

Our Ref: JEH:LMS:612357

22 December 2016

T Coote

Email: tony@tonycootearchitect.com

This document, including any attachments, may contain privileged and confidential information intended only for the addressee named above. If you are not the intended recipient please notify us. Any unauthorised use, distribution or reproduction of the content of this document is expressly forbidden.

Dear Sir

**Hunter's Hill Ventures Pty Ltd v Hunter's Hill Council
Land and Environment Court proceedings 2016/192136
Proposed childcare centre at 22 & 22A Joubert Street, Hunters Hill**

We refer to our previous correspondence in relation to the above matter and the hearing which took place on 29 November 2016 commencing on site and then continuing at the Land and Environment Court.

Our letter to you dated 18 November 2016 advised that the applicant had recently amended its application before the Court, enclosed a copy of the amended plans and invited any further submissions be provided. All written submissions to the original and amended application were tendered with the Court as evidence, along with the notes of oral evidence provided on site at the hearing. Commissioner Dixon who was the presiding Commissioner during the hearing of the matter heard from a number of residents in relation to their concerns on site.

As we outlined to you in our letter of 18 November 2016, the applicant amended its application in response to continued conciliation discussions between the applicant and the Council. The plans were prepared with changes that addressed many of the issues raised by the Council's planning, arboricultural, landscaping, heritage, traffic and acoustics experts in the proceedings. As a result, the issues raised by the Council and its experts were addressed by those amendments, by conditions of consent and by further small amendments agreed to between the experts in evidence at the hearing.

Commissioner Dixon has now handed down her written judgment in this matter. A copy of her written judgment can be accessed using the following link:

<http://www.austlii.edu.au/au/cases/nsw/NSWLEC/2016/1614.html>

The Commissioner has indicated that she will approve development application 2016/1073 for the demolition of existing structures and construction of a single storey and basement building to be used for a childcare centre with a maximum capacity for 88 children and 14 staff at 22 & 22A Joubert Street, subject to certain conditions.

Council's draft conditions of consent required the applicant provide further amendments and information prior to the issue of a Construction Certificate. For the benefit of greater certainty,

Adelaide
Alice Springs
Brisbane
Canberra
Darwin
Hobart
Melbourne
Norwest
Perth
Sydney

Doc ID 392583703/v1

Level 14, Australia Square, 264-278 George Street, Sydney NSW 2000 Australia
GPO Box 5408, Sydney NSW 2001 Australia
DX 129 Sydney

Telephone +61 2 9334 8555
Facsimile 1300 369 656 (Australia) +61 2 8507 6584 (International)
hwlebsworth.com.au

ABN 37 246 549 189

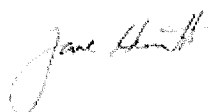
and with the agreement of the parties, the Commissioner has directed the applicant provide that information to file with the Court and the Council modify its conditions accordingly before any consent is issued. Upon the provision of the information in satisfaction of her directions Orders approving of DA2016/1073 will be made in chambers in the early 2017.

Whilst the issues of Council's experts were largely resolved by the amended application, the Council's Statement of Facts and Contentions detailed the issues raised by residents in objection to the application. During questioning of the parties' experts at the hearing and in her judgment, Commissioner Dixon has closely considered those concerns expressed by residents.

Commissioner Dixon ultimately concluded after considering the expert evidence and evidence of residents that there was no matters that would warrant refusal of the application. In summary she has determined that the application meets the objectives of the applicable planning controls that apply to the site and have adequately addressed amenity concerns or impacts of the development.

We thank you for your participation in these proceedings. We will write to you further to inform you when the Commissioner makes formal Orders approving the application in accordance with her judgment.

Yours faithfully



Jane Hewitt
Partner
HWL Ebsworth Lawyers

+61 2 9334 8639
jhewitt@hwle.com.au

Lauren Smith
Associate
HWL Ebsworth Lawyers

+61 2 9334 8738
lmsmith@hwle.com.au