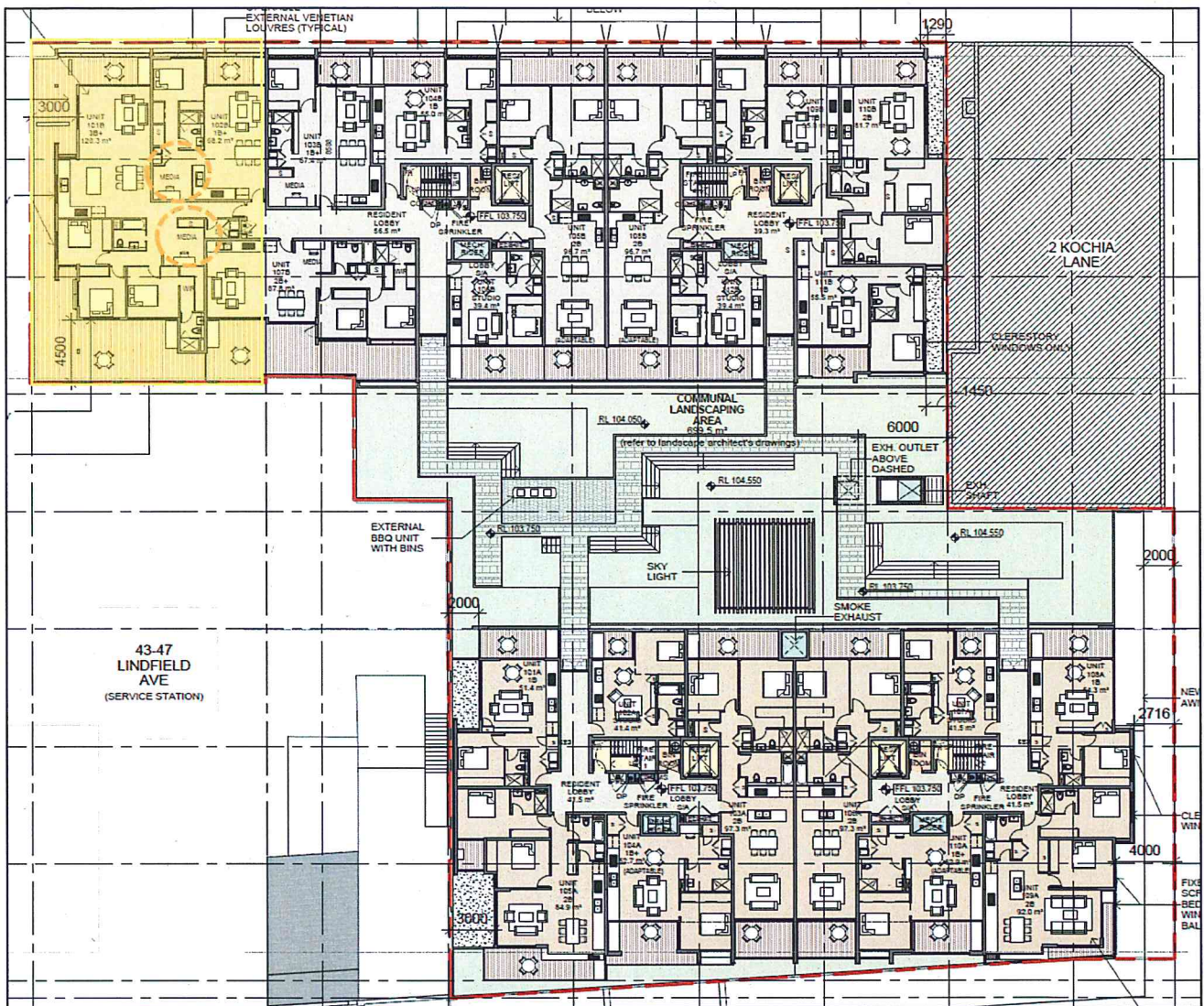


Figure 10: Level 2 plan showing communal open space in green, additional site envelope for the eastern tower (yellow) and internalised media rooms circled in orange.

The Department notes that the corridor design is consistent with the project approval and that the provision of natural sunlight and ventilation would require significant redesign of approved apartments. Further, the proposal complies with the RFDC and draft ADG recommended maximum of eight apartments per lift core corridor. In addition, the Department notes apartment entries generally do not face each other, therefore providing sufficient privacy. Furthermore, apartments achieve satisfactory levels of natural ventilation and maximise solar access in accordance with the RFDC.

The Department therefore concludes that the internal corridor design is acceptable.

Apartment Layouts

The proposal seeks to provide media rooms within 20 apartments of the eastern tower (**Figure 10**).

Council comment that eight of the media rooms are relatively internalised and located greater than eight metres from a window (**Figure 10**). Council request that these rooms be assessed against the Building Code of Australia's borrowed light and ventilation provisions.

The Department notes these media rooms are open in form and apartment layouts are consistent with maximum apartment depths and widths as recommended by the RFDC and draft ADG. The Department is satisfied that the media rooms will achieve an acceptable level of amenity for the intended use.

