

7.1. Legal and Planning Committee Minutes - 14 March 2022

AUTHOR: Ian Curry, Manager Council & Committee Services

ENDORSED BY: Joseph Hill, Director City Strategy

ATTACHMENTS:

1. Minutes - Legal and Planning Committee -14 March 2022 [7.1.1 - 17 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 14 March 2022 for Council adoption. The minutes are attached for information.

FINANCIAL IMPLICATIONS:

There are no financial implications associated with the recommendations of the committee.

RECOMMENDATION:

1.THAT Council note the Ministerial Order - Planning report and the Ministerial Order's stated expectations associated with Council's planning functions. *(Item 4.1)*

2.THAT Council endorse Council staff's strict adherence to the 90-day planning proposal determination timeframe which will require a "receive and determine" approach with minimal opportunity for discussion, lodgement of amended plans and general resolution of issues with applicants. *(Item 4.1)*

3.THAT Council write to regular applicants of planning proposals and advise of the new approach to the assessment process being conducted by Council in light of the Ministerial Order. *(Item 4.1)*

4.THAT Council note that if the Ministerial Order is interpreted in such a way that all development applications are expected to meet the 180 and 250 day determination timeframes, this may result in an increase in refusals for those applications that for a myriad of reasons, may require more time and attention prior to being determined. *(Item 4.1)*

5. THAT the Committee endorse the submission to the Department of Planning and Environment (DPE) on proposed changes to the process of amending Local Environmental Plans (LEPs), contained in Attachment 1. *(Item 4.2)*

6. THAT the Holt Avenue Properties - Interim Heritage Order report be received. *(Item 4.3)*

7.THAT the Interim Heritage Order - Northern Side of Parraween Street between Paling Street to Macpherson Street report be received. *(Item 4.4)*

8. THAT the 6 John Street, McMahons Point report be received. *(Item 4.5)*

- 9. THAT** the Variations to Development Standards – 2021/22 Q1 Reporting Period report be received. *(Item 4.6)*
- 10. THAT** the Variations to Development Standards – 2021/22 Q2 Reporting Period report be received. *(Item 4.7)*
- 11. THAT** the North Sydney Local Planning Panel Report 2020/21 report be received. *(Item 4.8)*
- 12. THAT** the Development Applications received in Q1 and Q2 of financial year 2021/22 report be received. *(Item 4.9)*
- 13. THAT** the Current Appeals and Results – March 2022 report be received. *(Item 5.1)*
- 14. THAT** the report be treated as confidential and remain confidential until Council determines otherwise. *(Item 5.1)*

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 14 March 2022 for Council adoption. The minutes are attached for information.

MINUTES

The Minutes of the Legal & Planning Committee held at the Council Chambers, North Sydney at 6:00 PM on Monday 14 March 2022.
Legal and Planning Committee - 14 March 2022

1. Attendance	3
2. Disclosures of Interest.....	4
3. Confirmation of Minutes.....	4
4. Committee Reports.....	4
4.1. Ministerial Order - Planning	4
4.2. Department of Planning and Environment Discussion Paper: A new approach to rezonings.....	6
4.3. Holt Avenue Properties - Interim Heritage Order.....	7
4.4. Interim Heritage Order - Northern Side of Parraween Street between Paling Street to Macpherson Street	9
4.5. 6 John Street, McMahons Point.....	10
4.6. Variations to Development Standards - 2021/2022 Q1 Reporting Period	11
4.7. Variations to Development Standards - 2021/2022 Q2 Reporting Period	12
4.8. North Sydney Local Planning Panel Report 2020/21.....	14
4.9. Development Applications Received 1 July - 30 September 2021 and 1 October – 31 December 2021.....	14
5. Confidential Reports	15
5.1. Current Appeals and Results - March 2022	15
6. Closure.....	16

1. Attendance

Chair:

The Mayor, Councillor Baker in the Chair.

