

5.1. Current Appeals and Results - March 2022

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ENDORSED BY: Shane Sullivan, Executive Manager Governance

ATTACHMENTS:

1. 4 Current Matters List LEC March 2022 (1) [5.1.1 - 2 pages]
2. 5 Current Matters List NCAT March 2022 (1) [5.1.2 - 1 page]

PURPOSE:

Report on current appeal and prosecution matters.

EXECUTIVE SUMMARY:

Attached is a list of current appeal and prosecution matters as at 4 March 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.

FINANCIAL IMPLICATIONS:

As at 4 March 2022, Council has incurred \$ 881,112 on legal fees for the 2021/22 financial year and recovered legal costs in the amount of \$ 42,848. 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 11 October 2021.

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 4 March 2022.

CURRENT MATTERS LIST – LAND & ENVIRONMENT COURT
As at 04 March 2022

Legal Proceedings	Costs (\$)	Status	Result
5 Bay View St, Lavender Bay Yolenda Camuglia LEC 356210/20	\$118,657.06	Pending	N/A
6 John St, McMahons Point Stannards Marine Pty Ltd LEC 63136/21	\$343,320.81	Pending	N/A
101 Blues Point Rd, McMahons Point Peter Princi Architects LEC 75725/21	\$5,209.60	Closed	Appeal Discontinued
101 Blues Point Rd, McMahons Point Dreric Pty Limited LEC 101973/21	\$24,372.24	Closed	Appeal upheld
35 Kurraba Rd, Neutral Bay (20-24 Bray St, North Sydney) Loyito Pty Ltd LEC 141523/21	\$110,629.23	Closed	Appeal upheld
G01 - G07, 13 Eden St, North Sydney Myrtle 29 Pty Ltd LEC 168987/21	\$17,469.25	Closed	Discontinued
G01 - G06, 13 Eden St, North Sydney Myrtle 29 Pty Ltd LEC 168988/21	\$5,589.10	Closed	Discontinued
233-237 Military Rd, Cremorne Clusterduck Pty Ltd LEC 199168/21	\$13,880.90	Closed	Appeal upheld
30 Wilson Street, Camberay Ben Turner and Rebecca Myer LEC 242732/21	\$61,007.82	Closed	Appeal upheld

Legal Proceedings	Costs (\$)	Status	Result
105-153 Miller Street, North Sydney IOF Custodian Pty Limited atf the 105 Miller Street North Sydney Trust LEC 245302/21	\$179,043.23	Pending	N/A
G01 - G06, 13 Eden St, North Sydney Myrtle 29 Pty Ltd LEC 255383/21	\$27,048.45	Closed	Appeal upheld
68 Albany Street, Crows Nest Anthony Fung & Rezana Karim LEC 321903/21	\$6 972.35	Pending	N/A
66 Shellcove Road, Neutral Bay Anne McCusker LEC 9347/22	\$2,976.60	Pending	N/A
6 Billong Street, Kurraba Point George Nusalim LEC 33501/22	\$0	Pending	N/A
6 John St, McMahons Point Stannards Marine Pty Ltd LEC 36839/22	\$ 11,880	Pending	N/A
1 Bank Lane, North Sydney Philip Mehrgardt LEC 39548/22	\$4,034.25	Pending	N/A

NCAT MATTERS LIST
As at 4 March 2022

Legal Proceedings	Costs (\$)	Status	Result
NCAT EIG NCAT: 80016/21	\$106,661.95	Pending	N/A
NCAT EIG NCAT: 279902/21	\$51,680.42	N/A	Judgment reserved
NCAT EIG NCAT: 45993/21	\$22,867.24	Closed	Dismissed
NCAT EIG AP: 319529/21 (Appeal against NCAT: 80016/21)	\$55,745.90	Pending	Judgment reserved