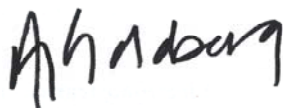


Project Approval

Section 75W of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning and Infrastructure under delegation dated 14 September 2011, we the Planning Assessment Commission of New South Wales (the Commission) approve the Project Application referred to in Schedule 1, subject to the conditions in Schedule 2.



Member of the Commission



Member of the Commission

Sydney

14 November 2013

SCHEDULE 1

| | |
|----------------------------|--|
| Application No.: | MP08_0244 |
| Proponent: | ANKA (Civic Center) Pty Ltd |
| Approval Authority: | Minister for Planning and Infrastructure |
| Land: | 23-37 Lindfield Avenue and 11 Havilah Lane, Lindfield Lot A DP 418801 Lot 11 DP 713206 Lot 101 DP 1067930 Lot 102 DP 1067930 Lot 103 DP 1067930 Lot 3 DP 713505 |
| Project: | Demolition of existing buildings, excavation, and construction of a mixed use retail and residential development totalling 11,899m ² in GFA comprising: <ul style="list-style-type: none">• 2 level podium with 4,231m² in retail GFA including 293m² GFA as a medical centre;• 91 apartments in 2 residential towers above the retail podium;• 3 levels of basement car parking for 196 vehicles; and• 620m² communal courtyard at the podium level. |
| Modification: | MP08_0244 MOD 1 includes various amendments to the Project Approval including an increase in height and floor space to provide 21 additional apartments and changes to the apartment mix; reconfiguration of the lower ground and ground floors including a reduction in the amount of retail floor space; reconfiguration of the car park layout and the deletion of 12 parking spaces. |

SCHEDULE 2

The above approval is modified as follows:

- (a) Condition A1 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:

A1. Development Description

Development approval is granted only to carrying out the development described in detail below:

Demolition of existing buildings, excavation, and construction of a mixed use retail and residential development totalling ~~11,899m²~~ **12,066m²** in GFA comprising:

- ~~2~~ **1** level podium with ~~4,231m²~~ **2,379.5m²** in retail GFA including ~~293m²~~ GFA as a medical centre;
- ~~94~~ **112** apartments in 2 residential towers above the retail podium;
- 3 levels of basement car parking for ~~496~~ **184** vehicles; and
- ~~620m²~~ **699.5m²** communal courtyard at the podium level.

- (b) Condition A2 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:

A2. Development in Accordance with Plans and Documentation

The development will be undertaken in accordance with the Environmental Assessment dated Environmental Assessment dated November 2010 prepared by JBA Planning and all Appendices, except where varied by:

- the Preferred Project Report dated April 2011 and all Appendices,
- the Proponent's Statement of Commitments included in the PPR;
- **the Section 75W Modification Application dated December 2012;**
- **the Section 75W Modification Application Response to Submissions dated May 2013;** and
- the following drawings:

| Architectural (or Design) Drawings prepared by Architecture PTI | | | |
|--|-----------------|-----------------------------|-------------|
| Drawing No. | Revision | Name of Plan | Date |
| 00 | C | Cover Sheet & Location Plan | 18/04/2011 |
| 02.5 | B | Basement 3 Plan | 14/09/2011 |
| 03 | C | Basement 2 Plan | 14/09/2011 |
| 04 | C | Basement 1 Plan | 14/09/2011 |
| 05 | E | Ground Floor Plan | 14/09/2011 |
| 06 | D | Level 1 Plan | 18/04/2011 |
| 07 | C | Level 2 Plan | 18/04/2011 |
| 08 | C | Level 3 Plan | 18/04/2011 |
| 09 | C | Level 4 Plan | 18/04/2011 |
| 10 | C | Level 5 Plan | 18/04/2011 |
| 11 | C | Level 6 Plan | 18/04/2011 |
| 12 | C | Level 7 Plan | 18/04/2011 |
| 13 | C | Roof Level | 18/04/2011 |
| 14 | C | Elevations Sheet 1 | 18/04/2011 |
| 15 | C | Elevations Sheet 2 | 18/04/2011 |
| 16 | C | Elevations Sheet 3 | 18/04/2011 |
| 17 | B | Sections Sheet 1 | 18/04/2011 |
| 18 | B | Sections Sheet 2 | 18/04/2011 |

