

Current Legal Cases – Status and Costs – August 2019

Advice on Costs and Status of Council's Court Proceedings

Executive Summary

1. Advice on Council's Court proceedings for the period 1 July 2019 to 30 August 2019 is contained within this report.
2. Total costs to date for the 2018/19 financial year for Court proceedings are \$223,390.
3. Total legal costs recovered to date for the 2018/19 financial year are \$82,204.
4. **Total nett costs are \$141,186.**

Background

5. The current Court Proceedings for the reporting period are broken down as follows:

Supreme Court

- 1 x Summons

Land and Environment Court

- 15 x Class 1 (Merit/DA)
- 2 x Class 4 proceedings (including 1 x Contempt of Court proceedings)

Local Court

- 3 x Council Prosecutions (including 1 x Police matter)

New Matters

6. There were two new Class 1 matters received during this period (*Antoniou*) and (*Brightstone Developments Pty Limited*).

Finalised matters

7. Two matters were finalised – (*Valsamis*) and (*Micallef*).

Current Table

8. The Court proceedings current for the reporting period are set out below. The external costs include both external legal and expert consultants' (Court witnesses') fees.

No.	Property Address / Applicant / Proceedings Number	Description of Matter	Status / Critical Dates
Land and Environment Court Proceedings – Class 1 Appeals			
1	505 – 507 Rocky Point Road, Sans Souci Applicant: Al Abraham Proceedings No: 2018/317003	Class 1 Appeal against deemed refusal of DA 2018/0252 for the demolition of existing dwellings and ancillary structures and the construction of a mixed-use development over basement parking.	Matter was listed for a S34 Conference on 24 May 2019 which was terminated. Matter now listed for hearing on 20 & 21 January 2020. External planning and urban design experts retained.
2	31 & 31A Regent Street, Kogarah Applicant: Peter Thanos Proceedings No: 2018/363618	Class 1 Appeal against deemed refusal of DA2018/0214 for the demolition of existing building and construction of a 16 room new generation boarding house comprising 1 ground floor commercial tenancy and a car park for 5 vehicles and 4 motorcycle spaces.	Matter was listed for S34 Conference on 23 July 2019. Matter adjourned to 10 September 2019.
3	143 – 145 Rocky Point Road, Beverley Park Applicant: Adouni & Raad Pty Limited Proceedings No: 2018/369087	Class 1 Appeal against deemed refusal of DA2018/0429 for the demolition of existing building and the construction of a residential flat building, basement car parking, landscaping and associated works.	Matter not resolved at S34 Conference on 31 July 2019. Matter listed for hearing on 10 and 11 March 2020.

4	<p>3 Gray Street, Kogarah</p> <p>Applicant: Best Build NSW Pty Limited</p> <p>Proceedings No: 2018/393349</p>	<p>Class 1 Appeal against deemed refusal of DA2018/0201 for the demolition of existing building and the construction of a 6 storey boarding house comprising 44 rooms including site manager room over basement car parking.</p>	<p>Matter listed for S34 Conference on 28 August 2019. Matter has been adjourned to 18 September 2019.</p>
5	<p>301 Kingsgrove Road, Kingsgrove</p> <p>Applicant: Futuristic Design Pty Limited</p> <p>Proceedings No: 2018/390589</p>	<p>Class 1 Appeal against refusal of DA2017/0487 for the demolition of all structures and construction of a two (2) storey child care centre for forty seven (47) children and basement car parking.</p>	<p>Matter not resolved at S34 Conference on 19 August 2019. Matter has been listed for hearing on 30 and 31 March 2020.</p>
6	<p>22 Empress Street, Hurstville</p> <p>Applicant: Erdogan Kasif</p> <p>Proceedings No: 2019/9753</p>	<p>Class 1 Appeal against deemed refusal of DA2018/0441 for partial demolition of existing structures and construction of a residential flat building containing 6 apartments with basement car parking.</p>	<p>Matter listed for S34 Conference on 13 September 2019.</p>
7	<p>60 Park Street, Peakhurst</p> <p>Applicant: Costa Kostantopoulos</p> <p>Proceedings No: 2019/70803</p>	<p>Class 1 Appeal against deemed refusal of DA2018/0414 to demolish the existing building and erect a centre based child care facility.</p>	<p>Matter listed for S34 Conference on 1 November 2019.</p>

8	<p>253 – 255 Princes Highway, Carlton</p> <p>Applicant: Touma Carlton Pty Limited</p> <p>Proceedings No: 2019/150524</p>	<p>Class 1 Appeal against deemed refusal of DA2019/0116 for demolition of existing structures and construction of a six storey mixed use development.</p>	<p>Matter listed for S34 Conference on 30 January 2020.</p> <p>External planning and traffic consultants retained.</p>
9	<p>2 – 10 Palmerston Street, Kogarah</p> <p>Applicant: A V Jennings SPV No 19 Pty Limited</p> <p>Proceedings No: 2019/152130</p> <p>Proceedings No:</p>	<p>Class 1 Appeal against modification of Court granted consent on 20 September 2018 approving DA9/2017/112/1 subject to conditions, for the construction of a residential flat building comprising 51 units and 6 serviced apartments over 3 levels of basement parking for 63 cars. Modification is seeking construction of a mixed use building containing a ground floor retail shop and 11 residential floors comprising a total of 55 units and deletion of s7.13 contributions.</p>	<p>Matter listed for S34 Conference on 1 November 2019.</p>
10	<p>200 Hurstville Road, Oatley</p> <p>Applicant: Maged Zaki</p> <p>Proceedings No: 2019/187513</p>	<p>Class 1 Appeal against refusal of DA 2018/0267 for alterations and additions to the existing two storey commercial building to facilitate a change of use to a centre based child care facility, external façade beautification works and landscaping.</p>	<p>Matter listed for S34 Conference on 21 January 2020.</p> <p>External lawyer retained.</p>

