

Delegated Development Variance Permits

Planning & Development Committee

Thursday May 19, 2022

Delegated DVPs



- Housing affordability raised as an issue in the 2017 provincial election;
- Local governments are identified by the province in 2018 as playing an important role in housing affordability;
- Local government approval processes are further identified as a potential challenge to improving affordability;
- Province undertakes *Development Approvals Process Review* (2018-19).

Delegated DVPs

DAPR “Key Insights”:

- development finance tools (e.g. CACs);
- subdivision (RD Approving Officers);
- provincial referrals;
- application processes; and
- approval processes:
 - public input (public hearings); and
 - delegating authority.



Delegated DVPs



LOCAL GOVERNMENT ACT

Municipal Affairs Statutes Amendment Act (No. 2), adopted Nov. 25, 2021, introduced three (3) important changes to the Act:

- Ability to delegate DVPs;
- Revised Public Hearing requirements; and
- Revised newspaper notification requirements.

Delegated DVPs

Delegation of power to issue DVP

The Regional District may, by bylaw, delegate the authority to issue a DVP, if the proposed variance is:

- “minor”; and
- relates only to the following zoning provisions:
 - siting, size and dimensions of buildings;
 - off-street parking and loading;
 - signage; and
 - screening and landscaping.

Delegated DVPs

Delegation of power to issue DVP

A bylaw delegating the authority to issue a DVP must include the following:

- criteria for determining if a variance is “minor”; and
- guidelines to be considered by the delegate when issuing a DVP.

A property owner is entitled to have a delegated DVP reconsidered by the Board.

Delegated DVPs

Delegation of power to issue DVP

The Regional District is not required to give notice of a delegated DVP.

For all other DVPs, the RDOS must give notice of when the Board will be considering a permit that includes:

- purpose of the permit, affected land and location permit can be inspected; and
- notifying owners and residents within a defined radius (e.g. 100 metres) at least 10 days before Board consideration.

Development Variance Permit Overview (2013-2021)

Delegated DVPs

Basis of 2013 to 2021 Review Period

- Related to the introduction of “Consent Agenda” at the Board’s meeting of June 20, 2013, for land use applications deemed “of a generic nature or that need no discussion”;
- Land use applications “that may be considered controversial or of wide interest” were to continue to be listed separately on the Board’s Regular Agenda;
- Exclusion from “Consent Agenda” is either a negative recommendation or representations opposing the variance.

Delegated DVPs



Application Statistics

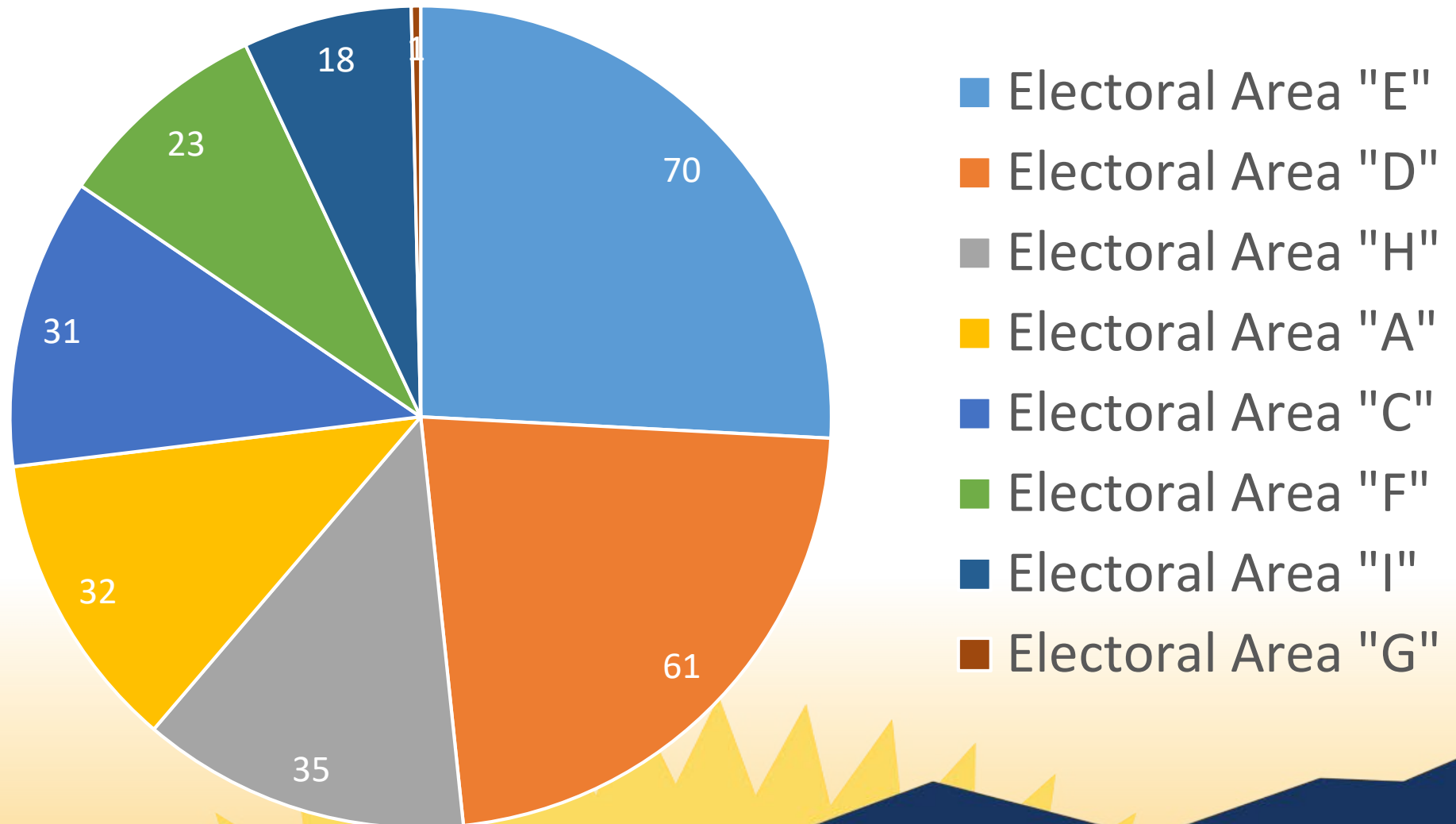
- The RDOS does not maintain detailed stats on DVPs.
- Compiling info on DVPs from 2013-2021 was done manually.
- Data *may* not be complete.