| Architectural (or Design) Drawings prepared by Crone Partners | | | |
|---|----------|---|------------|
| Drawing No. | Revision | Name of Plan | Date |
| 1000 | B | Basement 3 Plan | 20/5/2013 |
| 1001 | B | Basement 2 Plan | 20/5/2013 |
| 1002 | B | Basement 1 Plan | 20/5/2013 |
| 1003 | B | Lower Ground Floor Plan | 20/5/2013 |
| 1004 | B | Ground Floor Plan | 20/5/2013 |
| 1005 | D | Level 1 Floor Plan | 12/8/2013 |
| 1006 | D | Level 2 Floor Plan | 12/8/2013 |
| 1007 | D | Level 3 Floor Plan | 12/8/2013 |
| 1008 | D | Level 4 Floor Plan | 12/8/2013 |
| 1009 | D | Level 5 Floor Plan | 12/8/2013 |
| 1010 | C | Level 6 Floor Plan | 9/8/2013 |
| 1011 | C | Level 7 Floor Plan | 9/8/2013 |
| 1012 | C | Roof Plan | 9/8/2013 |
| 2000 | C | Elevations (Sheet 1 of 2) | 9/8/2013 |
| 2001 | C | Elevations (Sheet 2 of 2) | 9/8/2013 |
| 3000 | B | Sections (Sheet 1 of 3) | 20/5/2013 |
| 3001 | B | Sections (Sheet 2 of 3) | 20/5/2013 |
| 3002 | C | Sections (Sheet 3 of 3) | 9/8/2013 |
| 6500 | B | Signage - External | 20/05/2013 |
| Engineering (or Design) Drawings prepared by Insync Services | | | |
| SW-100 | C | Basement Level 3 In-ground Hydraulic Services Plan | 24/05/2013 |
| SW-101 | C | Basement Level 3 Hydraulic Services Plan | 24/05/2013 |
| SW-102 | C | Basement Level 2 Hydraulic Services Plan | 24/05/2013 |
| SW-103 | C | Basement Level 1 Hydraulic Services Plan | 24/05/2013 |
| SW-104 | C | Lower Ground Level Hydraulic Services Plan | 24/05/2013 |
| SW-105 | C | Ground Level Hydraulic Services Plan | 24/05/2013 |
| SW-106 | C | Level 1 Hydraulic Services Plan | 24/05/2013 |
| SW-107 | C | Level 2 Hydraulic Services Plan | 24/05/2013 |
| SW-108 | C | Level 3 Hydraulic Services Plan | 24/05/2013 |
| SW-109 | C | Level 4 Hydraulic Services Plan | 24/05/2013 |
| SW-110 | C | Level 5 Hydraulic Services Plan | 24/05/2013 |
| SW-111 | C | Level 6 Hydraulic Services Plan | 24/05/2013 |
| SW-112 | C | Level 7 Hydraulic Services Plan | 24/05/2013 |
| SW-113 | C | Roof Level Hydraulic Services Plan | 24/05/2013 |
| SW-114 | A | Stormwater Detention and Rainwater Storage Tank Detail Sheet | 24/05/2013 |

| Engineering (or Design) Drawings prepared by GHD | | | |
|--|----------|--------------|------|
| Drawing No. | Revision | Name of Plan | Date |

| | | | |
|---|---|--|------------|
| 21-19509-C001 | C | Sediment and Erosion Control Plan | 13/04/2011 |
| Landscape Plan (or Design) Drawings prepared by Peter Glass & Associates | | | |
| 0140-01 | D | Landscape Plan for Development Application | 06/04/2014 |

| <u>Landscape Plan (or Design) Drawings prepared by Aspect Studios</u> | | | |
|--|-----------------|--|------------------------|
| <u>LA-01</u> | <u>A</u> | <u>Level 1 Landscape Plan</u> | <u>Nov 2012</u> |
| <u>LA-02</u> | <u>A</u> | <u>Level 1 Courtyard Perspectives</u> | <u>Nov 2012</u> |
| <u>LA-03</u> | <u>A</u> | <u>Level 1 Courtyard Section</u> | <u>Nov 2012</u> |

except for:

- any modifications which are 'Exempt and Complying Development' as identified in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 or as may be necessary for the purpose of compliance with the BCA and any Australian Standards incorporated in the BCA; and
- otherwise provided by the conditions of this approval.

