

**1. Land and Environment Court Class 1 Matters – Appeals Against Council’s Determination of Development Applications**

**Ongoing Class 1 DA appeal matters for the period (updated to 30/11/2018) 6**  
**Costs for 2018/19 financial year for Class 1 DA appeal matters: \$95,164.70**

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**1 (a) RAMM INVESTMENTS PTY LTD**

**Issue:** Appeal against Council’s refusal of development application No. 4202/2016/DA-M that sought consent for construction of 30 dwellings with basement car-parking and associated road works in Collis Place on property at Lot 101 DP 1044069 No 124 Minto Road, Minto.

**Property:** Lot 101 DP 1044069 No 124 Minto Road, Minto.

**Property Owner:** Ramm Investments Pty Ltd

**Council File:** Development Application No: 4202/2016/DA-M

**Court Application:** Filed on 6 December 2017 - File No. 2017/369487

**Applicant:** Ramm Investments Pty Ltd

**Costs Estimate:** \$28,000.00 (exclusive of Barristers, Court Appointed Experts or disbursement fees)

**Progressive Costs:** \$9,693.18

**Status:** Completed – awaiting payment of the costs order.

**Progress:** The Applicant filed an appeal in the Land and Environment Court of NSW against Council’s refusal of development application No. 4202/2016/DA-M that sought consent for construction of 30 dwellings with basement car-parking and associated road works in Collis Place on property at Lot 101 DP 1044069 No 124 Minto Road, Minto.

The proceedings were listed for first directions hearing on 1 February 2018, where the Registrar made certain procedural directions and adjourned the proceedings to 2 July 2018 before a Commissioner of the Court for conciliation conference.

At conciliation the Applicant agreed to amend the proposed development by reducing the number of dwellings and submit amended plans to Council by 25 August 2018. Conciliation adjourned to a date to be notified.

Agreement was reached between the parties and a Section 34 Agreement was executed and filed with the court. On 16 August 2018 orders were made by the court in accordance with the Agreement and conditional consent granted for the development comprising construction of 22 dwellings with basement car-parking and associated road works in Collis Place and landscaping works. An order for Council’s costs against the Applicant was made in the sum of \$4,500 for costs thrown away as part of the assessment process.

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**1 (b)**

**CAMPBELLTOWN NO. 1 PROPERTY DEVELOPMENTS PTY LTD**

**Issue:** Appeal against Council's deemed refusal of development application No. 3280/2016/DA-RA that sought consent for demolition of existing structures, construction of a 10 storey residential apartment building consisting of 105 residential units, basement car parking, 2 retail/commercial units and a boundary adjustment on property at Lot 3 DP 575491, Lot 50 DP 811930, Lot 51 DP 811930, No. 28 Cordeaux Street and 12 Cordeaux Street, Campbelltown.

**Property:** Lot 3 DP 575491, Lot 50 DP 811930, Lot 51 DP 811930, No. 28 Cordeaux Street and 12 Cordeaux Street, Campbelltown

**Property Owner:** Campbelltown No. 1 Property Developments Pty Ltd – 28 Cordeaux Street, Campbelltown.  
Anglican Church Property Trust – 12 Cordeaux Street, Campbelltown.

**Council File:** Development Application No: 3280/2016/DA-RA

**Court Application:** Filed on 14 December 2017 - File No. 2017/378179

**Applicant:** Campbelltown No. 1 Property Developments Pty Ltd

**Costs Estimate:** \$30,000.00 (exclusive of Barristers, Court Appointed Experts or disbursement fees)

**Progressive Costs:** \$31,231.13

**Status:** Ongoing – listed for direction hearing

**Progress:** The Applicant filed an appeal in the Land and Environment Court of NSW against Council's deemed refusal of development application No. 3280/2016/DA-RA that sought consent for demolition of existing structures, construction of a 10 storey residential apartment building consisting of 105 residential units, basement car parking, 2 retail/commercial units and a boundary adjustment on property at Lot 3 DP 575491, Lot 50 DP 811930, Lot 51 DP 811930, No. 28 Cordeaux Street and 12 Cordeaux Street, Campbelltown.

The proceedings were listed for first directions hearing on 2 February 2018, where the Registrar made certain procedural directions and adjourned the proceedings to 8 June 2018 before a Commissioner of the Court for conciliation conference.

At conciliation the Applicant agreed to an amended development scheme and to submit amended plans to Council by 5 September 2018.

The parties failed to reach agreement in conciliation. Accordingly, the proceedings have been adjourned to 28 to 30 November 2018 for hearing.

At the hearing the applicant submitted amended plans with the hearing adjourned to allow section 34 conciliation conferences to resume. The parties reached agreement with the Commissioner adjourning proceedings to a date to be set for further direction on progress toward consent orders being filed with the court.

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**1 (c)****AUCHENFLOWER INVESTMENTS PTY LTD**

**Issue:** Appeal against Council's (Sydney Western City Planning Panel) refusal of development application No. 493/2016/DA-RA that sought consent for restoration of and additions to existing heritage-listed former CBC Bank building, demolition of existing commercial building at the rear of the site and erection of a new 21 storey residential apartment building including basement car parking and landscaping at 263 Queen Street, Campbelltown.

