



## NORTH SYDNEY COUNCIL

Council Chambers  
8 October 2020

I wish to inform you that a Meeting of the **LEGAL AND PLANNING COMMITTEE** will be held in the Supper Room, Council Chambers, North Sydney at 6.30pm on Monday, 12 October 2020 when your attendance is requested.

Your attention is directed to the accompanying statement of the business proposed to be transacted at such meeting.

**KEN GOULDTHORP**  
**GENERAL MANAGER**

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### **BUSINESS**

#### **Minutes**

Confirmation of Minutes of the previous Meeting held on 15 June 2020.  
(Circulated)

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## Committee Reports

### 3.1 Current Appeals and Results - October 2020

Report of Craig Winn, Solicitor

Report on current appeal and prosecution matters.

Attached is a list of current appeal and prosecution matters as at 30 September 2020 for Council's information.

As at 30 September 2020, Council has incurred \$311,683 on legal fees for the 2020/2021 financial year and recovered legal costs in the amount of \$79,971. The legal budget for 2021 financial year is \$ 1,500,000.00.

**Recommending:**

**1. THAT** the Current Appeals and Results – October 2020 report be received.

### 3.2 Development Applications Received - 1 April to 30 June 2020

Report of Stephen Beattie, Manager Development Services

This report provides a list of Development Applications received by Council between 1 April and 30 June 2020. 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.

During this period 124 applications of all types were received. Of those 93 applications have already been determined as of 24 September 2020.

A total of 131 applications were determined in Q4 2019/20.

Nil.

**Recommending:**

**1. THAT** the Development Applications Received from 1 April to 30 June 2020 report be received.

### 3.3 Variations to Development Standards - 2019/2020 Q4 Reporting Period

Report of Stephen Beattie, Manager Development Services

Planning Circular PS 18-003 sets out certain procedural and reporting requirements for the processing of C14.6 and SEPP1 variations to development standards. This report addresses those requirements.

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:

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

- 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.
- 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 Q4 (Quarter 4) of the financial year 2019/20. Of 131 applications determined in the quarter, 8 variations in total are reported, 7 by the North Sydney Local Planning Panel and 1 under delegated authority.

Nil.

**Recommending:**

1. **THAT** the Variations to Development Standards - 2019/2020 Q4 Reporting Period report be received.

## Confidential Matters

### 4.1 Noakes Boatyard – 6 John Street, McMahons Point

Report of Craig Winn, Solicitor and Stephen Beattie, Manager Development Services

To provide an update on planning and compliance matters relating to Noakes Boatyard at 6 John Street, McMahons Point.

The associated Confidential Report to this item addresses advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege. If the Committee wishes to discuss the report, the meeting should be closed to the public to do so in accordance with s10A(2)(g) of the Local Government Act (LGA).

**Recommending:**

1. **THAT** the meeting be closed to the public in accordance with Section 10A(2):
    - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege.
  2. **THAT** the report be treated as confidential and remain confidential until Council determines otherwise.
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**NORTH SYDNEY COUNCIL****REPORT OF LEGAL AND PLANNING COMMITTEE**

**SUBJECT: PROCEEDINGS OF COMMITTEE AT MEETING HELD IN THE SUPPER ROOM AT THE COUNCIL CHAMBERS, NORTH SYDNEY, ON MONDAY 15 JUNE 2020 AT 6.30PM.**

**PRESENT**

Councillor Gibson in the Chair, Councillors Baker, Brodie, Drummond, Keen and Mutton.

**Staff:** Ken Gouldthorp, General Manager  
Joseph Hill, Director City Strategy  
Craig Winn, Solicitor  
Stephen Beattie, Manager Development Services  
Ian Curry, Manager Governance & Committee Services (Minutes)

**Visitors:** Nil

**Apologies** were received from Councillors Barbour and Carr.

At the commencement of business (6.51pm) those present in the Supper Room were:  
The Mayor, Councillor Gibson in the Chair, Councillors Brodie, Drummond and Mutton.

Participating remotely was:

Councillor Baker

**Declarations of Interest**

Item 3.1 - 8 Levick St – Cr Drummond (Non Pecuniary/non-significant) – residential property is in same street

**9. Minutes**

The Minutes of the previous meeting held on 9 March 2020, copies of which had been previously circulated, were taken as read and confirmed.

The Motion was moved by Councillor Mutton and seconded by Councillor Brodie.

