

Department of Planning and Environment

dpie.nsw.gov.au



State-assessed planning proposal pathway

Amended and restated guideline and invitation for applications for the pilot round (as amended by Addendum #1)

16 December 2022



Acknowledgement of Country

The Department of Planning and Environment 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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A. Overview of the Rezoning Pathways Program

Giving more people in NSW the opportunity to put a roof over their heads, more housing choice and greater affordability is a priority area across the NSW Government.

The program will see \$73.5 million invested over the next two years, to unlock land for 70,000 new homes in fast growing areas across the state by 2024. It will facilitate the development of a housing pipeline that will be actively managed to create more opportunities to rezone land for residential use and better meet the needs of our growing population.

There are 2 rezoning pathways. The department may lead a rezoning in large scale areas or precincts (via a state-led rezoning) or may assess a planning proposal where it is of state or regional environmental planning significance, or of environmental planning significance to a district (via a state-assessed planning proposal).

The department's involvement will occur in limited circumstances such as where there are strategically important precincts which align with State infrastructure investment, sites involving a 'step-change' in land-use or intensification, and places requiring resolution of complex planning, infrastructure and stakeholder issues.

The Rezoning Pathways Program provides a robust approach for the department to strategically assess candidate sites and determine an appropriate rezoning pathway that can then be prioritised against available funding. By doing so, the department will streamline the planning of approved candidate sites more effectively and efficiently.

B. About the state-assessed planning proposal pathway

The state-assessed planning proposal pathway is part of the department's Rezoning Pathways Program.

Under the state-assessed planning proposal pathway, the department may assess a planning proposal as a state-assessed planning proposal where specific criteria are met and departmental capacity and resources allow.

In this round, the department invites interested eligible parties (applicants) to apply for their rezoning proposal (project) to be selected to progress under a state-assessed planning proposal pathway. This occurs when a planning proposal of state significance or regional environmental planning significance, is lodged directly with and determined by the department.

There are limited spots available. The successful applicants will submit their project, via a planning proposal, to the department for assessment. This will occur within 2 months of the notification (i.e. if advice is given in February 2023 that the project can proceed under the state-assessed planning proposal pathway, proponents will have 2 months from that date to lodge).

Submitting an application does not constitute the submission of a planning proposal in the Planning Portal. By applying, eligible projects will be assessed against the assessment criteria under the Rezoning Pathways Program to determine whether the project is suitable to progress through the state-assessed planning proposal pathway.

C. Key objective

The key objective of the Rezoning Pathways Program, including the state-assessed planning proposal pathway, is to help unlock land for 70,000 new homes by 2024, to create more opportunities to rezone land for residential use and to better meet the needs of our growing population.

D. Outcomes for successful applications

If an application is successful, the applicant's planning proposal:

1. can be lodged directly with the department as a state-assessed planning proposal
2. the department's Secretary, Deputy Secretary or Independent Panel will act as the planning proposal authority for the planning proposal instead of a local council.

If an application is unsuccessful, the applicant may wish to proceed with its planning proposal through the normal planning channels (ie. lodged with the relevant council).

E. Important dates

Table 1 shows milestones and indicative key dates for the state-assessed planning proposal pathway.

Milestone	Indicative Date
Application period opens	6 December 2022
Application period closes (Closing Date/Time)	11.59pm 22 January 2023
Assessment period commences	23 January 2023
Announcement of successful applications (ie, deemed state-assessed Planning Proposals) and notification to applicants	February 2023
Planning proposal submitted to the department for state assessment	By May 2023
Assessment of planning proposal finalised by the department's Secretary, Deputy Secretary or Independent Panel	By June 2024

F. Contact information

Any queries from applicants will be answered directly via rezoningpathways@dpie.nsw.gov.au or directed to an appropriate contact within the department.

G. Eligibility criteria

To be eligible a project must satisfy the following eligibility criteria:

1. **Not in the planning system:** The project is not the subject of an active planning proposal lodged in the system.
 - “active” implies that the proposal is at any stage from ‘lodged’ through to ‘finalisation’. The department may, in its sole discretion, determine whether the proposal is active.
 - an applicant cannot withdraw a current planning proposal to pursue this pathway.
 - projects may be submitted for sites where a previous planning proposal was lodged but refused or withdrawn. However, the applicant must demonstrate that the project submitted is new. The department may, in its sole discretion, determine that the project is not new and not eligible.
2. **Readiness to lodge:** The applicant must undertake to formally lodge the planning proposal with the department via the Planning Portal within 2 months of being notified that the project was approved to proceed as a state-assessed planning proposal.
3. **Minimum dwelling threshold:** The project must demonstrate that through the rezoning it will enable at least:
 - i. 1000 residential dwellings in Metropolitan NSW* or
 - ii. 300 residential dwellings in Regional NSW*

*For the purposes of this eligibility criterion:

Metropolitan NSW means land in the local government areas of Bayside, Blacktown, Blue Mountains, Burwood, Camden, Campbelltown, Canada Bay, Canterbury-Bankstown, City of Sydney, Cumberland, Fairfield, Georges River, Hawkesbury, Hornsby, Hunters Hill, Inner West, Ku-ring-gai, Land Cove, Liverpool, Mosman, North Sydney, Northern Beaches, Parramatta, Penrith, Randwick, Ryde, Strathfield, Sutherland, The Hills, Waverley, Willoughby, Wollondilly, Woollahra and

Regional NSW means the local government areas in the remainder of NSW after excluding Metropolitan NSW.

