



# 2020 Audit Report

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Councils' use of clause 4.6 of the Standard Instrument  
– Principal Local Environmental Plan

August 2021



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## Acknowledgment of Country

The Department of Planning, Industry and Environment acknowledges that it stands on Country which always was and always will be Aboriginal land. We acknowledge the Traditional Custodians of the land and waters, and we show our respect for elders past, present and emerging. We are committed to providing places in which Aboriginal people are included socially, culturally and economically through thoughtful and collaborative approaches to our work.

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## Executive summary

In New South Wales, the Standard Instrument – Principal Local Environmental Plan (Standard Instrument LEP) sets out development standards that need to be met when preparing a development application. Clause 4.6 of the Standard Instrument LEP (clause 4.6) provides flexibility in the application of development standards by allowing consent authorities including local councils, to approve a variation to development standards, provided the Secretary of the Department of Planning, Industry and Environment (the department), has given concurrence to the consent authorities.<sup>1</sup> Local councils can assume the Secretary's concurrence for the majority of development applications and for most types of developments.<sup>2</sup>

To ensure local councils exercise a consistent, fair and transparent procedure in determining variation applications, the department conducts periodic audits to check council compliance with the requirements of clause 4.6 and the planning circulars.

For the 2020 audit, the department selected 33 councils to be audited. Of these councils, 17 were not previously audited (new audits) and 16 councils were audited in recent years but had unmet audit requirements (follow-up audits). Officers from the department were appointed as auditors by the Secretary under section 9.14 of the *Environmental Planning and Assessment Act 1979*.

On balance, the audit found that the 17 councils subject to the new audit demonstrated a high degree of compliance with the requirements for assessment of development applications. However, there were some non-compliances with regards to the reporting and procedural requirements. Most related to delays in reporting to the department or the council when decisions were made by staff under delegation, as well as failing to maintain an online register.

Councils subject to the follow-up audit demonstrated they had taken steps to meet the requirements from the previous audit, with 12 of the 16 councils now meeting the requirements. However, there were some non-compliances in relation to the procedural and reporting requirements. Similarly, most related to delays in reporting to the department or the council, as well as failing to maintain an online register.

There is a range of measures available to the Secretary to address non-compliance. This can include education and training to the more substantive measures outlined in *Planning Circular PS 20-002 Varying Developments Standards*. Given the nature of the non-compliances, it is recommended that all councils be provided with additional guidance and further training to assist them with meeting their obligations.

Further, the department is looking to integrate clause 4.6 variation reporting with its digital development application assessment process. The councils will be able to use the department's Planning Portal to provide development application and clause 4.6 variation data. This will reduce the councils' reporting requirements to the department and simultaneously allow the department to have real time reporting using the Planning Portal. The department will have greater visibility of the data provided and can undertake risk-based audits or timely investigations on high-risk variation applications that would lead to greater compliance outcomes in the future.

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<sup>1</sup> See clause 4.6 provisions in [Standard Instrument – Principal Local Environment Plan](#), last viewed on 14 May 2021.

<sup>2</sup> Councils have been notified that they may assume the concurrence of the Secretary (or the Director General) of the department since 1989 for the purposes of clause 4.6 variations.

## Context

Clause 4.6 provides flexibility in the application of planning controls by allowing councils to approve development applications that may not strictly meet the requirements of the subject development standard but are consistent with the objectives of the development standard and the objectives of the zone. In these instances, varying a development standard may be allowed by a consent authority when there are sufficient environmental planning grounds to justify contravening the development standard. The Secretary's concurrence must be obtained before consent for development that contravenes a development standard is granted, however, in many cases this concurrence can be assumed by a council.

In 2008, the department published Planning Circular PS08-014 *Reporting variations to development standards*. The circular outlines the procedural and reporting requirements councils must implement with respect to their use of the Secretary's assumed concurrence. The requirements include measures to increase the transparency and accountability in clause 4.6 decisions, including reporting of decisions, online information on council's use of the Secretary's assumed concurrence and quarterly reporting of clause 4.6 variations to the department.

In 2009, in response to the findings of the Independent Commission Against Corruption (ICAC) investigation into corruption allegations against Wollongong City Council<sup>3</sup>, the department conducted the first audit on local council use of clause 4.6. The investigation recommended the department monitor the use of the Secretary's assumed concurrence provided by both clause 4.6 and the now repealed State Environmental Planning Policy No1 - Development Standards (SEPP 1).

Since 2009 the department has undertaken periodic audits of council records from across the State to ascertain whether councils are complying with the procedural and reporting requirements. To date, 57 councils have been audited, inclusive of the 17 new audits in 2020. The clause 4.6 audit process ensures the Secretary's assumed concurrence, provided by clause 4.6, is used appropriately and reported quarterly by local councils. A delegate of council can assume the Secretary's concurrence, except if the development contravenes a numerical standard by greater than 10% or the variation is to a non-numerical standard.

The Secretary may withdraw the ability for a council to utilise the assumed concurrence to determine applications where the council is not meeting the requirements set out in the planning circular.

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<sup>3</sup> Report on an investigation into corruption allegations affecting Wollongong City Council, ICAC Report, Independent Commission Against Corruption, 2008

## The 2020 audit – new audits

For the 2020 audits, Planning Circular *PS 18-003 Variations to Development Standards* published by the department in February 2018 is the applicable planning circular. The circular advised consent authorities, including council or its local planning panel<sup>4</sup>, arrangements for use of the Secretary's concurrence to vary development standards and outlined procedural and reporting requirements where the concurrence has been assumed.

In May 2020, this circular was replaced by Planning Circular *PS 20-002 Variations to Development Standards*.<sup>5</sup> The new circular retains the same procedural and reporting requirements and advises the repeal of SEPP1. Under the new circular all council reports must be submitted to the department through the Planning Portal.

## Audit criteria – procedural and reporting requirements

Audit criteria for this audit are based on procedural and reporting requirements of clause 4.6 and the related planning circulars for councils.<sup>6</sup> These are:

1. All proposed variations to development standards must be received by councils as written applications objecting to the development standard and the applications should deal with the planning matters required to be addressed by the relevant instrument.
2. The consent authority must assess all factors required to be addressed in the written application and keep a record of its assessment.
3. The Secretary's concurrence may not be assumed by a council delegate, if the development contravenes a numerical standard by greater than 10% or the variation is to a non-numerical standard. These may only be determined by full Council or council's Local Planning Panel to ensure greater transparency of the determination.
4. Establish and maintain a publicly available online register of all variations to development standards approved by the consent authority or its delegates. The register must include the development application number, description, property address, standard to be varied and the extent of the variation.
5. Submit a report in the required format set by the department, of all variations approved (including under delegation) to the department within four weeks of the end of each quarter (i.e. March, June, September and December).
6. Provide a report of all variations made by council delegates, at least quarterly, for consideration at council meetings. This ensures scrutiny of individual decisions and improves transparency of the variation process.

Councils are advised in the planning circulars the department will continue to undertake random audits on councils' use of the Secretary's assumed concurrence.

In October 2020, 17 councils were randomly selected for this audit as set out below. These councils were not previously audited. The councils were notified of their selection on 13 November 2020. The audits were conducted by the department between November 2020 and March 2021, with fieldwork concluding on 5 March 2021.

<sup>4</sup> Local planning panels were formerly known as independent hearing and assessment panels (IHAPs). These panels are made of independent experts that determine development applications on behalf of council and provide advice on other planning matters, including clause 4.6 variations.

<sup>5</sup> See *PS 20-002 Variations to Development Standards* on the department's [website](#), last viewed on 14 May 2021.

<sup>6</sup> See clause 4.6 (3) and (7) provisions in [Standard Instrument – Principal Local Environment Plan](#), and [PS 20-002 Variations to Development Standards](#), pp 1-2.



**Table 1. Metro and regional and councils selected for audits in 2020**

<b>Metro councils</b>	<b>Regional councils</b>
Bayside Council	Albury City Council
Campbelltown City Council	Armidale Regional Council
City of Sydney	Bega Valley Shire Council
Hornsby Shire Council	Cessnock City Council
Penrith City Council	Maitland City Council
The Hills Shire Council	Richmond Valley Council
Willoughby City Council	Wentworth Shire Council
Wollondilly Shire Council	Yass Valley Council
Woollahra Municipal Council	
<b>Total metro councils - 9</b>	<b>Total regional councils - 8</b>

## Objectives

The objectives of the clause 4.6 audit are to:

- ensure councils have appropriate procedures in place for monitoring and reporting requirements set by the Planning Circular PS 20-002 *Variations to Development Standards*
- monitor use of the Secretary's assumed concurrence by councils against the requirements of:
  - the Secretary's assumed concurrence conditions
  - clause 4.6 of the Standard Instrument LEP
  - any special exemptions issued to a council where staff may make decisions for certain variations over 10%
- advise audited councils of the results, recommendations and timeframes for addressing any issues identified in the audit.

## Benefits of undertaking the audit

Undertaking a regular audit to monitor councils' use of clause 4.6 enables the department to:

- ensure ongoing transparency and integrity of the planning system regarding the variation of development standards
- increase the level of awareness and importance within audited councils of the need to properly use the Secretary's assumed concurrence
- assess whether any development standards are being regularly varied by a council and may require review
- detect any anomalies, such as cases exceeding delegations
- identify areas where the department could provide further guidance and advice (for example, by updating the planning circular) on the application of clause 4.6.

## Auditors

Senior departmental-staff were appointed as auditors under section 9.14 of the *Environmental Planning and Assessment Act 1979*. ICAC trained the appointed auditors on the possible corruption risks around clause 4.6. The department's Internal Audit team provided guidance on the audit process prior to staff commencing the audits. The audit process, scope of the audit and methodology was developed in consultation with ICAC.

