



Land and Environment Court
New South Wales

Case Name: Yarranabbe Ventures v Council of the Municipality of Woollahra

Medium Neutral Citation: [2024] NSWLEC 1613

Hearing Date(s): Conciliation conference on 5 August and 5 September 2024

Date of Orders: 02 October 2024

Decision Date: 2 October 2024

Jurisdiction: Class 1

Before: Horton C

Decision: The Court orders that:
(1) The Applicant is to pay the Respondent's costs thrown away by the amendment of the Development Application, pursuant to s 8.15(3) of the Environmental Planning and Assessment Act 1979, as agreed or assessed.
(2) The Applicant's written request, prepared by GSA Planning dated December 2023, made pursuant to cl 4.6 of the Woollahra Local Environmental Plan 2014, to vary the height development standard in cl 4.3 of the Woollahra Local Environmental Plan 2014, is upheld.
(3) The Applicant's written request, prepared by GSA Planning dated December 2023, made pursuant to cl 4.6 of the Woollahra Local Environmental Plan 2014, to vary the floor space ratio development standard in cl 4.4 of the Woollahra Local Environmental Plan 2014, is upheld.
(4) The appeal is upheld.
(5) Development Application No. DA7/2024, as amended, for the demolition of the existing single dwellings and residential flat building, and construction of a new residential flat building, with strata subdivision

and associated works at 77-83A Yarranabbe Road, Darling Point, is determined by the grant of consent subject to the conditions at Annexure 'A'.

Catchwords: DEVELOPMENT APPLICATION: residential apartment development in R3 Medium Density Residential zone – conciliation conference – agreement between parties - orders

Legislation Cited: Environmental Planning and Assessment Act 1979, ss 4.16, 8.7, 8.15
Land and Environment Court Act 1979, s 34

Environmental Planning and Assessment Regulation 2021, ss 29, 38

State Environmental Planning Policy (Biodiversity and Conservation) 2021 Ch 2, ss 2.6, 6.6, 6.7, 6.9, 6.28, 6.32, 6.65

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

State Environmental Planning Policy (Housing) 2021 s 147, 148, Sch 9

State Environmental Planning Policy (Resilience and Hazards) 2021, ss 2.10, 2.11, 2.12, 4.6

State Environmental Planning Policy (Sustainable Buildings) 2022, s 4.2

Woollahra Local Environmental Plan 2014, cll 4.3, 4.4, 4.6, 5.10, 6.1, 6.4, 6.9, Sch 5

Cases Cited: Bettar v Council of the City of Sydney [2014] NSWLEC 1070

Woollahra Municipal Council v SJD DB2 Pty Limited [2020] NSWLEC 115

Moskovich v Waverley Council [2016] NSWLEC 1015

Texts Cited: Apartment Design Guide July 2015
Woollahra Community Participation Plan 2019

Category: Principal judgment

Parties: Yarranabbe Ventures Pty Limited (Applicant)
Woollahra Municipal Council (Respondent)

Representation: Counsel:
A Whealy (Solicitor) (Applicant)
S Simmington (Solicitor) (Respondent)

Solicitors:
Mills Oakley (Applicant)
Lindsay Taylor Lawyers (Respondent)

File Number(s): 2024/64174

Publication Restriction: Nil

JUDGMENT

- 1 **COMMISSIONER:** Yarranabbe Road is a one-way street that winds its way around the northern most promontory in the eastern Sydney suburb of Darling Point.
- 2 Development is proposed on a waterfront site located on the northern side of the street, on three lots known as Nos 77-83A Yarranabbe Road.
- 3 Development Application No.DA7/2024, as originally lodged, sought consent for the demolition of two existing single dwellings and a residential flat building, construction of a new residential flat building with strata subdivision, comprising eight residential units across five levels and 18 car parks, and associated works (the DA).
- 4 As the proposed development is considered to have a capital investment value greater than \$30m, the consent authority is the Sydney Eastern City Planning Panel, who refused the DA on 1 March 2024.
- 5 The Applicant now brings this appeal under s 8.7 of the *Environmental Planning and Assessment Act 1979* (EPA Act) in Class 1 of the Court's jurisdiction.
- 6 On 5 August 2024, the Court arranged a conciliation conference between the parties in accordance with s 34(1) of the Land and Environment Court Act 1979 (LEC Act), at which I presided.
- 7 At the conciliation conference, the parties reached agreement on the matters in contention, subject to the preparation of amended plans for which an adjournment was granted, and a signed agreement was submitted to the Court on 17 September 2024, in accordance with s 34(10) of the LEC Act.

