

10.11.Current Appeals and Results - September 2023

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ENDORSED BY	Therese Manns, General Manager
ATTACHMENTS	<ol style="list-style-type: none"> 1. Current Matters List LEC September 23 [10.11.1 - 7 pages] 2. Current Matters List Local Court September 23 [10.11.2 - 1 page] 3. CONFIDENTIAL - Current Matters List confidential LEC September 23 [10.11.3 - 10 pages] 4. CONFIDENTIAL - Current Matters List Local Court confidential September 23 [10.11.4 - 1 page]
CSP LINK	<ol style="list-style-type: none"> 5. Our Civic Leadership 5.2 Strong civic leadership and customer focussed services

PURPOSE:

The purpose of this report is to provide Council with information on current appeal and prosecution matters.

EXECUTIVE SUMMARY:

- Attached is a list of current appeal and prosecution matters as at 1 September 2023 for Council's information.
- Four attachments are provided, including a public listing and a separate confidential report. The confidential report includes additional detail (as highlighted) on the legal nature of the appeal, status update and legal issues relating to matters still afoot.
- Should Council wish to discuss this report it is noted that the attached confidential document includes advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege and because consideration of the matter in open Council would be, on balance, contrary to the public interest as it would affect Council's ability to manage legal matters effectively and in the best interests of the community. As such should this report be discussed it should be considered in closed session.

RECOMMENDATION:

1. THAT the report be noted.

2. THAT should Council resolve to debate or discuss this matter 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.

It is further noted that release of this information would be, on balance, contrary to the public interest as it would affect Council's ability to manage legal matters effectively and in the best interests of the community.

Background

The Current Appeals and Prosecutions list was last reported to the Council at its meeting of 22 May 2023.

Report

The defense 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 1 September 2023.

Consultation requirements

Community engagement is not required.

Financial/Resource Implications

As at 1 September 2023, Council has incurred \$270,780.95 on legal fees for the 2023/24 financial year and recovered legal costs in the amount of \$46,400. The legal budget for 2024 financial year is \$2,000,000.

CURRENT MATTERS LIST – LAND & ENVIRONMENT COURT
As at 1 September 2023

Property DA No. Appeal No. Date of Appeal (DOA)	Applicant/ Other party	Costs (\$)	Result/Status
105-153 Miller Street, North Sydney DA 147/20 LEC 245302/21 DOA 01/09/21 HWL	IOF Custodian Pty Limited atf the 105 Miller Street North Sydney Trust	\$1,421,272.14	Appeal dismissed Closed
1 Warung St, McMahons Point DA 379/21 LEC 157325/22 DOA 01/06/22 MLG	Highbury Warung Pty Ltd	\$31,349.98	Appeal upheld Closed
Cammeray Park, St Leonards Park and Anzac Park LEC 161074/22 DOA 03/06/22 AL	Transport for NSW	\$659,391.76	Pending
107 High St, North Sydney DA 281/21 LEC 173292/22 DOA 16/06/22 MLG	107 High Nth Sydney Pty Ltd	\$55,419.76	Appeal upheld Closed
115-119 Holt Ave, Cremorne DA 243/21 LEC 219204/22 DOA 30/07/22 MLG	Holt Avenue Cremorne Pty Ltd	\$22,275.20	Pending

Property DA No. Appeal No. Date of Appeal (DOA)	Applicant/ Other party	Costs (\$)	Result/Status
4 -14 Merlin St and 1 McIntosh Ln, Neutral Bay DA 155/22 LEC 225334/22 DOA 04/08/22 SH	Aplus Architectural Pty Ltd	\$70,089.80	Judgment reserved
182 Kurraba Rd, Kurraba Point DA 333/19/4 LEC 237231/22 DOA 18/08/22 MLG	David Rahme	\$47,552.36	Judgment Reserved
173-179 Walker St, North Sydney DA 197/22 LEC 252804/22 DOA 26/08/22 SH	CBUS Property Pty Ltd	\$ 126,857.16	Pending
1 Hayes St, Neutral Bay DA 182/22 LEC 302126//22 DOA 11/10/22 HWL	7 Pty Ltd	\$122,083.40	Appeal upheld Closed
88 Alexander St, Crows Nest DA 96/22 LEC 334267/22 DOA 11/11/22 MDK	Crows Nest Project Pty Ltd ATF Crows Nest Development Sub Trust	\$33,283.58	Appeal upheld Closed

