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## PUBLIC ROADS WITHIN MAJOR PROJECTS SITES

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### EXECUTIVE SUMMARY

<b>PURPOSE OF REPORT:</b>	To seek Council approval to formally resolve the status of land within the Lindfield Village Green and the Lindfield Community Hub sites as public roads.
<b>BACKGROUND:</b>	On 6 September 2016 a report was submitted to Council to formally resolve the status of land within the Lindfield Village Green and the Lindfield Community Hub sites as public roads.
<b>COMMENTS:</b>	Council's earlier resolutions are suitable for the lands that are being compulsorily acquired under the <i>Local Government Act 1993</i> , however, in relation to lands being acquired as roads under the <i>Roads Act 1993</i> new resolutions are required to ensure statutory compliance.
<b>RECOMMENDATION:</b>	That Council proceed with the compulsory acquisition of land and roads as outlined in the report.

## PURPOSE OF REPORT

To seek Council approval to formally resolve the status of land within the Lindfield Village Green and the Lindfield Community Hub sites as public roads.

## BACKGROUND

Since 2013 Council has considered reports on the revitalisation and master planning in the Lindfield local centre involving two Council-owned sites. These sites are the Lindfield Village Green and the Lindfield Community Hub.

A component of these earlier reports referred to the closure, partial closure and compulsory acquisition of public roads within the sites to effect site consolidation and deliver the masterplans.

On 21 April 2015, Council considered a report on the compulsory acquisition of public roads to enable the delivery of the Lindfield Village Green and the Lindfield Community Hub projects. At which time Council unanimously resolved proceed with compulsory acquisition of the unnamed public road for the purpose of creating the Lindfield Village Green in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*.

On 6 September 2016 a further report was submitted to Council to formally resolve the status of land within the Lindfield Village Green and the Lindfield Community Hub sites as public roads.

In preparing the compulsory acquisition and road opening documentation a number of statutory inquiries have been completed which have identified specific requirements to ensure the successful implementation of Council's previous decisions.

This report seeks to resolve the status of land within the Lindfield Village Green and Lindfield Community Hub sites.

## COMMENTS

### Lindfield Community Hub

Council is the owner of all lands within the Lindfield Community Hub site. The only remaining requirement for Council to fully consolidate the site into one lot is the closure of the portion of Drovers Way north of Beaconsfield Parade. This road is to be replaced with a new public road along the western boundary of the site from Beaconsfield Parade through to Bent Street **(Attachment A1)**

A requirement of the compulsory acquisition process is to prepare a Plan of Acquisition for registration with the LPI NSW. The attached Plan of Acquisition (Attachment A2) identifies Lots 1, 2 and 6 DP1226294 to be compulsorily acquired.

Council's earlier resolutions are suitable for the lands that are being compulsorily acquired under the *Local Government Act 1993*, however, in relation to Lots 1 & 2 DP1226294 these lands are being acquired as roads under the *Roads Act 1993* and new resolutions are required to ensure statutory compliance.

### Lindfield Village Green

In order to deliver the Lindfield Village Green, Council has resolved to consolidate various properties owned by Council fronting Kochia Lane, Chapman Lane and Tryon Road and compulsorily acquire part of “unnamed lane”.

A requirement of the compulsory acquisition process is to prepare a Plan of Acquisition for registration with the LPI NSW. The attached Plan of Acquisition (**Attachment A3**) identifies Lot 23 part of the unnamed lane and Lot 21 DP1223433 to be compulsorily acquired.

At Council’s meeting of 6 September 2016 the resolution to compulsorily acquire Lot 21 DP1223433 for a future public road should have also included the specific resolution to make application to the Minister and Governor under the *Roads Act 1993*.

As Lot 21 land is being acquired as road under the *Roads Act 1993* new resolutions are required to correct the omission and to ensure statutory compliance.

### INTEGRATED PLANNING AND REPORTING

Places, Spaces & Infrastructure

Community Strategic Plan Long Term Objective	Delivery Program Term Achievement	Operational Plan Task
Our centres offer a broad range of shops and services and contain lively urban village spaces and p[place where people can live, work, shop, meet and spend leisure time.	Plans to revitalise local centres are being progressively implemented and achieve quality design outcomes in collaboration with key agencies, landholders and the community	Implement a place management approach for the local centre improvements to coordinate works and achieve quality outcomes
	An improvement plan for Lindfield Centre is being progressively implemented in collaboration with owners, businesses and state agencies	Engage with relevant stakeholders to establish timing, extent and partnership opportunities
		Develop and finalise project scope
		Maintain engagement with key stakeholders

### GOVERNANCE MATTERS

Compulsory acquisition is a statutory process and approval by the Minister for Local Government and the Governor is required.

