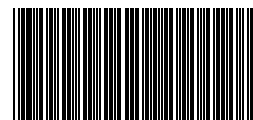




Filed: 13 December 2017 1:10 PM



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Section 34 Agreement

COURT DETAILS

Court	Land and Environment Court of NSW
Division	Class 1
Registry	Land and Environment Court Sydney
Case number	2017/00194315

TITLE OF PROCEEDINGS

First Applicant	Vigor Master Pty Ltd ACN 095341432
First Respondent	Northern Beaches Council ABN 57284295198

FILING DETAILS

Filed for	Vigor Master Pty Ltd, Applicant 1
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ATTACHMENT DETAILS

In accordance with Part 3 of the UCPR, this coversheet confirms that both the Lodge Document, along with any other documents listed below, were filed by the Court.

Section 34 Agreement (s34 Agreement signed by the Parties.pdf)

[attach.]

AGREEMENT BETWEEN THE PARTIES**SECTION 34(3)(a) and (b) LAND AND ENVIRONMENT COURT ACT 1979 (NSW)****COURT DETAILS**

Court Land and Environment Court of New South Wales
 Class 1
 Case number 2017/194315

TITLE OF PROCEEDINGS

Applicant **VIGOR MASTER PTY LTD**

Respondent **NORTHERN BEACHES COUNCIL**

PREPARATION DETAILS

Prepared for **Northern Beaches Council, Respondent**
 Legal representative Stephen Patterson, Wilshire Webb Staunton Beattie Lawyers
 Legal representative reference Ref: SP:MH:118030
 Contact name and telephone Mark Hanna, (02) 9299 3311

TERMS OF AGREEMENT

1. The parties have reached an agreement under s34 (3) of the *Land and Environment Court Act 1979 (NSW)* 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.
2. The terms of the decision are as follows:
 - (a) The Applicant is granted leave to amend the modification application, the subject of these proceedings, by substituting the following plans and documentation as the plans and documentation relied upon for the purpose of the modification application:

Drawing No.	Dated	Prepared By
S001 Site Plan Revision 2	6.11.2017	Vigor Master Pty Ltd
S101 Building B1 Floor Plans	16.10.2017	Vigor Master Pty Ltd
S102 Building A2 Floor Plans	16.10.2017	Vigor Master Pty Ltd
S103 Building C1 Floor Plans	16.10.2017	Vigor Master Pty Ltd
S104 Building C2 Floor Plans	16.10.2017	Vigor Master Pty Ltd

S105 Floor Plans Reception & Community Centre Revision 2	17.11.2017	Vigor Master Pty Ltd
S204 Reception Elevations	17.11.2017	Vigor Master Pty Ltd
S205 Community Centre Elevations (North - South)	17.11.2017	Vigor Master Pty Ltd
S205 Community Centre Elevations (East – West)	17.11.0217	Vigor Master Pty Ltd
S401 External Finishes and Colours Schedule	17.11.2017	Vigor Master Pty Ltd

Engineering / Erosion Control Plans		
Drawing No.	Dated	Prepared By
C001 Drawing Register and Construction Notes	28.11.2017	Bonacci Group
C002 T2 Soil and Water Management Plan Stage 1	14.11.2017	Bonacci Group
C003 T2 Soil and Water Management Plan Stage 2	14.11.2017	Bonacci Group
C004 T2 Soil and Water Management Plan Stage 3	14.11.2017	Bonacci Group
C005 T2 Soil and Water Management Plan Stage 4	14.11.2017	Bonacci Group
C010 T4 Site Stormwater Drainage Plan	28.11.2017	Bonacci Group
C011 T5 Site Works and Stormwater Drainage Plan Sheet 1	28.11.2017	Bonacci Group
C012 T6 Site Works and Stormwater Drainage Plan Sheet 2	28.11.2017	Bonacci Group
C013 T6 Site Works and Stormwater Drainage Plan Sheet 3	28.11.2017	Bonacci Group
C033 T3 Site Works and Stormwater Drainage Details	6.12.2017	Bonacci Group
C050 T3 Road Control Line Setout Plan	28.11.2017	Bonacci Group
C051 T4 Road Longitudinal Section Sheet 1	28.11.2017	Bonacci Group
C052 T3 Road Longitudinal Section Sheet 2	28.11.2017	Bonacci Group
C053 T4 Road Longitudinal Section Sheet 3	28.11.2017	Bonacci Group
C060 T5 Road Cross Sections Sheet 1	6.12.2017	Bonacci Group
C061 T5 Road Cross Sections	6.12.2017	Bonacci Group

Sheet 2		
C062 T4 Road Cross Sections Sheet 3	28.11.2017	Bonacci Group
C063 T4 Road Cross Sections Sheet 4	28.11.2017	Bonacci Group
C064 T4 Road Cross Sections Sheet 5	28.11.2017	Bonacci Group
C065 T4 Road Cross Sections Sheet 6	28.11.2017	Bonacci Group
C066 T4 Road Cross Sections Sheet 7	28.11.2017	Bonacci Group
C067 T4 Road Cross Sections Sheet 8	28.11.2017	Bonacci Group
C068 T3 Road Cross Sections Sheet 9	6.12.2017	Bonacci Group
C080 P5 Cut and Fill Layout	27.11.2017	Bonacci Group

Reports / Documentation – All recommendations and requirements contained within:

Report No. / Page No. / Section No.	Dated	Prepared By
Access / SEPP Compliance Report	28.3.2017	PSE Access Consulting
Basix 799856M	26.2.2017	Thermal Performance
BCA Compatibility Report	March 2017	Sydneywide Engineering
Waste Management Plan	29.3.2017	Vigor Master Pty Ltd

- (b) Pursuant to s97B of the *Environmental Planning and Assessment Act 1979* the Applicant is to pay the Respondent's costs thrown away as a result of amending the modification application, the subject of these proceedings in the amount of as agreed and/or assessed.
- (c) The appeal is upheld.
- (d) Modification Application No. MOD2017/0080 to modify Development Consent No. DA 2009/0800 for the construction of a retirement village comprising 32 units and subdivision on the land at 8 Lady Penrhyn Drive, Beacon Hills NSW, legally identified as Lot 806, DP 752038 is approved subject to the conditions in **Annexure "A"**.

