

Department of Planning, Housing and Infrastructure

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State Significant Rezoning Policy

September 2024





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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State Significant Rezoning Policy

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Overview

The NSW Government is committed to ensuring every person in NSW has an opportunity and the choice when it comes to putting a roof over their heads by freeing up more land for new homes. Responding to the housing crisis is a matter of State and regional significance and we need to do everything possible to find homes for people, and to deliver more social and affordable housing to support those in need.

The NSW Government has released 5-year housing completion targets for councils across Greater Sydney, Illawarra-Shoalhaven, Central Coast, Lower Hunter and Greater Newcastle as well as one target for regional NSW. The targets respond to the NSW Government's commitment under the National Housing Accord to deliver 377,000 new homes across NSW by 2029, prioritising the delivery of diverse and well-located homes in areas with existing infrastructure capacity.

The State Significant Rezoning Policy (Policy) has been developed by the Department of Planning, Housing and Infrastructure (department) to respond to this crisis and will complement the NSW Government's Transport Oriented Development program and planned reforms to bolster the planning system.

The Policy sets out a streamlined pathway for identifying and evaluating sites considered eligible to be assessed under the Policy as either a State-led or State-assessed rezoning proposal, allowing projects to be fast-tracked to deliver strategically important land for new housing and economic opportunities. This will help the Government provide a strong pipeline of land to support the delivery of new well-located homes and jobs across metropolitan Sydney and regional NSW.

The Policy replaces the former Rezoning Pathways Program and outlines the process for both State-led and State-assessed rezoning proposals. Proposals considered under the Policy will be managed by a dedicated project delivery team within the department. The department may lead a rezoning for a large-scale area (via a State-led rezoning proposal) or may assess a rezoning where it is of State or regional planning significance or where there have been unreasonable delays (via a State-assessed rezoning proposal).

1.1. About the State Significant Rezoning Policy

The Minister for Planning and Public Spaces (the Minister) can initiate amendments to a Local Environmental Plan (LEP) or another environmental planning instrument (EPI) via a State Environmental Planning Policy for matters that, in the opinion of the Minister, are of State or regional environmental planning significance or where the council has failed to comply with its obligations with respect to the making of the proposed instrument or has not carried out those obligations in a satisfactory manner.

This Policy provides a framework for identifying and evaluating sites that may be considered suitable for State-led or State-assessed rezoning proposals that would make a positive contribution towards the delivery of strategically important land for new housing opportunities.

Under the Policy, the department will lead the assessment of rezoning proposals that are of State or regional environmental planning significance or have been unreasonably delayed in the planning system.

The process under the Policy is consistent with the objectives of the EP&A Act.

1.2. Core principles and objectives of the Policy

Rezoning proposals that are of State or regional environmental planning significance will be assessed by the department. Eligible rezoning proposals will be identified and assessed against set assessment criteria to determine whether a project is suitable to progress through the process.

Principles

1. **Effective and efficient** – the department will act as the rezoning authority for rezoning proposals that are considered to be of State or regional environmental planning significance or of environmental planning significance that provide significant and meaningful public benefits and are aligned with Government priorities.
2. **Clarity and certainty** – rezoning proposals under the State Significant Rezoning policy will follow a clearly defined process that includes minimum outputs, provides applicants an understanding of minimum expectations, indicative timeframes and governance procedures.
3. **Transparency and consistency** – rezoning proposals under the Policy will follow a consistent process and strong probity measures will be implemented by the department to provide transparency and confidence in how it makes decisions that commit State resources and funding, including a clear and early signal to applicants when a rezoning proposal is not considered eligible or consistent with the criteria.
4. **Strategic-based decisions** – clear and easily understood strategically-based criteria that is supported by robust guidance proposals will inform the identification and selection of proposals eligible for assessment under the policy.

5. **Flexibility** - the process is flexible and can adapt to the evolving government priorities.

Objectives

1. **Accelerate** the delivery of more land for homes and jobs in NSW
2. **Increase** investor confidence in NSW
3. **Support** the NSW Government's commitments under the Housing Accord.

1.3. Process overview and indicative timeframes

An overview of the processes under the Policy and indicative timeframes are outlined in Figure 1 and Figure 2.

The department will manage the streamlined, end-to-end rezoning process from site identification, scoping, adequacy review, assessment, exhibition, finalisation and the making of the instrument.

