

# NSW Housing Pattern Book

## Terms and Conditions for the use of Patterns

### Introduction to these Terms

1. **Application:** These Terms and Conditions (**Terms**) apply to Your use of the Pattern for a Planning Application in respect of a single Building on a single Site purchased by You from the State of NSW as represented by the Government Architect NSW (**GANSW**) in the Department of Planning, Housing, and Infrastructure (**DPHI**).
2. **Intent:** These Terms are designed to maintain the integrity of the NSW Housing Pattern Book and protect the IP in the Patterns and the rights and reputation of GANSW and the Original Architects.
3. **Other uses:** If You wish to use a Pattern for any purpose other than that expressly permitted by these Terms (including but not limited to volume commercial use (such as volume building or including the Pattern as a standalone design in a construction / design portfolio); educational, academic, or industrial research; the development of software and digital resources; or gaming, art or creative uses), these Terms will not apply and You must contact GANSW in writing prior to engaging in any such use. GANSW may, in its sole and absolute discretion, grant consent to any such other use of the Patterns. This consent may be subject to separate terms and conditions and /or payment of any applicable fees.
4. **Defined terms:** Capitalised words and phrases used in these Terms have the meanings given to them in the relevant item of these Terms or otherwise in the Definitions section at the end of these Terms.

### Important notes about the Patterns

5. **Quality assurance:** GANSW confirms that:
  - (a) the Patterns are endorsed against the Better Placed Objectives;
  - (b) all drawings included in the Patterns have been prepared by a registered architect and align with technical competency expected of DA level architectural drawings; and
  - (c) the Patterns are suitable to support the preparation of a Planning Application in alignment with the planning parameters set out in the NSW Housing Pattern Book.
6. **No representations:** However, GANSW makes no representations as to the suitability or adaptability of the Pattern (or any Pattern Adaptation) or the timing, cost or outcome of any Planning Application or any project. In particular, GANSW does not represent or warrant to You that:
  - (a) any Planning Application using the Pattern or a Pattern Adaptation will be approved – such approval is at the discretion of the Consent Authority;
  - (b) the Pattern or any Pattern Adaptation is suitable for construction; or
  - (c) any Accredited Designer or other member of the Project Team engaged by You will be suitable or competent.

### Your access and use of the Pattern

7. **Access:** The Patterns are available at [NSW Housing Pattern Book \(Pattern Book Website\)](#). To access and use a Pattern, You must follow the prompts on the Pattern Book Website to:

- (a) select the Pattern You wish to use for your Building;
- (b) declare the site (including lot address or lot number) that the Pattern will be used for (Site);
- (c) pay the fee to GANSW for access to and use of the Pattern (**Fee**); and
- (d) obtain a receipt from GANSW for the payment of the Fee which will show the date of payment, Site and Your name (**Receipt**), which must be submitted with the Planning Application.

Your completion of these steps confirms Your agreement to, and acceptance of, these Terms, which are final and legally binding in all respects.

8. **Right to use:** On and from Your fulfillment of the steps set out in item 7 above and subject to item 9 below, GANSW grants You the non-exclusive right to use the Pattern, on these Terms, for the purpose of preparing and submitting a Planning Application. The rights granted to You:
  - (a) allow for use of the Pattern to the extent that it is reproduced in any further plans, drawings, documents or built outcomes resulting from Your Planning Application; and
  - (b) also include the rights for You to provide the Pattern to Your Project Team for their use in accordance with these Terms on the basis that You are responsible for any use or Misuse of the Pattern by any member of Your Project Team as if that use or Misuse of the Pattern was by You directly.
9. **No prohibitions:** Any rights granted to You under item 8 are only granted on the basis that You or any member of Your Project Team have not been prohibited from accessing or using the NSW Housing Pattern Book for any reason, including but not limited to as set out in item 19(b).

## Intellectual Property (IP) in the Patterns

10. **IP ownership:** You acknowledge and agree that:
  - (a) all IP subsisting in the NSW Housing Pattern Book, including all Patterns and Pattern Adaptations are owned by and vest in GANSW; and
  - (b) these Terms do not transfer any right, title or interest in any of GANSW's IP, including in the Pattern, to You.
11. **No infringement or ownership claims:** In using the Pattern You must not infringe any IP owned by third parties or make any claims around IP ownership which is contrary to these Terms (particularly, but not limited to, item 10 and the Attribution requirement in item 14).

