



Ku-ring-gai Council Submission

Major Project MP08_0244 –Environmental Assessment –
Mixed Use Development - 23-37 Lindfield Avenue and 11 Havilah
Avenue, Lindfield

December 2010

Executive Summary

Council is of the opinion that there are two fundamental grounds on which the application should be refused:

- The amendments to the Major Development SEPP on 25 June 2010 to omit Clause 15 from Schedule 2, has resulted in the site no longer satisfying the requirements of clause 6(1) of the Major Development SEPP and as such cannot be considered under Part 3A of the Act. It is Council's position that any application for this site should be lodged with Council for assessment under the Ku-ring-gai Local Environmental Plan (Town Centres) 2010, with the Joint Regional Planning Panel (JRPP) as the determining authority.
- The applicant has failed to provide details of steps taken to incorporate the site at No.2 Kochia Lane, or to demonstrate that it can be redeveloped as an economically viable stand alone development in the future in accordance with the planning principles established by the Land and Environment Court. The failure of the site to incorporate No.2 Kochia Lane results in fundamental design flaws in the proposed development. Council strongly opposes any development that does not incorporate the site at No.2 Kochia Lane.

There are also significant design related issues that Council has identified with the proposal in its current form and which merit refusal of the application. These include the following:

- Overall the proposal does not address the DCP principles for the site nor does it meet the key building design controls in relation to street and upper level setbacks.
- The proposal is not considered to be consistent with the intent of the Design Excellence provisions of the Clause 6.4 of the Town Centre LEP and therefore it is considered unlikely the proposal would be awarded a UDE certificate. As such it should be assessed against the base development standards contained in the LEP being a height of 20.5 meters and a FSR of 2.5:1.
- The proposal does not comply with SEPP 65 in respect of solar access. A vastly improved outcome can be achieved through redesign as the bulk of the overshadowing is by the development itself
- The proposed development would have unacceptable impacts on the heritage significance of the adjoining heritage building at 1-21 Lindfield Avenue and its grouping with the Church at 1 – 5 Tryon Road.
- The proposed development fails to meet the basic heritage setback provisions in Town Centres DCP that require new development be setback and must step down in scale in proportion to its height.
- The design of the proposed development would challenge and overwhelm the adjoining heritage item. There is a poor relationship in terms of architectural design, façade rhythms, fenestration patterns etc. It has an unarticulated rectangular form and lacks any respect to the streetscape or the adjoining heritage item.

- The provision and design of the communal open space and associated facilities does not comply with Council's Town Centres LEP and DCP and/or the Residential Flat Design. The proposed soil depths, volumes and areas for the establishment of medium size tree planting are inadequate and would compromise the establishment and ongoing sustainability of such plantings. There is insufficient justification for variations to standards such as the substantial non compliance with both DCP and residential Flat design Codes standards common open space has been provided.
- The EA fails to acknowledge or respond to Ku-ring-gai Town Centres Public Domain Plan 2010 (PDP), which provides a strategic context and guidelines for future public domain provision.
- The rear of the development is dominated by service elements including the loading dock and will have a detrimental affect on the amenity of the adjacent residential developments. The CPTED assessment provided in the EA fails to address potential safety issues associated with the loading dock to Havilah Lane as well as other retail elements and the service areas.
- The provision of 150 car spaces is inadequate, and is particularly lacking in the retail component. A minimum of 196 spaces should be provided in accordance with the Ku-ring-gai Town Centres DCP. Reliance should not be placed the 25 spaces in the adjoining Council car park as future parking provision.
- The proposed widths for the car parking and service access points and overall car parking layout are not appropriate, resulting in potential conflicts between service vehicles, passenger cars and pedestrians. The geometric design of the retail car park (space width, aisles) and the accessible parking does not comply with the relevant Australian Standard. There is concern that there appears to be no separation between retail and residential parking areas.
- The provision of 7 on-site car share spaces is high for a development of this scale, and the proposed tandem/stacked arrangement would not be desirable. There is concern over the ongoing viability of the proposed on-site car share spaces and on any wider travel and transport benefits of the scheme.
- A large number of the above issues have come about as a result of the application not including the site at No. 2 Kochia Lane, and the above issues would need to be addressed for the application to be supported.
- The BASIX water commitments are inconsistent with those measure identified in the EA and ESD report. If it is intended to treat grey water for re-use, then the provision of rainwater retention would seem superfluous, and vice versa.
- Insufficient space has been provided for storage of the number of containers which would be required to service the residential component of the development. Containers should be calculated using the table in Part 4.16.44 of the DCP.
- Development contributions should be calculated in accordance with *Ku-ring-gai Contributions Plan 2010*. Payment of contributions is required prior to the release of the Construction Certificate.

- As the site has been identified as having a moderate risk of contamination. A detailed Stage 2 investigation should be conducted before approval is granted.
- The inaccurate diagrams in the Environmental Impact Report and the Heritage Impact Statement regarding the extent of the proposed town square in Tryon Road misrepresent the future context for the proposed development and as such should rectify.

Introduction

This submission provides comment from Ku-ring-gai Council to the Department of Planning on the *Environmental Assessment* (EA) for major project MP08_0244 Construction of a Mixed Use Commercial, Retail and Residential Development at 23-37 Lindfield Avenue and 11 Havilah Avenue, Lindfield

The proposal is for a mixed use development consisting of 1,930sqm GFA supermarket, 1,321sqm GFA retail, 102 residential apartments (53 x 1 bedroom, 44 x 2 bedroom and 5 x 3 bedroom), 150 car parking spaces over 2 levels of basement parking and associated service vehicle facilities.

This submission identifies Council's concerns with the proposed development having regard to relevant Environmental Assessment Requirements issued by the Director General.

Background

The project was declared on to be one to which part 3A of the EP&A Act applies 15 January 2009 as it was of a kind identified in Clause 15 in Schedule 2 of *State Environmental Planning Policy (Major Development) 2005* (Major Development SEPP), entitled 'Housing in Ku-ring-gai'. The Director General's Environmental Assessment Requirements (DGRs) for the Project Application were issued 19 February 2009.

The site was also previously identified development for the purpose of multi-unit housing on sites within the Ku-ring-gai area listed in Schedule 4 of *State Environmental Planning Policy 53 Metropolitan Residential Development* (SEPP 53) as a Major Development to be assessed under Part 3A of the EPA Act.

The *Ku-ring-gai Local Environmental Plan (Town Centres) 2010* (Town Centres LEP) was made on 25 May 2010 and included zoning and development standards for the site that reflected the development potential for the site that previously applied under SEPP 53. The Town Centres LEP also repealed SEPP 53 from applying to the land. SEPP 53 was subsequently amended on 25 June 2010 to reflect the provisions of the Town Centres LEP.

The Major Development SEPP was also amended on 25 June 2010 to omit Clause 15 from Schedule 2.

Comments against Director General's Environmental Assessment Requirements

Relevant EPLs, Guidelines to be addressed

The development proposal was originally deemed to be one to which part 3A of the EP&A Act applies as it was, at the time, identified in Clause 15 in Schedule 2 (Specified sites) of the Major Development SEPP, entitled 'Housing in Ku-ring-gai'. The inclusion of the site in schedule 2 of Major Development SEPP was on the basis that the site was previously identified development for the purpose of multi-unit housing on sites within the Ku-ring-gai area listed in Schedule 4 of *State Environmental Planning Policy 53 Metropolitan Residential Development* (SEPP 53) as a Major Development to be assessed under Part 3A of the EPA Act.

However, since the time of lodgement of the application under Part 3A a number legislative changes have taken place which Council believes renders the application invalid.

- The making of the *Ku-ring-gai Local Environmental Plan (Town Centres) 2010* (Town centres LEP) on 25 May 2010 which repealed SEPP 53 from applying to the land. SEPP 53 was subsequently amended on 25 June 2010 to reflect the provisions of the Town Centres LEP.
- The Major Development SEPP was amended on 25 June 2010 to omit Clause 15 from Schedule 2. This resulted in the site no longer satisfying the requirements of clause 6(1) of the Major Development SEPP to be considered under Part 3A of the Act.

Given that there were no savings and transitional provisions included in the amendments to the Major Development SEPP on 25 June 2010 to save applications that had been lodged under the provisions of the SEPP but not determined, it is Council's view that the application has lapsed and cannot be determined by the Minister as it is no longer a project to which Part 3A applies.

As a result of the above mentioned amendments to the relevant Environmental Planning Instruments (EPIs), the remaining relevant EPIs and guidelines to be addressed by this application are the following:

- Objects of the EP&A Act
- SEPP55, SEPP65, SEPP (Infrastructure) 2007, SEPP(BASIX) 2004
- Ku-ring-gai Council's Town Centres LEP and Town Centres DCP
- Draft North Subregional Strategy

It is also emphasised that Town Centres LEP was prepared by the Ministerially appointed Ku-ring-gai Planning Panel, with the Minister making the plan in its final form and exempting the site from SEPP No. 53 and the Major Development SEPP. These actions demonstrate that the Minister's clear intent is that the Ku-ring-gai Town Centres LEP is the relevant EPI to apply to this site. Given this, it is Council's position that any application for this site should be lodged with Council for assessment with the Joint Regional Planning Panel (JRPP) as the determining authority.

