

Enabling development outcomes on Aboriginal land

Program Guideline

August 2026



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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1 Overview

Activating of Aboriginal-owned land is a central part of realising the aspirations of Aboriginal communities across NSW. Land activation projects can deliver economic, social, environmental and cultural benefits to Aboriginal communities by enabling housing, employment and economic development opportunities. Aboriginal land owners have raised the need for support and appropriate resources to effectively activate their land.

In response, the NSW Government, Local Government NSW and the NSW Coalition of Aboriginal Peak Organisations (CAPO) have worked in partnership to develop the Closing the Gap Implementation Plan 2025–2028.¹ As part of the implementation plan, the NSW Government has committed to an End-to-End Land Activation Pilot Program.

To support the Pilot Program, and to prioritise the unique challenges faced by Aboriginal communities, the NSW Government has introduced a clear and streamlined rezoning pathway under the State Significant Rezoning Policy. The process outlined in this Guideline supports Local Aboriginal Land Councils (LALCs) and Prescribed Body Corporates (PBCs) to rezone land to deliver benefits to Aboriginal communities.

The process is flexible, giving Aboriginal landowners the choice of a proponent-driven approach, or a state-led approach with appropriate co-design measures. It also allows for concurrent rezoning proposals and development applications, further streamlining the assessment and approval process to facilitate development outcomes on Aboriginal land.

More effective and streamlined planning of appropriate sites will help remove barriers to activating Aboriginal-owned land. Beginning in 2026, the NSW Department of Planning, Housing and Infrastructure (the Department) will accelerate strategically and economically important rezonings and concurrent rezonings and development applications that are designed to deliver Aboriginal outcomes. The process will be managed by a dedicated project delivery team within the Department.

¹ https://www.nsw.gov.au/sites/default/files/noindex/2025-10/nsw-closing-the-gap-implementation-plan-2025-2028_0.pdf

2 Guidance

2.1 About the rezoning pathway

The Department is implementing a streamlined pathway for rezonings on Aboriginal-owned land. This pathway forms part of the Department's End-to-End Land Activation Pilot Program, an initiative of the *2025–2028 NSW Implementation Plan for Closing the Gap*.

The process is consistent with the objectives of the *Aboriginal Land Rights Act 1983* (ALR Act) by supporting Aboriginal peak bodies and land councils with the management of their land for the benefit of the Aboriginal community.

The process is also consistent with the objectives of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The EP&A Act allows the Governor of NSW to make environmental planning instruments that can amend planning controls for matters that – in the opinion of the Minister for Planning – are of State or regional significance for environmental planning (section 3.29, EP&A Act).

This guideline forms part of the *State Significant Rezoning Policy*² and proposals will be evaluated by the State Significant Rezoning Policy Evaluation Panel (the Panel). This pathway is similar to the rezoning pathway for State agencies to deliver social and affordable housing, outlined in the guideline for *Prioritising rezonings that deliver social and affordable housing*³.

2.2 Key objectives

The objectives of the pathway are to:

- Facilitate social, cultural and economic outcomes on Aboriginal-owned land (including the delivery of housing, open spaces, cultural centres, and jobs) by creating a specific rezoning pathway under the State Significant Rezoning Policy.
- Collaborate with Aboriginal landowners, organisations, and peak bodies to support Aboriginal community outcomes and increase understanding of the NSW planning system.
- Support Aboriginal landowners to balance development potential with environmental and cultural significance and management.

² <https://www.planning.nsw.gov.au/plans-for-your-area/state-significant-rezoning-policy>

³ <https://www.planning.nsw.gov.au/sites/default/files/2024-05/prioritising-rezonings-that-deliver-social-affordable-housing-program-guideline.pdf>

2.3 Key definitions

Aboriginal Land is land owned or managed by a LALC constituted under the ALR Act or owned or managed by a Registered Native Title Body Corporate, commonly known as a Prescribed Body Corporates (PBCs), who are native title holders under the *Commonwealth Native Title Act 1993*.

A **community, land and business plan** is a strategic plan outlining goals for land management, land acquisition and development, economic development, community benefit schemes and services, cultural heritage, and other key strategic areas for LALCs in NSW, mandated by Division 6 of the ALR Act.

