



## DEPARTMENT OF PLANNING AND ENVIRONMENT

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

Internal Audit Report

November 2022



# 2022 Audit Report

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

November 2022



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## CONTENTS

1.	EXECUTIVE SUMMARY .....	1
2.	CONTEXT .....	2
3.	THE 2022 AUDIT – NEW AUDITS .....	3
4.	AUDIT CRITERIA – PROCEDURAL AND REPORTING REQUIREMENTS .....	3
5.	OBJECTIVES .....	4
6.	BENEFITS OF UNDERTAKING THE AUDIT .....	4
7.	AUDITORS .....	5
8.	METHODOLOGY .....	5
9.	FOLLOW-UP AUDITS OF COUNCILS .....	6
9.1	Process for the 2022 follow-up audit .....	7
9.2	Scope of audit and objectives .....	7
9.3	Methodology .....	7
10.	AUDIT FINDINGS AND RECOMMENDATIONS – NEW AUDITS .....	8
10.1	Summary of findings .....	8
10.2	Review of development applications .....	8
10.3	Clause 4.6 procedures, monitoring and reporting .....	8
10.4	Standards varied .....	9
10.5	Standards varied (Cont.) .....	11
10.6	Standards varied (Cont.) .....	12
10.7	Recommendations and next steps .....	13
11.	RESULTS BY COUNCIL: 2022 NEW AUDITS .....	14
11.1	Burwood Council .....	14
11.2	Canada Bay Council .....	15
11.3	Fairfield Council .....	16
11.4	Hornsby Council .....	17
11.5	Hunters Hill Council .....	18
11.6	Liverpool Council .....	19
11.7	North Sydney Council .....	20
11.8	Ryde Council .....	21

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11.9	Strathfield Council .....	22
11.10	Waverley Council .....	23
11.11	Clarence Valley Council .....	24
11.12	Coffs Harbour Council .....	25
11.13	Wollongong Council .....	26
12.	AUDIT FINDINGS AND RECOMMENDATIONS – FOLLOW-UP AUDITS .....	27
13.	RESULTS BY COUNCIL: FOLLOW-UP AUDITS.....	29
13.1	Albury Council .....	29
13.2	Bayside Council .....	30
13.3	The Hills Shire Council .....	31
13.4	Penrith Council.....	32
13.5	Willoughby Council.....	33
14.	APPENDIX A: DEVELOPMENT APPLICATIONS REVIEWED FOR 2022 NEW AUDITS.....	34

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## 1. 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 (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 2022 Audit, the department selected 18 councils to be audited. Of these councils, 13 were councils which were not previously audited in the 2020 audit cycle. Of these councils, 5 councils which were audited in the 2020 Audit cycle had unmet audit recommendations and required a follow-up audit in 2022. RSM was appointed by the department as auditors to conduct the audit for these 18 councils.

The audit found that the 13 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 5 of the 5 councils now meeting the requirements.

There are a range of measures available to the Secretary to address non-compliance. These include education and training to the more substantive measures outlined in the 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 to assist them with meeting their obligations.

Further, the department has integrated clause 4.6 variation reporting through its digital development application assessment process. The councils are required to use the department’s Planning Portal to provide development application and clause 4.6 variation data. This has also given the department greater visibility of required data and has allowed for the undertaking of risk-based audits or timely investigations on high-risk variation applications that allow for greater compliance outcomes.

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<sup>1</sup> See clause 4.6 provisions in [Standard Instrument – Principal Local Environment Plan](#).

<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.

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## 2. 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, 70 councils have been audited, inclusive of the 13 new audits in 2022. 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

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### 3. THE 2022 AUDIT – NEW AUDITS

For the 2022 audits, Planning Circular PS 20-002 Variations to Development Standards published by the department in May 2020 is the applicable planning circular<sup>4</sup>. The circular retained all the same procedural and reporting requirements as the previous circular, and further included the requirement for all council reports to be submitted to the department through the Planning Portal.

### 4. AUDIT CRITERIA – PROCEDURAL AND REPORTING REQUIREMENTS

Audit criteria for this audit was based on procedural and reporting requirements of clause 4.6 and the related planning circulars for councils<sup>5</sup>. These are:

- 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.
- The consent authority must assess all factors required to be addressed in the written application and keep a record of its assessment.
- 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.
- 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.
- 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).
- 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 that the department will continue to undertake random audits on councils' use of the Secretary's assumed concurrence.

In August 2022, 13 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 25 August 2022. The audits were conducted by the department and RSM between September 2022 and November 2022, with fieldwork concluding on 16 November 2022.

<sup>4</sup> See *PS 20-002 Variations to Development Standards* on the department's [website](#).

