

## Strategic Planning Referral Response

<b>Application Number:</b>	DA2022/0550
<b>Date:</b>	02/11/2022
<b>To:</b>	Gareth David
<b>Land to be developed (Address):</b>	Lot 7 DP 1251955 , 121 Dove Lane WARRIEWOOD NSW 2102

### Officer comments

#### Original referral response - 9 June 2022

DA2022/0550 seeks consent to construct a dwelling house and swimming pool on each (yet to be registered) lot.

Development Consent DA2020/1727 was granted by Council on 20 August 2021 for the subdivision of one lot into three at Lot 7 DP1251955, 121 Dove Lane Warriewood (the stamped-approved plans are TRIM2021/589333). Development consent DA2020/1727 imposed condition 7 requiring the payment of development contributions for the two residential allotments (known as Lot 1 having a site area of 612sqm and Lot 2 with site area of 667sqm) being created by this consent.

### SUBJECT SITE

The development site involves two lots, currently unregistered allotments (approved by way of Development Consent DA2020/1727).

The two lots are:

1. Subject of an Executed Planning Agreement (known as VPA2018/0001). When these two lots are registered, a notation will be placed on the Title of each lot stating the Executed Planning Agreement applies to the land. The Executed Planning Agreement requires commitments to be completed before a Subdivision Certificate can be issued (in the case of the two lots the subject of this DA, it relates to the Subdivision Certificate associated with consent DA2020/1727 to register these two lots). Clause 5 of the Executed Planning Agreement specifically relates to Contributions and Acknowledgements of the Executed Planning Agreement and sets out the obligations of both parties. These obligations are currently underway however it is unclear when they will be delivered.
2. The subject of development contributions payable to Council by way of the Development Consent DA2020/1727. The contributions for these two lots are not yet paid. Condition 7 of the Development Consent DA2020/1727 requires payment of a monetary contribution totaling \$143,096 prior to the issue of a subdivision certificate.

The repository requiring the development contributions payable against DA2020/1727 is created. As at 9 June 2022, the contributions required remain unpaid.

### ASSESSMENT OF DA

The Warriewood Valley Contributions Plan (the Section 7.11 Plan) applies to the land and enables Council to impose a condition on a development consent requiring the payment of development contributions to Council in accordance with Section 7.11 of the Environmental Planning and Assessment Act. The Section 7.11 Plan specifies that for any residential development on land under the plan (including subdivision to create additional residential allotments) will be charged development contributions payable to Council.

The Section 7.11 Plan does not restrict imposition of a consent condition to be imposed to the current

DA regardless another development consent granted on the development site imposes a condition requiring payment of development contributions to Council. Currently, the development contributions payable to Council imposed under consent DA2020/1727 remains unpaid.

The current DA will result in the construction of a dwelling on each lot. It is likely the developer will proceed with a Construction Certificate for each dwelling before each lot (the subject site pertaining to this DA) is able to be registered with NSW Land Registry in accordance with consent DA2020/1727 and the Executed Planning Agreement.

As such, development contributions will need to be imposed on this DA for the construction of the two dwellings (a dwelling on each approved, albeit unregistered, residential lot). The repository for this DA has been created, with contributions payable for the two additional dwellings.

#### **Updated referral response - 2 November 2022**

The Assessing Officer has advised that a deferred commencement condition will be imposed on this application. The deferred commencement condition will require the registration of Lots 1 and 2 (as approved under DA2020/1727).

As stipulated in the notice of determination for DA2020/1727, the registration of these allotments can only occur if the required development contribution imposed under condition 7 of that consent has been paid in full and the obligations stated in the executed planning agreement applying to the land have been satisfied.

The proposed deferred commencement condition is supported. If the deferred commencement condition is not applied for any reason, this application must be referred back to the Strategic and Place Planning Team for consideration and will require additional conditions regarding the payment of development contributions and satisfaction of obligations in the executed planning agreement.

#### **RECOMMENDATION**

A. It is the Assessing Officer's responsibility to:

- (i) Assess this DA and ensure the Asset Protection Zone, water management based on the impervious area and the dwelling/swimming pool can be accommodated on the subject land.
- (ii) Ensure that if any changes are made to the development that may result in re-calculation of development contributions payable, the application is sent back to SPP for recalculation.

B. If approval of the DA is being recommended by the Assessing Officer, the deferred commencement condition should be applied.

The proposal is therefore supported.

Note: Should you have any concerns with the referral comments above, please discuss these with the Responsible Officer.

#### **Strategic Planning Conditions:**

Nil.