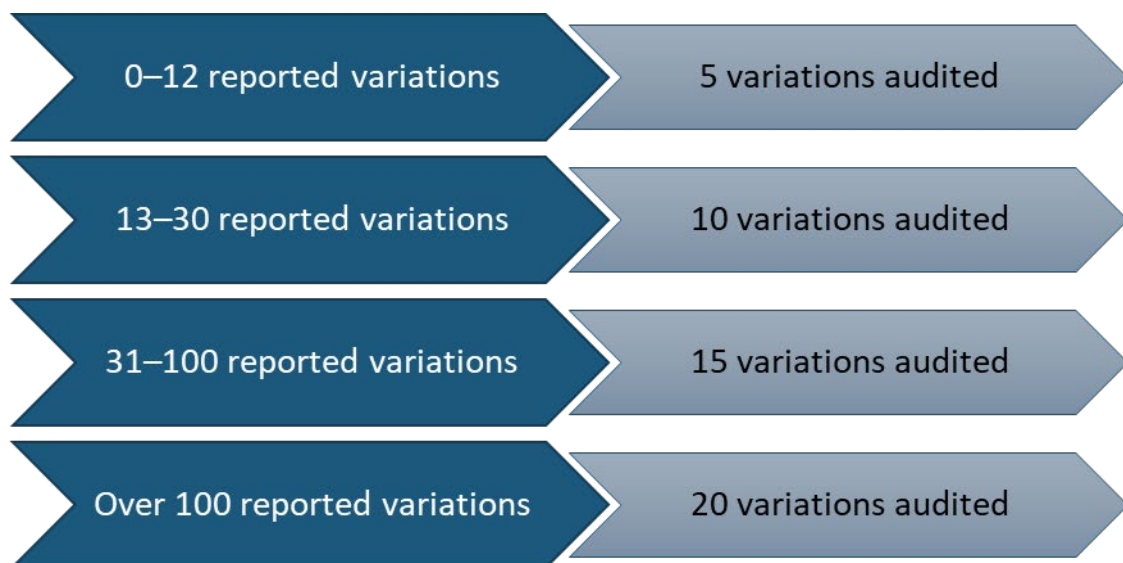
## Methodology

Councils were selected at random for the audit based on these criteria:

- a mix of metropolitan Sydney and regional councils including coastal, major regional centres and rural councils
- councils with high, medium and low volume of reported development applications applying clause 4.6
- a mix of councils with a history of regular submissions and others with outstanding quarterly clause 4.6 reports over the 2018–19 financial year
- councils that have not been included in a previous audit.

The number of decisions to audit for each selected council was determined based on the number of reported variations each council had in 2018–19. Figure 1 shows the sliding scale used in determining the number of variation applications audited.

**Figure 1. Sliding scale used to determine the number of variations to be audited**



Once the number of DA decisions to be reviewed for each council was determined, DAs were then selected for audit based on:

- Random selection of DA decisions from each quarter, where possible, equal selections from each financial quarter.
- Selection of the DAs to be audited from the quarterly reports on a random basis by choosing every third DA on the report until the required number is reached.
- Audit all DA decisions where only five or less decisions were made for the year.

A total of 122 DAs were reviewed in the process of the clause 4.6 audit of the 17 councils. The details of the councils and the number of DAs reviewed are in Table 2.

**Table 2. Summary of new audits undertaken for metro and regional councils**

<b>Metro councils</b>	<b>Number of DAs reviewed</b>	<b>Regional councils</b>	<b>Number of DAs reviewed</b>
Bayside Council	15	Albury City Council	1
Campbelltown City Council	5	Armidale Regional Council	Nil*
City of Sydney	20	Bega Valley Shire Council	5
Hornsby Shire Council	5	Cessnock City Council	Nil*
Penrith City Council	9	Maitland City Council	1
The Hills Shire Council	15	Richmond Valley Council	2
Willoughby City Council	15	Wentworth Shire Council	1
Wollondilly Shire Council	3	Yass Valley Council	5
Woollahra Municipal Council	20		
<b>Total</b>	<b>107</b>	<b>Total</b>	<b>15</b>

\* Council did not have any reportable DAs for assessment. If a council had no clause 4.6 variation, auditors checked preparedness of the council to undertake variation such as council delegations register and procedures, submission of quarterly returns to the department and online register of any previous variations.

## Follow-up audits of councils

In 2018 the department conducted an audit of 18 NSW councils on their use of assumed concurrence in determining clause 4.6 variation applications and their compliance with the reporting and procedural requirements in the planning circulars. Fifteen of these audited councils had non-compliances and subject to follow-up by the department.

In 2020, a total of 16 councils previously audited (15 in 2018 and 1 in 2016) but did not meet clause 4.6 requirements, were subject to follow-up audits to ensure compliance with the outstanding requirements. These councils are listed in Table 3.

The follow-up audits are considered to be a necessary part of the department's ongoing commitment to maintaining the integrity of the planning system. The audits enable councils to demonstrate that they consistently implement the processes, procedures and obligations outlined in clause 4.6 and planning circulars issued on variations to development standards.

**Table 3. Councils subject to the 2020 follow-up audit**

Metro councils	Regional councils
Blacktown City Council	Snowy Valleys Council
Camden Council	Hilltops Council
Cumberland City Council	Kiama Municipal Council
Ku-ring-gai Council	Port Stephens Council
Lane Cove Council	Mid Coast Council*
Mosman Municipal Council	Tweed Shire Council
Northern Beaches Council	Ballina Shire Council
	Forbes Shire Council
	Dubbo Regional Council

\*First audited in 2016 and then subject to a follow-up audit in 2018.

This audit report discusses the findings in relation to the councils':

- implementation of the department's specific recommendations in the 2018 report, and
- general compliance with the procedural and reporting requirements of clause 4.6 and related planning circulars.

## Summary of findings from the 2018 audit report leading to the follow-up audits

The 2018 audit found instances where councils had not met the reporting or other administrative requirements associated with the use of clause 4.6.<sup>7</sup> The unmet requirements included:

- not ensuring that variations over 10% are approved by full council or its independent hearing and assessment panel, unless special concurrence conditions applied
- not submitting quarterly reports to the department within the required 4-week period after the end of the quarter.
- making decisions on variations without clause 4.6 application, or when the application did not adequately address the requirements of clause 4.6.

## Process for the 2020 follow-up audit

In June 2020, the department wrote to the 16 councils to notify them of the follow-up audits. The Councils were asked to provide documentation and/or web links to documents to demonstrate the recommendations from the 2018 audit are being implemented.

Auditors considered council responses and documentation received and followed up with councils on any matters during audit field work between November 2020 and March 2021.

## Scope of audit and objectives

The objective of the follow-up audit was to identify whether the councils had implemented measures to address the unmet audit requirements. The issues identified in the original audit for each council were the primary focus of the review of the follow-up audit.

## Methodology

The methodology for the follow-up audits were generally in line with the methodology for the 2020 new audits, with an additional focus on reviewing council information to identify whether the councils have implemented the recommendations from the previous audit. For the review of variation decisions, development applications were selected from the period of 1 July 2018 to 30 June 2019<sup>8</sup>.

For some of the follow-up audits, a review of DAs was not necessary as the previous audit findings did not relate to DAs. Where the review of DAs was necessary, up to five DAs were reviewed for metro councils and up to three DAs for regional councils. As metro councils generally receive a higher number of clause 4.6 development variation applications compared to regional councils, a higher number of DAs were reviewed for these councils.

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<sup>7</sup> The department 2018 Audit Report, *Report on the audit of council use of clause 4.6 of the Standard Instrument - Principal Local Environmental Plan*, pp 5-8. The report is available at the department's [website](#), last viewed on 14 May 2021.

<sup>8</sup> The auditors looked at more recent DAs where the information was insufficient to determine if a council had satisfied unmet requirements from the previous audit.

The DAs for review were selected based on:

- an equal number of decisions (where possible) from each applicable quarter of the financial year
- picking every third development application listed on the relevant quarterly report until the required number of decisions was selected  
or
- where DA decisions made for the year were fewer than 5 for metropolitan or 3 for regional councils, auditing all decisions.

The number of DAs reviewed for each council are in Table 4.

**Table 4. Follow-up audits undertaken for metro and regional councils**

<b>Metro councils</b>	<b>Number of DAs reviewed</b>	<b>Regional councils</b>	<b>Number of DAs reviewed</b>
Blacktown City Council	2	Snowy Valleys Council	Nil*
Camden Council	3	Hilltops Council	Nil*
Cumberland City Council	5	Kiama Municipal Council	2
Ku-ring-gai Council	2	Port Stephens Council	3
Lane Cove Council	5	Mid Coast Council	3
Mosman Municipal Council	2	Tweed Shire Council	3
Northern Beaches Council	2	Ballina Shire Council	1
		Forbes Shire Council	1
		Dubbo Regional Council	1
<b>Total</b>	<b>21</b>	<b>Total</b>	<b>14</b>

\* The unmet clause 4.6 requirement for council does not require review of DA variation to verify compliance.

A total of 35 Development Applications were reviewed as part of the follow-up audit.

# Audit findings and recommendations – new audits

## Summary of findings

The auditors' findings on council use of clause 4.6, including a review of DAs and the reporting and procedural requirements are discussed in the next sections.

### Review of development applications

The audit found:

- a high degree of compliance with the requirements for assessment of development applications (DAs) as set out in clause 4.6, see Table 5.

**Table 5. Summary of compliance results – assessment of DAs\***

Clause 4.6 requirement	Compliance across councils' DAs
Development application included a written application to vary a standard	100%
Application addressed whether strict compliance is unreasonable/unnecessary	98%
Application included environmental planning grounds to justify the variation	98%
Assessment report considered whether strict compliance unreasonable/unnecessary	96%
Assessment report considered environmental planning grounds to justify variation	94%
Assessment report considered variation to be in the public interest due to consistency with objectives of standard and zone	95%

\*The results are for 122 DAs across the 17 councils

### Clause 4.6 procedures, monitoring and reporting

The audit found:

- a varying degree of compliance with the requirements of procedures, monitoring and reporting. The summary of clause 4.6 compliance result is presented in

- Table 6.



**Table 6. Summary of compliance results – procedures, monitoring and reporting**

Requirements – Planning circular and clause 4.6	Number of compliant councils	Percentage of compliance
Having internal clause 4.6 delegations in place	15	88.2%
Council has complied with its internal clause 4.6 delegation procedures	13	76.5%
Maintaining an online clause 4.6 register	11	64.7%
Variations of more than 10% or non-numerical standard consistently determined by appropriate authority	16	96.6%
Quarterly reporting to council of variation decisions made under staff delegation	8	47.1%
Submission of quarterly reports to the department for entire audit period	17	100.0%
Quarterly reports submitted to the department within 4 weeks	1	5.9%

\*The results are for 122 DAs across the 17 councils in metro and regional NSW.

The auditors found a high degree of compliance (88.2%) with the requirements to have an internal delegation in place and ensuring variations greater than 10% are determined by the appropriate authority.

Thirteen of the 17 councils had complied with the clause 4.6 delegations procedures and 11 of these had maintained an online register.

While all councils submitted quarterly reports to the department, only around 6% submitted these reports on time during the audit period. However, some councils have provided timely reports after the audit period.

Around half of the councils failed to report variation decisions made by council delegates to the full council meetings at least quarterly.

## Standards varied

Height of building controls followed by floor space ratio controls were the predominant standards varied (see

Table 7). The 17 councils did not make any non-numerical standard variations during the 2018-19 period.

**Table 7. Summary of standards varied\***

Development standard	Number of variation applications
Height of buildings	76
Floor space ratio	37
Minimum lot size	27
Minimum landscaped area	0
Non-numerical standard	0
Maximum lot size	1
Other	2

\*The results are for 122 DAs across the 17 councils

Table 8 provides a comparison of 2018 results with the 2020 audit results.