Council obtains its powers to compulsory acquire land and road under the *Local Government Act 1993* and the *Roads Act 1993*.

The process of acquiring the public roads by compulsory acquisition is to be carried out in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*.

## Roads Act 1993

### **Section 10 Land held by RMS or by councils**

- (1) *RMS or a council may, by notice published in the Gazette, dedicate any land held by it (including land acquired by it under Division 1 of Part 12) as a public road.*
- (2) *On the publication of the notice, the land is dedicated as a public road.*

The process of acquiring land for public road is carried out in accordance with Section 177 *Roads Act 1993*;

### **177 Power to acquire land generally**

- (1) *The Minister, RMS or a council may acquire land for any of the purposes of this Act.*
- (2) *Without limiting subsection (1), the Minister, RMS or a council may acquire:*
  - (a) *land that is to be made available for any public purpose for which it is reserved or zoned under an environmental planning instrument, or*
  - (b) *land that forms part of, or adjoins or lies in the vicinity of, other land proposed to be acquired for the purpose of opening, widening or constructing a road or road work.*
- (3) *Without limiting subsection (1), RMS may also acquire land that it proposes to declare to be RMS development land.*

### **178 Procedure for acquiring land**

- (1) Land that is authorised to be acquired under this Division may be acquired by agreement or by compulsory process in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*.
- (2) A council may not give a proposed acquisition notice under the *Land Acquisition (Just Terms Compensation) Act 1991* without the approval of the Minister.

## Local Government Act 1993

### **186 For what purposes may a council acquire land?**

- (1) *A council may acquire land (including an interest in land) for the purpose of exercising any of its functions.*
- (2) *Without limiting subsection (1), a council may acquire:*
  - (a) *land that is to be made available for any public purpose for which it is reserved or zoned under an environmental planning instrument, or*

- (b) *land which forms part of, or adjoins or lies in the vicinity of, other land proposed to be acquired under this Part.*

**187 How does a council acquire land?**

- (1) *Land that a council is authorised to acquire under this Part may be acquired by agreement or by compulsory process in accordance with the Land Acquisition (Just Terms Compensation) Act 1991.*
- (2) *A council may not give a proposed acquisition notice under the Land Acquisition (Just Terms Compensation) Act 1991 without the approval of the Minister.*

As previously advised to Council, the *Guidelines for the Compulsory Acquisition of Land by Councils* (Guidelines) published by the then Department of Local Government in June 2006 states at clause 1.27 that:

*'Compulsory acquisition should not be regarded as an alternative method of closing public roads. Except in limited circumstances, proposals to close roads are required to follow the procedures set out in Division 1, Part 4 of the Roads Act 1993, including public consultation.*

*Examples of 'limited circumstances' include where council proposes to widen, realign or alter the position of a public road so as to exchange the unneeded parts (of that road) in compensation for other land acquired for road purposes. To give this land in compensation, council must have the landowner's consent (section 44).'*

Important to note, the Guidelines are **not** guidelines adopted under s23A of the *Local Government Act 1993* which Council is obliged to consider when exercising its functions. Also, there is nothing in the legislation which limits the circumstances in which road closure can be affected through compulsory acquisition.

However, in stating the above, discussions with staff from the OLG have indicated that there is a strong nexus between the closure of the roads by compulsory acquisition and the public purpose through the delivery of the Lindfield Village Green and Lindfield Community Hub projects.

Council's earlier resolutions to compulsorily acquire the land confirmed that upon acquisition the land is to be classified Operational land. This will enable the potential partnership with Transport for NSW (TfNSW) to provide commuter car parking and other development opportunities that may arise as a result of the expression of interest process.

Therefore to reinforce of Council's previous decisions a resolution has been included that the roads once closed are classified Operational Land as required by *the Local Government Act 1993*.

**RISK MANAGEMENT**

In the preparation of the compulsory acquisition application to the Office of Local Government a number of statutory investigations are required to be completed.

The Office of Local Government and the LPI NSW have advised that a registered Plan of Acquisition is required to support each compulsory acquisition application.

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Resolving the status of lands within the Lindfield Village Green and Lindfield Community Hub sites is imperative to progress the compulsory acquisitions and ensure delivery of the projects.

### **FINANCIAL CONSIDERATIONS**

There are nominal administrative costs to register Plans and publish in the Government Gazette. These costs will be borne within existing budget allocations.

### **SOCIAL CONSIDERATIONS**

The delivery of the Lindfield Village Green and Lindfield Community Hub projects are strongly supported by the community as evidenced from the results of the community engagement and consultation.

### **ENVIRONMENTAL CONSIDERATIONS**

There are no environmental impacts associated with this report.

### **COMMUNITY CONSULTATION**

A number of consultation and engagement activities have been undertaken with the community on the Lindfield revitalisation projects in pursuit of achieving the best community outcomes. Particularly in relation to site re-development, design concepts and facilities delivered and the requirement to realign roads and road closures.

Consultation is planned for all stages of the development process and an engagement strategy has been prepared by Council's community engagement and research planner for these projects.

### **INTERNAL CONSULTATION**

Staff from Strategy & Environment have contributed to the content of this report.

### **SUMMARY**

In order to deliver the Lindfield Community Hub and Lindfield Village Green Council has resolved to develop various properties owned by Council.

On 6 September 2016 a report was submitted to Council to formally resolve the status of land within the Lindfield Village Green and the Lindfield Community Hub sites as public roads.

In preparing the compulsory acquisition and road dedication Plans, specific resolutions are required to ensure the successful implementation of Council's previous decisions. Therefore to reinforce Council's earlier decisions, a resolution has been included that the roads once closed are classified as Operational Land as required by *the Local Government Act 1993*.

This report seeks to resolve the status of land within the Lindfield Village Green and Lindfield Community Hub sites and obtain a comprehensive suite of all necessary resolutions to ensure statutory compliance.

**RECOMMENDATION:**

In relation to the Lindfield Community Hub:

- A. That Council proceed to compulsorily acquire Lots 1 & 2 DP1226294 for a future public road in accordance with Section 177 *Roads Act 1993* and in accordance with the *Land Acquisition (Just Terms) Compensation Act 1991*.
- B. That Council make an application to the Minister and Governor for approval to acquire Lots 1 & 2 DP1226294 in accordance with Section 178/(2) *Roads Act 1993* and in accordance with the *Land Acquisition (Just Terms) Compensation Act 1991*.
- C. That for the purposes of section 30 of the *Land Acquisition (Just Terms) Compensation Act 1991*, the Council, as the owner of the land, agrees to the land being acquired for compensation in the amount of \$1.00.
- D. That Council proceed to compulsorily acquire Lot 6 DP1226294, being a portion of Drovers Way, Lindfield, for the purpose of creating the Lindfield Community Hub, in accordance with Sections 186 and 187 of the *Local Government Act 1993* and in accordance with the *Land Acquisition (Just Terms) Compensation Act 1991*.
- E. That Lot 6 DP1226294 is to be classified as Operational land.
- F. That Council make an application to the Minister and Governor for approval to acquire Lot 6 DP 1226294 in accordance with Sections 186 and 187 of the *Local Government Act 1993* and in accordance with the *Land Acquisition (Just Terms) Compensation Act 1991*.
- G. That for the purposes of section 30 of the *Land Acquisition (Just Terms) Compensation Act 1991*, the Council, as the owner of the road, agrees to the road being acquired for compensation in the amount of \$1.00.
- H. That Council requests the Minister for Local Government approve a reduction in the notification period from 90 days to 30 days.
- I. That Council delegate to the General Manager or his delegate the power to do anything further as necessary to give effect to the compulsory acquisition including obtaining any necessary approvals and publishing any necessary notices in the Gazette

In accordance with Council's resolution of 6 September 2016 in relation to the Lindfield Village Green:

- J. That Council proceed to compulsorily acquire Lot 21 DP 1223433 for a future public road in accordance with Section 177 *Roads Act 1993* and in accordance with the *Land Acquisition (Just Terms) Compensation Act 1991*.
- K. That Council make an application to the Minister and Governor for approval to acquire Lot 21 DP 1223433 in accordance with Section 178/(2) *Roads Act 1993* and in accordance with the *Land Acquisition (Just Terms) Compensation Act 1991*.

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- L. That for the purposes of section 30 of the *Land Acquisition (Just Terms) Compensation Act 1991*, the Council, as the owner of the land, agrees to the road being acquired for the compensation in the amount of \$1.00.
- M. That Council requests the Minister for Local Government approve a reduction in the notification period from 90 days to 30 days.
- N. That Council proceed to compulsorily acquire Lot 23 DP1223433, being a portion of the unnamed lane, Lindfield, for the purpose of creating the Lindfield Village Green, in accordance with Sections 186 and 187 of the *Local Government Act 1993* and in accordance with the *Land Acquisition (Just Terms) Compensation Act 1991*.
- O. That Lot 23 DP1223433 is to be classified as Operational land.
- P. That Council delegate to the General Manager or his delegate the power to do anything further as necessary to give effect to the compulsory acquisition including obtaining any necessary approvals and publishing any necessary notices in the Gazette.