A dedicated project delivery team within the department will manage and assess State-led and State-assessed rezoning proposals.

Figure 1 State-assessed rezoning process

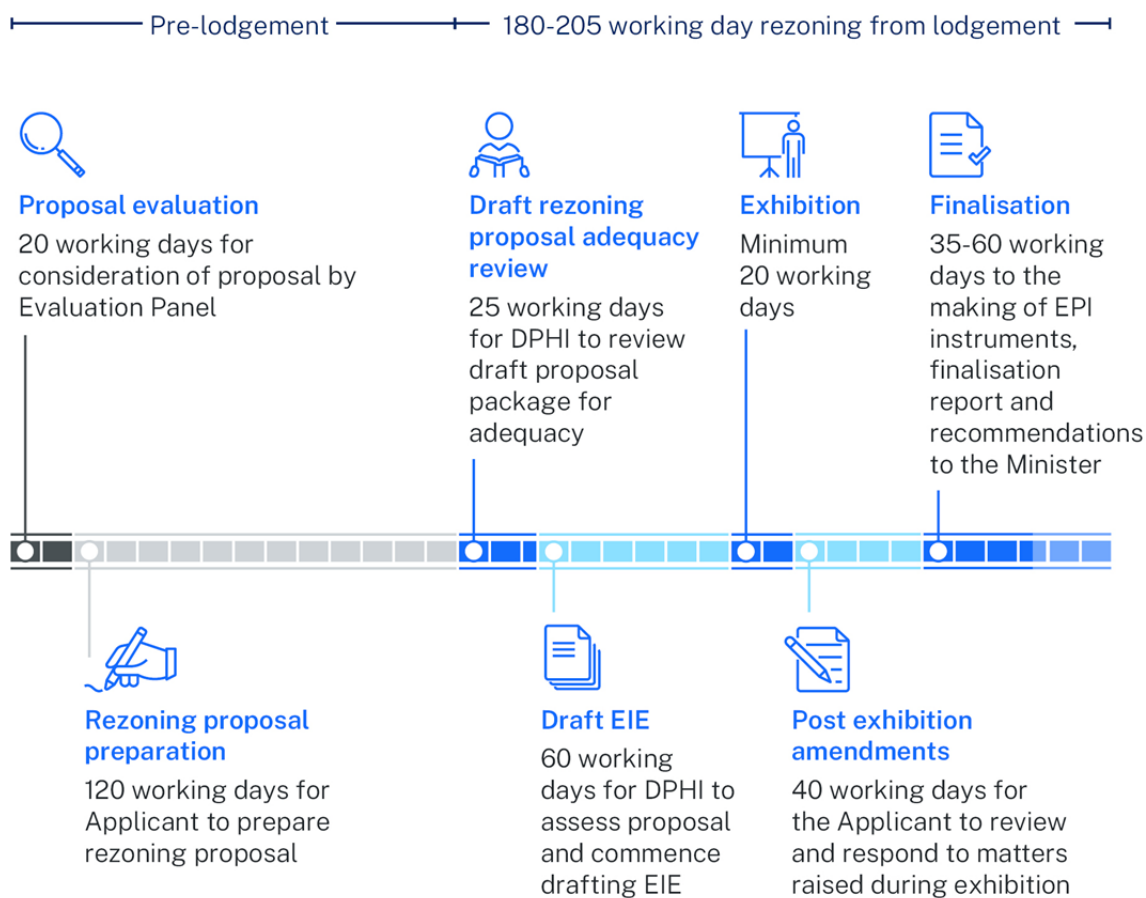
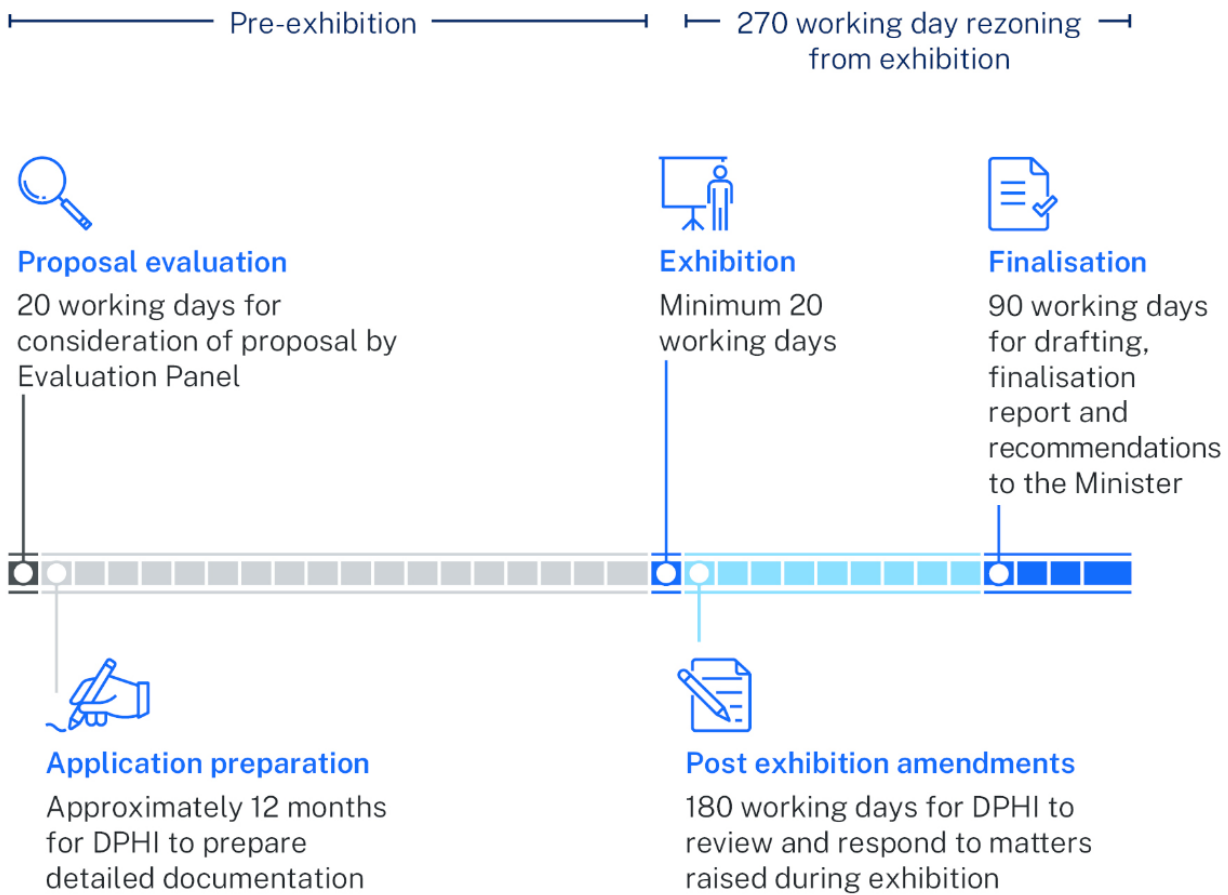


