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**JURISDICTION** : STATE ADMINISTRATIVE TRIBUNAL

**ACT** : STRATA TITLES ACT 1985 (WA)

**CITATION** : ENGWIRDA and THE OWNERS OF QUEENS  
RIVERSIDE STRATA PLAN 55728 [2022] WASAT  
19

**MEMBER** : MR D AITKEN, SENIOR MEMBER

**HEARD** : DETERMINED ON THE DOCUMENTS

**DELIVERED** : 11 MARCH 2022

**FILE NO/S** : CC 732 of 2017

**BETWEEN** : JENNIFER ENGWIRDA  
Applicant

AND

THE OWNERS OF QUEENS RIVERSIDE STRATA  
PLAN 55728  
Respondent

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*Catchwords:*

*Strata Titles Act 1985 (WA) pre 1 May 2020 - Section 90 orders for inspection of records and documents of strata company excluding documents subject to legal professional privilege - Documents over which legal professional privilege claimed provided to the applicant - Remainder of proceeding dismissed as lacking in substance*

*Legislation:*

*State Administrative Tribunal Act 2004 (WA), s 47(2)*

*Strata Titles Act 1985* (WA) (pre 1 May 2020), s 90

*Result:*

Remainder of proceeding dismissed

*Category:* B

**Representation:**

*Counsel:*

Applicant : N/A

Respondent : N/A

*Solicitors:*

Applicant : N/A

Respondent : Wotton + Kearney Lawyers

**Case(s) referred to in decision(s):**

Engwirda and The Owners of Queens Riverside Strata Plan 55728  
[2021] WASAT 17

Engwirda and The Owners of Queens Riverside Strata Plan 55728  
[2021] WASAT 17(S)

The Owners of Queens Riverside Strata Plan 55728 v Engwirda  
[2021] WASC 392

## REASONS FOR DECISION OF THE TRIBUNAL:

1        This proceeding was commenced by an application made to the Tribunal by Ms Jennifer Engwirda on 1 May 2017 under s 90 of the *Strata Titles Act 1985* (WA), as it was at the time.

2        The application sought an order that Ms Engwirda be allowed to inspect the records of the respondent, The Owners of Queens Riverside Strata Plan 55728 (**strata company**), which is the strata company of the strata titles scheme known as Queens Riverside.

3        The proceeding has a long history, and the only remaining task of the Tribunal is to determine whether the strata company has properly claimed legal professional privilege for eight documents (**withheld documents**).<sup>1</sup>

4        On 6 July 2021 I decided that the claim for legal professional privilege of the withheld documents had not been properly made by the strata company and I ordered that the strata company provide inspection of those documents to Ms Engwirda.<sup>2</sup>

5        The strata company successfully applied to the Supreme Court for leave to appeal that decision on a question of law and Tottle J remitted the matter to me for reconsideration.<sup>3</sup>

6        I listed the reconsideration of the matter for a final hearing before me on 7 February 2022.

7        On 2 February 2022 the solicitors for the strata company notified the Tribunal by email that the strata company had waived privilege over the withheld documents and provided them to Ms Engwirda. Ms Engwirda confirmed in an email to the Tribunal on the same date that she had received those documents.

8        The proceeding was commenced by Ms Engwirda for the purpose of being allowed to inspect the records of the strata company.

9        Ms Engwirda has now been able to inspect the withheld documents, which were the only records of the strata company which

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<sup>1</sup> The history of the proceeding up to 9 February 2021 and the explanation of the remaining task of the Tribunal is set out in *Engwirda and The Owners of Queens Riverside Strata Plan 55728* [2021] WASAT 17.

<sup>2</sup> *Engwirda and The Owners of Queens Riverside Strata Plan 55728* [2021] WASAT 17(S).

<sup>3</sup> *The Owners of Queens Riverside Strata Plan 55728 v Engwirda* [2021] WASC 392.

had not already been provided to her. That has resolved the remaining issue in dispute in the proceeding.

- 10           Therefore, I decided to dismiss the remainder of the proceeding pursuant to s 47(2) of the *State Administrative Tribunal Act 2004* (WA) as lacking in substance and to vacate the listing of the final hearing. The order I made on 2 February 2022 was as follows.

***Order***

The Tribunal orders:

1. Pursuant to s 47(2) of the *State Administrative Tribunal Act 2004* (WA) the remainder of this proceeding is dismissed as lacking in substance because the remaining issue in dispute has been resolved by the respondent providing to the applicant the documents over which it was claiming legal professional privilege.

I certify that the preceding paragraph(s) comprise the reasons for decision of the State Administrative Tribunal.

MR D AITKEN, SENIOR MEMBER

11 MARCH 2022