

7.3. Legal and Planning Committee - Minutes 12 October 2020

AUTHOR: Ian Curry, Manager Governance & Committee Services

ENDORSED BY: Joseph Hill, Director City Strategy

ATTACHMENTS:

1. Minutes - 12 October 2020 [7.3.1 - 5 pages]

PURPOSE:

Council is required to consider the Minutes of this Committee under the Code of Meeting Practice.

EXECUTIVE SUMMARY:

This report presents the recommendations of the last meeting of the Legal and Planning Committee held on 12 October 2020 for Council adoption. The Minutes are attached for information.

FINANCIAL IMPLICATIONS:

Nil.

RECOMMENDATION:

1. **THAT** the Current Appeals and Results – October 2020 report be received. (3.1)
2. **THAT** the Development Applications Received from 1 April to 30 June 2020 report be received. (3.2)
3. **THAT** the Variations to Development Standards - 2019/2020 Q4 Reporting Period report be received. (3.3)
4. **THAT** Council note the contents of the Noakes Boatyard – 6 John Street, McMahons Point report. (3.4)
5. **THAT** the Noakes Boatyard – 6 John Street, McMahons Point report be treated as confidential and remain confidential until Council determines otherwise. (3.4)

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

In accordance with Council's Code of Meeting Practice:

20.24 The minutes of meetings of each Committee of the Council must be confirmed at a subsequent meeting of the committee.

The Charter of the Legal and Planning Committee states:

11.3 The recommendations arising at Committee meetings are to be submitted to the next available Council meeting for adoption. Any Councillor, irrespective of whether that Councillor is a member that Committee may be the mover or seconder of such recommendations.

CONSULTATION REQUIREMENTS

Community engagement is not required.

DETAIL

This report presents the recommendations of the last meeting of the Legal and Planning Committee held on 12 October 2020 for Council adoption. The Minutes are attached for information.

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 12 OCTOBER AT 6.30PM.

PRESENT

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

Staff: Ken Gouldthorp, General Manager
Joseph Hill, Director City Strategy
Craig Winn, Solicitor
David Hoy, Acting Manager Development Services
Marise van der Walt, Manager Environment & Building Compliance
Ian Curry, Manager Governance & Committee Services (Minutes)

Visitors: Kirston Gerathy, HWL Ebsworth Lawyers (Item 4.1)

Apologies were received from Councillors Barbour and Beregi.

At the commencement of business (6.39pm) Councillors present in the Supper Room were:

Councillor Gibson in the Chair, Councillors Brodie, Drummond and Mutton

Participating remotely were:

Councillors Carr and Keen

Declarations of Interest

Nil

This is Page No 15 of the Minutes of the Legal and Planning Committee Meeting of the North Sydney Council held on 12 October 2020.

15. Minutes

The Minutes of the previous meeting held on 15 June 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	Y		Baker	Absent	

16. 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.

The Motion was moved by Councillor Mutton and seconded by Councillor Drummond

Resolved to Recommend:

1. THAT the Current Appeals and Results – October 2020 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	Y		Baker	Absent	

17. 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

This is Page No 16 of the Minutes of the Legal and Planning Committee Meeting of the North Sydney Council held on 12 October 2020.

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.

Recommending:

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

The Motion was moved by Councillor Mutton and seconded by Councillor Drummond

Resolved to Recommend:

1. THAT the Development Applications Received from 1 April to 30 June 2020 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	Y		Baker	Absent	

18. 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 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 within four

This is Page No 17 of the Minutes of the Legal and Planning Committee Meeting of the North Sydney Council held on 12 October 2020.

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.

Recommending:

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

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

Resolved to Recommend:

1. **THAT** the Variations to Development Standards - 2019/2020 Q4 Reporting Period 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	Y		Baker	Absent	

Confidential Matters

Closed Session

It was moved by Councillor Gibson and seconded by Councillor Mutton and carried,

THAT the meeting be closed to the public to discuss the following matters for the reasons identified:

19. **4.1 Noakes Boatyard – 6 John Street, McMahons Point**

Reason: Section 10A(2) of the Local Government Act

- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege.

The recording was stopped and the meeting recommenced in Closed Session at 6.42pm.

This is Page No 18 of the Minutes of the Legal and Planning Committee Meeting of the North Sydney Council held on 12 October 2020.

Open Session

The meeting was re-opened to the public at 7.44pm and the recording resumed.

The General Manager advised that during the Closed Session, the Committee had recommended as follows:

Resolved to Recommend:

1. **THAT** Council note the contents of the report.
2. **THAT** the report be treated as confidential and remain confidential until Council determines otherwise.

The meeting concluded at 7.45pm.

CHAIRPERSON

GENERAL MANAGER

This is Page No 19 of the Minutes of the Legal and Planning Committee Meeting of the North Sydney Council held on 12 October 2020.