

4.2. Variations to Development Standards - 2021/2022 Q3 Reporting Period

AUTHOR: Stephen Beattie Manager Development Services

ENDORSED BY: Joseph Hill, Director City Strategy

ATTACHMENTS: Q 3 variations to development standards [4.6.1 - 1 page]

PURPOSE:

Planning Circular PS 18-003 sets out certain procedural and reporting requirements for the processing of Cl4.6 and SEPP1 variations to development standards. This report addresses those requirements for Q1 2021/2022.

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 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 3 (Q3) of the financial year 2021/22. Of 110 applications determined in the quarter, six 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.

FINANCIAL IMPLICATIONS:

There are no financial implications associated with the report.

RECOMMENDATION:

1. THAT the Variations to Development Standards – 2021/22 Q3 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 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 variations to development standards which result in a significantly 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 3 2021/22 (1 January – 31 March 2022). Of 110 applications determined in the quarter, six variations in total are reported all of which were by the North Sydney Local Planning Panel none by the Sydney North Planning Panel or 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.

Council DA reference number	Lot number	DP number	Apartment/ Unit number	Street number	Street name	Suburb/Town	Postcode	Category of development	Environmental planning instrument	Zoning of land	Development standard to be varied	Justification of variation	Extent of variation	Concurring authority	Date DA determined dd/mm/yyyy
277/21	3	SP 32515	Suite 3, Ground Floor	102	Alfred Street South	Milsons Point	2061	9: Mixed	NSLEP 2013	B4 Mixed Use	Floor Space at Ground Level	The proposed reduction in non-residential floor area of 79m ² within the building is minor at 4% given that there is no loss in the number of commercial units. In accordance with the objective of the B4-Mixed Use Zone, the proposed development concentrates commercial premises at ground/street level and residences on upper levels. The proposed development achieves this objective and as such, demonstrates alignment with the above objective of Clause 4.4A. The applicant has submitted a written request pursuant to Clause 4.6. The written request has adequately addressed sub clause (3) and subject to satisfying conditions, is considered to be in the public interest because it is consistent with the relevant development standard and the objectives of the zone.	39%	NSLPP Approved	2/03/2022
292/21	0	SP 43135		54	Benelong Road	Cremorne	2090	1: Residential - Alterations & additions	NSLEP 2013	R2 Low Den Res	Building Height	The building has an existing roof ridge height of 10.46m (23%) that fails to comply with the permissible height limit of 8.5m, however this will be unchanged by this proposal. The proposed new deck and balcony structure to replace the existing structure will result in a maximum height of 9.94m. The applicant has submitted a written request pursuant to Clause 4.6 in NSLEP 2013.	1.44m (16.9%)	NSLPP Approved	2/02/2022
384/21	0	SP 82684		16	Alan Street	Cammeray	2062	1: Residential - Alterations & additions	NSLEP 2013	R2 Low Den Res	Building Height	The building has an existing roof ridge height of 11.7m (37.64%) that fails to comply with the permissible height limit of 8.5m, however this will be unchanged by this proposal. The applicant has submitted a written request pursuant to Clause 4.6 in NSLEP 2013. The written request has adequately addressed sub clause (3) and, subject to satisfying conditions, is considered to be in the public interest because it is consistent with the relevant development standards and the objectives of the zone. The proposed changes are unlikely to result in any significant additional amenity impacts upon adjoining properties in terms of solar access, views, or visual and acoustic privacy.	2.5m (29.4%)	Delegated Approved; Delegation given by NSLPP to determine applications where building height variation exceeds 10% and is caused by the height of existing structure.	22/02/2022
392/21	3	13787		1	Bridgeview Avenue	Cammeray	2062	1: Residential - Alterations & additions	NSLEP 2013	R3 Med Den Res	Building Height	The proposed works are considered to be acceptable on merit on the basis that the proposal would not have significant overall amenity impacts upon adjoining properties. There would be no unreasonable additional overshadowing, view loss, privacy loss and/or excessive build and scale as a result of the proposal.	110mm (1.29%)	Delegated Approved	17/03/2022
414/21	17	12695		32	Shellcove Road	Kurraba Point	2089	1: Residential - Alterations & additions	NSLEP 2013	R2 Low Den Res	Building Height	The building has an existing ridge height of 8.83m (3.88%) that fails to comply with the permissible height limit of 8.5m, however this will be unchanged by this proposal. The written request has adequately addressed sub clause (3) and, subject to satisfying conditions, is considered to be in the public interest because it is consistent with the relevant development standard and the objectives of the zone.	380mm (4.47%)	Delegated Approved	16/03/2022
204/21	22	12668		38	Waiwera Street	Lavender Bay	2060	1: Residential - Alterations & additions	NSLEP 2013	R3 Med Den Res	Building Height	It is considered that there are sufficient environmental planning grounds to justify contravention of the development standard. The objectives of the height control will be achieved despite the variation. On this basis the request for variation is well founded and it would be unreasonable to require compliance in the circumstances of the case.	0.582m (8.17%)	Delegated Approved	5/01/2022

28/22	28	SP 58848	8A	18	King Street	Wollstonecraft	2065	1: Residential - Alterations & additions	NSLEP 2013	R4 High Den Res	Building Height	The proposed development involves installation of a pergola within an existing residential flat building. It is noted; however, that this building features a height of 26.4m. Notwithstanding the proposed development does not alter the current height of the building. The applicant has submitted a written request pursuant to Clause 4.6. The written request has adequately addressed subclause (3) and subject to satisfying conditions, is considered to be in the public interest because it is consistent with the relevant development standard and the objectives of the zone.	14.4m (120%)	Delegated Approved; Delegation given by NSLPP to determine applications where building height variation exceeds 10% and is caused by the height of existing structure.	30/03/2022
34/22	0	SP 56293		68	Alfred Street South	Milsons Point	2061	9: Mixed	NSLEP 2013	B4 Mixed Use	Building Height	The proposed development involves removal and replacement of external cladding on an existing commercial building. The proposed development maintains this departure/contravention to the development standard. The applicant has submitted a written request pursuant to Clause 4.6. The written request has adequately addressed subclause (3) and, subject to satisfying conditions, is considered to be in the public interest because it is consistent with the relevant development standard and the objectives of the zone.	5.4m (13%)	Delegated Approved; Delegation given by NSLPP to determine applications where building height variation exceeds 10% and is caused by the height of existing structure.	24/03/2022
309/21	0	SP 85383		23	Waiwera Street	Lavender Bay	2060	1: Residential - Alterations & additions	NSLEP 2013	R3 Med Den Res	Building Height	The existing roof subject to works has a height varying from 10.5m - 15m that fails to comply with the permissible height limit. The new roof would maintain the existing height of the building not compliant with the permissible height limit. The applicant is considered to be well founded. The written request demonstrates that the compliance with the development standard would be unreasonable and unnecessary in the circumstances of the case and that there are sufficient planning grounds to justify the variation. The proposed development is, therefore considered to be in the public interest. It is recommended that the variation be supported in the site context.	10.5m - 15m (max 76%)	Delegated Approved; Delegation given by NSLPP to determine applications where building height variation exceeds 10% and is caused by the height of existing structure.	14/03/2022