**Table 8. Comparison of 2020 and 2018 audit results\***

Requirements – Planning circular and clause 4.6	2020 audit Percentage of compliant councils	2018 audit Percentage of compliant councils
Having internal clause 4.6 delegations in place	88%	78%
Council has complied with its internal clause 4.6 delegation procedures	76%	61%
Maintaining an online clause 4.6 register	65%	78%
Variations of more than 10% or non-numerical standard consistently determined by appropriate authority	97%	39%
Quarterly reporting to council of variation decisions made under staff delegation	47%	72%
Submission of quarterly reports to the Department for entire audit period	100%	89%
Quarterly reports submitted to the Department within four weeks	6%	50%

\*The results are not directly comparable as the audits were for different councils. Timeliness of quarterly reports by councils has improved overall in recent quarters: October 2020 (89%), January 2021 (68%) and March 2021 (78%).

Table 9 provides a snapshot of audit findings for all councils subject to new audits. This snapshot shows the audit requirements met/unmet by each council subject to the audit. In deciding whether follow-up audits should be undertaken for these councils in future, we will consider other factors such as auditor comments and timely report submissions to the Department post audit period.<sup>9</sup>

<sup>9</sup> For example, if a council had an audit finding of delayed report submissions to the Department for the audit period, and since then the council provided quarterly reports on time to the Department during the last two quarters of 2020, we do not consider the audit finding to be a matter for a follow-up audit for that council.

Table 9. A summary of audit findings – 2020 new audits

Council audited M = Metropolitan R = Regional	Variations greater than 10% are determined by appropriate authority	Council complies with delegation procedures	Council has cl 4.6 delegation procedures in place	Variations under staff delegation reported to council	All quarterly reports submitted to department	Timely submission of quarterly reports to department	Adequate assessment reports on variations	Online clause 4.6 register	Adequate online register details	Adequate information on cl 4.6 application
Bayside (M)	Yes	No	No	No	Yes	No	Yes	Yes	Yes	Yes
Campbelltown (M)	Yes	No	Yes	No	Yes	No	Yes	Yes	Yes	Yes
City of Sydney (M)	Yes *	Yes	Yes	No	Yes	No	Yes	Yes	Yes	Yes
Hornsby (M)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Penrith (M)	No	Yes	Yes	No	Yes	No	Yes	No	No	Yes
The Hills Shire (M)	Yes	No	No	Yes	Yes	No	Yes	Yes	Yes	Yes
Willoughby (M)	Yes	Yes	Yes	Yes	Yes	No	No	Yes	Yes	No
Wollondilly (M)	Yes	Yes	Yes	No	Yes	No	Yes	Yes	Yes	Yes
Woollahra (M)	Yes	Yes	Yes	No	Yes	No	Yes	Yes	Yes	Yes
Albury (R)	Yes	Yes	Yes	Yes	Yes	No	Yes	No	No	Yes
Armidale (R)	Yes	No	Yes	Yes	Yes	No	Yes	No	No	Yes
Bega Valley (R)	Yes	Yes	Yes	No	Yes	No	No	Yes	Yes	No
Cessnock (R)	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes
Maitland (R)	Yes	Yes	Yes	Yes	Yes	No	Yes	No	No	Yes
Richmond Valley (R)	Yes	Yes	Yes	No	Yes	No	Yes	Yes	Yes	Yes
Wentworth (R)	Yes	Yes	Yes	Yes	Yes	No	No	No	No	No
Yass Valley (R)	Yes	Yes	Yes	No	Yes	No	No	No	No	No
<b>Total compliant councils</b>	<b>16</b>	<b>13</b>	<b>15</b>	<b>8</b>	<b>17</b>	<b>1</b>	<b>13</b>	<b>11</b>	<b>11</b>	<b>13</b>

\*City of Sydney has a special concurrence arrangement, and a council delegate may determine variations more than 10%

## Recommendations and next steps

The audit findings and the recommendation for individual councils are discussed in the “Results by councils: 2020 new audits” section of this report. Following the Audit Report, the Department will:

- write to individual councils to advise them of the specific findings for each council along with the recommendations to achieve compliance
- follow up with the councils that had unmet requirements after a certain time (for example, three months) to confirm they have taken steps to implement the recommendations
- write to all councils in NSW to remind them of the procedural and reporting requirements applying to clause 4.6 variations. The letter may advise councils of any new reforms (if finalised) adopted by the department on varying development standards.

The requirements are listed on page 3 of this report. (See “The 2020 audit – new audits: Audit criteria – procedural and reporting requirements” on page 3).

# Results by council: 2020 new audits

## Bayside Council

### Audit findings – requirements met

The council met the following requirements:

- maintaining a publicly available online register of approved variations to development standards under clause 4.6 that provides adequate information
- ensuring all variation decisions of more than 10% or non-numerical standards are made by the appropriate authority
- receiving proposed variations to development standards as written applications and assessing whether the applications deal with planning matters required to be addressed by the relevant instrument.

### Audit findings – requirements unmet

The council did not meet the following requirements:

- having a written delegation procedure for dealing with clause 4.6 variations. However, the council has an internal process in place, such that when an application is received, it goes through a 'clearing house' with a team leader. the team leader assesses the application, determines if the clause 4.6 objection is adequate and the next steps of the application
- reporting of variations approved under delegation by staff to a meeting of the full council on a quarterly basis. The last report to a council meeting was in 2016 prior to amalgamation of former Botany Bay and Rockdale councils as Bayside Council
- Submitting to the department quarterly reports of all variation decisions within 4 weeks of the end of each quarter for the audit period 2018–19. However, in more recent quarters in 2020–21, the council submitted quarterly reports on time.

### Recommendations for council action

In complying with the requirements of clause 4.6 and Planning Circular PS 20-002, the council should:

- prepare and have in place a written delegation procedure clearly detailing responsibilities of council staff and procedures to follow regarding clause 4.6 variations
- provide a report to a meeting of the council on the variations approved under delegation by staff at least quarterly
- submit clause 4.6 quarterly reports on time.

# Campbelltown City Council

## Audit findings – requirements met

The council met the following requirements:

- maintaining a publicly available online register of approved variations to development standards under clause 4.6 that provides adequate information
- ensuring all variation decisions of more than 10% or non-numerical standards are made by the appropriate authority
- receiving proposed variations to development standards as written applications and assessing whether the applications deal with the planning matters required to be addressed by the relevant instrument.

## Audit findings – requirements unmet

The council did not meet the following requirements:

- having a written delegation procedure for dealing with clause 4.6 variations. However, the council has a checklist for the delegated officer to complete prior to determination of the application
- reporting of variations approved under delegation by staff to a meeting of the full council on a quarterly basis
- submitting to the department quarterly reports of all variation decisions within 4 weeks of the end of each quarter for the audit period 2018–19. However, in more recent quarters in 2020–21, the council submitted quarterly reports on time.

## Recommendations for council action

In complying with the requirements of clause 4.6 and Planning Circular PS 20-002, the council should:

- prepare and have in place a written delegation procedure clearly detailing responsibilities of council staff and procedures to follow regarding clause 4.6 variations
- provide a report to a meeting of the council on the variations approved under delegation by staff at least quarterly
- submit clause 4.6 quarterly reports on time.

# City of Sydney Council

## Audit findings – requirements met

The council met the following requirements:

- having a written delegation procedure for dealing with clause 4.6 variations. Council has a checklist for the delegated officer to complete prior to determination of the application. Delegation arrangements are generally effective. However, motorcycle parking and other requirements under the Affordable Rental Housing SEPP for boarding house developments cause a significant number of minor variations to be subject to approval by the local planning panel
- maintaining a publicly available online register of approved variations to development standards under clause 4.6 that provides adequate information
- ensuring all variation decisions of more than 10% or non-numerical standards are made by the appropriate authority
- receiving proposed variations to development standards as written applications and assessing whether the applications deal with the planning matters required to be addressed by the relevant instrument.

## Audit findings – requirements unmet

The council did not meet the following requirements:

- reporting of variations approved under delegation by staff to a meeting of the full council on a quarterly basis
- submitting to the department quarterly reports of all variation decisions within 4 weeks of the end of each quarter for the audit period 2018–19. The council submitted one of the 4 quarterly reports late during the audit period. However, more recently in 2020–21 the council submitted quarterly reports on time.

## Recommendations for council action

In complying with the requirements of clause 4.6 and Planning Circular PS 20-002, the council should:

- provide a report to a meeting of the council on the variations approved under delegation by staff at least quarterly
- submit clause 4.6 quarterly reports on time.



# Hornsby Shire Council

## Audit findings – requirements met

The council met the following requirements:

- having a delegation procedure for dealing with clause 4.6 variations
- maintaining a publicly available online register of approved variations to development standards under clause 4.6 that provides adequate information
- submitting to the department quarterly reports of all variation decisions within 4 weeks of the end of each quarter
- variations approved under delegation by staff are reported quarterly to the council
- receiving proposed variations to development standards as written applications and assessing whether the applications deal with the planning matters required to be addressed by the relevant instrument.

## Audit findings – requirements unmet

The council did not have any unmet requirements.

## Recommendations for council action

No recommendations.

The Council is encouraged to continue its good practices of complying with all procedural and reporting requirements of clause 4.6 and Planning Circular PS 20-002.

# Penrith City Council

## Audit findings – requirements met

The council met the following requirements:

- having an electronic system-based delegation procedure for development assessment. This system steps assessment officers through questions and workflows and has policies, procedures and clause 4.6 consideration built into the system. While this system provides a procedure for the use of council's delegations, a procedure manual is still necessary for transparency and ease of reference
- receiving proposed variations to development standards as written applications and assessing whether the applications deal with the planning matters required to be addressed by the relevant instrument.

## Audit findings – requirements unmet

The council did not meet the following requirements:

- having a separate online register for all approved variations to development standards under clause 4.6 – the council relies on the DA tracker system as a record of clause 4.6 variations
- reporting of variations approved under delegation by staff to a meeting of the full council on a quarterly basis
- ensuring all variation decisions of more than 10% or non-numerical standards are made by the appropriate authority. One development application for 14% variation was determined by a council delegate
- Submitting to the department quarterly reports of all variation decisions within 4 weeks of the end of each quarter for the audit period 2018–19. However, in more recent quarters in 2020–21, the council submitted quarterly reports on time.

## Recommendations for council action

In complying with the requirements of clause 4.6 and Planning Circular PS 20-002, the council should:

- make available the council's clause 4.6 delegation procedure for transparency and ease of reference
- establish and maintain a stand-alone online register of clause 4.6 variations
- provide a report to a meeting of the council on the variations approved under delegation by staff at least quarterly
- continue to submit clause 4.6 variation quarterly reports on time to the department.

# The Hills Shire Council

## Audit findings – requirements met

The council met the following requirements:

- maintaining a publicly available online register of approved variations to development standards under clause 4.6 that provides adequate information
- ensuring all variation decisions of more than 10% or non-numerical standards are made by the appropriate authority
- reporting of variations approved under delegation by staff to a meeting of the full council on a quarterly basis
- receiving proposed variations to development standards as written applications and assessing whether the applications deal with the planning matters required to be addressed by the relevant instrument.

