



Report on validation of council responses

In relation to the 2020 Audit Report recommendations on councils' use of clause 4.6 of the Standard Instrument – Principal Local Environmental Plan

February 2022



Published by NSW Department of Planning and Environment

dpie.nsw.gov.au

Title: Report on validation of council responses

First published: February 2022

© State of New South Wales through Department of Planning and Environment 2022. Information contained in this publication is based on knowledge and understanding at the time of writing, February 2022, and is subject to change. For more information, please visit dpie.nsw.gov.au/copyright

Acknowledgment of Country

The Department of Planning 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.

Contents

Summary	4
Audit recommendations and council actions – new audits	6
Audit recommendations and council actions – follow-up audits	8
Findings by council for new audits	10
Bayside Council.....	10
Campbelltown City Council.....	11
City of Sydney Council	11
Penrith City Council	12
The Hills Shire Council	13
Willoughby City Council.....	13
Wollondilly Shire Council	14
Woollahra Municipal Council	14
Albury City Council	15
Armidale Regional Council	15
Bega Valley Shire Council	16
Cessnock City Council.....	16
Maitland City Council.....	17
Richmond Valley Council.....	17
Wentworth Shire Council	18
Yass Valley Council.....	18
Findings by council for follow-up audits.....	19
Blacktown City Council	19
Camden Council.....	19
Cumberland City Council.....	20
Ku-ring-gai Council.....	20
Lane Cove Council	21
Mosman Municipal Council.....	21
Northern Beaches Council.....	22
Snowy Valleys Council	22
Hilltops Council.....	23
Kiama Municipal Council	23
Mid Coast Council	24
Tweed Shire Council	24
Ballina Shire Council	25
Forbes Shire Council.....	26
Dubbo Regional Council.....	26

Summary

This report summarises the validation of council responses in relation to recommendations of the 2020 Audit Report, Councils' use of clause 4.6 of the Standard Instrument – Principal Local Environmental Plan published by the Department of Planning and Environment (the department) in August 2021.¹

The 2020 audit included 33 councils. Of the 33 councils that were audited, 17 were not previously audited (new audits) and 16 councils were audited in recent years but had unmet audit requirements (follow-up audits).

The auditors found that 31 councils had one or more 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. Of the 31 councils, 30 had the timely reporting criteria as an outstanding audit requirement.

On 3 August 2021, the department wrote to all councils that had non-compliances and asked the councils to notify the department of the steps they are taking to address the audit recommendations in relation to outstanding audit requirements. Councils were asked to respond by 30 October 2021. As the department received only half of the responses by end October, the due date was extended to 15 November 2021 by which date responses from all councils were received.

The auditors found the majority of councils have addressed the outstanding audit requirements satisfactorily. Auditors noted that 20 councils satisfactorily addressed all audit recommendations. For 11 councils, the auditors found their compliance with new processes can be better assessed at a future audit as these processes are new or yet to be implemented by councils.²

Through the quarterly reporting process, the department observed that all councils except for two, submitted quarterly reports on time to the department since the audit. Similarly, only two councils had not yet demonstrated that they are reporting to their own councils on clause 4.6 variations.

Table 1 compares the non-compliances identified during the audit and non-compliances after validating council actions in response to the audits.

Table 2 and Table 3 summarise the auditors' validation of council responses to the 2020 audit.

¹ See [Audit Report 2020](#)

² The number of non-compliances in Table 1 is more than the number of councils requiring a future audit due to some councils having more than one non-compliance.

Table 1. Comparison of non-compliances during the 2020 audit and after validating council actions

Requirement	Number of non-compliant councils during 2020 Audit	Number of non-compliant councils: post-validation of council actions*
Having internal clause 4.6 delegations in place	7	4
Maintaining an online clause 4.6 register	8	2
Variations of more than 10% or non-numerical standard consistently determined by appropriate authority	3	2
Quarterly reporting to council of variation decisions made under staff delegation	9	2
Quarterly reports submitted to the department within four weeks	30	2
Assessment report address planning requirements and written development standard variation application with adequate information	7	2

*non-compliance does not mean a council is fully non-compliant, but implementation requires validation during a future audit. For example, a council may have written a delegations procedure, however, implementation of it by the council is not yet assessed.

Audit recommendations and council actions – new audits

Table 2. Summary of auditor findings (new audits) – validation of council responses to the audit

Council	Recommendations from the 2020 audit	Council satisfactorily addressed the audit recommendations?
Bayside Council	Have in place a written delegation procedure, quarterly reporting to department and council.	Reporting to the department and council are sufficiently addressed. The council is yet to provide the delegation procedures to the department. A future audit will provide better assurance on compliance with having a delegation procedure.
Campbelltown City Council	Have in place a written delegation procedure, quarterly reporting to department and council.	Yes, council has taken steps to meet the requirements.
City of Sydney Council	Quarterly reporting to department and council.	Yes, council has taken steps to meet the requirement.
Penrith City Council	Maintain an online register, submit quarterly reports to department and council, ensuring variations are made by appropriate authority.	Reporting to the department and maintaining an online register are sufficiently addressed. While the council has initiated reporting to the council and put in place a delegations procedure, a future audit will provide better assurance on compliance.
The Hills Shire Council	Have in place a written delegation procedure, ensure variations are made by appropriate authority, quarterly reporting to department.	Yes, council has taken steps to meet the requirement to report to the department. The council submitted the delegation procedure to the department, however verifying compliance with the implementation of the delegations procedure during a future audit may provide better assurance.
Willoughby City Council	Have in place a written delegation procedure.	Yes, however, a future audit to ensure staff are following procedures may provide better assurance on compliance.
Wollondilly Shire Council	Reporting to council.	Yes, council has taken steps to meet the requirement.
Woollahra Municipal Council	Reporting to department and council.	Yes, council has taken steps to meet the requirement.
Albury City Council	Maintain an online register, quarterly reporting to department.	Reporting to the department is sufficiently addressed. An online register was not available at the time of this report. A future audit may provide better assurance on compliance.
Armidale Regional Council	Maintain an online register, quarterly reporting to department.	Yes, council has taken steps to meet the requirement.
Bega Valley Shire Council	Submit reports to department on time.	Yes, council has taken steps to meet the requirement.
Cessnock City Council	Submit reports to department on time.	Yes, council has taken steps to meet the requirement.

Council	Recommendations from the 2020 audit	Council satisfactorily addressed the audit recommendations?
Maitland City Council	Maintain an online register, quarterly reporting to department.	Yes, council has taken steps to meet the requirement.
Richmond Valley Council	Submit reports to department on time.	Yes, council has taken steps to meet the requirement.
Wentworth Shire Council	Maintain an online register, quarterly reporting to department.	Yes, council has taken steps to meet the requirement.
Yass Valley Council	Maintain an online register, quarterly reporting to department.	Yes, council has taken steps to meet the requirement.

Audit recommendations and council actions – follow-up audits

Table 3. Summary of auditor findings (follow-up audits) – validation of council responses to the audit

Council	Recommendations from the 2020 audit	Council satisfactorily addressed the audit recommendations?
Blacktown Council	Submit reports to department on time.	Yes, council has taken steps to meet the requirement.
Camden Council	Submit reports to department on time.	Yes, council has taken steps to meet the requirement.
Cumberland City Council	Have in place a written delegation procedure, quarterly reporting to department.	Yes, council has taken steps to meet the requirements.
Ku-ring-gai Council	Maintain an online register, submit reports to department on time.	Yes, council has taken steps to meet the requirements.
Lane Cove Council	Have in place a written delegation procedure, quarterly reporting to department.	Yes, council has taken steps to meet the requirements.
Mosman Municipal Council	Maintain an online register, submit reports to department on time.	Yes, council has taken steps to meet the requirements.
Northern Beaches Council	Submit reports to department on time.	Yes, council has taken steps to meet the requirement.
Snowy Valleys Council	Submit reports to department on time.	Yes, council has put procedures in place. However, is yet to demonstrate compliance. A future audit may provide better assurance on compliance with requirements.
Hilltops Council	Have in place a written delegation procedure, quarterly reporting to department.	Yes, council response on delegation procedure is satisfactory and council has put procedures in place to report on time. However, council is yet to demonstrate compliance. A future audit may provide better assurance on compliance with timely reporting.
Kiama Municipal Council	Ensure applications are in writing, assessments address clause 4.6 requirements, submit reports to department on time.	Yes, council has taken steps to meet the requirements.
Mid Coast Council	Ensure assessments address clause 4.6 requirements, submit reports to department on time.	Yes, council has taken steps to meet the requirements.
Tweed Shire Council	Ensuring written applications and council assessment address clause 4.6 requirements.	Yes, however verification of these measures once implemented by council may provide better assurance of compliance.