- (c) Condition B1 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck out~~ words / numbers as follows:

B1 Design Modifications

Prior to the issue of the first Construction Certificate, plans and specifications demonstrating compliance with the following shall be submitted to the satisfaction of the Director General:

- (a) ~~The building including any balconies shall be setback a minimum of 2 metres from the western boundary at Levels 5 and 6 (RL 113.5m AHD to RL 119.5m AHD). This excludes any projecting articulation features with a maximum projection of 500mm within the required setback;~~
- (b) ~~The building including any balconies shall be setback a minimum of 4m from the western boundary at Level 7 (RL 119.5m AHD) and above. This excludes any projecting articulation features with a maximum projection of 500mm within the required setback;~~
- (c) ~~The security grille at ground floor of the western boundary shall be deleted;~~
- (d) ~~A revised façade treatment that provides greater articulation shall be provided at the Level 1 façade of the eastern tower facing Havilah Lane.~~
- (e) **(a) Privacy screens shall be provided to the windows and balconies on the southern elevation of the Western Tower at Levels 1, 2, 3 and 4 facing Kochia Lane;**
- (b) The "portal frame" element shall be setback a minimum of 1 metre from the southern (Kochia Lane) boundary; and**
- (c) the vehicle entry driveway off Havilah Lane shall be designed to accommodate the swept path of an 11 metre long rigid truck. The line of bollards which provides physical separation between vehicle and pedestrian paths shall be adjusted to reflect the extent of the swept, particularly at the Havilah Lane footpath.**

Written evidence of this shall be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate.

- (d) Condition C1 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck out~~ words / numbers as follows:

C1 Car and Bicycle Parking Provision and Storage

Prior to the issue of a Construction Certificate, plans and specifications demonstrating the following shall be provided to the satisfaction of the Director General of the Department:

- (a) The car spaces in the 3 basement levels shall be allocated as follows:

| Car Parking Space | |
|--------------------------------|------------------------|
| Residential Car Spaces | 83 <u>105</u> |
| Residential Visitor Car Spaces | 20 <u>25</u> |
| Retail Public Car Spaces | 74 <u>44</u> |
| Retail Employee Car Spaces | 49 <u>10</u> |
| Total car spaces | 196* <u>184</u> |

- ~~(b) Residential car spaces shall be appropriately separated from retail car spaces with restricted access.~~
- ~~(c) Wheel stops shall be provided to the south end of the car parking spaces at the central bays of all levels.~~
- ~~(d) All accessible spaces shall be located adjacent to lifts and pedestrian ramps.~~
- ~~(e) Bicycle parking shall be provided to the main entrances of the retail shopping centre at Lindfield Avenue and Kochia Lane.~~
- ~~(f) Bicycle spaces proposed at the Level 2 basement car park shall be appropriately relocated to the Level 3 basement car park for future resident use and shall adjoin appropriate locker facilities for bike users. All bicycle parking spaces shall be designed in accordance with AS2890.3.~~

Written evidence of this shall be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate.

* Should the residential apartment numbers and mix change as a result of compliance with **Condition B1**, the allocation and quantum of car parking will be required to be varied in accordance with the car parking rates applied in this approval with the written approval of the Director General.

- (e) Condition C2 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck out~~ words / numbers as follows:

C2 Landscape Plan

Prior to the issue of a Construction Certificate, a landscape plan for the central ~~Level 2~~ **Level 1** podium shall be provided to the Principal Certifying Authority which demonstrates all planter boxes at the podium shall provide a minimum 1 metre soil depth in accordance with the guidelines of the Residential Flat Design Code.