## Your use of the Patterns

12. **Site and number of Buildings:** You are only permitted to use the Pattern in respect of the Site and for one Building. If You wish to use the Pattern in respect of other lots or for multiple Buildings on a larger lot, You must follow the steps outlined in item 7 and pay the Fee for each additional lot or Building.
13. **Adaptation:** You can only adapt or modify the Pattern in accordance with the Pattern Adaptations.
14. **Attribution:** You must ensure that all Materials bear the following Attribution:

*"Pattern licensed by the Government Architect of NSW. The original architect of the Pattern is [insert name]. All rights in the original Pattern are reserved. The Government Architect of NSW does not endorse or warrant the Pattern as licensed. The terms of licence are available at [Terms and Conditions for Use](#). "*

15. **Permitted use:** You are permitted to use the Pattern only for the Permitted Uses in accordance with these Terms.
16. **Your responsibilities and obligations:** When using the Pattern, You must:
- (a) work with an Accredited Designer to amend the Pattern to reflect the Site and Planning Application submission requirements (for example, updating adjacent buildings and site details);
  - (b) work with an Accredited Designer to complete a Design Verification Statement;
  - (c) select the applicable Pattern Adaptation for the Site (either LMR Housing Area or other location) and the material palette that best aligns with the existing character of the Site's neighbourhood;
  - (d) obtain all necessary professional advice in relation to the Pattern and proposed development of the Site, including but not limited to engineering, planning, energy performance, quantity surveying and compliance;
  - (e) undertake all due diligence for the development of the Site, including but not limited to the viability of the Pattern for the Site and undertaking a Site survey and physical inspections; and
  - (f) prepare and/or obtain all relevant documentation, reports, certifications, consents, etc, required for the relevant Planning Pathway, including but not limited to all construction level documentation required for the Complying Development Pathway.
17. **Media and publicity:** If You wish to engage with or in any marketing, media, awards or any other publicity activities in relation to the NSW Housing Pattern Book or Your use of a Pattern, You must:
- (a) comply with these Terms, including but not limited to items 3, 10, 11 and 14;
  - (b) not make any false or misleading statements or representations (including that authority or approval has been granted by GANSW); and
  - (c) not make any statements that are defamatory, derogatory or likely to bring GANSW and / or the Original Architects into disrepute.

## **Compliance, breach of these Terms and consequences of Misuse**

18. **Compliance with these Terms:** You are required to comply with these Terms during the preparation and submission of the Planning Application and during and after the construction of the Pattern Book Development. You may be required to confirm Your compliance with these Terms (including by producing relevant documents and records):
- (a) in preparing the Design Verification Statement;
  - (b) in the assessment of the Planning Application by the Consent Authority;
  - (c) during or after the construction of the Pattern Book Development;
  - (d) in advertising the sale of the Pattern Book Development (or part thereof); or
  - (e) by GANSW as part of its regular monitoring of the NSW Housing Pattern Book and Your compliance with these Terms.
19. **Consequences of breach or Misuse:** You must not engage in any Misuse of the Pattern. If You breach these Terms or engage in Misuse:
- (a) Your Planning Application may be rejected by the Consent Authority; and

- (b) GANSW may, in its sole and absolute discretion:
  - (i) terminate these Terms, refund the Fee and revoke Your permission to use the Pattern under item 8, in which case, You and Your Project Team will be required to immediately cease all use of the Pattern;
  - (ii) prohibit You from accessing and using the same Pattern or any other Patterns in the future;
  - (iii) publish details of any termination or prohibition pursuant to items 19(b)(i) and 19(b)(ii) above, on a de-identified basis; and / or
  - (iv) take whatever further action it deems necessary to protect its rights and interests in the Pattern, including but not limited to commencing legal proceedings without further notice to You.