Figure 2 State-led rezoning process



2. Site identification and selection

The department will identify sites that are eligible to be assessed under the Policy. This will occur as an internal process and may include consultation with key stakeholders, including State agencies and authorities and councils as necessary.

Eligibility will be determined on whether the sites meet the minimum criteria and their capacity to positively contribute to the NSW Government's housing and economic objectives.

The department reserves the discretion to make the final, non-appealable decision regarding the eligibility of sites. At any stage during the site identification and selection process, the department can determine that a site is no longer a priority for the NSW Government. In such cases, consideration of the site in question may be deferred and/or redirected to other established planning channels outside this Policy.

2.1. Site identification

Sites will only be identified by the department through an internal nomination process. Eligibility under the Policy will be determined by evaluating nominated sites against the following minimum criteria.

Minimum criteria

To be eligible, the department will consider sites that are capable of satisfying the following requirements:

1. **The proposal is of State or regional significance or the proposal has been unreasonably delayed in the planning system.**
2. **The proposal is able to adequately address the relevant planning legislation, strategic plan, policies and Directions by the Minister:**

The sites of State significant rezoning proposals should be capable of complying with all relevant applicable legislation, strategic plans (i.e., regional plan or district plan), policies and/or masterplans and any section 9.1(2) of the EP&A Act Ministerial Directions (also known as local planning directions) as updated from time to time.