Architectural, Building, Urban Design Impacts and Built Form

Council have considered the architectural, building, urban design impacts and built form against the relevant requirements of the Ku-ring-gai Town Centres LEP and the principles and controls set out in the Town Centres DCP.

The following table provides comments in reference to the principles and controls set out in parts 2E.2.4 Key Site L4: Tryon Road and Lindfield Avenue Retail Area; 2E.2.4B Base Design Principles and 2E.2.4C Base Design Controls. These comments need to be read in conjunction with the diagrammatic analysis contained in **Attachment 1** to this submission which provides a more detailed assessment of the proposal against relevant DCP principles and controls.

DCP principles and controls	Applicant's claim	Council's response
Base Design Principles (Section 2E.2.4B)		
Principle 1: Provide active street frontages to Kochia Lane and Lindfield Avenue and to the town square	The proposed development has been designed to provide active street frontages to both Lindfield Avenue and Kochia Lane.	Complies to Lindfield Avenue, Does not comply to Kochia Lane
Principle 2: Locate and design buildings to retain adequate solar access to the new town square area.	The proposed design will ensure that appropriate solar access will be provided to the town square.	Uncertain. It is noted that the shadow diagrams do not include future redevelopment of no.2 Kochia Lane so an assessment can not be made
Principle 3: Establish a consistent 3 storey street wall that is built parallel to the street alignment of Lindfield Avenue to complement the traditional 'main street' facades. All levels above the street wall height are to have a setback.	The proposed development will have a zero setback at the Lindfield Avenue frontage (apart from a small setback to the ground floor retail premises to provide an active street frontage).	Does not comply. Claim has misinterpreted the principle (refer attached diagrams)
Principle 4: Provide building setback to Kochia Lane to allow for road modifications and new footpaths. A continuous 10 metre wide right-of-way between Lindfield Avenue and Milray Street is required.	An appropriate building setback is proposed to Kochia Lane to allow for its future widening	Does not comply. It is noted that because no.2 Kochia Lane is not included within the site that the widening of Kochia Lane will not be achieved as redevelopment of no.2 Kochia Lane in the future (if possible) could not accommodate a 4 metre setback
Principle 5: Provide building setback to Havilah Lane to allow for road modifications and new footpaths. A continuous 13 metre right-of-way between Kochia Lane and Havilah Street is required.	No setback will be provided to Havilah Lane. This is consistent with the design provisions under SEPP 3 (and the associated Site Report) and will also allow for appropriate vehicle access and servicing arrangements to be accommodated at the rear of	Does not comply. This is also a matter for consideration under SEPP 65 where a minimum 18 metre separation is required between habitable rooms of new development on the other side of Havilah Lane at 2-6 Milray Street

DCP principles and controls	<i>Applicant's claim</i>	<i>Council's response</i>
	the site away from active street frontages.	
Principle 6: Provide internal retail arcade linking Lindfield Avenue with Havilah Lane	The Structure Plan suggests that the internal retail arcade is required to be provided to the north of the site when these sites are developed in the future.	Does not comply. Does not address principle
Principle 7: Provide private garden courtyards between the residential buildings on the podiums for residential amenity.	A private courtyard is proposed between Buildings A and B.	<p>Appears to comply with principle. Evidence required to support provision of adequate depth to slab to provide soil and drainage requirements for landscape.</p> <p>Does not comply with control. Part 3A-14 of the DCP requires a minimum of 10sqm per dwelling. Application's quoted figure is 467sqm provided whereas DCP requirement would be about 1000sqm.</p> <p><i>Also refer to comments below regarding landscaping and communal open space.</i></p>
Base Design Controls (Section 2E.2.4C)		
Control 1: provide a 4m setback to Kochia Lane along the southern boundaries of Nos.2 Kochia Lane and 23-25 Lindfield Avenue.	A 4m setback will be provided to Kochia Lane	Does not comply. no setback provision for over 50% of length of Kochia Lane (refer attached diagrams)
Control 2: provide a 1m setback to Havilah Lane applying to the properties 23-43 Lindfield Avenue, 2 Kochia Lane and 9 Havilah Lane.	It is considered appropriate to not provide a setback to Havilah Lane.	Does not comply (refer attached diagrams)
Control 3: provide a setback of 2m or 4m to all levels above the street wall height along all street frontages as indicated on Key Site L4 Base Plan.	Does not address the control	Does not comply (refer attached diagrams).
Control 4: vehicle and service access is to be via Havilah Lane, Milray Street or Chapman Lane. No access from Tryon Road, Lindfield Avenue or Kochia Lane is permissible	Vehicle and service access will be provided from Havilah Lane.	Complies

DCP principles and controls	<i>Applicant's claim</i>	<i>Council's response</i>
Control 5: residential lobbies and foyers are to be located off Lindfield Avenue, Kochia Lane or Tryon Road.	The residential lobby will be accessed off Lindfield Avenue.	Entrances to retail and residential components do not appear to have been appropriately resolved and are not clearly demarcated or distinguishable.

Summary

Overall the proposal does not address the DCP principles for the site nor does it meet the key building design controls in relation to street and upper level setbacks.

Urban Design Excellence Principles

Under Clause 6.4 (*Urban design excellence for Key Sites*) of the Ku-ring-gai Town Centres LEP identified key sites local strategic significance may be eligible for additional height and FSR provided the highest standard of urban and architectural design outcomes are demonstrated. Clause 6.4(4) identifies the matters that Council's appointed *Urban Design Excellence Panel* must be satisfied of in order for a proposal to be considered for the additional height and FSR. Part 2E.2.4D of the Town Centres DCP also provides Urban Design Excellence (UDE) Principles which support and further articulate the UDE considerations of clause 6.4(4) of the LEP.

Under clause 6.4, the subject site could achieve a maximum height of 23.5 metres and a FSR of up to 3:1. The development proposal for the site with an overall height in excess of 23.5 metres and an FSR of 3.7:1, far exceeds the development standards for the site under the Town Centres LEP. The EA claims that while the proposal is not required to comply with the Design Excellence provisions of the Town Centres LEP it nevertheless satisfies the criteria for design excellence. This claim is strongly disputed by Council

The following table provides a response to the claims in the EA regarding achieving urban design excellence under clause 6.4(4) of the Town Centres LEP.

<i>Applicants claim</i>	<i>Council's response</i>
Claim 1: Replacement of outdated retail and commercial floor space, with new and upgraded retail floor space, which will encourage greater economic activity in the locality	This is a function of the objectives and provisions of the Town Centres LEP 2010
Claim 2: Provision of a new supermarket, which is designed to better meet shoppers needs	This is a function of the objectives of the Town Centres LEP 2010 and provisions and the Town centres DCP 2010
Claim 3: Activation of the streetscape at ground floor level, thereby increasing the level of passive surveillance and safety and security to the area	This is a basic LEP and DCP requirement that should be achieved by every new mixed use development.
Claim 4: The development will act as a catalyst for the transformation of the area into a vibrant and mixed use centre	This is a function of the objectives and provisions of the Town Centres LEP 2010
Claim 5: The development will provide high quality residential accommodation to meet the	These are matters relating to SEPP 65 and other State Government policies

<i>Applicants claim</i>	<i>Council's response</i>
needs of the local community in a highly accessible town centre location.	
Claim 6: It will achieve a high standard of design quality and will provide for the revitalisation of a currently underutilised and downgraded site.	This is a basic DCP requirement.
Claim 7: The proposed architectural design and materials to be used will ensure that the proposed development will make positive contribution to the built form quality in the area and the public domain.	This is a basic DCP requirement that should be achieved by every new mixed use development (refer Part 3A.6 and 4.5).
Claim 8: The proposed development will achieve a high standard of ESD performance.	The ESD performance measures identified in the EA are non-committal and will only be implemented if practicable. To meet the requirements of urban design excellence the proposal would be required to substantially exceed basics and the DCP requirements for retail and commercial uses (refer Part 4.4 Green Buildings). The proposal does not do this.
Claim 9: It will also include extensive bicycle parking facilities	This is a basic DCP requirement that should be achieved by every new mixed use development (refer Part 3A.28).
Claim 10: facilitate the introduction of a car share scheme and will promote an improved pedestrian environment along Lindfield Avenue and Kochia Lane.	This is to compensate for under supply of on-site parking rather than additional
Claim 11: No unacceptable overshadowing impacts will result from the proposal	This is a basic DCP requirement set out in Part 2 and Part 3 that should be achieved by every new development.

The following table provides an assessment of the proposal against the Urban Design Excellence Principles contained in Part 2E.2.4D town centres DCP. These comments are also to be read in conjunction with the diagrammatic analysis contained in **Attachment 1** to this submission which provides a more detailed assessment of the proposal against relevant DCP principals and controls.