- (f) Condition C3 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck out~~ words / numbers as follows:

C3 Variation of Right of Way Benefiting 39 and 41 Lindfield Avenue

Prior to the issue of any Construction Certificate, the Principal Certifying Authority shall be satisfied that **the continued operation of** the right of way which benefits 39 and 41 Lindfield Avenue ~~has been varied in a manner that allows the construction of the Project to proceed and maintains access from those properties to Havilah Lane~~ **can be managed to ensure that it does not conflict with the one-way movement of vehicles through the upper basement level**. The Principal Certifying Authority shall be satisfied as to the variation by the provision of documents in registrable form including a written agreement ~~between the Proponent and the owners of 39 and 41 Lindfield Avenue.~~

- (g) Deletion of Condition C4:

~~C4 Variation of Drainage Easement Benefiting 39 and 41 Lindfield Avenue~~

~~Prior to the issue of any Construction Certificate and if the relocation of the drainage easement which benefits 39 and 41 Lindfield Avenue is required, the Principal Certifying~~

Authority shall be satisfied by the provision of documents in registrable form including a written agreement between the Proponent and the owners of 39 and 41 Lindfield Avenue that the relocation of the easement has been agreed.

- (h) Condition C5 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck out~~ words / numbers as follows:

C5 Development Contributions

This development is subject to a development contribution calculated in accordance with *Ku-ring-gai Contributions Plan 2010*, being a s94 Contributions Plan in effect under the Environmental Planning and Assessment Act 1979. Ku-ring-gai Council has estimated the total Contribution to be paid is ~~\$1,960,642.19~~ **\$2,084,950.71, broken down as follows:**

| Key Community Infrastructure | Amount |
|---|------------------------------|
| Local parks and local sporting facilities | <u>\$1,036,294.55</u> |
| Local recreation and cultural facilities; Local social facilities | <u>\$184,925.03</u> |
| Local roads, local bus facilities and local drainage facilities (new roads and road modifications) | <u>\$137,683.15</u> |
| Local roads, local bus facilities and local drainage facilities (townscape, transport & pedestrian facilities) | <u>\$726,047.98</u> |
| Total | <u>\$2,084,950.71</u> |

The contribution shall be paid to Council prior to the issue of any Construction Certificate, **Linen Plan, Certificate of Subdivision or Occupation Certificate, whichever comes first** in accordance with Ku-ring-gai Contributions Plan 2010.

The contributions specified above are as at the ~~June 2014~~ **December 2012** quarter and are subject to indexation and will continue to be indexed to reflect changes in the consumer price index and housing price index until they are paid in accordance with Ku-ring-gai Contributions Plan 2010. Prior to payment, please contact Council directly to verify the current payable contributions.

The Contributions applicable is based on approval for:

- ~~94~~ **112** apartments comprising:
 - ~~4~~ **4** x studio
 - ~~45~~ **53** x 1 bedroom apartments
 - ~~38~~ **53** x 2 bedroom apartments
 - ~~7~~ **2** x 3 bedroom apartments
- ~~3,470m²~~ **2,019m²** retail lettable floor area

Should the residential apartment numbers and mix change ~~as a result of compliance with Condition B1~~ the amount payable may be accordingly adjusted. Refer to Council for any adjustments in accordance with Ku-ring-gai Contributions Plan 2010.

Ku-ring-gai Contributions Plan 2010 may be viewed at www.kmc.nsw.gov.au and at the Council Chambers.

(i) *Deletion of Condition C6:*

C6 ~~Amendments to approved engineering plans~~

~~Prior to the issue of a Construction Certificate, the Principal Certifying Authority shall be satisfied that the approved engineering plan(s), listed below and endorsed with Council's stamp, have been amended in accordance with the requirements of this condition as well as other conditions of this consent:~~

| Plan no | Drawn by | Dated |
|----------------------|-----------------|---------------|
| 21-19509-C002 Rev. B | GHD | 13 April 2011 |

