



*Land and Environment Court*

*New South Wales*

<b>Medium Neutral Citation:</b>	<b>Owners SP No. 40012 v Woollahra Council [2017] NSWLEC 1214</b>
<b>Hearing dates:</b>	Conciliation conference on 28 April 2017
<b>Date of orders:</b>	28 April 2017
<b>Decision date:</b>	28 April 2017
<b>Jurisdiction:</b>	Class 1
<b>Before:</b>	Morris C
<b>Decision:</b>	See (4) below
<b>Catchwords:</b>	DEVELOPMENT APPLICATION; conciliation conference; agreement between the parties; orders
<b>Legislation Cited:</b>	<a href="#">Land and Environment Court Act 1979</a>
<b>Category:</b>	Principal judgment
<b>Parties:</b>	Owners of Strata Plan 40012 (Applicant) Woollahra Council (Respondent)
<b>Representation:</b>	Solicitors: Ms Yang (Applicant) Mr M Cottam (Respondent)
<b>File Number(s):</b>	317260/2016
<b>Publication restriction:</b>	No

*Judgment*

1. **COMMISSIONER:** 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”.

2. 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.
3. 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.
4. The final orders to give effect to the parties’ agreement under s [34\(3\)](#) of the [Land and Environment Court Act 1979](#) are:
  1. The appeal is upheld.
  2. Pursuant to section [121ZK\(4\)\(d\)](#) of the [Environmental Planning and Assessment Act 1979](#), the Court finds on the basis of the following documents prepared on behalf of the Applicant that the Respondent’s Order No 62/2015 is sufficiently complied with:
    1. Certificate of Expert Judgment Relating to the External Wall of 21 Guilfoyle Street Double Bay prepared by A N M Grieve of Anthony Grieve Pty Ltd dated 6 April 2017; and
    2. Peer review of Expert Judgment advice by A N M Grieve in the matter NAC Proceedings, File NO. SCS 15/16380 prepared by Peter Antcliffe of Building Certificates Australia Pty Ltd dated 7 April 2017.
  3. The Court notes that each party is to pay its own costs.

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Sue Morris

Commissioner

Decision last updated: 01 May 2017