



PROPERTY | PLANNING | CONSTRUCTION

4 August 2020

Our Ref: AB:TS:2019/941
Your Ref:

Andrew Avery
Penrith City Council
601 High Street
Penrith NSW 2750
BY COURIER



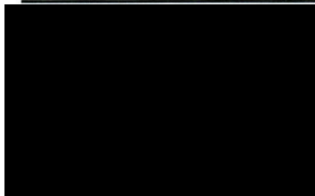
Dear Sir/Madam

**RE: LIQUID GOLD 888 PTY LTD -V-
PROPERTY: 6 EDITH STREET, KINGSWOOD**

Please find enclosed by way of service Notice of Motion and supporting Affidavit.

Yours faithfully,

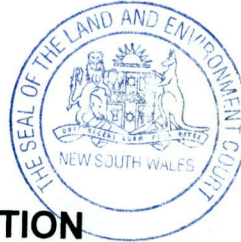
BOSKOVITZ LAWYERS



ANTHONY BOSKOVITZ

Suite 110, Level 1, 203-233 New South Head Road, Edgecliff NSW 2027
PO Box 305, Edgecliff NSW 2027
Tel: (02) 8711 0944 Fax: (02) 8711 0955 Email: info@boskovitzlawyers.com

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Standards Legislation



LAND AND ENVIRONMENT COURT OF NSW FILED ON	
- 3 AUG 2020	
	INT

NOTICE OF MOTION

COURT DETAILS

Court Land and Environment Court of New South Wales
Class Class 1
Case number 2019/400420

TITLE OF PROCEEDINGS

Applicant **LIQUID GOLD 888 PTY LTD**
Respondent **PENRITH CITY COUNCIL**

FILING DETAILS

Filed for **LIQUID GOLD 888 PTY LTD, Applicant**
Legal representative Anthony Boskovitz, Boskovitz & Lawyers
Legal representative reference 58738
Contact name and telephone Anthony Boskovitz, (02) 8711-0944
Contact email anthony@boskovitzlawyers.com

HEARING DETAILS

This application is listed at Sydney at *9am* 11 AUG 2020

A copy of this document
must be served

by..... **5** AUG 2020



ORDERS SOUGHT

1. That the following amended architectural plans prepared by Design Corp Architects dated 14 July 2020 be relied upon in this application:
 - i. Roof/Site Analysis Plan Sheet 0 Revision F;
 - ii. Site Context Analysis Plan Sheet 1 Revision F;
 - iii. Building Form Analysis Sheet 2 Revision F;
 - iv. Basement Floor Plan Sheet 3 Revision F;
 - v. Ground Floor Plan Sheet 4 Revision F;
 - vi. First Floor Plan Sheet 5 Revision F;
 - vii. Elevations 1 Plan Sheet 6 Revision F;
 - viii. Elevations 2 Plan Sheet 7 Revision F;
 - ix. Section A Plan Sheet 8 Revision F;
 - x. Sections B & C Plan Sheet 9 Revision F;
 - xi. Accessible Rooms Plan Sheet 10 Revision F;
 - xii. Shadow Plans – June Sheet 11 Revision F;
 - xiii. 3D Shadows- June Sheet 12 Revision F;
 - xiv. Landscape Calc Plan Sheet 13 Revision F;
 - xv. 3D Perspectives Sheet 14 Revision F;
 - xvi. 3D Perspectives Sheet 15 Revision F;
 - xvii. 3D Perspectives Sheet 16 Revision F; and
 - xviii. Materials and Finishes Plan Sheet 17 Revision F.

2. That the following amended Landscape Plan prepared by RFA Landscape Architects be relied upon in this application:
 - i. Landscape Plan L01/2 Issue E dated 23 July 2020;
 - ii. Landscape Plan L02/2 Issue E dated 23 July 2020; and
 - iii. letter dealing with planting in OSD basin dated 23 July 2020.

3. That the following amended Stormwater Plans dated 23 July 2020 prepared by Alpha Engineering and Development be relied upon in this application:

- i. General Notes Plan Cover Revision J;
 - ii. Sediment and Erosion Control Plan SW01 Revision J;
 - iii. Basement Drainage Plan SW02 Revision J;
 - iv. Ground Floor Drainage Plan SW03 Revision J;
 - v. First Floor and Roof Drainage Plan SW04 Revision J; and
 - vi. Stormwater Details and Section Plan SW05 Revision J.
4. That the Traffic, Parking and Vehicular Access Report prepare by Hemanote Consultants dated 28 February 2020 be relied upon in this application.
 5. That the Traffic, Parking and Vehicular Access Report prepare by Hemanote Consultants dated 30 March 2020 be relied upon in this application.
 6. That the letter outlining the locations for contamination testing prepared by EHO Consulting dated 19 June 2020 be relied upon in this application.
 7. That the Remedial Action Plan prepared by EHO Consulting dated 19 June 2020 be relied upon in this application.
 8. That the Consolidated Phase 2 Environmental Site Assessment prepared by EHO Consulting dated 19 June 2020 be relied upon in this application.
 9. That the Acoustic Report prepared by Koikas Acoustics dated 26 February 2020 be relied upon in this application.
 10. That the Acoustic Report prepared by Koikas Acoustics dated 24 March 2020 be relied upon in this application.
 11. That the Plan of Management prepared by BMA Urban dated 19 February 2020 (as amended dated 15 June 2020) be relied upon in this application
 12. Such further and other orders as the court sees fit.