## Audit findings – requirements unmet

The council did not meet the following requirements:

- having a written delegation procedure for dealing with clause 4.6 variations. The council has a delegation register but this is not sufficient to provide clear guidance on assessments
- ensuring a satisfactory written request for variation. Some variations, though submitted through a written application, had significant differences to what was in the written application and the council documents. Some written applications did not reflect the appropriate variation required
- submitting to the department quarterly reports of all variation decisions within 4 weeks of the end of each quarter

## Recommendations for council action

In complying with the requirements of clause 4.6 and Planning Circular PS 20-002, the council should:

- prepare and have in place a written delegation procedure clearly detailing responsibilities of council staff and procedures to follow regarding clause 4.6 variations
- ensure that the level of variation proposed in a written application is what is being presented to the determining body. If a variation initially proposed is subject to change, a revised application should be obtained from applicants
- submit clause 4.6 variation quarterly reports to the department within 4 weeks of the end of the quarter.

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# Willoughby City Council

## Audit findings – requirements met

The council met the following requirements:

- maintaining a publicly available online register of approved variations to development standards under clause 4.6 that provides adequate information
- ensuring all variation decisions of more than 10% or non-numerical standards are made by the appropriate authority
- reporting of variations approved under delegation by staff to a meeting of the full council on a quarterly basis
- submitting to the department quarterly reports of all variation decisions within 4 weeks of the end of each quarter.

## Audit findings – requirements unmet

The council did not meet the following requirements:

- having a written delegation procedure for dealing with clause 4.6 variations. However, the council has several processes and checklists in place.

## Recommendations for council action

In complying with the requirements of clause 4.6 and Planning Circular PS 20-002, the council should:

- prepare and have in place a written delegation procedure clearly detailing responsibilities of council staff and procedures to follow regarding clause 4.6 variations.

# Wollondilly Shire Council

## Audit findings – requirements met

The council met the following requirements:

- having a written delegation procedure for dealing with clause 4.6 variations
- maintaining a publicly available online register of approved variations to development standards under clause 4.6 that provides adequate information
- ensuring all variation decisions of more than 10% or non-numerical standards are made by the appropriate authority
- submitting to the department quarterly reports of all variation decisions within 4 weeks of the end of each quarter
- receiving proposed variations to development standards as written applications and assessing whether the applications deal with the planning matters required to be addressed by the relevant instrument.

## Audit findings – requirements unmet

The council did not meet the following requirements:

- reporting of variations approved under delegation by staff to a meeting of the full council on a quarterly basis

## Recommendations for council action

In complying with the requirements of clause 4.6 and Planning Circular PS 20-002, the council should:

- provide a report to a meeting of the council on the variations approved under delegation by staff at least quarterly.

# Woollahra Municipal Council

## Audit findings – requirements met

The council met the following requirements:

- having a written delegation procedure for dealing with clause 4.6 variations
- maintaining a publicly available online register of approved variations to development standards under clause 4.6 that provides adequate information
- ensuring all variation decisions of more than 10% or non-numerical standards are made by the appropriate authority
- receiving proposed variations to development standards as written applications and assessing whether the applications deal with the planning matters required to be addressed by the relevant instrument.

## Audit findings – requirements unmet

The council did not meet the following requirements:

- reporting of variations approved under delegation by staff to a meeting of the full council on a quarterly basis
- submitting to the department quarterly reports of all variation decisions within 4 weeks of the end of each quarter for the audit period 2018–19. However, in more recent quarters in 2020–21, the council submitted quarterly reports on time.

## Recommendations for council action

In complying with the requirements of clause 4.6 and Planning Circular PS 20-002, the council should:

- provide a report to a meeting of the council on the variations approved under delegation by staff at least quarterly
- submit clause 4.6 variation quarterly reports to the department within 4 weeks of the end of each quarter.

# Albury City Council

## Audit findings – requirements met

The council met the following requirements:

- having a written delegation procedure for dealing with clause 4.6 variations
- reporting of variations approved under delegation by staff to a meeting of the full council on a quarterly basis
- receiving proposed variations to development standards as written applications and assessing whether the applications deal with the planning matters required to be addressed by the relevant instrument.

## Audit findings – requirements unmet

The council did not meet the following requirements:

- maintaining a publicly available online register of approved variations to development standards under clause 4.6 that provides adequate information
- submitting to the department quarterly reports of all variation decisions within 4 weeks of the end of each quarter for the audit period 2018–19. However, in more recent quarters in 2020–21, the council submitted quarterly reports on time.

## Recommendations for council action

In complying with the requirements of clause 4.6 and Planning Circular PS 20-002, the council should:

- maintain a publicly available online register of approved variations to development standards under clause 4.6 that provides adequate information. This register must include the development application number and description, the property address, the standard to be varied and the extent of the variation
- submit clause 4.6 variation quarterly reports to the department within 4 weeks of the end of each quarter.

# Armidale Regional Council

## Audit findings – requirements met

The council met the following requirements:

- having a written delegation procedure for dealing with clause 4.6 variations
- reporting of variations approved under delegation by staff to a meeting of the full council on a quarterly basis
- receiving proposed variations to development standards as written applications and the council assessing that the applications deal with the planning matters required to be addressed by the relevant instrument.

## Audit findings – requirements unmet

The council did not meet the following requirements:

- maintaining a publicly available online register of approved variations to development standards under clause 4.6 that provides adequate information
- submitting to the department quarterly reports of all variation decisions within 4 weeks of the end of each quarter.

## Recommendations for council action

In complying with the requirements of clause 4.6 and Planning Circular PS 20-002, the council should:

- maintain a publicly available online register of approved variations to development standards under clause 4.6 that provides adequate information. This register must include the development application number and description, the property address, the standard to be varied and the extent of the variation
- submit clause 4.6 variation quarterly reports to the department within 4 weeks of the end of the quarter.



## Bega Valley Shire Council

### Audit findings – requirements met

The council met the following requirements:

- having a written delegation procedure for dealing with clause 4.6 variations
- maintaining a publicly available online register of approved variations to development standards under clause 4.6 that provides adequate information
- reporting of variations approved under delegation by staff to a meeting of the full council on a quarterly basis.

### Audit findings – requirements unmet

The council did not meet the following requirements:

- submitting to the department quarterly reports of all variation decisions within 4 weeks of the end of each quarter for the audit period 2018–19. However, in more recent quarters in 2020–21, the council submitted quarterly reports on time.

### Recommendations for council action

In complying with the requirements of clause 4.6 and Planning Circular PS 20-002, the council should:

- continue to submit clause 4.6 variation quarterly reports on time to the department.

We encourage council to continue its good practices of complying with all procedural and reporting requirements of clause 4.6 and Planning Circular PS 20-002.

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# Cessnock City Council

## Audit findings – requirements met

The council met the following requirements:

- having a written delegation procedure for dealing with clause 4.6 variations
- maintaining a publicly available online register of approved variations to development standards under clause 4.6 that provides adequate information
- reporting of variations approved under delegation by staff to a meeting of the full council on a quarterly basis
- receiving proposed variations to development standards as written applications and assessing whether the applications deal with the planning matters required to be addressed by the relevant instrument.

## Audit findings – requirements unmet

The council did not meet the following requirements:

- submitting to the department quarterly reports of all variation decisions within 4 weeks of the end of each quarter for the audit period 2018–19. However, in more recent quarters in 2020–21, the council submitted quarterly reports on time.

## Recommendations for council action

In complying with the requirements of clause 4.6 and Planning Circular PS 20-002, the council should:

- continue to submit clause 4.6 variation quarterly reports on time to the department.

The Council is encouraged to continue its good practices of complying with all procedural and reporting requirements of clause 4.6 and Planning Circular PS 20-002.

# Maitland City Council

## Audit findings – requirements met

The council met the following requirements:

- having a written delegation procedure for dealing with clause 4.6 variations
- reporting of variations approved under delegation by staff to a meeting of the full council on a quarterly basis
- receiving proposed variations to development standards as written applications and assessing whether the applications deal with the planning matters required to be addressed by the relevant instrument.

## Audit findings – requirements unmet

The council did not meet the following requirements:

- maintaining a publicly available online register of approved variations to development standards under clause 4.6 that provides adequate information
- submitting to the department quarterly reports of all variation decisions within 4 weeks of the end of each quarter.

## Recommendations for council action

In complying with the requirements of clause 4.6 and Planning Circular PS 20-002, the council should:

- maintain a publicly available online register of approved variations to development standards under clause 4.6 that provides adequate information
- submit clause 4.6 variation quarterly reports to the department within 4 weeks of the end of each quarter.

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# Richmond Valley Council

## Audit findings – requirements met

The council met the following requirements:

- having a written delegation procedure for dealing with clause 4.6 variations
- maintaining a publicly available online register of approved variations to development standards under clause 4.6 that provides adequate information
- reporting of variations approved under delegation by staff to a meeting of the full council on a quarterly basis
- receiving proposed variations to development standards as written applications and assessing whether the applications deal with the planning matters required to be addressed by the relevant instrument.

## Audit findings – requirements unmet

The council did not meet the following requirements:

- submitting to the department quarterly reports of all variation decisions within 4 weeks of the end of each quarter for the audit period 2018–19. However, in more recent quarters in 2020-21, the council submitted quarterly reports on time.

## Recommendations for council action

In complying with the requirements of clause 4.6 and Planning Circular PS 20-002, the council should:

- continue to submit clause 4.6 variation quarterly reports on time to the department.

The Council is encouraged to continue its good practices of complying with all procedural and reporting requirements of clause 4.6 and Planning Circular PS 20-002.

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## Wentworth Shire Council

### Audit findings – requirements met

The council met the following requirements:

- having a written delegation procedure for dealing with clause 4.6 variations
- reporting of variations approved under delegation by staff to a meeting of the full council on a quarterly basis.

### Audit findings – requirements unmet

The council did not meet the following requirements:

- maintaining a publicly available online register of approved variations to development standards under clause 4.6 that provides adequate information
- submitting to the department quarterly reports of all variation decisions within 4 weeks of the end of each quarter for the audit period 2018–19. However, in more recent quarters in 2020–21, the council submitted quarterly reports on time.

### Recommendations for council action

In complying with the requirements of clause 4.6 and Planning Circular PS 20-002, the council should:

- maintain a publicly available online register of approved variations to development standards under clause 4.6 that provides adequate information
- submit clause 4.6 variation quarterly reports to the department within 4 weeks of the end of each quarter.

## Yass Valley Council

### Audit findings – requirements met

The council met the following requirements:

- having a written delegation procedure for dealing with clause 4.6 variations
- reporting of variations approved under delegation by staff to a meeting of the full council on a quarterly basis.