- 8 The parties ask me to approve their decision as set out in the s 34 agreement before the Court. This decision involved the Court upholding the appeal and granting conditional development consent to the development application.
- 9 In general terms, the agreement approves the development subject to amended plans that were prepared by the Applicant, and noting that the final detail of the works and plans are specified in the agreed conditions of development consent annexed to the s 34 agreement.
- 10 Under s 34(3) of the LEC Act, I must dispose of the proceedings in accordance with the parties' decision if the parties' decision is a decision that the Court could have made in the proper exercise of its functions. The parties' decision involves the Court exercising the function under s 4.16 of the EPA Act to grant consent to the Development Application. There are jurisdictional prerequisites that must be satisfied before this function can be exercised.
- 11 For the reasons set out below, I am satisfied that the parties' decision is a decision that the Court could have made in the proper exercise of its functions.
- 12 The Development Application was lodged on 4 January 2024, with the consent of the owners of the site, and publicly notified between 24 January 2024 and 8 February 2024 in accordance with the Woollahra Community Participation Plan 2019.
- 13 The site is located in the R3 Medium Density Residential zone, according to the Woollahra Local Environmental Plan 2014 (WLEP), in which residential flat buildings are permitted with consent, where consistent with the following objective for development in the R3 zone:
- To provide for the housing needs of the community within a medium density residential environment.
 - To provide a variety of housing types within a medium density residential environment.
 - To enable other land uses that provide facilities or services to meet the day to day needs of residents.
 - To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.
 - To ensure development conserves and enhances tree canopy cover.

The height standard is exceeded

- 14 The height standard applicable to the site under cl 4.3 of the WLEP is 10.5m. The Applicant states, in the written request prepared by GSA Planning dated December 2023, that the proposed development has a maximum height of 17m when measured from the topmost feature of the proposal to the existing ground level immediately below. As such, the proposed development exceeds the height standard.
- 15 The written request asserts that the areas of non-compliance are due to the significant drop in ground levels from the Yarranabbe Road frontage towards the harbourfront.
- 16 When the method of interpreting height in the decision of *Bettar v Council of the City of Sydney* [2014] NSWLEC 1070 (Bettar) is adopted, the extent of the exceedance is reduced, and is perceived from the public domain as a one-storey form fronting Yarranabbe Road.
- 17 The written request assert compliance with the standard is unreasonable or unnecessary in the circumstances of this case, as the objectives of the height standard are achieved notwithstanding the non-compliance.
- 18 The objectives of the height standard at cl 4.3 of the WLEP are in the following terms:
 - (a) to establish building heights that are consistent with the desired future character of the neighbourhood,
 - (b) to establish a transition in scale between zones to protect local amenity,
 - (c) to minimise the loss of solar access to existing buildings and open space,
 - (d) to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,
 - (e) to protect the amenity of the public domain by providing public views of the harbour and surrounding areas.
- 19 The written request states, in respect of objective (a), the height of the proposal is comparable with neighbouring buildings and, when viewed from the harbour, will remain below that of buildings nearby that have, in some case, been approved in exceedance of the height standard, albeit under previous planning regimes.

