

HIGH COURT OF AUSTRALIA

STEWARD J

BRISBANE CITY COUNCIL

APPELLANT

AND

EDWARD AMOS

RESPONDENT

[2024] HCASJ 35

Date of Judgment: 10 September 2024

B47 of 2018

ORDER

- 1. Application for leave to file the proposed bill of costs dated 22 April 2024 be granted.*

Representation

The appellant is represented by City Legal

The respondent is unrepresented

1 STEWARD J. The respondent, Mr Amos, seeks leave to file a bill of costs. The
respondent relies on an affidavit sworn by him on 22 April 2024.

2 The proceedings to which the proposed bill of costs relate concern an appeal
from a decision of the Court of Appeal of the Supreme Court of Queensland,¹
which had concluded that s 26(1) of the *Limitation of Actions Act 1974* (Qld) does
not extend or exclude the operation of s 10(1) of that Act, to the effect that a
defendant is entitled to plead the shorter limitation period under s 10(1) where
those limitation periods overlap.

3 On 4 September 2019, this Court made orders that the appeal be dismissed
and that the appellant (the Council) pay the respondent's costs of the appeal.²

4 No document has been filed or any step taken in the proceedings since this
Court handed down its judgment and orders on 4 September 2019.

5 Rule 4.03.02 of the *High Court Rules 2004* (Cth) states that where 3 years
or more have elapsed since any party has taken any step in a proceeding, no step
shall be taken in the proceeding without the leave of the Court or a Justice.

6 Mr Amos now seeks leave to file a bill of costs.

7 On 22 April 2024, Mr Amos prepared an application for leave to file a bill
of costs in the proceedings. That application was supported by an affidavit sworn
by Mr Amos on the same date. The application and supporting affidavit were filed
with the Registry on 24 June 2024.

8 By a Notice of Intention to Act in Person, Mr Amos has indicated that he
intends to act in this matter in the place of his former solicitors, Keller Nall &
Brown.

9 On 10 July 2024, Mr Amos swore an affidavit of service, in which he
deposed that he had served the Council with sealed copies of the Notice of
Intention to Act in Person, the application and the supporting affidavit on 8 July
2024.

10 The Council has not opposed the application.

11 Mr Amos is 83 years old, and deposes to his health and mobility issues,
which he indicates have frustrated his ability to conduct his affairs, including in
relation to these proceedings. His evidence is that while he took steps in early 2020
to arrange for the bill of costs to be prepared, he was delayed in doing so by his

1 *Amos v Brisbane City Council* [2018] QCA 11.

2 *Brisbane City Council v Amos* (2019) 266 CLR 593.

2.

limited contact with his solicitor during the COVID-19 pandemic. The preparation of the bill of costs was further delayed when Mr Amos contracted pneumonia in 2023.

12 Mr Amos also deposed that he and his solicitor prioritised the preparation of the bill of costs in relation to the proceedings before the Court of Appeal before preparing the bill of costs in relation to the proceedings in this Court.

13 The application is not opposed by the Council. Nor has the Council suffered any prejudice by the delay in filing the bill of costs. It is appropriate that leave be granted to file the bill of costs.

14 I direct that the application for leave to file the bill of costs dated 22 April 2024 be granted.