**Property:** Lots 1 & 2 SP 41598, 263 Queen St, Campbelltown

**Property Owner:** Auchenflower Investments Pty Ltd

**Council File:** Development Application No: 493/2016/DA-RA

**Court Application:** Filed on 22 December 2017 - File No. 2018/182961

**Applicant:** Auchenflower Investments Pty Ltd

**Costs Estimate:** \$26,000.00 (exclusive of Barristers, Court Appointed Experts or disbursement fees)

**Progressive Costs:** \$30,577.70

**Status:** Ongoing – listed for conciliation conference on 13 February 2019.

**Progress:** The Applicant filed an appeal in the Land and Environment Court of NSW against Council's (Sydney Western City Planning Panel) refusal of development application No. 493/2016/DA-RA that sought consent for restoration of and additions to existing heritage-listed former CBC Bank building, demolition of existing commercial building at the rear of the site and erection of a new 21 storey residential apartment building including basement car parking and landscaping at 263 Queen Street, Campbelltown. The Planning Panel has been notified of the appeal.

The proceedings were originally listed for first directions hearing on 11 July 2018, however the Applicant filed a notice of motion to amend the development application which was heard on 28 June 2018 where the Registrar adjourned the proceedings to 3 July 2018 for online directions hearing at which certain procedural directions were made requiring Council file a Statement of Facts and Contentions by 10 August 2018.

At a further directions hearing on 7 July 2018, the matter was listed for a conciliation conference on 13 February 2019 commencing onsite.

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**1 (d)****MENANGLE PARK 1 PTY LTD**

**Issue:** Appeal against Council's deemed refusal of development application No. 1580/2018/DA-SW that sought consent for demolition of existing structures, subdivision of 4 lots into 48 lots, construction of roads, drainage and 2 bio retention basins at Lots 52, 57 and 58 DP 10718 and Lot A 364350, known as 12 and 26 Fitzpatrick Street and 111 and 121 Cummins Road, Menangle Park.

**Property:** Lots 52, 57 and 58 DP 10718 and Lot A 364350, known as 12 and 26 Fitzpatrick Street and 111 and 121 Cummins Road, Menangle Park.

**Property Owner:** 12 Fitzpatrick Street: Mr Peter and Mrs Wendy Gadsby; 26 Fitzpatrick Street: Mrs Emily Taylor; 111 Cummins Road: Lladnar Pty Ltd; and, 121 Cummins Road: Mr Nunzio Lo Castro, Mr Leonardo Danny Lo Castro, Mr Leonardo Joseph Lo Castro, and Mr Darryl Champness.

**Council File:** Development Application No: 1580/2018/DA-SW

**Court Application:** Filed on 19 July 2018 - File No. 2018/221745

**Applicant:** Menangle Park 1 Pty Ltd

**Costs Estimate:** \$28,000.00 (exclusive of Barristers, Court Appointed Experts or disbursement fees)

**Progressive Costs:** \$2,269.20

**Status:** Ongoing – conciliation conference continuing.

**Progress:** The Applicant filed an appeal in the Land and Environment Court of NSW against Council's deemed refusal of development application No. 1580/2018/DA-SW that sought consent for demolition of existing structures, subdivision of 4 lots into 48 lots, construction of roads, drainage and 2 bio retention basins at Lots 52, 57 and 58 DP 10718 and Lot A 364350, known as 12 and 26 Fitzpatrick Street and 111 and 121 Cummins Road, Menangle Park.

The proceedings were listed for first directions hearing on 16 August 2018, where the Registrar adjourned the proceedings to 16 November 2018 for conciliation conference that commenced onsite and as at 20 November 2018 remains ongoing between the parties, with the Applicant having submitted amended plans for Council consideration.

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1 (e)

**PHILIP ELLIS, CRAIG QUINSEY AND LUKE DOVEN**

**Issue:** Appeal against Council's refusal of development application No. 4212/2016/DA-C that sought consent for alterations and additions to an existing dwelling and change of use to a church meeting hall (place of public worship), construction of a 20 space car park and associated landscaping at Lots 329 and 321 DP 879911 known as 161-163 Englorie Park Drive, Glen Alpine.

**Property:** Lots 329 and 321 DP 879911 known as 161-163 Englorie Park Drive, Glen Alpine.

**Property Owner:** Philip Ellis, Craig Quinsey And Luke Doven

**Council File:** Development Application No: 4212/2016/DA-C

**Court Application:** Filed on 23 July 2018 - File No. 2018/226273

**Applicant:** Philip Ellis, Craig Quinsey And Luke Doven

**Costs Estimate:** \$28,000.00 (exclusive of Barristers, Court Appointed Experts or disbursement fees)

**Progressive Costs:** \$2,036.80

**Status:** Ongoing – listed for conciliation conference on 28 February 2019.

**Progress:** The Applicant filed an appeal in the Land and Environment Court of NSW against Council's refusal of development application No. 4212/2016/DA-C that sought consent for alterations and additions to an existing dwelling and change of use to a church meeting hall (place of public worship), construction of a 20 space car park and associated landscaping at Lots 329 and 321 DP 879911 known as 161-163 Englorie Park Drive, Glen Alpine.

The proceedings were listed for first directions hearing on 21 August 2018, where the Registrar adjourned the proceedings to 28 February 2019 for conciliation conference commencing onsite.

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**1 (f)**

**ATTAR CONSTRUCTIONS PTY LTD**

**Issue:** Appeal against Council's deemed refusal of development application No. 1914/2018/DA-RS that sought consent for consolidation of Lot 4407 and Lot 4408 DP1217018 and construction of 4 attached two storey dwellings and subdivision into 4 strata allotments at properties known as 14 and 16 Poulton Terrace, Campbelltown.