11	<p>29 Penshurst Street, Penshurst</p> <p>Applicant: Christopher Thomas</p> <p>Proceedings No: 2019/191841</p>	<p>Class 1 Appeal against deemed refusal of DA2019/0160 for the partial demolition of the Penshurst Hotel and construction of a car park.</p>	<p>Matter listed for S34 Conference on 31 January 2020.</p>
12	<p>14 English Street, Kogarah</p> <p>Applicant: Siscus Holdings Pty Limited</p> <p>Proceedings No: 2019/191686</p>	<p>Class 1 Appeal against deemed refusal of DA2018/0213 for the demolition of existing structures and construction of a 6 storey boarding house with 33 rooms over one level of basement parking.</p>	<p>Matter listed for S34 Conference on 25 February 2020.</p> <p>External lawyer retained.</p>
13	<p>22 – 26 Montgomery Street, Kogarah</p> <p>Applicant: Icon Construction Group Pty Limited</p> <p>Proceedings No: 2019/204549</p>	<p>Class 1 Appeal against modification to development consent granted by the Land and Environment Court in proceedings 2018/167910.</p>	<p>Matter listed for S34 Conference on 20 February 2020.</p>
14	<p>38 Queens Road, Connells Point</p> <p>Applicant: George Antoniou</p> <p>Proceedings No: 2019/239412</p>	<p>Class 1 Appeal against refusal of MOD2019/0104 with respect to chances to the height and design of a privacy screen.</p>	<p>Matter listed for S34 Conference on 26 November 2019.</p>

15	<p>1 – 5 Rickard Road, South Hurstville</p> <p>Applicant: Brightstone Developments Pty Limited</p> <p>Proceedings No. 2019/258053</p>	<p>Class 1 Appeal against refusal of DA 2017/0460 for demolition of existing structures and construction of multi dwelling housing comprising 14 x two storey dwellings with basement car parking.</p>	<p>Matter listed for directions hearing on 17 September 2019.</p>
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Land and Environment Court Proceedings – Class 4 Proceedings

1	<p>34 Milsop & 47 Jersey Avenue, Mortdale</p> <p>Parties: Robert Stojanovski & Steven Stojanovski</p> <p>Proceedings No: 2018/99739</p>	<p>Proceedings commenced for unauthorised erection of structures and slabs, including habitation of structure at the premises.</p>	<p>Respondent has failed to comply with Court Orders dated 21 August 2018 requiring demolition of unauthorised structure.</p> <p>Matter has been listed for further directions on 20 September 2019.</p> <p>External lawyers and Counsel briefed.</p>
2	<p>297 Rocky Point Road, Sans Souci</p> <p>Parties: Alan Frederick Goddard</p> <p>Proceedings No: 2018/366019</p>	<p>Proceedings commenced for hoarding at property.</p>	<p>Matter was listed for an on-site mediation on 1 August 2019. Matter was not resolved. Matter listed for hearing on 2 and 3 September 2019. Matter adjourned to 24 September 2019.</p> <p>Counsel briefed.</p>

Local Court Proceedings			
1	50 Queens Road, Connells Point Parties: SAF Developments Pty Limited	Prosecution for development without consent involving unauthorised road closures, materials being stored on the road reserve area, defective/non-compliant sediment and erosion controls, defective non-compliant signage, defective tree protection facilities and allowing materials to enter the storm water system.	Defendant has pleaded guilty to 4 offences. Matter fixed for hearing on sentence 14 June 2019 and has been listed for judgment on 25 October 2019.
2	18 Riversdale Ave, Connells Point Parties: Ahmad Hijazi	Development carried out not in accordance with consent.	Matter listed for sentencing on 17 September 2019.
3	Former staff member Police as Prosecutor	Police Charge of Larceny.	Matter is listed for first mention on 3 September 2019.
Supreme Court			
1	977 Forest Road, Lugarno Parties: Taeipo Malifa Proceedings No. 2019/43432	Proceedings seeking leave to appeal Land and Environment Court decision of 12 December 2018.	Applicant has sought leave to appeal against consent orders agreed in December. The issue of whether leave should be granted to appeal was listed for 31 May 2019 and was refused. We are currently seeking payment of Council's costs.

9. Costs to date are as follows:

Type	Amount
Class 1 Appeals – Consultants for Court Proceedings	\$72,658
Class 1 Appeals – Planning DA External Lawyers	\$69,492
Class 2 Appeals	\$0
Class 3 Appeals	\$0
Class 4 Appeals	\$22,915
Class 5 Appeals	\$9,000
Local Court Prosecutions/Enforcements	\$0
Supreme Court Proceedings	\$866
Industrial Relations Commission (IRC)	\$0
Total	\$174,931