

August 2020

## Public Spaces Legacy Program

### What is the NSW Public Spaces Legacy Program?

The NSW Public Spaces Legacy Program is a \$250 million investment in new and improved public and open space projects across NSW. It is available to councils that can implement a program to accelerate the assessment of development applications and rezoning proposals.

The objectives are to ensure a lasting public space legacy for NSW and to support a steady pipeline of development projects, including infrastructure and housing, to keep people in jobs and the economy moving during the COVID-19 pandemic.

Details of the program can be found in the [Program Guidelines](#).

### What can funding be used for?

Funding will be available for the planning, design, construction or land acquisition costs for public and open space. It can be used to upgrade and/or expand public or open space. Details of the types of projects that can be funded are included in the [Program Guidelines](#).

### How much funding will my council be eligible for?

Funding is assigned to councils based on the Australian Bureau of Statistics and the NSW Office of Local Government local government categories. This classifies councils generally according to their location, size and the amount of assessments they process.

To find out how much you can apply for, please visit the [Program Guidelines](#).

### Why is the Program only open to the 68 councils using the ePlanning Online DA Service?

The development assessment service of the ePlanning system is the most reliable and consistent method to monitor councils' assessment performance and therefore the Program is available to the 68 metropolitan, regional city, large regional and rural councils that the Department of Planning, Industry and Environment (the Department) was certain – at the time of program commencement on 5 August 2020 - would be using the service during the performance monitoring period.

The Program covers all metropolitan councils and large regional councils. These councils process approximately 82% of all development applications assessed by local governments across NSW.

## Does participation in the program require faster adoption of ePlanning?

Clauses 295 and 296 of the *Environmental Planning and Assessment Regulation 2000* require relevant local government areas to accept 100% of development applications via the ePlanning service by 31 December 2020. Participating councils are encouraged to bring this forward where possible; ideally early in the first monitoring period (i.e. 1 September to 31 December 2020).

## My council is going to adopt the ePlanning system during the monitoring period but isn't mandated under the Regulation. Can I apply for inclusion in the program?

Funding was fully allocated on the basis of take up (or mandated take-up) of the ePlanning Digital Service at the time the program commenced on 5 August 2020. If your council was using the DA service of the ePlanning system on that date – even if it wasn't mandated under Regulation – it is eligible to participate in the Program.

If your council will commence using the full ePlanning Digital Service for development assessment between program's commencement on 5 August 2020 and the commencement of the monitoring period on 1 September 2020, contact the Department via [publicspaceslegacy@planning.nsw.gov.au](mailto:publicspaceslegacy@planning.nsw.gov.au).

## Can regional councils be a part of the program?

Of the 68 Councils eligible to take part in the program, 35 are in regional NSW.

## How do I apply?

Eligible councils should submit an application to participate in the Program to [publicspaceslegacy@planning.nsw.gov.au](mailto:publicspaceslegacy@planning.nsw.gov.au) by 28 August 2020.

The Department will invite councils to participate in the program if the council's application includes a proposal that is determined to set ambitious but achievable performance targets that meet the Program objectives. The participant councils will be asked to commit to the program via a Participation Agreement by 25 September 2020.

The initial application should include a high-level (250-500 word) description of the public or open space project that council may seek to fund. Councils that are achieving their performance targets by the end of the first monitoring period (31 December 2020) will be invited to submit a more detailed proposal for their public or open space project in February 2021.

## What acceleration proposals should be included in the application?

The Public Spaces Legacy Program recognises that councils know their planning assessment program and their resource capacity best and encourages them to design a process of assessment acceleration that suits their unique circumstances.

Councils are encouraged to set ambitious targets in accordance with the [Program Guidelines](#). The key is to describe the nature of council's local acceleration program, the proposed improvements – including historical data and associated measurable acceleration targets that will be achieved over the monitoring period.

### The improvement targets are very ambitious. Can I apply for a lower target?

Some councils have taken steps to accelerate assessment over recent years and can request consideration of alternative performance targets, in recognition of this. Alternative proposals can include a different target, exclusion of some types of applications/planning proposals or similar, but council must provide a rationale for its request, and evidence to support it.

It is recommended that councils contact the Department (via [publicspaceslegacy@planning.nsw.com.au](mailto:publicspaceslegacy@planning.nsw.com.au)) to discuss their intention to propose alternative targets, prior to submitting their expression of interest on 28 August.

### Which development applications will be assessed for the performance target?

Councils are encouraged to propose the most ambitious acceleration program they can, impacting as many decisions as possible. However, at a minimum the performance targets and monitoring program will relate to development applications lodged from 1 September 2020.

### Are the periods of assessment where the application is not within council's control, included in the overall timeframe?

Councils are encouraged to accelerate the whole assessment process, including the period when the application is not within council's control. However, in applying to participate in the Program, councils can adopt performance targets relating to their nett assessment time if they have a method and data to enable efficient comparison of historical and targeted nett assessment timeframes. The Program Guidelines have been amended to reflect feedback from councils on this issue.

Councils should, in their application, outline steps it will take to help – where possible – accelerate the parts of the assessment process which are not within their control.

### When should I nominate my public and/or public space project(s)?

The initial application should provide a 250-500 word description, outlining the type of open or public space project or projects likely to be developed if funding is approved. This should indicate a very high-level description of type of project and its location, cost and schedule.

The Department recognises that it takes time to prepare a well-considered project proposal. Councils that have achieved their targets in the first monitoring period (1 September to 31 December 2020) will be invited to nominate a more detailed proposal in February 2021.

## How will funding be accessed?

To ensure the funding is used to deliver high-quality public space, councils will access funding through a three-stage process, which confirms that agreed performance targets have been achieved before the funding is released. The three stages are outlined in the [Program Guidelines](#).

## How will councils' performance be monitored?

The Department will determine whether the performance targets have been met for the whole of each monitoring period, at the end of each period (ie 31 December 2020 and 30 June 2021). However, councils will report monthly on their progress towards achieving the targets.

The ePlanning system will be used to ensure DA performance data can be rapidly, accurately and efficiently collected and verified.

## How will you ensure developments are still being properly assessed?

All projects will continue to be considered in accordance with all relevant legislation, statutory guidance, transparency and oversight of the standard assessment process and as such will undertake the same level of rigorous assessment and consultation as at any other time.

## Why must councils determine long-standing RSDAs by 31 December 2020? If they aren't good projects, they shouldn't be approved.

No one wins when development applications are stuck in the system for too long. They create uncertainty and anxiety not only for businesses but also the community. Complex projects can't be left in the 'too hard basket' and most projects should be able to be determined within 180 days.

However, the Department recognises that there are some unusual circumstances where there are long-standing regionally significant development applications that cannot be determined by 31 December 2020. Councils may propose a later determination date for some applications if there are circumstances beyond its control. The proposal should be supported by evidence, a rationale for the revised deadline and a schedule for completing the determinations.

It's important to note that the acceleration program does not override good planning decisions and the normal standards of assessment and community consultation must still apply.

## Contact

If you have any queries, please contact [publicspaceslegacy@planning.nsw.gov.au](mailto:publicspaceslegacy@planning.nsw.gov.au).

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