

Our Ref: JAC:1069818

14 September 2021

To the Residents

Dear Resident

**Georges River Council ats Landgrowth One Pty Ltd ATF Landgrowth 001 Unit Trust
Land and Environment Court proceedings no. 2021/00199083 (Proceedings)
80 Boronia Parade, Lugarno**

We refer to our previous correspondence in relation to the abovementioned matter in which we act for Georges River Council.

As previously advised, the proceedings have been commenced by Landgrowth One Pty Ltd ATF Landgrowth 001 Unit Trust (**Applicant**) in the Class 1 jurisdiction of the Land and Environment Court (**Court**) against Council's deemed refusal of Development Application DA2021/0181 (**the Application**).

The Application seeks consent for the demolition of existing structures on and Torrens Title subdivision of the existing lot into thirty-one residential lots, construction of new roads, drainage and tree removal at 80 Boronia Parade, Lugarno (**the Site**).

We are instructed that you made a submission to Council in relation to the Application.

Conciliation conference

The Proceedings have been listed for a conciliation conference before the Court under section 34 of the *Land and Environment Court Act 1979* (**Court Act**) on **22 October 2021**.

A conciliation conference is a process between the parties to the litigation (that is the Council and the Applicant) where the parties conciliate/negotiate in good faith to seek to resolve and/or narrow the issues in dispute, as required by the Court Act.

A Commissioner of the Court will preside over the conciliation conference but the Application is not determined in this part of the Proceedings.

Resident involvement in conciliation conference

The Court has published a Conciliation Conference Policy which guides the conduct of conciliation conferences in Class 1 of the Court's jurisdiction. A link to the Conciliation Conference Policy is provided below:

<https://lec.nsw.gov.au/documents/policy/Conciliation%20Conference%20Policy.pdf>

Adelaide
Brisbane
Canberra
Darwin
Hobart
Melbourne
Norwest
Perth
Sydney

Doc ID 873416793/v1

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

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

ABN 37 246 549 189

The Conciliation Conference Policy addresses how and to what extent residents can be involved in the conciliation conference and states that people who made submissions to the Council may make an oral submission to the Court for consideration by the parties during the conciliation phase.

At the conclusion of the submissions, the parties will undertake confidential conciliation discussion facilitated by the Commissioner. Residents are not permitted to participate in those discussions.

Requirements in relation to resident submissions

The Conciliation Conference Policy permits a maximum of six persons to make a submission and provides at paragraph 11 that:

Preference should be given to those residents directly affected by a proposed development, such as those living adjoining or directly opposite the site of the development. If there are contentions that extend beyond the immediate area of the site, such as impacts on the character of the area or wider traffic implications, then a representative person raising this contention should make a submission onsite.

In light of the circumstances surrounding COVID-19 and Government restrictions in response to same, the Court has ordered that a site inspection not proceed and that the conciliation conference commence via Microsoft Teams at 9.30am on 22 October 2021.

Accordingly any oral submissions to be made by residents must be given via Microsoft Teams.

Should you wish to make an oral submission at the commencement of the conciliation conference on **22 October 2021** please express your interest to do so by emailing us at 80boronia@hwle.com.au by **12 October 2021**.

We note that there is considerable community interest in this matter. So as to comply with the Court's Conciliation Conference Policy in relation to the number of residents providing submissions, it may be necessary to limit oral submissions by residents to those who live within a certain proximity of the site. We will advise further in this regard following the closing date for expressions of interests to make an oral submission, on 12 October 2021.

Council's Statement of Facts and Contentions

Lastly, Council has instructed us to provide you with a copy of its Statement of Facts and Contentions in the proceedings which was filed with the Court on 31 August 2021 (**SOFAC**). A link to the SOFAC is provided below:

<https://docdrop.hwlebsworth.com.au/message/diU4LdnhYBVOV76OJtUjt2>

The SOFAC identifies the facts, matters and circumstances that Council contends require or should cause the Court in exercising its functions of the consent authority to refuse the Application. We note the SOFAC identifies various information that is lacking with the Application and we anticipate the Applicant will seek to provide additional information / reports as part of the conciliation process.

These contentions raised by the Council in the SOFAC will be addressed in the Proceedings by experts engaged on behalf of Council with the relevant expertise.

Should you have any questions in regards to the SOFAC, please email 80boronia@hwle.com.au and we will respond as quickly as possible.

We thank you for your interest and participation in these proceedings.

Yours sincerely



John Cole
Partner
HWL Ebsworth Lawyers

+61 2 9334 8676
80boronia@hwle.com.au

James Fyfe
Solicitor
HWL Ebsworth Lawyers

+61 2 9138 2276
80boronia@hwle.com.au

Attachment A - requirements in providing oral submissions to the Court

- Submissions are to be given in a truthful and helpful manner as they may subsequently become evidence if the matter proceeds to hearing and it will have the same effect as if it was given in a courtroom;
- If you have prepared written submissions to talk to, your on-site oral submissions should address only the main points of concern. The full text of the submission can be made available during the conciliation phase and subsequently tendered by the Council as part of any determination phase of the proceedings;
- Where your written submission has been prepared and submitted to the Council by a person on your behalf, such as an architect or town planner, that person may address the Court on the contents of the written submission. Such submissions are not expert evidence in the proceedings;
- If one specific issue has been addressed in detail by a submitter, it is not necessary for each subsequent submitter to address in full the same issue. It is sufficient if the subsequent submitters acknowledge that they hold similar views to any previous submitter who has spoken on that issue;
- When people are making their submissions, there should be no interruptions or interjections so that those attending the site inspection can fully understand the matters raised by the submitter;
- Your opportunity to speak is limited to your formal presentation and it is not appropriate that further comments be made during the site inspection unless requested by the Commissioner, agreed by the parties or as part of an explanation of their submission, for example, from their property if their submission was made elsewhere; and
- you may be questioned on your submission.