



Land and Environment Court
New South Wales

Case Name: The Owners – Strata Plan 6666 v Kahu Holdings Pty Ltd

Medium Neutral Citation: [2018] NSWLEC 15

Hearing Date(s): 9 February 2018

Decision Date: 19 February 2018

Jurisdiction: Class 3

Before: Molesworth AJ

Decision: See orders at [44]

Catchwords: PRACTICE AND PROCEDURE – whether to join dissenting owner and/or supporting purchaser/developer to proceedings – designation of respondents – name of Applicant and title of proceedings amended – name of dissenting owner amended – whether conciliation under s 34 of the Land and Environment Court Act 1979 applicable.

Legislation Cited: Strata Schemes Development Act 2015, ss 4, 178, 179, 180, 181, 188
Strata Schemes Management Act 2015 ss 4, 8
Strata Scheme Development Regulation 2016
Justice Legislation Amendment Bill (No 2) 2017 Sch1, cl 1.23
Land and Environment Court Act 1979 s 34
Uniform Civil Procedure Rules, r 6.24

Category: Procedural and other rulings

Parties: The Owners Corporation of Strata Plan 6666 (Applicant)
Kahu Holdings Pty Ltd (Respondent (Dissenting Owner))
GSA Australia Acquisition No. 2 Pty Ltd (ACN 616 364)

400) (Respondent (Supporting Purchaser))

Representation:

Counsel:

Mr Scott Nash (Applicant)

Mr Aaron Gadiel (Respondent (Dissenting Owner))

Ms Janet McKelvey (Respondent (Supporting Purchaser))

Solicitors:

Phillippa Russell Lawyers (Applicant)

Mills Oakley (Respondent (Dissenting Owner))

Thomson Geer (Respondent (Supporting Purchaser))

File Number(s):

17/384761

Publication Restriction:

N/A

JUDGMENT

Introduction

- 1 By a Class 3 Application filed 20 December 2017, proceedings were commenced by the then described The Owners Corporation Strata Plan 6666 pursuant to s 179 of the *Strata Schemes Development Act 2015* (Development Act) to give effect to a Strata Renewal Plan (the proceedings). In the instance of Strata Plan 6666 (SP 6666), it relates to property located at 1 – 3 Cottonwood Crescent, Macquarie Park (Subject Property).
- 2 The owners of the lots in the strata scheme designated Strata Plan 6666 constitute a body corporate pursuant to s 8 of the *Strata Schemes Management Act 2015* (Management Act). The general term used to identify this body corporate is owners corporation.
- 3 The documentation filed with the Court in support of the proposed Strata Renewal Plan reveals that GSA Australia Acquisition No. 2 Pty Ltd (ACN 616 364 400) (GSA Australia) entered into a heads of agreement to purchase the part entitlements in SP 6666 on 26 September 2016. On 21 December 2016, GSA Australia entered into option deeds to purchase the majority of the Lots in SP 6666 subject to satisfaction of a number of preconditions. On 11 May 2017, GSA Australia submitted to the Applicant a strata renewal proposal for the collective sale of the SP 6666 Lots. In effect, the owners of lots comprising the

owners corporation were invited to consider a proposal that the Subject Property be sold so as to enable the site to be redeveloped. To achieve this objective a strata renewal plan would be required. The Strata Renewal Plan that was placed before the owners corporation for consideration was dated 26 July 2017. Seventy five per cent or more of the owners comprising the owners corporation of SP 6666, being the required level of support under the Development Act, resolved on 13 December 2017 to apply to the Court for an order giving effect to the Strata Renewal Plan dated 26 July 2017.

- 4 The Class 3 Application will be heard and determined by the Court in due course once all the preparatory requirements are completed. The careful consideration of the documentation filed with the Court, which is voluminous, will be considered by the Court at that stage. This judgment determines various interlocutory matters brought before the Court via two Notices of Motion: the first brought by a dissenting owner who does not agree with the decision of the majority grouping of owners of SP 6666; the second brought by the prospective purchaser and developer which, not surprisingly, supports the Strata Renewal Plan.
- 5 There is one dissenting owner with respect to the proposed collective sale of Strata Plan 6666, it being Kahu Holdings Pty Ltd (Kahu), the owner of Lots 10 and 20. Pursuant to s 180(1)(a) of the Development Act, as a dissenting owner, Kahu filed an objection with the Court on 8 January 2018. As required by par 24 of the Court's Practice Note – Strata Schemes Development Proceedings (Practice Note), the objector set out the grounds of its objection, at least upon the more superficial analysis required at this interlocutory stage, "the matters of concern to the person in s 182(1) of the Development Act with which the Court needs to be satisfied in order to make an order giving effect to the strata renewal plan". A close analysis of these objections is not required for the interlocutory applications before me, rather that analysis will occur at the final hearing.
- 6 The dissenting owner, Kahu, has chosen to seek, by way of the Notice of Motion before me, to be joined as a party to the proceeding.