**Property:** Lot 4407 and Lot 4408 DP1217018 known as 14 and 16 Poulton Terrace, Campbelltown.

**Property Owner:** 14 Poulton Terrace: Mr Anwar Ali Malik; and  
16 Poulton Terrace: Mr Shoaib Anwar

**Council File:** Development Application No: 1914/2018/DA-RS

**Court Application:** Filed on 2 August 2018 - File No. 2018/237013

**Applicant:** Attar Constructions Pty Ltd

**Costs Estimate:** \$28,000.00 (exclusive of Barristers, Court Appointed Experts or disbursement fees)

**Progressive Costs:** \$4,022.58

**Status:** Ongoing – conciliation conference continuing.

**Progress:** The Applicant filed an appeal in the Land and Environment Court of NSW against Council's deemed refusal of development application No. 1914/2018/DA-RS that sought consent for consolidation of Lot 4407 and Lot 4408 DP1217018 and construction of 4 attached two storey dwellings and subdivision into 4 strata allotments at properties known as 14 and 16 Poulton Terrace, Campbelltown.

The proceedings were listed for first directions hearing on 30 August 2018, where the Registrar adjourned the proceedings to 1 November 2018 for conciliation conference commencing onsite.

The conciliation conference continuing following telephone conference on 22 November to update the Commissioner on the Applicant's progress regarding submission of revised plans to Council for consideration.

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1 (g)

**KAVLANA PTY LIMITED**

**Issue:** Appeal against Council's refusal of development application No. 2466/2014/DA-S that sought consent for subdivision of Lot A DP 449151, Union Church Site at 15 Aberfoyle Road, Wedderburn into two Torrens title allotments.

**Property:** Lot A DP 449151, Union Church Site at 15 Aberfoyle Road, Wedderburn

**Property Owner:** KavLANA Pty Limited

**Council File:** Development Application No: 2466/2014/DA-S

**Court Application:** Filed on 2 November 2018 - File No. 2018/336789

**Applicant:** KavLANA Pty Limited

**Costs Estimate:** \$28,000.00 (exclusive of Barristers, Court Appointed Experts or disbursement fees)

**Progressive Costs:** \$0.00

**Status:** New Matter – to be listed for Conciliation Conference.

**Progress:** The Applicant filed an appeal in the Land and Environment Court of NSW against Council's refusal of development application No. 2466/2014/DA-S that sought consent for subdivision of Lot A DP 449151, Union Church Site at 15 Aberfoyle Road, Wedderburn into two Torrens title allotments.

The proceedings were listed for first directions hearing on 30 November 2018.

Proceedings have been adjourned to a date to be determined in the new year for conciliation conference.

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**2. Land and Environment Court Class 1 and 2 Matters – Appeals Against Notices, Orders, or Directions issued by Council**

**Ongoing Class 1 & 2 appeal matters for the period (updated to 30/11/2018) 2**  
**Costs for 2018/19 financial year for Class 1 & 2 appeal matters: \$17,619.21**

**2 (a) BISMIA PTY LTD**

**Issue:** Appeal against a Notice given by Council to Bismia Pty Ltd under the Protection of the Environment Operations Act 1997 to take Preventative Action (properly store waste and maintain property clean) in respect of property at Lot 1 DP 607229, 176 Queen Street, Campbelltown.

**Property:** Lot 1 DP 607229, 176 Queen Street, Campbelltown.

**Property Owner:** Bismia Pty Ltd

**Council File:** 1447/2017/N-POEO

**Court Application:** Filed on 24 August 2017 - File No. 2017/256912

**Applicant:** Bismia Pty Ltd

**Costs Estimate:** \$20,000.00 (exclusive of Barristers, Court Appointed Experts or disbursement fees)

**Progressive Costs:** \$6,449.27

**Status:** Completed – Applicant discontinued the proceedings

**Progress:** The Applicant filed an appeal in the Land and Environment Court of NSW against a Notice given by Council to Bismia Pty Ltd under the Protection of the Environment Operations Act 1997 to take Preventative Action (properly store waste and maintain property clean) in respect of property at Lot 1 DP 607229, 176 Queen Street, Campbelltown.

The proceedings were listed for first directions hearing on 20 September 2017 where by consent, the Registrar adjourned the proceedings for further directions hearing on 1 November 2017 to allow the Applicant time to have further discussion with Council regarding the Applicants proposal in respect of securing the property against unauthorised entry.

The matter was back before the Court on 1 November 2017 where by consent the Registrar made certain procedural orders and further adjourned the proceedings for directions hearing (online) on 21 November to allow the Applicant time to have discussion with an adjoining affected occupant concerning the Applicants proposal in respect of securing the property and access arrangements for the occupant once the property is secured.

Following further adjournments, the Applicant has been unsuccessful in reaching agreement with the adjoining property occupant regarding service access across the subject property. Accordingly the proceedings were adjourned to 1 June 2018 for section 34

Conciliation conference.

At the conciliation conference the Commissioner, by consent, adjourned the conference to 8 June 2018 to allow the Applicant to consider the submission of a waste management plan for the property. At the resumed conciliation conference the Applicant advised the Court that she would not agree to an order in relation to waste management; accordingly the conference was terminated and proceedings listed for directions hearing on 13 June 2018.

At the directions hearing the Registrar made certain procedural directions and listed the proceedings for hearing on 13 November 2018 commencing onsite.

The Matter was before the Court for hearing on 13 November 2018 where by consent the Applicant discontinued the proceedings as agreement was reached between the parties on a waste management plan for the property, which satisfied the terms of the Notice to take Preventative Action that was the subject of the Appeal. Accordingly Council agreed to revoke the Notice.

