



PART 8 Legal

8.1 Legal Proceedings

Local Government Act 1993 Section 428(2)(e)

The following schedule provides details of legal costs associated with proceeding during the reporting period 1 July 2010 to 30 June 2011.

Nature of proceedings		Proceedings commenced in reporting period	Legal costs expended in reporting period (\$)		Legal costs recovered in reporting period (\$)
A.	Land and Environment Court Applications, Supreme Court appeals from Land and Environment Court decisions and Supreme Court Costs Applications		Matters settled in reporting period	161,113	15,000
			Matters current as at 30/06/2011	512,985	0
			Matters settled prior to 30/06/2010 for which costs incurred/recovered during reporting period	7,482	1,360
Sub-Totals			681,580	16,300	
B.	Local Court Prosecutions and Penalty Infringement Notices matters, and appeals from Local Court decisions		Matters settled in reporting Period	53,332	0
			Matters current as at 30/06/2011	0	0
			Matters settled prior to 30/06/2010 for which costs incurred/recovered during reporting period	0	0
Sub-Totals			53,332	0	
Totals			734,912	16,300	
Nett Legal Costs Expenditure on Court Proceedings in 2010/11*					718,612

* Insurance matters not included eg workers compensation, professional and public liability claims.

A. Land and Environment Court Applications, Supreme Court Appeals from Land and Environment Court Matters and Supreme Court Costs Applications

20 matters were finalised during the reporting period, all of which were matters commenced against Council.

Methods of finalisation during reporting period of matters commenced against Council	
Upheld (Appeal allowed by Court) on original application	0
Upheld (Appeal allowed by Court) after application amended	1
Consent Orders on original application	3
Consent Orders after application amended	5
Dismissed (Appeal disallowed by Court)	0
Discontinued (Appeal withdrawn by Applicant)	11

Matters settled 1 July 2010 to 30 June 2011					
Name	Details	Address/Type	Court File No	Expenditure 2010/11	Status as at 30 June 11
Archimages Architecture	Class 1 Appeal against conditions of DA 10.2008.707.1	Milton Street, Byron Bay	10327/2010	11,893	Consent Orders following Amended Application
Bayview Land Develop. P/L	Class 1 Appeal against deemed refusal of Construction Certificate 11.2009.314.1	Coral Avenue, Mullumbimby	10850/2009	1,224	Discontinued
Byron Bay Beach Hotel Properties Pty Ltd	Class 1 Appeal against consent condition of DA 10.2009.212.1	Bay Street, Byron Bay	10314/2010	11,018	Consent Orders following Amended Application
Carter & Alvarez	Class 1 Appeal against deemed refusal of DA 10.2010.534.1	North Head Road, New Brighton	10240/2011	1,031	Discontinued
Davis	Class 1 Appeal against deemed refusal of DA 10.2010.79.1	Main Arm Road, Main Arm	10455/2010	Nil	Discontinued
East Coast Blues and Roots Festival	Class 1 appeal against deemed refusal of s96 Application 10.2008.352.12	Pacific Highway, Tyagarah	11047/2010	Nil	Discontinued
McCulloch	Class 1 Appeal against refusal of DA 10.2009.228.1	Mullumbimbi Street, Brunswick Heads	10367/2010	Nil	Discontinued
Montgomery	Class 1 Appeal against refusal DA 10.2009.297.1	Park Street, New Brighton	10600/2010	8,359	Consent Orders
Musu	Class 1 Appeal against refusal s96 application 10.2000.368.2	Marvel Street, Byron Bay	11031/2010	13,309	Consent Orders

