

Council Litigation Update Report - April 2019

COMMUNITY PORTFOLIO

Appeal against refusal of Development Application -Ancillary Car Park Hutt Street (DA/998/2018)

Responsible Council Officer

Matt Field, Senior Planner - Development Assessment

Date of Update	Status Update
27 March 2019	Appeal lodged. Awaiting date of preliminary conference.

Appeal against refusal of Development Application - St Ann's College (DA/171/2018)

Responsible Council Officer

Matt Field, Senior Planner - Development Assessment

Date of Update	Status Update
27 March 2019	Await determination from the ERD Court
27 February 2019	Hearing commenced on 25 February 2019.
4 February 2019	No update.
22 January 2019	No update.
13 November 2018	Hearing scheduled for 25-28 February.
18 October 2018	Hearing has been set down. Expert witnesses have undertaken two site inspections. Gavin Leydon is organising witnesses with a meeting proposed with Gavin, Marcus and Warwick on
19 September 2018	Gavin Leydon attended the preliminary conference in the ERD Court before Commissioner Mohyla on 11 September 2018. The Appellant was represented by Jamie Botten, Rosemary Brooks &
4 September 2018	Applicant has advised that amended plans are to be lodged for consideration with conference sheduled on 12 September 2018.
15 August 2018	CAP refused the DA for an additional two levels to the Enterprise Deck on 30 July 2018. Appeal lodged at ERC Court. Conference is yet to be scheduled.

Appeal against refusal of Development Application - 22A Moger Lane (DA/812/2018)	
Responsible Council Officer	
Matt Field, Senior Planner - Development Assessment	
Date of Update	Status Update
27 March 2019	No further update.
27 February 2019	No further update.
4 February 2019	Application refused by the Council Assessment Panel has been appealed through the ERD Court. Council has engaged Norman Waterhouse Lawyers. Letter has been sent advising that the "agreement" reached by the CEO and Mr Brown contemplated no further legal action relating to the development of the Land, not just demolition of the previously existing walls. Applicant will
Appeal against refusal of Development Application - 200 Hutt Street and 290 Halifax Street, Adelaide (DA/3/2019)	
Responsible Council Officer	
Helen Dand, Principal Planner - Development Assessment	
Date of Update	Status Update
27 March 2019	Amended plans have been provided. Working towards putting compromise back to the Panel in April of May.
27 February 2019	Preliminary conference scheduled for 28 February 2019.
4 February 2019	Application refused by the Council Assessment Panel has been appealed through the ERD Court. Preliminary conference has been scheduled for 18 February 2019
CUSTOMER	
Novus Actus PTY LTD Parking Expiation Prosecution	
Responsible Council Officer	
Robert Donoghue, Enforcement Officer	
Date of Update	Status Update
28 March 2019	Matter adjourned to 7 May 2019.
25 February 2019	A Parking Expiation (no. 17482611) was issued to vehicle S279BVH for not displaying a valid parking ticket in Hutt Street. The owner of the company the vehicle is registered to has elected to be prosecuted. The defendant will be arguing the case on the basis of it being trifling. Initial hearing set for 19 March 2019.

Constantinos Trakas Parking Expiation Prosecution	
Responsible Council Officer	
Robert Donoghue, Enforcement Officer	
Date of Update	Status Update
28 March 2019	A Parking Expiation (no. 18154993) was issued to vehicle ANAME0 on 7 January 2019 in King William Street, Adelaide for not displaying a valid ticket in a ticket parking zone. The owner of the vehicle is claiming to have run out of petrol (4th time the customer has made this claim. Hearing date set for 2 April 2019.
COMMUNITY AND CULTURE	
-	
INFORMATION MANAGEMENT	
-	
GROWTH PORTFOLIO	
PROPERTY	
-	
ECONOMIC DEVELOPMENT AND TOURISM	
-	
MARKETING AND COMMUNICATIONS	
-	
SUSTAINABILITY	
-	
OPERATIONS PORTFOLIO	
DESIGN AND STRATEGY	
-	
INFRASTRUCTURE	
-	
PUBLIC REALM	
-	