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**2 (b)**

**PREM KUMAR MISRA**

**Issue:** Appeal against an Order given by Council to Prem Kumar Misra under the Environmental Planning and Assessment Act 1998 requiring the demolition of 31 unauthorised concrete hardstand car parking spaces constructed on premises at Lot 23 DP 535651, 203 Eagleview Road, Minto.

**Property:** Lot 23 DP 535651, 203 Eagleview Road, Minto.

**Property Owner:** Prem Kumar Misra

**Council File:** 2108/2017/N-EPA

**Court Application:** Filed on 28 September 2017 - File No. 2017/293824

**Applicant:** Prem Kumar Misra

**Costs Estimate:** \$20,000.00 (exclusive of Barristers, Court Appointed Experts or disbursement fees)

**Progressive Costs:** \$26,668.89

**Status:** Ongoing – listed for hearing on 16 and 17 January 2019.

**Progress:** The Applicant filed an appeal in the Land and Environment Court of NSW against an Order given by Council to Prem Kumar Misra under the Environmental Planning and Assessment Act 1979 requiring the demolition of 31 unauthorised concrete hardstand car parking spaces constructed on premises at Lot 23 DP 535651, 203 Eagleview Road, Minto. The applicant had previously submitted a building certificate application to Council seeking to regularise the 31 concrete car parking spaces, which was refused under delegated authority, as the additional car parking spaces were incompatible with the approved use of the property.

The proceedings were listed for first directions hearing on 27 October 2017 where the Registrar made certain procedural directions and adjourned the proceedings to 28 February 2018 for conciliation conference before a Commissioner of the Court.

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On 13 February 2018 by consent the conciliation conference was adjourned to 29 June 2018 due to the unavailability of the Applicant's solicitor to attend the 28 February 2018 conference.

At the conciliation conference it was clear that the parties were not going to be able to reach agreement in respect to the 31 unauthorised concrete hardstand car parking spaces constructed on premises; accordingly, the Commissioner terminated the conference and listed the proceedings for directions hearing on 6 July 2018.

At the directions hearing the Registrar made certain procedural directions and listed the proceedings for hearing on 16 and 17 January 2019 commencing onsite.

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<b>3. Land and Environment Court Class 4 Matters – Civil Enforcement in respect of non-compliance with Planning Law or Orders issued by Council</b>
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<b>Ongoing Class 4 matters for the period (updated to 30/11/2018)</b>	<b>1</b>
<b>Costs for 2018/19 financial year for Class 4 matters</b>	<b>\$31,571.41</b>

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**3 (a)**

**HELP SAVE MT GILEAD INC. v MOUNT GILEAD PTY. LIMITED**

**Issue:**

Notice of Summons (Judicial Review) filed by the Applicant in the proceedings received, providing an opportunity for Council to file a notice of appearance as an additional Respondent.

The Applicant is seeking declarations and orders from the Court that the Gateway Declaration made by the Director-General of the Department of Planning and Infrastructure on 7 September 2012 in relation to a proposal to rezone the following identified land is invalid; a declaration that Campbelltown Local Environmental Plan 2015 (Amendment No. 2) is invalid; an order setting aside LEP 2015 (Amendment No. 2); an order that the respondents pay the Applicant's costs of the proceedings; and, such further orders as the Court thinks fit.

Other Respondents named in the proceedings (Gilead Pty Ltd, Lend Lease and Department of Planning) are actively defending the Summons. Council is assisting in the proceedings by responding to a Notice to Produce relevant documents and preparing a statement of reasons for Council's recommendation to finalise the rezoning.

**Land:**

Lots 1 and 2 DP 807555 and Lot 59 DP 752042 (now Lot 3 DP 121887) and Lot 61 DP 752042 Appin Road, Mt Gilead.

**Council File:**

2937/2013/E-LEPA

**Court Application:**

Filed on 7 December 2017 - File No. 2017/370175

**Applicant:**

Help Save Mt Gilead Inc.

**First Respondent** Mount Gilead Pty Limited

**Costs Estimate:** \$20,000.00 (exclusive of Barristers, Court Appointed Experts or disbursement fees)

**Progressive Costs:** \$8,164.32

**Status:** Completed – appeal dismissed

**Progress:** The proceedings were before the Court for first mention where the Judge made certain procedural directions including in respect to the production of documents. The proceedings were adjourned to 19, 20 and 21 June for hearing.

Council filed a Notice of Appearance as an additional respondent in the proceedings. Council did not have an active role in the hearing proceedings but was required to answer any Notices to Produce documents or records or attend to any other matters as ordered by the Court.

Hearing completed, Justice Moore reserved judgment to a date to be notified.

On 20 September 2018, Justice Moore delivered his judgement dismissing each of the grounds for objection by the applicants for the Gateway Declaration and accordingly dismissed the appeal.

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**3 (b)**

**ABDULHALIM ELBAF & AMNE ELBAF**

**Issue:** Application for assessment of costs order against Council resulting from judicial review proceedings of disputed complying development certificate No. CDC 0455/12 issued by the private certifier for the development comprising a residential dwelling and residential outbuilding and associated site works, on the property.

**Property:** Lot 1 DP 1039153 Zouch Road, Ingleburn.

**Property Owner:** Mr. Abdulhalim Elbaf and Mrs Amne Elbaf

**Council File:** No. 2491/2012/CDCPRI

**Court Application:** Original Application Filed on 24 December 2013 - File No. 41030 of 2013

**Applicant:** Abdulhalim Elbaf and Amne Elbaf

**Costs Estimate:** \$10,000 (exclusive of assessment costs or disbursement fees)

**Costs to date:** \$29,973.22 (including settlement)

**Status:** Completed – settlement on costs reached.

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**Progress:** The Applicants filed an appeal in the Land and Environment Court of NSW seeking judicial review of disputed complying development certificate No. CDC 0455/12 issued by the private certifier for the development comprising a residential dwelling and residential outbuilding and associated site works, on the property. The matter

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was listed for first directions hearing on 7 February 2014.

