

Our File Ref: R17/0031
Further contact: Jessica Wood, Legal Officer: 9242 4125

7 September 2018

General Manager
Mr Mark Arnold
Byron Shire Council
PO Box 219
MULLUMBIMBY NSW 2482

Dear Mr Arnold

Request for financial assistance for legal costs associated with the appeal of Land and Environment Court rating categorisation decision – City of Sydney Council, North Sydney Council and Bayside City Council

We are writing to request your assistance with legal costs incurred by the above councils in respect of an appeal of the Land and Environment Court's decision in *Karimbla Properties v Council of the City of Sydney; Bayside City Council and North Sydney Council* [2017] NSWLEC 75. The judgement can be viewed on the Land and Environment Court's website.

On 6 October 2017, the Board of LGNSW resolved to approve applications for legal assistance made by the City of Sydney Council and Bayside Council in accordance with the *LGNSW Legal Assistance Policy and Guidelines (November 2015)*, which is available at <https://www.lgnsw.org.au/files/imce-uploads/127/legal-assistance-policy-guidelines-november-2015.pdf>. On 9 February 2018, the Board approved an application for legal assistance made by North Sydney Council.

The LGNSW Board considered that this case is of importance to local government throughout NSW.

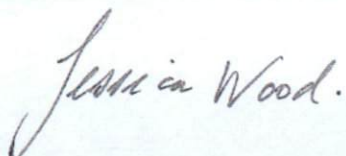
By way of background, the case concerns the interpretation of section 516 (1) (a) of the *Local Government Act 1993*, being the categorisation of ratable land as "residential". The Land and Environment Court held that land, on which development for the purposes of a residential development was being carried out in accordance with a development consent, is to be categorised as "residential", even though building construction was not complete and occupation certificates for use of buildings for residential accommodation had not been granted. The Court also found that Karimbla Properties are entitled to refunds of any rates paid for the land as a result the land being categorised by the councils as "business".

The three councils appealed the Land and Environment Court's decision. The Court of Appeal heard the matter in late July and has reserved its decision. Judgement is expected later in the year.

Our request for assistance is detailed in the attached invoice. There is no obligation on Council to provide financial assistance. If Council chooses not to provide assistance, the invoice may be disregarded.

Please contact me on (02) 9242 4125 if you would like to discuss this matter.

Yours sincerely,

A handwritten signature in cursive script that reads "Jessica Wood." The signature is written in dark ink and is positioned above the typed name.

Jessica Wood
Legal Officer

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Level 8 28 Margaret Street SYDNEY NSW 2000
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Tax Invoice

Invoice Number 80163
Date 07/09/18

Invoice to:

Byron Shire Council
Po Box 219
MULLUMBIMBY NSW 2482

Customer Code Customer Reference

ZZBYRO

Item Code	Item Description	Invoice Quantity	Per	Price	GST	Amount
LEGA	Legal Costs incurred in the matter of Karimbla Properties v Council of the City of Sydney; Bayside City Council; and North Sydney Council [2017] NSWLEC 75 which considered the construction of section 516 (1) (a) of the Local Government Act 1993 (please refer to attached letter) Attn: The General Manager	1		2924.11	292.41	3,216.52

Terms: 30 Days Invoice Date

Total Includes GST of
292.41

Total
3,216.52

Payment to: Local Government NSW BSB: 062005 Account No. 00090198