

Department of Planning, Housing and Infrastructure

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Guide to the Faster Assessment Program for Affordable Housing

For applicants using the new State significant development pathway

December 2023



Acknowledgement of Country

The Department of Planning, Housing and Infrastructure acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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Introduction

This guide outlines how the department will work with applicants to speed up the assessment of affordable housing applications under a new pathway for State significant development.

The NSW Government recognises the need to build more homes for our growing population, boost housing supply and improve housing affordability.

The new State significant development (SSD) pathway, alongside other policy initiatives, will allow for well-designed homes to be located close to public transport and be accessible as affordable housing in the medium term.

This Guide to the Faster Assessment Program for Affordable Housing (the Guide) applies to SSD applications for in-fill affordable housing as defined in Chapter 2, Part 2, Division 1 of the [State Environmental Planning Policy \(Housing\) 2021 \(Housing SEPP\)](#) and should be read in parallel to the [In-fill Affordable Housing – Practice Note](#) and the related [Planning Circular](#).

Changes to planning policies

The NSW Government has an aspirational target of 377,000 well-located homes over the next 5 years. To help deliver the housing target, the government has amended:

- **State Environmental Planning Policy (Housing) 2021, also known as the Housing SEPP**
To encourage private developers to fast track the delivery of affordable housing, the department has:
 - increased the floor space ratio bonus
 - introduced a new building height bonus for shop top housing and residential flat buildings if the proposal provides the specified percentage of the development as affordable housing for a minimum of 15 years.
- **State Environmental Planning Policy (Planning Systems) 2021, also known as the Planning Systems SEPP**

A new State significant development (SSD) pathway has been introduced for development to which Chapter 2, Part 2, Division 1 of the Housing SEPP applies that:

- is not prohibited under an environmental planning instrument applying to the land
- has a residential development component that meets the specified capital investment value.

Robust processes will support faster assessments to help ensure good planning and development outcomes.

Background

This policy initiative aligns with the National Housing Accord that the Australian Government announced in its Budget in October 2022.

The National Housing Accord brings together all levels of government, investors, and the residential development, building and construction sector. The aim is to unlock quality, affordable housing supply over the medium term. It provides an initial, aspirational national target of delivering 1.2 million new, well-located homes over 5 years from 2024. There are immediate and longer-term actions for all parties to support the delivery of more affordable homes.

The faster assessment program

The faster assessment program supports the faster assessment of SSD affordable housing applications. The target is an average of **275 days¹** from lodgement to determination.²

Shorter assessment times will give applicants, industry, council and the community more certainty. They will also increase the likelihood of delivering the homes people need sooner, in line with the National Housing Accord targets.

The government and applicants both have a role to play in speeding up SSD affordable housing assessments. At the same time, we must ensure the assessment process is a robust one that leads to good planning and development outcomes.

This Guide outlines the steps the department is taking as part of the faster assessment program (the Program) and what applicants can do to help secure faster assessments.

Key program features

- The target of an average of 275 days¹ from lodgement to determination²
- A target of an average of 90 government days¹ from lodgement to determination, including exhibition
- A better process to speed up the assessment of SSD affordable housing, including:
 - a mandatory scoping meeting for early advice to applicants
 - new industry-specific secretary's environmental assessment requirements (industry-specific SEARs) (issued within 7 days)
 - a commitment to reduce requests for information.

¹ To be achieved as a 6-month rolling average by end of 2024–25

² Or referral to the Independent Planning Commission, where relevant.

- Dedicated case management may be available for projects that can demonstrate a high likelihood of being delivered within National Housing Accord time frames.
- Guidance to applicants on preparing better applications that are more likely to succeed.

When the program applies

The Program applies to those SSD affordable housing applications to which Chapter 2, Part 2, Division 1 of the Housing SEPP applies, that:

- are not prohibited under an environmental planning instrument applying to the land
- have a residential development component that meets the specified capital investment value
- meet the locational requirements under the Housing SEPP
- provide the specified percentage of the development as affordable housing for a minimum 15 years.

The Program does not apply to SSD affordable housing applications that have the following features:

- concept applications
- applications with unresolved voluntary planning agreements
- applications that relate to concurrent draft planning proposals/SEPP amendments
- applications with complex variation requests under Clause 4.6 of the Standard Instrument – Principal Local Environmental Plan

The Program will prioritise applications that can demonstrate a high likelihood of being delivered within National Housing Accord time frames.