SIGNATURE

Signature of legal representative

Capacity

Date of signature

Applicant's solicitor

31 July 2020

FURTHER DETAILS ABOUT APPLICANT

Applicant

Name **LIQUID GOLD 888 PTY LTD**

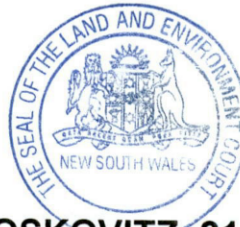
Legal representative for applicant[s]

Firm **Boskovitz Lawyers**
 Contact solicitor **Anthony Boskovitz**
 Address **Suite 110, level 1, 203-233
 New South Head Road
 Edgecliff NSW 2027**
 Telephone **8711-0944**
 Fax **8711-0955**
 Email **anthony@boskovitzlawyers.com**

FURTHER DETAILS ABOUT RESPONDENT

Respondent

Name **PENRITH CITY COUNCIL**
 Address **Civic Centre
 601 High Street
 Penrith NSW 2075 q**



LAND AND ENVIRONMENT COURT OF NSW FILED ON	
- 3 AUG 2020	
	INT

AFFIDAVIT OF ANTHONY BOSKOVITZ 31 July 2020

COURT DETAILS

Court Land and Environment Court of New South Wales
Class Class 1
Case number 2019/400420

TITLE OF PROCEEDINGS

Applicant **LIQUID GOLD 888 PTY LTD**
Respondent **PENRITH CITY COUNCIL**

FILING DETAILS

Filed for **LIQUID GOLD 888 PTY LTD, Applicant**
Legal representative Anthony Boskovitz, Boskovitz & Lawyers
Legal representative reference 58738
Contact name and telephone Anthony Boskovitz, (02) 8711-0944
Contact email anthony@boskovitzlawyers.com

AFFIDAVIT

Name Anthony Boskovitz
Address Suite 110, Level 1, 203-233 New South Head Road, Edgecliff NSW 2027
Occupation Solicitor
Date 31 July 2020

I say on oath:

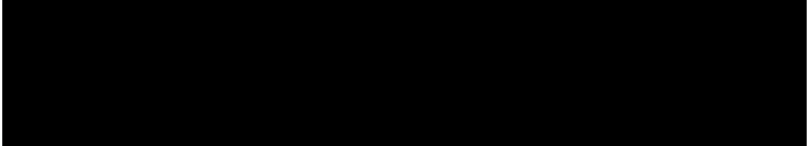
- 1 I am the solicitor for the Applicant.
- 2 The parties participated in a without prejudice s34 conference on 29 March 2020 which was terminated on that date. The applicant had provided the Respondent with amended plans prior to the s34 conference and further amended plans after the s34 conference. Thereafter the parties have been in discussions about amended documentation which has not resolved all outstanding matters.
- 3 The Applicant has not complied with the requirement to file a notice of motion to rely on amended plans by 20 June 2020 as a result of those discussions.
- 4 The Applicant seeks to rely on an amended set of plans ("Amended Plans").

4. The Amended Plans to be relied upon are prepared by Design Corp Architects dated 14 July 2020 and are listed as follows:

- i. Roof/Site Analysis Plan Sheet 0 Revision F;
- ii. Site Context Analysis Plan Sheet 1 Revision F;
- iii. Building Form Analysis Sheet 2 Revision F;
- iv. Basement Floor Plan Sheet 3 Revision F;
- v. Ground Floor Plan Sheet 4 Revision F;
- vi. First Floor Plan Sheet 5 Revision F;
- vii. Elevations 1 Plan Sheet 6 Revision F;
- viii. Elevations 2 Plan Sheet 7 Revision F;
- ix. Section A Plan Sheet 8 Revision F;
- x. Sections B & C Plan Sheet 9 Revision F;
- xi. Accessible Rooms Plan Sheet 10 Revision F;
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- xiv. Landscape Calc Plan Sheet 13 Revision F;
- xv. 3D Perspectives Sheet 14 Revision F;
- xvi. 3D Perspectives Sheet 15 Revision F;
- xvii. 3D Perspectives Sheet 16 Revision F; and
- xviii. Materials and Finishes Plan Sheet 17 Revision F.

These said plans are annexed hereto and marked "A".

5. The Applicant also seeks to rely on amended Landscape Plans prepared by RFA Landscape Architects and are listed as follows:

- i. Landscape Plan L01/2 Issue E dated 23 July 2020;
- 

- ii. Landscape Plan L02/2 Issue E dated 23 July 2020; and
- iii. letter dealing with planting in OSD basin dated 23 July 2020.