Delegated DVPs

	Area "A"	Area "C"	Area "D"	Area "E"	Area "F"	Area "G"	Area "H"	Area "I"	Total
2013	2	2	3	6	1	0	2	-	16
2014	3	4	5	6	0	1	4	-	23
2015	5	3	11	1	1	0	2	-	23
2016	2	4	7	9	5	0	3	-	30
2017	4	2	9	6	3	0	6	-	30
2018	5	3	6	8	2	0	1	1	26
2019	3	7	5	12	3	0	4	4	38
2020	4	1	2	3	6	0	3	5	24
2021	4	6	13	19	2	0	10	8	62
Total	32	31	61	70	23	1	35	18	275

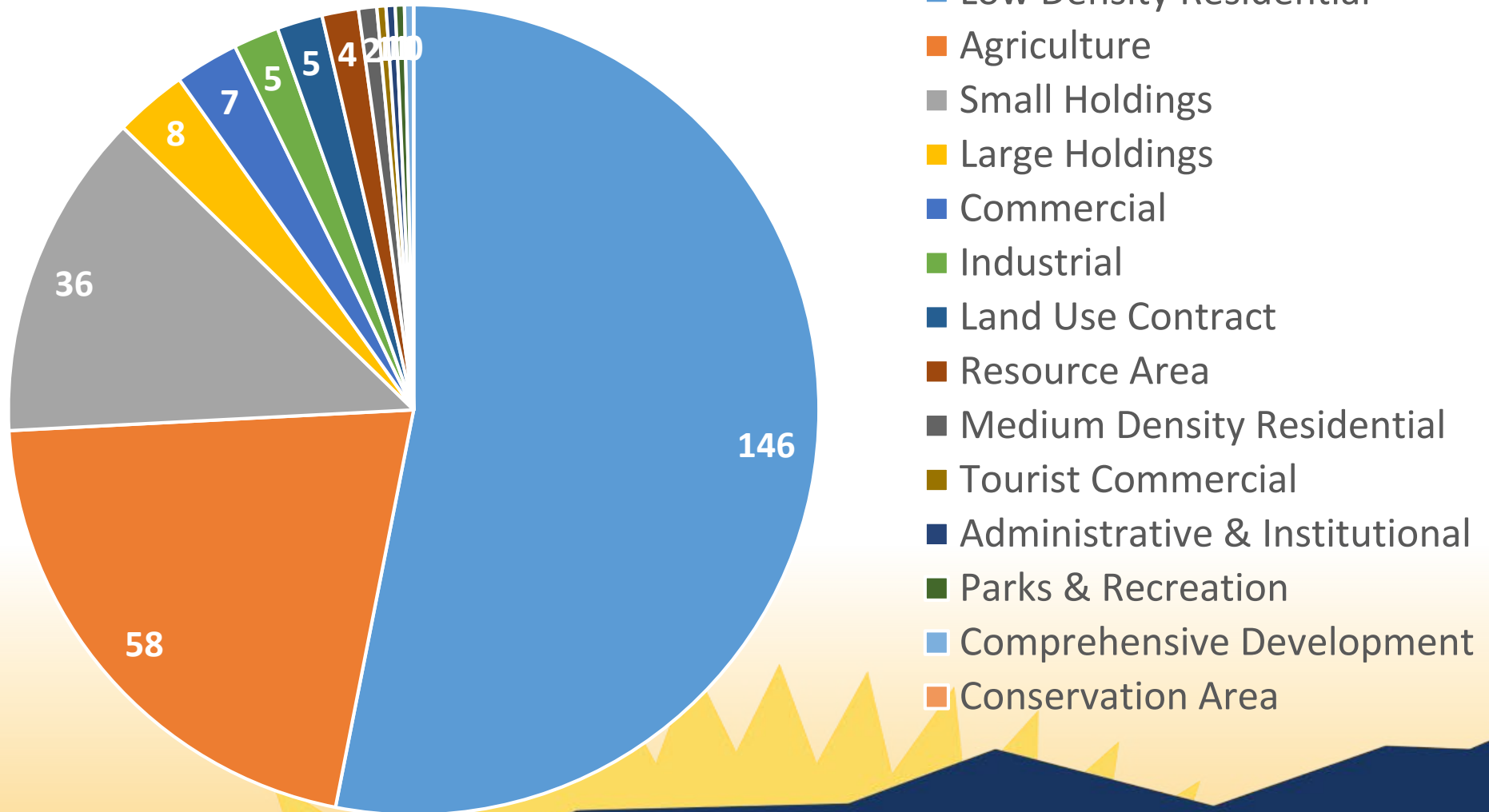
Delegated DVPs

DVPs by Electoral Area



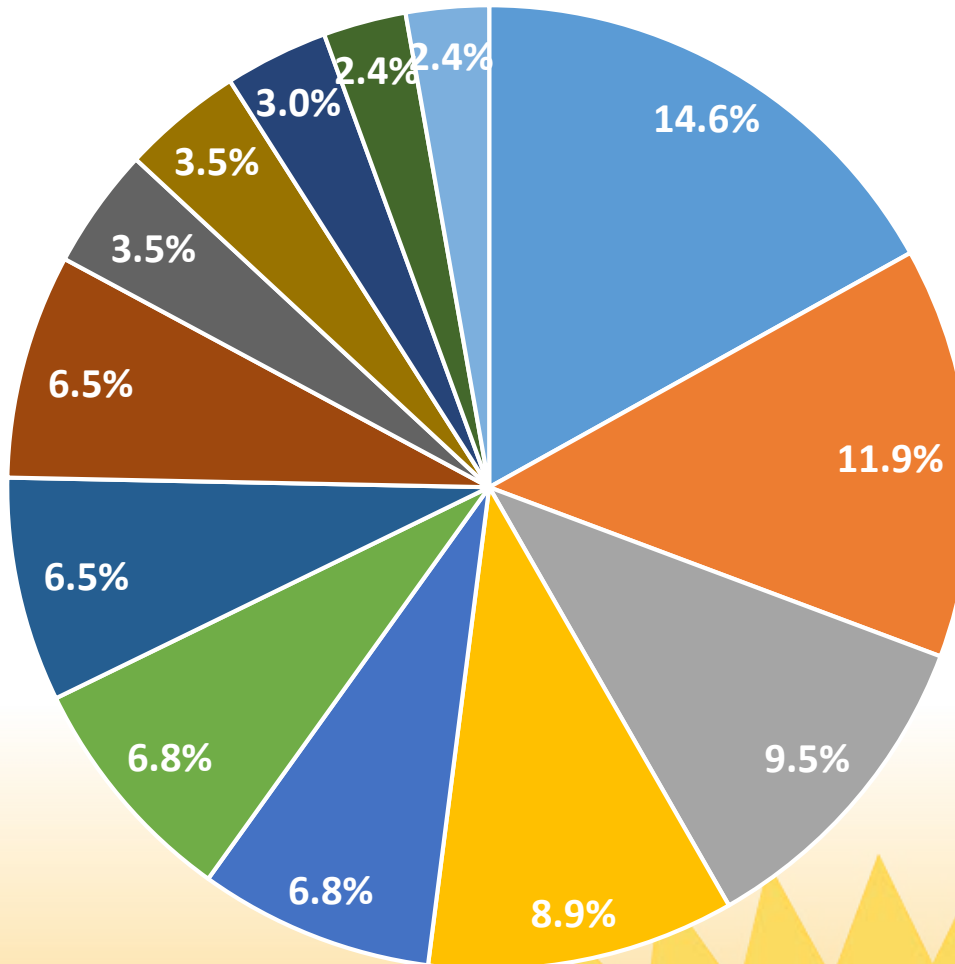
Delegated DVPs

DVPs by Zone



Delegated DVPs

DVPs by Type



- Front Setback (Principal)