Members:

Councillor Bourke
Councillor Drummond
Councillor Gibson
Councillor Lamb
Councillor Mutton
Councillor Santer
Councillor Spenceley
Councillor Welch

Staff:

Ken Gouldthorp, General Manager
Joseph Hill, Director City Strategy
Shane Sullivan, Executive Manager Governance
Craig Winn, Solicitor
Stephen Beattie, Manager Development Services
Marise Van Der Walt, Manager Environment and Building Compliance
Marcelo Occhiuzzi, Manager Strategic Planning
Ian Curry, Manager Council and Committee Services

Apologies: Councillor Beregi

At the commencement of business 6:01 pm those present were:

Councillor Bourke
Councillor Drummond
Councillor Lamb
Councillor Mutton
Councillor Santer
Councillor Spenceley
Councillor Welch

The meeting was opened by the Mayor.

2. Disclosures of Interest

There were no disclosures of interest.

3. Confirmation of Minutes

The Minutes of the previous meeting held on 11 October 2021, copies of which had been previously circulated, were taken as read and confirmed.

The Motion was put and **Carried**.

Voting was as follows:

For/Against 8 / 0

For: Councillor Baker, Councillor Bourke, Councillor Drummond, Councillor Lamb, Councillor Mutton, Councillor Santer, Councillor Spenceley and Councillor Welch

Against: Nil

Absent: Councillors Beregi and Gibson

Resolved to recommend:

The Minutes of the previous meeting held on 11 October 2021, copies of which had been previously circulated, were taken as read and confirmed.

4. Committee Reports

4.1. Ministerial Order - Planning

AUTHOR: Neal McCarry, Team Leader - Policy

To advise Council of a Ministerial Order issued to Council on 15 December 2021 regarding the Minister's expectations associated with Council's planning functions.

On 26 November 2021, the Minister for Planning, Mr. Rob Stokes, made the Environmental Planning and Assessment (Statement of Expectations) Order 2021 (attachment 1).

The Order sets benchmarks for Council's performance in areas of:

- development assessment;
- planning proposals; and
- strategic planning.

Specifically, the Order lists the Minister's expectations of Council relating to the meeting of various timeframes associated with these assessment and planning functions. The Order includes an explanatory note that states:

If a council is found not to be meeting these expectations, the Minister can take these matters into consideration as part of determining if it is appropriate to appoint a planning administrator or regional panel to exercise Council's functions.

This report broadly outlines Council's current performance relating to these planning functions and describes the implications of meeting these Ministerial implications. Council's development assessment and strategic planning functions are largely consistent with the Ministerial Order. The approach to the planning proposal assessment process, however, will be required to be significantly changed to a stricter "receive and determine" regime, with little opportunity for discussion, negotiation or lodgement of amended plans.

Whilst largely consistent with the Ministerial expectations, Council's development assessment process will also be required to be refined and may lead to a higher proportion of applications being refused in the long term.

There are no direct financial implications associated with the Ministerial Order. However, a greater focus on determining applications within specified timeframes, may require a shift resourcing and recalibration of priorities depending on the volume of development applications lodged at any one time.

RECOMMENDATION:

1.THAT Council note this report and the Ministerial Order's stated expectations associated with Council's planning functions.

2.THAT Council endorse Council staff's strict adherence to the 90-day planning proposal determination timeframe which will require a "receive and determine" approach with minimal opportunity for discussion, lodgment of amended plans and general resolution of issues with applicants.

3.THAT Council write to regular applicants of planning proposals and advise of the new approach to the assessment process being conducted by Council in light of the Ministerial Order.

4.THAT Council note that if the Ministerial Order is interpreted in such a way that all development applications are expected to meet the 180 and 250 day determination timeframes, this may result in an increase in refusals for those applications that for a myriad of reasons, may require more time and attention prior to being determined.

Councillor Gibson arrived at 6.07pm during consideration of this Item.

The Recommendation was moved by Councillor Mutton and seconded by Councillor Welch.

The Motion was put and **Carried**.

Voting was as follows:

For/Against 9 / 0

For: Councillor Baker, Councillor Bourke, Councillor Drummond, Councillor Gibson, Councillor Lamb, Councillor Mutton, Councillor Santer, Councillor Spenceley and Councillor Welch

Against: Nil

Absent: Councillor Beregi

Resolved to Recommend:

1.THAT Council note this report and the Ministerial Order's stated expectations associated with Council's planning functions.