To achieve this, applicants are encouraged to commit to the enhanced assessment process and advice on preparing better applications outlined in this guide.

SSD affordable housing applications that do not meet the criteria of the Program may not receive the same Program benefits.

Dedicated case management

Dedicated case management support may be available to applicants as part of the Program. This includes:

- negotiating a time frame for the determination of the application
- more support services when dealing with state agencies

- regular tracking meetings for development applications
- facilitated issues resolution.

To qualify, applicants must be willing to enter into a service charter agreement with the department and commit to a project schedule including the following time frames:

- 90 days or less for submissions reports
- 45 days or less to respond to requests for information.

If an applicant does not meet the commitments in the service charter, we may remove the development application from the Program and proceed to determination based on the available information.

For more information, contact the Major Projects Case Management team:

case.managers@planning.nsw.gov.au

Applying floor space ratio and building height bonuses

SSD affordable housing applications that provide the specified percentage of the development as affordable housing may qualify for floor space ratio (FSR) and building height bonuses under the in-fill affordable housing provisions. FSR and height bonuses are proportional to the percentage of affordable housing provided, subject to a specified minimum.

The bonuses are not an entitlement. A merit assessment under relevant environmental planning instruments will still apply to all developments. The consent authority will consider the suitability of the site and likely impacts of the development.

The Department has released a [Practice Note](#) and [Planning Circular](#) to provide additional guidance on the policy. These documents provide examples and guidance to consent authorities and applicants on the application of the FSR and height bonuses under the Housing SEPP.

Enhanced assessment process for SSD affordable housing

The Program ensures early engagement between the department and applicant and is supported by commitments from both parties.

Statutory requirements for the lodgement and assessment of SSD are set out in legislation, primarily the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2021*.

These requirements are supported by the [State Significant Development Guidelines](#), which set out the step-by-step process and detailed information for the assessment of SSD in NSW.

We expect applications that are part of the Program will follow an enhanced process, which emphasises targeted scoping and early engagement to help deliver faster assessment times (refer to Figure 1).



Figure 1. Process to lodge and assess affordable housing applications declared SSD under the Planning Systems SEPP

Early scoping meeting

An early scoping meeting is a voluntary meeting that the applicant can initiate. We encourage early scoping meetings for complex developments that are expected to have significant impacts.

Early scoping meetings allow applicants to have an informal discussion with the department to seek high-level advice on:

- the application of Chapter 2, Part 2, Division 1 of the Housing SEPP
- the suitability of the site
- restrictions applicable to the site (such as flooding, evacuation and bushfire risk)

- other relevant planning considerations
- complex issues that may prevent the development from achieving the housing bonuses or entering the Program.

The department expects the applicant to bring basic site information and a clear objective for its development proposal to this meeting. Plans and studies are not necessarily needed at this stage.

To arrange an early scoping meeting, please email the department on ssdaffordablehousing@dpie.nsw.gov.au.

Scoping meeting

Applicants must attend a **mandatory** scoping meeting with the department to discuss the development before submitting an application for industry-specific SEARs.

The department will advise if the application meets the SSD thresholds and outline expectations, commitments and time frames for lodging the development application.

Government Architect NSW staff may also attend the meeting. Government Architect NSW can:

- give early input into a development's key design benefits and impacts
- outline the next steps for the NSW State Design Review Panel process, or
- any other statutory requirements for design excellence.

Before the scoping meeting

To arrange a scoping meeting, please email the department on ssdaffordablehousing@dpie.nsw.gov.au and supply the required information. The meeting will be booked and held within 4 weeks of receiving the request.

Applicants must provide the following minimum information when booking the scoping meeting:

- summary of development application
- survey plan
- architectural drawings
- a brief review against Chapter 4 – Design of residential apartment development of the Housing SEPP and the Apartment Design Guide
- predicted impacts from increases beyond existing planning controls
- indicative time frame for lodging the application and environmental impact statement.

For more details, refer to [Scoping Meeting Requirements – for Applicants](#).

During the scoping meeting

The department and the applicant will:

- confirm whether Chapter 2, Part 2, Division 1 of the Housing SEPP applies
- identify if the development is likely to qualify as SSD or for bonuses (providing an ‘early no’ where necessary)
- confirm whether the development is eligible for industry-specific SEARs
- confirm that the development application can proceed to State Design Review Panel or whether a design excellence provision or competitive design process will apply.
- identify key considerations early such as:
 - potential variation requests under Clause 4.6 of the Standard Instrument – Principal Local Environmental Plan
 - compliance with environmental planning instruments
 - compliance with key design requirements
- notify the applicant of any additional requirements associated with the Program (for example, having a voluntary planning agreement in place).

After the scoping meeting

The department will advise if the applicant:

- **can apply for industry-specific SEARs**

The department will confirm that it has received sufficient information for the applicant to apply for industry-specific SEARs.

- **needs to provide further information**

The department will inform the applicant that within 14 days of the scoping meeting on the additional/amended information it requires before industry-specific SEARs should be applied for. This may include asking the applicant to attend another scoping meeting.

- **is discouraged from applying for industry-specific SEARs**

The department will advise the applicant within 14 days of the scoping meeting if it forms the view that the proposed development has significant issues in its current form. In these cases, the department would discourage the applicant from proceeding with the application until these issues are addressed (‘early no’).³

³ Applicants may still request SEARs under Section 173 of the Environmental Planning and Assessment Regulation 2021. However, proposals which have been discouraged may not be eligible for the Program.

In some cases, the submitted information may be sent to Government Architect NSW and relevant local council for their information and early engagement opportunity.

Application for SEARs

Industry-specific SEARs are ready-made assessment requirements for a particular development type that have been prepared upfront in consultation with government agencies.

A new set of industry-specific SEARs has been prepared for eligible SSD affordable housing applications. You can view the industry-specific SEARs on the [department's website](#).

Under the Environmental Planning and Assessment Regulation 2021, the department has 28 days to issue SEARs once an application has been made. The department will issue industry-specific SEARs within 7 days.

The industry-specific SEARs cover letter may set out additional requirements to support a faster assessment process.

State Design Review Panel

The State Design Review Panel (SDRP) is an established and formalised Program delivered by Government Architect NSW. It gives independent, consistent advice on design quality for SSD where the Independent Planning Commission or Minister for Planning and Public Spaces is the consent authority. For more details, refer to the [State Design Review Panel Terms of Reference](#).

Review by the SDRP is a requirement in the industry-specific SEARs for affordable housing if the CIV of the residential component of the development is more than \$75 million. This review should take place as early as possible following the mandatory scoping meeting but must take place before lodgement. Two reviews are recommended.

What is required for the State Design Review Panel

The [Guidelines for Project Teams](#) detail the SDRP process and documentation requirements.

At the first SDRP session the applicant should clearly explain how the development responds to the project brief, context and analysis, and integrates sustainability and heritage. Any development options should be shown, and if there is a preferred option, the applicant should give a clear rationale for its selection.

At the second SDRP session, the applicant should provide detailed drawings demonstrating a response to the advice provided at SDRP. These drawings should include a detailed response to architecture, landscape, ecologically sustainable development and Country.

Applicants should also show the proposed envelope before and after FSR and height bonus provisions have been applied at both SDRP sessions with a comparative analysis of impacts.

Further information about the SDRP can be found on the [Government Architect NSW website](#).

Lodging the development application and environmental impact statement

The department will carry out a high-level check of the application and environmental impact statement before placing it on public exhibition. If the environmental impact statement is illegible, unclear or incomplete, the department can reject the application within 14 days. The applicant will be notified of the reasons for rejection.

Responding to submissions

The department will ask applicants to prepare a submissions report to respond to the issues raised in submissions and agency advice. The submissions report must also address any key issues the department identifies.

Applicants must provide the submissions report within 90 days. If the department does not receive the submissions report within this time frame it may remove the application from the Program or determine the application based on the available information.

Assessing and determining the application

The department will assess all SSD affordable housing applications on their merits, considering their economic, environmental and social impacts and the principles of ecologically sustainable development.

Because of the enhanced assessment process, including early engagement and more targeted scoping, the department is likely to issue fewer requests for information.

If the department requires more information, **applicants must provide a response within 45 days.** If the department does not receive the requested information in this time frame, it could remove the application from the Program or determine the application based on the available information.

The consent authority (either the Minister for Planning and Public Spaces or the Independent Planning Commission) will determine the application by:

- granting consent, subject to modifications or conditions
- refusing consent.

Preparing a quality application

Applicants should show how they will achieve good planning outcomes by addressing legislative requirements and following the guidance below where the development exceeds local FSR and height controls.

All SSD applications that propose in-fill affordable housing under the Housing SEPP will be subject to merit assessment by the consent authority. The application must demonstrate how it meets industry-specific SEARs, which consider key issues such as flood and bushfire risk, traffic impacts, biodiversity and heritage.

The application of the policy with bonuses does not affect any responsibility under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, which requires that the consent authority take into consideration the relevant provisions of all applicable Environmental Planning Instruments (EPIs), the likely impacts of a development, the suitability of the site for the development and the public interest (amongst other matters).

The in-fill affordable housing provisions do not override provisions in any other EPI. However, when responding to local provisions, the department will take a flexible approach, which balances the impacts of the development on the amenity of the site and adjoining land with the Government's clear policy intent to deliver more affordable housing through the Housing SEPP.

The Housing SEPP contains non-discretionary standards for:

- site area
- landscaping
- deep soil zone
- solar access
- parking
- internal apartment area.

These standards prevent consent authorities from requiring more onerous standards for those matters.

The design principles for residential apartment development outlined in Chapter 4 of the Housing SEPP, and the Apartment Design Guide remain as standard considerations for any residential apartment development.

Planning considerations

This section of the Guide aims to provide applicants with insights into additional considerations that can greatly enhance the quality of the development application. Addressing these extra considerations will not only improve the application, the design and the planning outcome but also increase the likelihood of a faster assessment process. Whilst these matters are important to get a good planning outcome, they should be balanced against the intent of the policy to deliver more affordable housing.

Development control plans do not apply to affordable housing SSD applications however they may be a good guide to help minimise impacts and align with existing development in the area.

Applications should consider the 4 factors listed below to address potential exceedances of local FSR and height controls in addition to assessment against any applicable EPI.

Site suitability

Demonstrate that the site is suitable for the development while taking into consideration any existing site conditions such as:

- flood risk
- bushfire risk
- evacuation
- contamination
- site features
- existing traffic conditions.

Overshadowing of public open space and surrounding development

- Demonstrate that the overshadowing of public open space by the development meets the criteria set within the local environmental plan (LEP). Where no controls are specified, the following should be used:
 - The development should ensure 50% of the public open space receives a minimum of 4 hours sunlight access between 9 am and 3 pm on 21 June.

- New developments should not create any additional overshadowing where solar access is less than 2 hours between 9 am and 3 pm on 21 June.
- Demonstrate that the overshadowing of living areas and principal open space in neighbouring private developments by the proposed development meets the criteria set within the LEP. Where no controls are specified, the following should be used:
 - Direct solar access should not be reduced to less than 2 hours between 9 am and 3 pm on 21 June, or
 - Where less than 2 hours of sunlight is currently available between 9 am and 3 pm on 21 June, solar access should not be further reduced.

If the development results in a further decrease in sunlight available on 21 June, consideration will be given to exceptional circumstances of the subject site such as heritage, existing built form or topography.

Wind impact

- Demonstrate that the development does not generate adverse wind outcomes and meets the criteria set within the LEP where applicable.
- Confirm the wind comfort criteria being adopted for surrounding public, communal and private open spaces.
- Wind levels should be appropriate for the comfort and safety of people using these spaces and their associated uses.
- Provide a wind microclimate study, where relevant, that evaluates wind conditions for the proposed scheme, taking into consideration existing surroundings and future developments in the neighbourhood.
- Mitigate any adverse wind effects through design of the built form:
 - Demonstrate compliance with setbacks or other built form approaches.
 - Avoid reliance on landscape elements and appended elements such as screens or barriers.

Setbacks and building separation

- Demonstrate the development meets building separation distances described in the Apartment Design Guide.
- Where established setbacks are not met, demonstrate why the proposed non-compliance is appropriate through informed contextual analysis, such as:
 - compatibility in the broader streetscape setting
 - providing a positive urban response

- meeting Apartment Design Guide building separation
- overshadowing of public and private open spaces
- maintaining an established landscape character
- maintaining visual privacy to neighbouring dwellings
- not leading to significant loss of key views from public space and neighbouring developments compared to a compliant option.