

# MP 08\_0244 Project Application for Mixed Use Development

## RESPONSE TO KU-RING-GAI COUNCIL'S SUBMISSION



Relevant EPIs/ Guidelines to be addressed:		
Council Comments	Response	
Development no longer Part 3A under EP&A Act and any application for site should be lodged with Council for assessment with the JRPP	The Director-General issued the declaration for the Project Application on 15 January 2009 when SEPP 53 was still in force. The Part 3A declaration has not been revoked by the Minister and has been confirmed by the Department of Planning to still apply to this development.	
Architectural, Building, Urban Design Impacts and Built Form		
Base Design Principles (Section 2E.2.4B)	Council's Comment	Response
<i>Principle 1:</i> Provide active street frontages to Kochia Lane and Lindfield Avenue and to the town square.	The development provides active street frontages to Lindfield Avenue but not to Kochia Lane.	The preferred project provides active street frontages to both Lindfield Avenue and Kochia lane as shown in the Architectural Plans.
<i>Principle 2:</i> Locate and design buildings to retain adequate solar access to new town square area.	It is uncertain in regards to the future development of 2 Kochia Lane.	The future development of 2 Kochia Lane is not part of this proposed development. However, as demonstrated on Plan DA 33, 2 Kochia Lane has the potential for redevelopment in the future, either as a standalone building or to be integrated into the proposed development.
<i>Principle 3:</i> Establish consistent 3 storey street wall built parallel to street alignment of Lindfield Ave to complement traditional 'main street' facades. All levels above street wall height are to have a setback.	Does not comply. The development's Lindfield Ave street wall should match Nos.1-21 with a 2m setback at upper levels.	The retail units within the proposed development which are directly accessible from the Lindfield Avenue are intentionally setback from the general street alignment to provide a larger and more attractive entrance into the development. The medical/ office area at Level 1 and residential units at Level 2 are however generally built to match the street alignment. The upper residential floors are generally setback from the site boundary.
<i>Principle 4:</i> Provide building setback to Kochia Lane to allow for road modifications and new footpaths. A continuous 10m wide right-of-way between Lindfield Ave and Milray St is required.	Doesn't comply as No. 2 Kochia isn't included and in future couldn't accommodate a 4m setback.	As the Department of Planning and Council are aware, Anka and the previous proponents have undertaken extensive negotiations with the owners of 2 Kochia Lane in regard to purchasing their building and amalgamating the site into the proposed development. A fair and reasonable agreement could not be reached on either occasion. Given the

		development site does not include 2 Kochia Lane, the requirement to provide a 4m setback outside of 2 Kochia Lane is therefore not a consideration in this application.
<i>Principle 5:</i> Provide building setback to Havilah Lane to allow for road modifications and new footpaths. A continuous 13m right-of-way btw Kochia Lane and Havilah St is required.	Under <i>SEPP65</i> a minimum of 18 m separation is required between habitable rooms. The proposed development would not comply with this in regards to the new development on opposite side of Havilah Lane at 2-6 Milray Street.	No setback will be provided to Havilah Lane, however the existing road reserve is approximately 13m wide, therefore it is considered this allows for appropriate vehicle access and servicing. Compliance with <i>SEPP 65</i> in regard to building separation is required to provide adequate visual and acoustic privacy and control overshadowing. As discussed at Section 2.3.5, the separation between the proposed development and the residential buildings on the western side of Havilah Lane is considered acceptable.
Principle 6: Provide internal retail arcade linking Lindfield Ave with Havilah Lane.	Does not comply.	An internal retail arcade is provided, however due to servicing requirements linkages from Havilah Lane through to Lindfield Avenue cannot be accommodated.
<i>Principle 7:</i> Provide private garden courtyards between the residential buildings on the podiums for residential amenity.	Appears to comply, but evidence is required to show adequate depth to slab is provided for proper drainage.  Does not comply with DCP Part 3A-14 requirements for minimum landscaped area of 10sqm/ dwelling.	The communal open space area has increased to 620m <sup>2</sup> and will provide adequate soil depth to provide soil and drainage requirements. The proposed area of communal open space is considered acceptable, as discussed at Section 2.3.4.
<b>Base Design Controls (Section 2E.2.4C)</b>	<b>Council's Comment</b>	<b>Response</b>
<i>Control 1:</i> Provide a 4m setback to Kochia Lane along the southern boundaries of Nos.2 Kochia Lane and Nos. 23-25 Lindfield Avenue.	Does not comply. There is no setback provided for over 50% of the length of Kochia Lane.	The proposed development is setback 4m from Kochia Lane. As noted above, 2 Kochia lane is not part of this site.
<i>Control 2:</i> provide a 1 m setback to Havilah Lane applying to Nos. 23-43 Lindfield Ave, No. 2 Kochia Lane and No. 9 Havilah Lane.	Does not comply.	As noted above, it is considered appropriate not to provide the 1m setback to Havilah Lane.
<i>Control 3:</i> Provide a 2 m or 4 m setback to all levels above the street wall height along all street frontages as indicated on Key Site L4 Base Plan.	Does not comply.	The setbacks to Lindfield Avenue and Havilah Lane are considered acceptable and provide articulation to the elevations, and do not give rise to unacceptable adverse impacts.
<i>Control 4:</i> 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.	Complies	Noted.
<i>Control 5:</i> Residential lobbies and foyers are	The entrances to retail and residential	The retail and residential entrances have been amended to clearly separate