Motion to join by Dissenting Owner

- 7 As said earlier, Kahu's application was brought by way of Notice of Motion. The application was supported by an affidavit of Stephen Abolakian, affirmed 8 January 2018. Mr Abolakian is the sole director of Kahu. Paragraph 25 of the Court's Practice Note states that: "The notice of motion is to be accompanied by an affidavit of the person explaining why the person should be joined as [a] party to the proceedings".
- 8 There can be no doubt that the Development Act envisages that dissenting owners may seek to join the proceedings. The use of the words "need not be a party in proceedings" as found in s 180(3) is perhaps a mild hope expressed by Legislature that such dissenting owners will not feel the need to join the proceedings, thereby, perhaps, leading to a more expeditious consideration and approval of strata renewal plans. Whether that surmising is accurate or not, the fact is the legislative scheme envisages dissenting owners being permitted to become parties in such proceedings.
- 9 What then are the considerations which might be relevant to the Court in exercising its discretion to agree to a dissenting owner becoming a party? The preconditions to joining – the lodging of an objection and then the lodging of a Notice of Motion supported by an affidavit explaining why the person should be joined as a party – have been satisfied in the case of Kahu's application. However, what should the affidavit canvass as reasons justifying joinder?
- 10 In circumstances where the procedure under s 179(2) of the Development Act requires notice to be given to each of the identified intended recipients (a) to (e), it is logical that each such recipient is considered to potentially have a material interest. The Court considers that with respect to the joinder of parties, the default position should be that the recipients of notice, considered to have a material interest in the Strata Renewal Plan, ought to be admitted as parties to the proceedings if an appropriate application is made to the Court setting out their nexus and interests likely to be affected. Notification under s 179(2) leads to an entitlement under s 180(1) to file an objection to the Strata Plan Renewal application. Despite the legislation envisaging the receipt of only objections, rather than submissions, the Court believes that it would be in the interests of

justice for all such persons identified in s 179(2), as being entitled to notice, to be allowed to join the proceedings as parties. However, necessarily, joinder remains a matter for the Court's discretion.

- 11 Subsection 181(6) unambiguously clarifies that the Court may join objectors, wherein it states: "Any of the following persons may be joined as a party to the proceedings: (a) a person who has filed an objection to the application and applies to be a party to the proceedings". So there can be no doubt that the Court may join a person to the proceedings pursuant to (a), providing they have filed with the Court an objection to the Strata Renewal Plan application. The notification provision in s 179(2) clearly indicates that the persons therein identified are likely to have a material interest in a Strata Renewal Plan application. In such circumstances, providing the Court is satisfied that the person identified is an objector of the category specified, such as a dissenting owner, and clarifies the basis of the objection, which sensibly would identify their interests which are likely to be affected, in the interest of justice I cannot envisage a reason why the Court might decline an application by an objector, particularly a dissenting owner or a person identified in s 179(c) with an interest in the dissenting owner's lot, to be joined as a party.
- 12 In considering the position of a dissenting owner within an extant strata plan, it is well to remember the fundamentals of justice which is inherent in our Nation's system of law. At the Commonwealth level, in the Australian Constitution, and at the State level in legislation such as the *Land Acquisition (Just Terms Compensation) Act 1991*, it is acknowledged that the potential extinguishment or removal of an interest in private property must only occur on just terms with compensation being appropriately and fairly determined. Such a principle might be described as a pillar of our Australian justice system. Clearly the Development Act sets out the legislative regime whereby dissenting owners, who might potentially lose ownership of their lot in an extant strata plan, are fairly treated and receive just compensation. In essence, that is the safeguard offered the Legislature in requiring that only by order of this Court can a Strata Renewal Plan be approved.