Property DA No. Appeal No. Date of Appeal (DOA)	Applicant/ Other party	Costs (\$)	Result/Status
52-56,70-72 and 80 Parraween St, Cremorne IHO 3/22 LEC 351880/22 DOA 24/11/22 MLG	Skermanic Pty Ltd	\$61,078.73	Appeal dismissed Closed
82-88 Parraween, Cremorne IHO 4/22 LEC 351906/22 DOA 24/11/22 MLG	Skermanic Pty Ltd	\$5,730.60	Appeal dismissed Closed
66 Rangers Road, Cremorne DCO No 3 LEC 375458/22 DOA 13/12/22 H&W	Howard Eakins	\$20,484.34	Discontinued. Closed
112-114 Wycombe Rd, Neutral Bay DA 230/22 LEC 378217/22 DOA 19/12/22 MLG	WINIM Developments Pty Limited	\$13,771.01	Pending
8 Levick Street, Cremorne DA 198/22 LEC 382408/22 DOA 23/12/22 MF	Katherine and Jonathan Morris	\$57,056.21	Appeal upheld Closed

Property DA No. Appeal No. Date of Appeal (DOA)	Applicant/ Other party	Costs (\$)	Result/Status
275 Alfred Street, North Sydney DA 369/22 LEC 13132/23 DOA 13/01/23 HWL	Legge & Legge Architects Pty Limited	\$13,479.29	Discontinued Closed
165 Military Rd - Neutral Bay DA 404/22 LEC 39866/23 DOA 06/02/23 MDK	Eastview (Australia) Pty Limited	\$89,928.12	Pending.
66 Ernest Street, Crows Nest DA 407/22 LEC 42493/23 DOA 10/02/23 MLG	66 Ernest St Developments Pty Limited ATF 66 Ernest Development Unit Trust	\$27,468.89	Pending
53-55 Yeo Street, Cremorne DA 334/22 LEC 50417/23 DOA 15/02/23 MF	PP Neutral Bay Pty Ltd	\$20,007.89	Pending
124 Benelong Rd, Cremorne DA 323/21 LEC 73980/23 DOA 07/03/23 SH	Regal Benelong Pty Ltd	\$ 25,649.69	Pending

Property DA No. Appeal No. Date of Appeal (DOA)	Applicant/ Other party	Costs (\$)	Result/Status
53-55 Yeo Street, Cremorne IHO 1/23 LEC 96434/23 DOA 23/03/22 MF	Timothy Cox & Yeo 55 Pty Ltd	\$27,858.95	Discontinued Closed
12-14 Waters Rd - Neutral Bay DA 42/23 LEC 108799/23 DOA 06/04/23 MLG	CE Waters Pty Ltd ATF CE Waters Development Trust	\$16,284.95	Pending
14 Armstrong Street, Camberay DA 297/22 LEC 112096/23 DOA 11/04/23 H&W	Edward Warrant	\$ 20,562.70	Pending
12a Carabella St, Kirribilli DA 50/23 LEC 148634/23 DOA 15/05/23 MF	WINIM Developments Pty Limited	\$32,224.85	Pending
75-77 Kirribilli Ave, Kirribilli DA 88/23 LEC 167010/23 DOA 25/05/23 HWL	The Trustee for Avenue 75 Trust NAR 935996	\$ 62,094.78	Pending

Property DA No. Appeal No. Date of Appeal (DOA)	Applicant/ Other party	Costs (\$)	Result/Status
24 Premier St, Neutral Bay DA 380/22 LEC 169659/23 DOA 31/05/23 H&W	Thomas Kiel	\$6,623.59	Pending
36 Victoria St, McMahons Point DA 405/22 LEC 172487/23 DOA 02/06/23 MF	Andrew Chick	\$10,748.10	Pending
290 Pacific Highway, Crows Nest DA 66/23 LEC 185876/23 DOA 14/06/23 MF	PDS Engineering Division Pty Ltd	\$36,591.46	Pending
39 Union St, McMahons Point DA 188/22 LEC 172487/23 DOA 05/07/23 MF	Rebecca & Benjamin Sloman	\$9,817.50	Pending
11 Bennett Street, Cremorne DA 132/23 LEC 213700/23 DOA 05/07/23 SH	CMBR Marine Pty Ltd	\$ 8,465.05	Pending

Property DA No. Appeal No. Date of Appeal (DOA)	Applicant/ Other party	Costs (\$)	Result/Status
107A High St, North Sydney LEC 271337/23 DOA 31/08/23 H&W	Joanne Carroll	\$0	Pending

LOCAL COURT MATTERS LIST
As at 1 September 2023

Street/Suburb Date of Appeal (DOA)	Applicant/ Other party	Costs (\$)	Result/Status
Dog Matter Broughton St, Kirribilli DOA: 21 June 22 MLG	Faye Westwood	\$5,273.40	Pending
Lord St, North Sydney DOA: 31 October 22 MF	Chenwenyi Liang	\$10,389.72	Withdrawn Closed
Hipwood St, North Sydney DOA: 4 April 2023 MLG	Adrian and Peggy Lim	\$2,323.20	Resolved Closed