- 20 Next, the proposal is also consistent with the number of storeys evident in the existing building on the site at 77-81 Yarranabbe Road and proposes a height that is below that of the maximum height of the development approved at Nos 83-83A Yarranabbe Road, which this consent seeks to supplant. As such, the desired future character of the area can be understood in terms similar to those set out in *Woollahra Municipal Council v SJD DB2 Pty Limited* [2020] NSWLEC 115, wherein the desired future character is shaped not only by the provisions of the WLEP but also other factors such as approved development that departs from those provisions.
- 21 In respect of objective (b), the proposal does not directly adjoin other zones.
- 22 In respect of objective (c), the loss of solar access is minimised to existing buildings and open space when the degree of shadow cast on the adjoining property at 73-75 Yarranabbe Road in mid winter is understood, and where there is no impact on the private open space at 85 Yarranabbe Road. Furthermore, when the proposed shadowing is compared to the extent of shadow cast by the approved development at 77-81 Yarranabbe Road, the impact is negligible and, in some cases, improved. In all cases, the degree of solar access complies with the Woollahra Development Control Plan.
- 23 In respect of objective (d), the proposal minimises its impact on the amenity of adjoining and nearby properties in terms of views, privacy and the like by the generous setback of the proposed built form from the foreshore that allows views to be retained from adjoining buildings and by the removal of two buildings in this location that currently obstruct views and will improve views to water. Privacy impacts are minimised by locating balconies to the northern façade looking towards the rear of the site, and visual intrusion is addressed by stepping the built form.
- 24 In respect of objective (e), the proposal protects the amenity of the public domain by reinstating a view corridor to the west of the site.
- 25 Next the height request advances two primary environmental planning grounds it regards as sufficient to justify the contravening of the height standard, that may be broadly summarised firstly, as arising from the steeply sloping site and artificial step in the topography that is further affected by prior excavation that

additionally lowers the height plane in relation to the street. Secondly, while the proposal exceeds the height permitted on the site, the development, when seen in context, will present as a single storey development from Yarranabbe Road and will sit comfortably when viewed alongside existing buildings in the area that likewise exceed the height standard as it applies today.

26 Finally, the height request asserts the development is in the public interest because it is consistent with the objectives of the height standard and of the R3 zone for reasons summarised as follows:

- (1) Due to the steep fall in topography, only one single level, being Level 4 of the proposal, will be viewed in its streetscape that is enhanced by the reinstated view corridor and a sympathetic palette of materials and finishes, including landscape planting proposed to the Yarranabbe Road frontage.
- (2) The proposed development includes the removal of existing structures that are not compliant with controls applicable today, and proposes development that is compatible with the desired future character of the area without reproducing or matching existing intrusive buildings. Instead, the proposal presents a green roof to contribute to a more attractive streetscape and minimise view loss.
- (3) Cut and fill is minimised by working with the existing topography, and the landscape setting of harbour foreshore maintained by minimising hardstand area in that setback.

27 I note here that the Respondent is satisfied that the height request adequately addresses the matters required to be demonstrated by cl 4.6(3) of the WLEP, and that the proposed development, as amended, will be in the public interest because it is consistent with the objectives of the height development standard and the objectives for development in the R3 Zone.

28 Furthermore, the Respondent does not contend that the contravention of the development standard raises any matter of significance for State or regional environmental planning, or that there is any public benefit in maintaining the development standard, pursuant to cl 4.6(5) of the WLEP.

29 Accordingly, the Respondent raises no issue regarding cl 4.6 and accepts that a variation of the height development standard under cl 4.3 is justified.

30 I am satisfied under cl 4.6(4) that the height request has adequately addressed the matters required to be demonstrated by subcl (3) and that the proposed

development will be in the public interest because it is consistent with the objectives of the height development standard and the objectives for development within the R3 Zone, for the reasons given in the request.

- 31 In forming this opinion of satisfaction, I accept that the proposed development removes structures within the setback to the harbour foreshore, and presents as no more than a single storey development to Yarranabbe Road to minimise the impact of the exceedance on surrounding properties.
- 32 I have also considered whether the contravention of the development standard raises any matter of significance for State or regional environmental planning, and the public benefit of maintaining the development standard, pursuant to cl 4.6(5) of the WLEP and I find no grounds on which the Court should not uphold the height request.

The Floor Space Ratio is exceeded

- 33 The Floor Space Ratio standard applicable to the site under cl 4.4 of the WLEP is 0.9:1. The Applicant states, in a written request prepared by GSA Planning dated December 2023 (the FSR Request), that the proposed development has a FSR of 1.26:1. As such, the proposed development exceeds the FSR standard.
- 34 The written request assert compliance with the standard is unreasonable or unnecessary in the circumstances of this case, as the objectives of the FSR standard are achieved notwithstanding the non-compliance.
- 35 The relevant objectives of the FSR standard are as follows:
- (a) for development in Zone R3 Medium Density Residential—
 - (i) to ensure the bulk and scale of new development is compatible with the desired future character of the area, and
 - (ii) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain, and
 - (iii) to ensure that development allows adequate provision on the land for deep soil planting, tree canopy cover and areas of private open space,
- 36 I am satisfied compliance with the FSR standard is unreasonable or unnecessary for the reasons set out in the FSR request, summarised as follows:

- (1) The proposed development is of comparable scale and to surrounding buildings that range between 5 and 10 storeys, and with recent approvals at 77-81 and 83-83A Yarranabbe Road.
- (2) As the proposal presents a single storey frontage to Yarranabbe Road, the exceedance of the FSR will not be readily discernible and so will not present as 'over development'.
- (3) The proposal minimises adverse impacts on adjoining properties and the public domain in ways set out at [23].
- (4) While the proposal does not achieve the area of deep soil required by the WDCP, the non-compliance is not a consequence of the FSR exceedance. Likewise, existing site conditions restrict tree canopy cover to the rear of the site where it must be balanced against the propensity for this to result in view loss.

- 37 I also accept and am satisfied that there are sufficient environmental planning grounds to justify the contravening of the FSR standard. The first ground I accept is the consolidation of built form into one building that was formerly three separate buildings on what is now the site, which permits the occupation of that land formerly given over to setbacks and the like without adding the apparent bulk and scale as shown in *Moskovich v Waverley Council* [2016] NSWLEC 1015 at [60].
- 38 The second ground I accept is the consistency shown by the proposal with surrounding development.
- 39 The third ground I accept is the removal of the existing dwelling at 83A Yarranabbe Road by the development which effectively consolidates FSR to where it is least likely to obstruct views, and where the site of the dwelling proposed for removal offers to significantly improve views from neighbouring properties.
- 40 Finally, the FSR Request argues consistency with the objectives of the zone for reasons identical to those at [26].
- 41 I note here that the Respondent is satisfied that the FSR request adequately addresses the matters required to be demonstrated by cl 4.6(3) of the WLEP, and that the proposed development, as amended, will be in the public interest because it is consistent with the objectives of the FSR development standard and the objectives for development in the R3 Zone.

- 42 Furthermore, the Respondent does not contend that the contravention of the development standard raises any matter of significance for State or regional environmental planning, or that there is any public benefit in maintaining the development standard, pursuant to cl 4.6(5) of the WLEP.
- 43 Accordingly, the Respondent raises no issue regarding cl 4.6 and accepts that a variation of the FSR development standard under cl 4.4 is justified.
- 44 I am satisfied under cl 4.6(4) that the height request has adequately addressed the matters required to be demonstrated by subcl (3) and that the proposed development will be in the public interest because it is consistent with the objectives of the FSR development standard and the objectives for development within the R3 Zone, for the reasons given in the request.
- 45 I have also considered whether the contravention of the development standard raises any matter of significance for State or regional environmental planning, and the public benefit of maintaining the development standard, pursuant to cl 4.6(5) of the WLEP and I find no grounds on which the Court should not uphold the FSR request.

Jurisdictional considerations, Woollahra Local Environmental Plan 20214

- 46 The site is not identified for its heritage significance in Sch 5 of the WLEP, and is not located within a heritage conservation area. However, the site is in the vicinity of a number of heritage items. A Heritage Impact Statement, prepared by City Plan Heritage dated 11 December 2023, accompanies the DA as amended, which concludes that the works will have no detrimental impacts on the heritage significance of the nearby heritage items.
- 47 Additionally, as the site is identified as having Potential Aboriginal Heritage Sensitivity, an Aboriginal Cultural Heritage Assessment Report ('ACHAR') was also prepared by City Plan Heritage, dated 13 June 2024, which identifies three Potential Archaeological Deposits on the site, and recommends procedures that are contained in agreed conditions of consent. As such, I consider the matters at cl 5.10 of the WLEP to be adequately addressed.
- 48 The site is located on land mapped as 'class 2' and 'class 5' on the relevant Acid Sulfate Soils Map at cl 6.1(2) of the WLEP. The Applicant relies on a

Preliminary Acid Sulfate Soil Assessment, prepared by Douglas Partners dated 17 November 2023, that cites laboratory testing in concluding the site does not have a high risk of encountering Acid Sulfate Soils. This conclusion is supported by a similar conclusion at p 12 of the Geotechnical and Hydrogeological Assessment prepared by Douglas Partners dated 11 December 2023 (Geotechnical Assessment) to the effect that the anticipated construction methods should not affect the natural level of the water table.