<sup>5</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.

## 4. AUDIT CRITERIA – PROCEDURAL AND REPORTING REQUIREMENTS (CONT.)

Table 1. Metro and regional and councils selected for audits in 2022

Metro councils	Regional councils
Burwood	Clarence Valley
Canada Bay	Coffs Harbour
Fairfield	Wollongong
Hornsby	
Liverpool	
Hunters Hill	
North Sydney	
Ryde	
Strathfield	
Waverley	
<b>Total metro councils - 10</b>	<b>Total regional councils – 3</b>

## 5. 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.

## 6. 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.



## 7. AUDITORS

For the 2022 Audit the department appointed an external Auditor through a competitive tender. The auditors were selected according to the NSW Procurement Policy with reference to the current Procurement Policy Framework which complies with legislative and policy requirements. The department referred to the PMS Scheme (Performance and Management Services Scheme) to identify a prequalified suppliers with professional audit service. All suppliers considered have accepted the Standard Commercial Framework and in scheme ID SCM0005 (Performance and Management Services).

The audits were conducted by the department through the appointment RSM. RSM conducted the audit between September 2022 and November 2022, with fieldwork concluding on 16 November 2022. RSM's audit process, scope of the audit and methodology was developed by and in consultation with DPE.

## 8. METHODOLOGY

A total of **18 councils is proposed** to be audited in the current round comprising **13 new councils** not audited in prior audits and **5 previously audited councils** that require follow up of their implementation of audit recommendations. DPE sampling methodology was followed for council selection and sampling DA application for the new and follow up councils.

The 13 councils were randomly selected based on the following criteria:

- the councils selected this time are metropolitan Sydney and regionals councils
- councils not audited prior to 2020
- councils with high, medium, and low volume of reported development applications applying clause 4.6 and
- a mix of councils with history of regular submissions and others with outstanding quarterly clause 4.6 reports over the 2020-21 financial year reporting period that were not included in a previous audit.

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.

A total of 69 DAs were reviewed in the process of the clause 4.6 audit of the 13 new 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**

Metro councils	DAs reviewed	Regional councils	DAs reviewed
Burwood	3	Clarence Valley	5
Canada Bay	8	Coffs Harbour	4
Fairfield	5	Wollongong	1
Hornsby	5		
Liverpool	2		
Hunters Hill	5		
North Sydney	11		
Ryde	9		
Strathfield	1		
Waverley	10		
Total	59	Total	10

## 9. FOLLOW-UP AUDITS OF COUNCILS

In 2020 the department conducted an audit of 17 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. Five of these audited councils had recommendations subject to follow-up in 2022.

In 2022, a total of 5 councils previously audited 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
Bayside	Albury
The Hills Shire	
Penrith	
Willoughby	

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

- implementation of the department's specific recommendations in the 2020 report, and
- general compliance with the procedural and reporting requirements of clause 4.6 and related planning circulars.

### Summary of 2020 findings leading to the 2022 follow-up audits

The 2020 audit found instances where councils had not met the reporting or other administrative requirements associated with the use of clause 4.6. The unmet requirements included:

- Councils not providing or complying with their delegations procedures at the time of the audit; and
- Non-availability of an online register at time of the audit

## 9. FOLLOW-UP AUDITS OF COUNCILS (CONT.)

### 9.1 Process for the 2022 follow-up audit

In August 2022, the department wrote to the 5 councils to notify them of the follow-up audits. The Councils were asked to provide documentation and/or web links to documents to demonstrate that the recommendations from the 2020 audit had been implemented.

Auditors considered council responses and documentation received and followed up with councils on any matters during audit field work between September 2022 and November 2022.

### 9.2 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.

### 9.3 Methodology

The methodology for the follow-up audits were in line with that of the 2022 new audits, with a 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 2020 to 30 June 2021.

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, sample DAs were reviewed for metro councils and regional councils.

A total of 4 Development Applications were reviewed as part of the follow-up audit. The number of DAs reviewed for each council are in Table 4.

