

***Executive Summary***

Advice on Council Court proceedings for the period of 1 April – 30 April 2025 inclusive, is contained in this report.

**CURRENT LEGAL MATTERS STATISTICS – *April 2025* FINALISED LEGAL MATTERS STATISTICS – *April 2025***

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| **LAND AND ENVIRONMENT COURT** |  | **LAND AND ENVIRONMENT COURT** |  |
| Class 1 Appeals | 13 |  | Class 1 Appeals | 4 |
| Class 4 Appeals | 1 |  | Clas s 4 Appeals | 1 |

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| **LOCAL COURT** |  | **LOCAL COURT** |  |
| Council Prosecutions | 9 |  | Council Prosecutions | 2 |
| Civil Proceedings  | 322 |  | Civil Proceedings | 953 |

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| **DISTRICT COURT** |  | **DISTRICT COURT** |  |
| District Court Appeals | 1 |  | District Court Appeals | 0 |

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| **NCAT** |  | **NCAT** |  |
| Administrative Appeals | 1 |  | Administrative Appeals | 1 |

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| **SUPREME COURT** |  | **SUPREME COURT** |  |
| Supreme Court Proceedings | 3 |  | Supreme Court Proceedings | 0 |
| **NSW INDUSTRIAL RELATIONS COMMISSION** |  | **NSW INDUSTRIAL RELATIONS COMMISSION** |  |
| Industrial Relations Commission Proceedings | 0 |  | Industrial Relations Commission Proceedings | 0 |

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| **LAND AND ENVIRONMENT COURT PROCEEDINGS – Class 1 Appeals**  |  |