The Applicant subsequently submitted a fresh DA No. 1138/2014/DA-M for the proposed development comprising the completion of construction of a partly built attached dual-occupancy, fencing, retaining walls, driveways and landscaping.

The parties reached agreement that in view of the granting by Council of conditional consent to DA No. 1138/2014/DA-M the Applicant file a notice of discontinuance in the proceedings and that complying development certificate No. CDC 0455/12 be surrendered. The Court, by consent, made an order that relevant notice of discontinuance be filed in the proceedings and that complying development certificate No. CDC 0455/12 shall be surrendered by the Applicant on determination of costs. The judge also made orders in respect of submissions to the Court on costs and further listed the proceedings for cost hearing.

The costs hearing was completed with judgement reserved to a date to be notified by the Court. On 20 May 2015, the Court handed down its judgement awarding relevant costs, as agreed or assessed, against Council.

On 24 November 2017 the Applicant notified Council of their intention to file an application for costs assessment in respect of the costs order made against Council. The parties entered into negotiations and agreement on the costs in the sum of \$26,000 including GST was reached. A Deed of Settlement and Release was reached between the parties and payment of the agreed costs made on 19 July 2018.

**4. Land and Environment Court Class 5 - Criminal enforcement of development and environmental offences for breaches of planning and environment laws**

**Ongoing Class 5 matters for the period (updated to 30/11/2018)** **0**  
**Costs for 2018/19 financial year for Class 5 matters** **\$9,821.95**

**4 (a) Prosecution – Charge Matter**

**Court File No:** 2017/166549

**Offence:** Development without consent – importation and placement of unauthorised and uncertified fill materials within watercourse on property.

**Act:** *Environmental Planning and Assessment Act 1979* sections 125(1) and 76A(1).

**Progressive Costs:** \$84,914.23 – Matter dealt with by Council’s Legal and Policy Officer instructing an external solicitor.

**Status:** Completed – costs recovery action continuing.

**Progressive:** The matter was before the Court for directions hearing on 14 July 2017 where the Judge made certain procedural directions concerning the filing and service by Council of a statement of facts and adjourned the proceedings to 25 August 2017 for preliminary hearing.

The matter was before the Court for preliminary hearing on 25 August 2017 where the defendant entered a guilty plea to the charge. The Judge made further procedural directions concerning the filing and service by Council of an agreed statement of facts and expert evidence and adjourned the proceedings to 28 November 2017 for sentence hearing.

The matter was before the Court for sentence hearing on 28 November 2017 where the expert evidence was presented. The Court indicated that the defendant should be given an opportunity to effect the clean-up under notice issued by Council, as this may have particular bearing on the sentence outcome. By consent the sentence hearing was adjourned to 30 April 2018.

The proceedings were back before the Court for sentence hearing on 30 April, 9 and 21 May 2018 where being satisfied that the cleanup works had been effectively and satisfactorily completed; and, having heard the facts, as agreed, in the matter and submissions on behalf of the defendant and Council, Justice Robson reserved judgment to a date to be notified.

On 31 May 2018, Justice Robson handed down his judgment finding the offences proved. In determining the appropriate penalty for the offences, Justice Robson took into account the objective circumstances of the offences and the subjective circumstances of the defendant. Further he took into account the need for the Court, through the sentence it imposes, to ensure that the defendant is adequately punished for the offences committed, held accountable for his actions, and denounced for his conduct in a manner proportionate

to the seriousness of the offences. Accordingly, the orders of the Court were: the defendant is convicted of the offence as charged and is fined the sum of \$52,500 (development without consent) and is ordered to pay Council's legal costs (\$108,700 including disbursements inclusive for items 4 (a) and (b)).

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**4 (b) Prosecution – Charge Matter**

**Court File No:** 2017/166550

**Offence:** Pollute waters – unauthorised and uncertified fill materials placed within watercourse, were washed off the property during a heavy rain event causing pollution and damage to adjoining natural watercourse and properties.

**Act:** *Protection of the Environment Operations Act* section 120.

**Progressive Costs:** Costs are included under Item 4(a) – Matter dealt with by Council's Legal and Policy Officer instructing an external solicitor.

**Status:** Completed – costs recovery action continuing.

**Progressive:** The matter was before the Court for directions hearing on 14 July 2017 where the Judge made certain procedural directions concerning the filing and service by Council of a statement of facts and adjourned the proceedings to 25 August 2017 for preliminary hearing.

The matter was before the Court for preliminary hearing on 25 August 2017 where the defendant entered a guilty plea to the charge. The Judge made further procedural directions concerning the filing and service by Council of an agreed statement of facts and expert evidence and adjourned the proceedings to 28 November 2017 for sentence hearing.

The matter was before the Court for sentence hearing on 28 November 2017 where the expert evidence was presented. The Court indicated that the defendant should be given an opportunity to effect the clean-up under notice issued by Council, as this may have particular bearing on the sentence outcome. By consent the sentence hearing was adjourned to 30 April 2018.