3. Pursuant to section 34(3)(a) and (b) of the *Land and Environment Court Act* 1979 (NSW), the parties request that the Commissioner dispose of these proceedings in accordance with the terms of the decision set out in paragraph 2 above.

SIGNATURES

Signature



Name and Capacity

~~Solicitor for the Applicant~~

Sole director of the Applicant

Date

~~12 December 2017~~

13 December 2017



Signature



Name and Capacity

Solicitor for the Respondent

Date

~~12 December 2017~~

R.

Annexure "A"

Conditions of Consent

**Northern Beaches Council ats Vigor Master LEC Proceedings
194315/2017**

**(8 Lady Penrith Drive, Beacon Hill) Lot 806 in DP 752038 and Lot 12 in
DP 729342.**

MOD2017/0080 – Section 96 (AA) Modification of development Consent
No.DA2009/0800 granted for housing for older people or people with a
disability, including:

- One (1) into Two (2) lot Torrens Title subdivision;
- Construction on Lot 1 of the two lot subdivision of:
- 32 self contained dwellings for use as 'Housing for Older People or People
- A common amenities building comprising ancillary recreation rooms and outdoor swimming pool;
- Ancillary site reception building;
- Car parking;
- Vehicle access ways;
- Landscaping, drainage and Conservation Management works; and
- Bushfire hazard management works.
- Strata subdivision of the housing for older people or people with a disability.

A. Insert Condition No. "1A Modification Plans and Supporting Documentation" to read as follows:

"1A. Modification Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
S001 Site Plan Revision 2	6.11.2017	Vigor Master Pty Ltd
S101 Building B1 Floor Plans	16.10.2017	Vigor Master Pty Ltd
S102 Building A2 Floor Plans	16.10.2017	Vigor Master Pty Ltd

S103 Building C1 Floor Plans	16.10.2017	Vigor Master Pty Ltd
S104 Building C2 Floor Plans	16.10.2017	Vigor Master Pty Ltd
S105 Floor Plans Reception & Community Centre Revision 2	17.11.2017	Vigor Master Pty Ltd
S204 Reception Elevations	17.11.2017	Vigor Master Pty Ltd
S205 Community Centre Elevations (North - South)	17.11.2017	Vigor Master Pty Ltd
S205 Community Centre Elevations (East – West)	17.11.0217	Vigor Master Pty Ltd
S401 External Finishes and Colours Schedule	17.11.2017	Vigor Master Pty Ltd

Engineering / Erosion Control Plans		
Drawing No.	Dated	Prepared By
C001 Drawing Register and Construction Notes	28.11.2017	Bonacci Group
C002 T2 Soil and Water Management Plan Stage 1	14.11.2017	Bonacci Group
C003 T2 Soil and Water Management Plan Stage 2	14.11.2017	Bonacci Group
C004 T2 Soil and Water Management Plan Stage 3	14.11.2017	Bonacci Group
C005 T2 Soil and Water Management Plan Stage 4	14.11.2017	Bonacci Group
C010 T4 Site Stormwater Drainage Plan	28.11.2017	Bonacci Group
C011 T5 Site Works and Stormwater Drainage Plan Sheet 1	28.11.2017	Bonacci Group
C012 T6 Site Works and Stormwater Drainage Plan Sheet 2	28.11.2017	Bonacci Group
C013 T6 Site Works and Stormwater Drainage Plan Sheet 3	28.11.2017	Bonacci Group
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C050 T3 Road Control Line Setout Plan	28.11.2017	Bonacci Group
C051 T4 Road Longitudinal Section Sheet 1	28.11.2017	Bonacci Group
C052 T3 Road Longitudinal Section Sheet 2	28.11.2017	Bonacci Group
C053 T4 Road Longitudinal	28.11.2017	Bonacci Group

Section Sheet 3		
C060 T5 Road Cross Sections Sheet 1	6.12.2017	Bonacci Group
C061 T5 Road Cross Sections Sheet 2	6.12.2017	Bonacci Group
C062 T4 Road Cross Sections Sheet 3	28.11.2017	Bonacci Group
C063 T4 Road Cross Sections Sheet 4	28.11.2017	Bonacci Group
C064 T4 Road Cross Sections Sheet 5	28.11.2017	Bonacci Group
C065 T4 Road Cross Sections Sheet 6	28.11.2017	Bonacci Group
C066 T4 Road Cross Sections Sheet 7	28.11.2017	Bonacci Group
C067 T4 Road Cross Sections Sheet 8	28.11.2017	Bonacci Group
C068 T3 Road Cross Sections Sheet 9	6.12.2017	Bonacci Group
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Basix 799856M	26.2.2017	Thermal Performance
BCA Compatibility Report	March 2017	Sydneywide Engineering
Waste Management Plan	29.3.2017	Vigor Master Pty Ltd

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) No construction works (including excavation) shall be undertaken prior to the release of the Construction Certificate.

d) The development is to be undertaken generally in accordance with the following:

Landscape Plans		
Drawing No.	Dated	Prepared By

S003 Landscape Plan and Calculation	14.11.2017	Vigor Master
S005 Tree & Natural Rock Crops Protection Plan	14.11.2017	Vigor Master

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination.