

Environmental Planning and Assessment (Statement of Expectations) Order 2026

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 July 2026

Explanatory note

The object of this Order is to set expectations 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 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 2026

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 2026*.

2 Commencement

This updated Order commences on 1 July 2026

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 matters 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 and the degree to which the council has performed or failed to perform.
- (b) 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.
- (c) The effect of any caretaker period preventing the council's performance in dealing with the planning and development matters (or any particular class of such matters) as set out in clause 5.
- (d) 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.
- (e) Whether or not other available interventions or support have failed to result in improvements to council performance in relation to the Minister's expectations.
- (f) The public interest.

5 Minister's Expectations

(1) Development application assessment

A council should:

- a) Lodge development applications for which it is the consent authority as soon as practical and within an average of 7 days from submission using the following key performance indicators:
 - within 4 days of submission complete a review of the adequacy of the development application,
 - within 4 days of submission issue an invoice providing the applicant 3 business days to make payment.
- b) Complete internal referrals within 21 days of the application being lodged.
- c) Determine development applications for which it is the consent authority (including development applications 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 2026 to 30 June 2027: 90 days from lodgement.
 - From 1 July 2027 to 30 June 2028: 80 days from lodgement.
 - From 1 July 2028 onwards: 65 days from lodgement.
- d) Comply with the procedural and reporting requirements prescribed in the *Guide to Varying Development Standards* (2023), for development applications that involve variations to development standards.

A Local Planning Panel should:

- e) Determine Regionally Significant Development applications for which it is the consent authority as soon as practicable, or an average of 20 days after council has finalised their assessment report.

(2) Modification application assessment

A council should:

- a) Lodge modification applications for which it is the consent authority within an average of 7 days of submission.
- b) Determine modification applications lodged under section 4.55(1) of the Act within 14 days of lodgement. If not determined within this period, the application cannot be refused.
- c) Determine modification applications for which it is the consent authority as soon as practicable, and whichever is the lesser of council's previous financial year average, or an average of:
 - From 1 July 2026 to 30 June 2027:
 - 65 days from lodgement for modification applications lodged under section 4.55(1A) of the Act.
 - 85 days from lodgement for modification applications lodged under section 4.55(2) of the Act,
 - From 1 July 2027 to 30 June 2028:
 - 55 days from lodgement for modification applications lodged under section 4.55(1A) of the Act.

- 75 days from lodgement for modification applications lodged under section 4.55(2) of the Act,
 - From 1 July 2028 onwards:
 - 40 days from lodgement for modification applications lodged under section 4.55(1A) of the Act.
 - 70 days from lodgement for modification applications lodged under section 4.55(2) of the Act,
- (3) **Complying Development Variation Statements**

Refusals of Complying Development Variation Certificates should be limited to only circumstances where the variation is assessed as having significant additional adverse impacts.
- (4) **Local infrastructure contributions**

A council should:

 - (a) Review its infrastructure contributions plans no later than every 5 years, ensuring the plan's works schedule, delivery timeframes, growth and development assumptions are up to date.
 - (b) In the case of councils that are not rural or large rural councils, spend at least 20% of its available infrastructure contribution funds annually, averaged over the preceding 5-year period.
- (5) **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) Use the concurrent Planning Proposal and Development Application process where applicable.
 - (c) Where possible delegate the plan making steps to the General Manager of the council.
 - (d) As the Planning Proposal Authority, ensure planning proposals give effect or align with any draft or finalised NSW Government regional strategic plan as set out in the LEP Making Guideline.
 - (e) 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.
 - (f) 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.
- (6) **Strategic planning**

A council should:

 - a) Be satisfied that its local strategic planning statement (LSPS) aligns with any draft or finalised NSW Government strategic plans, priorities and policies and reflects progress made in local planning and development delivery.

- b) Review or prepare relevant supporting evidence to inform any updates to LSPS and local strategies to ensure the actions identified in the relevant draft or final regional strategic plan (including any housing targets) and local strategic planning statements are delivered in accordance with the standards and timeframes identified by the Department.
- c) Ensure its LEP has enough feasible housing capacity to deliver its housing target.
- d) Plan and update planning controls for any locally significant industrial land identified in a regional strategic plan.
- e) 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.
- f) Review all relevant Development Control Plans for clarity and structure, objectives and deemed to comply performance standards.