

PLANNING & ENVIRONMENT COMMITTEE 8 SEPTEMBER 2010	5
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COMPENSATION CLAIMS & APPEALS – AUGUST 2010

Simon Clarke : 1/59/2 : #2665643 v2

RECOMMENDATION:

1. That the report on the Compensation Claims & Appeals for August 2010 be received and noted.
 2. Council resolves that it is satisfied that the services of a barrister and consultants to act for Council in The Appeals are of such a confidential nature that it would be impractical or disadvantageous to the Council to invite quotations and will proceed to procure these services utilising the provisions outlined in Section 184 (b) Local Government (Finance, Plans & Reporting) Regulations 2010.
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Simon Clarke
Manager Development Assessment

**APPEALS / OTHER MATTERS
AS AT 1/9/2010**

Description	Applicant	Comment	Solicitor
Supreme Court Appeal No. 26 of 2000	Middin Pty Ltd	Council has resolved to withdraw from the proceedings. Awaiting response from Applicant.	MacDonnells
Appeal No 322 of 2007 (8/30/81)	Stephen Tognolini	Reconfiguration of Rural Land at Redlynch Intake Road, Redlynch. Final Court Ordered conditions being negotiated.	King & Company
Appeal No 331 of 2008	Buchan Point Pty Ltd	Col Cummings Drive, Buchan Point – Applicant appeal against Council's refusal to extend currency period for houses. Appeal on hold, pending lodgement/assessment of 4 house applications under current requirements. New Applications 8/7/1771; 8/7/1772; 8/7/1773; 8/7/1774 lodged late 2009. These are in Decision Period, but deferred pending applicant addressing matters of concern.	King & Company
Appeal No. 3105 of 2008	Wroxall Investments Pty Ltd	Oasis Drive, Wonga Beach – Appeal against Council's refusal of lot reconfiguration. Appeal heard 25–27 August 2010. Judgement pending.	King & Company
Appeal No. 158 of 2009, Appeal No. 167 of 2009, Appeal No. BD1671 of 2009, Appeal No. BD1999 of 2009	Johnston, Herkess, Karowa Pty Ltd, Trinity Park Investments Pty Ltd & Capital Globe Investments Pty Ltd	Clifton Beach Shopping Village – Notice of Appeal received from Council on 21/7/09. By letter dated 8/6/10, Emanate Legal (on behalf of Trinity Park & Capital Globe) notified all parties of its client's intention to withdraw from being a Co-Respondent by Election to this appeal. The appeals were reviewed on 16/8/10, at which time new directions orders were sought. The new orders require the other parties to notify of the conditions and grounds of appeal that they contend remain in dispute. It is expected a mediation before the P & E Court Registrar will occur in Cairns in early Sept 2010. The appeals are also scheduled for review on 7/9/10 to ascertain further steps, if not resolved by the parties prior to this time.	MacDonnells

Appeal No. 185 of 2009 (8/8/994)	Redlynch Estate Pty Ltd	Jenkins Access and Redlynch Intake Road, Redlynch – Applicant appeal against Council's refusal to approve a Preliminary Approval Overriding the Planning Scheme to adopt Use Rights Associated with the Res 2 Local Centre & Open Space Planning Areas in the Rural Planning Area. Need & planning matters remain the only outstanding points of disagreement in the appeal. Experts continue to 'conclave' these matters.	King & Company
Appeal No. 234 of 2009 (8/8/939)	AM & AG Mann	Submitter Appeal against Council approval of extension to PNQ Quarry at Brinsmead Kamerunga Rd, Barron. Mediation convened by P&E Registrar on 2/06/10. Parties agreed to settle the appeal subject to inclusion of additional conditions regarding finished filling levels not exceed original levels & additional & supplementary landscaping.	King & Company
Appeal No 253 of 2009 (8/30/92)	Kingfisher Investments Pty Ltd	Applicant appeal lodged against Council's Decision to refuse a Lot Reconfiguration application. External witness appointed to defend the refusal. Mediation with P&E Registrar held 29 July 2010. Agreement not reached primarily on Town Planning and Environmental grounds – Trial likely to proceed late November /Early December.	King & Company
Appeal No. 268 of 2009 (8/7/1685)	DS & C Moeser	101-103 Panguna Street, Trinity Beach – Notice of Appeal Lodged 2/11/09. Applicant appeal against Council's decision to grant a Preliminary Approval for a Shed. Directions Order 10/2/10. Traffic Engineers to provide further input. Recommendation to settle the appeal subject to condition to be presented to Council 11 August 2010. Final sealed Order issued 16 August 2010.	King & Company

Appeal No 389 of 2009 (8/13/1189)	McLeod	96-98 Cinderella St, Machans Beach – Notice of Appeal Lodged. Applicant appeal against Council's refusal of an application for Lot Reconf. Appeals adjourned to 16 August to allow experts to finalise their joint meeting of issues in dispute.	King & Company
Appeal No 390 of 2009 (8/13/1228)	Emery	259 – 263 O'Shea Esplanade, Machans Beach Williams Esplanade, Palm Cove – Notice of Appeal Lodged. Applicant appeal against Council's refusal of an application for Lot Reconf. Appeals adjourned to 16 August to allow experts to finalise their joint meeting of issues in dispute.	King & Company
Appeal No. 856 of 2009 (8/13/1334)	Pregno Family Investments Pty Ltd	(ROL 1) Dalla Costa, Swallow, Richards, Carne Access and Thomson Road, Edmonton – Applicant Appeal against Council's Preliminary Approval. 'Without prejudice' discussion between CRC & Pregno have commenced with the view to settling the appeals north of Blackfellows Creek.	King & Company
Appeal No 1056 of 2009	Houston v's Chief Executive of Department of Infrastructure & Planning	Silver Ash & Kauri Road, Cow Bay – Appeal against the Douglas Shire Iconic Places Panel's refusal of a House in the Rainforest Conservation Precinct. Court directed mediation conducted November 2009 to detail a process that may provide an opportunity to settle the appeal. Council officers waiting on geotechnical report from applicant prior to reporting to Council.	King & Company
Appeal No. 1190 of 2009 (8/13/1335)	Pregno Family Investments Pty Ltd	(ROL A) 2L & 8L Thomson Road, Edmonton – Applicant Appeal against Refusal of Lot Reconfiguration. Appeal progressing via timetable directed by Court.	King & Company
Appeal No. 1298 of 2009 (8/8/979)	Pregno Family Investments Pty Ltd	(MCU D) Dalla Costa, Swallow, Richards, Carne Access and Thomson Road, Edmonton – Applicant Appeal against Council's Preliminary Approval. External experts appointed. Appeal progressing via timetable directed by Court.	King & Company

Appeal No. 1316 of 2009 (8/8/976)	Pregno Family Investments Pty Ltd	(MCUA) 2L Thomson Rd, Edmonton – Applicant Appeal against Refusal of Mixed Use Homemaker Centre, incl Bus, Fac., Business & Tech. Park, Display Facilities, Limited Shopping Facilities & Tavern. External experts appointed. Appeal progressing via timetable directed by Court.	King & Company
Appeal No. 1318 of 2009 (8/8/977)	Pregno Family Investments Pty Ltd	(MCU B) 8L & Part 2L Thomson Road, Edmonton – Applicant Appeal against Refusal of Hospital, Business Facilities (ancillary to Hospital) & Limited Shopping Facilities. External experts appointed. Appeal progressing via timetable directed by Court.	King & Company
Appeal No. 1319 of 2009 (8/8/978)	Pregno Family Investments Pty Ltd	(MCU C) 1L & Part 2L Swallow Road, Edmonton – Applicant Appeal against Refusal of Display Facility Service Station, Business Facility, Business & Technology Park & limited Shopping Facilities. External experts appointed. ‘Without prejudice’ discussion between CRC & Pregno have commenced with the view to settling the appeals north of Blackfellows Creek.	King & Company
Appeal No. 1320 of 2009 (8/8/980)	Pregno Family Investments Pty Ltd	(MCU E) Part L2 & Part L40 Swallow Rd, Edmonton – Applicant Appeal against Refusal of Display Facilities & Limited Shopping Facilities. External experts appointed. ‘Without prejudice’ discussion between CRC & Pregno have commenced with the view to settling the appeals north of Blackfellows Creek.	King & Company
Appeal No 3756 of 2009 (8/13/1414)	PC Cairns Properties Pty Ltd	Williams Esplanade, Palm Cove – Notice of Appeal Lodged. Applicant appeal against Council’s refusal of an application for Lot Reconfiguration. Entry of Appearance Lodged. Application in proceeding required to be filed by Appellant by 23 March 2010.	King & Company