- 13 In the circumstances of the application of Kahu, as a dissenting owner, having considered the matters set out in the affidavit accompanying its Notice of Motion, I consider that, in the interests of justice and fairness, it ought to be joined as a respondent so that its submissions can be considered on matters which are critically material to the question before the Court whether the Strata Renewal Plan ought to be given effect.
- 14 For the purposes of this judgment, I need not consider the position of the local council, identified as being entitled to notice of the Strata Renewal Plan under s 179(2)(d), or the “any other person” that may, by direction of the Court, receive notice pursuant to s 179(2)(e), as potential parties in Strata Renewal Plan application proceedings. Neither category of such persons has an application before me to consider, however I see no reason why the Court would not see fit joining such persons to the proceedings if they were to demonstrate, to the Court’s satisfaction, that they have a material interest.
- 15 In the context of the foregoing, the Court considers that it is the interests of fairness and justice that Kahu be joined as a respondent.

Motion to join by Supporting Purchaser/Developer

- 16 By Notice of Motion dated 19 December and filed 20 December 2017, GSA Australia, the prospective purchaser and developer of the Subject Land and instigator of the proposed Strata Renewal Plan, sought an order to be joined as an applicant. Not surprisingly, not being a contradictor wishing to oppose the Applicant’s Class 3 Application, GSA Australia found itself in a threshold dilemma in identifying the appropriate description of its sought participation. GSA Australia sought to be joined as an “applicant”, whereas the Development Act contemplates only an owners corporation being an applicant for an order to approve a strata renewal plan. The Court has concluded that it is inappropriate that GSA Australia be joined as an “applicant”, due to the scheme of legislation clearly only envisaging an owners corporation bringing an application under s 179. It is more appropriate to consider GSA Australia’s application being to join as a respondent, albeit as a supporting respondent.
- 17 GSA Australia’s Notice of Motion was supported by an affidavit of Joanna Sing Rou Ling affirmed 19 December 2017. The affidavit confirms that GSA

Australia is the proposed purchaser and ultimate redeveloper of the Subject Property, stating that it is the “purchaser” for the purposes of Part 10 of the Development Act. Sensibly following the lead provided by the Court’s Practice Note, par 25, with respect to the requirements for joinder applications filed by an objector, GSA Australia, in its supporting affidavit explained the rationale for its application to be joined. In summary, it is based on its monetary investment in the subject matter of the proceedings, specifically that GSA will ultimately be the purchaser of the land and therefore responsible for the payment of any compensation determined by the Court in respect of the collective sale following the approval of the Strata Renewal Plan.

- 18 Section 180(1)(b) refers to the persons, apart from a dissenting owner, who may file an objection to the application. The persons are identified in ss 179(2)(b)–(e) and they include, inter alia, a proposed purchaser (s 179(2)(c)) and a proposed developer (s 179(2)(d)). However, the reference to filing an objection in the context of the instigating purchaser and prospective ultimate developer would seem to be an oxymoron. There is no doubt that notice of an application for an order to give effect to a strata renewal plan is required, by s 179(2), to be served on the proposed purchaser (if known) and the proposed developer (if known), but it would be surprising if such persons would wish to oppose the plan.
- 19 Following the receipt of a notice of an application, if a responding person wishes to object to such a scheme they must file their objection with the Court within 21 days after notice of application is served on the person filing the objection. Following the filing of an objection, pursuant to s 181(6)(a) “a person who has filed an objection to the application and applies to be a party to the proceedings” may be joined as a party to the proceedings.
- 20 As in the case of GSA Australia, some recipients of notice of an application will not wish to object to the proposed strata renewal plan. Obviously, proposed purchasers and proposed developers would fall into the non-objector category. In such circumstances, the Development Act provides a pathway by which the non-objector category of person may be joined to the proceedings. Section 181(6)(b) provides the power by which the Court may join other persons,

without requiring that they first lodge an objection. Accordingly, if the Court considers that a supporting person, such as the proposed purchaser or proposed developer, ought to be joined, then the appropriate order is to be made under s 181(6)(b).

- 21 As said earlier, GSA Australia's application to join the proceedings was made by way of Notice of Motion. The order sought was made pursuant to r 6.24 of the *Uniform Civil Procedure Rules 2005* (UCPRs). As this was the first such application under the Development Act to join by a person supporting a proposed strata renewal scheme, GSA Australia was, proverbially, stepping into the unknown. In a letter from the Court's Registrar to the solicitors for GSA Australia dated 30 November 2017 (exhibited to the affidavit of Ms Ling), reference was made, by way of general information, to the fact that "if a person who is not party to proceedings wishes to become a party, then he or she can seek leave to be joined to the proceedings under r 6.24 of the UCPRs by way of Notice of Motion". It is likely that this general information, in the absence of any established practice under the Development Act, most probably influenced GSA Australia to seek the order that it did in its Notice of Motion.
- 22 The Registrar's advice was perfectly correct and that power to join a party pursuant to the UCPRs remains available, however as the Court considers that s 181(6)(b) of the Development Act provides ample power to join, in the circumstances of this case, it is most probably preferable to make all related orders, with respect to an application in relation to the Strata Renewal Plan, under the same legislative scheme, that is, the Development Act.
- 23 In the absence of guidance in the Development Act as to what a supporting respondent might submit as being a basis for the Court to agree to join them as a respondent, the approach adopted by GSA Australia would appear to be both sensible and adequate. It indicated its material interests in the outcome of the proceedings, in particular stressing the financial consequences for it should the Court order that effect be given to the Strata Renewal Plan. Currently the Court's Practice Note is also silent as to the relevant matters that might be addressed by a supporting respondent, as distinct from an objector. In these

