

FILED

16 MAY 2023



NOTICE OF APPEAL

COURT DETAILS

Court Supreme Court of New South Wales, Court of Appeal
Registry Sydney
Case number 2023/71664

TITLE OF PROCEEDINGS

[First] appellant **Alicia Kudrynski**
#Second appellant #Number of Julius Kudrynski
appellants (if more than two)

[First] respondent **Orange city council**
#Second respondent
#Number of respondents (if
more than two)

PROCEEDINGS IN THE COURT BELOW

Title below Orange city council vs Kudrynski
Court below Land environment court
Case number below 2020/330687
Date[s] of hearing 14,15,16 March 2022
Material date 17/02/2023
Decision of Judge J. Pepper

FILING DETAILS

Filed for Alicia and Julius Kudrynski
#Filed in relation to whole decision below (see orders at [76])

#Legal representative Self- Julius

#Legal representative reference

Contact name and telephone Julius Kudrynski [REDACTED]

Contact email [REDACTED]

HEARING DETAILS

This notice of appeal is listed for directions at [time, date and place to be inserted by the registry unless otherwise known]. 7 June 2023 at 9:00am

TYPE OF APPEAL

As of right. Appeal from land environment court class 3 heard before Judge Pepper and my submission not considered, as it was too expensive for council.

DETAILS OF APPEAL

- 1 This appeal is brought under Land environment court act 1979 S57.
- 2 #This notice of appeal was filed 03/03/2023
#The appellant has filed and served a notice of intention to appeal, which was served on the [Land environment court 03/03/2023].
- 3 #The appellant appeals from the whole of the decision below.

APPEAL GROUNDS

- 1 See attached sheet

ORDERS SOUGHT

- 1 Appeal allowed
- 2 Increase proposed compensation for appellant to the amount sought.
- 3 [#State the order the appellant seeks for reinstatement or restitution in accordance with UCPR 51.19]: see attached notes.
- 4 The [role of party eg respondents] pay the appellant's costs.

UCPR 51.22 CERTIFICATE

#I certify under UCPR 51.22(2) that the amount in issue in this appeal exceeds the specified amount under [state the relevant statutory provision].

#The right of appeal is not limited by a monetary sum

#SIGNATURE OF LEGAL REPRESENTATIVE

#This notice of appeal does not require a certificate under clause 4 of Schedule 2 to the Legal Profession Uniform Law Application Act 2014.

#I certify under clause 4 of Schedule 2 to the Legal Profession Uniform Law Application Act 2014 that there are reasonable grounds for believing on the basis of provable facts and a reasonably arguable view of the law that the claim for damages in these proceedings has reasonable prospects of success.

I have advised the appellant[s] that court fees will be payable during these proceedings.
These fees may include a hearing allocation fee.

Signature

Capacity

Julius Kudrynski and Alicia Kudrynski

Date of signature

02/05/2023

#SIGNATURE OF OR ON BEHALF OF APPELLANT IF NOT LEGALLY REPRESENTED

I acknowledge that court fees will be payable during these proceedings. These fees may include a hearing allocation fee.

Signature

Capacity

Self: Julius Kudrynski and Alicia Kudrynski

Date of signature

02/05/2023

Note:

1. This notice must be served personally unless non-personal service under UCPR 10.18 is permitted.
2. A copy of this notice must be filed in the court below in accordance with UCPR 51.42.

NOTICE TO RESPONDENT

If your solicitor, barrister or you do not attend the hearing, the court may give judgment or make orders against you in your absence. The judgment may be for the orders sought in the notice of appeal and for the appellant's costs of bringing these proceedings.

Before you can appear before the court, you must file at the court an appearance in the approved form.

HOW TO RESPOND

Please read this notice of appeal very carefully. If you have any trouble understanding it or require assistance on how to respond to the notice of appeal you should get legal advice as soon as possible.

You can get further information about what you need to do to respond to the notice of appeal from:

- A legal practitioner.
- LawAccess NSW on 1300 888 529 or at www.lawaccess.nsw.gov.au.
- The court registry for limited procedural information.

