Environmental Planning and Assessment (Statement of Expectations) Order 2024

I, Paul Scully, the Minister for Planning and Public Spaces, make this Order under section 9.6(9) of the *Environmental Planning and Assessment Act 1979.*

The Hon. Paul Scully MP
Minister for Planning and Public Spaces

Dated: 1/7/2024

Explanatory note

The object of this Order is to set expectation for councils in relation to their performance of a range of planning and development functions under the *Environmental Planning and Assessment Act 1979*. If a council is found not to be meeting these expectations, the Minister can take these matters into consideration as part of determining if it is appropriate to appoint a planning administrator or Sydney district or regional planning panel to exercise a council's functions. It is made under section 9.6(9) of the Act.

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Environmental Planning and Assessment (Statement of Expectations) Order 2024

under the

Environmental Planning and Assessment Act 1979

Part 1 Preliminary

1 Name of Order

This Order is the *Environmental Planning and Assessment (Statement of Expectations) Order 2024*.

2 Commencement

This Order commences on 1 July 2024

3 Definitions

(1) In this Order—

the Act means the *Environmental Planning and Assessment Act 1979*

Department means the Department of Planning, Housing and Infrastructure

Gateway determination means a determination made by the Minister (or delegate) under section 3.34 of the Act.

LEP means a local environmental plan.

LSPS means a local strategic planning statement.

Minister means the Minister for Planning and Public Spaces.

Minister's expectations means the expectations of the Minister in relation to the performance of a council in dealing with planning and development matters, as set out in clause 5 of this Order.

Note. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Order.

(2) Words used in this Order have the same meaning as words used in the Act.

(3) Notes included in this Order do not form part of this Order.

Part 2 Planning and development matters

4 Heads of consideration

The heads of consideration to be taken into consideration in exercising the power under s.9.6(1)(b) of the Act are:

(a) Whether or not the Council has failed to meet the Minister's expectations in relation to council performance.

(b) The duration, frequency and degree to which the council has performed, or failed to perform, in accordance with the Minister's expectations.

(c) The range and type of planning and development matters in respect of which the council has performed, or failed to perform, in accordance with the Minister's expectations.

(d) Whether or not an appointment under s.9.6(1)(b) should be made in relation to one or more of a particular class of planning and development matter, or all planning and development matters dealt with by the council.

(e) The effect of any caretaker period preventing a council's performance in dealing with the planning and development matters (or any particular class of such matters) as set out in clause 5.

(f) The individual circumstances of each council, for example whether external events like natural disasters have impacted the council, or council has received an unexpectedly high volume of DAs compared to their current staffing levels.

(g) Whether or not other available interventions or support have failed to result in improvements to council performance in relation to the Minister's expectations.

(h) With respect to development applications for residential accommodation:

- Whether the Minister's expectations have been met for development assessment timeframes, and
- Whether the Council has been identified as having a key responsibility in the delivery of housing supply by the NSW government.

(i) The public interest.

5 Minister's Expectations

(1) **Development assessment**

A council should:

(a) Prepare assessment reports for a regionally significant development application and refer to the relevant Sydney district and regional planning panel as soon as practical and within an average of 250 days from lodgement.

(b) Lodge development applications for which it is the consent authority as soon as practical and within an average of:

- From 1 July 2024 to 30 June 2025: 14 days from submission
- From 1 July 2025 onwards: 7 days from submission.

(c) Determine development applications for which it is the consent authority (including DAs determined by a local planning panel) as soon as practical and whichever is the lesser of council's previous financial year average, or an average of:

- From 1 July 2024 to 30 June 2025: 115 days from lodgement
- From 1 July 2025 to 30 June 2026: 105 days from lodgement
- From 1 July 2026 to 30 June 2027: 95 days from lodgement
- From 1 July 2027 onwards: 85 days from lodgement.

(d) Comply with the procedural and reporting requirements prescribed in the *Guide to Varying Development Standards*, for development applications that involve variations to development standards.

(2) **Planning proposals**

A council should:

(a) decide whether to support a proponent-initiated planning proposal and submit it for gateway determination within the "planning proposal" stage benchmark timeframes in the LEP Making Guideline.

(b) as the Planning Proposal Authority, publicly exhibit a planning proposal, respond to submissions, and either resolve to use Local Plan Making Authority delegations or request the Department to make the plan within the "public exhibition and assessment" stage benchmark timeframes set out in the LEP Making Guideline.

(c) as Local Plan Making Authority, make a LEP which has been delegated to council within the "finalisation" stage benchmark timeframes set out in the LEP Making Guideline.

(3) **Strategic planning**

A council should:

(a) prepare or review its LSPS in accordance with the requirements of the Act, and standards and timeframes identified by the Department.

(b) prepare a local planning strategy (such as a local housing strategy) to ensure the actions identified in the relevant regional or district strategic plan (including any dwelling provision targets) and local strategic planning statements are delivered in accordance with the standards and timeframes identified by the Department.

(c) give effect to an adopted local planning strategy (such as a local housing strategy) and any Department approval requirements (including submission of Implementation Delivery Plans) in accordance with the standards and timeframes identified by the Department.

(d) consider State Environmental Planning Policies or other strategies and policies of the Government, the Minister or the Department concerning planning and development matters when preparing an LSPS, local planning strategy or other plan provided for under the Act.