

**IN THE LAND AND  
ENVIRONMENT COURT  
OF NEW SOUTH WALES**

No.11418 of 2004

**Valiant Timber and Hardware Co  
Pty Ltd**

Applicant

**Blacktown City Council**

Respondent

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**TERMS OF SETTLEMENT AND  
SHORT MINUTES OF ORDER**

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The Court notes:

1. The agreement of the parties that:-

- (a) The respondent will within 14 days enter into a contract to purchase from the applicant the land in folio identifier 43/1004176 ("Lot 43") for the sum equal to the amount payable today by the applicant to the respondent by way of contributions pursuant to s.94 of the Act and fully indexed pursuant to DA 97-7076 being the sum of \$318,504 and otherwise upon the terms and conditions of the 2005 edition of the Contract for the Sale of Land approved by the Law Society of New South Wales and the Real Estate Institute of New South Wales, that contract to be prepared by the solicitors for the respondent. The parties agree that settlement will occur within 28 days thereafter.
- (b) The purchase price referred to (a) above will be set off against the applicant's liability to pay s.94 contributions in respect of any development of lot 42 in DP 1004176 ("Lot 42").
- (c) The respondent agrees to hold Lot 43 in trust and make same available for use as public open space and to undertake its best endeavours to have lot 43 zoned for a public use under Blacktown Local Environmental Plan 1998 or any LEP which amends or replaces same.

- (d) Upon entry into the contract referred to in para (a), the respondent will issue to the applicant a construction certificate for the remaining works to be carried out under DA97-7076.
- (e) If the applicant, within 5 years, lodges an application to modify DA97-7076, or lodges a new development application for Lot 42, the respondent will treat an area of 1,018 square metres of Lot 43 as if it continued to form part of the land the subject of DA 97-7076 or of any new development application, as the case may be for the purposes of calculation of floor space ratio calculations, site area or landscaped area calculations and the like.
- (f) If at any time a new development application is lodged for Lot 42, the respondent will, in assessing s.94 contributions in respect of that development, give credit for the contributions paid, or treated as having been paid, under DA 97-7076.

The Court Orders:-

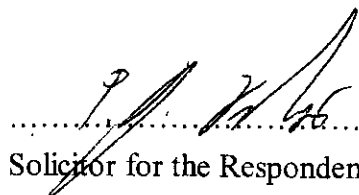
2. That each party pays its own costs of the preliminary question determined by the court on 23 December 2005.
3. That this appeal be dismissed with no order as to costs.

Dated:

20 September 2006



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Counsel for the Applicant



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Solicitor for the Respondent