Voting was as follows:

For/Against 6/0

Councillor	Yes	No	Councillor	Yes	No
Gibson	Y		Barbour	Absent	
Beregi	Absent		Drummond	Y	
Keen	Y		Gunning	Absent	
Brodie	Y		Mutton	Y	
Carr	Absent		Baker	Y	

### 10. 3.1 Current Appeals and Results – June 2020

Report of Craig Winn, Solicitor

Report on current appeal and prosecution matters.

Attached is a list of current appeal and prosecution matters as at 4 June 2020 for Council's information.

As at 4 June 2020, Council has incurred \$1,184,735 on legal fees for the 2019/2020 financial year and recovered legal costs in the amount of \$157,045. The legal budget for 2020 financial year is \$ 1,500,000.00.

**Recommending:**

**1. THAT** the Current Appeals and Results – June 2020 report be received.

A Motion was moved by Councillor Gibson and seconded by Councillor Brodie.

**1. THAT** the Current Appeals and Results – June 2020 report be received.

**2.THAT** a report be provided to Council on the offer to withdraw with both parties bearing costs, regarding 13 Shellcove Rd Neutral Bay.

**Resolved to Recommend:**

**1. THAT** the Current Appeals and Results – June 2020 report be received.

**2.THAT** a report be provided to Council on the offer to withdraw with both parties bearing costs, regarding 13 Shellcove Rd Neutral Bay.

Voting was as follows:

For/Against 6/0

Councillor	Yes	No	Councillor	Yes	No
Gibson	Y		Barbour	Absent	
Beregi	Absent		Drummond	Y	
Keen	Y		Gunning	Absent	
Brodie	Y		Mutton	Y	
Carr	Absent		Baker	Y	

### 11. 3.2 Development Applications Received - Q3 2019/20

Report of Stephen Beattie, Manager Development Services

This report provides a list of the applications received by Council between 1 January 2020 and 31 March 2020. 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.

During this period 108 applications of all types were received. Of those 58 applications have already been determined as of 25 May 2020.

A total of 132 applications were determined in Q3 of financial year 2019/20.

**Recommending:**

**1. THAT** the report of Development Applications Received during Q3 of the 2019/20 financial year be received.

The Motion was moved by Councillor Mutton and seconded by Councillor Brodie.

**Resolved to Recommend:**

**1. THAT** the report of Development Applications Received during Q3 of the 2019/20 financial year be received.

Voting was as follows:

For/Against 6/0

Councillor	Yes	No	Councillor	Yes	No
Gibson	Y		Barbour	Absent	
Beregi	Absent		Drummond	Y	
Keen	Y		Gunning	Absent	
Brodie	Y		Mutton	Y	
Carr	Absent		Baker	Y	

## 12. 3.3 Variations to Development Standards - 2019/2020 Q3 Reporting Period

Report of Stephen Beattie, Manager Development Services

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.

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 determined 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:

- 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.
- 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.
- 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.
- 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 Q3 of the financial year 2019/20. Of the 6 variations recorded, all are technical in nature.

**Recommending:**

**1. THAT** the Variations to Development Standards - 2019/2020 Q3 report be received.

The Motion was moved by Councillor Baker and seconded by Councillor Mutton.

**Resolved to Recommend:**

**1. THAT** the Variations to Development Standards - 2019/2020 Q3 report be received.

Voting was as follows:

For/Against 6/0

Councillor	Yes	No	Councillor	Yes	No
Gibson	Y		Barbour	Absent	
Beregi	Absent		Drummond	Y	
Keen	Y		Gunning	Absent	
Brodie	Y		Mutton	Y	
Carr	Absent		Baker	Y	

### 13. 3.4 NSLEP 2013 Amendments 25, 27 and 28 - Post Gazettal Report

Report of Liam Rogers, Student Strategic Planner

This report is to inform Councillors of the gazettal of three amendments to NSLEP 2013 relating to sites in St Leonards. The report provides a summary of the strategic planning work undertaken in St Leonards/Crows Nest and a brief overview of the progression of each Planning Proposal in this context.

Council has undertaken considerable strategic planning work in St Leonards and Crows Nest, since the adoption of the St Leonards/Crows Nest Planning Study – Precinct 1 in 2011 and the St Leonards/Crows Nest Planning Study – Precincts 2 & 3 in 2015. These studies were informed by extensive community consultation, as well as detailed urban design, transport and employment analysis. These studies sought to provide a holistic, place-based approach to strategic planning in St Leonards and Crows Nest and to manage the high levels of development interest in the area.