Council	Recommendations from the 2020 audit	Council satisfactorily addressed the audit recommendations?
Ballina Shire Council	Have in place a written delegation procedure, quarterly reporting to department, ensure assessments address clause 4.6 requirements.	Delegations procedure and reporting to the department are sufficiently addressed. As council's new processes on checking assessments are yet to be checked, a future audit may provide better assurance on compliance.
Forbes Shire Council	Submit reports to department on time.	Yes, council has taken steps to meet the requirement.
Dubbo Regional Council	Submit reports to department on time, ensure variations greater than 10% are determined by appropriate authority.	Yes, reporting to the department is sufficiently addressed. While the council states variations greater than 10% are determined by appropriate authority, a future audit may provide better assurance on compliance.

Findings by council for new audits

Bayside Council

Audit recommendations

The department made the following recommendations during the 2020 audit:

- 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 to the department.

Council actions in response to the recommendations

In response to the recommendations the council has:

- stated a review of the sub delegations is taking place to include appropriate delegation of clause 4.6 to Development Services Coordinators and Development Assessment Officers.
- updated the clearing house procedures to include the decision-making process of clause 4.6 for the benefit of Development Assessment Officers.
- started formal reporting to council effective as of the end of first quarter of 2021.
- submitted quarterly reports to the department on time and will continue to submit reports within four weeks of the end of each quarter.

Auditor comments

The auditors found the council response satisfactorily addressed the recommendations to report to council and the department.

However, the auditors note that checking the delegations procedure at a future audit should provide better assurance of compliance.

Campbelltown City Council

Audit recommendations

The department made the following recommendations during the 2020 audit:

- 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 to the department.

Council actions in response to the recommendations

In response to the recommendations the council has:

- provided the department with a copy of existing delegations it has in place.
- commenced reporting clause 4.6 variations to an ordinary meeting of the council at the end of each quarter.
- submitted quarterly reports to the department on time and will continue to submit reports within four weeks of the end of each quarter.

Auditor comments

Auditors found the council response satisfactorily addressed the audit recommendations. The council provided delegations as requested and has submitted all due quarterly reports for 2020 and 2021 on time.

City of Sydney Council

Audit recommendations

The department made the following recommendations during the 2020 audit:

- 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 to the department.

Council actions in response to the recommendations

In response to the recommendations the council has:

- maintained a publicly available online register and reported clause 4.6 variations to the department and the Central Sydney Planning Committee (CSPC - being a committee of Council) on a regular basis.
- stated that reports made to the CSPC relating to clause 4.6 variations will also be presented to full council, in accordance with the recommendations of the audit.
- submitted quarterly reports to the department on time and will continue to submit reports within four weeks of the end of each quarter.

Auditor comments

Auditors found the council response satisfactorily addressed the audit recommendations. The council has submitted all due quarterly reports for 2020 and 2021 on time and reporting practices provide a good level of oversight via the CSPC.

Penrith City Council

Audit recommendations

The department made the following recommendations during the 2020 audit:

- 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.

Council actions in response to the recommendations

In response to the recommendations the council has:

- made the delegations to determine applications including a clause 4.6 variation request available to customers on council's website.
- established a register of clause 4.6 variations and has made this available on the council website, including backdated reports.
- initiated a process to report clause 4.6 variations to an ordinary meeting of the council at the end of each quarter.
- submitted quarterly reports to the department on time and will continue to submit reports within four weeks of the end of each quarter.

Auditor comments

The auditors found the council response satisfactorily addressed the recommendation to report to the department on time and maintaining an online register.