- Interior Side Setback (Accessory)
- Interior Side Setback (Principal)
- Front Setback (Accessory)
- Rear Setback (Principal)
- Building Height (Accessory)
- Retaining Wall
- Rear Setback (Accessory)
- Exterior Side Setback (Accessory)
- Parcel Coverage (Principal)
- Building Height (Principal)
- Parcel Coverage (Accessory)
- Exterior Side Setback (Principal)

Delegated DVPs

Summary Observations

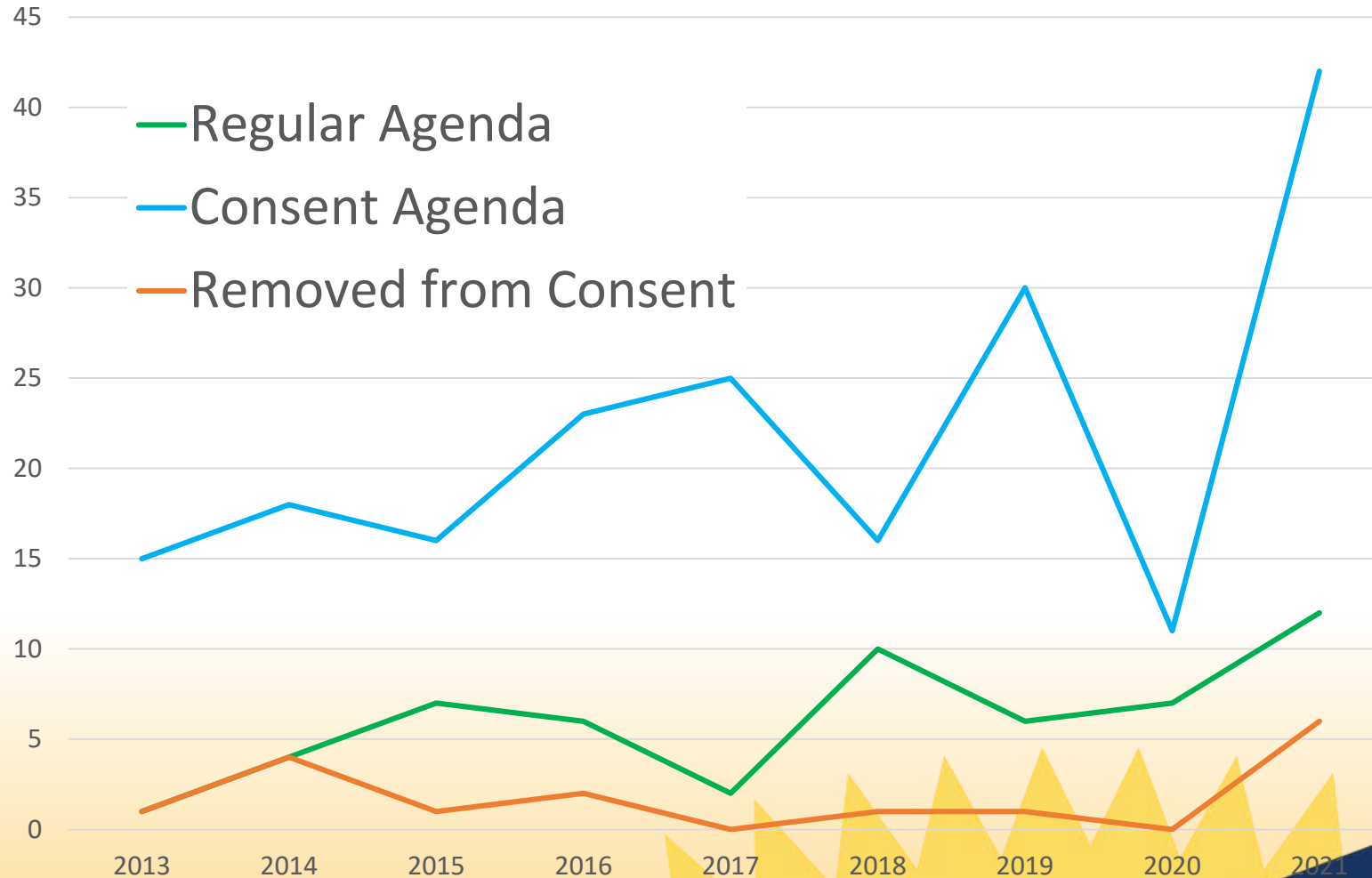
- Yearly average is 31 DVPs*;
- The 3 most common zones for DVPs are:
 - RS zones: 53%
 - AG zones: 21%
 - SH zones: 13%