### Audit findings – requirements unmet

The council did not meet the following requirements:

- maintaining a publicly available online register of approved variations to development standards under clause 4.6 that provides adequate information
- submitting to the department quarterly reports of all variation decisions within 4 weeks of the end of each quarter for the audit period 2018–19. However, in more recent quarters in 2020–21, the council submitted quarterly reports on time.

### Recommendations for council action

In complying with the requirements of clause 4.6 and Planning Circular PS 20-002, the council should:

- maintain a publicly available online register of approved variations to development standards under clause 4.6 that provides adequate information. This register must include the development application number and description, the property address, the standard to be varied and the extent of the variation
- submit clause 4.6 variation quarterly reports to the department within 4 weeks of the end of each quarter.

## Audit findings and recommendations – follow-up audits

During the 2020 follow-up audits, the auditors reviewed whether the councils had met the specific requirements identified in the 2018 audit report as outstanding. They also reviewed the councils' general compliance with the procedural and reporting requirements of clause 4.6 and the planning circulars.

The auditors found a general improvement in compliance during the 2020 follow-up audit. However, there were instances where auditors found that some councils that were compliant with certain audit criteria during the 2018 audit, failed compliance during the 2020 follow-up audit. A noticeable finding was with the audit criteria for timely submission of quarterly reports to the department.

During the 2018 audit, only 8 councils (that were later subject to the 2020 follow-up audit) did not submit quarterly reports to the department on time. However, the 2020 follow up audit found 14 out of the 16 councils that were subject to the audit did not submit quarterly reports on time.

Table 10 shows a summary of the audit findings by audit criteria.

Table 11 shows the level of compliance by each council.

**Table 10. Council compliance with audit recommendations – follow-up audits**

<b>Audit requirement outstanding from the 2018 audit</b>	<b>Number of non-compliant councils 2018</b>	<b>Number of non-compliant councils 2020</b>
Having adequate internal clause 4.6 delegations in place	5	3
Maintaining an online clause 4.6 register	9	2
Variations of more than 10% or non-numerical standard consistently determined by appropriate authority	9	2
Quarterly reports submitted to the department within four weeks	8	14*
Assessment report address planning requirements	5	4
Written development standard variation application with adequate information	6	3
Quarterly reporting to council on variations by council delegates	4	0

\*The only council that was non-compliant in the 2018 audit with timely reporting to the department but compliant in the 2020 follow-up audit was Tweed Shire Council. Seven of the councils that were non-compliant on timely submissions during 2018 were found to be non-compliant during the 2020 audit as well. Another 7 councils that were compliant with timely reporting to the department during the 2018 audit were non-compliant during the 2020 follow up audit.



Table 11 shows the level of compliance by each council.

**Table 11. Audit findings from the follow-up audits**

Council	Number of non-compliances 2018	Number and % of compliance 2020
Blacktown City Council	3	3 (100%)
Camden Council	2	1 (50%)*
Cumberland City Council	4	4 (100%)
Ku-ring-gai Council	2	2 (100%)
Lane Cove Council	3	3 (100%)
Mosman Municipal Council	2	2 (100%)
Northern Beaches Council	4	4 (100%)
Snowy Valleys Council	3	2 (67%)
Hilltops Council	1	1 (100%)
Kiama Municipal Council	1	1 (100%)
Port Stephens Council	1	1 (100%)
Mid Coast Council	3	2 (100%)
Tweed Shire Council	4	3 (75%)
Ballina Shire Council	3	1 (33%)
Forbes Shire Council	5	4 (75%)*
Dubbo Regional Council	4	3 (75%)

\* These councils did not submit to the department quarterly reports of all variation decisions within four weeks of the end of each quarter for the audit period 2018-19. However, in more recent quarters in 2020-21, the councils submitted quarterly reports on time.

## Recommendations and next steps

The audit findings and the recommendation for individual councils are discussed in the following section - Results by councils – follow-up audits. The department will:

- write to the individual councils to advice of the specific findings for that council along with the recommendations to achieve compliance
- follow up with the councils that had unmet requirements after a certain time period (for example, three months) to confirm they have taken steps to implement the recommendations.

# Results by council: follow-up audits

## Blacktown City Council

### Audit findings from the 2018 audit

The auditors found the following unmet requirements during the 2018 audit that resulted in a follow-up audit in 2020:

- Assessment reports for clause 4.6 variation applications should address whether the variation will be in the public interest due to consistency with the objectives of the standard(s) varied and the zone.
- The internal procedures for clause 4.6 variations should identify changes to a development application prior to determination. This is to ensure correct use of delegation and compliance with the requirements of the relevant planning circular.
- The council should expand its online register of approved variations to include details of the standard proposed to be varied and the extent of the variation as required under the planning circular.

### Audit findings

The council has implemented all the recommendations on unmet requirements from the 2018 audit.

While it was not a recommendation from the previous audit, the auditors found the following requirements were unmet:

- submitting to the department quarterly reports of all variation decisions within 4 weeks of the end of each quarter for the audit period 2018–19. However, in more recent quarters in 2020–21, the council submitted quarterly reports on time.

### Recommendations for council action

In complying with the requirements of clause 4.6 and Planning Circular PS 20-002, the council should:

- continue to submit clause 4.6 variation quarterly reports on time to the department.

The Council is encouraged to continue its good practices of complying with all procedural and reporting requirements of clause 4.6 and Planning Circular PS 20-002.

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# Camden Council

## Audit findings from the 2018 audit

The auditors found the following unmet requirements during the 2018 audit that resulted in a follow-up audit in 2020:

- Variations made by staff under delegation should be reported to council on a quarterly basis.
- Quarterly reporting to the department must be submitted within 4 weeks of the end of each quarter.

## Audit findings

The council has implemented the recommendation on quarterly reporting to council on variations made under staff delegation.

The council has not met the following requirement of the planning circular:

- submitting to the department quarterly reports of all variation decisions within 4 weeks of the end of each quarter of the audit period, 2018–19. However, in more recent quarters in 2020–21, council submitted quarterly reports within 4 weeks.

## Recommendations for council action

In complying with the requirements of clause 4.6 and Planning Circular PS 20-002, the council should:

- continue to submit clause 4.6 variation quarterly reports on time to the department.

The Council is encouraged to continue its good practices of complying with all procedural and reporting requirements of clause 4.6 and Planning Circular PS 20-002.

# Cumberland City Council

## Audit findings from the 2018 audit

The auditors found the following unmet requirements during the 2018 audit which resulted in a follow-up audit in 2020:

- The council should ensure that a written request is submitted by the proponent to support a clause 4.6 variation.
- Assessment reports must consider:
  - whether strict compliance with the development standard(s) would be unreasonable and unnecessary
  - environmental planning grounds to justify varying the standard(s)
  - whether the variation will be in the public interest due to consistency with the objectives of the standards and the zone.
- Variations made by staff under delegation are to be reported to council on a quarterly basis.
- Quarterly reporting to the department must be submitted within 4 weeks of the end of each quarter.

## Audit findings

The council has implemented all the recommendations from the previous audit.

While it was not a recommendation from the previous audit, the auditors found the following requirements were unmet:

- having a written delegation procedure for dealing with clause 4.6 variations – the council has delegations in place, but these are not adequate
- submitting to the department quarterly reports of all variation decisions within 4 weeks of the end of each quarter for the audit period 2018–19. However, in more recent quarters in 2020–21, the council submitted quarterly reports on time.

## Recommendations for council action

In complying with the requirements of clause 4.6 and Planning Circular PS 20-002, the council should:

- prepare and have in place a written delegation procedure clearly detailing responsibilities of council staff and procedures to follow regarding clause 4.6 variations
- continue to submit clause 4.6 variation quarterly reports on time to the department.

# Ku-ring-gai Council

## Audit findings from the 2018 audit

The auditors found the following unmet requirements during the 2018 audit that resulted in a follow-up audit in 2020:

- Development applications involving variations of development standards greater than 10% should be determined only by the local or Sydney planning panel.
- Council's internal delegations should be updated to reference clause 4.6, rather than SEPP1.
- Applications requesting a variation under clause 4.6 must include environmental planning grounds to justify the variation and indicate whether strict compliance with the development standard would be unreasonable or unnecessary.

## Audit findings

The council has implemented all the recommendations on unmet requirements from the 2018 audit.

While it was not a recommendation from the previous audit, the auditors found the following requirements were unmet:

- maintaining a publicly available online register of approved variations to development standards under clause 4.6 that provides adequate information
- submitting to the department quarterly reports of all variation decisions within 4 weeks of the end of each quarter. One report was submitted late.

## Recommendations for council action

In complying with the requirements of clause 4.6 and Planning Circular PS 20-002, the council should:

- maintain a publicly available online register of approved variations to development standards under clause 4.6 that provides adequate information. This register must include the development application number and description, the property address, the standard to be varied and the extent of the variation
- ensure all quarterly reports of variations are submitted to the department within 4 weeks of the end of each quarter.

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# Lane Cove Council

## Audit findings from the 2018 audit

The auditors found the following unmet requirements during the 2018 audit that resulted in a follow-up audit in 2020:

- DAs involving variations greater than 10% should be determined by a local planning panel or Sydney planning panel.
- Quarterly reports to the department must be submitted in a timely manner.
- Variations made by staff under delegation must be reported to council on a quarterly basis.

## Audit findings

The council has implemented all the recommendations from the previous audit.

While it was not a recommendation from the previous audit, the council has not met the following requirement of the planning circular:

- maintaining a publicly available online register of approved variations to development standards under clause 4.6 that provides adequate information
- submitting to the department quarterly reports of all variation decisions, within 4 weeks of the end of each quarter.

## Recommendations for council action

In complying with the requirements of clause 4.6 and Planning Circular PS 20-002, the council should:

- maintain a publicly available online register of approved variations to development standards under clause 4.6 that provides adequate information. This register must include the development application number and description, the property address, the standard to be varied and the extent of the variation
- ensure all quarterly reports of variations are submitted to the department within 4 weeks of the end of each quarter.

# Mosman Municipal Council

## Audit findings from the 2018 audit

The auditors found the following unmet requirements during the 2018 audit that resulted in a follow-up audit in 2020.

- A written request must be submitted by the proponent to support a variation under clause 4.6.
- Quarterly reporting to the department must be submitted within 4 weeks of the end of each quarter. Where no variation decisions are made for the quarter, a nil return should be submitted.

## Audit findings

The council has implemented all the recommendations on unmet requirements from the 2018 audit.

While it was not a recommendation from the previous audit, the council has not met the following requirement of the planning circular:

- submitting to the department quarterly reports of all variation decisions within 4 weeks of the end of each quarter for the audit period 2018–19. However, after the 2018 audit, the council submitted quarterly reports on time.

## Recommendations for council action

In complying with the requirements of clause 4.6 and Planning Circular PS 20-002, the council should:

- upload all relevant DA documents to the council website to ensure these are readily accessible by the public. This includes applicants' requests for variations of development standards
- ensure all quarterly reports of variations are submitted to the department within 4 weeks of the end of each quarter.