2.THAT Council endorse Council staff’s strict adherence to the 90-day planning proposal determination timeframe which will require a “receive and determine” approach with minimal opportunity for discussion, lodgment of amended plans and general resolution of issues with applicants.

3.THAT Council write to regular applicants of planning proposals and advise of the new approach to the assessment process being conducted by Council in light of the Ministerial Order.

4.THAT Council note that if the Ministerial Order is interpreted in such a way that all development applications are expected to meet the 180 and 250 day determination timeframes, this may result in an increase in refusals for those applications that for a myriad of reasons, may require more time and attention prior to being determined.

4.2. Department of Planning and Environment Discussion Paper: A new approach to rezonings

AUTHOR: Alice Brown, Senior Strategic Planner

To seek the Committee’s endorsement of a submission to the Department of Planning and Environment (DPE) on proposed changes to the process of amending Local Environmental Plans (LEPs). The submission identifies key areas of concern with the proposed changes and outlines further considerations for DPE in approaching reform to this process.

In December 2021, DPE released the Discussion Paper: A new approach to rezonings, which outlines potential reform mechanisms to the existing process of amending a LEP. A copy of the Discussion Paper can be found at: <https://www.planning.nsw.gov.au/-/media/files/dpe/discussion-papers/policy-and-legislation/new-approach-to-rezonings-discussion-paper-december-2021.pdf>.

The Discussion Paper was exhibited from 15 December 2021 to 28 February 2022, with Council being granted an extension of time to enable Committee consideration. Council officers also attended an online briefing from DPE in February 2022.

The Discussion Paper contains a range of reforms which, on balance, do not enhance the current process. While power to determine LEP amendments is being given back to local governments in many cases, this is accompanied by measures which ultimately disadvantage Council and the community. Concepts such as strict timeframes for delivery, proponent-led exhibition periods, the option of refunds, and an appeals pathway for amendments will erode Council’s ability to adequately assess and review LEP amendments in a way that leads to sound planning outcomes. The reforms as proposed are not supported, with refinements to the existing process preferred as the best outcome.

The submission identifies that there will be officer resourcing and cash flow and budgeting issues to Council should some of the reforms be adopted. Specifically, these relate to an emphasis on pre-lodgement meetings where no fee is typically payable, and a “planning guarantee” where refunds may be issued if planning decisions are not issued in a timely manner.

RECOMMENDATION:

1. THAT the Committee endorse the submission contained in Attachment 1.

The Recommendation was moved by Councillor Gibson and seconded by Councillor Bourke.

The Motion was put and **Carried**.

Voting was as follows:

For/Against 9 / 0

For: Councillor Baker, Councillor Bourke, Councillor Drummond, Councillor Gibson, Councillor Lamb, Councillor Mutton, Councillor Santer, Councillor Spenceley and Councillor Welch

Against: Nil

Absent: Councillor Beregi

Resolved to Recommend:

1. THAT the Committee endorse the submission to the Department of Planning and Environment (DPE) on proposed changes to the process of amending Local Environmental Plans (LEPs), contained in Attachment 1.

4.3. Holt Avenue Properties - Interim Heritage Order

AUTHOR: Jayden Perry, Strategic Planner

The purpose of this report is to advise Council of the progress in the issuing of an Interim Heritage Order (IHO) for several properties in Holt Avenue, Cremorne, in response to Council's resolution at its meeting on 24 January 2022.