2.4 Site eligibility

The following eligibility criteria will need to be met for a proposal to be considered for the pathway:

- The proponent must be a representative of a LALC or a PBC.
- The proposal is supported by the board/leadership of the relevant LALC, PBC, or demonstrates consistency with a relevant LALC community, land and business plan.
- The proposal is suitable for a State Significant rezoning pathway if:
 - It is not an active planning proposal.
 - It can benefit from a State rezoning pathway to expedite delivery and resolve complexities.
 - The rezoning can be delivered within two years.

Meeting the site eligibility criteria does not guarantee placement in the pathway. All eligible sites will be evaluated by the evaluation criteria set below prior to selection into the pathway.

2.5 Evaluation criteria

The Panel will evaluate proposals prior to their acceptance into the pathway. The Panel will consider the following criteria:

- Alignment with State policies, local land use strategies, delivery of current Government priorities, and compliance with relevant planning legislation.
- Delivery of meaningful outcomes for Aboriginal communities in terms of the scale of dwellings, jobs, economic benefit, and/or any broader public benefits.
- Any infrastructure and delivery impediments are manageable and/or have a clear pathway to resolution.
- Any environmental constraints including flooding, bushfire, ecology, and contamination are manageable and/or have a clear pathway to resolution.

3 Rezoning process

3.1 Rezoning pathway

An overview of the process, key milestones and indicative timeframes for each rezoning pathway is outlined in section 1.3 of the State Significant Rezoning Policy.⁴ Under the Policy proposals may follow the State-assessed rezoning (SARP) pathway, the State-led rezoning (SLR) pathway, or any alternative deemed appropriate by the Panel, including a concurrent rezoning and development application. The appropriate pathway for each proposal is determined by the Panel upon a proposal's acceptance into the pathway.

The Panel may, at their discretion, utilise elements from either process or change the pathway completely in response to the specific requirements of each proposal. This includes consideration of concurrent proposals, a streamlined process where the assessment of the rezoning proposal and development application are integrated. Should a concurrent proposal be undertaken, the development application may progress as either a state significant or local development application, depending on type and scale of the proposed development.

3.2 Site nomination and proposal evaluation

The Department will identify and nominate potential sites or proposals for this pathway and will prepare a candidate profile and supporting materials for consideration by the Panel. The Panel's evaluation considers key matters and outcomes before endorsement to proceed as a state significant rezoning.

3.2.1 Site nominations

Site nomination is an internal process and may include consultation with key stakeholders including state agencies, authorities, the NSW Aboriginal Land Council (NSWALC) and councils as necessary. Sites may be also identified by the Aboriginal Planning Concierge as part of ongoing support for LALCs and Aboriginal landowners.

Prior to consideration by the Panel, potential sites will be reviewed and considered in line with the Department's policy on enabling outcomes on Aboriginal land.

3.2.2 Required documentation

The Department will prepare a candidate profile, informed by available information from the proponent. Eligible proponents may also be invited by the Department to submit a scoping proposal and/or supporting information to inform a candidate profile.

⁴ <https://www.planning.nsw.gov.au/sites/default/files/2024-09/state-significant-rezoning-policy.pdf>

Scoping proposals should be aligned to the Department's Scoping report Template (Module 1 of the Department's guidance on Making and Amending LEPs).⁵ The Department may also determine further technical advice is required to support a scoping proposal or candidate profile.

The proponent for each proposal must include sufficient information for the Department to clearly identify them as a legal entity.

3.2.3 Proposal evaluation

The Panel will evaluate proposals prior to their acceptance into the pathway. The Panel will consider whether proposals meet the eligibility and evaluation criteria (outlined in sections 2.4 and 2.5 of this guideline) and determine the proposal's acceptance into the pathway.

3.2.4 Assessment outcomes and debriefs

Proponents will be notified in writing of the Panel evaluation outcome. Successful proponents will be invited to an initial project plan meeting to outline project parameters including (but not limited to): rationale on the chosen pathway, the level of involvement and/or partnership from the LALC or PBC, requirements and any deliverables from the proponent to progress the proposal, key delivery dates and expected timeframes, any applicable fees as well as requirements for any service agreements.