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| 1.
 | **Property Address:**  | 63 Wigram Street, Harris Park  | **Applicant:**  | Anandsingh Jhala t/as 9 Flavours |
| **Description:** | Appeal against the refusal of Development Application No. DA/742/2023 seeking approval for food and drink premises with associated signage including outdoor dining to operate from 11am to 12 midnight, Monday to Sunday |
| **Issues:** | Permissibility/Heritage |
| **Matter Status:** | Adjourned until **28 May 2025**  |  **Solicitors:** | Marsdens | **Proceedings No:**  | 2024/00329199 |
| **External experts:** | PlannerHeritage | **Internal experts:** | PlannerHeritage |  |  |
|  |   |  |  |
|  | **Property Address:**  | 183 Macquarie Street, Parramatta  | **Applicant:**  | Rapisarda Trust Pty Ltd Rapisarda Trust Pty Ltd |
| **Description:** | Appeal against the PLPP refusal of DA/837/2022 seeking approval for the construction of a 12-storey mixed use building containing ground floor retail/commercial space and 76 Co-Living rooms over one level of basement storage |
| **Issues:** | Site Suitability, Public Domain, Transport for NSW concurrence, site isolation, Amenity, Built Form and Accessibility |
| **Matter Status:** | Appeal is listed for hearing on **7-9 May 2025** |  **Solicitors:** | Sparke Helmore Lawyers  | **Proceedings No:**  | 2024/142854 |
| **External experts:** | Nil | **Internal experts:** | PlannerUrban DesignerAccessibility Officer |  |  |
|  |  |  |  |
|  | **Property Address:**  | 74 Keeler Street Carlingford | **Applicant:**  | Juanting Zeng  |
| **Description:** | Appeal against the PLPP’s deemed refusal of DA/317/2024 seeking approval for the Demolition, tree removal and construction of a five storey Co-Living Housing development comprising 43 rooms over basement parking. |
| **Issues:** | Objectives of R4 zone, Maximum Building Height, Bulk & Scale, Design & Character, Stormwater Management, Earthworks, Biodiversity, Accessibility, Waste and Site Consolidation |
| **Matter Status:** | Appeal is listed for hearing on **27 August 2025** |  **Solicitors:** | Pikes & Verekers | **Proceedings No:**  | 2024/281070 |
| **External experts:** | Nil | **Internal experts:** | PlannerLandscape OfficerUrban DesignerBiodiversity OfficerAccessibility OfficerDevelopment Engineer |  |  |
|  |  |  |  |
|  | **Property Address:**  | 36 Keeler Street, Carlingford | **Applicant:**  | Legend Australian Investment Pty Ltd |
| **Description:** | Appeal against the refusal of DAR/4/2024 in relation to the refusal of a Section 8.3 Review of the Determination of DA/1006/2022 for a Staged development comprising of Stage 1: Tree removal, boundary adjustment, retention of the existing dwelling and Torrens title subdivision into 2 lots; and Stage 2: Construction of a single storey attached dual occupancy development with Torrens title subdivision. |
| **Issues:** | Housing SEPP, Height, Flooding, Water Management/Stormwater, Built Form, Amenity, Accessibility, ESD. |
| **Matter Status:** | Appeal listed for hearing on **1 October 2025** |  **Solicitors:** | Pikes & Verekers | **Proceedings No:**  | 2024/281104 |
| **External experts:** | Nil | **Internal experts:** | Planner Landscape Officer Accessibility Officer  Engineer  Urban Design |  |  |
|   |  |  |  |
|  | **Property Address:**  | 212 Windsor Road, Winston Hills | **Applicant:**  | Urban Link Architects Pty Ltd |
| **Description:** | Appeal against the refusal of DAR/4/2024 in relation to the refusal of a Section 8.3 Review of the Determination of DA/1006/2022 for a Staged development comprising of Stage 1: Tree removal, boundary adjustment, retention of the existing dwelling and Torrens title subdivision into 2 lots; and Stage 2: Construction of a single storey attached dual occupancy development with Torrens title subdivision. |
| **Issues:** | Owners consent for easement/Lapsing of Appeal rights |
| **Matter Status:** | Judgement reserved on **8 May 2025**  |  **Solicitors:** | Pikes & Verekers | **Proceedings No:**  | 2024/316284 |
| **External experts:** | Nil | **Internal experts:** | Planner Engineer  |  |  |
|  |  |  |  |
|  | **Property Address:**  | 23-27 Dixon Street, Parramatta | **Applicant:**  | Z Boys Pty Ltd |
| **Description:** | Appeal against the deemed refusal of DA/238/2024 seeking approval for the demolition of all existing structures across three allotments, tree removal and construction of a three-storey, one hundred and twenty (120) place childcare centre with basement carparking and associated landscaping, and amalgamation of three lots |
| **Issues:** | Objectives of the Site, non-compliant, design principles for Child Cares, Urban Design, Landscape and Deep Soil, Public Domain, Water NSW. |
| **Matter Status:** | Judgment reserved on **13 March 2025** |  **Solicitors:** | Sparke Helmore Lawyers | **Proceedings No:**  | 2024/229702 |
| **External experts:** | N/A | **Internal experts:** | Planner Landscape OfficerAccessibility OfficerCatchment & Development Engineer | **Prospects:**  | Good  |
|   |  |  |  |
|  | **Property Address:**  | 99 Parramatta Road, Granville  | **Applicant:**  | Granville 101 Pty Ltd |
| **Description:** | Appeal against the deemed refusal of DA/183/2024 seeking approval for the construction of a mixed-use building comprising of commercial tenancies, hotel accommodation, a 125-place childcare facility and basement car park with 84 car parking spaces across two (2) basement levels |
| **Issues:** | Bulk & Scale, overshadowing, non-compliant indoor and outdoor play space, accessibility, flooding, stormwater, landscaping |
| **Matter Status:** | Judgement reserved on **24 March 2025** |  **Solicitors:** | Sparke Helmore Lawyers | **Proceedings No:**  | 2024/218377 |
| **External experts:** | N/A | **Internal experts:** | Planner Landscape Officer Accesibility officer Catchment and Development Engineer |  |  |
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|  | **Property Address:**  | 15A-15B Moseley Street and 25-31 Donald Street, Carlingford | **Applicant:**  | Captag Investments Pty Ltd ATF Captag Investments Trust |
| **Description:** | Appeal against the SCCPP deemed refusal of DA/222/2024 seeking approval of a Staged Development comprising Stage 1 - Demolition of existing buildings, tree removal and construction of a part 4/part 7 storey residential flat building comprising 46 units and a shared basement carpark; Stage 2 - construction of a 6- storey mixed use development comprising an 80 place centre based childcare centre and 45 residential units. A total of 22 residential units will be allocated for affordable housing in accordance with the requirements of the State Environmental Planning Policy (Housing) 2021. |
| **Issues:** | Urban design  |
| **Matter Status:** | Appeal listed for hearing on **23-24 June 2025**  |  **Solicitors:** | Sparke Helmore Lawyers  | **Proceedings No:**  | 2024/28881 |
| **External experts:** | N/A | **Internal experts:** | Planner |   |  |
|  |  |  |  |
|  | **Property Address:**  | 135 Victoria Road, North Parramatta | **Applicant:**  | J S Architects Pty Ltd |
| **Description:** | Appeal against the deemed delegated refusal of DA/330/2023 for demolition of the existing dwelling, tree removal and construction of a two-storey boarding house with basement parking and State Title Subdivision into 10 lots. |
| **Issues:** | Non-Compliance with Housing SEPP, Transport for NSW concurrence, Stormwater |
| **Matter Status:** | Judgment reserved on **25 March 2025** |
| **External experts:** | Geotechnical Expert  | **Internal experts:** | Planner Development Engineer Traffic Engineer Urban Designer  |  |  |
|  |  |  |  |
|  | **Property Address:**  | 1-17 Grey Street & 32-48 Silverwater Road, Silverwater | **Applicant:**  | CK Design |
| **Description:** | Appeal against the SCCPP’s Refusal of DA/737/2022 seeking consent for the demolition of existing structures and the construction of a mixed-use development comprised of retail premises, business/office premises, neighborhood shops, a pub and a childcare centre, over two levels of basement parking. |
| **Issues:** | Height/FSR/contamination/air quality/site suitability for childcare guidelines |
| **Matter Status:** | Hearing on **8-9 May 2025** |  **Solicitors:** | Marsdens Law Group | **Proceedings No:**  | 2024/0006681 |
| **External experts:** | Andrew Norris (Contamination) Jane Barnette (Air Quality) | **Internal experts:** | Planner |  |   |
|  |  |  |  |
|  | **Property Address:**  | 6 Hammers Road, Northmead | **Applicant:**  | Charlie Baissari  |
| **Description:** | Appeal against the refusal of DA/101/2024 seeking approval for the retention of the existing heritage listed building, removal of trees and construction of additional buildings to be used as a 110-place centre based childcare centre over basement parking. The site is a local heritage item (I412) under the provisions of the Parramatta Local Environmental Plan 2023.  |
| **Issues:** | Heritage/Bulk & Scale/Local Character/Landscaping/Stormwater management/Visual & Acoustic Impact/Traffic & Parking |
| **Matter Status:** | S34 Conference on **14 August 2025**  |  **Solicitors:** | Marsdens Law Group | **Proceedings No:**  | 2025/00088338 |
| **External experts:** | Stephen McMahon (Planner) Vanessa Holtham (Heritage) | **Internal experts:** | PlannerTraffic EngineerUrban Designer Landscape Officer Development Engineer |  |  |
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|  | **Property Address:**  | 21A Tucks Road, Toongabbie | **Applicant:**  | Touma Family Super Fund Pty Limited |
| **Description:** | Appeal against the deemed refusal of DA/628/2024 seeking approval for the demolition of all existing structures and Torrens title subdivision of one (1) lot into eight (8) lots. |
| **Issues:** | Flooding |
| **Matter Status:** | S34 Conference on **15 July 2025**  |  **Solicitors:** | Pikes & Verekers Lawyers | **Proceedings No:**  | 2025/00088505 |
| **External experts:** | Anthony Barthelmess (Flooding)  | **Internal experts:** | PlannerCatchment EngineerLandscape OfficeR |  |  |
|  |  |  |  |
|  | **Property Address:**  | 13 Cowells Lane, Ermington | **Applicant:**  | Paul Tohme |
| **Description:** | Appeal against the Parramatta Local Planning Panel's refusal of DA/22/2024 seeking approval for the demolition of existing structures, tree removal and construction of a two storey 76 place centre based child care facility with basement parking for 19 vehicles |
| **Issues:** |  |
| **Matter Status:** | S34 Conference on **15 July 2025**  |  **Solicitors:** | Sparke Helmore Lawyers | **Proceedings No:**  | 2025/00101411 |
| **External experts:** | N/A | **Internal experts:** | PlannerLandscape Officer Traffic Engineer Development Engineer  |  |  |
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| **LAND AND ENVIRONMENT COURT PROCEEDINGS – Class 4 Appeals**  |   |