4. **Comply with relevant planning legislation, policies and section 9.1(2) of the *Environmental Planning and Assessment Act 1979* Ministerial Directions:** The project is compliant with all relevant applicable legislation, plans, policies and/or masterplans and any section 9.1(2) Ministerial Directions (also known as local planning directions) as updated from time to time.

Only applications that meet each of the above 4 eligibility criteria will progress for consideration against the assessment criteria.

H. Assessment criteria

The following assessment criteria will be applied to eligible projects that will proceed under the state-assessed planning proposal pathway.

How and to what extent the project:

1. provides significant and meaningful public benefits, including through housing supply/diversity and alignment with State policies land use strategies
2. provides social and affordable housing
3. manages impediments to delivery or has a clear pathway to resolution and
4. has investment committed or available to fund infrastructure to help deliver the rezoning.

I. Who can apply

Interested parties from industry are invited to nominate a project to be considered for suitability as a state-assessed planning proposal. Applicants could include a local council, landowner, developer or an individual.

J. How to apply

Applicants may nominate projects for consideration under the state-assessed planning proposal pathway by completing the application form online via the link below.

[State-assessed planning proposal pathway application form](#)

Deadlines

Applications must be submitted by 11.59pm on 22 January 2023.

K. Notification of lodgement

Applicants will receive a system generated email containing a link to a copy of their application when submitted successfully. Applicants who consider they have submitted their application but do not receive a confirmation email should initially check their junk mail. If no confirmation email is received, applicants should email rezoningpathways@dpie.nsw.gov.au to verify.

L. Assessment process

The assessment process will be managed by the department and supported by an independent probity advisor.

The assessment process will consist of the following 2 stages:

1. Stage 1: Eligibility assessment
2. Stage 2: Suitability assessment.

Stage 1: Eligibility assessment

The department will conduct an initial assessment to determine whether the application meets the **eligibility criteria** outlined in Section G above. Only applications that are deemed eligible will progress to the suitability assessment stage.

Stage 2: Suitability assessment

Each eligible application will be assessed against the **assessment criteria** outlined in Section H above to determine how and to what extent the project meets the assessment criteria.

M. Conflicts of interest and ethical conduct

A conflict of interest refers to an interest, relationship, situation or arrangement in an individual's personal or private circumstance which may give rise to an actual, potential or perceived conflict of interest.

Applicants must declare as part of their application, any interest, relationship, situation or arrangement they or any of their personnel have which may give rise to an actual, potential or perceived conflict of interest.

If, at any time during its participation in the state-assessed planning proposal pathway an applicant becomes aware of an interest, relationship, situation or arrangement that may give rise to an actual, potential or perceived conflict of interest or has some concern that such a conflict has arisen or may arise, that individual must immediately inform the department in writing.

With respect to the state-assessed planning proposal pathway, applicants must not:

1. do anything which could place a public official in position that gives rise to an actual, potential or perceived conflict of interest or
2. offer gifts or inducements to any public official.

N. Probity

The state-assessed planning proposal pathway will be subject to strict governance and probity with fair and transparent assessment processes. The department will make all decisions under the State-assessed planning proposal pathway in accordance with the relevant guidelines, policies, plans and the associated assessment criteria. An independent probity advisor will provide guidance on issues concerning integrity, fairness and accountability that may arise throughout the submission, assessment, and decision processes. This will help ensure decisions are made with integrity, fairness, and accountability, while delivering value for money.

O. Assessment outcomes and debriefs

1. When the assessment process is completed, applicants will be notified in writing of the outcome of that process as regards their application.
2. Unsuccessful applicants may request a debrief regarding the assessment of their application.
3. The purpose of a debriefing is to provide information about how the application performed against the assessment criteria with the object of improving future applications if further rounds are announced.
4. A debriefing will not provide a comparison between the unsuccessful application and any successful applications.

5. A debriefing will not be an opportunity to contest the outcomes of the state-assessed planning proposal pathway or the assessment process.

P. Requirements and conditions

Completeness

After the application period closes, the department will review each application to ensure it is complete and includes all the information necessary for the assessment team to assess the application. Applicants must provide sufficient information for the department to clearly identify the applicant as a legal entity.

Where an application is incomplete or not accompanied by the required information but otherwise meets the objectives of the application process, the department may, in its absolute discretion, accept the application provided that the department is satisfied that so doing does not affect the integrity of the process.

