



# AGENDA

Council Chambers  
7 October 2021

A **MEETING** of **Legal & Planning Committee** will be held at the Supper Room, 200 Miller Street, North Sydney at 6:00 PM on Monday 11 October 2021.

The agenda is as follows.

Ken Gouldthorp  
**GENERAL MANAGER**



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**1. Attendance**

**2. Disclosures of Interest**

**3. Confirmation of Minutes**

The Minutes of the previous meeting held on 8 March 2021, copies of which had been previously circulated, were taken as read and confirmed.

## **4. Committee Reports**

### **4.1. Development Applications Received 1 April 2021 - 30 June 2021**

**AUTHOR:** Stephen Beattie, Manager Development Services

**ENDORSED BY:** Joseph Hill, Director City Strategy

**ATTACHMENTS:**

1. 1 april-30 june 2021 [4.1.1 - 8 pages]

**PURPOSE:**

This report provides a list of Development Applications received by Council between 1 April and 30 June 2021. Its purpose is to provide Councillors and other interested persons with an understanding of the application types received and processed by the Development Services Department.

**EXECUTIVE SUMMARY:**

During this period 146 applications of all types were received, of those, 110 applications have already been determined as of 28 September 2021. A total of 149 applications were determined in Q3 (Quarter 3) 2020/21 with a mean processing time of 64 days. This report is expanded in detail to earlier reports and provides a monthly break down of application types as well as additional commentary.

**FINANCIAL IMPLICATIONS:**

There are no financial implications associated with this report.

**RECOMMENDATION:**

1. **THAT** the Development Applications received 1 April - 30 June 2021 report be received.

## **LINK TO COMMUNITY STRATEGIC PLAN**

The relationship with the Community Strategic Plan is as follows:

5. Our Civic Leadership

5.2 Council is well governed and customer focused

## **BACKGROUND**

Development application processing is of significant interest to the community. This report provides up to date information regarding application submission and trends.

## **CONSULTATION REQUIREMENTS**

Community engagement is not required.

## **DETAIL**

This report provides a list of the applications received by Council between 1 April and 30 June 2021. Its purpose is to provide Councillors and other interested persons with some understanding of the application types received and processed by the Development Services Department. During this period, 146 applications were received and of those, 110 applications have been determined as of 28 September 2021. A total of 149 applications were determined in Q4 (Quarter 4) 2020/21 with a mean processing time of 64 days.

The attached computer-generated report summarises the applications received by Council in Q4 2020/2021 fiscal year. Contained within the report is:

- The application number expressed as year, sequential number, and modification number, if any; i.e. 2005/92/5 is modification 5 to an application originally received and determined in 2005;
- The date received by Council;
- The determination date if applicable;
- A brief description of the proposal;
- The property address;
- The applicant's name;
- The estimated cost for new works applications
- A brief description of the type of application

Full details of each application are available through DA (Development Application) Tracking on Council's website.

### **Nature of applications received.**

To provide a greater understanding of the work undertaken by assessment planners a summary of application type by month is provided:

Application Type	April 2021	May 2021	June 2021
<b>Modifications.</b>	11	15	14
<b>Commercial Alts.</b>	2	0	3
<b>Demolition only.</b>	1	0	0
<b>Change of use.</b>	4	5	4
<b>Residential Alts.</b>	19	23	18
<b>Boarding House</b>	1	0	0
<b>New Mixed Use.</b>	2	0	1
<b>New Commercial.</b>	1	0	0
<b>School.</b>	0	0	1
<b>Multi Dwelling.</b>	1	0	1
<b>Remediation.</b>	1	0	0
<b>Boarding House</b>	1	0	0
<b>New Dwellings</b>	1	3	1
<b>Sign.</b>	1	2	1
<b>Sub-division.</b>	0	2	3
<b>Pool.</b>	0	2	1
<b>Total.</b>	46	52	48

This information has been gleaned from monthly reports, which in conjunction with an outstanding application by officer report, are used for application management and work allocation purposes by Management. Information regarding application type is enhanced from the raw data to give a better overall picture of the types of applications received.