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

Metro councils	Number of DAs reviewed	Regional councils	Number of DAs reviewed
Bayside	-*	Albury	-*
The Hills	2		
Penrith	1		
Willoughby	1		
<b>Total</b>	<b>4</b>	<b>Total</b>	<b>-</b>

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

## 10. AUDIT FINDINGS AND RECOMMENDATIONS – NEW AUDITS

### 10.1 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.

### 10.2 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, a summary can be seen in 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	100%
Application included environmental planning grounds to justify the variation	100%
Assessment report considered whether strict compliance unreasonable/unnecessary	100%
Assessment report considered environmental planning grounds to justify variation	100%
Assessment report considered variation to be in the public interest due to consistency with objectives of standard and zone	100%

\* \*The results are for 69 DAs across the 13 new councils in metro and regional NSW

### 10.3 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**

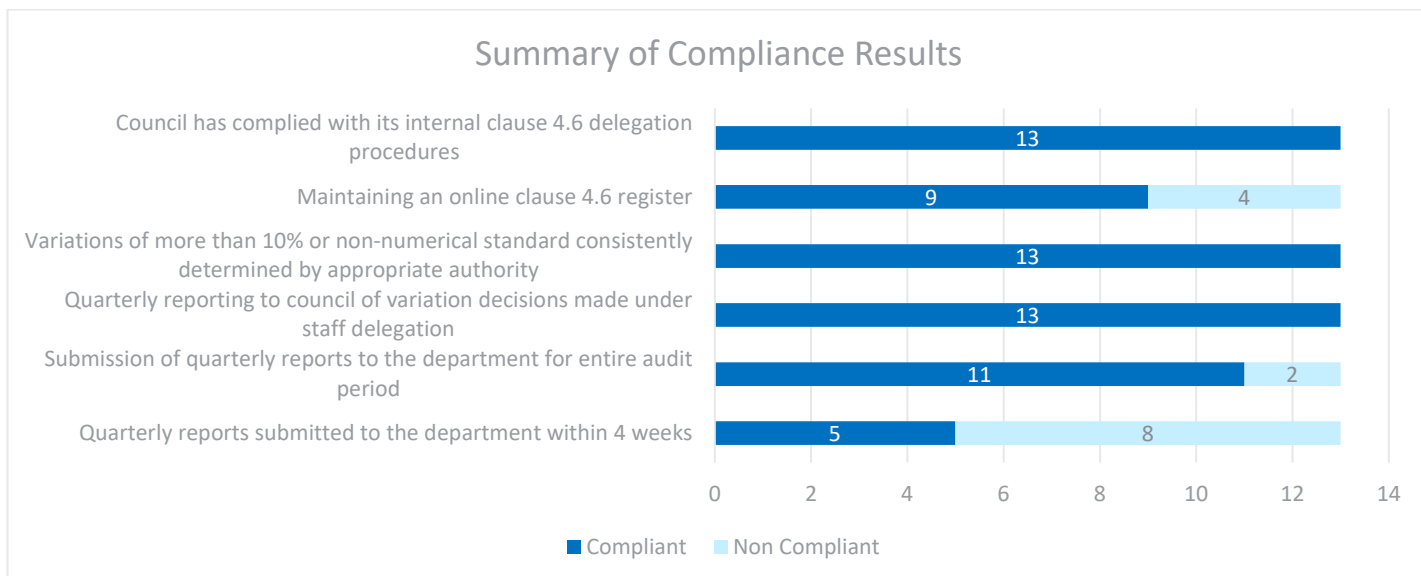
Requirements – Planning circular and clause 4.6	Number of compliant councils	Percentage of compliance
Council has complied with its internal clause 4.6 delegation procedures	13	100%
Maintaining an online clause 4.6 register	9	69%
Variations of more than 10% or non-numerical standard consistently determined by appropriate authority	13	100%
Quarterly reporting to council of variation decisions made under staff delegation	13	100%
Submission of quarterly reports to the department for entire audit period	11	85%
Quarterly reports submitted to the department within 4 weeks	5	38%

\* \*The results are for 69 DAs across the 13 new councils in metro and regional NSW.

## 10. AUDIT FINDINGS AND RECOMMENDATIONS – NEW AUDITS (CONT.)

### 10.3 Clause 4.6 procedures, monitoring and reporting (Cont.)

#### Summary of compliance results – procedures, monitoring and reporting



The auditors found that all councils were compliant (100%) with the requirements to have an internal delegation in place and ensuring variations greater than 10% are determined by the appropriate authority.

All 13 councils had complied with the clause 4.6 delegations procedures and 9 of these had maintained an online register.

While most councils (10/13) submitted quarterly reports to the department, only around 38% submitted these reports on time during the audit period. However, some councils have provided timely reports after the audit period.