Non-conforming applications

The department expects all applications to conform with the requirements in these guidelines and to include all of the information required in the application form. Any application that is incomplete or that modifies the requirements in these guidelines will be a non-conforming application and will be set aside.

The department reserves the right, but is not required, to consider or accept a non-conforming application.

Late applications

An application received after the closing date and time will not be considered by the department except when it is clear that the cause of the lateness was beyond the applicant's control and the department is satisfied that the integrity and competitiveness of the application and the assessment process will not be compromised.

Clarifications and communications

Before submitting an application, applicants may seek clarification on any point of doubt or difficulty in connection with these guidelines or the process or the information required but may only do so via email at rezoningpathways@dpie.nsw.gov.au. All clarifications or communications relating to the application process from an applicant can only be made via the rezoning pathways mailbox. A departmental representative will respond in writing via the forum distributing the clarification enquiry. The department may issue responses to any questions raised by one applicant to other applicants and may answer any query made to the department to all applicants without disclosing the source of the question or enquiry. The department has the discretion to stop answering questions made within 3 days prior to the closing date and thereafter.

Readiness to lodge: undertaking

The applicant must undertake to formally lodge the planning proposal with the department via the Planning Portal within 2 months of being notified that the project was approved to proceed as a state-assessed planning proposal. If the applicant fails to formally lodge within this period, the department may, in its absolute discretion, elect to not proceed with assessing the applicant's planning proposal.

No legal relationship

No legal relationship exists or will arise between the department and any applicant in respect to this process.

No applicant submitting an application shall have any claim for compensation of any kind whatsoever as a result of participating in this application and selection process, and by submitting an application, each applicant shall be deemed to have agreed that it has no claim.

Applicant costs for submitting application

The applicant's costs of preparing and submitting an application and otherwise participating in the application process are borne by the applicant.

Modification of application

The department will consider a modification of an application submitted by an applicant only if the modification is lodged before the application closing date/time.

The department's rights

The department has, in addition to any other rights or discretions, the right, in its absolute discretion, and at any stage of the application and selection process and without giving reasons to:

1. extend the closing date and time at any time before the closing date and time
2. issue addenda to these guidelines and any addenda issued will become part of the guidelines and must be addressed by applicants in their applications
3. change, vary or amend the guidelines including the indicative timing described in Section E
4. suspend, amend, vary or discontinue the application and selection process
5. have regard to the department's (or other government agency's) knowledge and previous experience and dealings with any applicant and information about the past or current performance of an applicant under any contract, arrangement or agreement with the department or other government entity, and

and the department's decision in such matters will be final, and the department will not be liable to an applicant because the department has exercised any or none of its rights.

Disclosure of information

Information submitted in applications may be shared with other NSW Government departments. Any information provided by an applicant may be used for promotional material prepared by the department or NSW Government. The department or NSW Government may publicly announce successful applications and may also use information provided in applications to develop case studies.

Confidentiality

If an applicant considers that any information disclosed during the process is confidential, it must clearly indicate that such information is confidential. The department, in its sole discretion, shall determine whether the information is confidential in nature and, if it considers that the information is not confidential, it will give the applicant the opportunity to withdraw the information.

Any information that is made available on condition that it is treated as confidential (Confidential Information) by the applicant must not be disclosed, copied, reproduced, distributed or passed to any other person at any time except for the purpose of enabling an application to be made. An applicant may disclose the Confidential Information to its insurers or professional advisers for the purpose of enabling a response to a question to be made, provided they have each given an undertaking at the time of receipt of the Confidential Information (and for the benefit of the department) to keep such Confidential Information confidential.

Government Information (Public Access) Act 2009 (NSW)

Information in applications and all related correspondence, attachments and other documents may be made publicly available under the Government Information (Public Access) Act 2009 (NSW) (GIPA Act). The GIPA Act sets out provisions for making government information accessible to the public by:

- requiring government agencies to make certain sorts of information freely available
- encouraging government agencies to release as much other information as possible
- giving the public an enforceable right to make access applications for government information and
- restricting access to information only when there is an overriding public interest against disclosure.

Acknowledgements

1. By submitting an application, the applicant is taken to have accepted these conditions.
2. By submitting an application, the applicant consents to the department seeking further information about the applicant's organisation, capabilities or previous performance (including from other organisations, from other agencies (such as Transport for NSW) from within the department and from referees or entities not nominated or referred to by the applicant in its application, and for the resulting information to be taken into account by the department in assessing the application.
3. Applicants acknowledge that the department may for the purposes of assessment of applications undertake a financial and governance assessment of applicants and may engage external providers to do so.

Q. More information

For more information on these guidelines or any related matter, applicants may email the department's contact at the email address specified in Section F above. Applicants may also visit the Rezoning Pathways website at <https://www.planning.nsw.gov.au/rezoning-pathways>.