Appeal No 3757 of 2009 (8/7/1418)	PC Cairns Properties Pty Ltd	Williams Esplanade, Palm Cove – Notice of Appeal Lodged. Applicant appeal against Council's refusal of an application for Multi Unit Housing. Entry of Appearance Lodged. Application in proceeding required to be filed by Appellant by 23 March 2010.	King & Company
Appeal No 3758 of 2009 (8/7/1417)	PC Cairns Properties Pty Ltd	Williams Esplanade, Palm Cove – Notice of Appeal Lodged. Applicant appeal against Council's refusal of an application for Holiday Accommodation. Entry of Appearance Lodged. Application in proceeding required to be filed by Appellant by 23 March 2010.	King & Company
Appeal No 8 of 2010 (8/37/12)	Body Corporate for the Links North Community Titles Scheme 26894	Old Port Road, Craiglie – Submitter Appeal against Council's approval of a Community title Subdivision. Appellant agreed to withdraw appeal subject to entering into a performance Agreement regarding Stormwater drainage conditions. Council agreed to settlement on these terms 25/08/2010.	FNQ Legal
Appeal No 82 of 2010 (8/13/1216)	Sugarworld Pty Ltd	Wiseman Road and Walker Road, Edmonton. Lot Reconfiguration (1 into 14 lots and drainage reserve). Applicant Appeal for a Deemed Refusal. Directions orders being formulated.	Preston Lawyers
Appeal No 83 of 2010 (8/13/1302)	Sugarworld Pty Ltd	Wiseman Road and Walker Road, Edmonton. Lot Reconfiguration (1 into 94 lots and 2 park Lots). Applicant Appeal for a Deemed Refusal. Filed 1 April 2010. Recommendation to settle the appeal endorsed by Council 12/05/2010. Settlement of final conditions still being negotiated.	Preston Lawyers

Appeal No 113 of 2010 (8/13/883), (8/13/879)	Sugarworld Pty Ltd	Appeal against a Deemed Refusal of Request to Extend Currency periods for Staged Subdivision and Operational Works. Council has resolved to continue with the appeals (25/08/2010) based on a narrowed set of issues, primarily Stage 4 and partly Stage 3 – Hillslope Conflicts.	Preston Lawyers
Appeal No 120 of 2010 (8/30/104)	M Moore	Submitter appeal against Council decision to approval an application for Material Change of Use and Lot Reconfiguration at Brays Road, Little Mulgrave. Clarification presently being sought on whether the application as lodged was valid.	P & E Law
Appeal No 144 of 2010 (8/30/54)	Canas Pty Ltd	Lot 137 & 138 on SP744021 – Foley Road, Palm Cove. Notice of Appeal filed on 20/7/10, along with the Appellant’s Request for Further & Better Particulars dated 20/7/10. Council’s Entry of Appearance was filed on 5/8/10. The DERM have elected to become a Co-Respondent to the appeal. No directions orders have yet been sought to establish a timetable of steps that are required to be taken leading up to a hearing of the appeal.	MacDonnells
Appeal No of 159 of 2010 (8/30/46)	RH Prettejohn	Moore Street, Trinity Beach. Appeal against Council’s refusal of a Lot Reconfiguration application. Entry of Appearance filed on 10/8/10. Notice of Election to Co-Respond filed by Save Our Slopes Community Action Group Inc. on 16/8/10.	MacDonnells