Unsuccessful proponents may request a debrief regarding the assessment of their proposal. The debrief may be undertaken by any Departmental representation as identified by the Panel.

The purpose of a debriefing is to provide information about how the rezoning proposal performed against the assessment criteria. A debriefing will not provide a comparison between rezoning proposals.

The Department has discretion in allowing unsuccessful proponents the opportunity to address issues identified by the Panel by re-submitting an updated scoping proposal.

3.3 Preparation of rezoning proposal

Following the endorsement of sites under the guideline and determination of a rezoning pathway, the rezoning proposal and any required technical or supporting studies are undertaken, as well as any necessary engagement with local councils and other key stakeholders. This is led by either the proponent or the Department, depending on the specific pathway for the proposal determined by the Panel.

For State-led rezonings, the preparation of the rezoning proposal and supporting studies will be led by the Department in partnership with the relevant Aboriginal landowner or their nominated representative. The Department and the Aboriginal landowner will together determine an appropriate

⁵ The Scoping Report Template can be found under 'Resources and tools' on this webpage <https://www.planning.nsw.gov.au/plans-for-your-area/local-planning-and-zoning/making-and-amending-leps>

co-design process to achieve the land use outcomes envisioned for the site. Where a co-design process is undertaken, the Department may be responsible for preparing the rezoning proposal, supporting studies and the engagement and management of any technical consultants. The Aboriginal landowner may be responsible for engagement with Aboriginal community, commitment to the co-design process and sharing of knowledge where the Aboriginal community deems appropriate.

For State-assessed rezoning proposals, the Aboriginal landowner is responsible for leading the preparation of the rezoning and any required technical or supporting studies. These will then be submitted to the Department for assessment.

For concurrent rezoning and development applications the Aboriginal landowner is also responsible for the preparation of any DA-level documentation, with the Department as the assessment authority.

When necessary, the Department may also undertake engagement with NSWALC or Native Title Service Provider NSW (NTSCORP) and relevant Traditional Custodians and community representatives who may speak for Country during the preparation of rezoning proposals.

3.4 Exhibition

3.4.1 Explanation of Intended Effect

In accordance with the EP&A Act, the Minister of Planning and Public Spaces will consider whether exhibition of an Explanation of Intended Effect (EIE) is appropriate or necessary (section 3.30). It is at the Minister's discretion to exhibit an EIE and will depend on the specific nature of each rezoning proposal. If exhibition is considered appropriate, the Department will prepare the EIE to accompany the exhibition of the rezoning proposal under the State Significant Rezoning Policy. The EIE will outline the intended effect of the proposed environmental planning instrument and rezoning proposal.

3.4.2 Technical information

Technical information will be included in the exhibition package. This will ensure that all required constraints are appropriately considered and management to suitable standards documented as required for any rezoning proposal lodged within NSW.

3.4.3 Public exhibition

In accordance with the EP&A Act, the Department will publicly exhibit the EIE and rezoning proposal if the Minister considers it appropriate or necessary to do so. The Department will evaluate and assess comments on the proposal to determine if the instrument is to be made.

The Department may also provide appropriate support for engagement with Aboriginal communities, a detailed consideration of which will be provided to the Department by the Aboriginal party. This will ensure where appropriate, culturally sensitive information is managed by Aboriginal community.

3.5 Post-exhibition

The Department will prepare a finalisation report for each rezoning proposal. The report will address submissions received during exhibition (if exhibition was required for the relevant rezoning proposal).

The Department will coordinate any necessary post-exhibition changes for State-led rezoning proposals in response to submissions received.

3.6 Finalisation

The Department will liaise with the NSW Parliamentary Counsel's Office for the preparation/finalisation of all necessary environmental planning instruments. The Department will be responsible for any necessary maps, as well as preparing and finalising the final briefing package for Government approval.

4 Guideline Information

4.1 Probity

The evaluation and rezoning process will be subject to strict governance and probity to ensure a fair and transparent assessment process. The Department will make all decisions under the process, in keeping with relevant guidelines, policies and plans.