} 87% of all DVPs
- The 4 most common types of variances are:
 - parcel line setbacks (principal): 33.3%
 - parcel line setbacks (accessory): 30.8%
 - building height (accessory): 6.8%
 - retaining walls: 6.5%

} 77.4% of all DVPs

Delegated DVPs

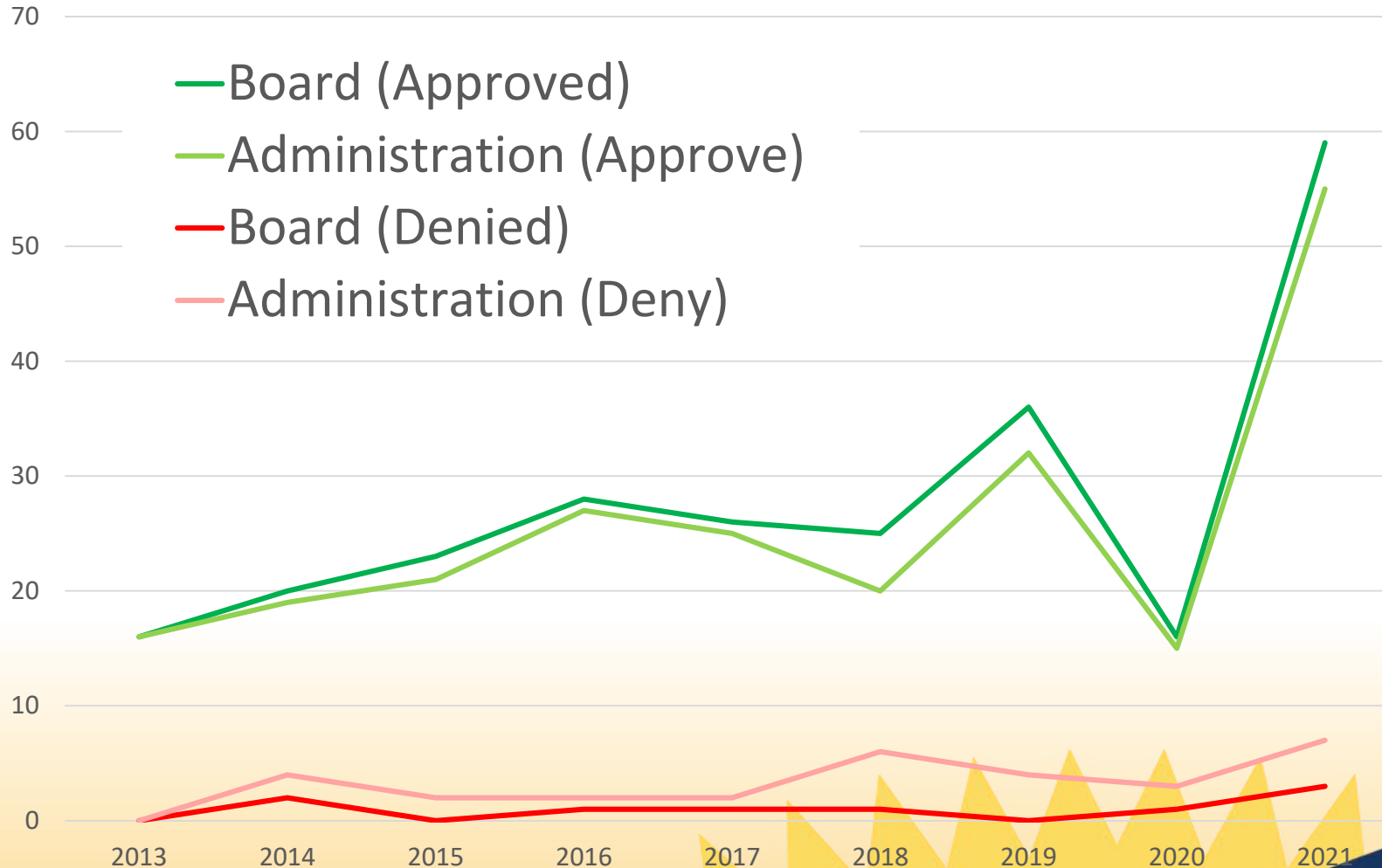
Board Consideration of DVPs



- 78.2% of DVPs are placed on Consent:
 - 91.8% are decided;
 - 8.2% are removed.
- 21.8% of DVPs are placed on Regular Agenda:
 - negative rec. and / or representations