3. **Other considerations**

- a) **Potential time savings** - how many assessment days will be saved through a State rezoning pathway.
- b) **Scale** - including number of homes/jobs to be delivered. Preference will be given to proposals that will deliver:

- 100 dwellings/lots in Regional NSW or 500 dwellings/lots in Metropolitan NSW
 - 50 affordable housing dwellings
 - Dwellings in a Renewable Energy Zone (REZ)
 - 50 jobs in Regional NSW or 100 jobs in Metropolitan NSW
- c) **Delivery confidence** - how quickly will the project be realised. Preference will be given to proposals where the applicant can demonstrate that a development application is able to be submitted within 6 months of the rezoning finalisation.
- d) **Location** – the site is located in an area that is well located and serviced.
- e) **Level of complexity** – whether the proposal would benefit from a State rezoning pathway to resolve complexities such as coordinating multiple State agency stakeholders

For the purposes of this criteria:

- a planning proposal considered unreasonably delayed if it has breached the benchmark timeframes outlined in the Local Environmental Plan Making Guideline. In these circumstances, the applicant must be able to suitably demonstrate that the issues associated with the planning proposal have a clear pathway to resolution.
- the department may also give preference to rezoning proposals with yields within 20% of the specified thresholds
- 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
- Regional NSW means the local government areas in the remainder of NSW after excluding Metropolitan NSW.

2.2. Initial meeting

The department will invite landowners/applicants of eligible sites to participate in an initial meeting. The initial meeting will address the site nomination, expectations under the Policy and the associated processes.

2.3. Scoping proposals or candidate profiles

For new proposals, applicants are required to prepare scoping proposals for sites identified by the department if they are invited to submit a rezoning proposal under the Policy. Scoping proposals must be of a high-quality and the form and content should be prepared having regard to the department's Guidance for Scoping Proposal (Local Environmental Plan Making Guideline Attachment A).

For existing proposals that have been identified by the department to be of state or regional significance and unreasonably delayed, the department will prepare a candidate profile detailing the history of the proposal, including information on why the proposal has been unreasonably delayed.

Scoping proposals and candidate profiles submitted will be referred to the department's Evaluation Panel and inform the formal consideration and evaluation of sites before they can be endorsed and accepted as a proposal under the Policy.

2.4. Site assessment and selection

Evaluation Panel

The department's Evaluation Panel (Panel) will comprise appropriately qualified departmental staff and Senior Executives and will be responsible for evaluating sites eligible to be assessed under the Policy.

Evaluation Panel assessment criteria

The Panel will consider and assess proposals by applying the **assessment criteria**.

The following assessment criteria will be used by the Panel to determine a proposal's eligibility and the rezoning pathway:

1. significant and meaningful public benefits are delivered, the site helps achieve current Government priorities and is aligned with State policies and land use strategies
2. contribution to the Government's 5-year housing targets
3. provision of social and affordable housing
4. any impediments to delivery can be managed and/or have a clear pathway to resolution
5. investment is committed or available to deliver the rezoning

These criteria are intended to formally and impartially assist with the Evaluation Panel's prioritisation of sites and rezoning pathway determination.

Evaluation Panel's recommendation

After the assessment of the submitted proposal, the Panel will make a recommendation to the Secretary of the department on:

1. a site's eligibility and evaluation score against the assessment criteria
2. study requirements outlining the mandatory content to be included in the rezoning proposal
3. a recommended rezoning pathway (i.e. State-led or State-assessed rezoning proposal).

The Panel can recommend that a site has merit but is not ready to progress. The Panel may also recommend that further detail in the scoping proposal or candidate profile is required and may provide feedback on recommended updates to the proposal. Where feedback is provided, the proposal may be resubmitted for reevaluation by the Panel.

Site selection

The department's Secretary, or delegate, will approve sites recommended by the Panel to be assessed under the Policy and the recommended rezoning pathway.

The department will formally notify the Minister and, if necessary, request the Minister form an opinion of the State or environmental planning significance of a site under the EP&A Act.

The department will publish sites selected under the Policy, including the Panel's assessment outcomes, via its website. The site selection and assessment process and Panel recommendations will remain confidential until a final decision by the Secretary is made.

Assessment outcomes and debriefs

1. When the Evaluation Panel assessment process is completed, applicants will be notified in writing of the outcome of that process and issued study requirements for successful rezoning proposals.
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 rezoning proposal performed against the assessment criteria.
4. A debriefing will not provide a comparison between rezoning proposals.