Matters settled 1 July 2010 to 30 June 2011					
Name	Details	Address/Type	Court File No	Expenditure 2010/11	Status as at 30 June 11
Optus	Class 1 Appeal against deemed refusal of DA 10.2009.300	Coolamon Scenic Drive, Mullumbimby	10859/2010	Nil	Discontinued
ReGenesis Village Pty Ltd	Class 1 Appeal against deemed refusal of DA 10.2009.220.1	Main Arm and Blindmouth Roads, Main Arm	10454/2010	Nil	Discontinued
SJ Connelly	Class 1 Appeal against deemed refusal of DA 10.2009.314.4	Coral Avenue, Mullumbimby	10710/2009	10,377	Upheld following Amended Application
SJ Connelly	Class 1 Appeal against refusal DA 10.2011.19.1	Corral Avenue, Mullumbimby	10262/2011	2,333	Discontinued
Stoneman	Class 1 Appeal against conditions of approval DA 10.2010.353.1	Risleys Hill Road, Federal	10110/2011	5,075	Consent Orders
Telezi	Class 1 Appeal against consent conditions DA 10.2008.191.1	Milton and Wentworth Streets, Byron Bay	10694/2009	10,439	Consent Orders following Amended Application
The Rising Damp Corporation Pty Ltd	Class 1 Appeal against Orders issued under the Environmental Planning & Assessment Act	Newes Road, Coorabell	10803/10	1,860	Discontinued
The Rising Damp Corporation Pty Ltd	Class 2 Appeal against Orders issued under the Local Government Act	Newes Road, Coorabell	20805/10		Discontinued
White	Class 1 Appeal against consent conditions DA 10.2009.610.1	Browns Crescent, McLeods Shoot	10519/2010	14,525	Consent Orders following Amended Application
Whyte Holdings (Aust) Pty Ltd	Class 1 Appeal against conditions DA 10.2009.514.1	Byron Street, Bangalow	10272/2011	807	Discontinued
Williams	Class 1 Appeal against refusal of s96 Application 10.2005.688.3	Skinners Shoot Road, Skinners Shoot	10988/2010	8,500	Consent Orders following Amended Application

Matters current as at 30 June 2011					
Matter	Brief description of matter	Address	Court File No	Expenditure 2010/11	Status as at 30 June 11
Azzura Holdings	Class 1 Appeal against deemed refusal & then against conditions 10.2010.639.1	Jonson Street, Byron Bay	10331/2011	Nil	Consent Orders
Freedman	Class 1 Appeal against Orders issued under the Environmental Planning & Assessment Act	Beach Road, Broken Head	10345/2011	2,583	Current

Matters current as at 30 June 2011					
Matter	Brief description of matter	Address	Court File No	Expenditure 2010/11	Status as at 30 June 11
Ralph Lauren 57 Pty Ltd & Ors	Class 4 Appeal injunction seeking order to repair & maintain geobag revetment as per DA 10.2001.403.1	Border & Don Streets, Belongil	40184/2010	366,907	Current
Ralph Lauren 57 Pty Ltd & Ors	Class 4 Appeal seeking declaration that draft Coastal Zone Management Plan is void	Belongil	40068/2011	79,140	Current
Ralph Lauren 57 Pty Ltd & Ors	Class 4 Appeal seeking declaration that Minister's direction is invalid	Belongil	40167/2011		Current
Ventlink Pty Ltd	Class 1 Appeal against conditions of consent DA 10.2005.733.2	Lawson Street, Byron Bay	10786/2010	64,355	Current

Matters settled in previous reporting periods but which costs were paid in this reporting period					
Name	Brief description of matter	Address	Court No	Expenditure 2010/11	Status as at 30 June 11
Fabcot Pty Ltd	Class 2 Appeal against determination by Council to refuse 70.2009.1032.1 (OSSMS)	Station Street, Mullumbimby	20491/2009	118	Finalised 2009/10
EJ Hutton	Costs recovery	NA	40262/02	-1,270.00	Costs recovery ongoing
Lonergan	Class 1 Appeal against refusal of DA 10.2007.798.1	40 Corkwood Crescent, Suffolk Park	10566/2009	88	Finalised 2009/10
Lonergan/ Coffrey	Outstanding costs	NA	10450/2002	225	Costs recovery finalised 2010/11
Vaughan	Class 4 Application for an Injunction against unauthorised works	Manfred Street, Belongil	49344/2009	6,961	Finalised 2008/09
Vaughan	Class 4 Application seeking Mandatory Orders to carry out interim protection works	Manfred Street, Belongil	49342/2009		Finalised 2008/09

B. Local Court Prosecutions and Appeals Against Penalty Notices, Including Appeals to Superior Courts From Local Court Decisions

27 matters were finalised during the reporting period. Of these, 4 matters were commenced by Council and 23 matters were commenced against Council.

