



PLANNING SYSTEM

State environmental planning policies

Circular	PS 08–003
Issued	9 May 2008
Related	Circular B1 issued 17 March 1989

Variations to development standards

The purpose of this circular is to remind councils to complete quarterly returns on variations to development standards using State Environmental Planning Policy No. 1—Development Standards or similar provision under the Standard Instrument for principal local environmental plans, where the Director-General’s concurrence may be assumed.

This circular also notifies councils of arrangements where the Director-General’s concurrence may be assumed for exceptions to development standards under environmental planning instruments that adopt clause 4.6 (or the former clause 24) of the Standard Instrument, or any similar clause providing for exceptions to development standards.

Monitoring variations to development standards

Introduction

The Department’s Circular B1, issued on 17 March 1989, requested that councils monitor the use of the Director-General’s assumed concurrence under State Environmental Planning Policy No. 1—Development Standards (SEPP 1) on a quarterly basis.

This reporting requirement remains effective.

Monitoring of variations to development standards is important in that it enables the Department and councils to obtain an overview of the manner in which the established development standards are being varied and whether the assumed concurrence is being used as intended. This enables councils and the Department to determine whether development standards are appropriate, or whether changes are required. It also establishes a central record of value to all councils.

Variations to development standards under clause 4.6 of the Standard Instrument for principal local environmental plans (or similar provision) should be reported in the same manner as those required under SEPP 1.

Reporting on the use of variations to development standards

Councils are therefore reminded to keep accurate records of the use of SEPP 1, or clause 4.6 of the

Standard Instrument (or similar provision) from 1 April 2008. An updated reporting form is attached.

The quarterly report from 1 April to 30 June 2008 should use this format and is to be forwarded to the Department by 31 July 2008. Subsequent reports should be submitted on a quarterly basis from then on (ending September, December, March and June). Quarterly reports are to be emailed to developmentstandards@planning.nsw.gov.au within four weeks of the end of the quarter.

The Department will integrate reporting on variations to development standards into the 2009–10 Local Development Performance Monitoring requirements.

Notification of assumed concurrence

Introduction

This notification is to inform councils that arrangements for the Director-General’s concurrence can be assumed in respect of any environmental planning instrument that adopts clause 4.6 (or the former clause 24) of the Standard Instrument or a similar clause providing for exceptions to development standards.

Local environmental plans that adopt the Standard Instrument will repeal the application of SEPP 1 for the land to which the plan applies. The Director-General has decided to notify councils that they may assume the Director-General’s concurrence under environmental planning

instruments that adopt clause 4.6 (or the former clause 24) of the Standard Instrument, or similar clause, which provide for exceptions to development standards.

Notification of assumed concurrence of the Director-General under clause 4.6(4) (and the former clause 24(4)) of the Standard Instrument

- (1) Under clause 64 of the Environmental Planning and Assessment Regulation 2000, council is notified that it may assume the Director-General's concurrence for exceptions to development standards, subject to paragraphs (2) and (3), in respect of all applications made under:
 - (a) clause 4.6 (or the former clause 24, or any future amended version of this clause) of the Standard Instrument (Local Environmental Plans) Order 2006, or
 - (b) any other clause that is based on a substantially similar format and has a substantially similar effect to the clause described in (1)(a),where such a clause is adopted in an environmental planning instrument to provide for exceptions to development standards.
- (2) Council may assume the Director-General's concurrence in respect of an application to vary a development standard relating to the minimum lot size for the erection of a dwelling on land zoned RU1, RU2, RU3, RU4, RU6, R5, E2, E3 or E4 (or equivalent zone) only if:
 - (a) only one allotment does not comply with the minimum area, and
 - (b) that allotment has an area equal to or greater than 90% of the minimum area specified in the development standard.
- (3) This notification may be varied or revoked by further written notice provided by the Director-General.

Notification does not apply to SEPP 1

To avoid any doubt, this notification does not vary existing notifications to councils for assumed concurrence of the Director-General in respect of applications under SEPP 1.

Further information

Links to SEPP 1 and the Standard Instrument can be found on the Department of Planning's website at: <http://www.planning.nsw.gov.au>.

If you have further enquiries, please phone the Planning Information Centre 02 9228 6333 or email information@planning.nsw.gov.au.

Note: This and other Department of Planning circulars are published on the web at www.planning.nsw.gov.au/planningsystem/practicenotes.asp.

Authorised by:

Sam Haddad
Director-General

Important note

This circular does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this circular.

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