Between 2015 and 2017, three Planning Proposals were lodged for sites in St Leonards at 575-583 Pacific Highway (PP 7/15), 23-35 Atchison Street (PP 1/18) and 100 Christie Street (PP 6/16) all of which were largely consistent with the outcomes of Council's endorsed strategic planning studies for the locality. All proposals were accompanied by Voluntary Planning Agreements (VPAs) seeking to deliver significant public benefits including funds for the upgrade of Hume Street Park, embellishment and dedication of Christie Street reserve, dedication of co-working space, a linear park along Oxley Street and increased setbacks at the ground level along Atchison Street.

In June 2017, the Department of Planning, Industry and Environment (DPIE) announced this area as a Planned Precinct and released the draft St Leonards and Crows Nest 2036 Plan (SLCN Draft 2036 Plan) in October 2018. This has delayed the progression of these Planning Proposals as there has been some uncertainty around the proposed application of Special Infrastructure Contributions (SIC) for these sites. Council subsequently made representations to the DPIE seeking to ensure that the potential delivery of the VPAs associated with these proposals are not eroded through the potential application of any future SIC requirement. The DPIE has advised that it may accept the VPAs as being a satisfactory arrangement for the delivery of any SIC requirement.

On 15 May 2020, North Sydney Local Environmental Plan Amendments 25, 27 and 28 were gazetted following their publication on the NSW legislation website. These amendments include the following:

- Amendment 25 – 575-583 Pacific Highway, St Leonards. This amendment increases the maximum building height from 26m to 56m and applies a maximum FSR of 7:1 to the whole site.
- Amendment 27 – 23-35 Atchison Street, St Leonards. This amendment increases the maximum building height from 20m to 56m, increases the minimum non-residential FSR from 0.6:1 to 1.5:1, and imposes a maximum FSR of 6.3:1.
- Amendment 28 – 100 Christie Street, St Leonards. This amendment permits 'shop top housing' on the site, under Schedule 1 of NSLEP 2013. It increases the maximum building height from 49m to 132m, introduces a maximum FSR of 18:1

and a minimum non-residential FSR of 4.25:1. The amendment also permits basement parking beneath Christie Street Reserve.

The gazettal of these Planning Proposals represents the culmination of years of Council's strategic planning work in the area. All three proposals will require ongoing monitoring by Council to ensure the delivery of the VPA components of each project. Council has entered into formal arrangements with each of the proponents to the gazetted LEP amendments to deliver significant public benefits through VPAs. Council will need to monitor the implementation and delivery of these VPAs.

**Recommending:**

**1. THAT** the NSLEP 2013 Amendments 25, 27 and 28 - Post Gazettal Report be received.

The Motion was moved by Councillor Baker and seconded by Councillor Mutton.

**Resolved to Recommend:**

**1. THAT** the NSLEP 2013 Amendments 25, 27 and 28 - Post Gazettal Report be received.

Voting was as follows:

For/Against 6/0

Councillor	Yes	No	Councillor	Yes	No
Gibson	Y		Barbour	Absent	
Beregi	Absent		Drummond	Y	
Keen	Y		Gunning	Absent	
Brodie	Y		Mutton	Y	
Carr	Absent		Baker	Y	

**14. 3.5 North Sydney Economic Development Strategy - Implementation Update**

Report of James Marshall, Economic Development Coordinator

The purpose of this report is to provide an update on the implementation of the North Sydney Economic Development Strategy and a summary of the economic changes that have taken place since its development.

The North Sydney Economic Development Strategy was adopted in August 2016 following community consultation. The Strategy outlines Council's vision for economic development in a consolidated policy document, which aims to address the following issues:

- Office market supply and grade;
- Limited vibrancy of North Sydney Centres;
- Limited night-time economy;
- Additional support for North Sydney businesses; and
- Opportunities for new infrastructure.

Of the 22 strategies and 50 related actions, 5 actions have been completed, 31 actions are on track, 7 actions are delayed and 7 actions are not progressing.

The North Sydney Local Government Area (LGA) has experienced significant economic growth since 2016. However, COVID-19 represents a significant threat to the economy. Council has put in place measures to support local businesses impacted by the pandemic.

**Recommending:**

**1. THAT** the North Sydney Economic Development Strategy - Implementation Update report be received.

The Motion was moved by Councillor Keen and seconded by Councillor Drummond.



**Resolved to Recommend:**

**1. THAT** the North Sydney Economic Development Strategy - Implementation Update report be received.

Voting was as follows:

For/Against 6/0

Councillor	Yes	No	Councillor	Yes	No
Gibson	Y		Barbour	Absent	
Beregi	Absent		Drummond	Y	
Keen	Y		Gunning	Absent	
Brodie	Y		Mutton	Y	
Carr	Absent		Baker	Y	

The meeting concluded at 7.02pm.

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**CHAIRPERSON**

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**GENERAL MANAGER**