49 On the basis of the following, I have considered the matters to be considered at cl 6.1(3) of the WLEP and conclude that the earthworks proposed will not have a detrimental impact on the environmental functions, processes, uses of heritage of the subject site or surrounding land:

- (1) Geotechnical Assessment
- (2) Amended Landscape Plan prepared by Spirit Level dated 16 August 2024
- (3) Amended Civil Engineering Plans prepared by Henry & Hymas dated August 2024

50 The site is identified on the relevant map at cl 6.4(6) of the WLEP as being within the foreshore area 30, and the proposal provides a setback of 30m from the mean high water mark. As stated at [30]-[31], I am satisfied the proposed development achieves the objectives of the R3 zone, and that the appearance of the development is compatible with surrounding area. I am also satisfied, on the basis of the water treatment depicted in the civil engineering plans, that the development will not cause environmental harm of a kind at cl 6.4(4)(c), will not cause congestion or conflict between people using the private open space proposed and the waterway, does not compromise public access given the degree possible today, and will not adversely affect the significance of the land at subcl (4)(f).

51 I have considered those planning and design measures that propose to retain or plant trees, the extent to which adverse impacts on the existing tree canopy will be avoided, minimised or mitigated in accordance with cl 6.9 of the WLEP. The landscape plans prepared by Spirit Level depict new tree plantings proposed that I accept will serve to mitigate the removal of existing trees on the site in accordance with cl 6.9 of the WLEP.

The design of residential apartment development

- 52 As the proposed development is residential apartment development, the Court is required by s 147 of State Environmental Planning Policy (Housing) 2021 (Housing SEPP) to consider the quality of the design of the development, evaluated in accordance with the design principles at Sch 9.
- 53 I am assisted in so doing by a statement dated 14 August 2024 and prepared in accordance with s 29 of the Environmental Planning and Assessment Regulation 2021 (EPA Regulation) that attests Mr Alec Tzannes (Arch Reg No. 4175) directed the design of the proposal, and sets out the means by which the design principles have been applied in the proposed development, and how the objectives in Parts 3 and 4 of the ADG are addressed.
- 54 On that basis I am satisfied the development as proposed meets the requirements set out in s 148 of the Housing SEPP.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

- 55 Chapter 2 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 (Biodiversity SEPP) applies to the site. The development application is accompanied by an Arboricultural Impact Assessment prepared by Tree Wise Men dated December 2023 that identifies 7 trees on the site for retention, and 55 for removal. A further Arboricultural Statement, of the same author, dated 19 August 2024 concludes two trees identified as Tree T40 and Tree 43 can be retained. Section 2.6 of the Biodiversity SEPP allows for the removal of vegetation with consent.
- 56 As the development application was lodged after the commencement of State Environmental Planning Policy Amendment (Water Catchments) 2022, the savings and transitional provisions at s 6.65 of the Biodiversity SEPP do not apply. The effect of this is that Chapters 7-12 are repealed.
- 57 The site is located within the Sydney Harbour Catchment as identified by the Sydney Harbour Catchment Map. The site is within the Foreshores and Waterways Area, and within the 'Rocky Foreshores and Significant Seagrasses Area'

- 58 Section 6.6 of the Biodiversity SEPP precludes the grant of consent unless the Respondent council, or the Court on appeal, is satisfied that the proposed development ensures that, firstly, the effect on the quality of water entering a natural waterbody will be as close as possible to neutral or beneficial, and secondly, that the impact on water flow in a natural waterbody will be minimised.
- 59 The Civil Engineering Report and Plans prepared by Henry & Hymas provide controls that I am satisfied are appropriate for treatment and control of stormwater run-off. Stormwater run-off generated on the site will be directed through a storm filter chamber, which will then connect to the public drainage system to the north of the site. For these reasons, the effect of the proposal on the quality of water entering Sydney Harbour is as close as possible to neutral or beneficial, and the impact on water flow in a natural waterbody is minimised.
- 60 For similar reasons I have also considered those matters at s 6.7 of the Biodiversity SEPP and am satisfied, there will be no direct, indirect or cumulative impact on terrestrial, aquatic or migratory animals or vegetation to a minimum, and no adverse impact on aquatic reserves, or in terms of erosion.
- 61 Neither will the proposed development have an impact on recreational land uses or access to public land, in terms set out in s 6.9 of the Biodiversity SEPP.
- 62 In accordance with s 6.28(2) of the Biodiversity SEPP, I am also satisfied that the proposal will retain the current and future demand, functions and character of the harbour will not result in excessive traffic congestion, and will maintain the visual qualities of the Foreshore and Waterways Area.
- 63 As no works are proposed in the vicinity of the Rocky Foreshores and Significant Seagrasses Area, I am satisfied that the proposal will preserve and enhance the health and integrity of seagrasses; maintain the connectivity of seagrass vegetation and natural landforms; not contribute to the fragmentation of aquatic ecology; and not cause physical damage to aquatic ecology as required by s 6.32 of the Biodiversity SEPP.