# Northern Beaches Council

## Audit findings from the 2018 audit

The auditors found the following unmet requirements during the 2018 audit that resulted in a follow-up audit in 2020:

- Although the online clause 4.6 register appears to be mostly accurate, care should be taken to ensure that details included on the register accurately reflect details of all applications for variations.
- Written applications objecting to the development standard(s) must accompany all variation decisions.
- Assessment reports for development applications that include a variation under clause 4.6 are required to address the following matters:
  - whether strict compliance with the development standard(s) would be unreasonable and unnecessary
  - environmental planning grounds to justify varying the standard(s)
  - whether the variation will be in the public interest due to consistency with the objectives of the standard(s) varied and the zone.
- Variations of greater than 10% are to be determined only by the local or Sydney planning panel, except as specified in the special delegation to council. Staff may only approve variations over 10% that are consistent with the special concurrence conditions issued by the department.

## Audit findings

The council has implemented all the recommendations from the previous audit.

While it was not a recommendation from the previous audit, the council has not met the following requirement of the planning circular:

- submitting to the department quarterly reports of all variation decisions within 4 weeks of the end of each quarter for the audit period 2018–19.

## Recommendations for council action

In complying with the requirements of clause 4.6 and Planning Circular PS 20-002, the council should:

- ensure all quarterly reports of variations are submitted to the department within 4 weeks of the end of each quarter.

# Snowy Valleys Council

## Audit findings from the 2018 audit

The auditors found the following unmet requirements during the 2018 audit that resulted in a follow-up audit in 2020:

- Council's internal delegation manuals should be updated to reference clause 4.6.
- A register of clause 4.6 variations should be established and made available on council's website.
- Should a clause 4.6 variation be approved in future, quarterly reporting to the department must be submitted within 4 weeks of the end of each quarter. Where no variation decisions are made for the quarter, a nil return should be submitted.

## Audit findings

The council has implemented the recommendations from the previous audit except for:

- submitting to the department quarterly reports of all variation decisions within 4 weeks of the end of each quarter for the audit period 2018–19.

## Recommendations for council action

In complying with the requirements of clause 4.6 and Planning Circular PS 20-002, the council should:

- submit clause 4.6 variation quarterly reports to the department within 4 weeks of the end of the quarter.

# Hilltops Council

## Audit findings from the 2018 audit

The auditors found the following unmet requirement during the 2018 audit that resulted in a follow-up audit in 2020:

- A register of clause 4.6 variations should be established and made available on council's website.

Further, the council was encouraged to continue its strategic planning in relation to appropriate lot sizes for rural areas given the frequent use of clause 4.6 to enable significant variations to facilitate the erection of a dwelling on an undersized rural lot.

## Audit findings

The council has implemented the recommendation from the previous audit and has in place an online register of clause 4.6 variations.

While it was not a recommendation from the previous audit, the council has not met the following requirement of the planning circular:

- having a written delegation procedure for dealing with clause 4.6 variations
- submitting to the department quarterly reports of all variation decisions within 4 weeks of the end of each quarter.

## Recommendations for council action

In complying with the requirements of clause 4.6 and Planning Circular PS 20-002, the council should:

- prepare and have in place a written delegation procedure clearly detailing responsibilities of council staff and procedures to follow regarding clause 4.6 variations
- submit clause 4.6 variation quarterly reports to the department within 4 weeks of the end of each quarter.

# Kiama Municipal Council

## Audit findings from the 2018 audit

The auditors found the following unmet requirements during the 2018 audit that resulted in a follow-up audit in 2020:

- DAs involving variations greater than 10% should be determined by the regional planning panel or full council.
- Council's internal delegation manuals should be updated to reference clause 4.6 rather than SEPP1.

## Audit findings

The council has implemented all the recommendations from the previous audit.

While these are not recommendations from the previous audit, the council has not met the following requirements of clause 4.6 and the planning circular:

- ensuring written applications are received for all clause 4.6 variations
- undertaking a proper assessment of the suitability of the variations including considering whether strict compliance with the standards is unreasonable or unnecessary, the environmental grounds to justify variations and whether the variation will be in the public interest due to the consistency with the objectives of the standard and the zone
- submitting to the department quarterly reports of all variation decisions within 4 weeks of the end of each quarter for the audit period 2018–19. However, in more recent quarters in 2020–21, the council submitted quarterly reports on time.

## Recommendations for council action

In complying with the requirements of clause 4.6 and Planning Circular PS 20-002, the council should:

- ensure all applications for clause 4.6 variations are received in writing
- consider suitability of variations by adequately addressing clause 4.6 matters of the Kiama LEP 2011 and any future LEPs of the council
- continue to submit clause 4.6 variation quarterly reports on time to the department.

# Port Stephens Council

## Audit findings from the 2018 audit

The auditors found the following unmet requirement during the 2018 audit that resulted in a follow-up audit in 2020:

- The council should comply with the requirements of clause 4.6 and Planning Circular PS20-002, including that variations of greater than 10% are to be determined only by a regional planning panel or full council.

## Audit findings

The council has implemented all the recommendations from the previous audit and had fulfilled the procedural and reporting requirements of the planning circular.

## Recommendations for council action

No specific recommendations for the council. We encourage the council to continue to comply with the requirements of clause 4.6 and Planning Circular PS 20-002.

## Mid Coast Council

### Audit findings from the 2018 audit

The auditors found the following unmet requirements during the 2018 audit that resulted in a follow-up audit in 2020:

- Council has not established an online register.
- At least one decision involving a variation of over 10% was made by staff and not the council, as is required by the planning circular.

### Audit findings

The council has implemented all the recommendations from the previous audit.

While it was not a recommendation from the previous audit, the council has not met the following requirement of the planning circular:

- ensuring the council assessment should provide consideration as to whether strict compliance with the standard would be unreasonable and unnecessary and whether variation will be in the public interest due to the consistency with the objectives of the standard and the zone
- submitting to the department quarterly reports of all variation decisions within 4 weeks of the end of each quarter for the audit period 2018–19. However, in more recent quarters in 2020–21, the council submitted quarterly reports on time.

### Recommendations for council action

In complying with the requirements of clause 4.6 and Planning Circular PS 20-002, the council should:

- consider suitability of variations by adequately addressing clause 4.6 matters of the relevant LEPs for the council in assessment of variations by the council
- continue to submit clause 4.6 variation quarterly reports on time to the department.

# Tweed Shire Council

## Audit findings from the 2018 audit

The auditors found the following unmet requirements during the 2018 audit that resulted in a follow-up audit in 2020:

- All written applications to support a variation under clause 4.6 must specifically address whether strict compliance with the standards would be unreasonable and unnecessary and include environmental planning grounds to justify varying the development standards.
- The council should update its publicly available online register to include the standard being varied and the extent of the variation for each application.
- Quarterly reporting to the department must be submitted within 4 weeks of the end of each quarter.
- Council's assessment reports must accurately identify the variation and the extent of the variation.

## Audit findings

The council has implemented the recommendations from the previous audit except for:

- ensuring all written applications address whether strict compliance with the standards would be unreasonable and unnecessary and include environmental planning grounds to justify varying the development standards
- ensuring the council assessment should consider whether strict compliance with the standard would be unreasonable and unnecessary.

## Recommendations for council action

In complying with the requirements of clause 4.6 and Planning Circular PS 20-002, the council should:

- ensure all written applications address the clause 4.6 requirements specified in the LEP
- consider suitability of variations by adequately addressing clause 4.6 matters of the relevant LEPs for the council in assessment of variation applications.

# Ballina Shire Council

## Audit findings from the 2018 audit

The auditors found the following unmet requirements during the 2018 audit that resulted in a follow-up audit in 2020:

- DAs involving variations greater than 10% should be determined by the regional planning panel or the full council and the council's relevant instrument of delegation should reflect this so that delegations are correctly implemented.
- The council should follow internal delegation procedures.
- Quarterly reporting to the department must be submitted within 4 weeks of the end of each quarter.

## Audit findings

The council has partially implemented the recommendation regarding variations greater than 10% from the previous audit.

The council has not met the following recommendations from the previous audit and the requirements of the planning circular:

- having a written delegation procedure for dealing with clause 4.6 variations. Development applications for variations greater than 10% were determined by a regional planning panel or by the council after seeking and receiving concurrence from the Secretary. However, the council delegation procedure did not mention the appropriate authorities.
- undertaking a proper assessment of the suitability of the variations including considering whether strict compliance with the standards is unreasonable or unnecessary and the environmental grounds to justify variations
- submitting to the department quarterly reports of all variation decisions within 4 weeks of the end of each quarter for the audit period 2018–19. However, in more recent quarters in 2020–21, the council submitted quarterly reports on time.

## Recommendations for council action

In complying with the requirements of clause 4.6 and Planning Circular PS 20-002, the council should:

- prepare and have in place a written delegation procedure clearly detailing responsibilities of council staff and procedures to follow regarding clause 4.6 variations including the appropriate determining authorities for variations greater than 10%
- consider suitability of variations by adequately addressing clause 4.6 matters of the Ballina Local Environmental Plan 2012 and any future LEPs of the council
- submit clause 4.6 variation quarterly reports to the department within 4 weeks of the end of the quarter.



# Forbes Shire Council

## Audit findings from the 2018 audit

The auditors found the following unmet requirements during the 2018 audit that resulted in a follow-up audit in 2020:

- A register of clause 4.6 variations should be established and made available on the council's website.
- The council should have in place a written delegation procedure clearly detailing responsibilities of council staff and procedures to follow regarding clause 4.6 variations.
- Quarterly reports of variation decisions (including nil returns) must be submitted to the department within 4 weeks of the end of each quarter.
- Ensure there is quarterly reporting to council of variations being approved under delegation by council staff.
- Assessment reports for variations under clause 4.6 should address the following matters:
  - whether strict compliance with the development standards would be unreasonable and unnecessary
  - environmental planning grounds to justify varying the standards
  - whether the variation will be in the public interest due to consistency with the objectives of the standards varied and the zone.

## Audit findings

The council has implemented the recommendations from the previous audit except for:

- submitting to the department quarterly reports of all variation decisions within 4 weeks of the end of each quarter for the audit period 2018–19. However, in more recent quarters in 2020–21, the council submitted quarterly reports on time.

## Recommendations for council action

In complying with the requirements of clause 4.6 and Planning Circular PS 20-002, the council should:

- continue to submit clause 4.6 variation quarterly reports on time to the department.

The Council is encouraged to continue its good practices of complying with all procedural and reporting requirements of clause 4.6 and Planning Circular PS 20-002.

