

**Response to Department's Query:**

- The use of the loading dock could be conditioned for use between 7am and 7pm - which takes the common denominator from the proponent's loading dock Acoustic Study and the JBA report; however, without an acoustic study of rigid vehicles travelling Havilah Lane it is difficult to say if these hours are acceptable or whether they should be shortened due to stop start traffic noise impacts to the apartments.
- Council does not have standard noise conditions regarding vehicular traffic. In any Development Application (DA) to Council where noise is a matter of concern, the applicant is asked to conduct a noise study and present an acoustic report which then determines the conditions placed on that development.
- In the instance of MP08\_0244, the Acoustic Report has only considered the noise impact facing Lindfield Avenue/Lindfield Station, and accordingly presents recommendations about the glazing on the eastern façade. MOD 3 was accompanied by an Acoustic Report which included an assessment of internal loading dock noise impacts, but did not include an assessment of the vehicle traffic using Havilah Lane and the basement on this site, nor included any predictions regarding the future acoustic environment of Havilah Lane. There is no modelling of the noise impact of traffic that will be generated by the subject development and the approved development at 43-47 Lindfield Avenue to inform the noise conditions that are to be imposed.
- Since all acoustic environments are different, the applicant should submit a further amended acoustic report which includes:
  1. noise monitoring in Havilah Lane to establish a background level and noise criterion for affected receivers;
  2. an assessment of the traffic noise impacts of the supermarket (particularly during the night time 10pm-12pm);
  3. impacts on the subject development plus neighbours;
  4. recommendations to ensure that suitable internal noise levels to apartments are achieved.
- This is particularly important if the Department is considering allowing the 5 apartments G01B - G05B at zero setback and limited height above Havilah Lane.
- Attached is the Acoustic Report submitted with the DA for the adjacent 43-47 Lindfield Avenue which establishes a background level and noise criterion for both Lindfield Ave and Havilah Lane. This Report establishes a high 103 dBA sound level to Havilah Lane from traffic. Such noise levels would require sound attenuation to all apartment openings to the laneway, in particular the 5 sub-standard apartments G01B - G05B which are located only 3.0m above the laneway at the Kochia Lane end. The proponent comment that the masonry upturn of the balconies and provision of awnings below will deflect noise is agreed to a limited degree; in fact, the zero setback and height above the Lane reduces the effectiveness of such devices as the traffic noise is not limited to that portion of the laneway where noise angles would utilise these features effectively; and, in fact, the awning does not extend to the apartments at the lowest points of the building at the Kochia Lane end, which are also the poorest in terms of amenity and height separation.

- If the Department is of a mind to allow apartments G01B - G05B, it should analyse the statements made by the applicant stating compliance with the Department's ADG (Apartment Design Guide) which in fact are incorrect. At a basic level, the conflict between the apartments and the basement access points below are unresolved and clearly inconsistent with the requirements of the ADG. Further, given the noise levels and proximity to the laneway of these apartments, the Department is asked to consider the actuality of utilising the openings for ventilation or private open spaces in addition to the limited standards of habitable rooms lit by snorkel windows in the poorest apartment at G05B, or no windows to the dining/habitable area within G03B; and no solar access (as required by ADG) to living rooms which are shadowed by façade setbacks (solar access to bedrooms does not make apartments compliant with ADG).
- Council again states that the original approved Part 3A design be reinstated with the retail/commercial floor space extending to Havilah Lane. The Department has already stated in its 'A Plan For Growing Sydney' that there is an expectation for increased densities to accommodate more dwellings in close proximity to train stations. Given the definite population increase that is to occur in this part of Lindfield, the amount of retail/commercial area provided in this large development is of primary importance in infrastructure provision.

The retail/commercial area has been significantly reduced from the original approved Part 3A design despite the increase in apartment number proposed with the MODs and land acquisition. The retail/commercial area being provided in MOD 3 is no more than already existed and operated at this location prior to the substantial increase in population that is being introduced through this development alone. The proponent argues that the 5 apartments G01B - G05B provide a better outcome than the retail/commercial option. The short term financial gain to the developer should not outweigh the greater long term gain to the increased population in this and surrounding Lindfield development, particularly when that gain is contrary to the Department's publications of 'ADG' and 'Plan for Growing Sydney' and, no doubt, to the soon to be released District Plan.

- Council notes the proponent's response regarding the Shop-Top housing reiterating that the Minister has the ability to approve. As per Council's previous submission, this is not in argument. Council does take issue, however, with the assertions of irrelevance by the proponent. The current planning scheme may lawfully be taken into account in considering the merit of the proposed modifications, not least as informing the likely future setting and surrounds of the development.

Council respectfully refers to its previous comments and points out the inconsistency of what is proposed with the Department's own publications, namely the 'ADG,' with poor amenity being afforded to these 5 recently included apartments G01B - G05B, and 'A Plan For Growing Sydney', which envisages the necessity of increased retail/commercial services at this location and the lack of other sites on this side of Lindfield that are able to make that provision. These matters provide ample cause for the Minister to decline the modifications that are proposed.