However, the auditors note that verifying council's compliance on reporting to the council and the availability of a delegations procedure during a future audit may provide better assurance of compliance.

The Hills Shire Council

Audit recommendations

The department made the following recommendations during the 2020 audit:

- 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.

Council actions in response to the recommendations

In response to the recommendations the council has:

- submitted the 'Procedure for delegations'.
- stated staff would ensure level of variation is appropriately addressed in all planning reports in the future.
- submitted quarterly reports to the department on time and will continue to submit reports within four weeks of the end of each quarter.

Auditor comments

The auditors found the council response satisfactorily addressed the recommendation to report to the department on time.

The council submitted the delegation procedure to the department, however auditors note that verifying compliance with the implementation of the delegations procedure during a future audit may provide better assurance.

Willoughby City Council

Audit recommendations

The department made the following recommendation during the 2020 audit:

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

Council actions in response to the recommendations

In response to the recommendation the council has:

- prepared a procedure on clause 4.6 variation applications and circulated to all relevant staff. A copy of the procedure was provided to the department.

Auditor comments

The auditors found the council response satisfactorily addressed the written delegation procedure recommendation.

However, the auditors note that verifying compliance with the delegations procedure during a future audit may provide better assurance of compliance.

Wollondilly Shire Council

Audit recommendations

The department made the following recommendation during the 2020 audit:

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

Council actions in response to the recommendations

In response to the recommendation the council has:

- commenced reporting the variations quarterly to full council.

Auditor comments

The auditors found the council response satisfactorily addressed the recommendation to provide a report to a meeting of the council. The council provided proof of council minutes from a meeting in June 2021.

Woollahra Municipal Council

Audit recommendations

The department made the following recommendations during the 2020 audit:

- 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.

Council actions in response to the recommendations

In response to the recommendations the council has:

- tabled the report to council's environmental planning committee (EPC) to provide full council with the 2020 audit report on councils and a register of clause 4.6 variations supported.
- implemented the recommendations to provide a report to a meeting of the council of the variations approved under delegation by staff at least quarterly and submit clause 4.6 variation quarterly reports to the department within four weeks of the end of each quarter.
- put in place internal processes and a reporting mechanism to ensure a clause 4.6 variations register will be provided to full council on a quarterly basis.

Auditor comments

The auditors found the council response satisfactorily addressed the recommendation to provide a report to a meeting of the council and report to the department.

Albury City Council

Audit recommendations

The department made the following recommendations during the 2020 audit:

- 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.

Council actions in response to the recommendations

In response to the recommendations the council has:

- updated online reporting of approved variations under clause 4.6 and anticipated having online reporting available for review on its website in November 2021.
- submitted quarterly reports to the department on time and will continue to submit reports within four weeks of the end of each quarter.

Auditor comments

The auditors found the council response satisfactorily addressed the reporting requirement to the department.

However, the auditors note that verifying the availability of an online register during a future audit may provide better assurance of compliance. The online register was not available at the time of validation.

Armidale Regional Council

Audit recommendations

The department made the following recommendations during the 2020 audit:

- 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 the quarter.

Council actions in response to the recommendations

In response to the recommendations the council has:

- reconfigured the workflow within the council's software system to now include a question, in the initial assessment and final assessment, which asks the responsible officer if the Application was the subject of an application under clause 4.6. A "yes" answer will then automatically update the council's website with the details of the application.
- scheduled reminders in the calendars of responsible officers to remind of the need to complete the clause 4.6 quarterly report.

Auditor comments

The auditors found the council response satisfactorily addressed the recommendation to maintain a publicly available online register and report to the department.

Bega Valley Shire Council

Audit recommendations

The department made the following recommendation during the 2020 audit:

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

Council actions in response to the recommendations

In response to the recommendation the council has:

- included quarterly reporting to the department in council's corporate reporting register, delegated to council's officers the responsibility for ensuring reporting is provided to the department. These changes have enabled the council to submit quarterly reports on time to the department.

Auditor comments

Auditors found the council response satisfactorily addressed the reporting requirement to the department.