Court forms are available on the UCPR website at www.ucprforms.nsw.gov.au or at any NSW court registry.

REGISTRY ADDRESS

Street address	Supreme Court of New South Wales, Court of Appeal Law Courts Building Queen's Square Level 5, 184 Phillip Street Sydney NSW 2000
Postal address	GPO Box 3 Sydney NSW 2001
Telephone	1300 679 272

PARTY DETAILS

A list of parties must be filed and served with this notice of appeal.

[on separate page]

FURTHER DETAILS ABOUT APPELLANT[S]

[Do not include this section if you have previously given this information to the court in these appeal proceedings, eg in a summons for leave to appeal.]

[First] appellant

Name Alicia and Julius Kudrynski

Address
[The filing party must give the party's address.]



#Frequent user identifier [include if the appellant is a registered frequent user]

[repeat the above information as required for the second and each additional appellant]

#Legal representative for appellant[s]

Name Nil

Practising certificate number

Firm

#Contact solicitor

Address

DX address

Telephone

Fax

Email

Electronic service address [#email address for electronic service eg service@emailaddress.com.au #Not applicable]

#Contact details for appellant[s] acting in person or by authorised officer

#Name of authorised officer Julius Kudrynski

#Capacity to act for appellant[s] Husband

Address for service
[The filing party must give an address for service. This must be an address in NSW unless the exceptions listed in UCPR 4.5(3) apply. State "as above" if the filing party's address for service is the same as the filing party's address stated above.]



Telephone



Email:



DETAILS ABOUT RESPONDENT[S]**[First] respondent**

Name	Orange city council
Address	135 Byng st, Orange, NSW 2800

[repeat the above information as required for the second and each additional respondent]

Ground of appeal

1. No price comparison was allowed. The Judge should not have allowed any other values'
2. The only evaluation which was sought was the current valuation of \$160 million.
3. This valuation wasn't considered. This valuation is only one judge should have considered.
4. Questions which tried to establish the current value when addressed to the CEO of Orange Council were met with contempt; "I don't know and I can't remember"
5. the PRD report used here for comparison was not so intended and was only used against Council when they refused to increase their original offer of \$300,000 and would not discuss the matter further. The JUDGE should have ordered the CEO to answer the prepared questions
6. We had no choice but to appeal the matter to this court.
7. The question of the electricity and easements not allowed and should have been allowed by the Judge.
8. The PRD report was a number of valuations which were used in negotiations and was the lowest number ever submitted and should not be allowed by the judge on the age of the report and the qualifications of the person making it. It was 10 years old.
9. The land being resumed, connects two adjacent Council properties and should have been factored in.
10. The hillside cannot be used for the purpose of water storage but can be used for subdividing into 30 blocks of land. With the addition of 70 blocks belonging to Council would make this a valuable proposition.
11. The \$4 million Road is just a distraction as access to this property is already available through public land.
12. Council was only putting up a smoke screen to hide the real value of the land they were compulsory acquiring.
13. The only question that was allowed concerning water levels shows the project is just a pipe dream.
14. From the time the Judge removed himself from the case until the next directions hearing and then for the case to resume under another judge was seven days. Seven days is not long enough for me to prepare for a three-day hearing.
15. Orange City Council prepared the case for me and including much material which was against me including the PRD report which was some 10 years old.
16. I was not shown the final submissions of counsel nor given any chance of responding to them. She should have done so.
17. I did not make any final submissions myself and the judge should have allowed it. All
18. the Judge should have ordered the CEO to answer the prepared questions.
19. by answering the prepared questions that had been given to the CEO he was giving tacit approval to my submission.
20. The judge should have at least delayed the trial when she was shown I had not received their emails on which this trial depended'.
21. By default the judge should have allowed these calculations submitted by me.
22. Because of the boundaries that have been crossed in this judgement I should not have costs awarded against me but council should.
23. Under the previous judge water levels were the main issue but were not allowed under present judge and should have been.
24. By connecting those three parcels of land this now constitutes a mining area.