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|  | Land and Environment Court  New South Wales |

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| Case Name: | Jensen v Transport for New South Wales |
| Medium Neutral Citation: | [2021] NSWLEC 1706 |
| Hearing Date(s): | Conciliation Conference on 27 October 2021 |
| Date of Orders: | 19 November 2021 |
| Decision Date: | 19 November 2021 |
| Jurisdiction: | Class 3 |
| Before: | Knight AC |
| Decision: | The Court orders: 1)    Compensation is determined in the sum of $827,861.80, pursuant to section 55 of the Land Acquisition (Just Terms Compensation) Act 1991 (Act), for the acquisition of Lot 5 in Strata Plan 32423, being known as Unit 5, 1-3 Morden Street, Cammeray. 2)    The Applicants are to duly complete and deliver to the Respondent the deed of release and indemnity and direction as to payment generally in the same form as that enclosed with the statutory offer of compensation made by the Respondent on10 May 2021 within 28 days of the final orders in these proceedings. 3)    Payment of the amount in Order 1 (less any advance payment already made pursuant to Part 3 of the Act) will be made within 28 days of the date that the Respondent received the duly executed deed of release and indemnity and direction as to payment form referred to in Order 2 above (Forms). 4)    The Respondent has agreed to pay the Applicants' reasonable costs as agreed or assessed subject to the production of invoices and receipts. There is to be no interest payable on costs. |
| Catchwords: | COMPULSORY ACQUISITION – conciliation conference – agreement between the parties – orders |
| Legislation Cited: | Land Acquisition (Just Terms Compensation) Act 1991, ss 43, 49, 50, 55, 66 Land and Environment Court Act 1979, s 34 |
| Category: | Principal judgment |
| Parties: | Philip Michael Jensen (First Applicant)  Christine Ivankovic (Second Applicant)  Transport for New South Wales (Respondent) |
| Representation: | Counsel: N Eastman (Counsel) (Applicant) J Mc Kelvey (Counsel) (Respondent)  Solicitor: FM Legal (Applicant)  Hunt & Hunt (Respondent) |
| File Number(s): | 2021/196907 |
| Publication Restriction: | No |

Judgment

1. **COMMISSIONER:** The proceedings comprise an objection to an offer of compensation arising from the compulsory acquisition by the Respondent of Lot 25 in Strata Plan 32423 being known as Unit 5, 1-3 Morden Street, Cammeray from the Applicants under s 43(d) of the *Land Acquisition (Just Terms Compensation) Act 1991* (Just Terms Act), with the Court required to determine the amount of compensation payable by the Respondent to the Applicant, being within Class 3 of the Court’s jurisdiction.
2. The Court arranged a conciliation conference under s 34(1) of the *Land and Environment Court Act 1979* (LEC Act) between the parties, which was held on 27 October 2021. I presided over the conciliation conference.
3. At the conciliation conference the parties reached agreement as to the terms of a decision in the proceedings that would be acceptable to the parties. This decision involved the Respondent agreeing to pay the Applicant compensation in the amount of $827,861.80 arising from the compulsory acquisition, plus the Applicants’ costs of the proceedings as agreed or assessed.
4. Under s 34(3) of the LEC Act, I must dispose of the proceedings in accordance with the parties’ decision if the parties’ decision is a decision that the Court could have made in the proper exercise of its functions. The parties’ decision involves the Court exercising the function under s 66(1) and (2) of the Just Terms Act to hear and dispose of the Applicants’ claim for compensation.
5. I am satisfied that the parties’ decision is one the Court could have made in the proper exercise of its functions, as required by s 34(3) of the LEC Act.
6. As the parties’ decision is a decision that the Court could have made in the proper exercise of its functions, I am required under s 34(3) of the LEC Act to dispose of the proceedings in accordance with the parties’ decision.
7. The Court orders that:
8. Compensation is determined in the sum of $827,861.80, pursuant to s 55 of the *Land Acquisition (Just Terms Compensation) Act 1991*, for the acquisition of Lot 5 in Strata Plan 32423, being known as Unit 5, 1-3 Morden Street, Cammeray.
9. The Applicants are to duly complete and deliver to the Respondent the deed of release and indemnity and direction as to payment generally in the same form as that enclosed with the statutory offer of compensation made by the Respondent on 10 May 2021, within 28 days of the final orders in these proceedings.
10. Payment of the amount in Order 1 (less any advance payment already made pursuant to Part 3 of the Just Terms Act) will be made within 28 days of the date that the Respondent received the duly executed deed of release and indemnity and direction as to payment form referred to in Order 2 above (Forms).
11. The Respondent has agreed to pay the Applicants' reasonable costs as agreed or assessed subject to the production of invoices and receipts. There is to be no interest payable on costs.
12. Notations:
13. Save for the costs agreed in Order 4 of these orders the sum of $679,909.14 plus statutory interest has already been paid to the Applicants leaving $147,952.66 remainder (the Remainder) to be paid; and
14. Statutory interest pursuant to ss 49 and 50 of the Just Terms Act is payable on the Remainder; and
15. Vacant possession of Unit 5, 1-3 Morden Street, Cammeray (including removal all fire damaged content and returning of all keys), is to be provided to the Respondent by 9 November 2021.

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P Knight

Acting Commissioner of the Court

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