Cessnock City Council

Audit recommendations

The department made the following recommendation during the 2020 audit:

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

Council actions in response to the recommendations

In response to the recommendation the council has:

- submitted quarterly reports to the department on time and will continue to submit reports within four weeks of the end of each quarter.
- implemented a process to ensure on-time reporting continues to occur via a system of reminders.

Auditor comments

Auditors found the council response satisfactorily addressed the recommendation to report to the department.

Maitland City Council

Audit recommendations

The department made the following recommendations during the 2020 audit:

- 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.

Council actions in response to the recommendations

In response to the recommendations the council has:

- made the clause 4.6 register publicly available on its website.
- stated it will ensure timely submission of quarterly reports to the department.

Auditor comments

Auditors found the council response satisfactorily addressed requirements to maintain a publicly available online register and report to the department.

Richmond Valley Council

Audit recommendations

The department made the following recommendations during the 2020 audit:

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

Council actions in response to the recommendations

In response to the recommendations the council has:

- set calendar reminders for the responsible team, that provide prompts for the preparation and submission of the quarterly report.
- submitted quarterly reports to the department on time and will continue to submit reports within four weeks of the end of each quarter.

Auditor comments

Auditors found the council response satisfactorily addressed the recommendation to report to the department on time.

Wentworth Shire Council

Audit recommendations

The department made the following recommendations during the 2020 audit:

- 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.

Council actions in response to the recommendations

In response to the recommendations the council has:

- stated it will create a register to be made publicly available on council's website by end October 2021.
- submitted quarterly reports to the department on time and will continue to submit reports within four weeks of the end of each quarter.

Auditor comments

Auditors found the council response satisfactorily addressed the requirement to provide timely reports to the department.

However, the auditors note that verifying the availability of an online register during a future audit may provide better assurance of compliance.

Yass Valley Council

Audit recommendations

The department made the following recommendations during the 2020 audit:

- 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.

Council actions in response to the recommendations

In response to the recommendations the council has:

- established a publicly available online register which includes all variations from 2020 and the first three quarters of 2021.
- submitted quarterly reports to the department on time and will continue to submit reports within four weeks of the end of each quarter.

Auditor comments

Auditors found the council response satisfactorily addressed requirements to maintain a publicly available online register and report to the department on time.

Findings by council for follow-up audits

Blacktown City Council

Audit recommendations

The department made the following recommendation during the 2020 audit:

- continue to submit clause 4.6 variation quarterly reports on time to the department, noting that the council has submitted timely reports after the audit period.

Council actions in response to the recommendations

In response to the recommendation the council has:

- committed to submitting all quarterly reports within four weeks of the end of each quarter. The council also noted that it has submitted quarterly reports on time since the audit.

Auditor comments

Auditors found the council response satisfactorily addressed the audit recommendations. The council submitted all due quarterly reports for 2020 and 2021 to the department on time.

Camden Council

Audit recommendations

The department made the following recommendation during the 2020 audit:

- continue to submit clause 4.6 variation quarterly reports on time to the department, noting that the council has submitted timely reports after the audit period.

Council actions in response to the recommendations

In response to the recommendation the council has:

- committed to submitting all quarterly reports within four weeks of the end of each quarter. The council noted that it submitted only one report with a 2-day delay during the audit period, due to a change of reporting procedure by the department.

Auditor comments

Auditors found the council response satisfactory. The council submitted all due quarterly reports for 2020 and 2021 to the department on time.

Cumberland City Council

Audit recommendations

The department made the following recommendations during the 2020 audit:

- 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.

Council actions in response to the recommendations

In response to the recommendations the council has:

- conducted a review of its staff delegations to ensure that adequate delegation procedures were in place for dealing with clause 4.6 variations. Under the new updated delegations, only two positions within council's planning staff have the ability to determine applications with clause 4.6 variations. The delegations make it clear that, should an application propose a variation to a development standard greater than 10%, the application needs to be referred to the Cumberland Local Planning Panel for determination.
- allocated additional staff resources to ensure that the quarterly reports are submitted to the department within four weeks of the end of each quarter. Council noted that the department acknowledges this for quarters in 2020-21.

