



Joint Regional Planning Panel
GPO BOX 39
Sydney NSW 2001

19 July 2016

*Our ref: SCD:JRPP:24/14
Your ref: 2014SYW024*

Dear Ms. Suzie Jattan,

RE: Panel Reference: 2014SYW024
DA Number: 24/2014
Panel Meeting Date: 23 June 2016
Status: Decision Deferred.

We write to you in regards to the above mentioned matter, in particular the current standpoint of the matter sits as the decision at the panel hearing was noted as "Decision Deferred".

We are of the understanding that the Vendor and purchaser i.e. *Auburn City Council / Cumberland Council –Sale- to Sydney Constructions & Developments Pty Ltd (respectively) remain in negotiations and conciliations with retrospect to the sale of the subject Property at 13 John Street, Lidcombe (Lot 1 / DP233926).*

Auburn City Council, now known as "Cumberland Council" has given our client "Owner's Consent" with respects to the DA lodgement. The "*owner's consent*" is generally required for any Development Application from the opening to closing of the determination. It is in our legal view that the consent must continue and cannot be withdrawn by the Vendor despite, technically there being no current contract on / in progress. It is also important to note that if DA 24/2014 is approved by the Joint Regional Planning Panel, the applicant cannot commence Construction until the sale of the land at 13 John Street Lidcombe has been officially agreed to. Should there be no agreement between both the Vendor & Purchaser regarding settlement of the property in question, then the Development Approval becomes "invalid".

The Sustainable Planning Act 2009 ("*SPA*") makes it mandatory for the owner of the land to which a Development Application relates, to consent to the making of the application. The development application must contain or be accompanied by the owner's written consent / consent section of the DA Application completed. Alternatively, the applicant may make a declaration as part of the DA being lodged that the owner has given "written consent" to the making of the application.

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In light of the above stipulations, we kindly ask the Joint Regional Planning Panel to please list this matter for determination at the next or earliest available council meeting.

Our client will consider seeking claims for damages should this delay beyond reasonable comprehension and indeed our client strictly reserves their rights in this regard.

Furthermore, we currently hold a multitude of email correspondence from Auburn City Council's staff (formally now known as Cumberland Council) liaising with our client to further endorse the DA lodgement (with respects of the JRPP determination) despite the contract being rescinded. The council at the time, as it appears was well aware of the current contract position and despite this, continued to ask for more material relating to the DA. We note that copies of these emails can be provided upon request.

Should there be any further queries, please do not hesitate to contact our office on (02) 9644 6444 or directly on email via zmolawgroup@outlook.com.au.

We await your soonest response to the above.

Kind Regards

Kenah Osman
Principal Solicitor

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