



# Planning circular

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## PLANNING SYSTEM

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NSW Planning Portal

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<b>Circular</b>	PS 21-011
<b>Issued</b>	2 December 2021 <sup>1</sup>
<b>Related</b>	Replaces PS 19-005, PS 15-005

## Requirements for councils to provide certain planning documents and data via the NSW Planning Portal

This circular outlines the requirements and procedures for councils to submit certain planning documents and data via the NSW Planning Portal.

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### Introduction

The NSW Planning Portal and the NSW Planning Database was established on 30 November 2015.

The NSW Planning Portal is a website which provides public access to the planning services, publications and information in the NSW Planning Database.

The NSW Planning Database is an electronic repository of documents, environmental planning instruments, spatial datasets and maps accessible through the NSW Planning Portal.

### Submission of certain planning documents and data

Councils are required to submit certain planning documents and data to the NSW Planning Portal.

The planning documents and data required to be submitted are:

- Variations to development standards
- Local strategic planning statements
- Development control plans
- Contributions plans
- Local voluntary planning agreements
- Affordable housing contribution schemes
- Community participation plans

There is the potential for the Department to progressively expand the 'submission types' list to cover other types of planning documents and processes for which the *Environmental Planning and Assessment Act 1979* (EP&A Act) provides.

Following is an outline of what councils will need to include for each type of submission when sending them to the NSW Planning Portal and the timing(s) for those submissions.

### Variations to development standards

Variations to development standards can be sought under clause 4.6 of the Standard Instrument LEP.

As per Planning Circular PS 20-002 each council is required to submit quarterly reports of all variations to development standards approved by council (including under delegation). These reports are due within 4 weeks of the end of each quarter (i.e. March, June, September and December) using the form provided by the Department of Planning and Environment (the Department).

Councils can submit the quarterly reports to the Department via the NSW Planning Portal, until such a time when this information is automatically collected.

### Local strategic planning statements (LSPSs)

LSPSs set out a council's 20-year vision for land use in the local area, the special character and values that

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<sup>1</sup> Revised 10 August 2023 to include updated references to the *Environmental Planning and Assessment Regulation 2021* and address outdated provisions.

are to be preserved and how change will be managed into the future.

Under section 3.9 of the EP&A Act, each council is required to prepare a LSPS. Section 3.9(5) of the Act requires that LSPSs must be published on the NSW Planning Portal.

Councils will need to submit the final version of their LSPS to the Department via the NSW Planning Portal as soon as practicable after the statement is made.

### **Development control plans (DCPs)**

DCPs are made by a council (in relation to LEPs for which the council is the planning proposal authority) or by the Secretary of the Department (in relation to a State Environmental Planning Policy (SEPP)). The main purpose of a DCP is to support the associated LEP or SEPP with more detailed planning and design guidance.

Councils are required, by section 20 of the *Environmental Planning & Assessment Regulation 2021* (EP&A Regulation), to provide DCPs to the Planning Secretary within 28 days of making the plan. This includes the written component and any spatial data and maps forming part of the plan.

New DCPs and DCP amendments must be submitted to the Department via the NSW Planning Portal.

Note, for amendments to DCPs, councils need to submit the updated consolidated version of the plan (that is including the amendment) via the NSW Planning Portal.

### **Contributions plans**

Contributions plans are made by councils under section 7.18 of the EP&A Act. These plans provide for local infrastructure development contributions under either section 7.11 or 7.12 of the Act.

Councils are required under section 7.18(4) of the EP&A Act to provide a copy of their contributions plans to the Minister for Planning as soon as practicable after approving the plan. This includes the written component and any associated spatial data.

Note, for amendments to contributions plans, councils need to submit both the amendment to the relevant plan and a copy of the updated consolidated version of the plan (that is, including the amendment) via the NSW Planning Portal.