Auditor comments

Auditors found the council response satisfactorily addressed the audit recommendations. The council submitted all due quarterly reports for 2020 and 2021 to the department on time.

Ku-ring-gai Council

Audit recommendations

The department made the following recommendations during the 2020 audit:

- 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 four weeks of the end of each quarter.

Council actions in response to the recommendations

In response to the recommendations the council has:

- provided the department with evidence of its compliance with all recommendations of the audit report.

Auditor comments

Auditors found the council response satisfactorily addressed the audit recommendations. The council submitted all due quarterly reports for 2020 and 2021 to the department on time.

Lane Cove Council

Audit recommendations

The department made the following recommendations during the 2020 audit:

- 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 four weeks of the end of each quarter.

Council actions in response to the recommendations

In response to the recommendations the council has:

- established a register which is available on its public website.
- submitted quarterly reports to the department on time.

Auditor comments

Auditors found the council response satisfactorily addressed the audit recommendations. The council submitted all due quarterly reports for 2020 and 2021 to the department on time.

Mosman Municipal Council

Audit recommendations

The department made the following recommendations during the 2020 audit:

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

Council actions in response to the recommendations

In response to the recommendation the council has:

- built in processes and updated its DA assessment software to identify clause 4.6 variation applications to be included in the online register in council's website.
- submitted quarterly reports within four weeks of the end of each quarter.

Auditor comments

Auditors found the council response satisfactorily addressed the audit recommendations. The council submitted all due quarterly reports for 2020 and 2021 to the department on time.

Northern Beaches Council

Audit recommendations

The department made the following recommendations during the 2020 audit:

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

Council actions in response to the recommendations

In response to the recommendations the council has:

- implemented system-based alerts that remind all responsible staff members and their supervisors of the need to collate and submit the report. The council has utilised the functionality of a process mapping platform, to record detailed procedures of how to prepare and submit the report. Since implementation of this procedure the report has been submitted by the deadline each quarter.
- added the clause 4.6 report as a standing item to the agenda of a fortnightly Planning Review Group Managers' Meeting of the council, which will require an update be given to the group on the status of collation and submission.

Auditor comments

Auditors found the council response satisfactorily addressed the audit recommendations. The council submitted all due quarterly reports for 2020 and 2021 on time.

Snowy Valleys Council

Audit recommendations

The department made the following recommendations during the 2020 audit:

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

Council actions in response to the recommendations

In response to the recommendations the council stated that:

- it did not have clause 4.6 variation applications to report during the 2018-19 period.
- as part of its commitment to continuous improvement, systems are now implemented to ensure the reporting obligation is met in a timely manner.

Auditor comments

Councils are expected to submit a 'nil return' if there are no variation applications for the quarter. The council submitted the first and second quarter reports for 2021 late and has not yet submitted the third quarter report for 2021.

While the council may have implemented new measures, the auditors note that verifying these measures during a future audit may provide better assurance of compliance.

Hilltops Council

Audit recommendations

The department made the following recommendations during the 2020 audit:

- 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 on time.

Council actions in response to the recommendations

In response to the audit recommendations the council stated that:

- council officers do not have delegation to determine 4.6 variation applications. All applications are reported to an ordinary council meeting for determination by councillors. As there is no delegation to officers, the council considers the need for a procedure mute.
- it has identified a new role for a planning portal technical officer. Council considers the role will assist with on-time reporting. Council supported that the department manages access to clause 4.6 reports on the planning portal to avoid double handling of information.

Auditor comments

The auditors found the council response on the delegations procedure is satisfactory. The council's plan to engage a new officer should help the council meet timely reporting requirement.

The council has not submitted the quarterly reports to the department for the second and third quarter of 2021. The auditors note that verifying timely reporting during a future audit may provide better assurance of compliance.

Kiama Municipal Council

Audit recommendations

The department made the following recommendations during the 2020 audit:

- 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.

Council actions in response to the recommendations

In response to the audit recommendations the council has:

- confirmed that it receives all variation applications in writing.
- reviewed assessment templates in accordance with applicable decisions of the NSW Land and Environment Court since the audit.
- stated it submitted reports for 2020-21 on time. Council hopes the need to provide separate reports will cease once all development applications are lodged via the planning portal.