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|  | **Property Address:**  | 40 Greens Avenue, Oatlands  | **Applicants:**  | Natalie Najaibie Ellie Abi-Khattar and John Paul Abi-Khattar    |
| **Description:** | Appeal seeks a declaration from the Court that development was carried out on land in contravention of development consent DA/563/2018  |
| **Issues:** | Development not carried out in line with development consent  |
| **Matter Status:** | Directions hearing on **26 September 2025**   |  **Solicitors:** | Sparke Helmore Lawyers | **Proceedings No:**  | 2024/244872 |
| **External experts:** | Nil | **Internal experts:** | TBA |  |  |
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| **LOCAL COURT – COUNCIL PROSECUTIONS**  |
|  | **Property Address:**  | 94 Wigram Street, Harris Park  | **Applicant:**  | Ginger Indian Restaurant  |
| **Description:** | Penalty Notice – Court Elected Development without development consent – any other case – corporation  |
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| **Matter Status:** | Hearing on 13 May 2025  |  **Solicitors:** | Sparke Helmore Lawyers  |  |  |
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|  | **Property Address:**  | 3-5 Bridge Street, Rydalmere  | **Applicant:**  | Rydalmere Prestige Smash Repairs Pty Ltd  |
| **Description:** | Penalty Notice – Court Elected Development not accord consent – any other case  |
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| **Matter Status:** | Mention on 23 June 2025  |  **Solicitors:** | Sparke Helmore Lawyers  |  |  |
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|  | **Property Address:**  | 14 Sussex Street, Epping  | **Applicant:**  | P G Binet Pty Ltd  |
| **Description:** | Penalty Notice – Court Elected Pollute Waters – first offence  |
|  |  |
| **Matter Status:** | Mention on 23 July 2025  |  **Solicitors:** | Matthews Folbigg Solicitors  |  |  |
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|  | **Property Address:**  | 65 Wigram Street, Harris Park  | **Applicant:**  | Singh, Habir  |
| **Description:** | Penalty Notice – Court Elected Fail to comply with terms of development control order  |
|  |  |
| **Matter Status:** | Hearing on 29 May 2025 |  **Solicitors:** | Sparke Helmore Lawyers  |  |  |
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|  | **Property Address:**  | 43 Donald Street, Carlingford  | **Applicant:**  | BCJ Pty Ltd  |
| **Description:** | Penalty Notice – Court Elected Neglect/fail to comply with requirement under Chapter 7 of the Act (investigation) – corporation  |
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| **Matter Status:** | Mention on 17 June 2025  |  **Solicitors:** | Sparke Helmore Lawyers  |  |  |
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|  | **Property Address:**  | 77 Wigram Street, Harris Park  | **Applicant:**  | SRP Enterprises Pty Ltd  |
| **Description:** | Penalty Notice – Court Elected Development without development consent – any other case  |
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| **Matter Status:** | Hearing on 19 May 2025  |  **Solicitors:** | Sparke Helmore Lawyers  |  |  |
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|  | **Property Address:**  | 37 Hume Avenue, Ermington  | **Applicant:**  | Beechwood Homes (NSW) Pty Ltd  |
| **Description:** | Penalty Notice – Court Elected Pollute Waters  |
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| **Matter Status:** | Hearing on 16 May 2025  |  **Solicitors:** | Sparke Helmore Lawyers  |  |  |
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|  | **Property Address:**  | 30 Donald Street, Carlingford  | **Applicant:**  | BCJ Pty Ltd  |
| **Description:** | Penalty Notice – Court Elected Not complying with requirement under Chapter 7  |
|  |  |
| **Matter Status:** | Mention on 17 June 2025  |  **Solicitors:** | In-House  |  |  |
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|  | **Property Address:**  | 29 Eleanore Street, Rosehill | **Applicant:**  | Li Bo |
| **Description:** | Penalty Notice – Court Elected Development not in accordance with Development Consent |
|  |  |
| **Matter Status:** | Hearing on 12 May 2025  |  **Solicitors:** | Sparke Helmore Lawyers  |  |  |
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| **LOCAL COURT – CIVIL PROCEEDINGS**  |
| **Debt recovery matters** |  |  |  |