## General provisions

- 20. **Assignment:** These Terms and the permissions granted under these Terms are personal to You and may not be assigned, encumbered or otherwise dealt with by You.
- 21. **Governing Law:** These Terms shall be read and construed according to the laws of the State of New South Wales and You submit to the exclusive jurisdiction of the courts of New South Wales.
- 22. **Notices:** A notice or other communication connected with these Terms must be in writing.
- 23. **Relationship:** These Terms do not create any relationship of partnership, employment, principal and agent, or of trustee and beneficiary between You and GANSW.
- 24. **Severability:** Any provision of these Terms that is held to be illegal, invalid, void, voidable or unenforceable must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable. If it is not possible to read down a provision as required by this clause, part or all of the relevant provision of these Terms that is unlawful or unenforceable will be severed from these Terms and the remaining provisions continue in force

## Definitions

The following definitions apply in these Terms:

**Accredited Designer** means a qualified designer or a person accredited as a building designer by the Building Designers Association of Australia.

**Attribution** means the attribution statement set out in item 14.

**Better Placed Objectives** means the 7 Objectives for good design included in GANSW's Better Placed integrated design policy for the built environment of NSW available at <https://www.planning.nsw.gov.au/government-architect-nsw/policies-and-frameworks/better-placed>.

**Building** means one structure that contains no more than:

- (a) 2 dwellings for semis;
- (b) 4 dwellings for manor or row homes; and
- (c) 7 dwellings for terrace homes.

**Complying Development Pathway** means a fast-tracked planning approval process that combines development consent and construction approval which requires construction level drawings that would need to be separately prepared by You (or Your Project Team). This certificate can be issued by a private certifier or council Consent Authority, for development that meets specified predetermined development standards outlined in the *State Environmental Planning Policy (Exempt and Complying Development Codes)* 2008 or other environmental planning instruments. This planning pathway has mandatory time frames for assessment – typically 20 days for low-rise housing projects.

**Consent Authority** means the local council, accredited certifier or other nominated NSW Government authority, with the authority to consent to the particular Planning Application.

**DA** means a formal development application submitted to the relevant NSW local council for permission and approval to construct a building in accordance with the Pattern.

**Design Verification Statement** means a statement by an Accredited Designer that confirms that the Fee has been paid and that design integrity of the original Pattern has been maintained in the site-specific design included in the Planning Application.

**Drawing Disclaimer** means the disclaimer text displayed in the title block of each page of the Pattern.

**Fee** has the meaning set out in item 7(c).

**IP** means patents, trade marks, service marks, rights (registered or unregistered) in any designs, applications for any of the foregoing, trade or business names, copyright and topography rights; inventions, know-how, secret formulae and processes and other proprietary knowledge and information; internet domain names; rights protecting goodwill and reputation; database rights; and all rights and forms of protection of a similar nature to any of the foregoing or having equivalent effect anywhere in the world and all rights under licences and consents in respect of any of the rights and forms of protection mentioned in this definition.

**LMR Housing Area** means a residential zone where the NSW Government's Low and Mid-Rise Housing Policy applies.

**Materials** means all materials including or incorporating the Pattern, including but not limited to:

- references to the Pattern Book Development in any media or publication;
- submitting a building derived from the Pattern into any professional or industry awards;
- any presentations or publications of a built Pattern Book Development;
- any filming, televising or other broadcast of the construction of a building based on the Pattern; or
- any other media or publicity activities.