#### 10.4 Standards varied

Height of building controls followed by floor space ratio controls were the predominant standards varied (see Table 7). The 13 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	36
Floor space ratio	22
Minimum lot size	10
Minimum landscaped area	3
Non-numerical standard	0
Maximum lot size	0
Other	5

\* \*\*The results are for 69 DAs across the 13 councils

## 10. AUDIT FINDINGS AND RECOMMENDATIONS – NEW AUDITS (CONT.)

Table 8. Summary of subdivision zones\*

Subdivision of land*		Total
Rural Zones	RU1	1
	RU2	3
	RU4	0
General Residential	R1	3
	R2	38
	R3	11
	R4	4
	R5	0
Business Zones	B1	0
	B2	3
	B3	0
	B4	2
	B6	0
	B7	2
Industrial Zones	IN1	0
	IN2	0
	IN3	0
	IN4	0
Special Purpose	SP1	0
	SP2	0
	SP3	0
Recreational Zones	RE1	1
	RE2	0
Environmental Protection	E1	0
	E2	0
	E3	0
	E4	2
Waterway Zones	W1	0
	W2	0
	W3	0

\* \*\*The results are for 69 DAs across the 13 councils

## 10. AUDIT FINDINGS AND RECOMMENDATIONS – NEW AUDITS (CONT.)

### 10.5 Standards varied (Cont.)

Table 9 provides a comparison of 2020 results with the 2022 audit results.

**Table 9. Comparison of 2020 and 2022 audit results\***

Requirements – Planning circular and clause 4.6	2020 audit Percentage of compliant councils	2022 audit Percentage of compliant councils
Having internal clause 4.6 delegations in place	88%	100%
Council has complied with its internal clause 4.6 delegation procedures	76%	100%
Maintaining an online clause 4.6 register	65%	69%
Variations of more than 10% or non-numerical standard consistently determined by appropriate authority	97%	100%
Quarterly reporting to council of variation decisions made under staff delegation	47%	100%
Submission of quarterly reports to the Department for entire audit period	100%	85%
Quarterly reports submitted to the Department within four weeks	6%	38%

\* Results are based on a sample of thirteen (13) new councils audited in 2022 and compared with seventeen (17) different councils audited in 2020.

## 10. AUDIT FINDINGS AND RECOMMENDATIONS – NEW AUDITS (CONT.)

### 10.6 Standards varied (Cont.)

Table 10 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>6</sup>

**Table 10. A summary of audit findings – 2022 new audits**

Council audited M = Metropolitan R = Regional	Variations greater than 10% are determined by appropriate authority	Council complies with delegation procedures	Council has clause 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 clause 4.6 application
Burwood (M)	✓	✓	✓	✓	✓	x	✓	✓	✓	✓
Canada Bay (M)	✓	✓	✓	✓	✓	x	✓	x	x	✓
Fairfield (M)	✓	✓	✓	✓	✓	x	✓	✓	✓	✓
Hornsby (M)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Hunters Hill (M)	✓	✓	✓	✓	x	x	✓	x	x	✓
Liverpool (M)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
North Sydney (M)	✓	✓	✓	✓	✓	x	✓	✓	✓	✓
Ryde (M)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Strathfield (M)	✓	✓	✓	✓	x	x	✓	✓	✓	✓
Waverley (M)	✓	✓	✓	✓	✓	x	✓	✓	✓	✓
Clarence Valley (R)	✓	✓	✓	✓	✓	✓	✓	x	x	✓
Coffs Harbour (R)	✓	✓	✓	✓	✓	x	✓	x	x	✓
Wollongong (R)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
<b>Total compliant councils</b>	<b>13</b>	<b>13</b>	<b>13</b>	<b>13</b>	<b>11</b>	<b>5</b>	<b>13</b>	<b>9</b>	<b>9</b>	<b>13</b>

<sup>6</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 first two quarters of 2021, we do not consider the audit finding to be a matter for a follow-up audit for that council.



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## 10. AUDIT FINDINGS AND RECOMMENDATIONS – NEW AUDITS (CONT.)

### 10.7 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 2022 audit – new audits: Audit criteria – procedural and reporting requirements” on page 3).

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## 11. RESULTS BY COUNCIL: 2022 NEW AUDITS

### 11.1 Burwood 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
- 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.
  - October – December 2020 quarterly report was submitted 25 days late.

#### 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 each quarter.

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## 11. RESULTS BY COUNCIL: 2022 NEW AUDITS (CONT.)

### 11.2 Canada Bay 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
- 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:

- submitting to the department quarterly reports of all variation decisions within 4 weeks of the end of each quarter.
  - October – December 2020 quarterly report was submitted 1 day late.
  - April – June 2021 quarterly report was submitted 11 days late.
- maintaining a publicly available online register of approved variations to development standards under clause 4.6 that provides adequate information.

#### **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 each quarter.
- maintain a publicly available online register of approved variations to development standards under clause 4.6 that provides adequate information.

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## 11. RESULTS BY COUNCIL: 2022 NEW AUDITS (CONT.)

