

December 2021

A new approach to rezonings

The NSW Department of Planning, Industry and Environment has released a discussion paper, A new approach to rezonings, as an initiative of the Planning Reform Action Plan.

Read [A new approach to rezonings](#) online.

What is the Planning Reform Action Plan?

The Planning Reform Action Plan outlines how long-term structural reform of the NSW planning system to help unlock NSW's productivity and leave a legacy of great places for the community.

As NSW recovers from the impacts of the COVID-19 pandemic, we need a planning system that will help to retain and attract investment in NSW, and ensure industries, such as construction and property, can continue to employ many people across the state.

The planning system should also work in a way that helps to protect the environment, create social and affordable housing, and drive quality design and great public spaces.

As the action plan establishes improvements to the NSW planning system, it also builds on initiatives such as the Planning System Acceleration Program and Planning Delivery Unit.

How does the discussion paper respond to the action plan?

As part of the action plan, we've looked at how to reduce timeframes for assessing planning proposals, streamline processes and introduce a new class of merit appeals in the Land and Environment Court for planning proposals.

Our focus on the appeals process acknowledges that while the planning system gives some opportunity to review decisions about planning proposals, there is no oversight of a final rezoning decision based on the merits.. This is at odds with the development application process, which allows a merit appeal where an applicant is dissatisfied with the outcome of an application or where there has been a delay.

Any review processes for planning proposals only occur in early stages, with no recourse available towards the end of the proposal process. We've therefore developed a response where an appeal or review pathway can be a circuit-breaker while also allowing greater scrutiny of decisions.

What is the new approach to rezonings?

It can take several years to finalise a rezoning, with the average end-to-end processing times rising to an average of 114 weeks in 2019. Since 2019, we've worked to clear the backlog of older planning proposals and reduce processing times – these were down to an average of 89 weeks by 30 June 2021.

We also know the rezoning process can be inconsistent, duplicative and uncertain.

We've therefore developed a new approach that:

- simplifies the rezoning process and minimises duplication
- improves transparency and the consultation process
- reduces processing timeframes while creating more certainty and consistency
- empowers councils to make decisions on matters important to their communities while allowing the NSW Government to deal with matters where government intervention is beneficial
- gives private proponents control and responsibility for rezoning requests
- improves the quality of planning proposals.

How was the new approach developed?

We've talked to many stakeholders to understand how best we can reduce processing times, increase quality place-based outcomes and establish a workable appeals or review pathway.

Our engagement process included:

- nine workshops, attended by 63 councils
- survey feedback from 75 councils
- internal workshops and meetings with state agencies
- presentations to industry representatives
- meetings with regional planning panel members
- one-on-one meetings with councils and industry, where required.

We also worked through working groups including councils, industry and Land and Environment Court users – as well as state agencies, and regional and district planning panels – on the initiative for a new appeals pathway.

How does the new approach link to the new Local Environmental Plan Making Guideline?

Following extensive consultation, we've established several initiatives to optimise the existing planning proposal process, including the release of the new Local Environmental Plan Making Guideline (LEP Guideline) which includes:

- best-practice process and procedures to assist in the timely assessment of planning proposals
- targeted pre-lodgement services
- clear benchmark timeframes for steps in the process
- categorisation of planning proposals to inform timeframes as well as information and public exhibition requirements
- clearer roles and responsibilities throughout the process.

The LEP Guideline will deliver immediate improvements to the existing process. The discussion paper sets out a broad, longer term reform framework that incorporates aspects of the LEP Guideline but then goes significantly beyond those immediate process improvements.

What rezonings will be subject to the new approach?

We use the term ‘rezonings’ rather than ‘planning proposals’ in the new approach – by rezoning, we mean all changes to local environmental plans (LEPs) or, in limited circumstances, a State Environmental Planning Policy (SEPP) that use the existing planning proposal process, even though every change may not actually ‘rezone’ land.

For example, a proposal to increase the height and floor space ratio limit on a site, but not to change the zoning, is still a ‘rezoning’ for the purpose of the new approach.

The new approach would not be intended to replace rezonings typically undertaken using a SEPP, such as state-led rezonings.

What does the new approach mean for different decision-makers?

The new approach seeks to give **councils** greater control over local decision-making, with appropriate checks and balances to encourage councils to make timely and high-quality decisions.

This means the **NSW Government** can be focused on dealing with matters where state-level intervention can bring benefits.

What does the new approach mean for proponents?

Existing legislation does not directly acknowledge proponent-initiated planning proposals – instead, councils undertake these proposals on behalf of proponents. Around 45% of all planning proposals finalised between July 2018 and June 2020 were proponent-initiated. Recourse mechanisms where there is delay or proposals are rejected are concentrated toward the early stages of the planning proposal process.

The new approach acknowledges the role of proponents, provides greater access to state agencies and provides greater clarity and consistency on timeframes.

When can the new approach be used?

Not yet. The discussion paper is released for feedback on various aspects of a high-level framework. If the framework is ultimately put into action, in full or in part, it will be subject to a detailed implementation plan, which will include any necessary transitional arrangements for existing proposals in the system at that time.

For now, existing and future planning proposals will follow the current planning proposal process.

What is the exhibition process?

We are exhibiting the discussion paper until 28 February 2022. To provide feedback visit the [Planning Portal](#).

We’ve presented discussion questions throughout the discussion paper – you don’t need to answer these in your submissions; they are simply there to prompt feedback and discussion.

Once the exhibition period finishes, we will consider submissions and develop a preferred approach, which may require changes to the *Environmental Planning and Assessment Act 1979*.

Any new approach will be accompanied by policy guidance and education for industry and councils to ensure a smooth transition and to minimise disruption and uncertainty.

We anticipate that the new framework will come into effect in 2022.

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Frequently asked questions



Where can I find more information?

For more information, email the policy team at planninglegislativereform@planning.nsw.gov.au or contact us through [our online form](#).

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