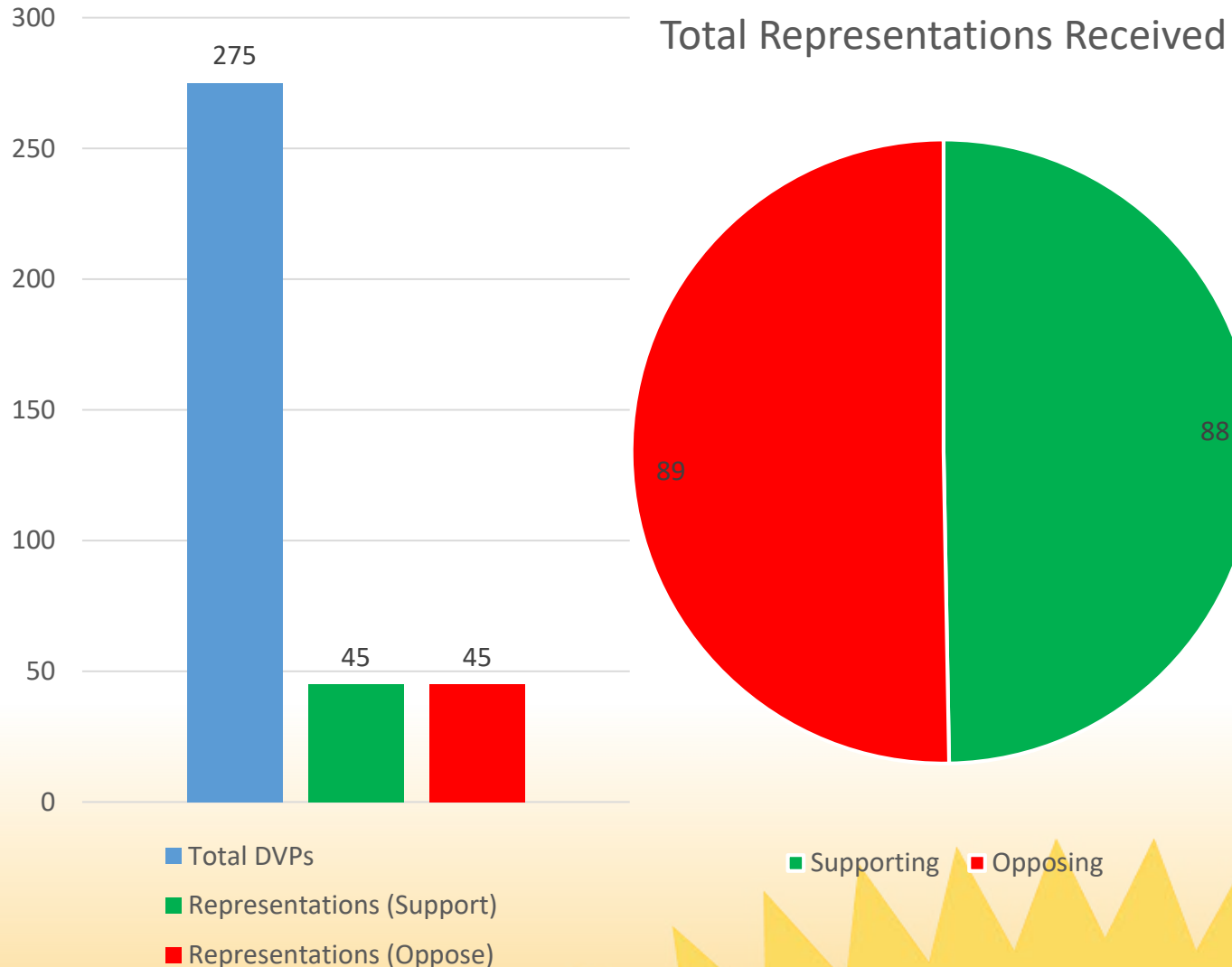
Delegated DVPs

DVP Decisions vs Recommendations



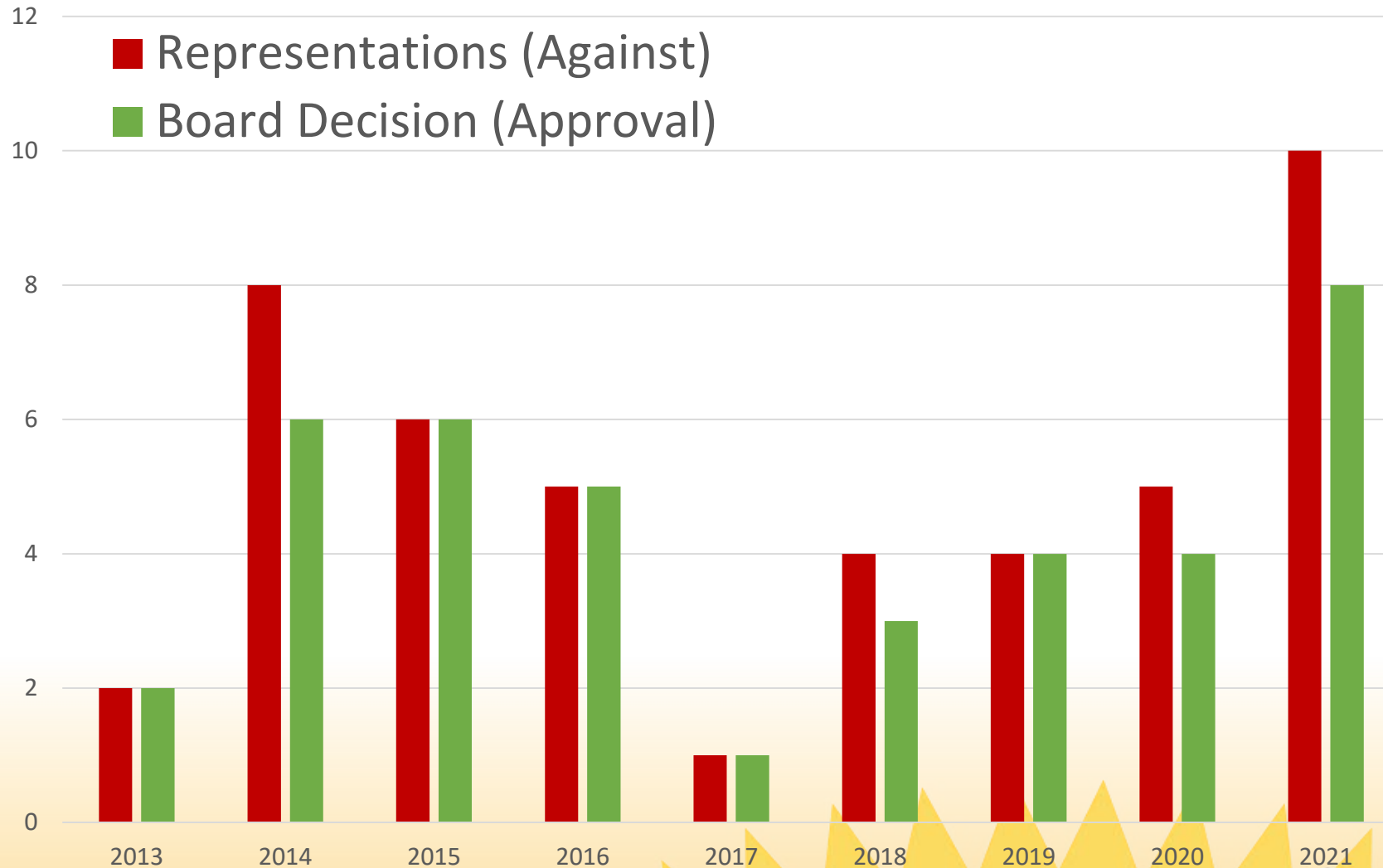
- 96.7% of DVPs are approved by the Board;
- 89.7% of DVPs are supported by staff;
- 0.4% of DVPs supported by staff are denied by the Board (e.g. 1 of 275).