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| **DISTRICT COURT** |
|  | **Property Address:**  | Freemasons Arms Lane (8 Phillip Street, Parramatta) | **Applicant:**  | MN Builders Pty Ltd  |
| **Description:** | Debt recovery proceedings in the amount of $161,460 |
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| **Matter Status:** | Directions hearing on **8 May 2025**  |  **Solicitors:** | Executive Collections Legal Services | **Proceedings No:**  | 2023/00232859 |
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| **NSW CIVIL AND ADMINISTRATIVE TRIBUNAL (NCAT)** |
|  | **Property Address:**  | N/A | **Applicant:**  | Franz Boensch |
| **Description:** | Appeal of the decision under Public Spaces (Unattended Property) Act 2021 |
| **Matter Status:** | Decision reserved | **Solicitors:** | Matthews Folbigg | **Proceedings No:**  | 2024/00210974 |
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| **SUPREME COURT**  |
|  | **Property Address:**  | N/A | **Applicant:**  | The Owners – Strata Plan 102896 |
| **First Defendant:**  | City of Parramatta Council |  **Second Defendant:**  | PCC Devco 1 Pty Ltd |
| **Description:** | Claim against Council as the developer under s18 Home Building Act |
| **Matter Status:** | Directions hearing on **25 July 2025**  | **Solicitors:** | HWL Ebsworth |  |  |
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|  | **Property Address:**  | 14-16 Hill Road, Wentworth Point | **Applicant:**  | City of Parramatta Council |
| **First Defendant:**  | Transport for NSW |  **Second Defendant:**  | Valuer-General of NSW |
| **Description:** | Judicial review application on valuation of land |
| **Matter Status:** | Hearing listed for **29-30 July 2025** | **Solicitors:** | Allens Linklaters |  |  |
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|  | **Property Address:**  | N/A | **Applicant:**  | Councillor Kellie Darley |
| **First Defendant:**  | City of Parramatta Council |  **Second Defendant:**  | Phil O’Toole |
| **Description:** | Judicial review application |
| **Matter Status:** | Hearing listed for **29 May 2025** | **Solicitors:** | HWL Ebsworth |  |  |
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**FINALISED MATTERS**