# Dubbo Regional Council

## Audit findings from the 2018 audit

The auditors found the following unmet requirements during the 2018 audit that resulted in a follow-up audit in 2020:

- Applications involving variations of greater than 10% should be determined only by the regional planning panel or full council.
- Council's internal delegations regarding clause 4.6 should cover all senior staff responsible for approving development applications that include a clause 4.6 variation.
- A register of clause 4.6 variations should be established and made available on council's website as required under PS18-003.
- All written requests submitted by the applicant to support a variation under clause 4.6 must specifically address the environmental planning grounds to justify varying the development standard(s).

## Audit findings

The council has partially implemented recommendations from the previous audit. The auditors found the council has not met the following requirement during the 2020 audit:

- ensuring applications that involve variations of greater than 10% are determined only by the regional planning panel or full council.

While it was not a recommendation from the previous audit, the council has not met the following requirement of the planning circular:

- submitting to the department quarterly reports of all variation decisions within 4 weeks of the end of each quarter for the audit period 2018–19. However, in more recent quarters in 2020–21, the council submitted quarterly reports on time.

## Recommendations for council action

In complying with the requirements of clause 4.6 and Planning Circular PS 20-002, the council should:

- ensure applications for variations of greater than 10% are determined by appropriate determining authority.
- continue to submit clause 4.6 variation quarterly reports on time to the department.

## Appendix A: Development applications reviewed for 2020 new audits

**Table A 1. Bayside Council – development applications reviewed**

DA number	Development standard(s) varied
D2018/1110	Clause 4.3 of Botany Bay LEP 2013 to vary Floor Space Ratio (FSR) by 19%
2018/11192	Clause 4.4A(3)(d) of Botany Bay LEP 2013 to vary FSR by 44%
2017/1185	Clause 4.4 of Botany Bay LEP 2013 to vary FSR by 3%
2018/21	Clause 4.1 of Rockdale LEP 2011 to vary minimum subdivision lot size by 55%
2018/63	Clause 4.3 of Rockdale LEP 2011 to vary height of building (HOB) by 16%
2018/1067	Clause 4.4 of Botany Bay LEP to vary FSR by 19%
2017/517	Clause 4.3 of Rockdale LEP 2011 to vary maximum building height by 18%
2018/191	Clause 4.1(3B) of Rockdale LEP 2011 to vary minimum lot size by 1%
2018/1068	Clause 4.3 of Botany Bay LEP 2013 to vary HOB by 17%
2018/1177	Variation to clause 4.4A of Botany Bay LEP 2013 to vary FSR by 44%
2017/1085	Variation to clause 4.4A of Botany Bay LEP 2013 to vary FSR by 35%
2017 /1084	Variation to clause 4.4A of Botany Bay LEP 2013 to vary FSR by 35%
2018/1144	Variation to clause 4.4A of Botany Bay LEP 2013 to vary FSR by 16%
2017/611	Variation to clause 4.1 of Rockdale LEP 2011 to vary FSR by 0.4%
2018/1078	Variation to clause 4.3 of Botany Bay LEP to vary HOB by 17%

**Table A 2. Campbelltown City Council – development applications reviewed**

DA number	Development standard(s) varied
2814/2018/DA-SW	Clause 4.1B of Campbelltown LEP 2015 to vary minimum lot size by 4%
985/2018/DA-DW	Clause 17 Part 31 of State Environmental Planning Policy (State Significant Precincts) 2005 to vary minimum lot size lot by 1%
4574/2018/DA-82A	Clause 4.4 (2A) of Campbelltown LEP 2015 to vary FSR by 9%
895/2018/DA-RS	Clause 4.1B (3)(b) of Campbelltown LEP 2015 to vary minimum subdivision lot sizes for dual occupancies by 4%
3932/2018/DA-RS	Clause 4.4 of Campbelltown LEP 2015 to vary FSR by 5%

**Table A 3. City of Sydney – development applications reviewed**

DA number	Development standard(s) varied
2017/1722	Clause 4.4 and clause 4.3 of the Sydney LEP 2012 to vary the FSR by 9% and maximum of building height by 3%
2017/1297	Clause 4.3 of the Sydney LEP 2012 variation to the height of buildings by 22% (3.25 m)
2017/1797	Clause 4.3 of the Sydney LEP 2012 to vary the maximum building height standard by 10% (from 18 m to 19.75 m)
2018/802	Clause 4.3 of the Sydney LEP 2012 to vary the maximum building height to 15% and to 92% as separate height limits apply to the site
2018/1097	Clause 4.4 and clause 4.3 of the Sydney LEP 2012 to vary the FSR by 30% and maximum building height by 44%
2019/40	Clause 4.3 of the Sydney LEP 2012 to vary the maximum building height by 14%
2018/988	Clause 4.3 of the Sydney LEP 2012 to vary the FSR by 6%
2018/1269	Clause 4.4 of the Sydney LEP 2012 to vary the FSR standard by 24%
2018/1411	Clause 4.3 of the Sydney LEP 2012 to vary the maximum building height by 29%
2017/564	The Sydney LEP (Green Square Town Centre) 2013 and SEPP 65 (Design Quality of Residential Apartment Developments). Variation of the ceiling height by 11% (SEPP 65) and building heights variation by 21% and 13%
2018/860	The Sydney LEP 2012 variation of maximum height rear roof extension off the main dwelling by 11%
2018/474	Clause 4.3 of the Sydney LEP 2012 to vary the maximum building height by 9%
2018/614	Clause 4.3 of the Sydney LEP 2012 to vary the maximum height of buildings by 18% and by 16%
2018/1346	Clause 4.4 of the Sydney LEP 2012 to vary the FSR by 9% – the existing building FSR exceeds the FSR development standard
2018/1570	Clause 4.3 of the Sydney LEP 2012 to vary the maximum building height by 10%
2018/941	Clause 4.3 of the Sydney LEP 2012 to vary the maximum building height by 51%
2018/407	Clause 4.4 of Sydney LEP 2012 to vary FSR by 20%
2018/405	Clause 4.4 of Sydney LEP 2012 to vary FSR by 4%
2018/479	Clause 4.4(2) of the Sydney LEP 2012 to vary FSR by 16%
2018/600	Clause 4.3 of the Sydney LEP 2012 to vary the maximum building height by 6%

**Table A 4. Hornsby Shire Council – development applications reviewed**

DA number	Development standard(s) varied
1458/2017	Clause 4.3 of the Hornsby LEP 2013 to vary maximum building height by 5%
301/2018	Clause 4.3 of the Hornsby LEP 2013 to vary maximum building height by 5%
1059/2018	Clause 4.3 of the Hornsby LEP 2013 to vary maximum building height by 8%
1443/2015/B	Clause 4.3 of the Hornsby LEP 2013 to vary maximum building height by 9%
465/2018	Clause 4.3 of the Hornsby LEP 2013 to vary maximum building height by 4%

**Table A 5. Penrith City Council – development applications reviewed**

DA number	Development standard(s) varied
18/1189	Clause 4.3 of Penrith LEP 2010 - to increase the building height from 8.5 m to 12.5 m
18/1114	Clause 4.3 of Penrith LEP 2010 to increase the building height from 12 m to 13.65 m
18-0890	Clause 4.3 of Penrith LEP 2010 to increase the building height from 18 m to 20.19 m
16/1083	Clause 4.3 of Penrith LEP 2010 to increase the building height from 24 m to 26.3 m and 27.2 m and to vary clause 4.4 to increase the floor space ratio from 3:1 to 3:31
18/0675	Clause 7.15 (3)(c)(iii) of Penrith LEP 2010 to reduce the minimum rear setback from 20 m to 16.05 m
17/1341	Clause 4.3 of Penrith LEP 2010 to increase the building height from 18 m to 22.45 m and 19.7 m
18/0056	Clause 4.1 of Penrith LEP 2010 to reduce minimum lot size from 1 ha to 9,095 m <sup>2</sup>
18-0860	Clause 4.1A of Penrith LEP 2010 to reduce minimum lot size from 800 m <sup>2</sup> to 664.5 m <sup>2</sup>
18/0488	Clause 4.3 of Penrith LEP 2010 to increase building height from 18 m to 21.3 m and 20.7 m

**Table A 6. The Hills Shire Council – development applications reviewed**

DA number	Development standard(s) varied
866/2015/HB	Clause 4.1 A of The Hills LEP 2012 to reduce the minimum site area for residential flat buildings from 4,000 m <sup>2</sup> to 2,132 m <sup>2</sup> (46.7%)
1667/2016/HB/C	Clause 4.3 of The Hills LEP 2012 to vary height of 2 buildings from 9 m to 9.85 m (9.4%) and 16 m to 16.75 m (4.7%)
606/2019/MD	Clause 4.3 of The Hills LEP 2012 to vary height building from 8 m to 8.3 m (3.8%)
1937/2017/ZB	Clause 4.1b of The Hills LEP 2012 to reduce the minimum density proposed from 15 lots per ha to a much lower density – the reduction was required because of a contradicting minimum lot size for the area
2011/2018/HA	Clause 4.1 A of The Hills LEP 2012 to reduce the minimum lot size for RUT-zoned land from 2 ha to 1.33 ha (33%)
1910/2018/HA	Clause 4.3 of The Hills LEP 2012 to vary maximum building height by 7%
1343/2019/HA	Clause 4.3 of LEP 2012 to vary maximum building height by 22%
660/2018/HA	Clause 40 (c) of State Environmental Planning Policy (Housing for Seniors or People with Disability) 2004 to vary the maximum one storey permitted within 25% of the rear of the property by 8.4% (approximately 32 m <sup>2</sup> of the total 380 m <sup>2</sup> area)
694/2019/HA	Clause 4.4 of The Hills LEP 2012 to vary maximum floor space by 24%
46/2018/JP	Clause 4.3 of The Hills LEP 2012 to vary maximum building height by 140%, clause 4.4 to vary FSR by 1% and clause 7.11 to vary residential development yield (unit size and parking spaces) by 1%
1946/2018/HC	Clause 4.3 of The Hills LEP 2012 to vary maximum building height by 9% and clause 4.4 to vary FSR by 54%
1249/2018/ZB	Clause 4.1B.3 of the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 to vary residential density by 38%
274/2019/HA	Clause 4.6: clause 4.3 of The Hills LEP 2012 to vary building height by 8%
593/2019/HA	Clause 4.3 of The Hills LEP 2012 to vary maximum building height by 8%
1645/2018/HA	Clause 4.5A of the SEPP Sydney Regional Growth Centres 2006; and within the North Kellyville Local Centre as shown in the North Kellyville Precinct DCP to vary FSR by 4% and gross floor area by 24%