Finalisation of matters commenced by Council during reporting period		Finalisation of matters commenced against Council during reporting period	
Conviction	3	Upheld (Section 10 Crimes Sentencing Act)	2
Dismissed	1	Conviction	12
Discontinued	0	Dismissed	2
Consent Orders	0	Annulled	0
		Discontinued (withdrawn by appellant)	7
		Consent Orders	0

Matters settled 1 July 2010 to 30 June 2011					
Name	Brief description of matter	Address/Type	Court No	Expenditure 2010/11	Status as at 30 June 11
Comprehensive Fitness Solutions Pty Ltd (Byron Gym)	Fail to comply with a Prevention Notice	132-138 Jonson Street, Byron Bay		\$0	Convicted, order to take remedial action and ordered to pay \$10,000
Fletcher	Class 6 Appeal against conviction and sentence in local court	Raywards Lane, Skinners Shoot	60003/2010	45,363	Discontinued
Fletcher	Class 6 Appeal against conviction and fine in local court/breach of tree preservation order	Raywards Lane, Skinners Shoot	60004/2010		Discontinued
Jade Booth	Appeal against dangerous dog declaration	443 Goonengerry Road, Goonengerry		\$0	Appeal withdrawn
Uki Holdings Pty Ltd	Development without consent	Middle Pocket Road, Middle Pocket		\$4,263	Dismissed
Rawcorp Pty Ltd	Development without consent	59 Shirley Street, Byron Bay		\$0	Convicted and fined \$1,500
James Mills	Development without consent (junkyard)	99 Coral Avenue, Mullumbimby		\$3,500	Convicted and fined \$3,500
Sunder	Parking			\$0	\$10 Proved and dismissed
Wright	Parking			\$0	Convicted and fined \$86
Bushell	Parking			\$0	Convicted and fined \$86
Edney	Parking			\$0	Convicted and fined \$86
Joris	Parking			\$0	Convicted and fined \$50

Matters settled 1 July 2010 to 30 June 2011

Name	Brief description of matter	Address/Type	Court No	Expenditure 2010/11	Status as at 30 June 11
Leggett	Parking			\$0	S10 1a proved and dismissed
Payne	Parking			\$0	Convicted and fined \$86
Doherty	Parking			\$0	Withdrawn
Campbell	Parking			\$0	Withdrawn
Sakes	Parking			\$206	Withdrawn
Oliver	Parking			\$0	Withdrawn
Fernandez	Parking			\$0	Dismissed
Bushell	Parking			\$0	Convicted and fined \$86
Wright	Parking			\$0	Convicted and fined \$86
Joris	Parking			\$0	Convicted and fined \$50
Kiehl	Parking			\$0	Convicted and fined \$80
Shanahan	Parking			\$0	Convicted and fined \$84
French	Parking			\$0	Convicted and fined \$50
Wood	Parking			\$0	Dismissed
Laureau	Parking			\$0	Convicted and fined \$84

Matters settled 1 July 2010 to 30 June 2011

Matter	Brief description of matter	Address	Court No	Expenditure 2010/11	Status as at 30 June 11
Slee	Front to Kerb			\$0	Current
Kim	No Ticket			\$0	Current
Kolcze	No Stopping			\$0	Current
Stein	Excess Time			\$0	Current
Cossa	Dog			\$0	Current
Rosati	Place thing on road			\$0	Current
Kaauind	No stopping			\$0	Current
Kaauind	Parking			\$0	Current
McNaught	Parking			\$0	Current
Saks	Disregard traffic controller			\$0	Current

Matters settled 1 July 2010 to 30 June 2011

Matter	Brief description of matter	Address	Court No	Expenditure 2010/11	Status as at 30 June 11
Nil					