

STATEMENT OF ENVIRONMENTAL EFFECTS

MODIFICATION OF DEVELOPMENT CONSENT SECTION 96 (1A)

DA 2016/0550

184 Wyndora Avenue Freshwater

This application seeks to modify Condition of Consent Number 60, being the 'Release of Subdivision Certificate' to more accurately reflect the Voluntary Planning Agreement (VPA) that is in place for this property.

The Voluntary Planning Agreement states:

6 *Restriction on subdivision*

- 6.1 *The Developer must achieve practical completion of the whole of the Development (that is, including basement car park, walls of dwellings and roofs but excluding linings and fixtures) before a Subdivision Certificate is issued in respect of the subdivision of the Land in connection with the Department.*
- 6.2 *The parties agree that this clause is a restriction on the issue of a Subdivision Certificate within the meaning of section 109J(1)(c1) of the Act.*
- 6.3 *For the avoidance of doubt, this clause 6 does not apply to development on the Land other than development for the purpose of Attached Dwellings.*

Whilst Condition 60 of the of the Development Consent requires the following:

DA Condition 60 *Release of Subdivision Certificate*

To enable the lodgement of the final plan at the NSW Land and Property Information Department the Subdivision Certificate shall not be issued until the Final Occupation Certificate for the approved development.

Reason: To ensure that the plans relate to approved development. (DACENH23).

The two controls are in conflict, as the VPA states that the Subdivision Certificate can be issued upon achieving practical completion, whilst the Consent requires Final Occupation Certificate prior to release of Subdivision.

We seek that Council amend Condition 60 of the Consent to align with the VPA in following manner, changes underlined:

DA Condition 60 Release of Subdivision Certificate

To enable the lodgement of the final plan at the NSW Land and Property Information Department the Subdivision Certificate shall not be issued until the practical completion of the whole of the Development (that is, including basement car park, walls of dwellings and roofs but excluding linings and fixtures) is issued in respect of the subdivision of the Land.

Reason: To ensure that the plans relate to approved development. (DACENH23).

Council's responsibility in ensuring the terms of the VPA are adhered to are protected by, Condition 5 of the Consent, which requires the VPA to be registered on the title until Final Occupation Certificate has been issued. Thus, Council still achieves it's objective in ensuring the development is carried out in accordance with VPA and the Development Consent.

This requested amendment to the Consent has no environmental consequences and is only a procedural issue, which does not weaken Council's control over the development.

We thus ask Council to look favourably upon our application.