**Misuse** means any misuse of the Pattern, including:

- (a) any use of a Pattern other than as expressly permitted by these Terms;
- (b) using the Patterns (or any part thereof) for purposes other than the preparation and submission of a Planning Application without the prior written consent of GANSW;
- (c) submitting a Planning Application using the Pattern without including a Design Verification Statement;
- (d) using the Pattern to submit a standard DA, where there has been any modification to the original Pattern other than as expressly permitted by these Terms;
- (e) using the Pattern to build more than one Building on a Site;
- (f) photoshopping or making significant changes to the Pattern, outside the Pattern Adaptations, and / or attempting to pass off the modified design as a Pattern as part of a Planning Application;
- (g) misrepresenting (including but not limited to a Consent Authority) that a design is a Pattern;
- (h) claiming authorship of the Pattern (or part thereof) without attributing the Original Architects;
- (i) selling or profiting from the Pattern through the commercial sale or distribution of the Patterns (or parts thereof);
- (j) falsifying or misrepresenting any aspect of the Pattern in a Design Verification Statement or any other aspect of the Planning Application;
- (k) preparing a Design Verification Statement that asserts that the design integrity of the Pattern has been maintained when that is not so, such as (but not limited to) when significant changes have been made to interior layouts, façade details or the size and scale of the building;
- (l) removing the Drawing Disclaimer, any other disclaimers and GANSW or NSW Government logos on drawings to distribute the Patterns without authority or reference to GANSW, the Original Architects or these Terms; and / or
- (m) undertaking any construction using the Pattern, without seeking the technical input of an Accredited Designer.

**NSW Housing Pattern Book Project** means the project conducted by GANSW for the production of low and mid-rise residential building designs for inclusion in the NSW Housing Pattern Book and associated Planning Pathways.

**NSW Housing Pattern Book** means the compilation of all Patterns as available on the Pattern Book Website. Documents include but are not limited to architectural drawing packs, CAD drawing files, landscape guidance and BASIX information sheet.

**Original Architects** means the original architects who were commissioned by GANSW to create the Patterns.

**Pattern** means the housing design drawing pack purchased by You from the Pattern Book Website, including (to the extent made available to You) the architectural drawings, building plans, CAD drawings, specifications and supporting guidance developed under the NSW Housing Pattern Book Project for low-rise residential buildings.

**Pattern Adaptations** means the prescribed options and limitations for the modification and adaptation of the Patterns as contained in the Pattern's architectural drawing pack.

**Pattern Book Development** means a development utilising the Pattern that complies with all relevant requirements (including these Terms) and only modifies the Pattern in accordance with the Pattern Adaptations.

**Pattern Book Website** has the meaning set out in item 7.

**Permitted Uses** means use of the Pattern, including but not limited to:

- (a) submitting a Planning Application for the Site, using drawings or design adaptations derived from the Pattern;
- (b) importing or copying architectural drawings of the Pattern into 2D or 3D drawing software for the purposes of preparing any other architectural drawings associated with the Planning Application for the Site;
- (c) distributing the Pattern to Your Project Team members;
- (d) marking up or redrawing parts of the Pattern by You or a member of Your Project Team for the provision of professional and technical advice in relation to the development of the Site;
- (e) editing any Site-specific information, such as surrounding buildings, relative levels and annotations to suit the Site;
- (f) making minor edits to the architectural drawings of the Pattern in accordance with the Pattern and Pattern Adaptations;
- (g) minor edits to architectural renders to make these Site-specific, if the façade design of the original Pattern is unchanged;
- (h) preparation of technical drawings, such as construction details, kitchen and bathroom designs, joinery packages, door and window schedules or shop drawings that consider and align with the design of the Pattern; and / or

- (i) distributing the Pattern to a builder, developer or tradesperson for the purposes of seeking quotations, provided that the Drawing Disclaimer is displayed on the Pattern and it is made explicit in writing that the Pattern (or any part thereof) is for information only and not for construction.

**Planning Application** means an application for the construction of the Pattern Book Development to be submitted to a Consent Authority via a Planning Pathway.

**Planning Pathway** means a permitted planning pathway for a Pattern Book Development being either:

- (a) the Complying Development Pathway; or
- (b) the standard DA planning pathway (for sites that are not suitable for the Complying Development Pathway)

as applicable.

**Project Team** means:

- (a) any clients who have engaged You to make use of the Pattern; and / or
- (b) any agents, contractors or professional advisers engaged by You (including Accredited Designers, engineers, planners, surveyors, interior designers or other technical consultants) for the purpose of Your use of the Pattern

for preparation or submission of a Planning Application or construction and development of the relevant Pattern Book Development.

**Receipt** has the meaning set out in item 7(d).

**Site** has the meaning set out in item 7(b).

**You** or **Your** refers to the person or entity who has accessed the Pattern, paid the Fee and otherwise completed the steps outline in item 7 of these Terms.