The department, in its absolute discretion, may allow unsuccessful applicants the opportunity to address issues identified by the Evaluation Panel by resubmitting an updated Scoping Proposal.

2.5. Determining a State rezoning pathway

Rezoning proposals under the Policy will be assessed as either a State-led or State-assessed rezoning proposal.

State-led rezoning proposals

Where does this pathway apply?

This pathway applies where there is a strategic imperative for State intervention. This is often where sites are large or at precinct scale, where there are State significant issues which are complex and best managed by the department, where the proposal is time sensitive (such as rezoning required to coincide with the delivery of a major transit station), and work is ready to commence.

This pathway also applies to rezonings which have State government land holdings of state or regional significance.

For privately owned land, this pathway may be appropriate where there are multiple landowners who are unable to prepare or lead a rezoning proposal.

Who is responsible for delivering the pathway?

The department's State Rezoning team will lead the assessment and will also be responsible for the planning, technical studies, community consultation and is seen as the applicant for this rezoning (or in partnership with another agency where the site is on government land).

State-assessed rezoning proposals

Where does this pathway apply?

This pathway applies where the site is strategically important to warrant State intervention in the planning process, such as the site being of State or regional environmental planning significance or where the proposal has been unreasonably delayed.

Under this pathway there is typically one landowner or a major lead owner/consortium.

The applicant is responsible for preparing a high-quality proposal to inform the rezoning, including leading the preparation of all technical studies.

Fee-for-service arrangements will apply.

Who delivers this pathway?

State-assessed rezoning proposals would be prepared by the applicant (i.e., a council, government agency or private landowner) and submitted to the department for assessment.

3. Rezoning proposals

Following the endorsement of sites under the Policy and determination of a rezoning pathway, State-assessed rezoning proposal applicants or the department, for State-led rezonings, will proceed to prepare a rezoning proposal and undertake the necessary technical studies to support the proposal.

3.1. Preparation

State-led rezoning proposals

The preparation of a State-led rezoning proposal and associated technical studies will be managed by the department.

The department will be responsible for the planning, studies, engagement and management of technical consultants, and community consultation for these rezonings (or in partnership with another agency where the site is on government land).

State-assessed rezoning proposals

The applicant will be responsible for preparing the rezoning proposal and technical studies. Fee-for-service arrangements will apply for State-assessed rezoning proposals and will be determined in consultation with applicants.

Applicants are required to submit the draft State-assessed rezoning proposals to the department for a pre-lodgement adequacy review on the specified due date.

3.2. Assessment

Adequacy review

The department will undertake an adequacy review of draft State-assessed rezoning proposals to ensure all the matters listed in the study requirements for the proposal have been adequately addressed.

Where information gaps are identified, the department will formally notify applicants in writing to update the State-assessed rezoning proposal prior to the formal submission of the rezoning proposal.

Assessment

The department will undertake a comprehensive assessment of the State-assessed rezoning proposal. The department's assessment process will involve consultation and engagement with the relevant council and agencies.

Where an Applicant fails to satisfactorily address the study requirements to the satisfaction of the department, it may determine that the rezoning proposal is no longer eligible under the Policy.

3.3. Exhibition of rezoning proposal and EIE

Explanation of Intended Effect

In accordance with the EP&A Act, the department will prepare an Explanation of Intended Effect (EIE) to accompany the exhibition of all rezoning proposals under the Policy. The EIE will outline the intended effect of the proposed environmental planning instrument and rezoning proposal.

Exhibition

In accordance with the EP&A Act, the department will publicly exhibit the EIE and rezoning proposal.

3.4. Post-exhibition and finalisation

Post-exhibition

The department will prepare a Finalisation Report for each rezoning proposal. The report will address submissions received during exhibition.

The department will coordinate any necessary post-exhibition changes for State-led rezoning proposals in response to submissions received. For State-assessed rezoning proposals, applicants will be directed on required post-exhibition changes. Applicants will be provided a reasonable timeframe to update their rezoning proposal and technical studies and to finalise any required council or state agreements, including:

- infrastructure requirements/costing, and commitment to contribution mechanism,
- a site specific DCP.

Finalisation

The department will be responsible for the preparation of all necessary environmental planning instruments and maps, engagement with the NSW Parliamentary Counsel's Office and preparation of the final briefing package for the Minister for Planning and Public Spaces' approval.