SERVICES PORTFOLIO		
FINANCE		
-		
COMMERCIAL		
-		
PEOPLE AND GOVERNANCE		
-		
Litigation Closed		
Date closed	Title	Description
6 December 2018	Gawler Place Rent Review	All items finalised. Council has paid the Court order in relation to the defendant's costs of \$75,000
1 March 2018	Removal of unfinished development at 22 Moger Lane, Adelaide	All items in the Court Order have been addressed and finalised
12 April 2018	Appeal against the refusal of Planning consent - DA 80/2017 - 382 Gilles Street	Applicant withdrew
12 April 2018	Kaurna Native Title Claim	No longer a claim
1 June 2018	Mark Bombardieri Parking Expiation Prosecution	Magistrate found in Council's favour.
19 July 2018	Litter Prosecution	Magistrate rejected defendant's version of events, and fined the defendant (largest imposed)
11 October 2018	Common law claim in negligence Dust Diseases Act 2005	Matter finalised - payment made
23 November 2018	Martyn Faranda parking expiation prosecution	Magistrate found in Council's favour.
30 November 2018	George Kareklas parking expiation prosecution	Magistrate found in Council's favour
21 December 2018	Town Hall Café	No response from plaintiff until September 2016
21 December 2018	Gawler Place Carpark - rent calculation	Costs have been settled
13 February 2019	Gawler Place Concrete Sealing	Item to be closed or moved, as there is no current or pending litigation re: concrete sealing. Concrete sealing works are being progressed.
13 February 2019	Cosenza vs South Australia - SCCIV 1124 of 2016	Decision of the Chief Justice stands and in favour of Council
25 February 2019	Ellie Davidson parking expiation prosecution	Magistrate found in Council's favour
25 February 2019	Debt Recovery / Bankruptcy Proceedings	Judgement received. Bankruptcy is now reinstated and a trustee allocated
12-Mar-19	Joe Santo parking expiation prosecution	Defendant agreed to settle the matter and made payment

INTERNAL MEMO

DATE: 1 April 2019

TO: Strategic Risk & Internal Audit Group
CC:

YOUR REF:

FROM: Katharine Finlay
Freedom of Information Officer

OUR REF: 2015/02953

EXT NO: 131

SUBJECT: Freedom of Information Applications – March 2019

Purpose

To report on the monthly status of Freedom of Information (FOI) applications currently being determined by the Risk & Audit Team.

Background

When an FOI application is received, City of Adelaide has 30 days to make an initial determination as to whether the documents should be released. The determination is made by an Accredited Freedom of Information Officer in accordance with the FOI Act after consultation with any affected third parties and internal staff.

There is a period of 30 days following the determination in which the applicant may appeal a determination made. This internal review is conducted by the Chief Executive Officer, Mark Goldstone, and must be completed within 14 days of receiving the appeal. Following the review determination, the applicant can then appeal to the Ombudsman or SACAT within 30 days if they are still aggrieved by the decision.

Summary

Please find attached a report detailing the active Freedom of Information applications for the period 1 to 31 March 2019.

During this period, there have been eleven (11) active applications.

There have been no Internal or External Review applications.

Applications:

- Seven (7) applications are currently being dealt with.
- One (1) application has had full release of documents.

- One (1) application has had partial release of documents.
- One (1) application has had access refused due to copyright.
- One (1) application has been discontinued due to applicant's failure to narrow its scope.

Reviews:

- Nil.

Consultation by other agencies:

- There has been one (1) consultation by an external agency.

FOI Applications - March 2019

Applicant Name	Applicant Type	Category	Status	Summary	Date Received	Due Date	Date Determined	Outcome	Exemption	Source
Kelly Henderson	Member of Public	Non-personal	Determined	White Lane, CT 2114/143	25/01/2019	25/02/2019	25/02/2019 (Released 6/03/2019)	Full release.	-	Customer Centre
Kelly Henderson	Member of Public	Non-personal	Determined	Bankruptcy documents	7/02/2019	12/03/2019	12/03/2019	Applicant failed to narrow scope. Discontinued.	-	Customer Centre
Network 10	Media	Non-personal	Determined	PIO 'altercations' with members of the public	21/02/2019	25/03/2019	19/03/2019	Partial release.	Clause 6 - Personal affairs; Clause 16 - Management of personnel.	Central Records
Nick Pelvay	Member of Public	Non-personal	Determined	Plans for 143-144 South Terrace	27/02/2019	29/03/2019	26/03/2019	Refused Access.	Subject to copyright.	Central Records
Frank Pangallo	MP	Non-personal	Active	E-scooter applications, correspondence	**NEW** 7/03/2019	8/04/19 EoT to 24/04/19				
Tasman Armitage	Member of Public	Non-personal	Active	Records relating to expiation	**NEW** 1/03/2019	1/04/2019				
CIS / AAMI	Agent	Non-personal	Active	Unauthorised works at 318 South Terrace	**NEW** 14/03/2019	15/04/2019				
Kelly Henderson	Member of Public	Non-personal	Active	Meetings audio	**NEW** 28/03/2019	29/04/2019				
Kelly Henderson	Member of Public	Non-personal	Active	DA/0836/2016 Plans, correspondence, DNFs	**NEW** 28/03/2019	29/04/2019				
The Advertiser	Media	Non-personal	Active	Briefings and reviews of the 10 Gigabit Adelaide Project since October 2018	**NEW** 29/03/2019	29/04/2019				
The Advertiser	Media	Non-personal	Active	Briefings of the Council's Building Fire & Safety committee since 1 January 2018	**NEW** 29/03/2019	29/04/2019				

FOI Consultations

Applicant Name	Applicant Type	Category	Status	Summary	Date Received	Due Date	Date Determined	Outcome	Exemption	Source
AGD	Govt. Dept.	Non-personal	Determined	Tasman Armitage expiation records	28/03/2019	29/03/2019	29/03/2019	Full release.	-	Email