Deborah Silva  
Manager Integrated Planning, Property &  
Assets

Andrew Watson  
Director Strategy & Environment

<b>Attachments:</b>	A1	Lindfield Community Hub road openings	2017/162190
	A2	Lindfield Community Hub Plan of Acquisition DP1226294	2017/162195
	A3	Lindfield Village Green Plan of Acquisition and Dedication of Public Road - A1	2016/236233




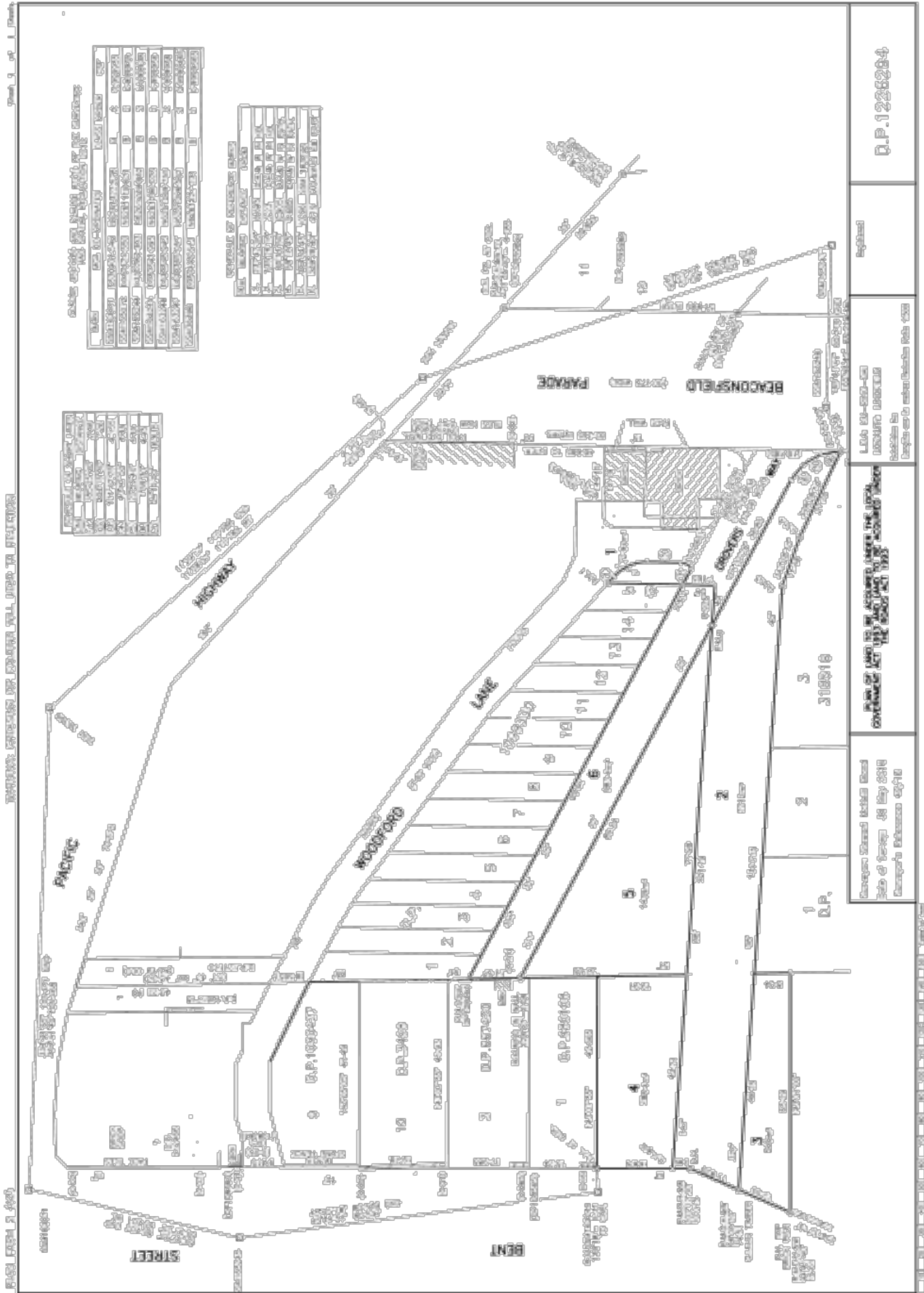


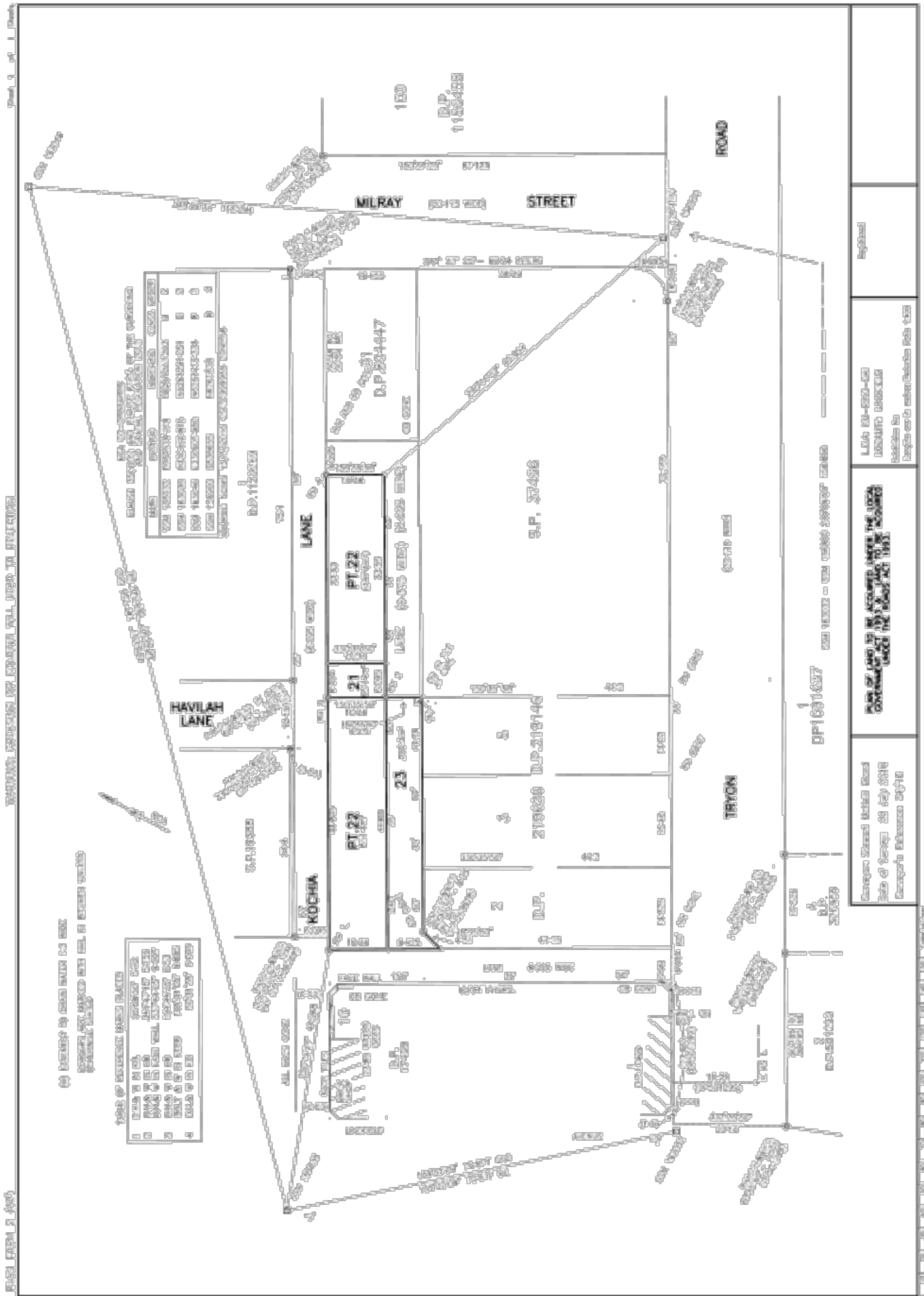
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**Lindfield Community Hub  
Proposed Road Openings**

PLAN N°: \_\_\_\_\_ REVISION: \_\_\_\_\_







(a) Boundary of road shall be marked by concrete pillars and concrete kerbs.

TABLE OF SURVEY POINTS

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Surveyed and marked in accordance with the provisions of the Survey Act, 1973.	Plan of Land to be Acquired under the Urban Development Act, 1974.	Approved by the Local Government.	Approved
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