

Our ref: GP:LIN100088

25 July 2011

Mr Simon Truong
Assessment Officer
Department of Planning
Sent via email: simon.truong@planning.nsw.gov.au

Dear Simon

Re: Application MP08-0244 – 23-37 Lindfield Ave, Lindfield (“the Proposed Development”)

I act for Linshop Pty Ltd and Pankarn Pty Ltd, the owners of 39 and 41 Lindfield Ave, Lindfield respectively. My clients' properties are adjacent to the Proposed Development currently before you under Part 3A.

I am instructed that my clients have previously written to you expressing concerns that the Proposed Development has disregarded existing and enforceable rights of way in favour of my clients over the Proposed Development site. I am also instructed that you have previously been provided with full details of these rights of way, however I attach a copy of them if that is not the case.

I understand that revised plans submitted to you do not take into account the rights of my clients. It appears that the Proposed Development will build over my clients' rights of way, with the exception of a small access handle at the northern end. My clients are not aware whether it is intended by the applicant that this be a substitute for the existing rights of way, suffice to say that, not only would it be unlawful without my clients consent, but also unworkable. The proposed two way handle is totally inappropriate to accommodate trucks and other vehicles to my client's properties (which often need to effect three point turns) as well as all the access and egress from the Proposed Development. In my opinion this represents poor design and would create a dangerous bottle-neck.

It is noted that the rights of way follow a semi-circular type path providing one-way access and egress for all vehicles, in particular trucks and service vehicles. These rights were created purposefully for my clients' properties which are currently leased to various retail and commercial shop operators. These operators have a legal entitlement to use these rights of way and do so frequently and any disruption thereof would undoubtedly have resultant consequences.

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I point out that at no stage has the applicant approached my clients for discussion or agreement in respect of the rights of way. My clients certainly do not agree with the current proposal.

Respectfully, I am instructed to advise that any approval that does not protect my clients existing rights will be challenged.

Finally, my clients believe that the Proposed Development should be setback from the boundary of my clients' properties. I understand that WZRM Pty Ltd will make representations to you on this matter.

I look forward to hearing from you in this matter.

Yours faithfully
Gordon Pegler Lawyers



Gordon Pegler

Principal

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