The proceedings were back before the Court for sentence hearing on 30 April, 9 and 21 May 2018 where being satisfied that the cleanup works had been effectively and satisfactorily completed; and, having heard the facts, as agreed, in the matter and submissions on behalf of the defendant and Council, Justice Robson reserved judgment to a date to be notified.

On 31 May 2018, Justice Robson handed down his judgment finding the offences proved. In determining the appropriate penalty for the offences, Justice Robson took into account the objective circumstances of the offences and the subjective circumstances of the defendant. Further he took into account the need for the Court, through the sentence it imposes, to ensure that the defendant is adequately punished for the offences committed, held accountable for his actions, and denounced for his conduct in a manner proportionate to the seriousness of the offences. Accordingly, the orders of the

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Court were: the defendant is convicted of the offence as charged and is fined the sum of \$31,500 (pollute waters).

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**5. Land and Environment Court Class 6 - Appeals from convictions relating to environmental matters**

Ongoing Class 6 matters for the period (updated to 30/11/2018) 0  
Costs for 2018/19 financial year for Class 6 matters \$0.00

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**6. Supreme Court of NSW – Appeals and Civil Enforcement in respect of Council’s regulatory enforcement activities**

Ongoing Supreme Court matters for the period (updated to 30/11/2018) 0  
Costs for 2018/19 financial year for Supreme Court matters \$2,464.40

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**7. District Court of NSW – Appeals from the Local Court in respect of the Magistrate erred at law or severity of sentence imposed**

Ongoing District Court matters for the period (updated to 30/11/2018) 0  
Costs for 2018/19 financial year for District Court appeal matters \$0.00

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## 8. Local Court prosecution matters

The following summary lists the current status of the Division's legal matters before the Campbelltown Local Court.

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<b>Ongoing Local Court Matters for the period (updated to 30/11/2018) Costs for 2018/19 financial year for Local Court Matters</b>	<b>7 \$0.00</b>
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**File No:** LP17/18 – Penalty Notice Court Election  
**Offence:** Disobey no parking sign (school zone)  
**Act:** *Road Rules 2014*  
**Final Costs:** \$0.00 – Matter dealt with by Council's Legal and Policy Officer in conjunction with the Police Prosecutor.  
**Status:** Completed  
**Progress:** Matter was before the Court for first mention on 12 June 2018 where the defendant entered a not guilty plea. The Registrar adjourned the proceeding to 6 August 2018 for hearing.  
  
Matter was before the Court for hearing on 6 August 2018 where the defendant maintained their not guilty plea. After hearing the evidence and submissions the Magistrate found the offence proved and convicted the defendant imposing a \$500 fine.

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**File No:** LP18/18 – Penalty Notice Court Election  
**Offence:** Stop on path/strip in built-up area  
**Act:** *Road Rules 2014*  
**Final Costs:** \$0.00 – Matter dealt with by Council's Legal and Policy Officer in conjunction with the Police Prosecutor.  
**Status:** Completed  
**Progress:** Matter was before the Court for first mention on 24 July 2018 where the defendant entered a guilty plea with explanation by written notice of pleading. After considering the evidence and submissions the Magistrate found the offence proved and convicted the defendant imposing a \$50 fine.

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**File No:** LP22/18 – Penalty Notice Court Election  
**Offence:** Stand vehicle in in disabled persons parking space without authority  
**Act:** *Local Government Act 1993*  
**Final Costs:** \$0.00 – Matter dealt with by Council's Legal and Policy Officer in conjunction with the Police Prosecutor.  
**Status:** Completed  
**Progress:** Matter was before the Court for first mention on 24 July 2018 where the defendant entered a guilty plea with explanation. After considering the evidence and submissions the Magistrate found the offence proved and determined the matter without recording a conviction or imposing a penalty.

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**File No:** LP23/18 – Penalty Notice Court Election  
**Offence:** Double park (school zone)  
**Act:** *Road Rules 2014*  
**Final Costs:** \$0.00 – Matter dealt with by Council’s Legal and Policy Officer in conjunction with the Police Prosecutor.  
**Status:** Completed  
**Progress:** Matter was before the Court for first mention on 14 August 2018 where the defendant entered a guilty plea with explanation. After considering the evidence and submissions the Magistrate found the offence proved and determined the matter without recording a conviction or imposing a penalty.

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**File No:** LP24/18 – Penalty Notice Court Election  
**Offence:** Not park parallel in direction of travel  
**Act:** *Road Rules 2014*  
**Final Costs:** \$0.00 – Matter dealt with by Council’s Legal and Policy Officer in conjunction with the Police Prosecutor.  
**Status:** Completed  
**Progress:** Matter was before the Court for first mention on 21 August 2018 where by consent the proceedings were adjourned to 4 September 2018 for further mention.  
  
On 4 September 2018 the matter was back before the court where the defendant entered a guilty plea with explanation. After considering the evidence and submissions the Magistrate found the offence proved and determined the matter without recording a conviction or imposing a penalty.

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**File No:** LP25/18 – Penalty Notice Court Election  
**Offence:** Stop in truck zone  
**Act:** *Road Rules 2014*  
**Final Costs:** \$0.00 – Matter dealt with by Council’s Legal and Policy Officer in conjunction with the Police Prosecutor.  
**Status:** Completed  
**Progress:** Matter was before the Court for first mention on 28 August 2018 where the defendant entered a guilty plea with explanation by written notice of pleading. After considering the evidence and submissions the Magistrate found the offence proved and determined the matter without recording a conviction or imposing a penalty.