State Environmental Planning Policy (Resilience and Hazards) 2021

- 64 As the site is located within the Foreshores and Waterways Area, the provisions at ss 2.10 and 2.11 of State Environmental Planning Policy (Resilience and Hazards) 2021 (Hazards SEPP) do not apply to the development.
- 65 However, in respect of s 2.12, as the proposed built form has a setback from the foreshore of 30m, I am satisfied that the site is not likely to cause increased risk of coastal hazards and, on the basis of the Geotechnical Assessment, that no geotechnical hazards will be created by the proposed development.
- 66 I have considered whether the land is contaminated and, on the basis of the statements made in the Statement of Environmental Effects, prepared by GSA Planning dated December 2023, I conclude it is not, and that it is suitable for the development proposed, in accordance with s 4.6 of the Hazards SEPP.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

- 67 The application is accompanied by a BASIX certificate (Cert No. 1729929M_02 prepared by Efficient Living Pty Ltd) in accordance with State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 and the EPA Regulation.
- 68 The Court notes the repeal of the BASIX SEPP 2004 on 1 October 2023, and the savings and transitional provisions at s 4.2 of State Environmental Planning Policy (Sustainable Buildings) 2022 (Sustainable Buildings SEPP) that have the effect of saving the Amended DA from the provisions of Sustainable Buildings SEPP.

Conclusion

- 69 As the parties' decision is a decision that the Court could have made in the proper exercise of its functions, I am required under s 34(3) of the LEC Act to dispose of the proceedings in accordance with the parties' decision.
- 70 In making the orders to give effect to the agreement between the parties, I was not required to, and have not, made any merit assessment of the issues that were originally in dispute between the parties.
- 71 The Court notes that:

- (1) The Sydney Eastern Planning Panel, as the relevant consent authority, has approved, under section 38 of the Environmental Planning and Assessment Regulation 2021, the Applicant amending Development Application No. DA7/2024 to include the documents set out in Annexure 'B' ('Amended Application').
- (2) The Amended application was filed with the Court on 23 September 2024.

Orders

72 The Court orders that:

- (1) The Applicant is to pay the Respondent's costs thrown away by the amendment of the Development Application, pursuant to s 8.15(3) of the *Environmental Planning and Assessment Act 1979*, as agreed or assessed.
- (2) The Applicant's written request, prepared by GSA Planning dated December 2023, made pursuant to cl 4.6 of the *Woollahra Local Environmental Plan 2014*, to vary the height development standard in cl 4.3 of the Woollahra Local Environmental Plan 2014, is upheld.
- (3) The Applicant's written request, prepared by GSA Planning dated December 2023, made pursuant to cl 4.6 of the Woollahra Local Environmental Plan 2014, to vary the floor space ratio development standard in cl 4.4 of the Woollahra Local Environmental Plan 2014, is upheld.
- (4) The appeal is upheld.
- (5) Development Application No. DA7/2024, as amended, for the demolition of the existing single dwellings and residential flat building, and construction of a new residential flat building, with strata subdivision and associated works at 77-83A Yarranabbe Road, Darling Point, is determined by the grant of consent subject to the conditions at Annexure 'A'.

T Horton

Commissioner of the Court

Annexure A

Annexure B

DISCLAIMER - Every effort has been made to comply with suppression orders or statutory provisions prohibiting publication that may apply to this judgment or decision. The onus remains on any person using material in the judgment or decision to ensure that the intended use of that material does not breach any such order or provision. Further enquiries may be directed to the Registry of the Court or Tribunal in which it was generated.