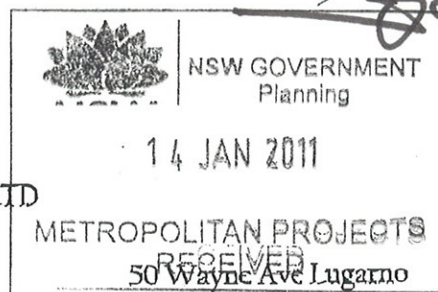


(22)

WZRM PTY LTD



Sydney 2210

12/01/2011

Major Planning NSW

RE: MP08-0244 DA to 23-37 Lindfield Ave, Lindfield

We are the owners of the service station site at 45 Lindfield Ave that abuts the KMC car park in Havilah lane.(1481m2)

As Anka Development declined to acquire 39 & 41 Lindfield Ave as part of their above development, we have amalgamated with our land in a joint development, the two adjoining shops. (486m2)

We have options over the block of units at 51 Lindfield Ave. (1880m2), so in total we control a site of 3847m2 adjoining the subject site.

Currently we are in discussions with KMC's Debra Silva regarding the Council car park at the rear of our property becoming operational. We are endeavouring to incorporate that in to our site.

A Development Application has been lodged on the adjoining site, 23- 37 Lindfield Ave Lindfield, owned by the Anka Property Group. This application has completely overlooked or ignored the fact that there is a right of carriageway, in favour of the two shops at 39 & 41 Lindfield Ave , running through the proposed development.(see attachment A)

We are currently documenting a DA submission on our site and the rights of carriageway are an integral part of the access to our site.

We have approached one of the principals, Mr Andrew Boyarsky, on the 11/1/2011, in an attempt to address the issues relating to the right of carriageway. We are still to hear back.

We feel that from the tone of the conversation, there is little if any willingness or interest in addressing these issues.

Our legal advice and confirmation from the LTO is that the rights of carriageway cannot be extinguished without consent and clearly, Anka Property Group do not have consent. Please find attached correspondence from our solicitor, Sebastian Dimarco

Wally Zagoridis

Robert Moss

ATTACHMENT "A"

Arkibuilt

From: Sebastian C. Dimarco [scd@bsdlaw.com.au]  
Sent: Tuesday, 11 January 2011 12:22 PM  
To: 'Robert Moss (robert.moss5551@gmail.com)'; 'Arkibuilt'  
Subject: Lindfield Easements - 19712  
Attachments: DP866044.pdf; DLB849071.pdf; DP347906.pdf; DP502955.pdf; DP623760-P.pdf;  
DP713207.pdf; DP713505-B.pdf; DP713505-P.pdf

*NO papers  
attached.*

Dear Wally & Robert

I have reviewed the attached documents provided by John Toson as well as obtaining title searches of numbers 39 and 41 Lindfield Avenue and the lot at the rear owned by Anka.

I advise as follows regarding the nature of the rights of way benefitting numbers 39 and 41.

**Number 39**

1. Number 39 was created as Lot D in Plan 347906 in 1943. The dimensions and title reference for this property have never changed.
2. When this lot was created it had the benefit of a right of way behind the lot. The right of way was and remains in a reverse 'L' shape and is shown on the attached DP347906. This lot does not have the benefit of the 'U' shaped right of way which was created later (refer below).

**Number 41**

3. Number 41 was created as Lot C in Plan 347906 in 1943. At that time number 41 extended all the way back to Havilah Lane as shown in the attached plan 347906.
4. When this lot was created it had the benefit of the reverse 'L' shape right of way behind number 39.
5. In 1983 number 41 was reduced in area and a new Lot 4 in DP 713505 was created (refer attached plan 713505). The new lot no longer extended to Havilah Lane. The portion which was subdivided from number 41 became part of a new lot 3 in DP 713505. Today Lot 3 is owned by Coogee Bay Village Pty Ltd (Anka?).
6. When number 41 was reduced in area it continued to have the benefit of the 'L' shape right of way and to this day still has the benefit of that right of way. However, an additional right of way was created in a 'U' shape as shown in plan 713505. Therefore, number 41 has the benefit of 2 rights of way – the original 'L' shaped right of way and the subsequently created overlapping 'U' shaped right of way.

**Summary**

Therefore, number 39 has the benefit of an 'L' shaped easement whereas number 41 has the benefit of both the 'L' shaped easement and the 'U' shaped easement.

Please contact me if you have any questions.

**Sebastian DIMARCO** | Solicitor Director  
**Bruce Stewart Dimarco**  
Lawyers

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**From:** John Toson [mailto:John.Toson@lpma.nsw.gov.au]  
**Sent:** Monday, 10 January 2011 4:03 PM

ATTACHMENT "B"

Run:0587103 /Doc:06 0620760 F /Rev:04-Jan-1993 /Sta:OK OK /Prt:10-Jan-2011 10:53 /Pgm:ALL /Seq:3 of 1  
Rsc:CRV Enquiry System /Srn:3

[illegible]