

OUTCOME DETAILS

**Supreme Court - Civil
at Supreme Court Sydney
on 27 April 2021**

2019/00232749-005, 2019/00232749-003, 2019/00232749-001, 2019/00232749-002, 2019/00232749-004, 2019/00232749-007, 2019/00232749-006 / Cross Summons 004: Icon Co (NSW) Pty Ltd v EVOLUTION PRECAST SYSTEMS PTY LTD, Cross Summons 002: Icon Co (NSW) Pty Ltd v WSP Structures Pty Ltd, Summons: Terry Williamson v SYDNEY OLYMPIC PARK AUTHORITY trading as Sydney Olympic Park Authority, Cross Summons 001: SYDNEY OLYMPIC PARK AUTHORITY trading as Sydney Olympic Park Authority v Australia Avenue Developments Pty Ltd, Cross Summons 003: WSP Structures Pty Ltd v EVOLUTION PRECAST SYSTEMS PTY LTD, Cross Summons 006: EVOLUTION PRECAST SYSTEMS PTY LTD v WSP Structures Pty Ltd, Cross Summons 005: Australia Avenue Developments Pty Ltd v Icon Co (NSW) Pty Ltd
This matter is listed for Directions (Commercial) on 2 July 2021 9:45 AM before the Supreme Court - Civil at Supreme Court Sydney.
Estimated duration: 5 Minutes
His Honour addressed the parties.

His Honour sets down all three proceedings for hearing commencing on 2nd May 2022 on an estimate of 40 days.

His Honour makes the Short Minutes of Order which he has initialled and placed with the papers.

Short Minutes of Order

Class Action Proceedings

The Court makes the following orders in 2019/232749:

1. The Parties are to indicate their position in relation to any proposed Amended Commercial List Statement by 30 April 2021.
2. In the event that the parties consent to the filing of any proposed Amended Commercial List Statement:
 - a. the Plaintiffs are to file and serve the Amended List Statement by 5 May 2021; and
 - b. the parties are to agree, and to provide to the Court, a timetable for the filing of any amended pleadings by 21 May 2021.
3. If the parties do not consent to the filing of the proposed Amended Summons and Amended Commercial List Statement, the Plaintiffs are to file and serve, by 4pm on 10 May 2021, a notice of motion seeking leave to file their proposed Amended Summons and Amended Statement of Claim, such motion to be returnable and heard on 2 July 2021.

4. Within 14 days, the Plaintiffs are to circulate to the Defendants and all other parties in the OC Proceedings and Developer Proceedings its suggested common questions as contemplated by s 157(1)(c) of the Civil Procedure Act 2005.
5. Within 14 days after receipt of the Plaintiffs' formulation, any party having a direct interest in that formulation is to respond with its comments.
6. The Plaintiffs are to serve its evidence on quantum/damage by 25 June 2021.
7. Icon, Icon Co and Kajima to serve their evidence on liability by 18 June 2021.
8. The proceedings, the OC Proceedings, and the Development Proceedings, are stood over to a case management hearing (directions) to 2 July 2021, noting that the hearing will be conducted on Zoom with a telephone connection.
9. The proceedings, the OC Proceedings, and the Developer Proceedings, are listed for hearing commencing on 2 May 2022 for 40 days (to 24 June 2022).
10. The Court makes the Usual Order for Hearing (in all proceedings).
11. The parties (in all proceedings) are to prepare an electronic Court Book and two copies of a physical Court Book. The Court Book is to consist of all documents intended to be relied upon by any party. They are to be chronologically sequenced as far as practicable, sequentially numbered and without tabs. They are to be in working ring binders, each of which is not to be filled beyond its capacity, and they are to be punched with two holes accurately. If there are email chains they are to be dismembered and placed in chronological sequence. Where the Usual Order for Hearing refers to working days, this means clear working days.
12. Liberty to apply (in all proceedings) on three days' notice.

OC Proceedings

The Court makes the following orders in 2020/175890:

13. The Plaintiff has leave to by 30 April 2021 file and serve an Amended List Statement in the form provided to the Defendants on 18 April 2021 subject to the numbering contained in the schedule provided by the Plaintiff be amended to commence at item 903.
14. The Second Defendant to file and serve any cross-claims and any list response to any cross-claims made against it by 11 June 2021.
15. The First Defendant to file and serve any cross-claims and any list response to any cross-claims made against it by 11 June 2021.

Structural Defects

16. The Plaintiff to serve its evidence on liability in relation to alleged structural defects by 21 May 2021.
17. The Defendants to serve their evidence on liability in relation to alleged structural defects by 18 June 2021.

Non-Structural Defects

18. Orders 2 – 10 made by the Court on 11 March 2021 be vacated and in their stead the following orders be made.

19. The parties' mechanical experts (including the Second Defendant's expert if it intends to retain one) are to confer upon, and jointly inspect, each of the alleged mechanical defects in accordance with the expert witness code of conduct to the extent necessary to ascertain the issues upon which they can agree and to issue by 9 July 2021 a joint report detailing:

- a. the items that they agree constitute defects (Agreed Defects);
- b. the items in respect of which there is no agreement and reasons in support of their position;
- c. any agreed repair scope for the Agreed Defects; and
- d. any area of disagreement about the appropriate repair scope for any of the Agreed Defects.

20. The First Defendant to advise its updated position and any proposed repair scopes for all other alleged defects (including additional alleged defects included in the Plaintiff's Amended List Statement) by 11 June 2021.

21. Any defect or scope issue in relation to the following types of alleged defects that is not agreed between the parties by 11 June 2021 is to be reported upon by a suitable parties' single expert with the Plaintiff to propose briefs to such experts by 25 June 2021:

- a. Electrical;
- b. Hydraulics;
- c. Fire safety;
- d. General building;
- e. Mobile telephone reception; and
- f. Acoustics.

22. The Defendants to advise their agreement or proposed revisions to those proposed briefs by 9 July 2021.

23. Any issues concerning a brief to a parties' single expert referred to in orders 21 and 22 above not agreed by 23 July 2021 are to be determined at the next occasion thereafter.

24. Any defect or scope issue in relation to the alleged mechanical defects (excluding items 1, 2, 3, 7, 8, 9, 10, 11, 12, 13, 14, 15, 29, 84 and 132 contained in the schedule provided by the Plaintiff dated 4 November 2020 and item 746 contained in the schedule provided by the Plaintiff dated 18 April 2021) that is not agreed between the parties by 9 July 2021 is to be reported upon by a suitable parties' single expert with the owners corporation to propose briefs to such experts by 16 July 2021.

25. The Defendants to advise their agreement or proposed revisions to the proposed brief referred to in order 24 by 30 July 2021.

26. Any issues concerning a brief to a parties' single expert referred to in orders 24 and 25 above not agreed by 13 August 2021 are to be determined at the next occasion thereafter.

Developer Proceedings

The Court makes the following orders in 2019/64406:

27. The parties are to agree and provide a Court timetable for filing of any amended pleadings by 21 May 2021.

28. Icon Co (NSW), Icon Co and Kajima to serve their evidence on liability by 18 June 2021.

Justice D Hammerschlag

Signed

Date