<i>DCP Urban Design Excellence Principles (Part 2E.2.4D)</i>	<i>Council's response</i>
UDE Principle 1: Provide amalgamation of sites to allow uniform building setback to Lindfield Avenue for wider footpath and new street tree planting.	Does not meet intent of principle. Proposal does not provide any widening of Lindfield Avenue and only proposes a base level public domain treatment.
UDE Principle 2: Provide increased building setback to Havilah Lane to allow for the provision of wider footpaths on both sides of lane.	Does not meet intent of principle. There is no widening of Havilah Lane proposed.
UDE Principle 3: Provide co-ordinated development that allows the provision of underground vehicle connections between basement car parks on private land and public	Does not meet intent of principle. The failure to incorporate No.2 Kochia Lane into the development site will prevent any future ability to incorporate any future connections between the

land.	proposed development and any future town square and public parking that is proposed for Council's Tryon Road car park.
UDE Principle 4: Provide sustainability initiatives equivalent to a 6 star green building rating from the Green Building Council of Australia.	Does not meet intent of principle. The ESD performance measures identified in the EA are non-committal and will only be implemented if practicable. There is no commitment to achieve an equivalent to a 6 star green building rating from the Green Building Council of Australia. The proposal will do little more than satisfy its mandatory commitments under BASIX.

Summary

The proposal is not considered to be consistent with the intent of the Design Excellence provisions of the Clause 6.4 of the Town Centre LEP and therefore it is considered unlikely the proposal would be awarded a UDE certificate. As such it should be assessed against the base development standards contained in the LEP being a height of 20.5 meters and a FSR of 2.5:1.

Amalgamation of No.2 Kochia Lane

The Department has strongly emphasised the need for the proponent to address the issues and implications of not incorporating the land at No.2 Kochia Lane into the amalgamated site. The EA fails to provide details of steps taken to incorporate the site at No.2 Kochia Lane, either through purchase or joint venture, or to demonstrate that this site can be redeveloped as an economically viable stand alone development in the future.

The EA has given a basic consideration to this matter and has not properly demonstrate that the independent development of 2 Kochia Lane can achieve the desired outcomes sought under the town centres LEP and DCP for this important site, including:

- Reasonable retail and residential yields;
- The provision of increased setbacks to Kochia Lane and Havilah Lane to provide pedestrian amenity (and potentially the widening of Kochia Lane);
- Adequate basement parking. Note that Council's ability to provide public parking to offset reduced parking on the site has been limited by the recent cap on Developer Contributions.

If amalgamation cannot be achieved, it must be demonstrated that all reasonable attempts have been made to do so in accordance with the planning principles established in the Land and Environment Court in *Melissa Grech v Auburn Council [2004] NSWLEC 40*, *Cornerstone Property Group Pty Ltd v Warringah Council [2004] NSWLEC 189* and *Karavellas v Sutherland Shire Council [2004] NSWLEC 251*.

Council has been provided with correspondence from the owners of 2 Kochia Lane to the Department of Planning in which they state they are willing sellers and have actively sought to be included in a larger amalgamated development site. Details of any negotiations between parties should have been provided with the application and included details of offers made to the owner of No. 2 Kochia Lane and demonstrated that these offers are reasonable.

Council strongly opposes any development that does not incorporate the site at No.2 Kochia Lane.

Solar access

No solar access information was provided to assess compliance with SEPP 65. A report prepared by a suitably qualified person in this field is required. The report should include solar access diagrams/3d modelling addressing solar access requirements in the Residential Flat Design Code. The above report should specify the methodology of modelling, the date/time of the images, orientation of shadows cast and contain a compliance table demonstrating the performance of each individual unit referable to the solar access diagrams/3d modelling.

It is stated that the proposal does not comply with SEPP 65 in respect of solar access due to the fact that the development is located in a town centre. This is not considered adequate justification. A vastly improved outcome can be achieved through redesign as the bulk of the overshadowing is by the development itself (Block A to Block B). The inappropriate use of blade walls also significantly reduces solar access.

Heritage

Heritage Status

The subject site is not listed in any statutory registers.

The site is included in the National Trust Urban Conservation Area No 9 “Lindfield”. A Trust listing is non-statutory however a consent authority may consider the values identified by the Trust in its classification.

The site adjoins a heritage item – 1-21 Lindfield Avenue, Lindfield and is within the immediate vicinity of 1 – 5 Tryon Road, Lindfield, St Albans Anglican Church. The objectives in Part 5.10 ((1) (b) of the Town Centres LEP requires the heritage significance of heritage items, including associated fabric, settings and views to be conserved. Clause (4) of the LEP requires a consent authority to consider the effect of the proposed development on the heritage significance of the heritage item concerned before granting consent and Clause (5) allows a consent authority to require a heritage impact statement to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the item concerned.

Part 9 of DCP Town Centres, Chapter 9.3 provides objectives and controls for development in the vicinity of a heritage item.

Applicant's Statement of Heritage Impact (HIS)

The applicant submitted a HIS prepared by Graham Brooks & Associates, a recognized heritage consultant. It contains a site description, an assessment of the impacts of the development on the adjoining heritage item at 1 – 21 Lindfield Avenue, but does not comment on impacts on the Church at 1 – 5 Tryon Avenue.

The heritage impact analysis is prepared in accordance with the guidelines prepared by the NSW Heritage Council for preparation of such statements and addressed the standard questions that should be discussed for development within the vicinity of a heritage item.

The report accepts a statement of significance prepared by Robert Moore (for Council made for a nomination to the SHR) dated 2003 but does not make any further assessment of the item or provide any historical background to the item or the subject site.

The report makes the following conclusions and recommendations:

Conclusions

- *The subject site at 23-37 Lindfield Avenue, Lindfield is not listed as an item of heritage significance in any statutory instrument*
- *It is located in the vicinity of the locally listed heritage item at 1 – 21 Lindfield Avenue*
- *The proposed development will have no adverse impact on the established heritage significance of the adjoining heritage item.*

Recommendations

- *Graham Brooks and Associates has no hesitation, from a heritage perspective, in recommending the application for approval*
- *An archival photographic recording of the Ramsay Building, in its context, documenting the Lindfield Avenue streetscape, should be made prior to commencement of any works.*

Comments on applicant's heritage report

The HIS is not helpful in providing a critical assessment of the impacts of the proposed development on the heritage significance of the adjoining heritage item. It has failed to recognize that the Church on the south side of the item at 1- 21 Lindfield Avenue is a listed heritage item and has not made an assessment of the value of the grouping of these two heritage buildings on a major corner in the Lindfield Avenue streetscape which is an important component of the Lindfield Town Centre.

The conclusion that the proposed development “has no adverse impact” on the adjoining heritage item is a cursory conclusion and is not based on sound assessment principles.

The report does not suggest any measures to mitigate impacts of the development on the nearby heritage items, or discuss any alternative options that might provide more sympathetic solutions for the proposed development. It simply supports the proposed development.

The only recommendation in the report is that the heritage building should be photographed before the development commences is meaningless as no work on the heritage item is proposed. However, photographic archival recording of buildings to be demolished should be undertaken so that adequate records of the nature and character of Lindfield can be made before major change takes place.

With regard to the detailed questions in the Heritage Council guidelines, the report offers the following comments:

“Impact on the heritage item is minimised because the proposed development is separated by Kochia Lane and is clad predominantly with face brickwork.”

Comment

This is a simplistic comment. The site is physically separated from the heritage building by Kochia Lane. This is an existing site condition. The use of complimentary building materials can assist in reducing impacts on heritage items but as proposed there is no consideration of the scale, detailing, setbacks, character of the streetscape or rhythm of facades.

“The future character of the Lindfield Town Centre envisages the heritage item will be retained as an example of an Inter War Mediterranean style commercial building with the adjacent site to be a higher density mixed use development.”

Comment

The above comment is incorrect. The objectives and controls in the Town Centre DCP for urban/commercial context for new developments requires the scale of the existing streetscape to be retained and new large scale development to set back consistently behind the streetscape scale to retain a pedestrian building scale. Any new urban/commercial building on this site should have a 2-3 storey scale at the street to retain the existing pedestrian scale and to be sympathetic to the heritage buildings with any higher scale development setback behind the lower scale component.

“The separation provided by the roadways surrounding the heritage building allows appreciation of the building’s architectural presentation and features from all sides”.

Comment

This is an existing site condition. The accepted statement of significance places much importance on all facades of the building. With development of the Lindfield Town Centre plan, the rear of the site will be enhanced and will face a new town square. The Lindfield Avenue and Tryon Road elevations will have good presentation to the public realm, but with the scale of the proposed development, the north façade will only be appreciated from the actual laneway. Currently it has a presence from the area to the north which would be lost if the proposed development were to proceed. The scale and form of the proposed development would overpower this elevation. Any development on this site should be kept low (2 - 3 storeys) along the street frontage to allow adequate presentation of all facades of the heritage item and to retain the streetscape character.

“The proposed development will limit some views of the northern facade. It is considered to be a minor impact.

Views to the north from the upper floor of 21 Lindfield Avenue may be restricted by the proposed development. This is considered acceptable from a heritage perspective as this view is not considered to be an integral part of the significance of this heritage item”.

Comment

Views of the northern façade will be almost eliminated from the surrounding areas but would still be possible from the lane. The significance of this building is that all facades are important as the building is viewed “in the round”. Views from rooms along the north facade of the heritage items would be eliminated.

The proposed development should be setback from the Lindfield Avenue elevation to retain a 2 – 3 storey scale consistent with the heritage building. The side setback from the heritage item (Kochia Lane) should be setback consistent with the setback provisions in DCP Town Centres, which requires a minimum building separation of 12m, then all building height above 8m stepped in proportion to its height (figure 9.3-3 of DCP). Thus there is substantial non-compliance with the heritage objectives and controls in the Town Centres DCP.