Delegated DVPs



- Representations for or against a DVP occurred for 16.3%* of applications.
(* overlapping does occur)
- The total number of representations received is evenly split:
 - 177 total received;
 - 89 opposing (50.3%)
 - 88 supporting (49.7%)

Delegated DVPs



- 86.7% of DVPs for which representations opposing the variance are submitted are approved.

Delegated DVPs

Summary Observations

- The Board and Administration are in agreement on variances in approximately 89.3% of situations;
- There has only been 1 instance where Administration recommended approval and the Board denied a DVP;
- Over $\frac{3}{4}$ of DVPs are currently being decided on the Consent Agenda, due to being of “a generic nature or that need no discussion” (AKA “minor”);
- Majority of variances on the Regular Agenda are approved, even when opposed by neighbours.

Delegated DVPs

Proposed DVP Delegation Criteria

Delegated DVPs

Proposed criteria for determining if a variance is “minor”

... [if it] would have no significant negative impact on the use of immediately adjacent or nearby properties ... [having] regard to the:

- i) degree or scope of the variance relative to the regulation from which a variance is sought;
- ii) proximity of the building or structure to neighbouring properties; and
- iii) character of development in the vicinity of the subject property.

Delegated DVPs

Proposed guidelines for issuing a delegated variance

- i) if the proposed variance is consistent with the general purpose and intent of the zone;
- ii) if the proposed variance addresses a physical or legal constraint associated with the site;
- iii) if strict compliance with the zoning regulation would be unreasonable or un-necessary; and
- iv) if the proposed variance would unduly impact the character of the streetscape or surrounding neighbourhood.

Delegated DVPs

DVP No. F2022.004-DVP

- Proposed to reduce the interior side parcel line setback from 4.5 metres to 3.0 metres.
- Would allow for the formalization of a carport.



Delegated DVPs

Is the DVP “minor”?

- i) Reduction from 4.5 m to 3.0 m is seen to be minor ✓
- ii) Proximity of carport to neighbouring properties will still be 3.0 metres (no adverse impacts) and is minor ✓
- iii) Surrounding parcels have similar accessory buildings as close or closer to side parcel lines. Proposal is minor ✓