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| **LAND AND ENVIRONMENT COURT PROCEEDINGS – Class 1 Appeals** |
|  | **Property Address:**  | 35 Surrey Street, Epping | **Applicant:**  | Sam Patrick Calleija  |
| **Description:** | Appeal against the refusal ofDevelopment Application No. DA/655/2023 for the Torrens title subdivision of the land into two lots and D associated civil works |
| **Issues:** | Owners consent, stormwater management, residential subdivision |
| **Matter Status:** | Proceedings have been finalised – appeal upheld  |  **Solicitors:** | Marsdens | **Proceedings No:**  | 2024/00329199 |
| **External experts:** | NIL | **Internal experts:** | PlannerEngineer |  |  |
|  |  |  |  |
|  | **Property Address:**  | 132 Victoria Road, Rydalmere  | **Applicant:**  | J S Architects Pty Ltd |
| **Description:** | Appeal against the refusal of DA/210/2023 for demolition and construction of a 7- storey mixed use development to be comprised of 3 retail tenancies and 45 residential apartments, including affordable apartments, over 3 levels of basement parking. The application is made pursuant to the State Environmental Planning Policy (Housing) 2021. The development is Nominated Integrated pursuant to the Water Management Act 2000. |
| **Issues:** | Height/FSR/Design Quality/landscaping/ ground water/geotechnical impacts of excavation |
| **Matter Status:** | Proceedings have been finalised – appeal upheld  |  **Solicitors:** | Marsdens | **Proceedings No:**  | 2023/200193 |
| **External experts:** | Hydraulic and geotechnical engineering - Dr Daniel Martens | **Internal experts:** | Planner Landscape Officer Urban Designer |  |  |
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|  | **Property Address:**  | 2 Shaft Street, Silverwater | **Applicant:**  | Haralambis Construction Pty Ltd |
| **Description:** | Appeal against TA/2/2025 for the removal of forty-eight (48) trees |
| **Issues:** | Landscaping |
| **Matter Status:** | Proceedings have been finalised  |  **Solicitors:** | Pikes & Verekers Lawyers | **Proceedings No:**  | 2025/00042729 |
| **External experts:** | N/A | **Internal experts:** | Landscape officer |  |  |
|  |  |  |  |
|  | **Property Address:**  | 15 & 29 and Carter Street, Lidcombe | **Applicant:**  | Australia YMCI Pty Ltd |
| **Description:** | Appeal against the imposition of conditions on development consent DA/965/2022 which approved a 3 lot Torrens Title subdivision, bulk earthworks, remediation works, site infrastructure works including construction of a new road, utility services, drainage works and works to create a future public open space. |
| **Issues:** | Validity and modification of conditions  |
| **Matter Status:** | Appeal upheld  |  **Solicitors:** | Holding Redlich  | **Proceedings No:**  | 2024/121594 |
| **External experts:** | TBA | **Internal experts:** | Planner Civil Engineer  |   |  |
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| **LAND AND ENVIRONMENT COURT PROCEEDINGS – Class 4 Appeals**  |   |