circumstances, in exercising its discretion under s 181(6)(b), the Court decided that it had a sufficient basis to join GSA Australia as a respondent.

Appropriate identification of respondents with differing positions

- 24 In circumstances where respondents in proceedings are more frequently contradictors to applications brought by applicants and in the specific context of the scheme of the Development Act, in which the primary focus on a responding party is on dissenting owners, ensuring that they be notified, have an entitlement to object and then have an opportunity to seek to be joined as respondent parties, and not suffer a cost burden due to their participation in the proceedings, the issue arises how best to identify the position of a supporting proposed purchaser or a supporting proposed developer.
- 25 The Court has decided in this case to adopt a course whereby the dissenting owner in the proceedings is identified as the Respondent (Dissenting Owner), whilst the supporting respondents, the proposed purchaser and the proposed developer (using the language of s 179 of the Development Act), should be identified, respectively, as the Respondent (Supporting Purchaser) and the Respondent (Supporting Developer). In the instance of this case where GSA Australia is one and the same, being both the proposed purchaser and the ultimate developer, sense supports that just one descriptor be adopted and that that should be Respondent (Supporting Purchaser). Given that the purchase of the Subject Land will precede the development of it, the first action should guide the adoption of the appropriate descriptor. The Court's orders adopt these descriptors.

Appropriate corporate name of the Applicant

- 26 In the course of the hearing it was submitted that the identification of the Applicant by name "The Owners Corporation of Strata Plan 6666" was erroneous and that the proper course would be to identify it as "The Owners – Strata Plan 6666". Although the term "owners corporation" is used throughout the Development Act to identify the entity empowered to apply to the Court for an order to give effect to a strata renewal plan, it is a working term rather the identification of the name of the requisite legal entity.

- 27 In the definitions section of the Development Act, s 4, the term “**owners corporation**” is defined: “owners corporation of a strata scheme means the owners corporation constituted under the *Strata Schemes Management Act 2015* for the scheme”. One then examines the Management Act and finds that in its definition, s 4, owners corporation is defined as follows: “**owners corporation** means an owners corporation constituted under section 8 for a strata scheme”. Section 8(1) then provides as follows:

“(1) The owners of the lots from time to time in a strata scheme constitute a body corporate under the name “The Owners – Strata Plan No X” (X being the registered number of the strata scheme relates)”.

- 28 Accordingly, the practice that has prevailed to date with s 179 proceedings involving applications seeking an order from the Court to give effect to a strata renewal plan, wherein an applicant has described itself as, in the instance of this case, “The Owners Corporation of Strata Plan 6666”, should change to more correctly adhere to the statutory scheme established by the interrelationship between the Management Act and the Development Act.
- 29 Accordingly, by order in these proceedings I have directed that the name of the Applicant is to be amended to “The Owners – Strata Plan No 6666” and that the title of the proceedings henceforth is to reflect that change.

Costs on Motion to join

- 30 The Respondent (Dissenting Owner) sought its costs on its Motion. The seeking of costs should be considered in the context of s 188 of the Development Act which states that the costs of a dissenting owner in relation to Class 3 applications of this kind will be costs to be covered by the Applicant. Specifically, s 188 states:

188 Costs

- (1) Unless the court otherwise orders:

- (a) the reasonable costs of proceedings for an application for an order to give effect to a strata renewal plan that are incurred by a dissenting owner are payable by the owners corporation, and
- (b) the owners corporation cannot levy a contribution for any part of the costs on a dissenting owner.

- (2) The regulations may prescribe other matters for or with respect to the costs of proceedings for an application for an order to give effect to a strata renewal plan.