“The materials selected for the finishes to the proposed new development reflect those of the adjacent heritage item. The contemporary design does not mimic the heritage item or challenge its architectural significance”.

Comment

There is some similarity with the cladding materials but there is a poor relationship in terms of architectural design, façade rhythms, fenestration patterns etc. The architectural significance of the heritage item is challenged and overwhelmed by the scale of the proposed development. Generally it has an unarticulated rectangular form and lacks any respect to the streetscape or the adjoining heritage item.

“The Town Centres DCP requires new development to be stepped down in the vicinity of a heritage item. This is not considered applicable to the subject development as it is separated from the heritage item by a roadway. Reducing the height of the proposed building at its south west corner would not provide a significant improvement in the visual relationship between these buildings.

The heritage listed building at 1 -21 Lindfield Avenue has sufficient bulk and scale in its own right to ensure it will not be visually dominated by the proposed development”.

Comment

The objectives and controls in the Town Centres DCP recognize that distance and stepping down in scale is a basic way of dealing with scale conflicts. The control requires a minimum building separation of 12m, which is not achieved and any building height above 8m to be stepped down. As proposed the development ignores this basic concept and is completely unacceptable. The fact that the existing heritage building has a strong presence due to its location in the existing streetscape is not justification to ignore this principle which is strongly expressed in the objectives and controls in the DCP. It also ignores the requirement to respect the existing commercial streetscape pattern.

“The public and users of the Ramsay Building will still be able to view and appreciate its significance”.

Comment

The use of the heritage item will continue and hopefully enhanced with development of a new Town Square behind it. However, its significance related to its dominant location in relation to Lindfield Avenue and the Railway Station and two storey residential/commercial developments to the north will be lost.

Conclusions

The proposed development would have unacceptable impacts on the heritage significance of the adjoining heritage building at 1-21 Lindfield Avenue and its grouping with the Church at 1 – 5 Tryon Road. The proposed development fails to meet the basic heritage setback requirements in DCP Town Centres that new development be setback and must step down in scale in proportion to its height. The design of the proposed development would challenge and overwhelm the adjoining heritage item. There is a poor relationship in terms of architectural design, façade rhythms, fenestration patterns etc. It has an unarticulated rectangular form and lacks any respect to the streetscape or the adjoining heritage item.

Landscaping and Open Space

Communal Open Space provision

A private communal open space has been provided for the residential components of both buildings on level 1 podium. The space has an area of between 467 or 494sqm and consists of free form planter areas with small trees shrubs and groundcovers and areas of paving with single seats provided in various locations.

The communal open space is oriented with the long axis north south. The residential components of the proposal flank both the eastern and western sides of the open space area and the adjacent existing 3 storey development flank the southern end.

The Director General's requirements include as a Key Issue relevant consideration of Council's Town Centre's LEP and DCP. In this regard Council's Town Centres DCP, 3A.14 (1) Communal Open Space requires a minimum of 10m sq of Communal Open Space per residential dwelling.

There is uncertainty in relation to the actual communal open space provision with an area of 467sqm indicated in appendix O, while within the design report a figure of 494qm has been quoted. This requires clarification. All of the communal open space is located within the central level 1 podium.

The number of residential apartments proposed in this development is 102. Thus the total communal open space required to meet the DCP control for this development would 1020sqm.

If the communal open space is taken at the maximum stated figure of 494sqm (not 467) there is a shortfall of 51.56% in comparison to the DCP requirement for communal open space. Justification for the non compliance provided in Appendix O:

"467m2 of communal open space has been provided. This is less than 10m2 per apartment, but due to the constraints of the site, is considered appropriate."

As noted the statement indicates that this could not be achieved due to "site constraints", however the actual nature of these constraints have not identified, nor implications for residential amenity in relation to the substantial shortfall.

It is noted under the Residential Flat design Code part 02 Site Design p49, that "*where developments are unable to achieve the recommended communal open space such as in*

dense urban areas, they must demonstrate that residential amenity is provided in the form of increased private open space/ and or a contribution to public open space."

Even though the Lindfield area cannot be considered a 'dense urban area' in the usual terminology, the proposal is still non compliant with the reduced open space requirements. The requirement under the RFDC is 25 – 30% of site area. The site area is stated to be 3099sqm, therefore the required minimum communal open space under the RFDC would be 774sqm – 929 sqm. Clearly substantially non compliant, with a shortfall of a minimum of at least 275sqm.

In relation to providing "increased private open space," this appears not to have been achieved, although actual figures have not been provided. The following response to the requirement indicating, if anything, a shortfall:

- The apartments located on level 1 in the eastern tower are technically on the podium level and some of these do not meet the requirements for 25sqm of private open space. However, these apartments open onto the communal courtyard.
- Some 1 bedroom apartments have less than 10m² balcony space but never less than 8m².
- A small portion of 2 bedroom apartments have private open space of less than 12m² but never less than 10m²
- All 3 bedroom apartments have private open space of at least 15m²
- Some primary private open spaces have a minimum dimension of 2m, close to the requirement of 2.4m

Communal Open Space Design

Under 3A.14 (5) of the Town Centres DCP it is required that " The location and design of the communal open space must optimise opportunities for social and recreational activities..."

The design of the communal open space lacks opportunities for group socialisation as there are no large areas for numbers of people to socialise, only relatively isolated single seats.

3A.14 (10) of the Town Centres DCP indicates that "shared facilities such as barbecue facilities, play equipment and seating are to be provided within communal open space." These sort of communal facilities are absent from this design.

Opportunities for both collective socialisation and individual passive recreation should be provided within the communal open space. This could more easily be accommodated within a larger area more compliant with the DCP controls.

Depth of the proposed soil and configuration of the garden beds.

It is considered that the proposed depth of soil 300 – 700mm is not sufficient for the establishment of small to medium size trees, nor in some cases are the trees planted in areas of soil of sufficient area.

The Residential Flat Design Code (Part 02 Site design page 53), recommends minimum provisions for small trees (4 metre canopy diameter at maturity) of Minimum soil depth of 800mm, volume 9 cubic metres and approximate soil area of 3.5m x 3.5m or equivalent, and 1 metre depth for medium trees (8 metre mature canopy diameter at maturity). Trees proposed are of a size capable of growing to the medium size category.

Tree selection also is not considered satisfactory with both Dragon Blood Tree (Draceana) and Frangipani (Plumeria) being very slow grow species, and Koelreutaria also relatively slow growing and not considered to be reliable in the area. It is suggested faster growing medium species, such as Crepe Myrtle, may be more appropriate.

Conclusion

The proposed design does not comply with Council's Town Centres LEP and DCP and/or the Residential Flat Design Code in respect of the following:

- Provision of Communal Open Space.
- Lack of provision of communal facilities with the Communal Open Space
- Design of communal open space to optimise opportunities for social interaction.
- Design of communal open space is inadequate in respect of proposed soil depths, volumes and areas for the establishment of medium size tree planting. This may compromise the adequate establishment and ongoing sustainability of such plantings.

In relation to information provided:

- There is uncertainty in relation to actual area of communal open space provided as inconsistent figures have been provided within the submission.
- There is uncertainty in relation to actual compliance or otherwise of private open space provision

In relation to the Director General's requirements:

- It is considered that insufficient justification for variations to standards such as the substantial non compliance with both DCP and residential Flat design Codes standards common open space has been provided.

Public Domain

Ku-ring-gai Town Centres Public Domain Plan 2010 (PDP)

The EA fails to acknowledge or respond to Ku-ring-gai Town Centres Public Domain Plan 2010 (PDP). The PDP provides strategic planning guidance in the form of illustrative concept plans for each town centres, strategies, and guidelines for future public domain provision. Part 2E of the PDP identifies the following key public domain elements proposed for Lindfield centre should respond to and be consistent with:

- Enhancing Lindfield Avenue's role as the "main street" to offer distinctive local shopping experience.
- A large town square located on the Council car park at Kochia Lane with leisure-based retail uses adjoining such as cafes and restaurants to provide a major community focus.
- Protection of the heritage listed shops at 1-21 Lindfield Avenue with new low scale shops at the rear of the buildings to take advantage of the future park-side location.

Other specific public domain related concerns with proposal include:

- **Active shopfronts:** Sub floor projections along Lindfield Avenue and Kochia Lane level hinder direct physical and visual connection between the public and private domain.

The rear of the development is entirely dominated by service elements including the loading dock. These facilities will have a detrimental affect on the amenity of the adjacent residential developments and is not in accordance with the TC LEP objectives for the lane.

- ***Security grilles to shopfronts:*** Proposed external security grilles to Lindfield Avenue and Kochia Lane are not discrete and will have a detrimental impact on the visual amenity of the area and will dominate the appearance of the shopfronts to these streets. The grilles should only be provided behind the shop front windows.
- ***CPTED:*** The CPTED assessment provided is considered inadequate. The report mainly focuses on the residential component and virtually ignores the retail elements and the service areas, including the loading dock to Havilah Lane. A lighting design should form part of this assessment.