5.5 Other

Issue	Comment
Impacts to adjoining properties	The proposed additional envelope will provide similar minimum building separation to adjoining properties to the east as approved (in excess of 12m). It is noted that the proposal will result in some minor additional overshadowing to south eastern corner apartments within the existing residential flat building on the corner of Havilah Lane and Kochia Lane during the winter solstice at 3pm. The Department is satisfied that the proposal provides adequate building separation to residential apartments to the east. Further, the Department is satisfied that surrounding residential apartments will continue to receive satisfactory levels of sunlight.
Waste Management	The proposal seeks to relocate and redesign residential waste storage within the basement and ground floor area. Further, the proposal seeks to allow for waste compaction of residential waste which will enable a smaller waste storage room. Council commented that the redesigned waste storage fails to comply with minimum waste storage sizes to accommodate 44x660 litre container bins. Council further noted that waste compaction is not normally agreed to by Council. In this regard, Council requested that the size of the waste storage room be increased or approval for compaction of waste be obtained from Council's Manager of Waste Services. The Department recommends a condition requiring evidence be submitted demonstrating Council's acceptance of waste compaction or alternatively amended plans be submitted increasing the size of the waste storage rooms.
Apartment Visitability for Persons with a Disability	Council commented that a minimum of 70% of apartments should be designed as visitable by persons with a disability as required by KDCP 2013. The proposal provides 31 (25.4%) such apartments, including 13 (10.7%) adaptable apartments. The Department notes the proposal complies with the minimum provision of 10% (13) adaptable apartments as required KDCP 2013. The proposal seeks only to amend 10 of the approved apartment layouts within the northern end of the eastern tower with the majority of apartments remaining (102 apartments) as approved. In addition, it is noted that the KDCP 2013 was not in place during the original Project Approval. The Department is therefore of the view that compliance with the visitability standards would be onerous, as it would require redesign of the approved development and retrospective application of the DCP.
Bike Parking End of trip Facilities	Council requested that end of trip facilities be provided to complement the retail bicycle parking for staff. The proposal does not seek to provide end of trip facilities to complement retail staff bicycle parking. The Department notes the approved scheme does not include end of trip facilities for retail staff bicycle parking. Further, the Department notes the increase in retail floor space is minor. In this regard, the Department is of the view that the provision end of trip facilities for retail bike parking is not required for the minor increase in floor space, as proposed.
Deletion of Right of Way Benefiting 39-41 Lindfield Avenue	The site is burdened by rights of way easements that provide access for 39-41 Lindfield Avenue across the site to Havilah Lane. The approval requires that an appropriate variation to the rights of way be undertaken as part of the development approval. The Proponent has since acquired the sites at 39-41 Lindfield Avenue and seeks to extinguish the rights of way easements. The Proponent has provided evidence of landownership of 39-41 Lindfield Avenue and also submitted a separate modification request (MOD 3) seeking to incorporate and develop 39-41 Lindfield Avenue as part of the site. The Department therefore recommends Condition C3 is deleted.

Condition B1 – Design Modifications	Condition B1 requires various design modifications including: • privacy screens at windows and balconies at the southern elevation of the western tower at levels 1, 2, 3 and 4 facing Kochia Lane; • setback of the architectural portal frame element on the western tower by a minimum of one metre from the southern boundary; and • redesign of the vehicle entry driveway off Havilah Lane shall be designed to accommodate swept path of an 11 metre long rigid truck. The proposal includes the abovementioned design amendments and therefore seeks to delete Condition B1. The Department notes that the proposal includes: • privacy screens at windows and balconies of the southern elevation of the western tower at levels 1-4; • a 1 metre setback for the architectural portal frame element on the western tower; and • swept paths for an 11 metre long rigid truck for the proposed loading dock. The Department is satisfied the required amendments as part of Condition B1 have been satisfied and therefore recommends deletion of the condition.
Contamination	A Phase 2 contamination assessment prepared by Douglas Partners dated January 2015 is submitted with MOD 3 which includes the additional site at 7 Havilah Lane. The report concludes that the site is suitable for the proposed development and includes recommendations to be complied with prior to and during construction of the development. The Department recommends a condition accordingly.

6. CONCLUSION AND RECOMMENDATION

The Department has assessed the merits of the proposed modification taking into consideration the issues raised in all submissions and is satisfied that the impacts have been satisfactorily addressed within the proposal and Department's recommended conditions. The Department concludes that the proposed modification is reasonable, subject to recommended conditions, and allows for the inclusion of 7 Havilah Lane into the Project Approval to allow for an improved holistic development of the town centre site consistent with the desired future character of the area.

On balance, the Department concludes that:

- the proposed building form is consistent with that already approved for the development;
- the proposal will result in an acceptable relationship to surrounding buildings;
- the proposal will maintain the amenity of surrounding residents and is compatible with the surrounding uses;
- the proposal is compatible with the existing and future character and use of the site, and the surrounding locality;
- subject to a reduction in residential car parking provision as recommended, car parking provision is acceptable; and
- the proposal will result in a quality development providing additional housing choice.

The modified proposal remains generally consistent with the overall intent and terms of approval and is acceptable.

It is therefore recommended that the Executive Director, Infrastructure and Industry Assessments:

- consider** the findings and recommendations of this report;
- approve** the modifications subject to conditions under Section 75W of the Environmental Planning and Assessment Act 1979; and
- sign** the attached Instrument of Modification (**Appendix C**).

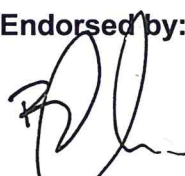
Prepared by: Simon Truong
Senior Planner, Key Site Assessments

Endorsed by:



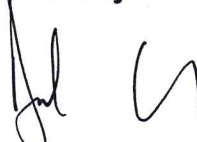
Amy Watson
Team Leader
Key Site Assessments

Endorsed by:



Ben Lusher
Acting Director
Key Site Assessments

Approved by:

 29/6/15

Daniel Keary
Acting Executive Director
Infrastructure and Industry Assessments

APPENDIX A MODIFICATION REQUEST

See Planning and Infrastructure's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6791

APPENDIX B SUBMISSIONS

See the Planning and Infrastructure's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6791

APPENDIX C RECOMMENDED MODIFYING INSTRUMENT