An independent probity adviser will, as an independent observer, monitor key aspects of the process and give 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.

4.2 Non-conforming proposals

The Department expects all proposals to conform with the requirements in these guidelines. Any proposal that is incomplete or that modifies the requirements in these guidelines will be a non-conforming proposal and will be set aside.

Despite the above paragraph, where a proposal is non-conforming but otherwise meets the objectives of the guideline, the Department may, in its absolute discretion, consider or accept the proposal provided that the Department is satisfied that doing so does not affect the integrity of the process.

4.3 Communication and program contacts

Proponents may ask the Department questions regarding the evaluation of proposals by email to the State Significant Rezoning team at ssr@dpie.nsw.gov.au. Enquires for endorsed proposals should be directed to the relevant project contact within the Department.

4.4 No legal relationship

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

No proponent shall have any claim for compensation of any kind whatsoever after participating in this process and or submitting any scoping proposal or supporting documentation. Each proponent shall be deemed to have agreed that it has no claim.

4.5 Service agreement

To improve collaboration between proponents and the Department, the proposals are to progress in keeping with the requirements of a service agreement established with the proponent, providing clear governance and procedural matters within a consistent framework.

This will include:

- the rules of engagement and a commitment to efficient information exchange
- the implementation of the co-design process, including commitments by the Department and the proponent
- appropriate communication channels
- confidentiality of information.

4.6 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 rezoning and selection process and without giving reason, to:

- issue addenda to these guidelines and any addenda issued will become part of the guidelines and must be addressed by proponents in their proposal
- change, vary or amend the guidelines
- suspend, amend, vary or discontinue the process
- have regard to the Department's (or another NSW Government agency's) knowledge and previous experience and dealings with any proponent and information about the past or current performance of a proponent under any contract, arrangement or agreement with the Department or other government entity.

The Department's decision in such matters will be final, and the Department will not be liable to a proponent because the Department has exercised any or none of its rights.

4.7 Disclosure of information

Information submitted in scoping proposals or as part of the rezoning process may be shared with other NSW Government departments.

Any information a proponent gives may be used for promotional material prepared by the Department or the NSW Government.

The Department or the NSW Government may use information provided to develop case studies.

4.8 Confidentiality

If a proponent considers that any information disclosed during the process is confidential, the proponent must clearly indicate that such information is confidential. The Department has an obligation to protect confidential proponent information. The Department, in its sole discretion, shall determine if the information is confidential in nature and, if it considers that the information is not confidential, it will give the proponent the opportunity to withdraw the information.

Any information that is made available on condition that it is treated as confidential (Confidential Information) by the proponent must not be disclosed, copied, reproduced, distributed or passed to any other person at any time except for the purpose of progressing the proposal.

A proponent 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.

4.9 Indigenous Cultural and Intellectual Property

The Department has adopted its *Indigenous Cultural and Intellectual Property (ICIP) Protocol*⁶ in October 2024. This protocol outlines the Department's obligation to ensure the protection of ICIP as part of its work with Country, Aboriginal peoples and communities in NSW.

The Department's *Aboriginal Customer Strategy* outlines its commitment to place the needs, values and lived experience of Aboriginal peoples and their communities at the centre of its services and program design.

The preparation and implementation of this policy have been undertaken with consideration of the Department's obligations and commitments under both the *ICIP Protocol* and *Aboriginal Customer Strategy*.⁷ ICIP, cultural safety and data sovereignty will be considered from the outset of any rezoning under this guideline.

4.10 Government Information (Public Access) Act 2009 (NSW)

The Department may make information in proposals and all related correspondence, attachments and other documents publicly available under the Government Information (Public

⁶ <https://www.nsw.gov.au/departments-and-agencies/aboriginal-affairs-nsw/intellectual-property>

⁷ <https://www.nsw.gov.au/sites/default/files/noindex/2025-10/dphi-aboriginal-customer-strategy.pdf>

Access) Act 2009 (NSW), also known as the 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 proposals for government information
- restricting access to information only when there is an overriding public interest against disclosure.

4.11 Acknowledgements

Proceeding with a rezoning under the State Significant Rezoning Policy means the proponent has accepted these conditions.

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