- 31 In the context of s 180(3) of the Development Act stating that a dissenting owner need not become a party, it might be argued that a dissenting owner ought to be satisfied that its concerns will be satisfactorily addressed when it files an objection pursuant to ss 180(1) and (2). Conceivably it might be argued that by joining a dissenting owner to the proceedings, the costs of the proceedings would be likely to commensurately, and unnecessarily, increase. It might then be argued that such additional costs, specifically of the dissenting owner, should be considered to be unreasonable. In the proceedings before me, no party argued that costs would be unacceptably increased by the joinder of Kahu, nor was it argued that they should not be entitled to its costs.
- 32 Clearly, with the commencing words in s 188 “Unless the court otherwise orders”, the Court has a discretion with respect to the award of costs. In the circumstances before me, I could see no reason why the costs of Kahu incurred in bringing its Notice of Motion to join should not be costs covered by the Applicant owners corporation. I interpret s 188 as confirming that the default position with Class 3 Applications of the kind before the Court in these proceedings is that the costs of dissenting owners should be met by owners corporation applicants, providing, of course, that such costs are reasonable. In circumstances where it is clearly envisaged that a dissenting owner may be joined as a party to the proceedings, I cannot identify a reason why the costs of joining a dissenting owner ought not be covered by an applicant.
- 33 So in relation to the Respondent (Dissenting Owner) in this case I believe that it should be entitled to its costs on the Motion. The appropriate order is that the “costs of the dissenting owner be costs in the cause”, with such order being applied in accordance with s 188 of the Development Act.
- 34 The Respondent (Supporting Purchaser) did not seek an order for its costs. Although it is not necessary for me to consider hypothetical circumstances when a supporting purchaser or a supporting developer might seek their costs, I observe that, due to its silence, I am of the tentative view that the scheme of the Development Act is such that the costs of other parties, particularly supporting parties, are not contemplated as being properly met by an applicant owners corporation. Clearly, the statutory scheme is to only contemplate a

dissenting owner not being subjected to an expense burden by reason of a strata renewal plan being considered. Although the Development Act envisages in s 181(6) that other persons might be joined to the proceedings by order of the Court, there is no provision in the Act that addresses the costs burden of these other parties. If it were contemplated that the costs of other parties in the proceedings ought to be paid by the owners corporation, one would expect to find an appropriate provision in s 188. This section is silent on the point. Further, given that s 188(2) provides that: “The regulations may prescribe other matters for or with respect to the costs of the proceedings for an application for an order to give effect to a strata renewal plan”, it is instructive that the regulations, being the *Strata Schemes Development Regulation 2016*, are also silent on the question whether a supporting party is entitled to its costs.

- 35 Reflecting on the fact that supporting purchasers and supporting developers are, in effect, the initiators of strata renewal plans for strata schemes leading to owners corporations applying to the Court for an order to give effect to such a “renewed” scheme, purchasers and developers are clearly not in a similar position to contradictor responders, such as a dissenting owner. It is to be expected that purchasers and developers will be promoting and then pursuing a strata renewal plan for commercial or financial gain. Accordingly, although in this instance the Court was not requested to consider the costs implication of the Respondent (Supporting Purchaser) joining the proceedings, there would seem to be logic in accepting that such a joined supporting party should cover their own costs of their participation in the proceedings, including the initiating application by way of Notice of Motion to join.
- 36 In the circumstances of this case, I have determined to make no order as to costs in relation to the Respondent (Supporting Purchaser)’s application and involvement.

Conciliation under s 34

- 37 The parties sought an order that the proceedings be referred to conciliation under s 34 *Land and Environment Court Act 1979* (LEC Act) in accordance with s 181(2) of the Development Act.

- 38 Initially, there was an inadvertent conflict set up between s 181(3) of the Development Act and s 34(3) of the LEC Act. Section 181(3) of the Development Act directed that: “The court must hear, or continue to hear, proceedings whether or not the parties reach an agreement at mediation or a conciliation conference”. The conflict emerged when s 181(3) was set against s 34(3) of LEC Act which directed that:

34 Conciliation conferences

...

(3) If, either at or after a conciliation conference, agreement is reached between the parties or their representatives as to the terms of a decision in the proceedings that would be acceptable to the parties (being a decision that the Court could have made in the proper exercise of its functions), the Commissioner:

- (a) must dispose of the proceedings in accordance with the decision, and
- (b) must set out in writing the terms of the decision.

- 39 The Legislature was alerted to the issue and passed the *Justice Legislation Amendment Bill (No 2) 2017* which inserted s 181(3A) into the Development Act. Section 181(3A) states as follows:

(3A) Subsection (3) has effect despite section 34(3)(a) of the *Land and Environment Court Act 1979*.

