

5.1. Current Appeals and Results - June 2022

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ENDORSED BY: Shane Sullivan, Executive Manager Governance

ATTACHMENTS:

1. Current Matters List LEC June 2022 [5.1.1 - 2 pages]
2. Current Matters List NCAT June 2022 [5.1.2 - 1 page]

PURPOSE:

To report on current appeal and prosecution matters.

EXECUTIVE SUMMARY:

Attached is a list of current appeal and prosecution matters as at 30 May 2022 for Council's information.

A separate Confidential report is provided. The Confidential report includes additional detail on the legal nature of the appeal, status and legal issues relating to matter still afoot.

In order to discuss the ongoing legal matter with Council's Solicitor, it is recommended that the meeting be closed to the public in accordance with Section 10A(2) of the Local Government Act and the Local Government (General) Regulation 2005 for the reason listed below:

(g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege.

Further, consideration of the matter in open Council would, on balance be contrary to the public interest as it would affect Council's ability to manage legal matters effectively and in the best interests of the North Sydney community.

FINANCIAL IMPLICATIONS:

As at 30 May 2022, Council has incurred \$ 1,387,504 on legal fees for the 2021/22 financial year and recovered legal costs in the amount of \$ 85,299. The legal budget for 2022 financial year is \$ 1,500,000.

RECOMMENDATION:

1. THAT the meeting be closed to the public in accordance with Section 10A(2)(g) of the Local Government Act and the Local Government (General) Regulation 2005.

LINK TO COMMUNITY STRATEGIC PLAN

The relationship with the Community Strategic Plan is as follows:

5. Our Civic Leadership

5.2 Council is well governed and customer focused

BACKGROUND

The Current Appeals and Prosecutions list was last reported to the Legal and Planning Committee meeting of 14 March 2022.

CONSULTATION REQUIREMENTS

Community engagement is not required.

DETAIL

The defence of Land and Environment Court appeals and the prosecution of regulatory matters represents a major ongoing expense for Council. The attached list provides a summary of each current appeal(s) and prosecution(s) (including fees incurred) as at 30 May 2022.

CURRENT MATTERS LIST – LAND & ENVIRONMENT COURT
As at 30 May 2022

Legal Proceedings	Costs (\$)	Status	Result
6 John St, McMahons Point Stannards Marine Pty Ltd LEC 63136/21	\$611,293.70	Pending	Judgment reserved
105-153 Miller Street, North Sydney IOF Custodian Pty Limited atf the 105 Miller Street North Sydney Trust LEC 245302/21	\$250,980.17	Pending	N/A
68 Albany Street, Crows Nest Anthony Fung & Rezana Karim LEC 321903/21	\$19,554.08	Closed	Appeal upheld
66 Shellcove Road, Neutral Bay Anne McCusker LEC 9347/22	\$8,152.95	Pending	N/A
6 Billong Street, Kurraba Point George Nusalim LEC 33501/22	\$5,352.19	Pending	N/A
6 John St, McMahons Point Stannards Marine Pty Ltd LEC 36839/22	\$66,196.35	Pending	Judgment reserved
1 Bank Lane, North Sydney Philip Mehrgardt LEC 39548/22	\$61,382.34	Closed	Appeal upheld
6 John St, McMahons Point Stannards Marine Pty Ltd LEC 58456/22	\$3,094.30	Pending	N/A
80 Cairo St, Camberay Brigit Salter LEC 78045/22	\$7,501.28	Pending	N/A

Legal Proceedings	Costs (\$)	Status	Result
115-119 Holt Ave, Cremorne Holt Avenue Cremorne Pty Ltd LEC 81791/22	\$3,635.50	Pending	N/A
131 – 133 Holt Ave, Cremorne Helm No.18 Pty Ltd LEC 81671/22	\$6,019.20	Pending	N/A
11A Hazelbank Rd, Wollstonecraft Kate Gamble LEC 89668/22	\$1,365.87	Pending	N/A
117 Union Street, McMahons Point Mark Stefan Kachor LEC 111254/22	\$0	Pending	N/A
21 Christie St, Wollstonecraft BCMA Investments Pty Ltd as Trustee for BCMA Trust LEC 115396/22	\$0	Pending	N/A
60 Kareela Rd, Cremorne Andrew Sutton, David Elliot, Hugh Elliot and Jams Elliot LEC 132806/22	\$0	Pending	N/A
131 – 133 Holt Ave, Cremorne Helm No.18 Pty Ltd LEC 131164/22	\$0	Pending	N/A
6 Warung St, McMahons Point William Neilson LEC 141240/22	\$0	Pending	N/A

NCAT MATTERS LIST
As at 30 May 2022

Legal Proceedings	Costs (\$)	Status	Result
NCAT EIG NCAT: 80016/21	\$106,661.95	Pending	Pending Appeal
NCAT EIG NCAT: 279902/21	\$55,186.46	Closed	Appeal upheld
NCAT EIG AP: 319529/21 (Appeal against NCAT: 80016/21)	\$84,841.01	Pending	Judgment reserved