



15 December 2021

Dear General Manager

I am writing to advise you that the Hon. Rob Stokes, Minister for Planning and Public Spaces and Minister for Transport and Roads has recently made the Environmental Planning and Assessment (Statement of Expectations) Order 2021.

The Order sets out clear expectations as to what constitutes an efficient and effective planning system and one that business and the community can have confidence in. It sets benchmarks for council performance in the areas of development assessment, planning proposals and strategic planning. A copy of this Order is attached.

You will also be aware that the Government has placed similar performance expectations on the Department of Planning, Industry and Environment (the Department) and other agencies with approval roles in the planning system. There are also new requirements on industry to improve the timeliness and quality of development applications. More information about these performance expectations and recent planning system reforms is available at www.planning.nsw.gov.au/Policy-and-Legislation/Planning-reforms/Planning-Reform-Action-Plan.

During the last two years, councils and government agencies have been working hard to ensure we have an efficient and effective planning system that is able to support the state in its economic recovery from the COVID-19 pandemic. It is the planning system that has allowed businesses to adapt and thrive, that has given people the confidence to invest in New South Wales and that has supported jobs across the economy.

I wish to acknowledge how hard councils have worked during the pandemic to ensure timely decision-making and in supporting the significant amount of planning reform that has occurred. New South Wales now has a planning system that is managed digitally through ePlanning, which makes consent authorities and Government agencies more accountable for their performance. We also have a planning system that is increasingly strategically led and where the community can have confidence in the planning decisions that are being made.

As you are aware, slow decision-making, whether by Government agencies or a council, is the enemy of public confidence in the planning system and leads to bad economic, social and environmental outcomes. The work that we have all done over the last two years has put the planning system in good stead and has allowed for new performance indicators to be set. The performance indicators outlined in the Minister's Order should not be seen as aspirational but as achievable and critical to the effective functioning of the planning system.

The Minister has decided to outline his clear expectations for the planning system in the attached Order so that incoming councillors are aware of the importance of an efficient and effective planning system in supporting a strong economy and delivering better places. It is also important to note that for the first time incoming councillors will be provided an induction on the planning and their role in ensuring the planning system as efficiently as possible. Accordingly, I would encourage you to table this letter and Order at your first available council meeting.

I look forward to continuing to work productively with you in meeting these performance indicators. As always, the Department is here to assist you if you feel you have any issues in meeting any of these expectations. As always, feel free to reach out to the Planning Delivery Unit or the Department's regional planning teams if your council needs further support or guidance. By continuing to work together, I am sure we will be able to build a stronger, more resilient economy and a planning system that meets the expectations of business and the community.

Yours sincerely

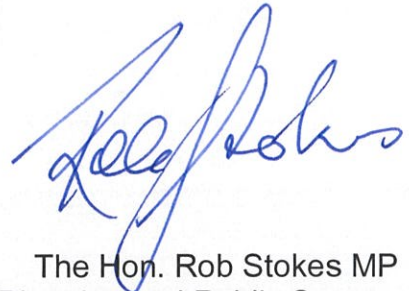
A handwritten signature in black ink, appearing to read 'Kiersten Fishburn', with a stylized, flowing script.

Kiersten Fishburn
Secretary

Encl. Environmental Planning and Assessment (Statement of Expectations) Order 2021

Environmental Planning and Assessment (Statement of Expectations) Order 2021

I, Rob Stokes, the Minister for Planning and Public Spaces, make this Order under section 9.6(9) of the *Environmental Planning and Assessment Act 1979*.



The Hon. Rob Stokes MP
Minister for Planning and Public Spaces

Dated: 26th November, 2021.

Explanatory note

The object of this Order is to set expectation for councils in relation to their performance of a range of planning and development functions under the *Environmental Planning and Assessment Act 1979*. If a council is found not to be meeting these expectations, the Minister can take these matters into consideration as part of determining if it is appropriate to appoint a planning administrator or regional panel to exercise a council's functions. It is made under section 9.6(9) of the Act.

Contents

Part 1 Preliminary

- 1 Name of Order
- 2 Commencement
- 3 Definitions

Part 2 Planning and development matters

- 4 Heads of consideration
- 5 Minister's expectations

Environmental Planning and Assessment (Statement of Expectations) Order 2021

under the

Environmental Planning and Assessment Act 1979

Part 1 Preliminary

1 Name of Order

This Order is the *Environmental Planning and Assessment (Statement of Expectations) Order 2021*.

2 Commencement

This Order commences on the day it is published on the NSW Planning Portal.

3 Definitions

(1) In this Order—

the Act means the *Environmental Planning and Assessment Act 1979*

Department means the Department of Planning, Industry and Environment.

Gateway determination means a determination made by the Minister (or delegate) under section 3.34 of the Act.

LEP means a local environmental plan.

LSPS means a local strategic planning statement.

Minister means the Minister for Planning and Public Spaces.

Minister's expectations means the expectations of the Minister in relation to the performance of a council in dealing with planning and development matters, as set out in clause 5 of this Order.

Note. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Order.

(2) Words used in this Order have the same meaning as words used in the Act.

(3) Notes included in this Order do not form part of this Order.

Part 2 Planning and development matters

4 Heads of consideration

The heads of consideration to be taken into consideration in exercising the power under s.9.6(1)(b) of the Act are:

- (a) Whether or not the Council has failed to meet the Minister's expectations in relation to council performance.
- (b) The frequency and degree to which the council has performed, or failed to perform, in accordance with the Minister's expectations.
- (c) The range and type of planning and development matters in respect of which the council has performed, or failed to perform, in accordance with the Minister's expectations.
- (d) Whether or not an appointment under s.9.6(1)(b) should be made in relation to one or more of a particular class of planning and development matter, or all planning and development matters dealt with by the council.
- (e) The effect of any caretaker period preventing a council's performance in dealing with the planning and development matters (or any particular class of such matters) as set out in clause 5.
- (f) The public interest.

5 Minister's Expectations

(1) Development assessment

A council should:

- (a) prepare assessment reports for a regionally significant development application and refer it to the relevant Regional Panel as soon as practical and no longer than 250 days from lodgement.
- (b) determine a development application for which it is the consent authority as soon as practical and no longer than 180 days from lodgement.
- (c) report a development application for which its functions as a consent authority are exercisable by the local planning panel to the panel for determination within 4 weeks of a request from the panel chair.

(2) Planning proposals

A council should:

- (a) Make a decision as to whether to support or not a proponent led planning proposal (rezoning) as soon as practical and no longer than 90 days, or
- (b) submit a proponent led planning proposal for a Gateway determination as soon as practical and no longer than 90 days after having indicated its support for the planning proposal,
- (c) publicly exhibit a planning proposal or hold a public hearing in line with the conditions of a Gateway determination,

- (d) consider or respond to public submissions on a draft LEP in accordance with their community participation plan,
- (e) make a LEP, which has been delegated to the Council, in the timeframes specified in a Gateway determination.

(3) **Strategic planning obligations**

A council should :

- (a) prepare a LSPS for its local government area that meets the requirements for these statements under the Act,
- (b) undertake the required review of its LSPS,
- (c) give effect to a regional and/or district strategic plan applying to the LGA, including carry out a review of the LEP under section 3.8(3) of the Act,
- (d) give effect to an adopted local planning strategy (such as a Local Housing Strategy), and any approval requirements issued by the Department,
- (e) consider State Environmental Planning Policies or other strategies and policies of the Government, the Minister or the Department concerning planning and development matters.