These documents are annexed hereto and marked "B"

6. The Applicant also seeks to rely on amended Stormwater Plans dated 23 July 2020 prepared by Alpha Engineering and Development and are listed as follows:

- i. General Notes Plan Cover Revision J;
- ii. Sediment and Erosion Control Plan SW01 Revision J;
- iii. Basement Drainage Plan SW02 Revision J;
- iv. Ground Floor Drainage Plan SW03 Revision J;
- v. First Floor and Roof Drainage Plan SW04 Revision J; and
- vi. Stormwater Details and Section Plan SW05 Revision J.

These documents are annexed hereto and marked "C"

7. The Applicant also seeks to rely on Traffic, Parking and Vehicular Access Report prepared by Hemanote Consultants dated 28 February 2020

The said report is annexed hereto and marked "D".

8. The Applicant also seeks to rely on Traffic, Parking and Vehicular Access Report prepared by Hemanote Consultants dated 30 March 2020

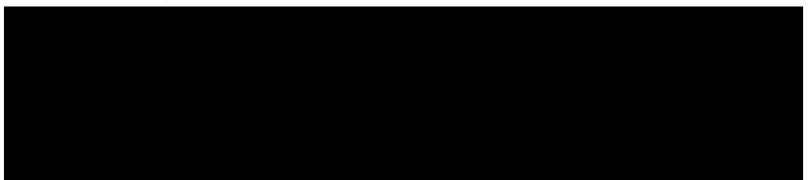
The said report is annexed hereto and marked "E".

9. The Applicant also seeks to rely on a letter outlining the locations for contamination testing prepared by EHO Consulting dated 19 June 2020.

The said letter is annexed hereto and marked "F"

10. The Applicant also seeks to rely on a Remedial Action Plan prepared by EHO Consulting dated 19 June 2020.

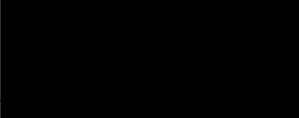
The said plan is annexed hereto and marked "G"



11. The Applicant also seeks to rely on a Consolidated Phase 2 Environmental Site Assessment prepared by EHO Consulting dated 19 June 2020.
- The said report is annexed hereto and marked "H"
12. The Applicant seeks to rely on an Acoustic Report prepared by Koikas Acoustics dated 26 February 2020.
- The said report is annexed hereto and marked "I"
13. The Applicant seeks to rely on a further letter prepared by Koikas Acoustics dated 24 March 2020.
- The said letter is annexed hereto and marked "J"
14. The Applicant seeks to rely on a Plan of Management prepared by BMA Urban dated 19 February 2020 (as amended dated 15 June 2020)
- This report is annexed hereto and marked "K".
15. The Applicant's Architect, provided a list of amendments dated 30 July 2020 outlining various modifications made to the plans. Annexed hereto and marked "L" is a copy of the said list.
16. The development as amended lessens the environmental impact of the proposed development and results in an improved community outcome by:
- a. provision of a lesser building bulk;
 - b. reduces the number of boarding rooms;
 - c. provides for an on-site manager
 - d. reduces the amount of parking
 - e. provides more adequate deep soil and landscaping
-
- f. provides a scheme which is in character with the locality.
17. Granting leave for the amendments sought to be relied upon will lead to a just, cheap and quick resolution of this matter as many of the contentions raised in the Respondent's Statement of Facts and Contentions. Accordingly, any amended

Statement of Facts and Contentions will be narrower in its ambit and will reduce the time required at the hearing to deal with outstanding matters.

- 18. The hearing of this matter is set down for 14 and 15 October 2020. This date will not be affected by the notice of motion and there is adequate time for the council to renotify plans if so required, for the council to provide an amended statement of facts and contentions and for the experts for the parties to joint conference prior to the hearing of the matter and prepare their joint experts reports.

SWORN at Edgecliff 

Signature of deponent _____


Name of witness Tiffany Stoliar

Address of witness Suite 110, level 1, 203-233 New South Head Road, Edgecliff NSW 2027

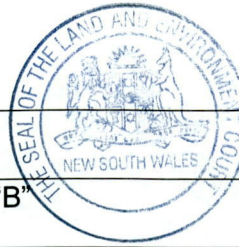
Capacity of witness Solicitor

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

- 1. I saw the face of the deponent.
- 2. I have known the deponent for 12 months

Signature of witness  Identification document relied on (may be original or certified copy)*

CONTENTS – ANNEXURES



1	amended Plans - annexure "A"
2	amended Landscape Plans - annexure "B"
3	amended Storm Water Plans – annexure "C"
4	Traffic, Parking and Vehicular Access Report dated 28 Feb – annexure "D"
5	Traffic, Parking and Vehicular Access Report dated 30 Mar – annexure "E"
6	Locations for contamination testing – annexure "F"
7	Remedial Action Plan – annexure "G"
8	Consolidated Phase 2 Environmental Site Assessment – annexure "H"
9	Acoustic Report – annexure "I"
10	Koikas Accoustics letter – annexure "J"
11	Plan of Management – annexure "K"
12	Architect amendedments – annexure "L"