4. Requirements and conditions

4.1. Completeness

The department will review rezoning proposal documentation at each stage to ensure it is complete and includes all the information necessary to assess the proposal. Applicants must provide sufficient information to clearly identify their legal entity.

Where any documentation is incomplete 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.

4.2. Readiness to lodge

State-assessed rezoning proposal applicants must commit to formally submit the rezoning proposal with the department within 120 days of being notified that the rezoning proposal was approved to proceed as a State-assessed rezoning proposal under the Policy.

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 rezoning proposal.

4.3. No legal relationship

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

No applicant submitting a rezoning proposal shall have any claim for compensation of any kind whatsoever as a result of participating in the Policy, and by submitting a Scoping Proposal, each applicant shall be deemed to have agreed that it has no claim.

4.4. Applicant costs

The applicant's costs of preparing and submitting a rezoning proposal and otherwise participating in the Policy are borne by the applicant.

4.5. The department's rights

The department has, in addition to any other rights or discretions and at any stage of the Policy and without giving reasons, the right to:

1. issue addenda to these guidelines and any addenda issued will become part of the Policy and must be addressed by future applicants in their rezoning proposals
2. change, vary or amend the Policy including the indicative timeframes
3. suspend, amend, vary or discontinue the site selection process
4. 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
5. the department's decision in such matters will be final.

4.6. Disclosure of information

Information submitted in proposals may be shared with other NSW Government departments. Any information provided by an applicant may be used for consultation material prepared by the department or NSW Government.

The department or NSW Government may publicly announce successful rezoning proposals and may also use information provided in rezoning proposals to develop case studies.

4.7. Confidentiality

If an applicant considers that any information disclosed 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 a rezoning proposal 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.

4.8. Government Information (Public Access) Act 2009 (NSW)

Information in proposals 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.

4.9. Acknowledgements

1. By submitting a proposal under the Policy, the applicant is taken to have accepted these conditions.
2. By submitting a proposal, 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, from within the department and from referees or entities not nominated or referred to by the applicant in its scoping proposal/rezoning proposal), and for the resulting information to be taken into account by the department in assessing the State-assessed rezoning proposal.
3. Applicants acknowledge that the department may for the purposes of the assessment of rezoning proposals under the Policy undertake a financial and governance assessment of applicants and may engage external providers to do so.

4.10. 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 Policy 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 Policy, 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.

4.11. How will the department ensure probity throughout the assessment process?

Probity controls will be applied by the department to the assessment process for identifying sites for each rezoning pathway. These controls are aimed at reducing the potential for any influence of those who are directly involved with the delivery pathways.

To uphold a robust and transparent process, the following procedures will be implemented:

1. A probity advisor may be engaged to confirm that processes undertaken are accountable, defensible, fair and transparent and conducted in accordance with the probity fundamentals.
2. Internal site nominations will be accompanied by separate conflict of interest disclosures from staff nominating sites declaring they have no real or perceived conflict of interest.
3. Senior executive will oversee the selection of any assessment panel member, ensuring staff remain impartial and independent from the assessment of proposals.
4. The department will implement controls to ensure that any conflicts of interest are identified, and managed, and confidential and sensitive information is handled appropriately.
5. Briefings will occur at relevant whole-of-government and cross-government forums to provide NSW Government agencies with an opportunity to provide feedback on the proposed sites and rezoning pathways. This will also help to secure support required for the successful delivery of State-led and State-assessed rezoning proposals.
6. The Secretary will be the final decision maker for sites selected to be assessed under the Policy to mitigate any real or perceived conflicts of interest for the Minister for Planning and Public Space and/or NSW Cabinet.
7. State Significant Rezoning proposals, the associated technical studies and department assessment reports will be made available via the department's website to ensure all documents under consideration are publicly accessible. This will ensure rezoning proposals and any changes always remain transparent.

4.12. How will the department report and monitor outcomes?

The department will communicate decisions on rezoning proposals to the public via the department's website subject to approval of the Minister for Planning and Public Spaces (or their delegate).

This will establish transparency and accountability for applicants. The department will commit to:

1. Using the department's website to provide a status update on each site.
2. Regular reporting and monitoring in relation to State-led and State-assessed rezoning proposals through appropriate governance channels.
3. Where possible, publishing the high-level outcomes from each phase of the rezoning process.