**Table A 7. Willoughby City Council – development applications reviewed**

DA number	Development standard(s) varied
2018/300	Clause 4.3(2) of Willoughby LEP 2012 to vary maximum building height by 63%
2018/308	Clause 4.3(2) of Willoughby LEP 2012 to vary maximum height of building by 27% and floor space ratio (FSR) by 24%
2018/432	Clause 4.3 of Willoughby LEP 2012 to vary maximum building height by 37%
2018/290	Clause 4.4 of Willoughby LEP 2012 to vary floor space ratio (FSR) by 36%
2019/63	Clause 4.4A of Willoughby LEP 2012 to vary FSR by 4%
2017/508	Clause 4.4 of Willoughby LEP 2012 to vary FSR by 3%
2017/484	Clause 4.3 of Willoughby LEP 2012 to vary height of building by 40%
2017/346	Clause 4.4(1) of Willoughby LEP 2012 to vary FSR by 7%
2018/126	Clause 4.4 of Willoughby LEP 2012 to vary FSR by 2% and 13% and minimum subdivision lot sizes 33% (Lot 1) and 38% (Lot 2)
2017/161	Clause 4.3(2) of Willoughby LEP 2012 to vary building height by 2% and height of building by 19%
2018/100	Clause 4.3 of Willoughby LEP 2012 to vary building height by 4%
2018/244	Clause 4.3 of Willoughby LEP 2012 to vary FSR by 36%
2018/264	Clause 4.4 of Willoughby LEP 2012 to vary FSR by 2%, clause 4.3 to vary building height by 8%
2018/331	Clause 4.4 of Willoughby LEP 2012 to vary FSR by 36% and clause 4.3 to vary building height by 33%
2018/311	Clause 4.4 of Willoughby LEP 2012 to vary FSR by 10%

**Table A 8. Wollondilly Shire Council – development applications reviewed**

DA number	Development standard(s) varied
10.2018.361.1	Clause 4.1 of Wollondilly LEP 2011 to vary minimum subdivision lot size by 6%
10.2018.474.1	Clause 4.3 of Wollondilly LEP 2011 to vary building height by 1%
2017.578.1	Clause 4.3 of Wollondilly LEP 2011 to vary maximum height of building by 9%

**Table A 9. Woollahra Council – development applications reviewed**

DA number	Development standard(s) varied
293/2018	Clause 4.1 of Woollahra LEP 2014 to vary minimum subdivision lot size by 5% and clause 4.3 to vary minimum height of building by 6%
3/2018	Clause 4.3 of Woollahra LEP 2014 to vary maximum building height by 3%
135/2018	Clause 4.3 of Woollahra LEP 2014 to vary maximum building height by 7%
349/2018	Clause 4.3 of Woollahra LEP 2014 to vary building height by 1%
397/2018	Clause 4.3 of Woollahra LEP 2014 to vary building height by 4%
465/2018	Clause 4.3 of Woollahra LEP 2014 to vary building height by 5%
192/2018	Clause 4.3 of Woollahra LEP 2014 to vary height of building by 8%
450/2018	Clause 4.3 of Woollahra LEP 2014 to vary building height by 3%
529/2018	Clause 4.3 of Woollahra LEP 2014 to vary building height by 4%
47/2018	Clause 4.3 of Woollahra LEP 2014 to vary building height by 6%
156/2018	Clause 4.3 of Woollahra LEP 2014 to vary building height by 8%
329/2018	Clause 4.3 of Woollahra LEP 2014 to vary building height by 5%
451/2018	Clause 4.3 of Woollahra LEP 2014 to vary building height by 8%
503/2018	Clause 4.3 of Woollahra LEP 2014 to vary maximum building height by 5%
406/2018	Clause 4.3 of Woollahra LEP 2014 to vary maximum building height by 9%
485/2018	Clause 4.3 of Woollahra LEP 2014 to vary maximum building height by 9%
247/2018	Clause 4.3 of Woollahra LEP 2014 to vary maximum building height by 8%
351/2018	Clause 4.3 of Woollahra LEP 2014 to vary maximum building height by 8%
511/2018	Clause 4.3 of Woollahra LEP 2014 to vary maximum building height by 3%
74/2019	Clause 4.3 of Woollahra LEP 2014 to vary maximum building height by 9%

**Table A 10. Albury City Council – development applications reviewed**

DA number	Development standard(s) varied
10.2018.36482.1	Clause 4.1 of the Albury LEP 2010 to vary minimum lot size by 2%

**Table A 11. Bega Valley Shire Council – development applications reviewed**

DA number	Development standard(s) varied
2018.185	Clause 4.1A of Bega Valley 2013 to vary minimum lot size by 51%
2018.228	Clause 4.1 of Bega Valley 2013 to vary minimum lot size by 28%
2019.11	Clause 4.1A of Bega Valley 2013 to vary minimum lot size by 49%
2019.8	Clause 4.3 of Bega Valley 2013 to vary height of building by 4%
2018.144	Clause 4.3 of Bega Valley 2013 to vary height of buildings by 8%



**Table A 12. Maitland City Council – development applications reviewed**

DA number	Development standard(s) varied
2018/1671	Clause 4.1 of Maitland 2011 to vary minimum lot size by 7%

**Table A 13. Richmond Valley Council – development applications reviewed**

DA number	Development standard(s) varied
2018/201	Clause 4.1B of Richmond Valley LEP 2012 to vary minimum lot sizes for dual occupancies by 13%
2019/0054	Clause 4.1 of Richmond Valley LEP 2012 to vary minimum lot size by 10%

**Table A 14. Wentworth Shire Council – development applications reviewed**

DA number	Development standard(s) varied
2018/115	Clause 4.1 of Wentworth LEP 2011 to vary minimum lot size by 72%

**Table A 15. Yass Valley Council – development applications reviewed**

DA number	Development standard(s) varied
185084	Clause 4.1 of Yass Valley LEP 2013 to vary minimum lot size by 2%
173500	Clause 4.1B of Yass Valley LEP 2013 to vary minimum lot sizes by 8%
185009	Clause 4.1B of Yass Valley LEP 2013 to vary minimum lot sizes by 7%
185113	Clause 4.1B of Yass Valley LEP 2013 to vary minimum lot sizes by 2%
180013	Clause 4.1 of Yass Valley LEP 2013 to vary minimum lot size by 40%

## Appendix B: Development applications reviewed for follow-up audits

**Table B 1. Blacktown City Council – development applications reviewed**

DA number	Development standard(s) varied
18-00649	Clause 4.3 of the Blacktown LEP 2015 to vary maximum building height by 10%
18-01147	Clause 4.3 of the Blacktown LEP 2015 to vary maximum building height by 5.3%

**Table B 2. Camden Council**

DA number	Development standard(s) varied
010.2017.00001610.001	Clause 4.1 (3) of the Camden LEP 2010 to vary minimum lot size by 7.6%
010.2018.00001356.001	Clause 4.1A of the SEPP 2006 to vary minimum lot size by 0.3%
2020/055	Clause 4.1 of the Camden LEP 2010 to vary minimum lot size by 0.2%

**Table B 3. Cumberland City Council – development applications reviewed**

DA number	Development standard(s) varied
16/2018	Clause 6.11 of the Parramatta LEP 2011 to vary minimum lot size by 1.2%
525/2017	Clause 4.3 of the Auburn LEP 2010 to vary building height by 1.9%
263/2018	Clause 4.3 of the Auburn LEP 2010 to vary building height by 4%

**Table B 4. Ku-ring-gai Council – development applications reviewed**

DA number	Development standard(s) varied
0453/17	Clause 4.3 of Ku-ring-gai LEP 2015 to vary height of building by 10%
0180/18	Clause 4.3(2) of Ku-ring-gai LEP 2015 to vary height of building by 7%

**Table B 5. Lane Cove Municipal Council – development applications reviewed**

DA number	Development standard(s) varied
11/18	Clause 4.3 of the Land Cove LEP 2009 to vary building height by 3%
195/18	Clause 4.3 of the Land Cove LEP 2009 to vary building height by 4%
123/18	Clause 4.3 of the Land Cove LEP 2009 to vary building height by 9%
162/18	Clause 4.3 of the Land Cove LEP 2009 to vary building height by 14%
226/18	Clause 4.3 of the Land Cove LEP 2009 to vary building height by 1%

**Table B 6. Mosman Municipal Council – development applications reviewed**

DA number	Development standard(s) varied
008.2020.00000226.00	Clause 4.3 of Mosman LEP 2012 to vary building height by 6%
008.2020.00000120.001	Clause 4.4 of Mosman LEP 2012 to vary floor space ratio by 10%

**Table B 7. Northern Beaches Council – development applications reviewed**

DA number	Development standard(s) varied
2020/0309	Clause 4.3 of Pittwater LEP 2014 to vary the height of buildings by 3.5%
2020/0318	Clause 4.3 of the Pittwater LEP 2014 to vary height of buildings by 6%

**Table B 8. Ballina Shire Council – development applications reviewed**

DA number	Development standard(s) varied
2018/756	Clause 4.3 of the Ballina LEP 2012 to vary height of building from 8.5 m to 12.6 m (39.6%)
2019/133	Ballina LEP 1987 to reduce lot size from 40 ha to 2.72 ha (93.2%) – determination made by council delegate after seeking and receiving concurrence from the Secretary

**Table B 9. Dubbo Regional Council – development applications reviewed**

DA number	Development standard(s) varied
2019-568	Clause 4.1 of Dubbo LEP 2011 to vary minimum lot size from 2,000 m <sup>2</sup> to 1071.4 m <sup>2</sup> (46%) and 712.5 m <sup>2</sup> (64%)

**Table B 10. Forbes Shire Council – development applications reviewed**

DA number	Development standard(s) varied
2019/91	Clause 4.1 of Forbes LEP 2013 to vary lot size by 31%

**Table B 11. Kiama Municipal Council – development applications reviewed**

DA number	Development standard(s) varied
2019.195	Clause 4.4 of Kiama LEP 2011 to vary FSR by 13%
2019.181	Clause 4.4 of Kiama LEP 2011 to vary FSR by 8.8%

**Table B 12. Mid Coast Council – development applications reviewed**

DA number	Development standard(s) varied
455.2019	Clause 4.3 of the Great Lakes LEP 2014 to vary height of buildings by 45%
89.2020	Clause 4.1 of the Great Lakes LEP 2014 to vary minimum lot size by 8%
553.2019	Clause 4.3 and clause 4.4 of the Greater Taree Local Environmental Plan 2010 to vary height of buildings by 10% and vary FSR by 10%

**Table B 13. Port Stephens Council – development applications reviewed**

DA number	Development standard(s) varied
16-2019-191-1	Clause 4.3 of the Port Stephens LEP 2013 to vary height of building by 6%
16-2019-194-1	Clause 4.3 of the Port Stephens LEP 2013 to vary height of building by 17%
16-2019-182-1	Clause 4.3 of the Port Stephens LEP 2013 to vary minimum lot size by 7%

**Table B 14. Tweed Shire Council – development applications reviewed**

DA number	Development standard(s) varied
19/0084	Clause 4.3 of Tweed LEP 2014 to vary height of buildings by 6%
19/0830	Clause 4.3 of Tweed LEP 2014 to vary height of buildings by 20%
20/0169	Clause 4.3 of Tweed LEP 2014 to vary height of building by 8%