### **Council planning agreements**

Under section 7.4 of the EP&A Act, a planning agreement is a voluntary agreement or other arrangement between a planning authority (or two or more planning authorities) and a developer:

*(a) who has sought a change to an environmental planning instrument, or*

*(b) who has made, or proposes to make, a development application or application for a complying development certificate application, or*

*(c) who has entered into an agreement with, or is otherwise associated with, a person to whom paragraph (a) or (b) applies,*

*under which the developer is required to dedicate land free of cost, pay a monetary contribution, or provide any other material public benefit, or any combination of them, to be used for or applied towards a public purpose.*

Planning agreements allow planning authorities and developers to work together to deliver innovative infrastructure outcomes alongside development proposals, with the purpose of the whole community benefiting from the development.

In accordance with section 203 of the EP&A Regulation, a copy of each planning agreement must be submitted to the NSW Planning Portal. This also applies to amendments to, and revocations of, planning agreements to which the council is a party but the Minister is not.

### **Affordable housing contributions schemes (AHCS)**

AHCS outline the requirements for councils to collect contributions for affordable housing as part of a condition of consent. Under section 7.32 of the EP&A Act, a condition of consent may be placed on a development application which requires a contribution for affordable housing if the local government area is identified in a SEPP as having a need for affordable housing.

Under section 7.32(3) of the EP&A Act, the condition of consent requiring a contribution for affordable housing must be in accordance with an AHCS included in or adopted by the LEP. An AHCS can only be set out in or adopted by an LEP through an amendment to the relevant LEP.

This requires a council to prepare a planning proposal to refer to or adopt an AHCS, and progress through the LEP plan-making process. Once finalised, an AHCS will be included in or adopted in the relevant LEP. A council may then place a condition of consent on a development approval to levy contributions for affordable housing.

A council which chooses to develop an AHCS will be required to submit a draft AHCS with the planning proposal, and a final AHCS at the LEP plan-making stage.

A council will need to submit its final AHCS via the NSW Planning Portal as soon as practicable as it will be made publicly available on the NSW Planning Portal.

### **Community participation plans (CPPs)**

Under Division 2.6 of the EP&A Act, all planning authorities, i.e. every council and NSW agency with key planning approval functions, must prepare a community participation plan (CPP). The CPPs must set out how planning authorities will engage with their communities across their statutory planning functions. The plans must meet the minimum requirements for

community participation that are set out in Schedule 1 to the EP&A Act.

In preparing CPPs, authorities will have to take into consideration community participation principles in the EP&A Act, which set the standard for how the community should be engaged.

Section 2.24(1) of the EP&A Act requires that a CPP is published on the NSW Planning Portal.

### Submission file requirements

Submissions can be provided to the NSW Planning Portal in a ZIP file in which written documents are to be in PDF format, variation to development standards spreadsheets are to be in Excel format, and any GIS mapping forming part of a submission is to be in one of the following formats:

- ESRI Shapefile (\*.shp)
- ESRI File Geodatabase (\*.gdb)
- MapInfo TAB (\*.tab)
- MapInfo Interchange Format (\*.mif).

### Standard technical requirements for spatial datasets and maps

Provisions in section 3(3) of Schedule 3 of the EP&A Act enable the Planning Secretary to determine standard technical requirements for:

- Environmental planning instruments
- Plans or documents
- Spatial datasets
- Maps, and
- The form of applications for consent, approvals or certificates that must be implemented by councils and other planning authorities.

These standard technical requirements will help to facilitate the exchange of information in the planning system.

The Secretary of the Department has determined *Standard Technical Requirements for Spatial Datasets and Maps (Version 2.- dated August 2017)*.

These standard technical requirements contain the current standards for planning related spatial datasets and maps.

The Department will, as part of its processes of continuous quality assurance, work with councils to ensure that the planning data submitted as part of the plan-making process meets the adopted standard.

### Further information

For further information please contact Service NSW on 13 77 88.

Department of Planning and Environment circulars are available at: <https://www.planning.nsw.gov.au/policy-and-legislation/planning-system-circulars/>

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**Important note:** This circular does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this circular.

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