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**File No:** LP26/18 – Penalty Notice Court Election  
**Offence:** Stop in bus zone  
**Act:** *Road Rules 2014*  
**Final Costs:** \$0.00 – Matter dealt with by Council’s Legal and Policy Officer in conjunction with the Police Prosecutor.  
**Status:** Completed  
**Progress:** Matter was before the Court for first mention on 21 August 2018

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where the defendant entered a guilty plea with explanation. After considering the evidence and submissions the Magistrate found the offence proved and convicted the defendant imposing a \$250 fine.

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**File No:** LP27/18 – Penalty Notice Court Election  
**Offence:** Stop on/across driveway/other access to/from land  
**Act:** *Road Rules 2014*  
**Final Costs:** \$0.00 – Matter dealt with by Council’s Legal and Policy Officer in conjunction with the Police Prosecutor.  
**Status:** Completed  
**Progress:** Matter was before the Court for first mention on 11 September 2018 where the defendant entered a guilty plea with explanation by written notice of pleading. After considering the evidence and submissions the Magistrate found the offence proved and determined the matter without recording a conviction or imposing a penalty.

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**File No:** LP28/18 – Penalty Notice Court Election  
**Offence:** Stop on path/strip in built-up area  
**Act:** *Road Rules 2014*  
**Final Costs:** \$0.00 – Matter dealt with by Council’s Legal and Policy Officer in conjunction with the Police Prosecutor.  
**Status:** Completed  
**Progress:** Matter was before the Court for first mention on 4 September 2018 where the defendant entered a guilty plea with explanation. After considering the evidence and submissions the Magistrate found the offence proved and determined the matter without recording a conviction or imposing a penalty.

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**File No:** LP29/18 – Penalty Notice Court Election  
**Offence:** Development without development consent  
**Act:** *Environmental Planning and Assessment Act 1979*  
**Final Costs:** \$0.00 – Matter dealt with by Council’s Legal and Policy Officer in conjunction with the Police Prosecutor.  
**Status:** Completed  
**Progress:** Matter was before the Court for first mention on 28 August 2018 where, by consent, the proceeding were adjourned to 18 September 2018 to allow Council time to consider submissions made by the defendant in respect to liability for the offence.

The matter was before the Court on 18 September 2018 for further mention where Council made application to the court for the matter to be withdrawn and dismissed – defendant provided Council with evidence (lease agreement for the subject land) which confirmed they were neither the entity responsible for the development nor the occupier of the land at the time of the alleged offence. The Magistrate granted Council’s application and marked the Court papers accordingly.

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**File No:** LP30/18 – Penalty Notice Court Election  
**Offence:** Disobey no-stopping sign  
**Act:** *Road Rules 2014*  
**Final Costs:** \$0.00 – Matter dealt with by Council’s Legal and Policy Officer in conjunction with the Police Prosecutor.  
**Status:** Completed  
**Progress:** Matter was before the Court for first mention on 4 September 2018 where the defendant made no appearance. The Magistrate granted Council’s application to proceed in the defendant’s absence and after considering the evidence and submissions found the offence proved and convicted the defendant imposing a \$250 fine.

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**File No:** LP31/18 – Penalty Notice Court Election  
**Offence:** Not stand vehicle in marked parking space  
**Act:** *Local Government Act 1993*  
**Final Costs:** \$0.00 – Matter dealt with by Council’s Legal and Policy Officer in conjunction with the Police Prosecutor.  
**Status:** Completed  
**Progress:** Matter was before the Court for first mention on 25 September 2018 where the defendant entered a not guilty plea. The Registrar adjourned the proceeding to 15 November 2018 for hearing.  
  
Matter was before the Court on 15 November 2018 where the defendant entered a guilty plea with explanation. After considering the evidence and submissions the Magistrate found the offence proved and determined the matter without conviction or penalty.

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**File No:** LP32/18 – Penalty Notice Court Election  
**Offence:** Stop at side of road with continuous yellow edge line  
**Act:** *Road Rules 2014*  
**Final Costs:** \$0.00 – Matter dealt with by Council’s Legal and Policy Officer in conjunction with the Police Prosecutor.  
**Status:** Completed  
**Progress:** Matter was before the Court for first mention on 25 September 2018 where the defendant entered a guilty plea with explanation. After considering the evidence and submissions the Magistrate found the offence proved and determined the matter without recording a conviction or imposing a penalty.

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**File No:** LP33/18 – Penalty Notice Court Election  
**Offence:** Stop within 10-metres of intersection  
**Act:** *Road Rules 2014*  
**Final Costs:** \$0.00 – Matter dealt with by Council’s Legal and Policy Officer in conjunction with the Police Prosecutor.  
**Status:** Completed  
**Progress:** Matter was before the Court for first mention on 9 October 2018 where the defendant entered a guilty plea. After considering the evidence and submissions the Magistrate found the offence proved

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and convicted the defendant imposing a \$50 fine.

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**File No:** LP34/18 – Penalty Notice Court Election  
**Offence:** Stop on path/strip in built-up area  
**Act:** *Road Rules 2014*  
**Progressive Costs:** \$0.00 – Matter being dealt with by Council's Legal and Policy Officer in conjunction with the Police Prosecutor.  
**Status:** Ongoing – listed for hearing  
**Progress:** Matter was before the Court for first mention on 16 October 2018 where the defendant entered a not guilty plea. The Registrar adjourned the proceeding to 7 December 2018 for hearing.