In response to concerns raised in submissions relating to DA 239/21 at 131, 133, 135, 137 and 139 Holt Avenue, Cremorne and DA 243/21 at 115, 117 and 119 Holt Avenue, Cremorne, Council considered a Notice of Motion at its meeting on 24 January 2022, and resolved:

1. *THAT Council obtain urgent advice, including review of existing studies in relation to whether an Interim Heritage Order(s) can be supported in respect of a group of dwellings known as 115, 117, 119, 121, 123, 125 and 131, 133 Holt Avenue, Cremorne.*
2. *THAT Council prepare an urgent report, including review of existing studies to assess whether a new Heritage Conservation Area ought to be identified and adopted in relation to the area bounded by Spofforth Street, Military Road, Cranbrook Avenue and Cabramatta Road, Cremorne and that such review consider the inclusion of the group of dwellings at 115, 117, 119, 121, 123, 125 and 131, 133 Holt Avenue, Cremorne and be informed by the provisions relating to Mosman Council's Holt Estate Conservation Area.*
3. *THAT the review consider whether there are contributory items within any recommended conservation area.*

In accordance with this resolution, Council engaged heritage consultants GML to prepare a preliminary heritage assessment (Preliminary Assessment) to determine if the properties may potentially satisfy the criteria for heritage listing under North Sydney Local Environmental Plan 2013 (NSLEP 2013).

Council received GML's finalised Preliminary Assessment in early March 2022, which identified that the sites have potential heritage significance and indicated that they are worthy of further investigation.

Under section s.25 of the Heritage Act 1977, local councils have the authorisation to make Interim Heritage Orders (IHOs). Furthermore, this authorisation to make an IHO was delegated to Council's General Manager by Council resolution on 17 March 2014.

Council must not make an Interim Heritage Order unless it has considered a preliminary heritage assessment of the item(s) prepared by an appropriately qualified person and considers that the item is or is likely to be found of local heritage significance, is likely to be harmed and is confined to the items under threat.

DA 239/21 and DA 243/21 are currently under assessment, with both likely to be determined in the coming months. Furthermore, the applicant at any time has the option of pursuing demolition of the properties through a complying development certificate. The properties at 115, 117, 119, 131 and 133 Holt Avenue, Cremorne are therefore under threat of being demolished and subsequently qualify for interim heritage protection under the Act.

The General Manager, under delegation, authorised Council on Monday 7 March 2022 to make an Interim Heritage Order at the properties at 115, 117, 119, 131 and 133 Holt Avenue, Cremorne. Council has since received confirmation that the gazette notice will be published on Friday 11 March 2022.

It should be noted that the properties at 121, 123 and 125 Holt Avenue are not considered to be under immediate threat. Therefore, an IHO cannot be prepared for these sites. Should the threat of demolition arise, Council Officers will reconsider this matter and may issue a separate IHO at these sites.

The costs of further engaging heritage consultants, circa \$10,000-\$15,000, can be accommodated under the current Local Environmental Plan Review budget allocation.

RECOMMENDATION:

1. THAT Council note the report.

The Recommendation was moved by Councillor Spenceley and seconded by Councillor Santer.

The Motion was put and .

Voting was as follows:

For/Against 9 / 0

For: Councillor Baker, Councillor Bourke, Councillor Drummond, Councillor Gibson, Councillor Lamb, Councillor Mutton, Councillor Santer, Councillor Spenceley and Councillor Welch

Against: Nil

Absent: Councillor Beregi

Resolved to Recommend:

1. THAT the Holt Avenue Properties - Interim Heritage Order report be received.

4.4. Interim Heritage Order - Northern Side of Parraween Street between Paling Street to Macpherson Street

AUTHOR: Jayden Perry, Strategic Planner

The purpose of this report is to respond to Council's resolution to commence a review of the creation of a Heritage Conservation Area.

Further, it also addresses the ability to establish an Interim Heritage Order for buildings along Parraween Street, Cremorne and to seek advice in relation to the heritage significance of the Cremorne Orpheum Cinema and its curtilage.