This inserted provision came into operation on 25 September 2017.

- 40 The Attorney General in his Second Reading Speech on the *Justice Legislation Amendment Bill (No 2) 2017*, delivered 14 September 2017, explained the rationale for the amendment to s 181 of the Development Act:

Schedule 1.23 addresses an inconsistency between section 181(3) of the *Strata Schemes Development Act 2015* and section 34 of the *Land and Environment Court Act 1979*. Section 181(3) of the *Strata Schemes Development Act 2015* requires the court to continue to hear proceedings whether or not parties reach an agreement at a conciliation conference. Conciliation conference is defined under section 181(7) to mean a conciliation conference under section 34 of the *Land and Environment Court Act*. However, section 34(3) of the *Land and Environment Court Act* states that the commissioner must dispose of the proceedings if an agreement is reached at a conciliation conference – that is, those disposals amount to a finalisation of the proceedings such that the court may not hear or continue to hear the proceedings. The proposed amendment will address this inconsistency, which is currently being addressed through administrative arrangements.

- 41 With the former inconsistency between the Development Act and the LEC Act addressed by the legislative amendment, the parties’ request for conciliation or,

in default, mediation was perfectly in order and consistent with the Court's Practice Note. Accordingly, the Court has made the order requested. The effect of the order is that the parties will participate in conciliation, or mediation, and whether or not all issues between them are resolved, the Class 3 Application will return to the Court for final determination.

Orders

- 42 At the conclusion of the hearing the Court indicated to the parties that it was satisfied that it should make the orders regarding joinder sought in the two Notices of Motion, with the modifications indicated at the conclusion of the hearing. With respect to the required case management orders which should follow, the Court requested the parties to confer and then prepare, preferably by consent, a set of consequential orders for the Court to consider and make in chambers. Consent orders were not forthcoming.
- 43 Subsequent to the hearing, it became apparent to the Court that an additional order would be required to address the proper title of the Applicant to bring it into consistency with s 8(1) of the Management Act which, as explained earlier, contains a provision regarding the proper title of an owners corporation.
- 44 The Orders made on 9 February were as follows:
 - (1) In respect of the Notice of Motion of Kahu Holdings Pty Ltd, the Court orders:
 - (a) That the Applicant on the Motion be joined as a Respondent (Dissenting Owner) to the proceedings.
 - (b) That the costs of the Applicant on the Motion be costs in the cause.
 - (2) In respect of the Notice of Motion of GSA Australia Acquisition No. 2 Pty Ltd (ACN 616 364 400), the Court orders:
 - (a) Pursuant to s 181(6)(b) of the Strata Schemes Development Act 2015, GSA Australia Acquisition No. 2 Pty Ltd (ACN 616 364 400) be joined as a Respondent (Supporting Purchaser) to the proceedings.

Orders

- (1) The name of the Applicant is amended to 'The Owners – Strata Plan No 6666' and the title of the proceedings henceforth is to reflect that change.

- (2) The proceedings are referred to conciliation under section 34 of the *Land and Environment Court Act 1979* (NSW) on a date to be determined by the Registrar. If no dates are available prior to 30 June 2018 then the parties are to participate in a mediation pursuant to section 26 of the *Civil Procedure Act 2005* (NSW) on a date no later than 30 June 2018.
- (3) By 23 April 2018 the Respondent (Dissenting Owner) is to file in the Court and serve on the Applicant and other Respondent (Supporting Purchaser) a statement of facts and contentions identifying and giving particulars of:
 - (a) the grounds on which the Respondent (Dissenting Owner) objects to the application for an order to give effect to the strata renewal plan;
 - (b) the matters of concern to the Respondent (Dissenting Owner) in s 182(1) of the *Strata Schemes Development Act*; and
 - (c) the order or orders that the Respondent (Dissenting Owner) contends that the Court should make including to vary the strata renewal plan.
- (4) By 14 May 2018, the Applicant and Respondent (Supporting Purchaser) are to file in the Court and serve on each respondent any statement of facts and contentions in reply.
- (5) The proceedings are listed for a second directions hearing on 6 July 2018.
- (6) The parties are to promptly notify the Court if there is any material slippage in the timetable and if appropriate relist the matter.
- (7) Liberty to restore on 3 working days' notice.

Amendments

20 February 2018 - Order two amended to "Civil Procedure Act 2005" NOT "Criminal Procedure Act 2005".

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.