Car Parking and Traffic

The parking provision is required for mixed-use sites within 400m of a rail station and within a commercial centre is to be in accordance with the Ku-ring-gai Town Centres DCP. As a comparison, the car parking requirements under the SEPP53 specify that the rates in the *RTA Guide to Traffic Generating Developments* are to be applied, unless listed in the table below

The following table outlines the car parking requirements for the proposal, and compares these requirements to the quantity of car parking proposed.

The table indicates that the total parking provision that would be required under the provisions of SEPP53 would be 200 - 277 car spaces. This total also aligns closely with the total required under the Ku-ring-gai Town Centres DCP (197-258), and should be met by the applicant. Clearly, the provision of 150 car spaces is inadequate, and is particularly lacking in the retail component.

There is also concern that there appears to be no separation between retail and residential parking areas, as required in the Ku-ring-gai Town Centres DCP.

On the lower ground level car park (where the retail car parking is located), it appears that the car parking space and aisle width dimensions do not comply with AS2890.1 for user class 3A (short term, high turnover parking at shopping centres). This user class required 2.6m wide car parking spaces and 6.6m wide aisle widths.

Accessible parking provision for retail use is adequate (for the number of spaces provided), however the layout of these spaces does not comply with AS2890.6. The Ku-ring-gai Town Centres DCP also requires provision of adaptable dwellings, and associated car spaces that comply with AS2890.6. By inspection, though, it appears that none of the residential car parking spaces could be adapted to comply with AS2890.6 unless the total number of spaces is reduced, which would not be acceptable.

Car Parking

Land Use	Ku-ring-gai Town Centres DCP (2010) parking requirement	SEPP53 parking requirement	Proposed parking
Retail/shops, including restaurants and cafes Supermarket (1,930sqm GFA/ 1,718sqm GLFA) Specialty retail (1,321sqm GFA/ 1,121sqm GLFA)	1 space/26m ² GFA (max) - 1 space/33m ² GFA (min) = 99 (min) -125 (max)	RTA rates to be used: (24 x Slow Trade GLFA) + (40 x Fast Trade GLFA) + (42 x Supermarket GLFA) + (45 x Specialty Shops/Secondary Retail) + (9 x Office/ Medical) (per 1,000sqm GLFA) = 123	48+25*
Residential: 0 x Studio 53 x 1 bedroom 44 x 2 bedroom 5 x 3+ bedrooms (102 total) Visitor	0 (min) - 0.5 (max) = 0 0.6 (min) - 1 (max) = 31.8 (min) - 53 (max) 1 (min) - 1.25 (max) = 44 (min) - 55 (max) 1 (min) - 1.5 (max) = 5 (min) - 7.5 (max) 1 space/6 units = 17 Total res. parking = 98 (min) - 133 (max)	0 (min) - 0.5 (max) = 0 0.5 (min) - 1 (max) = 26.5 (min) - 53 (max) 0.8 (min) - 1.6 (max) = 35.2 (min) - 70.4 (max) 1 (min) - 2 (max) = 5 (min) - 10 (max) 1 space/10 units (min) - 1 space/5 units (max) = 10.2 (min) - 20.4 (max) Total res. parking = 77 (min) - 154 (max)	102
Total parking required	197 - 258	200 - 277	175

*25 spaces from adjoining Council car park in Havilah Lane (4hr spaces)

Also, there appears to be a conflict point on the lower ground level, at the point where the proposed private right-of-way access and the retail/residential car park ramp converge just south of the access point. This would need to be resolved by way of a priority system.

This application, on a smaller site than originally proposed under SEPP53, has resulted in a compromised car park layout, and will ultimately result in fragmented underground retail car parks when the adjoining site is redeveloped. However, the Ku-ring-gai Town Centres DCP requires applicants to consider breakout panels in the retail car parking components (so that adjoining basement car parks can be interconnected) but there is no evidence of this in the application.

In terms of the vehicle access point, the Ku-ring-gai Town Centres DCP requires that for car parks with 100-300 spaces accessed off a local road, the access point should be 6m-9m wide. The proposal shows a vehicular access point approximately 6m wide, however given that the access point would service approximately 150 spaces, the width should be increased to 7m minimum to allow unimpeded access.

Council car park in Havilah Lane

The application seeks to gain a credit for the 25 spaces in the existing Council car park adjoining the site, as part of the “contribution in lieu” scheme. By including these spaces, the applicant claims an effective total of 175 spaces.

As part of the development the subject of a 1982 Development Application (No.411) the then owners dedicated an allotment for the accommodation of additional parking. Without this dedication, the proposal would have been significantly deficient. The subject site was dedicated to Ku-ring-gai Council on 16 June 1986 and twenty-five (25) car parking spaces were subsequently provided on this site.

Approximately 25 years have elapsed and, like the building that is the subject of the current demolition and redevelopment proposal, the car park has reached the end of its economic life. Reliance should not be placed on these car spaces as future parking provision, particularly since the proposed redevelopment of the site could accommodate the spaces. As is the existing situation, the subject development would not have exclusive rights to this car parking and it is particularly noted that time-limited public car parking would not provide for business owners and employees. It is one of a number of properties which have been identified by Council to commence the reclassification process necessary to enable their disposal.

Bicycle Parking and facilities

The Ku-ring-gai Town Centres DCP and SEPP53 also require bicycle parking to be provided in mixed use sites in accordance with the rates in the following table.

The main concern is the lack of bicycle parking detail in relation to residential/visitor parking, as it is unclear whether the required number of bicycle parking can be achieved in the space indicated on the plans, and the lack of bicycle end of trip facilities for the retail component.

Land Use	Ku-ring-gai Town Centres DCP (2010) parking requirement	SEPP53 parking requirement	Proposed parking
<p>Retail/shops, including restaurants and cafes</p> <p>Supermarket (1,930sqm GFA/ 1,718sqm GLFA)</p> <p>Specialty retail (1,321sqm GFA/ 1,121sqm GLFA)</p>	<p>1 locker/600sqm GFA (staff) 1 parking space/2,500sqm GFA (visitors)</p> <p>Retail development is to provide employees with 1 shower cubicle & ancillary change rooms per 10 bicycle spaces, with minimum 1 shower each for males and females.</p> <p>= 6 lockers (for staff) = 2 parking spaces (visitors)</p> <p>= 1 shower cubicle each for males and females & ancillary change.</p>	Not specified	Bicycle parking area indicated on plan, but number of spaces not detailed
<p>Residential:</p> <p>0 x Studio 53 x 1 bedroom 44 x 2 bedroom 5 x 3+ bedrooms (102 total)</p>	<p>1 space/5 units for residents (within residential car park) = 21</p> <p>1 space/10 units for visitors (within visitor car park) = 10</p>	<p>1 space/3dwellings (min) for residents = 34 (min)</p> <p>1 space/10 dwellings (min) for visitors = 11 (min)</p>	Bicycle parking area indicated on plan, but number of spaces not detailed
Total parking required	33	45	

Car share parking

The application proposed 7 car share spaces as part of the total parking provision, and located in amongst the residential parking area.

Discussions with a prominent commercial car share scheme provider indicates that a provision of 7 on-site car share spaces is high for a development of this scale, and that the proposed tandem/stacked arrangement would not be desirable if there are different model vehicles to be made available on site to users.

It is also not clear whether the residential parking area (where the car share spaces are to be located) is in a secure area. If the car share spaces are not publicly accessible (i.e. only available to residents of the proposal), then it is considered a financially higher risk proposal, and the developer would need to cover that risk. This places greater uncertainty on the ongoing viability of the proposed on-site car share spaces and on any wider travel and transport benefits of the scheme.

Service Vehicles Parking and Access

There is concern regarding the configuration and access to the loading bay. The main concern is that service vehicles, including articulated vehicles, would be required to undertake manoeuvres in Havilah Lane and across a significant length of footpath at the rear of the site in order to access the loading bay, resulting in potential conflicts between service vehicles, passenger cars and pedestrians in the area. The plans also show that a large rigid vehicle would be required to reverse into the loading bay if an articulated vehicle is occupying it's own bay, and this is not acceptable.

Also, the large opening required to access this loading dock is not acceptable and is the result of the proposal not utilising the whole site as originally intended in SEPP53. In fact, the SEPP53 controls require that no car park or service entry should be greater than 6m in length along any building frontage.

Service vehicles should enter and leave the site in a forward direction at right angles to the property boundary and the layout of the loading bay (parallel and adjacent to Havilah Lane) does not permit this. An application covering the whole of the SEPP53 site would have enabled the satisfactory provision of access to an internal service bay.

The traffic and parking assessment report has not addressed the heavy vehicle routes to/from the site, and their accessibility. Council's own investigations show that a 19m long articulated (prime mover and semi-trailer) vehicle would not be able to negotiate the access to the loading dock via Chapman Lane/Kochia Lane and Havilah Lane. Similarly, on leaving the loading dock, a 19m long articulated vehicle would not be able to turn left from Havilah Lane into Havilah Road, and would not be able to turn left from Havilah Road into Lindfield Avenue. Clearly, vehicles smaller than a 19m articulated vehicle would be required to service the proposed supermarket/retail

Traffic Generation and Wider Traffic/Transport Context

During the planning of the Lindfield town centre (which culminated in the gazettal of the Ku-ring-gai LEP (Town Centres) 2010), Council undertook an area-wide traffic study of the Lindfield town centre.