~~The above engineering plan(s) shall be amended as follows:~~

- ~~• The 100 cubic metre rainwater retention shall be deleted.~~
- ~~• The on site detention volume is to be calculated using 100% of the site area, as given in Appendix A5.1g)(iv) of Council's DCP 47 *Water management*. The required volume is **104 cubic metres**.~~
- ~~• A design shall be included for the upgrading or relocation of the interallotment drainage pipe which services 39-41 Lindfield Avenue, consistent with the existing or a new easement location.~~
- ~~• Water quality measures are to be provided to achieve the targets given in Chapter 8 of Council's DCP 47 *Water management*.~~

~~The above amendments are required to ensure compliance with the following:~~

- ~~• BASIX Certificate 309478M_05.~~
- ~~• Ku-ring-gai Council Water Management Development Control Plan 47.~~

Note: ~~An amended engineering plan, prepared by a qualified engineer shall be submitted to the Certifying Authority.~~

(j) *Condition C8 is amended by the insertion of the **bold and underlined** words.*

C8 Noise from Road and Rail

Prior to issue of the relevant Construction Certificate, plans showing acoustic treatment to comply with "*Development Near Rail Corridors and Busy Roads– Interim Guidelines*" shall be submitted to the Principal Certifying Authority in accordance with the recommendations of the acoustic report prepared by Acoustic Logic Consultants and dated 30 September 2010 and submitted with the EA documentation. **Should design changes occur the acoustic report is to be updated.** The plans shall demonstrate to the Principal Certifying Authority that the development will be acoustically designed and constructed to ensure that the following LAeq levels are not exceeded:

- (a) in any bedroom in the building—35 dB(A) at any time between 10 pm and 7am; and
- (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

Plans and specifications of the required acoustic design shall be prepared by a practicing acoustic engineer.

(k) *Condition C15 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck out~~ words / numbers as follows:*

C15 Stormwater Management Plan

Prior to issue of the Construction Certificate, the applicant must submit, for approval by the Principal Certifying Authority, scale construction plans and specifications in relation to the stormwater management and disposal system for the development. The plan(s) may be based on Drawings 21-19509-C002 Rev. B by GHD, dated 13 April 2011, **Hydraulic**

Service Drawings prepared by Insync Services dated 24/05/2013 and must include the following detail:

- exact location and reduced level of discharge point to the public drainage system layout of the property drainage system components, including but not limited to (as required) gutters, downpipes, spreaders, pits, swales, kerbs, cut-off and intercepting drainage structures, subsoil drainage, flushing facilities and all ancillary stormwater plumbing - all designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence);
- details of the required on-site detention tanks required by Ku-ring-gai Water Management DCP 47, including dimensions, materials, locations, orifice and discharge control pit details as required (refer Chapter 6 and Appendices 2, 3 and 5 of DCP 47 for volume, PSD and design requirements); and
- the required basement stormwater pump-out system is to cater for driveway runoff and subsoil drainage (refer appendix 7.1.1 of Development Control Plan 47 for design).

The above construction drawings and specifications are to be prepared by a qualified and experienced civil/hydraulic engineer in accordance with Council's Water Management Development Control Plan 47, Australian Standards 3500.2 and 3500.3 - Plumbing and Drainage Code and the Building Code of Australia.

- (l) *Condition C26 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:*

C26 External Service Pipes and the like Prohibited

Proposed water pipes, waste pipes, stack work, duct work, mechanical ventilation plant and the like must be located within the building **or appropriately screened to ensure they are not visible from the public domain**. Details confirming compliance with this condition must be shown on construction certificate plans and detailed with construction certificate specifications. Required external vents or vent pipes on the roof or above the eaves must be shown on construction certificate plans and detailed with construction certificate specifications. External vents or roof vent pipes must not be visible from any place unless detailed upon development consent plans.

Vent pipes required by Sydney Water must not be placed on the front elevation of the building or front roof elevation. The applicant, owner and builder must protect the appearance of the building from the public place and the appearance of the streetscape by elimination of all external services excluding vent pipes required by Sydney Water and those detailed upon development consent plans.