### 11.3 Fairfield 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
- 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.
  - October – December 2020 quarterly report was submitted 8 days late.
  - January – March 2021 quarterly report was submitted 2 days late.
  - April – June 2021 quarterly report was submitted 19 days late.

#### **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 each quarter.

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## 11. RESULTS BY COUNCIL: 2022 NEW AUDITS (CONT.)

### 11.4 Hornsby 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
- 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
- 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:

- All requirements were met.

#### Recommendations for council action

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

- 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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## 11. RESULTS BY COUNCIL: 2022 NEW AUDITS (CONT.)

### 11.5 Hunters Hill Council

#### Audit findings – requirements met

The council met the following requirements:

- having a written delegation procedure for dealing with clause 4.6 variations
- 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:

- 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
  - October – December 2020 quarterly report was not submitted to the department.
  - January – March 2021 quarterly report was not submitted to the department.
  - April – June 2021 quarterly report was not submitted to the department.

#### 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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## 11. RESULTS BY COUNCIL: 2022 NEW AUDITS (CONT.)

### 11.6 Liverpool 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
- 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
- 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:

- All requirements were met.

#### **Recommendations for council action**

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

- 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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## 11. RESULTS BY COUNCIL: 2022 NEW AUDITS (CONT.)

### 11.7 North Sydney 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
- 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.
  - July – September quarterly report was submitted 8 days late
  - October – December quarterly report was submitted 1 day late

#### **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 each quarter. It should be noted that the late submissions occurred in the two earlier quarters of the audit period, with the submissions for the two later quarters occurring on time.



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## 11. RESULTS BY COUNCIL: 2022 NEW AUDITS (CONT.)

### 11.8 Ryde 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
- 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
- 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:

- All requirements were met.

#### **Recommendations for council action**

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

- 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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## 11. RESULTS BY COUNCIL: 2022 NEW AUDITS (CONT.)

### 11.9 Strathfield 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
- 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.
  - January – March 2021 quarterly report was not submitted to the department.

#### **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 each quarter.

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## 11. RESULTS BY COUNCIL: 2022 NEW AUDITS (CONT.)

### 11.10 Waverley 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
- 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.
  - October – December quarterly report was submitted 56 days late. However, as per email correspondence with a member of the Waverley Council, a reminder email from the DPE was not received until 17 March 2021.

#### **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 each quarter. It should be noted that the late submission occurred for the Q4 2020 report and submissions for the following quarterly reports were on time. Therefore, follow-up is not required.

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## 11. RESULTS BY COUNCIL: 2022 NEW AUDITS (CONT.)

### 11.11 Clarence Valley Council

#### **Audit findings – requirements met**

The council met the following requirements:

- having a written delegation procedure for dealing with clause 4.6 variations
- 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
- 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.

#### **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.

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## 11. RESULTS BY COUNCIL: 2022 NEW AUDITS (CONT.)

### 11.12 Coffs Harbour Council

#### **Audit findings – requirements met**

The council met the following requirements:

- having a written delegation procedure for dealing with clause 4.6 variations
- 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:

- 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.
  - July – September quarterly report was submitted 1 day late.

#### **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 each quarter. It should be noted that the late submission occurred for the Q3 2020 quarterly report and that all following reports for the audit period were submitted on time. Therefore, follow-up is not required.
- continue to maintain a publicly available online register of approved variations to development standards under clause 4.6 that provides adequate information.

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## 11. RESULTS BY COUNCIL: 2022 NEW AUDITS (CONT.)

### 11.13 Wollongong 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
- 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
- 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:

- all requirements were met.

#### **Recommendations for council action**

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

- 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.

## 12. AUDIT FINDINGS AND RECOMMENDATIONS – FOLLOW-UP AUDITS

During the 2022 follow-up audits, the auditors reviewed whether the councils had met the specific requirements identified in the 2020 audit report as outstanding. They also reviewed some of the councils' general compliance with the procedural and reporting requirements of clause 4.6 and the planning circulars.

The auditors found no issues regarding compliance during the 2022 follow-up audit. However, it should be noted that compared to the follow-up audits conducted in 2020, the 2022 follow-up audits have decreased in scale in both the number of councils which required follow-up and the assessment of requirements, with testing focusing solely on checking previously unmet requirements. As such, results from the two audits are not comparable.

Table 11 shows a summary of the audit findings by audit criteria.

**Table 11. Council compliance with audit recommendations – follow-up audits**

Audit requirement outstanding from the 2018 audit	Number of non-compliant councils 2020	Number of non-compliant councils 2022
Having adequate internal clause 4.6 delegations in place	3	0
Maintaining an online clause 4.6 register	2	0
Variations of more than 10% or non-numerical standard consistently determined by appropriate authority	2	0
Quarterly reports submitted to the department within four weeks	14*	0
Assessment report address planning requirements	4	0
Written development standard variation application with adequate information	3	0
Quarterly reporting to council on variations by council delegates	0	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.