This study examined the existing traffic situation, and considered the cumulative traffic generating impacts of redevelopment under the LEP. It also considered various traffic flow and intersection improvement options around the Lindfield town centre.

The 3 signalised intersections on Pacific Highway in Lindfield were found to be operating at capacity in the am and pm peak, with the intersection of Pacific Highway and Balfour Street/Havilah Road being the critical intersection. In particular, the Havilah Road leg of this intersection was identified as being a major constraint, due to the relatively low and narrow railway bridge and the close proximity to Lindfield Avenue. As a consequence, Havilah Road and Balfour Street experience significant delays, particularly during the pm peak.

While an number of opportunities were considered, the close proximity of Pacific Highway and the North Shore railway line combined with limited east-west crossing opportunities presented a major barrier to providing major access improvements.

The result of the traffic modelling indicated that traffic generation of the Lindfield town centre redevelopment would further deteriorate the performance of the 3 signalised intersections on Pacific Highway in Lindfield. Although limited opportunities became evident during the study (due to the constraints mentioned above), the following traffic improvement measures in the vicinity of the site were recommended:

- New traffic signals at intersection Lindfield Avenue and Tryon Road (and removal of existing pedestrian operated signals in Lindfield Avenue);
- Minor capacity improvements at intersection of Pacific Highway and Balfour Street/Havilah Road (lengthen right turn bay from Pacific Highway into Havilah Road, and extend parking restrictions in Balfour Street;
- Pedestrian link between Lindfield Avenue and Havilah Lane (identified as a new road in SEPP53).

These works have been scheduled and costed in the Ku-ring-gai Contributions Plan (2010).

While the new traffic signals at the intersection of Lindfield Avenue and Tryon Road would improve vehicle access and pedestrian safety, the improvements at intersection of Pacific Highway and Balfour Street/Havilah Road would only bring about marginal improvements in overall intersection level of service.

The study also briefly considered new traffic signals at intersection of Pacific Highway and Strickland Avenue, but were not recommended as the RTA would be unlikely to agree to signals as it would reduce the overall level of service of the Highway, being in close proximity to the intersection of Pacific Highway and Grosvenor Road.

However, during the consultation with RTA (as part of S62 state agency consultation), the RTA indicated that it would not support 2 way traffic on Havilah Road. It requested that Havilah Road be modified to one-way Eastbound, and movements prohibited by this modification be accommodated at the intersection of Pacific Highway and Strickland Avenue (dual right turn into Pacific Highway). Access into the eastern part of Lindfield would be via Havilah Road and access from the eastern part of Lindfield would be via Strickland Avenue. New traffic signals at the intersection of Pacific Highway and Strickland Avenue have been scheduled and costed in the Ku-ring-gai Contributions Plan (2010).

Conclusions

A series of transport improvements are proposed in the Lindfield town centre to accommodate future traffic demands. However, the following issues remain outstanding:

- The provision of 150 car spaces is inadequate, and is particularly lacking in the retail component. A minimum of 196 spaces should be provided in accordance with the Ku-ring-gai Town Centres DCP. Also, reliance should not be placed on the 25 spaces in the adjoining Council car park as future parking provision.
- Bicycle parking and associated facilities (lockers/showers) should be provided in accordance with the Ku-ring-gai Town Centres DCP, and there is a lack of detail residential/visitor bicycle parking, as it is unclear whether the required number of bicycle parking can be achieved in the space indicated on the plans.
- There is concern that there appears to be no separation between retail and residential parking areas.
- The geometric design of the retail car park (space width, aisles) and the accessible parking does not comply with the relevant Australian Standard.
- There is a conflict point on the lower ground level, at the point where the proposed private right-of-way access and the retail/residential car park ramp converge just south of the access point.
- Given that the access point would service approximately 150 car spaces, the width should be increased to 7m minimum to allow unimpeded and efficient access.
- The provision of 7 on-site car share spaces is high for a development of this scale, and the proposed tandem/stacked arrangement would not be desirable if there are different model vehicles to be made available on site to users.
- If the car share spaces are not publicly accessible, then it is considered a financially higher risk proposal, and the developer would need to cover that risk. This places greater uncertainty the ongoing viability of the proposed on-site car share spaces and on any wider travel and transport benefits of the scheme.
- Service vehicles, including articulated vehicles, would be required to undertake manoeuvres in Havilah Lane to access the loading bay, resulting in potential conflicts between service vehicles, passenger cars and pedestrians in the area and have unacceptable noise impacts on adjoining residents. Also, a large rigid vehicle would be required to reverse into the loading bay if an articulated vehicle is occupying its own bay, which is not acceptable.
- The large opening required to access the loading dock is not acceptable.
- A 19m long articulated vehicle would not be able to negotiate the access to the loading dock via the surrounding local roads.

A large number of the above issues have come about as a result of the application not including the site at No. 2 Kochia Lane, and the above issues would need to be addressed for the application to be supported.

Water management

The BASIX water commitments are for a central on-site recycled/ alternative water supply, supplying 1200 litres per day, with re-use for toilet flushing. No rainwater retention is nominated. This appears to be an error, as the Environmental Assessment Report refers to

rainwater being collected and used for toilet flushing (100 cubic metres), the ESD report also refers to rainwater harvesting and reticulation to toilets (but gives a volume of 40 cubic metres), and the Stormwater Drainage Layout plan shows 100 cubic metres of OSR.

The BASIX website has this to say about recycled water

*“An on-site recycled water system is a system that allows for the **reuse of greywater** or all **wastewater** (greywater and blackwater); this includes sewer mining.*

*Depending on the level of treatment, recycled water can be used for garden irrigation and some internal uses (see NSW Health guidelines listed below). The treatment of wastewater **must meet relevant treatment standards.***

***Blackwater** is wastewater contaminated by human excrement, including wastewater from a toilet or urinal. Blackwater can include all other household wastewater (eg. greywater).*

***Greywater** is wastewater not contaminated by human excrement, including wastewater from a bath, shower, hand basin and laundry. Kitchen wastewater can be heavily polluted with food particles, oils, fats, caustic detergents and other highly polluted waste and should not be reused without treatment.*

*All forms of greywater/wastewater are **capable of transmitting disease.***

***Greywater treatment systems** collect, store and treat greywater to a higher standard for garden irrigation, toilet flushing and/or laundry use. Treated greywater should not be used for filling swimming pools and spas, or for watering edible plants (that are consumed raw or lightly cooked).*

Wastewater treatment systems are able to collect, store and treat both greywater and blackwater. Note treated blackwater can only be used for garden irrigation, and should not be applied to edible plants (that are consumed raw or lightly cooked).”

The Stormwater Drainage layout does show a “Recycled water plant”, however no further details are given.

If it is intended to treat greywater for re-use, then the provision of rainwater retention would seem superfluous, and vice versa. Note the requirements for a separate Section 68 approval for such a system.

The Stormwater Drainage layout GHD plan 21-19509-C002 is preliminary only and provides no details of the proposed OSD/OSR tanks such as dimensions or levels, top water level, outlet level, configuration or available headroom. The plan does not even demonstrate that gravity fall from the outlet is available to Havilah Lane.

Furthermore, the OSD volume has been underestimated – calculations are based on 60% site coverage when site coverage is 100%.

No water quality measures are shown as required under Part 5F.2 of the Town Centres DCP.

Waste management

Insufficient space has been provided for storage of the number of containers which would be required to service the residential component of the development.

The Waste Management Plan has been prepared using rates given in Appendix A2 of the Town Centres DCP. However, the number of containers should be calculated using the table in Part 4.16.44 of the DCP. It appears that using the rates in Appendix A2 has resulted in an underestimate of numbers of containers required.

The actual number of containers required is 51 for garbage, 26 for paper and 26 for mixed recycling, a total of 103 x 240 litre containers.

Council's Waste Services Section advise that all collection (garbage, paper and mixed recycling) takes place on the same day, so therefore the waste collection area must be large enough to store all these containers.

There is no objection to more than one waste collection area being provided, as long as the clear headroom is 2.6 metres for the entire path of travel, to be demonstrated on a section, and manoeuvring is available for forward travel.

Centralised collection area(s), serviced by a building caretaker would also be acceptable, however the area(s) must be large enough to store all the containers.

Contributions

Reference to development contributions is made in 5.9 of the Environmental Assessment Report.

Contributions Plan – Ku-ring-gai Contributions Plan 2010

In Section A (page 10) in response to the EA under the heading 'Development Contributions' the document states: "The proposal should be subject to development contributions under the relevant contributions plan/s in place at the time the Project Application is made."

Further notations on that page indicate that the applications were aware that the contributions plan was under review and would be consolidated into a revised Contributions Plan as a supporting document to the Town Centres LEP.

A Council in determining a Development Application can only apply the contributions under an active, lawfully in force Contributions Plan. *Ku-ring-gai s94 Contributions Plan 2004-2009 (Amendment 2)* and *Ku-ring-gai Town Centres Development Contributions Plan 2008* being the Contributions Plans referred to the documentation were superseded by Ku-ring-gai Contributions Plan 2010 on 19 December 2010.