Auditor comments

Auditors found the council response satisfactorily addressed the audit recommendations. The council submitted all due quarterly reports for 2020 and 2021 on time.

Mid Coast Council

Audit recommendations

The department made the following recommendations during the 2020 audit:

- 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

Council actions in response to the recommendations

In response to the audit recommendations the council forwarded:

- the development assessment report template demonstrating assessment requirements.
- copies of variation decisions for 2018-19 as depicted on council's website.

Auditor comments

Auditors found the council response satisfactorily addressed the audit recommendations. The council submitted all due quarterly reports for 2020 and 2021 on time.

Tweed Shire Council

Audit recommendations

The department made the following recommendations during the 2020 audit:

- 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.

Council actions in response to the audit report recommendations

In response to the audit recommendations the council stated:

- it will update the council's applicant lodgement checklist to include a section for clause 4.6 applications with the requirements contained in the clause to be included in the application.
- it will update its assessment templates to include clause 4.6 sub-headings to be addressed by the assessing officer and considered by the determining officer/body.

Auditor comments

The auditors found the council response would satisfactorily address the outstanding requirements once implemented.

However, the auditors note that verifying these measures during a future audit may provide better assurance of compliance.

Ballina Shire Council

Audit recommendations

The department made the following recommendations during the 2020 audit:

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

Council actions in response to the recommendations

In response to the audit recommendations the council has:

- amended its procedure for the assessment of clause 4.6 variations to replace references to council with determining authority in recognition that the Northern Regional Planning Panel may determine applications involving clause 4.6 variations greater than 10%.
- identified reporting to the department as a key requirement and nominated an officer to have responsibility for oversight of the reporting delivery. Reporting is provided to the elected council on a quarterly basis and information about variations granted is published on the council's website. Council stated it provides clause 4.6 quarterly reports to the department.
- considered the procedure for assessment of variations as required, of whether strict compliance with standards is unreasonable or unnecessary and the environmental grounds in assessment and decision making relating to variation requests. The council disagreed with the department's finding that the 4.6 assessment was not adequate with respect to the two development applications subject to the audit.

Auditor comments

Council's responses in relation to the delegations procedure and reporting requirements were found to be satisfactory.

In relation to the audited development applications, concurrence of the planning Secretary was sought and granted. However, council should still undertake an assessment as to the suitability of the variation in accordance with all requirements of clause 4.6 in the first instance. The Secretary is a concurrence not an approval authority and therefore the council's assessment and support for the variation is still required. The auditors note that verifying council's assessment process during a future audit may provide better assurance of compliance.

Forbes Shire Council

Audit recommendations

The department made the following recommendations during the 2020 audit:

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

Council actions in response to the recommendations

In response to the audit recommendations the council stated:

- it will continue to submit quarterly reports on time through shared calendar notifications across the development assessment team. The responsibility is shared across multiple staff members so that notifications will not be missed if someone is on leave or otherwise unavailable.

Auditor comments

Auditors found the council response satisfactorily addressed the audit recommendations. The council submitted first and third quarter reports for 2021 on time while the second quarter report was delayed.

Dubbo Regional Council

Audit recommendations

The department made the following recommendations during the 2020 audit:

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

Council actions in response to the recommendations

In response to the audit recommendations the council stated:

- it has submitted and will continue to provide quarterly reports on time in the required format of all variations approved to the department within four weeks of the end of each quarter.
- that the Secretary's concurrence is not assumed by the council officer where the variation to the development standard exceeds 10% or is related to a non-numerical standard. Council noted that such applications can only be determined by full council or the Western Region Planning Panel.

Auditor comments

Auditors found the council's response satisfactory regarding the reporting requirements. The council submitted all due quarterly reports for 2020-2021 on time.

In response to council's response on determining authority, the auditors acknowledged that the application subject to the audit was reported to the full council. However, this was not for the purpose of consideration of the clause 4.6 variations, rather for permission to execute the development on behalf of the council. No mention of the variation was provided in the report.

The auditors note that assessing council's determination process and delegations for clause 4.6 variations during a future audit may provide better assurance of compliance.