## 12. AUDIT FINDINGS AND RECOMMENDATIONS – FOLLOW-UP AUDITS (CONT.)

Table 12. Audit findings from the follow-up audits

Council	Number of non-compliances 2020	Number of non-compliances 2022
Albury	2	0
Bayside	3	0
The Hills Shire	3	0
Penrith	4	0
Willoughby	1	0

### 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.



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## 13. RESULTS BY COUNCIL: FOLLOW-UP AUDITS

### 13.1 Albury Council

#### Audit findings from the 2020 audit

The auditors found the following unmet requirements during the 2020 audit that resulted in a follow-up audit in 2022:

- maintaining a publicly available online register of approved variations to development standards under clause 4.6 that provides adequate information.

#### Audit findings

The council has implemented all the recommendations on unmet requirements from the 2020 audit.

#### Recommendations for council action

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

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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## 13. RESULTS BY COUNCIL: FOLLOW-UP AUDITS (CONT.)

### 13.2 Bayside Council

#### **Audit findings from the 2018 audit**

The auditors found the following unmet requirements during the 2020 audit that resulted in a follow-up audit in 2022:

- having a written delegation procedure for dealing with clause 4.6 variations.

#### **Audit findings**

The council has implemented all the recommendations on unmet requirements from the 2020 audit.

#### **Recommendations for council action**

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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## 13. RESULTS BY COUNCIL: FOLLOW-UP AUDITS (CONT.)

### 13.3 The Hills Shire Council

#### Audit findings from the 2020 audit

The auditors found the following unmet requirements during the 2020 audit which resulted in a follow-up audit in 2022:

- 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.

#### Audit findings

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

#### Recommendations for council action

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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## 13. RESULTS BY COUNCIL: FOLLOW-UP AUDITS (CONT.)

### 13.4 Penrith Council

#### Audit requirements for the 2022 audit

Based on the findings of the 2020 audit, the auditors were required to assess the following:

- While the council has initiated reporting to the council and put in place a delegation's procedure, a future audit will provide better assurance on compliance.

#### Audit findings

The council has implemented all the recommendations on unmet requirements from the 2020 audit.

The following documents were assessed and found to be compliant with requirements:

- Evidence of relevant sections from the delegations register
- Quarterly report for variations in Q2 2022
- Delegates report, written application, and assessment report for a DA.

#### Recommendations for council action

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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## 13. RESULTS BY COUNCIL: FOLLOW-UP AUDITS (CONT.)

### 13.5 Willoughby Council

#### **Audit findings from the 2018 audit**

Based on the findings of the 2020 audit, the auditors were required to assess the following:

- A future audit to ensure staff are following procedures may provide better assurance on compliance

#### **Audit findings**

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

The following documents were assessed and found to be compliant with requirements:

- Evidence of submission of quarterly reports to the DPE Planning Portal
- Policies and procedures relating to Clause 4.6 variation applications.
- An assessment report for a DA.

#### **Recommendations for council action**

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.

## 14. APPENDIX A: DEVELOPMENT APPLICATIONS REVIEWED FOR 2022 NEW AUDITS

This appendix contains tables for DAs reviewed across all councils (13 new and 3 out of 5 follow up) for the purposes of the Clause 4.6 audit. DAs reviewed include the ones that were relevant to Clause 4.6 and approved or rejected. DAs reviewed also included applications where the applicant submitted under Clause 4.6 and the council assessed them as clause 4.6 not applicable.

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

DA number	Development standard(s) varied
DA - 10	Clause 4.3 of the BLPP to vary to the maximum height of buildings by 10.2%
DA - 40	Clause 4.3 of the BLPP to vary to the maximum height of buildings by 15%
DA - 93	Clause 4.4 and clause 4.3 of the BLPP to vary the FSR by 4.5% and maximum of building height by 2.5%

**Table A 2. Canada Bay Council – development applications reviewed**

DA number	Development standard(s) varied
DA2020_0144	Clause 4.4 of the Canada Bay LEP to vary the FSR by 21%
DA2020_0108	Clause 4.1 of the Canada Bay LEP to vary the minimum subdivision lot size by 31.55%
DA2020_0109	Clause 4.4 of the Canada Bay LEP to vary the FSR by 6.3%
DA2020_0344	Clause 4.3 of the Canada Bay LEP to vary to the maximum height of buildings by 1%
DA2020_0345	Clause 4.3 of the Canada Bay LEP to vary to the maximum height of buildings by 1%
DA2020_0134	Clause 4.3 of the Canada Bay LEP to vary to the maximum height of buildings by 14.7%
DA2021_0014	Clause 4.4 of the Canada Bay LEP to vary the FSR by less than 1%
DA2021_0013	Clause 4.4 of the Canada Bay LEP to vary the FSR by less than 1%