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| 1. **.**
 | **Property Address:**  | 4 Rosen Street, Epping  | **Applicants:**  | Kerry Craddock     |
| **Description:** | Failure to comply with removal order  |
| **Issues:** | Removal orders  |
| **Matter Status:** | Proceedings have been finalised  |  **Solicitors:** | Sparke Helmore Lawyers | **Proceedings No:**  | 2024/002667318 |
| **External experts:** | Nil | **Internal experts:** | TBA |   |  |
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| **LOCAL COURT – COUNCIL PROSECUTIONS**  |
|  | **Property Address:**  | N/A | **Applicant:**  | Adan James May  |
| **Description:** | Penalty Notice – Court Elected Parked in loading zone  |
|  |  |
| **Matter Status:** | Guilty |  **Solicitors:** | Police Prosecutor  |  |  |
| **Fee Estimates:**  | N/A  | **Costs to date:**  | $Nil **Prospects:** Good |
|  | **Property Address:**  | 24 Hinkler Street, Ermington  | **Applicant:**  | SSPN Pty Ltd  |
| **Description:** | Penalty Notice – Court Elected Development not accord consent – class 1a/10 building  |
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| **Matter Status:** | Withdrawn  |  **Solicitors:** | Matthews Folbigg Solicitors  |  |  |
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| **NSW CIVIL AND ADMINISTRATIVE TRIBUNAL (NCAT)** |
|  | **Property Address:**  | N/A | **Applicant:**  | Councillor Kellie Darley |
| **Description:** | Application under the Government Information (Public Access) Act 2009 (NSW) |
| **Matter Status:** | Hearing dates on 31 July, 14 November and 31 December 2024 Decision received on 16 April 2025 | **Solicitors:** | Sparke Helmore Lawyers  |  |  |
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**LEGAL SERVICES BUDGET**

The Legal Services budget, which funds the legal and consultant fees referred to above, is currently:

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| --- | --- | --- | --- | --- |
|  | **For April 2025** | **FY25 – YTD**  | **Full year budget** |  |
| **Category** | **April Actual** | **April Budget** | **April variance (Actual – Budget)** | **YTD Actual** | **YTD Budget** | **YTD variance (Actual – Budget)** |  | **Comments (FY25)** |
| Legal – Planning & Development | 77,914 | 60,791 | (17,123) | 438,467 | 465,047 | 26,580 | 750,000 |  |
| Legal – Other Services | 135,771  | 36,843 | 98,928 | 1,363,352 | 1,126,105 | (237,247) | 1,102,130 |  |
| Total Legal Fees (CoP) | 213,685 | 97,634 | 116,051 | 1,801,819 | 1,591,819 | (210,667) | 1,852,130 |  |