At its meeting of 10 January 2022, Council resolved:

- 1. THAT Council immediately commences a review of the creation of a Heritage Conservation Area, being the Parraween St Conservation Area to protect the characteristic buildings and history for the row of late 1800's and early 1900's federation detached and semi-detached cottages on the northern side of Parraween Street that extends from Paling Street to Macpherson Street.*
- 2. THAT Council urgently receives appropriate advice by a person with the required knowledge and skills to assess if Council can establish an Interim Heritage Order (IHO) for the above properties to cover the period while Council reviews the establishment of the Heritage Conservation Area.*

Following this, on 24 January 2022, Council resolved:

- 1. THAT Council seek urgent heritage advice in relation to the heritage significance of the Cremorne Orpheum Cinema and its curtilage, in particular, whether State heritage listing is appropriate to protect this important local heritage item.*
- 2. THAT such advice be sought as part of the heritage advice to be obtained in respect of the Parraween Street, Cremorne cottages and surrounds under the resolution of Council at the meeting held on 10 January 2022.*

In accordance with resolution 2 (10 January 2022), Council officers undertook a preliminary assessment of the matter to determine whether Council can establish an Interim Heritage Order (IHO) for the properties on the northern side of Parraween Street.

The preliminary assessment indicated that, notwithstanding the potential heritage significance of the properties, the sites did not meet the criteria under S25(2) of the Heritage Act 1977 NSW to establish an IHO as there is no immediate threat of harm. Were this to change in the future, Council may at such time seek to establish an IHO. This will be monitored in the coming weeks and months. This action could be taken without delay if immediate circumstances change.

In consideration of resolution 1 of 10 January 2022 and resolutions 1 and 2 of 24 January 2022, Council officers are in the process of preparing the appropriate procurement documentation to engage a suitably qualified and experienced heritage consultant to undertake a review of the properties along the northern side of Parraween Street and of the Cremorne Orpheum Cinema and its curtilage, to determine whether they merit the creation of a Heritage Conservation Area and/or state heritage listing in the case of the Cinema. The completed review will be reported to Council following its completion.

Council will engage the services of a suitably qualified and experienced heritage consultant to assess the heritage significance of the properties identified in Council's resolution. A funding allocation of \$35,000 was made at the 21 February 2022 Council meeting in the Quarterly Budget review report.

RECOMMENDATION:

1.THAT the Interim Heritage Order - Northern Side of Parraween Street between Paling Street to Macpherson Street report be received.

The Recommendation was moved by Councillor Gibson and seconded by Councillor Spenceley.

The Motion was put and **Carried**.

Voting was as follows:

For/Against 9 / 0

For: Councillor Baker, Councillor Bourke, Councillor Drummond, Councillor Gibson, Councillor Lamb, Councillor Mutton, Councillor Santer, Councillor Spenceley and Councillor Welch

Against: Nil

Absent: Councillor Beregi

Resolved to Recommend:

1.THAT the Interim Heritage Order - Northern Side of Parraween Street between Paling Street to Macpherson Street report be received.

4.5. 6 John Street, McMahons Point

AUTHOR: Long Huynh, Team Leader Building Compliance

The purpose of this report is to provide information in response to Council's resolution from its meeting held on 24 January 2002.

The property known as 6 John Street, McMahons Point operates as a boat maintenance facility. Since the lodgment and consideration of the Floating Dry Dock development (DA 57/19) application in 2019 there has been an escalation of concerns raised by the surrounding residents regarding the operation of the site under Development Consent No 1164/90.

Council, at its meeting on 24 January 2022, resolved the following:

1. *THAT Council be provided with an urgent report on the status of compliance issues, investigations and actions to enforce the conditions of consent of DA 1164/90 for redevelopment of the existing boat maintenance facility at 6 John Street, McMahons Point and compliance with the terms of the S34 agreement and subsequent Court Orders made by the Court in respect of Land and Environment Court Proceedings No. 2020/00122833, including, but not limited to, the enforcement of:*

- (a) the public benefit condition D51 which required the developer to "provide a public jetty extending from land below John Street, approximately in the location of the former sea baths, subject to the design and position being acceptable to Council";*
- (b) the numbers of boats to be permitted on the site at any time;*
- (c) the unauthorised caretaker's cottage and other unauthorised structures; and*

(d) *environmental and operational conditions including noise standards and industrial equipment.*

2. *THAT Council be provided with an urgent report on the status of compliance issues, investigations and actions relating to fire safety at 6 John Street, McMahons Point including issues relating to access to and egress from the site for fire trucks and emergency and the storage and use of flammable chemicals and materials.*

The purpose of this report is to provide information in response to the above Council resolution.

