

Land and Environment Court

New South Wales

Medium Neutral Citation:	Equity Site Holdings Pty Ltd v Inner West Council [2016] NSWLEC 1585
Hearing dates:	Conciliation conference on 9 September 2016, 10, 25 October 2016, 23, 30 November 2016
Date of orders:	07 December 2016
Decision date:	07 December 2016
Jurisdiction:	Class I
Before:	Brown C
Decision:	See (5) below
Catchwords:	DEVELOPMENT APPLICATION: demolition of existing improvements and construction of mixed commercial/residential development with basement parking – strata subdivision - conciliation conference; agreement between the parties; orders
Legislation Cited:	Environmental Planning and Assessment Act 1979 , Land and Environment Court Act 1979
Category:	Principal judgment
Parties:	Equity Site Holdings Pty Ltd (Applicant) Inner West Council (Respondent)
Representation:	Mrs L Finn, Hones Lawyers Pty Ltd (Applicant) Mr G Christmas, Apex Planning & Environment Law (Respondent)
File Number(s):	2016/00188533
Publication restriction:	No

Judgment

1. **COMMISSIONER:** This is an appeal against the refusal of application No.DA201600172 for the demolition of existing improvements and construction of mixed commercial/residential development with basement parking and strata subdivision at 110-112 Addison Road Marrickville.
2. In this matter, at or after a conciliation conference, an agreement under s 34(3) of the Land and Environment Court Act 1979 (the Court Act) was reached between the parties as to the terms of a decision in the proceedings that was acceptable to the parties. As the presiding Commissioner, I was satisfied that the decision was one that the Court could have made in the proper exercise of its functions (this being the test applied by s 34(3) of the Court Act). As a consequence, s 34(3)(a) of the Act required me to “dispose of the proceedings in accordance with the decision”.
3. The Court Act also required me to “set out in writing the terms of the decision” (s 34(3)(b)). The orders made to give effect to the agreement constitute that document.
4. In making the orders to give effect to the agreement between the parties, I was not required to make, and have not made, any merit assessment of the issues that were originally in dispute between the parties.
5. The final orders to give effect to the parties’ agreement under s 34(3) of the Land and Environment Court Act 1979 are:

I. Leave is granted to the Applicant to rely on the following amended plans:

Plan and Issue No.	Plan Name	Date Issued	Prepared by
DA000-B	Standard Abbreviation 1	21.10.16	AN+A Architects
DA000-C	Standard Abbreviation 2	21.10.16	AN+A Architects
DA001-B	View 01 – Addison Road Perspective	21.10.16	AN+A Architects
DA002-B	View 02 – Addison Road Perspective	21.10.16	AN+A Architects
DA010-I	Basement Plan	21.10.16	AN+A Architects

DA011-K	Ground Floor Plan	21.10.16	AN+A Architects
DA012-I	Level 1 Plan	21.10.16	AN+A Architects
DA013-I	Level 2 Plan	21.10.16	AN+A Architects
DA014-I	Level 3 Plan	21.10.16	AN+A Architects
DA015-H	Loft Level	21.10.16	AN+A Architects
DA016-D	Roof Plan	21.10.16	AN+A Architects
DA103-C	Pre/Post Adaptable Units – Level 3	21.10.16	AN+A Architects
DA104-C	Pre/Post Adaptable Units – Level 1 & 2	21.10.16	AN+A Architects
DA150-D	Addison Road Elevation - North	21.10.16	AN+A Architects
DA151-D	Illawarra Road Elevation - West	21.10.16	AN+A Architects
DA152-D	South Elevation	21.10.16	AN+A Architects
DA153-D	East Elevation	21.10.16	AN+A Architects
DA160-C	Section AA	21.10.16	AN+A Architects
DA161-D	Section BB	21.10.16	AN+A Architects

DAI62-C	Section CC	21.10.16	AN+A Architects
DAI63-E	Section DD	21.10.16	AN+A Architects
DAI65-C	SEPP 65 Detail Facade	21.10.16	AN+A Architects
DAI67-A	1 & 3 Illawarra Section	21.10.16	AN+A Architects
AR-LPOI-B – Sheet 1	Existing Trees and Tree Management Plan	01/11/16	BioDesign
AR-LPOI-B – Sheet 2	Landscape Plan – Ground Level	01/11/16	BioDesign
AR-LPOI-B – Sheet 3	Landscape Plan – Level 1	01/11/16	BioDesign
AR-LPOI-B – Sheet 4	Planting Plan – Ground Level	01/11/16	BioDesign
AR-LPOI-B – Sheet 5	Planting Plan Level 1	01/11/16	BioDesign
AR-LPOI-B – Sheet 6	Sections and Elevations	01/11/16	BioDesign

2. Pursuant to section [97B](#) of the [Environmental Planning and Assessment Act 1979](#), the Applicant is to pay the Respondent's costs agreed at \$4,000.00 upon execution of this Agreement.

3. The appeal is upheld.

4. Development consent is granted to DA201600172 for demolition of the existing structures and the construction of a shop top housing development with basement parking and strata subdivision at 110-112 Addison Road, Marrickville subject to the conditions at Annexure "A".

.....

Commissioner Brown

[188533.16 Brown \(C\) \(328 KB, pdf\)](#)

Decision last updated: 08 December 2016