It may be observed that on average one quarter of the application stream relates to modifications to applications. A modification is processed in a comparable way to a fresh DA and may, dependent on the nature of the modification require significant work. The proportion of modifications now making up the application stream has grown in recent years, due to the greater scrutiny place on building certifiers and an increasing reluctance to use previous discretions.

#### **Longer term trends.**

To give some understanding of longer-term trends the following application received by quarter for each fiscal year is also provided;

	2018-2019	2019-2020	2020-2021	2021-2022
<b>Q1</b>	173	176	145	153
<b>Q2</b>	178	171	148	
<b>Q3</b>	122	108	125	
<b>Q4</b>	142	124	146	
<b>Total</b>	615	579	564	

As can be seen there is a common pattern of application lodgement, most strong in Q1, Q2 and Q4. These quarters have an elevated level of business activity. Q3 reflects the immediate period after the holiday season and as can be seen is consistently slower across the years.

Some comment is appropriate on the significant impacts that Covid 19 had on application lodgement which can be seen most clearly in the Q3 2019-20 application numbers. For the first three quarters of 2020 calendar year application lodgement dropped by around 15% compared with the corresponding period of 2019. 2021 has seen a return of the application lodgement rate to be within 4% of the corresponding period in 2019. If current trends continue application submission rate for this financial year will be comparable to the 2018-19 fiscal year.

## 4.2. Variations to Development Standards - 2020/2021 Q4 Reporting Period

**AUTHOR:** Stephen Beattie, Manager Development Services

**ENDORSED BY:** Joseph Hill, Director City Strategy

**ATTACHMENTS:**

1. 0298 001 [4.2.1 - 2 pages]

**PURPOSE:**

Planning Circular PS 18-003 sets out certain procedural and reporting requirements for the processing of CI4.6 and SEPP1 variations to development standards. This report addresses those requirements for Q4 2020/2021.

**EXECUTIVE SUMMARY:**

Any variation to a development standard of greater than 10% in assessing a development application must be reported to the North Sydney Local Planning Panel for determination. Variations under 10% can be decided by Assessment Staff under delegated authority.

The Planning Circular provides that to achieve transparency and integrity in the planning framework, the following monitoring and reporting measures must be followed:

1. Proposed variations to development standards cannot be considered without a written application objecting to the development standard and dealing with the matters required to be addressed by the relevant instrument.
2. A publicly available online register of all variations to development standards approved by the consent authority or its delegates is to be established and maintained. This register must include the development application number and description, the property address, the standard to be varied and the extent of the variation.
3. A report of all variations approved (including under delegation) must be submitted to [developmentstandards@planning.nsw.gov.au](mailto:developmentstandards@planning.nsw.gov.au) within four weeks of the end of each quarter (i.e. March, June, September and December) in the form provided by the Department.
4. A report of all variations approved under delegation from a council must be provided to a meeting of the council at least once each quarter.

Attached is the tabulated Development Standard variations approved for Quarter 4 (Q4) of the financial year 2020/21. Of 132 applications determined in the quarter, 11 variations in total are reported, 10 by the North Sydney Local Planning Panel, 1 by the Sydney North Planning Panel and 0 under delegated authority.



**FINANCIAL IMPLICATIONS:**

There are no financial implications associated with the report.

**RECOMMENDATION:**

**1. THAT** the Variations to Development Standards – 2020/21 Q4 Reporting Period report be received.

## **LINK TO COMMUNITY STRATEGIC PLAN**

The relationship with the Community Strategic Plan is as follows:

### 3. Our Future Planning

3.4 North Sydney is distinctive with a sense of place and quality design

3.5 North Sydney is regulatory compliant

### 5. Our Civic Leadership

5.2 Council is well governed and customer focused

## **BACKGROUND**

This report is required to be presented to Council in accordance with Statutory requirements outlined in the EPA Act and Regulations.