## 14. APPENDIX A: DEVELOPMENT APPLICATIONS REVIEWED FOR 2022 NEW AUDITS (CONT.)

**Table A 3. Fairfield Council – development applications reviewed**

DA number	Development standard(s) varied
DA 582.1.2017	Clause 4.3 of the FLEP to vary the maximum building height by 13.5%.
DA 55.1.2019	Clause 4.3 of the FLEP to vary the maximum building height by 2%.
DA 406.1.2019	Clause 4.4 of the FLEP to vary FSR by 60.75%.
DA 205.1.2019	Clause 4.3 of the FLEP to vary the maximum building height by 6.1% and 5.7%.
DA 274.1.2020	Clause 40(4)(a) of the SEPP to vary the height in zones, where residential flat buildings are not permitted, by 19% to 23%.

## 14. APPENDIX A: DEVELOPMENT APPLICATIONS REVIEWED FOR 2022 NEW AUDITS (CONT.)

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

DA number	Development standard(s) varied
DA 1015	Clause 4.3 of the HLEP to vary maximum building height by 52%
DA 579	Clause 4.3 of the HLEP to vary maximum building height by 11.8%
DA 705	Clause 4.3 of the HELP to vary maximum building height by 3.7%
DA 755	Clause 4.3 of the HLEP to vary maximum building height by <10%
DA 950	Clause 4.3 of the HLEP to vary maximum building height by 25%

**Table A 5. Hunters Hill Council – development applications reviewed**

DA number	Development standard(s) varied
2020-1086	Clause 4.1A and clause 4.3 of the HLEP to vary the minimum lot size by 18.5% and maximum building height by 12%
2020-1117	Clause 4.6 of the HLEP to vary the minimum landscape area by 6.5%
2020-1085	Clause 4.6 of the HLEP to vary the minimum landscape area by >10%
2020/1226	Clause 4.6 of the HLEP to vary the minimum landscape area by 8.49%
2020-1083	Clause 4.3 of the HLEP to vary the maximum building height by 17.6%



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## 14. APPENDIX A: DEVELOPMENT APPLICATIONS REVIEWED FOR 2022 NEW AUDITS (CONT.)

**Table A 6. Liverpool Council – development applications reviewed**

<b>DA number</b>	<b>Development standard(s) varied</b>
DA - 867	Clause 4.6 of the LLEP to vary the gross floor area (amended)
DA-875	Clause 4.4 of the LLEP to vary the FSR by 2.38%

## 14. APPENDIX A: DEVELOPMENT APPLICATIONS REVIEWED FOR 2022 NEW AUDITS (CONT.)

**Table A 7. North Sydney Council – development applications reviewed**

DA number	Development standard(s) varied
DA157/20	Clause 4.3 of NSLEP 2013 to vary height of building by 10%
DA158/20	Clause 4.3 of NSLEP 2013 to vary height of building by 3.35%
132/20	Clause 4.3 of NSLEP 2013 to vary height of building by 2.5m
144/20	Clause 4.3 of NSLEP 2013 to vary height of building by 10.6%
166/20	Clause 4.3 of NSLEP 2013 to vary height of building by 39.52%
DA 193/20	Clause 4.3 of NSLEP 2013 to vary height of building by 51.76%
DA 235/20	Clause 4.3 of NSLEP 2013 to vary height of building by 9.8%
135/20	Clause 4.4 of NSLEP 2013 to vary floor space ratio by 508mm
170/20	Clause 4.3 of NSLEP 2013 to vary height of building by 1.02m
DA 224/20	Clause 4.3 of NSLEP 2013 to vary height of building by >10%
DA 203/20	Clause 4.3 of NSLEP 2013 to vary height of building by <10%