This *Ku-ring-gai Contributions Plan 2010* applies to all applications determined after that date. It is noted that this Contributions Plan achieved significant savings for residential development in Ku-ring-gai. This is one of the key reasons why it applies to all undetermined Development Applications from the date it comes into effect. It is also noted that the Town Centre areas along the Pacific Highway / Railway Corridor and St Ives are not

subject to a s94E Direction that would limit their quantum as they are included in Schedule 2 to the current s94E Direction which lists areas to which the Direction does not apply.

Methodology of Calculation

The calculation process applied in the documentation is flawed and incomplete. It is a core requirement that new development is levied only for the nett additional demand arising from the redevelopment and that existing demand is duly credited. The correct process is to assess the contributions arising from the proposed development as a whole and thence subtract the deemed contributions – being the credit – arising from the existing development on the site as a whole.

The process for calculating contributions and granting credits for existing development is described in **1.16 How are Contributions derived?** in *Ku-ring-gai Contributions Plan 2010*. **1.17 Determining the Nett Increase in Demand** provides information on the determination of the credit arising from existing development and notes that the onus is on the applicant to supply information sufficient to enable this credit to be accurately determined in accordance with the Contributions Plan.

The retail/commercial components of the existing and proposed developments are not the same and, therefore, do not cancel each other out. The argument that the existing commercial/retail floor space exceeds that which is proposed only serves to demonstrate that the development, under this method of calculation, will not receive its full entitlement to a credit from the existing development.

In order to calculate the contribution arising from the nett additional demand, details of the current floor space – square metres by usage – are required.

This information does not appear to have been submitted as part of the documentation.

Timing of Payment

Payment of contributions is required prior to the release of the Construction Certificate. This requirement is specified in Ku-ring-gai's Contributions Plan and has been consistently applied. Payment prior to the release of the construction certificate was supported by the findings of Commissioner Simpson and is considered to represent the best balance between the competing desires of a developer to pay as late as possible in the proceedings and the need for council to manage cash-flow to support a rolling works programme. To allow one developer to delay payment contrary to council's policy effectively confers a pecuniary advantage on this developer in comparison to other developers and is inequitable.

Past Dedication of Land for Car Parking Purposes and Alienation of the Car Parking Site

Ku-ring-gai Council will be seeking definitive legal advice concerning the obligation – or otherwise – to continue to provide 25 car parking spaces (or return the monetary equivalent to a fund for the provision of future car parking) particularly in view of the intended demolition of the development which the car parking was intended to support. In that event, it is likely that such proceeds would be combined with others and a consolidated car park providing for Lindfield as a whole would be established.

Since the 1980s development, which has now reached an age where it is now economically viable to redevelop, and in view of the recently established planning controls with the

gazettal of *Ku-ring-gai Local Environmental Plan (Town Centres) 2010* and the adoption of *Ku-ring-gai Development Control Plan (Town Centres) 2010*, much has changed.

There is some question whether the redevelopment of the adjoining site to the exclusion of the site which was dedicated to council for the provision of car parking will lead to the alienation of that site inhibiting its future redevelopment and integration into the overall, modern urban centres, design for Lindfield as a whole.

Site Contamination

The preliminary (Stage 1) investigation has identified that the site may be contaminated (*moderate risk*). A detailed investigation (Stage 2) should be conducted before approval is granted, alternatively any approval should require remediation to be carried out and validated before other work commences.

Utilities

The letter from Energy Australia indicates that a kiosk substation will most likely be required. The submitted plans do not identify a location for a kiosk. The architectural plans should specify a location for the kiosk on the development site which will not interfere with the amenity of the public domain.

Documentation

Accuracy of certain documentation

Both the Environmental Impact Report and the Heritage Impact Statement show an extremely large proposed town square in Tryon Road, including privately owned land at 12-18 Tryon Road. The proposed town square will be limited to Council owned land at 8-10 Tryon Road as presented in part 2E.2.4 of the Town Centres DCP. The inaccurate diagrams in the Environmental Impact Report and the Heritage Impact Statement misrepresent the future context for the proposed development and as such should rectify.

Survey plan

The survey submitted with the application does not contain adequate information to undertake a detailed assessment. Major construction and excavation works are proposed on the site boundaries which necessitates a boundary identification survey.

Owner's consent

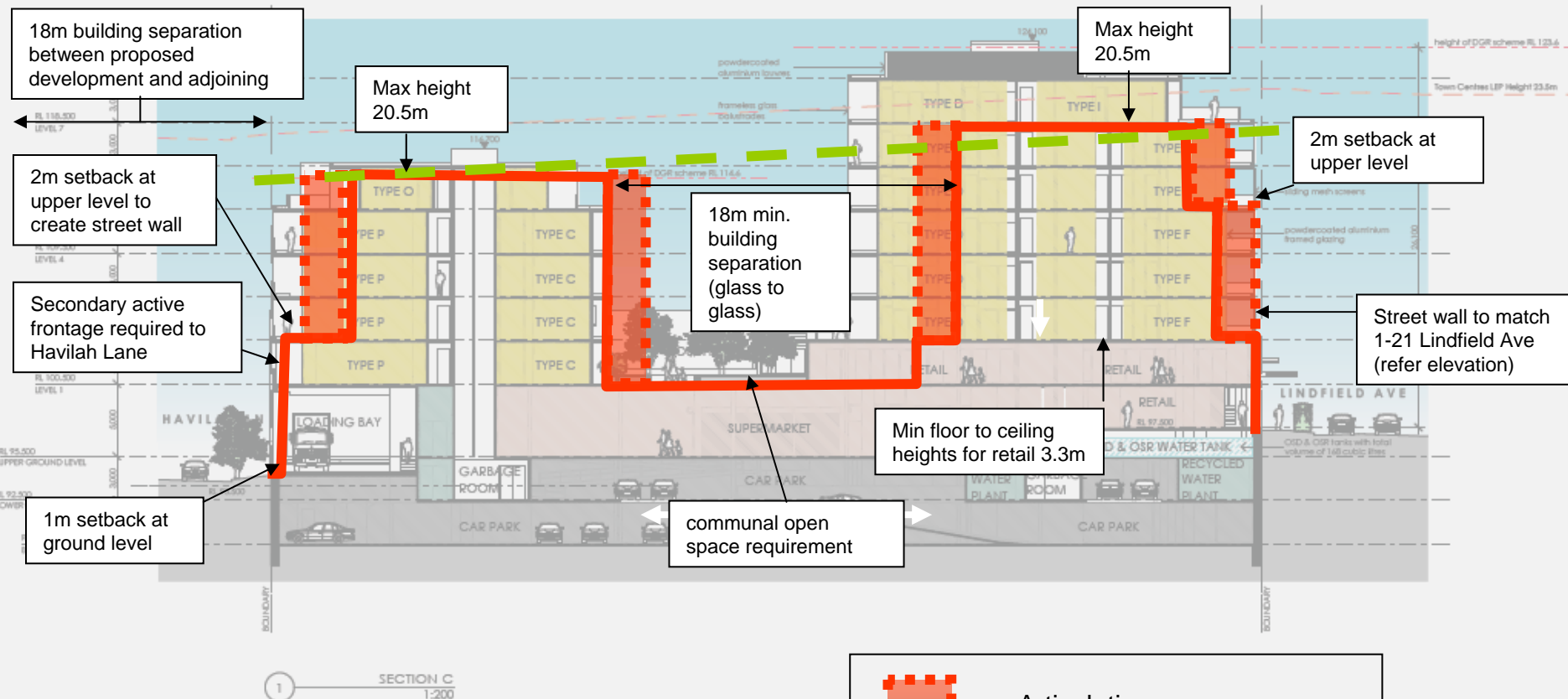
Works are proposed to the party wall shared with No 39 Lindfield Avenue. Owner's consent should be obtained before any approval is granted.

Wind comfort assessment

An assessment is required by a suitably qualified professional to measure expected wind comfort levels for users of the elevated landscaped courtyard. The report should include suggestions to ameliorate any exceedances.

ATTACHMENT 1

ENVELOPE ASSESSMENT DIAGRAMS



Notes:

- maximum single aspect apartment depth is 8 metres measured glass to glass. Minimum internal corridor width 1.5 metres
- Balconies are to be within articulation zone outside building depth requirements
- street wall height to be determined by parapet height of heritage building (refer elevation)
- setbacks to Havilah Lane required to meet SEPP 65 building separation requirements in relation to existing development at 2-6 Milray Street and to widen footpaths
- floor to floor heights for retail levels will be more than 3.5m
- Minimum communal open space requirement 10sqm per dwelling