- (m) *Condition C30 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:*

C30 Basement Car Parking Details

Prior to issue of the Construction Certificate, certified parking layout plan(s) to scale showing all aspects of the vehicle access and accommodation arrangements must be submitted to and approved by the Principal Certifying Authority. A qualified civil/traffic engineer must review the proposed vehicle access and accommodation layout and provide written certification on the plans that:

- all parking space dimensions, driveway and aisle widths, driveway grades, transitions, circulation ramps, blind aisle situations and other trafficked areas comply with Australian Standard 2890.1 – 2004 "Off-street car parking";
- a clear height clearance of **2.6 metres** (required under DCP40 for waste collection trucks) is provided over the designated garbage collection truck manoeuvring areas ~~within the basement~~ **at the Lower Ground Floor**;
- **access to the garbage stores and temporary bin collection areas is to be provided at all times at the Lower Ground Floor level for the garbage collection vehicles** ~~no doors or gates are provided in the access driveways to the basement carpark which would prevent unrestricted access for internal garbage collection at any time from the basement garbage storage and collection area; and~~

- the vehicle access and accommodation arrangements are to be constructed and marked in accordance with the certified plans.

(n) *Condition D3 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:*

D3 Construction Management Plan (CMP)

The Proponent shall submit, for approval by the Principal Principal Certifying Authority, a detailed Construction Management Plan (CMP) prior to the commencement of works issue of the Construction Certificate for each stage of works (each Construction Certificate). The CMP shall address:

- Construction vehicles access to and egress from the site in and route plan in accordance with the TMP during construction.
- Parking for construction vehicles.
- Locations of site office, accommodation and the storage of major materials related to the project.
- Protection of adjoining properties, pedestrians, vehicles and public assets.
- **Details of alternate means of pedestrian and vehicular access to the properties known as Nos. 39 and 41 Lindfield Avenue throughout the construction phase.**
- Location and extent of proposed builder's hoarding and Work Zones.
- Tree protection management measures for all protected and retained trees.
- Noise management requirements for plant and equipment.
- Any request for adjustment to the approved construction working hours and its justification, duration and purpose.

A copy of the CMP shall be submitted to the Department and Council.

(o) *Condition D4 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:*

D4 Dilapidation Survey and Report (Public Infrastructure)

Prior to the commencement of any development or excavation works on site, the Principal Certifying Authority shall be satisfied that a dilapidation report on the visible ~~and structural~~ condition of all structures **which comments on any structural conditions that may be evident from that visual inspection** of the following public infrastructure, has been completed and submitted to Council:

- Full road pavement width, including kerb and gutter, of Lindfield Avenue, Havilah Lane and Kochia Lane over the site frontage, including the full intersections.
- All driveway crossings and laybacks opposite the subject site.

The report must be completed by a consulting structural/civil engineer. Particular attention must be paid to accurately recording (both written and photographic) existing damaged areas on the aforementioned infrastructure so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development. The developer may be held liable to any recent damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded by the requirements of this condition prior to the commencement of works.

Note: A written acknowledgment from Council must be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any excavation works.

(p) *Condition D5 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:*

D5 Dilapidation Survey and Report (Private Property)

Prior to the commencement of any demolition or excavation works on site, the Principal Certifying Authority shall be satisfied that a dilapidation report on the visible ~~and structural~~

condition of all structures **which comments on any structural conditions that may be evident from the visual inspection** upon the following lands, has been completed and submitted to Council:

- 2 Kochia Lane
- 39-41 Lindfield Avenue
- **19-21 Lindfield Avenue**
- ~~43 Lindfield Avenue~~
- ~~2-6 Milray Street, buildings fronting Havilah Lane~~

The dilapidation report must include a photographic survey of adjoining properties detailing their physical condition, both internally and externally, including such items as walls ceilings, roof and structural members. The report must be completed by a consulting structural/geotechnical engineer as determined necessary by that professional based on the excavations for the proposal and the recommendations of the submitted geotechnical report and Vibration Impact Report and subsequent reports and addendums. In the event that access for undertaking the dilapidation survey is denied by a property owner, **or conditions imposed by the property owner are unreasonable** the applicant must demonstrate in writing to the satisfaction of the Principal Certifying Authority that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed.

Note: A copy of the dilapidation report is to be provided to Council prior to any excavation works been undertaken. The dilapidation report is for record keeping purposes only and may be used by an applicant or affected property owner to assist in any civil action required to resolve any dispute over damage to adjoining properties arising from works.