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**File No:** LP35/18 – Penalty Notice Court Election  
**Offence:** Stop at side of road with continuous yellow edge line  
**Act:** *Road Rules 2014*  
**Final Costs:** \$0.00 – Matter dealt with by Council's Legal and Policy Officer in conjunction with the Police Prosecutor.  
**Status:** Completed  
**Progress:** Matter was before the Court for first mention on 6 November 2018 where the defendant made no appearance. The Magistrate granted Council's application to proceed in the defendant's absence and after considering the evidence and submissions found the offence proved and convicted the defendant imposing a \$150 fine.

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**File No:** LP36/18 – Penalty Notice Court Election  
**Offence:** Stop within 10-metres of intersection  
**Act:** *Road Rules 2014*  
**Final:** \$0.00 – Matter dealt with by Council's Legal and Policy Officer in conjunction with the Police Prosecutor.  
**Status:** Completed  
**Progress:** Matter was before the court for first mention on 6 November 2018 where the defendant did not enter a plea and sought an adjournment. By consent the Registrar adjourned the proceedings to 20 November 2018 for plea/mention.

Matter was before the Court on 20 November 2018 where the defendant entered a guilty plea with explanation. After considering the evidence and submissions the Magistrate found the offence proved and determined the matter without conviction or penalty.

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**File No:** LP37/18 – Penalty Notice Court Election  
**Offence:** Stop within 10-metres of intersection  
**Act:** *Road Rules 2014*  
**Final Costs:** \$0.00 – Matter dealt with by Council's Legal and Policy Officer in conjunction with the Police Prosecutor.  
**Status:** Completed  
**Progress:** Matter was before the Court for first mention on 30 October 2018 where the defendant entered a guilty plea with explanation. After considering the evidence and submissions the Magistrate found the

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offence proved and determined the matter without recording a conviction or imposing a penalty.

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**File No:** LP38/18 – Penalty Notice Court Election  
**Offence:** Stop at side of road with continuous yellow edge line  
**Act:** *Road Rules 2014*  
**Progressive Costs:** \$0.00 – Matter being dealt with by Council's Legal and Policy Officer in conjunction with the Police Prosecutor.  
**Status:** Ongoing – relisted for further mention.  
**Progress:** Matter was before the Court for first mention on 13 November 2018, where the defendant did not enter a plea and sought an adjournment to seek advice. By consent the Registrar adjourned the proceeding to 4 December for further mention.

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**File No:** LP39/18 – Penalty Notice Court Election  
**Offence:** Stop on/near pedestrian crossing  
**Act:** *Road Rules 2014*  
**Final Costs:** \$0.00 – Matter being dealt with by Council's Legal and Policy Officer in conjunction with the Police Prosecutor.  
**Status:** Completed  
**Progress:** Matter listed for first mention on 13 November 2018, where the defendant entered a guilty plea with explanation. After considering the evidence and submissions the Magistrate found the offence proved and determined the matter without recording a conviction or imposing a penalty.

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**File No:** LP40/18 – Penalty Notice Court Election  
**Offence:** Disobey no-stopping sign  
**Act:** *Road Rules 2014*  
**Progressive Costs:** \$0.00 – Matter being dealt with by Council's Legal and Policy Officer in conjunction with the Police Prosecutor.  
**Status:** Ongoing  
**Progress:** Matter listed for first mention on 20 November 2018.  
  
Matter was before the Court on 20 November 2018 where the defendant did not enter a plea. The Registrar adjourned the proceeding to 11 December 2018 for plea/mention.

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**File No:** LP41/18 – Penalty Notice Court Election  
**Offence:** Stop at side of road with continuous yellow edge line  
**Act:** *Road Rules 2014*  
**Progressive Costs:** \$0.00 – Matter with by Council's Legal and Policy Officer in conjunction with the Police Prosecutor.  
**Status:** New matter  
**Progress:** Matter listed for first mention on 27 November 2018.  
  
Matter was before the Court on 27 November 2018 where the defendant entered a guilty plea with explanation. After considering the evidence and submissions the Magistrate found the offence proved and determined the matter without conviction or penalty.

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## 9. Matters referred to Council's solicitor for advice

Matters referred to Council's solicitors for advice on questions of law, the likelihood of appeal or prosecution proceedings being initiated, and/or Council liability.

**Total of Advice Matters for the period (updated to 20/11/2018) 12**  
**Costs for 2018/19 financial year for legal advice matters \$22,617.75**

## 10. Legal Costs Summary

The following summary lists the City Development Division's net legal costs for the 2018/2019 period.

<b>Relevant attachments or tables</b>	<b>Costs Debit</b>	<b>Costs Credit</b>
Class 1 Land and Environment Court - appeals against Council's determination of Development Applications	\$95,164.70	\$25,000.00
Class 1 and 2 Land and Environment Court - appeals against Orders or Notices issued by Council	\$17,619.21	\$600.00
Class 4 Land and Environment Court matters - non-compliance with Council Orders, Notices or prosecutions	\$31,571.41	\$0.00
Class 5 Land and Environment Court - pollution and planning prosecution matters	\$9,821.95	\$0.00
Class 6 Land and Environment Court - appeals from convictions relating to environmental matters	\$0.00	\$0.00
Supreme Court hearing and appeal matters	\$2,464.40	\$0.00
District Court appeal matters	\$0.00	\$0.00
Consumer, Trader and Tenancy Tribunal matters	\$0.00	\$0.00
Local Court prosecution matters	\$0.00	\$0.00
Matters referred to Council's solicitor for legal advice	\$22,617.75	\$0.00
Miscellaneous costs not shown elsewhere in this table	\$0.00	\$0.00
Costs Sub-Total	\$179,259.42	\$25,600.00
<b>Overall Net Costs Total (GST exclusive)</b>	<b>\$153,659.42</b>	