Articulation zone



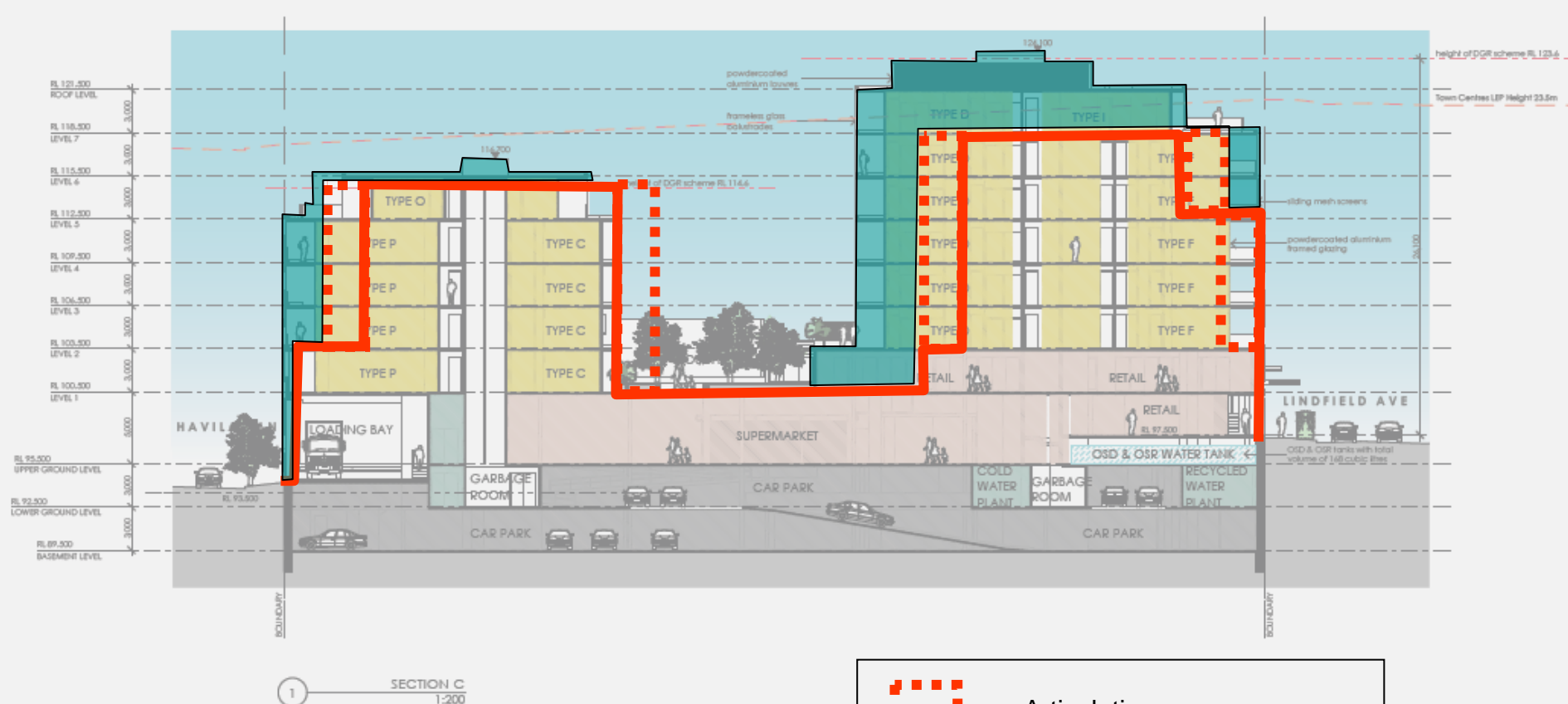
Indicative envelope extent



KLEP 2010 height plane

**INDICATIVE COMPLYING
ENVELOPE - SECTION
NO DESIGN EXCELLENCE**

1A



Key urban design issues:

- Excessive building height and bulk
- Non-complying building depth
- No substantial evidence that proposal would meet urban design excellence criteria and therefore warrant additional height and FSR
- Heritage impact as street wall principles and controls not addressed on Lindfield Ave
- SEPP 65 building separation non-compliance across Havilah Lane
- SEPP 65 building separation non-compliance between residential building elements
- Retail floor to ceiling heights inadequate/inaccurate
- No active frontage to Havilah Lane



Articulation zone



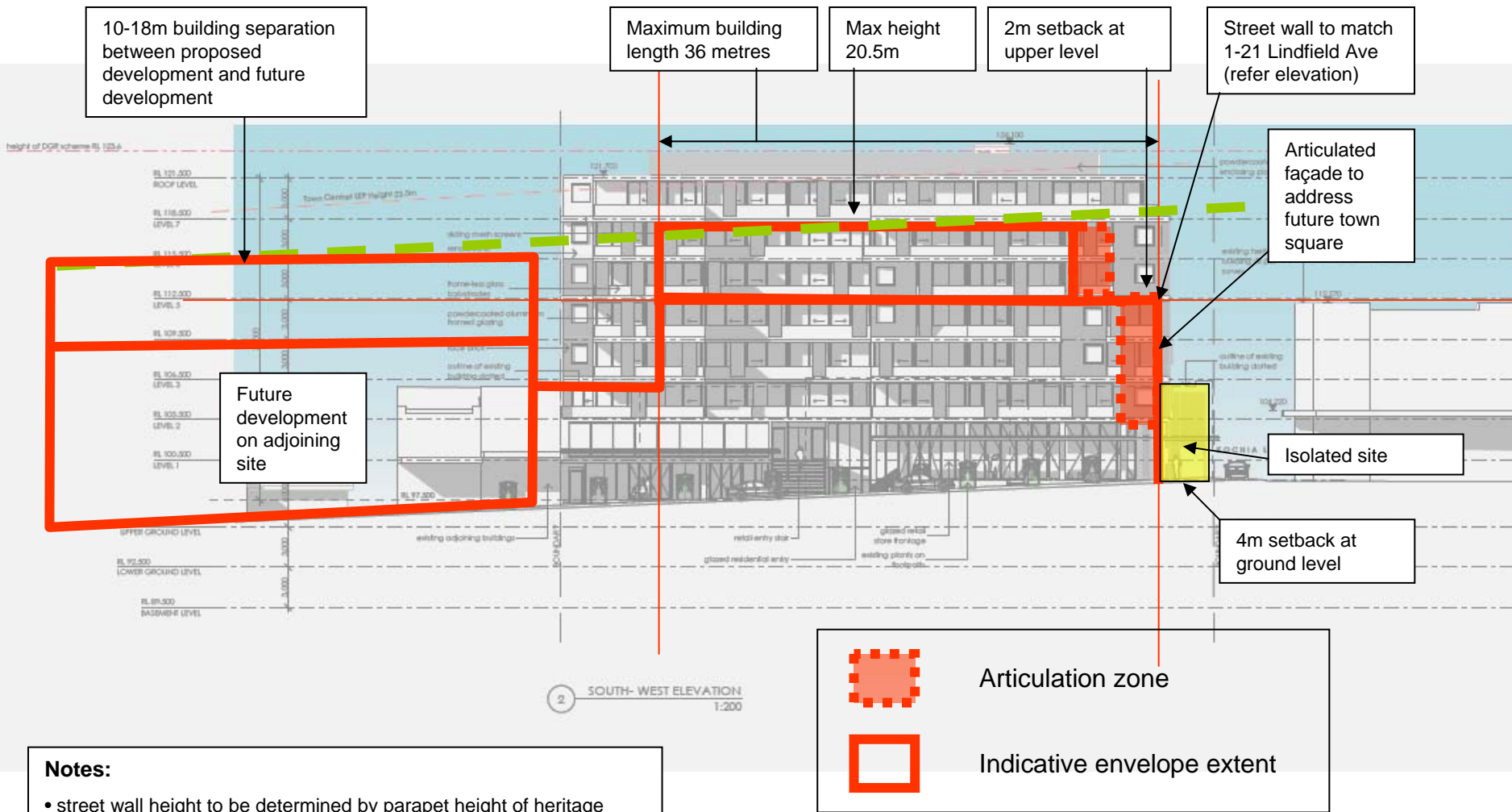
Indicative envelope extent



Indicative non-compliance

**INDICATIVE COMPLYING
ENVELOPE - SECTION
NO DESIGN EXCELLENCE**

1B



- Notes:**
- street wall height to be determined by parapet height of heritage building
 - setbacks to Kochia Lane required to meet SEPP 65 building separation requirements in relation to existing development and to widen footpaths

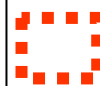
**INDICATIVE COMPLYING
ENVELOPE – WEST ELEVATION
NO DESIGN EXCELLENCE**

2A



Key urban design issues

- Excessive building height and bulk
- Excessive building length
- No substantial evidence that proposal would meet urban design excellence criteria and therefore would not warrant additional height and FSR
- Heritage impact as street wall principles and controls not addressed on Lindfield Ave
- no setback provision for 75% of length of Kochia Lane
- Lack of building articulation and balconies to southern facade
- Façade articulation predominantly horizontal which does not reflect adjoining heritage item –predominantly vertical
- Façade articulation of street wall not addressed



Articulation zone



Indicative envelope extent



Indicative non-compliance

**INDICATIVE COMPLYING
ENVELOPE – WEST ELEVATION
NO DESIGN EXCELLENCE**

2B

Maximum building length 36 metres

1m setback at ground level

2m setback at upper level to create street wall

Articulated façade to address future town square

Max height 20.5m

18m min. building separation

4m setback at ground level

Minimum communal open space requirement 10sqm per dwelling

Max height 20.5m

maximum single aspect apartment depth is 8 metres measured glass to glass.

2m setback at upper level

Minimum building separation 9 metres non-habitable room to non-habitable

Maximum building length 36 metres

Street wall height to match 1-21 Lindfield Ave (refer elevation)

**INDICATIVE COMPLYING
ENVELOPE – LEVEL 2 PLAN**
NO DESIGN EXCELLENCE

3A

15.000
12.270
13.400
2.400
10.000

15.000
12.270
13.400
2.400
10.000