Expenditure in relation to legal advice and defending Council's Order 11, dated 30 March 2020 is \$115,034.96. Resulting from the Order 11 appeal, a further \$15,316 was spent on legal representations in relation to the Deed of Settlement. Therefore, the total amount spent for the period between 27 February 2019 and 24 December 2021 is \$130,350.96. The matter and costs are ongoing. Significant internal resources have also been applied to the matter in addition to the payments for external legal advice.

RECOMMENDATION:

1. **THAT** the 6 John Street, McMahons Point report be received.

The Recommendation was moved by Councillor Gibson and seconded by Councillor Santer.

The Motion was put and **Carried**.

Voting was as follows:

For/Against 9 / 0

For: Councillor Baker, Councillor Bourke, Councillor Drummond, Councillor Gibson, Councillor Lamb, Councillor Mutton, Councillor Santer, Councillor Spenceley and Councillor Welch

Against: Nil

Absent: Councillor Beregi

Resolved to Recommend:

1. **THAT** the 6 John Street, McMahons Point report be received.

4.6. Variations to Development Standards - 2021/2022 Q1 Reporting Period

AUTHOR: 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 for Q1 2021/2022.

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 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 1 (Q1) of the financial year 2021/22. Of 111 applications determined in the quarter, 6 variations in total are reported all by the North Sydney Local Planning Panel and none by the Sydney North Planning Panel or under delegated authority.

There are no financial implications associated with the report.

RECOMMENDATION:

1. **THAT** the Variations to Development Standards – 2021/22 Q1 Reporting Period report be received.

The Recommendation was moved by Councillor Mutton and seconded by Councillor Bourke.

The Motion was put and **Carried**.

Voting was as follows:

For/Against 9 / 0

For: Councillor Baker, Councillor Bourke, Councillor Drummond, Councillor Gibson, Councillor Lamb, Councillor Mutton, Councillor Santer, Councillor Spenceley and Councillor Welch

Against: Nil

Absent: Councillor Beregi

Resolved to Recommend:

1. **THAT** the Variations to Development Standards – 2021/22 Q1 Reporting Period report be received.

4.7. Variations to Development Standards - 2021/2022 Q2 Reporting Period

AUTHOR: 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 for Q2 2021/2022.

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 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 2 (Q2) of the financial year 2021/22. Of 118 applications determined in the quarter, 9 variations in total are reported, 8 by the North Sydney Local Planning Panel, none by the Sydney North Planning Panel and 1 under delegated authority.

There are no financial implications associated with the report.

RECOMMENDATION:

1. THAT the Variations to Development Standards – 2021/22 Q2 Reporting Period report be received.

The Recommendation was moved by Councillor Mutton and seconded by Councillor Bourke.

The Motion was put and **Carried**.

Voting was as follows:

For/Against 9 / 0

For: Councillor Baker, Councillor Bourke, Councillor Drummond, Councillor Gibson, Councillor Lamb, Councillor Mutton, Councillor Santer, Councillor Spenceley and Councillor Welch

Against: Nil

Absent: Councillor Beregi

Resolved to Recommend:

1. THAT the Variations to Development Standards – 2021/22 Q2 Reporting Period report be received.

4.8. North Sydney Local Planning Panel Report 2020/21

AUTHOR: Stephen Beattie, Manager Development Services

The purpose of this report is to explore the activities of the North Sydney Local Planning Panel within the 2020/21 financial year.

This report is provided in response to the provision contained within Section 2.20 (5) of the Environmental Planning and Assessment Act 1979; "MISCELLANEOUS PROVISIONS RELATING TO LOCAL PLANNING PANELS - (5) The council is to monitor the performance of local planning Panels constituted by the council."

Reports are provided annually based on the financial year.

The activities of the Panel are budgeted for in an ongoing sense. There are no financial implications flowing from this report.

RECOMMENDATION:

1. THAT the North Sydney Local Planning Panel Report 2020/21 report be received.

The Recommendation was moved by Councillor Welch and seconded by Councillor Santer.