to be located off Lindfield Avenue, Kochia Lane or Tryon Road.	components are not clearly demarcated.	the uses.
Urban Design Excellence		
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 proposed development is considered to demonstrate design excellence, as discussed at Section 3.1.	
Urban Design Excellence Principles (Part 2E.2.4D)	Council's Comment	Response
Principle 1: Provide amalgamation of sites to allow uniform building setback to Lindfield Avenue for wider footpath and new street tree planting.	Proposal does not provide any widening of Lindfield Avenue and only proposes a base level public domain treatment.	The units 23-27 along Lindfield Avenue have been amalgamated and the proposed development provides an increased setback to allow for a wider footpath.
Principle 2: Provide increased building setback to Havilah Lane to allow for wider footpaths on both sides.	There is no widening of Havilah Lane proposed.	As noted above, it is considered appropriate not to provide the 1m setback to Havilah Lane.
Principle 3: Provide co-ordinated development that allows the provision of underground vehicle connections between basement car parks on private land and public land.	The failure to incorporate No. 2 Kochia Lane will prevent any future ability to incorporate any future connections between the proposed development and any future town square and public parking that is proposed for Council's Tryon Road car park.	Every effort to reach a fair and reasonable agreement with the owners of 2 Kochia Lane has been undertaken. As demonstrated on Plan DA 33A 2 Kochia Lane could be integrated into the development in the future. The proposed development however provides a main retail entry and the residential entry on Kochia Lane to promote connections with the future town square.
Principle 4: 4: Provide sustainability initiatives equivalent to 6 star green building rating from Green Building Council of Australia.	There is no commitment to meet a 6 star green building rating or equivalent.	The commitment to incorporate as many of the ESD initiatives set out within the ESD Report, Revision 1, dated October 2010 (Appendix H of the EAR) as practicable, and the BASIX commitments are considered appropriate targets.
Amalgamation of No.2 Kochia Lane		
Council Comment	Response	
If amalgamation of the site with 2 Kochia Lane cannot be achieved it must be demonstrated that all reasonable attempts have been made to do so.	As the Department of Planning and Council are aware, despite meetings, discussions and the presentation of offers the amalgamation of the site with 2 Kochia Lane could not be achieved.	
Solar access		

Council Comment	Response
No solar access information was provided to assess compliance with <i>SEPP65</i> . A report by a suitably qualified person in this field is required.	Solar Access Analysis reports prepared by Windtech were submitted as part of the EAR. A revised Solar Access Report is included at <b>Appendix H</b> .
<b>Heritage</b>	
Council Comments	Response
A revised Statement of Heritage Impact , prepared by Graham books & Associates is included at Appendix K. It addresses Council's issues in regard to heritage.	
<b>Landscaping and Open Space</b>	
Council Comment	Response
The proposal is non-compliant with the communal open space requirement in the Town Centres DCP (3A.14 (1)) to provide a minimum of 10sqm of communal open space per residential development.	The proposed communal open space area is considered to be satisfactory for the development, as discussed at Sections 2.2.5 and 2.3.4.
The design of the communal open space lacks opportunities for collective socialisation and individual passive recreational activities as required in the Town Centres DCP (3.A.14 (5)).	
The proposed soil depths and volumes in the communal open space areas is inadequate for the establishment of medium size tree planting.	
<b>Public Domain</b>	
The shopfronts along Lindfield Avenue and Kochia Lane hinder physical and visual connection between private and public domain to create an active shop front.	Retail premises on the Lindfield Avenue frontage and at the corner of Lindfield Avenue and Kochia Lane will be directly accessible from street level. The provision of these retail units and the provision of the retail and residential entries will active the streetscape.
The rear of the proposed development is not in accordance with the Town Centres LEP objectives for the lane as being entirely dominated by service elements having a detrimental affect on the amenity of the adjacent residential developments.	The existing development is serviced from Havilah Lane, therefore the proposed servicing from Havilah Lane is considered appropriate.
Proposed external security grills to Lindfield Ave and Kochia Lane are not discrete and have detrimental impacts on the visual amenity of the area.	The proposed security grilles are provides to ensure that retail entrances are secure and will only be used after hours. It is not considered that they will be detrimental to the visual amenity of the area.
The CPTED assessment is considered inadequate and focuses only on the residential component ignoring retail	The EAR has assessed the proposal against the core principles of the CPTED. The retail portion of the development was included in the analysis. The development is considered to have adequate natural