## **CONSULTATION REQUIREMENTS**

Community engagement is not required.

## **DETAIL**

Planning Circular PS 18-003 sets out certain procedural and reporting requirements for the processing of variations to development standards under Clause 4.6 and State Environmental Planning Policy No 1- Development Standards. Such variations are required to be reported Quarterly to Council for its information.

Any variation to a development standard of greater than 10% must be reported to the North Sydney Local Planning Panel for determination. Variations under 10% can be decided by the Assessment Planners under delegated authority. The 10% threshold is set by the Minister for Planning.

The Planning Circular further provides that to ensure transparency and integrity in the planning framework, the monitoring and reporting measures outlined below must be followed when development standards are being varied:

1. Proposed variations to development standards cannot be considered without a written application objecting to the development standard and dealing with the matters required to be addressed by the relevant instrument.
2. A publicly available online register of all variations to development standards approved by the consent authority or its delegates is to be established and maintained. The register must include the development application number and

description, the property address, the standard to be varied and the extent of the variation.

3. A report of all variations approved (including under delegation) must be submitted to [developmentstandards@planning.nsw.gov.au](mailto:developmentstandards@planning.nsw.gov.au) within four weeks of the end of each quarter (i.e. March, June, September and December) in the form provided by the Department.
4. A report of all variations approved under delegation from a council must be provided to a meeting of the council at least once each quarter.

The table attached to this report addresses dot point 4 of the Planning Circular. It is of note, over the period, several variations allowed are purely technical in nature as they arise from new or altered work on buildings which already exceed the development standards set by the relevant Planning instruments.

It is a general practice that significant variations to development standards which result in a greater yield than that envisaged by the planning controls are guided towards the Planning Proposal process.

Attached for Council's information are the variations to Development Standards for Quarter 4 2020/21. Of 132 applications determined in the quarter, 11 variations in total are reported, 10 by the North Sydney Local Planning Panel, 1 by the Sydney North Planning Panel and 0 under delegated authority.

The report is enhanced in detail to that required by the Planning Circular, as it provides information regarding those approved by the North Sydney Local Planning Panel as well as those approved under delegation.

## **5. Confidential Reports**

### **5.1. Current Appeals and Results - October 2021**

**AUTHOR:** Craig Winn, Solicitor

**ENDORSED BY:** Shane Sullivan, Executive Manager Governance

**ATTACHMENTS:**

1. LP01 Current Matters List LEC Oct 2021 [5.1.1 - 3 pages]
2. LP01 Current Matters List Supreme Court and District Court Oct [5.1.2 - 1 page]
3. LP01 Current Matters List NCAT Oct 2021 [5.1.3 - 1 page]

**PURPOSE:**

Report on current appeal and prosecution matters.

**EXECUTIVE SUMMARY:**

Attached is a list of current appeal and prosecution matters as at 30 September 2021 for Council's information.

**FINANCIAL IMPLICATIONS:**

As at 30 September 2021, Council has incurred \$239,690 on legal fees for the 2020/21 financial year and recovered legal costs in the amount of \$21,171. The legal budget for 2021 financial year is \$ 1,500,000.

**RECOMMENDATION:**

1. **THAT** the Current Appeals and Results – October 2021 report be received.

## **LINK TO COMMUNITY STRATEGIC PLAN**

The relationship with the Community Strategic Plan is as follows:

5. Our Civic Leadership

5.2 Council is well governed and customer focused

## **BACKGROUND**

The Current Appeals and Prosecutions list was last reported to the Legal and Planning Committee meeting of 7 June 2021.

## **CONSULTATION REQUIREMENTS**

Community engagement is not required.

## **DETAIL**

The defence of Land and Environment Court appeals and the prosecution of regulatory matters represents a major ongoing expense for Council. The attached list provides a summary of each current appeal(s) and prosecution(s) (including fees incurred) as at 30 September 2021.

## 6. Closure