

31 August 2021

Goodman Property Services Pty Ltd
1-11 Hayes Road
Rosebery NSW 2018
Att: Camila Medina

Dear Camila,

REFERENCE: DA NO. 20/0685
1 OTELLIA ROAD, KEMPS CREEK NSW 2178

Reference is made to your recent email request regarding Condition 59 of DA20/0685 and the FRNSW approvals process.

DA Condition 59 states the following:

"Prior to the issue of Construction Certificate, the certifier shall ensure that consultations are undertaken with Fire & Rescue NSW and approval for emergency vehicle access and egress from site is obtained. A copy of final approval from F&R NSW shall be submitted to Council".

As you are aware there are multiple stages for consultation with FRNSW for a project that incorporates Performance Solutions associated with Category 2 Fire Safety Provisions (*pursuant to Cl.144 of the Environmental Planning & Assessment Reg. 2000*). These stages include: (i) the FEBQ phase which is a non-statutory stakeholder referral during the design phase of the project; (ii) Initial Fire Safety Report application which is the statutory referral of the FER at CC Application; and (iii) Final Fire Safety Certificate application which is a statutory referral at OC Application.

In relation to the wording of DA Condition 59, the above pre-CC consultation stages with FRNSW does not request/incorporate any form of "approval" component. The FEBQ process provides for FRNSW to provide stakeholder input into the fire engineering/performance solution process, and the Initial Fire Safety Report application, requests FRNSW to provide recommended conditions to be placed on then Construction Certificate (see extract from *Cl.144 of the Environmental Planning & Assessment Reg. 2000* below).

- (5) An initial fire safety report may recommend conditions to be imposed on the erection, rebuilding, alteration, enlargement or extension of the building to which the report relates.
- (6) The certifier must not issue a construction certificate for a building to which this clause applies unless it has taken into consideration an initial fire safety report for the building issued in accordance with this clause.

Furthermore, FRNSW are currently only reviewing a very small proportion of FEBQ referrals and Initial Fire Safety Report applications that are being lodged with them, due to resourcing constraints.

Bearing this in mind, it is our view as the appointed Principal Certifier for this project that it is not possible for you to satisfy the "approval" requirement of DA Condition 59. In turn, we suggest that a s.4.55 application should be made to modify the wording of DA Condition 59 to remove or modify the term "approval" and replace it with wording that is more commensurate with the current FRNSW consultation process at the CC Application stage.

Please contact the undersigned should you have any further enquiries on 02 9211 7777.


Dean Goldsmith
Director
Blackett Maguire + Goldsmith Pty Ltd