**Table A 8. Ryde City Council – development applications reviewed**

DA number	Development standard(s) varied
LDA2020/0262	Clause 4.1B of RLEP 2014 for Proposes strata title subdivision for approved dual occupancy for a variation of 0.93%
LDA2020/0311	Clause 4.1A(2) of RLEP 2014 for Proposed Strata title Subdivision of approved Dual Occupancy for a variation of 0.8%
LDA2020/0254	Clause 4.1B (2)(b) (Minimum Road frontage) under RLEP 2014 for a variation of 0.9%
LDA2020/0371	Clause 4.1A and 4.1B of RLEP 2014 for minimum subdivision lot size for a variation of 4%
LDA2020/0390	Clause 4.4 of RLEP 2014 to vary floor space ratio by 7.2%
LDA2016/0567	Clause 4.4 of RLEP 2014 to vary floor space ratio by 9.9%
LDA2020/0252	Clause 4.4 of RLEP 2014 to vary floor space ratio by 9%
LDA2020/0247	Clause 4.3 of RLEP 2014 to vary height of building for minor height breaches of 15mm – 215mm
2647.55	Clause 4.1B of RLEP 2014 for Minimum lot sizes for dual occupancies and multi dwelling housing for a variation of 0.12%

## 14. APPENDIX A: DEVELOPMENT APPLICATIONS REVIEWED FOR 2022 NEW AUDITS (CONT.)

**Table A 9. Strathfield City Council – development application reviewed**

DA number	Development standard(s) varied
2020.239	Clause 4.3C of SLEP 2012 to vary floor space ratio by 6.1%

**Table A 10. Waverley Council – development applications reviewed**

DA number	Development standard(s) varied
PAN-21976	Clause 4.4 of WLEP 2012 to vary floor space ratio by 7.4%
PAN-28330	Clause 4.4 of WLEP 2012 to vary floor space ratio by 0.5%
PAN-20928	Clause 4.4 of WLEP 2012 to vary floor space ratio by 4%
PAN-21238	Clause 4.3 and 4.4 of WLEP 2012 to vary height of building and floor space ratio by 10% and 16% respectively
PAN-26385	Clause 4.1 and 4.4 of WLEP 2012 to vary minimum allotment size and floor space ratio by 39% and 1% respectively
PAN-23684	Clause 4.3 and 4.4 of WLEP 2012 to vary height of building and floor space ratio by 9% and 6% respectively
PAN-29837	Clause 4.3 and 4.4 of WLEP 2012 to vary height of building and floor space ratio by 38.8% and 9.8% respectively
PAN-23765	Clause 4.4 of WLEP 2012 to vary floor space ratio by 3%
PAN-28601	Clause 4.4 of WLEP 2012 to vary floor space ratio by 54%
PAN-37276	Clause 4.4 of WLEP 2012 to vary floor space ratio by 23%

**Table A 11. Clarence Valley Council – development applications reviewed**

DA number	Development standard(s) varied
DA2020/0170	Clause 4.2 of CVLEP 2011 for a variation relating to rural subdivisions of 35%
DA2020-0156	Clause 4.3 of CVLEP 2011 to vary height of building by 31%
DA2020/0432	Clause 4.2 of CVLEP 2011 for a variation relating to rural subdivisions of 2.2%
DA2020/0345	Clause 4.2 of CVLEP 2011 for a variation relating to rural subdivisions of 15.8%
DA2021/0166	Clause 4.2 of CVLEP 2011 for a variation relating to rural subdivisions of 200%

## 14. APPENDIX A: DEVELOPMENT APPLICATIONS REVIEWED FOR 2022 NEW AUDITS (CONT.)

**Table A 12. Coffs Harbour Council – development applications reviewed**

DA number	Development standard(s) varied
0725/20DA	Clause 4.3 of CHLEP 2011 to vary height of building by >10%
0506/20DA	Clause 4.3 of CHLEP 2011 to vary height of building by 4%
0867/20DA	Clause 4.3 of CHLEP 2011 to vary height of building by 330%
0805/21DA	Clause 4.3 of CHLEP 2011 to vary height of building by 6.25%

**Table A 13. Wollongong Council – development applications reviewed**

DA number	Development standard(s) varied
DA-2020/842	Clause 4.4 of WLEP 2009 to vary floor space ratio by 8.17%

## 14. APPENDIX A: DEVELOPMENT APPLICATIONS REVIEWED FOR 2022 FOLLOW-UP AUDITS (CONT.)

**Table B 1. The Hills Shire Council – development applications reviewed**

DA number	Development standard(s) varied
95/2022/LA	Clause 4.1 of The Hills LEP 2019 to vary maximum building height by 4.15%
654/2022/ZB	Clause 4.3 of the SEPP 2006 to vary maximum building height by 6.21%

**Table B 2. Penrith Council – development application reviewed**

DA number	Development standard(s) varied
DA21/0842	Clause 4.3 of the PLEP 2010 to vary heights of buildings by 2.67 - 5.3%

**Table B 3. Willoughby City Council – development application reviewed**

DA number	Development standard(s) varied
DA-2021/294	Clause 4.3 and 4.4 of the WLEP 2012 to vary height of building and floor space ratio by 31.7% and 8.7% respectively

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