**Win/Loss Record**

Please note the below relates to Class 1 appeals and Council prosecutions (Local Court and Class 4 proceedings) only. The total case number only relates to matters determined by the Court in that financial year and does not relate the actual number of Land and Environment Court/Local Court matters received in that financial year. For Class 1 appeals, the Wins record includes appeals resolved as a result of a section 34 conciliated agreement being entered into between the parties due to the Applicant amending their application to resolve the issues the subject of the appeal.

**Land and Environment Court – Class 1 Appeals**

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| --- | --- | --- | --- | --- |
| **Financial Year** | **Total Cases** | **Wins** | **Losses** | **Comments** |
| 23/24 | 34 | 24 | 3 | Eighteen (18) of the appeals won were subject to s34 agreements with amended documents. |
| 24/25 | 25 | 25 | 0 | Twenty-two (22) of the appeals were subject to s34 agreements with amended documents and the other three were dismissed.  |

**Land and Environment Court – Class 4 Prosecutions**

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| --- | --- | --- | --- |
| **Financial Year** | **Total Cases** | **Wins** | **Losses** |
| 23/24 | 1 | 1 | 0 |
| 24/25 | 0 | 0 | 0 |

**Local Court Prosecutions**

|  |  |  |  |
| --- | --- | --- | --- |
| **Financial Year** | **Total Cases** | **Wins** | **Losses** |
| 23/24 | 26 | 16 | 3 |
| 24/25 | 24 | 22 | 2 |

**Definitions and notes:**

* A section 34 conciliation conference is presided over by a Commissioner of the Land and Environment Court and explores options for the parties to resolve the appeal or narrow the issues.
* Section 34AA proceedings provides a fast appeal system for a limited range of residential development, which is presided over by a Commissioner of the Land and Environmental Court. If the parties do not reach an agreement onsite, the Commissioner will make a determination at a hearing.
* A section 56A appeal may be made to a judge against a Commissioner’s decision but this can only be a point of law and not about the merits of the development.
* Court elected means that the recipient of a Penalty Infringement Notice (PIN) issued by Council officers for breach of the law elects that the Local Court determine the alleged offence and the amount of fine, if any.
* Prospects’ advice is given on the basis of the evidence at the time the opinion is provided. Litigation is a highly uncertain activity, so “good” or “fair” prospects advice does not mean there is certainty in an outcome favorable to Council, just that Council is likely to be successful based on legal advice. For planning matters (Class 1 development application appeals) matters, where a legal matter state there are “good prospects” it means that Council is confident in its decision to decline a development application based on legal advice, but this may vary over time as the applicant amends plans and issues raised by Council are appropriately addressed. For regulatory (Local Court) matters, Council will generally not proceed with a penalty notice unless Council has legal advice that it has “good prospects” of a successful outcome, otherwise Council will withdraw the penalty notice. For other ongoing litigated matters, as litigation is inherently uncertain, prospects may change as a matter progresses, given that proceedings can take between 6 to 18 months to get to a final hearing and judgment. Prospects are generally described as “fair”. If a legal matter has poor prospects of success, then Council will attempt to resolve the matter as soon as possible.
* A Fee Estimate is the total fees estimated to be incurred, from the commencement of the appeal until the conclusion of a final judgement. This estimate is set by Council’s external lawyers and any external experts required to be briefed.
* Appeals to the District Court may be made against the severity of penalty imposed by Local Court magistrate in response to Court Elected Penalty Infringement Notices or in relation to civil proceedings against Council. For example, civil liability proceedings that are managed by Council’s insurers.
* NSW Civil and Administrative Tribunal (NCAT) matters are proceedings involving administrative reviews in relation to the actions of Council.
* A judicial review appeal may be made to the Land and Environment Court seeking a declaration that a development consent issued by the Council is invalid.
* Local Court civil proceedings generally relate to debt recovery matters where Council is pursuing unpaid rates.