The Motion was put and **Carried**.

Voting was as follows:

For/Against 9 / 0

For: Councillor Baker, Councillor Bourke, Councillor Drummond, Councillor Gibson, Councillor Lamb, Councillor Mutton, Councillor Santer, Councillor Spenceley and Councillor Welch

Against: Nil

Absent: Councillor Beregi

Resolved to Recommend:

1. THAT the North Sydney Local Planning Panel Report 2020/21 report be received.

4.9. Development Applications Received 1 July - 30 September 2021 and 1 October – 31 December 2021

AUTHOR: Stephen Beattie, Manager Development Services

This report provides a list of Development Applications received by Council in Q1 and Q2 of financial year 2021/22. 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 Q1, 1 July 2021 to 30 September 2021, 149 applications of all types were received, of those, 112 applications had already been determined as of 7 March 2022. A total of 111

applications were determined in Q1 (Quarter 1) 2021/22 with a mean processing time of 66 days.

During Q2, 1 October 2021 to 31 December 2021, 164 applications of all types were received, of those, 55 applications had been determined as of 7 March 2022. A total of 149 applications were determined in Q2 (Quarter 2) 2021/22 with a mean processing time of 64 days.

This report is normally prepared quarterly to align with the Legal and Planning Committee and provides a monthly break down of application types as well as additional commentary. Due to the break in Committee meetings over the Christmas period, two quarters are presented in this report.

There are no financial implications arising directly from this report.

RECOMMENDATION:

1. THAT the Development Applications received in Q1 and Q2 of financial year 2021/22 report be received.

The Recommendation was moved by Councillor Bourke and seconded by Councillor Mutton.

The Motion was put and **Carried**.

Voting was as follows:

For/Against 9 / 0

For: Councillor Baker, Councillor Bourke, Councillor Drummond, Councillor Gibson, Councillor Lamb, Councillor Mutton, Councillor Santer, Councillor Spenceley and Councillor Welch

Against: Nil

Absent: Councillor Beregi

Resolved to Recommend:

1. THAT the Development Applications received in Q1 and Q2 of financial year 2021/22 report be received.

5. Confidential Reports

5.1. Current Appeals and Results - March 2022

AUTHOR: Craig Winn, Solicitor

Report on current appeal and prosecution matters.

Attached is a list of current appeal and prosecution matters as at 4 March 2022 for Council's information.

A separate Confidential report is provided. The Confidential report includes additional detail on the legal nature of the appeal, status and legal issues relating to matter still afoot.

In order to discuss the ongoing legal matter with Council's Solicitor, it is recommended that the meeting be closed to the public in accordance with Section 10A(2) of the Local

Government Act and the Local Government (General) Regulation 2005 for the reason listed below:

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

As at 4 March 2022, Council has incurred \$ 881,112 on legal fees for the 2021/22 financial year and recovered legal costs in the amount of \$ 42,848. The legal budget for 2022 financial year is \$ 1,500,000.

RECOMMENDATION:

1. THAT the meeting be closed to the public in accordance with Section 10A(2)(g) of the Local Government Act and the Local Government (General) Regulation 2005.

It was moved by Councillor Gibson and seconded by Councillor Mutton.

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

The Motion was put and **Carried**.

Voting was as follows:

For/Against 9 / 0

For: Councillor Baker, Councillor Bourke, Councillor Drummond, Councillor Gibson, Councillor Lamb, Councillor Mutton, Councillor Santer, Councillor Spenceley and Councillor Welch

Against: Nil

Absent: Councillor Beregi

The recording was paused at 6:26 pm and the meeting continued in closed session.

Reopening of Meeting

The recording recommenced and the meeting resumed in public session at 7.14pm.

The Mayor read out the resolution of the Committee in closed session as follows:

Item 5.1: Current Appeals and Results - March 2022:

Resolved to Recommend:

- 1. THAT** the Current Appeals and Results – March 2022 report be received.
- 2. THAT** the report be treated as confidential and remain confidential until Council determines otherwise.

6. Closure

The Meeting concluded at 7.15pm