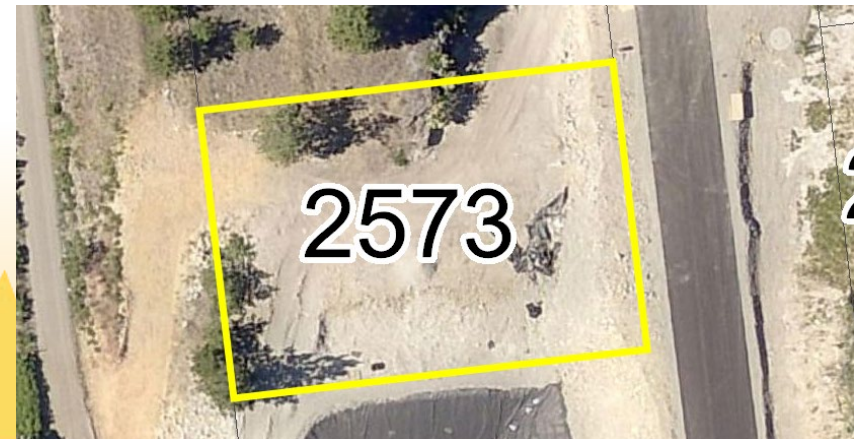
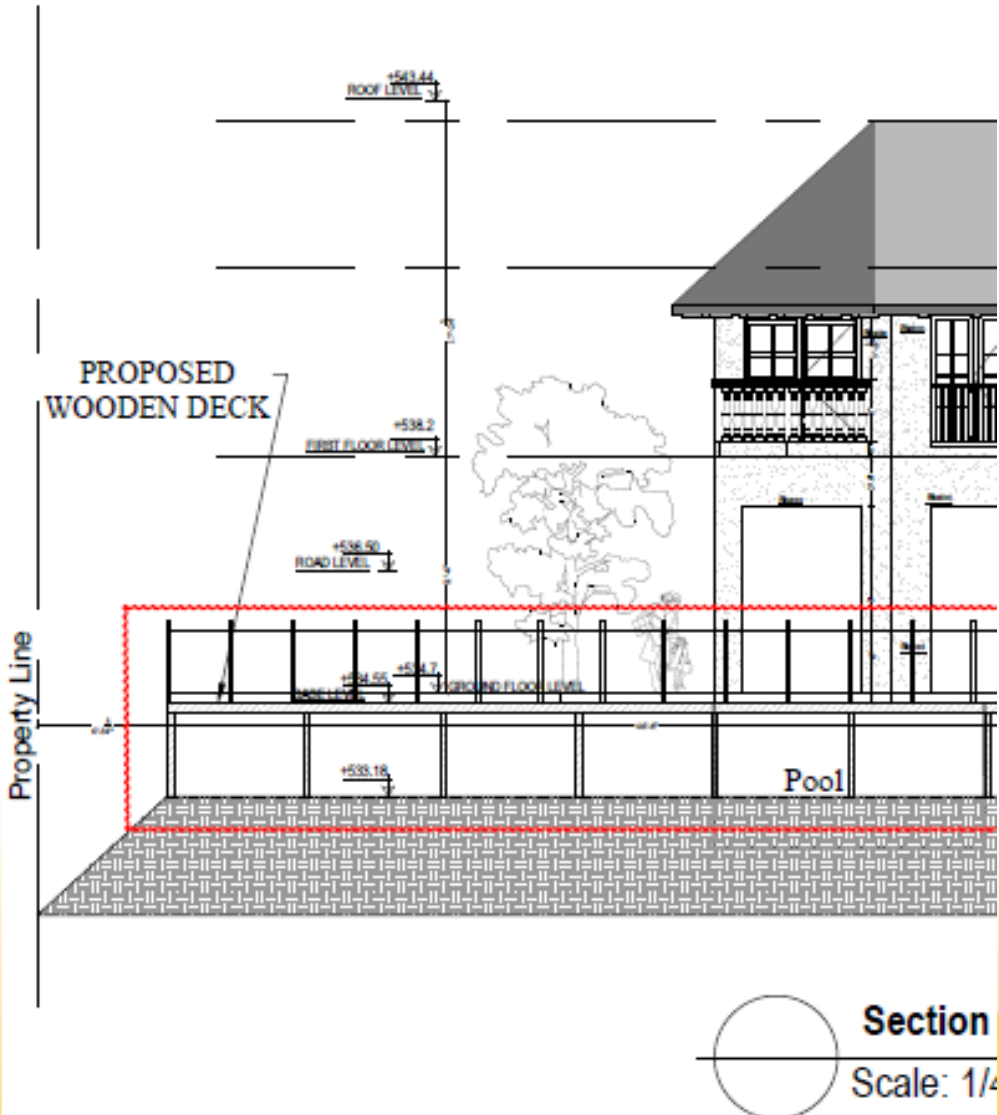
Should staff issue the DVP?

- Proposal is consistent with neighbourhood character and no adverse impacts anticipated. ✓

Delegated DVPs

DVP No. E2022.010-DVP

- Proposed to reduce the rear parcel line setback from 10.5 metres to 2.47 metres.
- Would allow for the development of a deck at the rear of a dwelling.



Delegated DVPs

Is the DVP “minor”?

- i) Reduction from 10.5 m to 2.47 m is seen to be major ✖
- ii) Would place the deck in close proximity to KVR trail, contrary to previous Board direction ✖
- iii) No other structures on parcels fronting Workman place have been sited this close to the KVR trail ✖

Should staff issue the DVP?

- **Not applicable** [DVP is not minor and would be scheduled for Board consideration].

Delegated DVPs

Proposed Notification of Delegated DVPs

Delegated DVPs

Proposed notification of a delegated variance

- the *Local Government Act* does not require a delegated DVP to be notified.
- It is proposed, however, that notification of delegated DVPs occur as follows:
 - written notice to property owners and tenants of land within a radius of 30.0 metres of the boundaries of the subject property; and
 - posting of application materials on the Regional District's web-site.

Delegated DVPs

Proposed notification of a delegated variance

- It is further proposed that submissions be submitted within 15 days, either **electronically** or at the RDOS office.
- Would avoid potential delays with delivery of submissions by Canada Post and allow delegated DVPs to be processed in a more timely manner.



Delegated DVPs

Reconsideration of Delegated DVPs by the RDOS Board

Delegated DVPs

Reconsideration of a Delegated DVP Decision

- the *Act* states that a property owner is entitled to have a delegated DVP decision reconsidered by the Board.
- The RDOS Development Procedures Bylaw provides a 30-day window for an applicant to request reconsideration.
- To streamline this process and avoid un-necessary delays (e.g. 30-day wait), it is proposed that a delegated DVP that is either refused or is the subject of a negative representation from the public be automatically reconsidered by the Board.

Delegated DVPs

Alternative Delegation Options

Delegated DVPs

Alternative “minor” variance options:

1. Delegated by zoning;
2. Delegated by regulation;
3. Delegated by variance percentage; or
4. a combination and/or variation of the options outlined above.

Delegated DVPs

Alternative Options

By Zone:

1. Low Density Res.	53.09%
2. Agriculture	21.09%
3. Small Holdings	13.09%
4. Large Holdings	2.91%
5. Commercial	2.55%
6. Industrial	1.82%
7. Land Use Contract	1.82%
8. Resource Area	1.45%
9. Medium Density Res.	0.73%
10. Admin. & Institutional	0.36%

By Regulation:

1. Front setback (p)	14.6%
2. Interior side setback (a)	11.9%
3. Interior side setback (p)	9.5%
4. Front setback (a)	8.9%
5. Rear setback (p)	6.8%
6. Building height (a)	6.8%
7. Retaining wall	6.5%
8. Rear setback (a)	6.5%
9. Parcel coverage (p)	3.8%
10. Exterior side setback (a)	3.5%