elements and the services areas. A lighting design should be included.	surveillance of both the residential and retail component; access control measures are held within the Draft Statement of Commitments; publicly accessible areas will be clearly separated from private areas for territorial reinforcement; and measures to ensure proper maintenance have are included.
<b>Car Parking/ Access</b>	
The proposal is non-compliant with the Town Centres DCP which requires a minimum of 196 car spaces and the proposal supplies 150 spaces.	As discussed at Section 2.3.3 the preferred project provides a total of 231 car spaces, which is in excess of the minimum parking requirement for the residential and residential visitor car spaces and only 8 less for the retail component. The parking provision is considered adequate for the proposed development.
Reliance should not be placed on the Council car park to meet the DCP parking provisions.	As explained in the EAR, the 25 spaces are on a car park which was dedicated to Council as part of the existing retail development on the site, therefore their inclusion within the car parking calculations is justified.
There is concern there is no separation between retail and residential car parking.	The revised layout of the car park provides for the separation of the residential and retail car parking areas.
The car parking space and aisle width dimensions do not comply with AS2890.1 for user 3A (short term, high turnover rate) on the lower ground level retail parking which requires 2.6m wide spaces and 6.6m wide aisle widths.	As set out within the Traffic and parking report at <b>Appendix G</b> , the geometric design of the proposed car parking facilities have been designed to comply with the relevant requirements specified in Australian Standard AS 2890.1 in respect of parking bay dimensions, ramp gradients and aisle widths.
Accessible parking layout does not comply with AS2890.6.	The accessible parking layout of the car park has been assessed by PSE Access Consulting (refer to <b>Appendix L</b> ) who confirm that all areas of compliance have been catered for within the design.
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. This needs to be resolved by way of a priority system.	The proposed design of the vehicular access has been reconfigured to ensure that the driveway aligns with the existing right of way easement and provide the required height for the easement.
<b>Bicycle Parking and Facilities</b>	
It is unclear whether adequate bicycle parking and facilities are provided in accordance with the DCP.	Specific bicycle parking areas are provided within the basement car parking levels. These areas will provide adequate bicycle stands to cater for the development.
<b>Car Share Parking</b>	
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.	The car share spaces have been removed from the proposed development.
It is unclear whether the car share spaces are publicly available. If not publically accessible there is greater financial risk to the developer, uncertainty of ongoing viability of a car share scheme and wider travel and	

transport benefits.	
<b>Service Vehicles Parking and Access</b>	
The configuration of the proposed loading bay on Havilah Lane is not acceptable. Service vehicles would be required to cross a significant length of the footpath resulting in conflicts and large vehicles would have difficulty accessing the bay.	As shown on Plan DA 05, the proposed loading dock is considered acceptable for the development and will enable the trucks to enter and exit the site in a forward motion, without them having to cross a significant length of footpath. The existing loading dock is currently in this location and the proposed design improves amenity for the people by improving the existing loading arrangements.
<b>Water Management</b>	
There is inconsistency in whether rainwater will be collected on-site and/ or a central on-site recycled/ alternative water supply. The BASIX include recycled water, but the EAR and ESD Reports refer to rainwater collection.	As noted in the EAR and stormwater management plan ( <b>Appendix M</b> ) rainwater will be collected and stored in the OSR/OSD tank.
The Stormwater Drainage Layout plan is preliminary and provides no details of the proposed OSD/OSR tanks. The OSD is underestimated.	The Stormwater Drainage Layout Plan provided at <b>Appendix M</b> details and location of the OSD/OSR tanks.
No water quality measures are shown as required under Part 5F.2 of the DCP.	As stated above an ESD Report was prepared by GHD and the Draft Statement of Commitments states the proposed development will seek to implement as many of the ESD initiatives set out within the ESD Report as practicable.
<b>Waste Management</b>	
The number of waste containers required has been underestimated and there is insufficient space for container storage.	A Waste Management Plan has been prepared by JD Macdonald and is included at <b>Appendix O</b> . The proposed design of the development has been amended to ensure there is adequate storage space to accommodate the anticipated waste volumes.
<b>Developer Contributions</b>	
The Ku-ring-gai Contributions Plan 2010 was not used to calculate the proposed developments required contributions.	The Ku-ring-gai Contributions Plan 2010 was not publically available until after the submission of the EAR. The applicable developer contributions under the 2010 Plan are calculated in Section 2.2.6.
<b>Site Contamination</b>	
A preliminary (Stage1) investigation identified site has moderate risk of contamination. A detailed investigation (Stage 2) should be conducted before approval is granted.	A Stage 1 Preliminary Environmental Site Assessment was prepared by Environmental Investigation Services as part of the EAR. The potential of contamination at the site is considered moderate. Based on the scope of work undertaken for this assessment it is considered that the site can be made suitable for the proposed mixed retail and residential development provided that actions in the EAR's Draft Statement of Commitments relating to 'Contamination' are undertaken prior to commencement of the proposed works. The Department of Planning therefore can be reassured that the site can be suitable for the development and therefore consent can be issued.

Utilities	
The architectural plans should specify a location for a kiosk substation on the development site and ensure it will not interfere with the amenity of the public domain.	The Architectural Plans at Appendix A shows a substation at ground floor level within the northern corner of site. This proposed location will not interfere with the amenity of the public domain.