- (q) *Condition D10 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck out~~ words / numbers as follows:*

D10 Construction and Traffic Management Plan

The applicant must submit to Council a Construction Traffic Management Plan (CTMP), ~~which is to be approved~~ prior to the commencement of any works on site. The plan is to consist of a report with Traffic Control Plans attached. The report is to contain commitments which must be followed by the demolition and excavation contractor, builder, owner and subcontractors. The CTMP applies to all persons associated with demolition, excavation and construction of the development.

The report is to contain construction vehicle routes for approach and departure to and from all directions. The report is to contain a site plan showing entry and exit points. Swept paths are to be

shown on the site plan showing access and egress for an 11 metre long heavy rigid vehicle. The Traffic Control Plans are to be prepared by a qualified person (red card holder). One must be provided for each of the following stages of the works:

- demolition;
- excavation;
- concrete pour;
- construction of vehicular crossing and reinstatement of footpath; and
- traffic control for vehicles reversing into or out of the site.

Traffic controllers must be in place at the site entry and exit points to control heavy vehicle movements in order to maintain the safety of pedestrians and other road users.

The developer must comply with the CTMP.

~~When a satisfactory CTMP is received, a letter of approval will be issued with conditions attached. Traffic management at the site must comply with the approved CTMP as well as~~

~~any conditions in the letter issued by Council. Council's Rangers will be patrolling the site regularly and fines may be issued for any non-compliance with this condition.~~

- (r) Condition F14 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck out~~ words / numbers as follows:

F14 Compliance with BASIX Certificate

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall be satisfied that all commitments listed in BASIX Certificate No. ~~309478M_05-1005269533~~ have been complied with. Ku-ring-gai Council's approval must be obtained for the operation of the recycled water supply system. A copy of the approval must be provided to the Principal Certifying Authority.

- (s) Deletion of Condition F15:

~~F15 Easement for Right Of Way Benefiting 39 and 41 Lindfield Avenue, Lindfield~~

~~Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall be satisfied that the right of way which benefits 39 and 41 Lindfield Avenue has been varied in a manner that maintains access from those properties to Havilah Lane and that variation has been registered on the relevant titles in accordance with Section 88B of the Conveyancing Act 1919. The terms of the right of way are to be generally in accordance with the agreement of the landowners of 39 and 41 Lindfield Avenue.~~

- (t) Deletion of Condition F16:

~~F16 Drainage Easement Benefiting 39 and 41 Lindfield Avenue, Lindfield~~

~~Prior to the issue of an Occupation Certificate and if the relocation of the drainage easement which benefits 39 and 41 Lindfield Avenue is required, the Principal Certifying Authority shall be satisfied that the drainage easement which benefits 39 and 41 Lindfield Avenue has been relocated and registered on the relevant titles.~~

- (u) Condition F17 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck out~~ words / numbers as follows:

F17 Restrictive Covenant to Solar Access Rights

Prior to the issue of an Occupation Certificate, a restrictive covenant shall be created under Section 88B of the Conveyancing Act 1919, removing any solar access rights to:

- (a) the windows ~~on~~ **in** the southern façade of the Eastern Tower **(Levels 4 and 5) which are located on the common boundary with No. 2 Kochia Lane; and**
(b) **the windows in the northern façade of the Western Tower at Levels 5-7 inclusive.**

Registered title documents, showing the restriction, must be submitted and approved by the Principal Certifying Authority prior to issue of an Occupation Certificate.

- (v) Condition G5 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck out~~ words / numbers as follows:

G5 No Door Restricting Internal Waste Collection in Basement

At all times, the ~~basement~~ **lower ground floor** garbage storage and collection area is to be accessible by Council's Waste Collection Services. No doors, grilles, gates or other devices shall be provided in any location which would prevent this service. Where a gate, door or the like is to be erected, unimpeded access to the garbage collection point is to be provided by other means through written agreement with Council's Waste Collection Services.

SCHEDULE 3 – Statement of Commitments
(Source: Proponent's Response to Submissions dated May 2013)