Delegated DVPs

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Delegated DVPs

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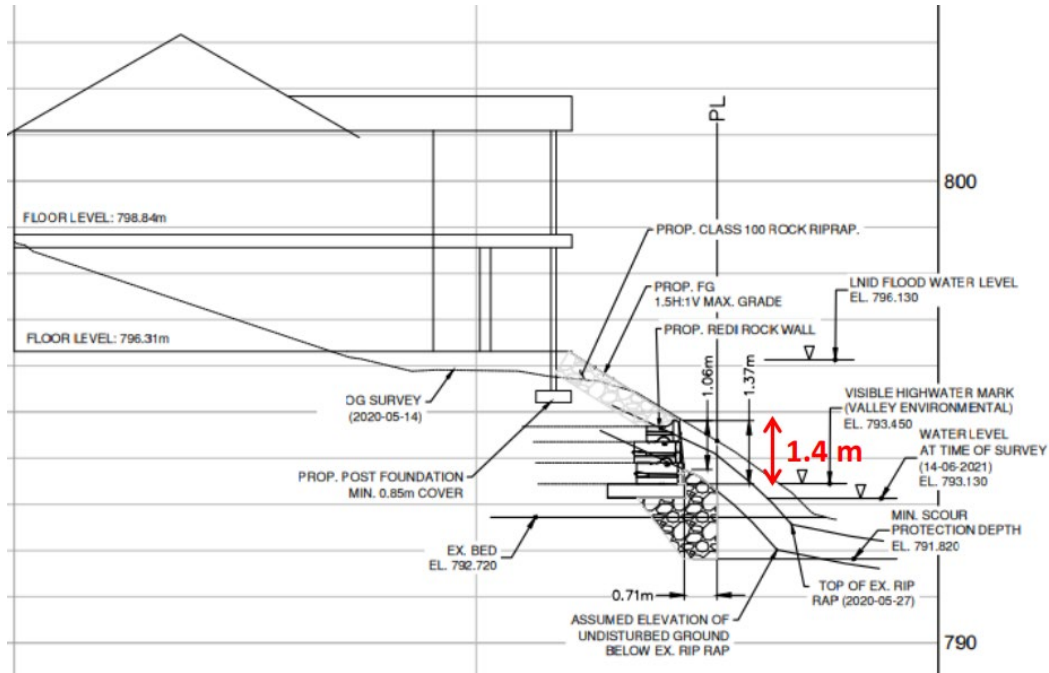
Delegated DVPs

Alternative Options

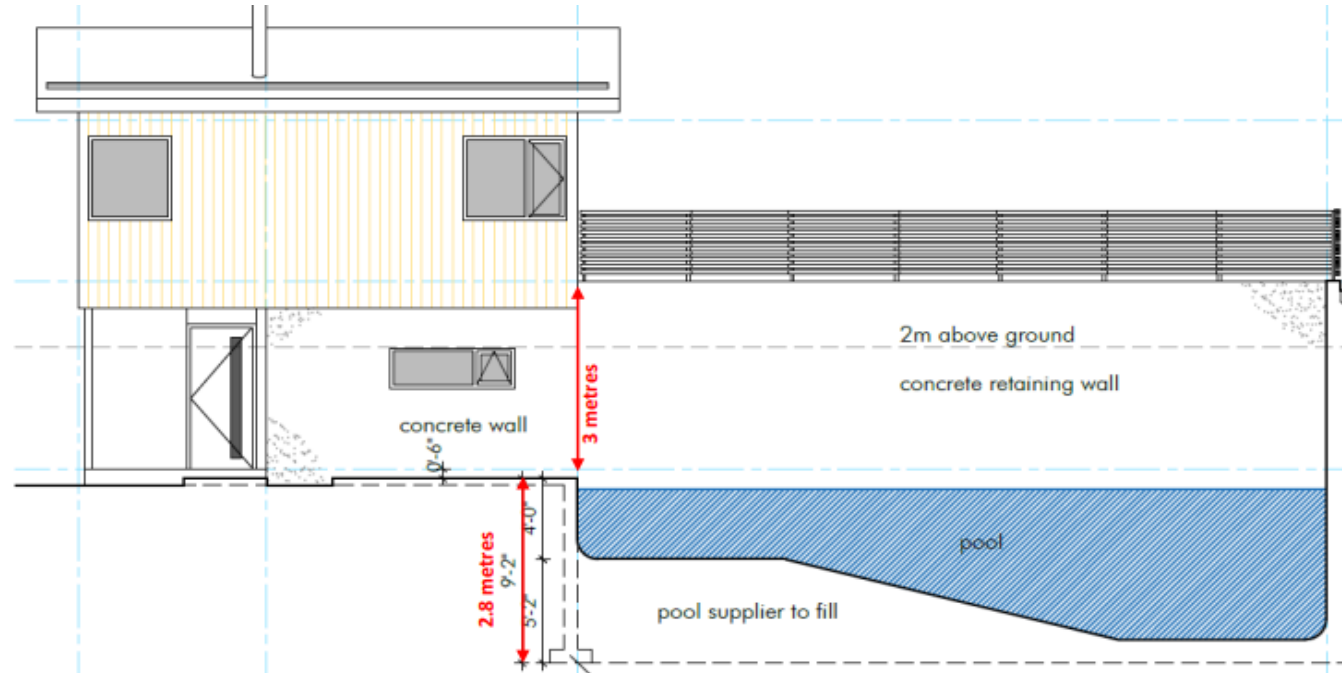
By Percentage: variance is less than 25% of regulation

- maximum building height is 10.0 metres.
- 12.5 metres DVP would be “minor” and delegated, but
- 12.6 metres DVP would be considered by the Board.

Delegated DVPs



Variance is < 25%
(e.g. 1.2 m to 1.4 m)
Can be Delegated



Variance is > 25%
(e.g. 1.2 m to 2.8 m)
Cannot be Delegated

Delegated DVPs

Summary:

- Delegated DVPs are a positive innovation with the potential to reduce application processing times as well as the volume of land use applications that the Board must consider;
- The proposed guidelines and assessment criteria seek to provide consistency while ensuring an effective mechanism for Board over-sight; and
- The Board and Administration are in agreement on most variances and a majority of DVPs are already being decided via the Consent Agenda as “minor”.

Delegated DVPs

Questions?