

15.4 Quarterly Development Assessment & Housing Approvals/Completion Report - July to September 2024

CSP Objective: Outcome 4.2: We are well connected within our local community, and to our region.

CSP Strategy: 4.2.2 Manage landuse planning to retain distinct towns and villages.

Delivery Program: 4.2.2.1 Ensure Council's planning systems and processes are contemporary and transparent

Summary

The purpose of this report is to provide Council with an update on the Development Application Lodgement and Assessment timeframes for the period July to September 2024 (Q1 2024/25) as well as providing housing approvals and completions data for the same period.

On 4 July 2024, the NSW Planning Minister issued a Statement of Expectations Order to all councils in NSW regarding lodgement and assessment timeframes. This information is now available in the NSW Government's Council League Table.

On 29 May 2024, the Secretary of the Department of Planning, Housing and Infrastructure has issued 5-year housing targets for all Councils within the Six Cities Region, including Kiama. As a component of the National Housing Accord, Kiama's housing target is 900 new completed homes by 2029.

It is recommended that Council note the information in this report, continue to advocate for changes to the calculation methods so they are reflective of Council's processing times and to require a further report for the December 2024 quarter timeframes.

Financial implication

Council has a statutory role to assess and determine Development Applications (DAs) that are lodged on land within the Kiama LGA. The assessment of these applications is generally carried out by internal staff and for some applications external contractors are engaged.

Income generated from DAs, and associated certificates etc., is included in the adopted 2024/25 budget. These figures have been derived from analyzing Da trends from previous years and are therefore subject to change.

Good practice in development assessment will have an indirect financial benefit to Council through reduced legal costs and better planning outcomes.

Ensuring appropriate dwelling approvals are issued within the LGA will also have flow on financial impacts for the Council as increases in dwellings can lead to an increase in rates income.

Failing to meet housing targets will reduce the Council's ability to access State and Federal funding associated with the National Housing Accord.

Risk implication

The processing of planning and development related applications is an essential service and legislative requirement of local governments. Planning applications are processed in accordance with the provisions of relevant state government legislation.

Report of the Director Planning, Environment and Communities

15.4 Quarterly Development Assessment & Housing Approvals/Completion Report - July to September 2024 (cont)

As flagged above, delays in assessment timeframes can lead to an increase in litigation activities.

The purpose of the Statement of Expectations Order is to outline the circumstances when the Minister could determine to revoke a council's planning and development functions (i.e. assess and determine DAs etc.). If a council routinely fails to meet these timeframes the Minister may remove the Council's planning functions.

It is likely that, given the Ministerial Expectations, Council will need to cease being lenient with applicants and be more inclined to refuse deficient applications rather than working through and resolving issues for our customers, which will negatively affect customer satisfaction.

Failure to ensure appropriate dwelling approvals are issued could also result in the Minister removing the Council's planning functions.

Policy

The following local and state policies and legislation are relevant:

- Environmental Planning and Assessment Act 1979.
- Environmental Planning and Assessment Regulation 2021.
- NSW Planning Minister Statement of Expectations Order.
- Kiama Council Development Assessment Policy 2024.

Consultation (internal)

The Planning and Economic Development team have a small working group that meets regularly on an ongoing basis to review current processes, timeframes and to identify improvements

Communication/Community engagement

Council routinely undertakes community engagement associated with its Development Assessment process in accordance with the adopted Kiama Community Participation Plan (CPP) 2019.

Council's Development Assessment Policy was publicly exhibited and is available on Council's website.

Attachments

- 1 Ministerial Statement of Expectations [↓](#)

Enclosures

Nil

RECOMMENDATION

That Council:

Report of the Director Planning, Environment and Communities

15.4 Quarterly Development Assessment & Housing Approvals/Completion Report - July to September 2024 (cont)

1. Receive and note the Development Assessment timeframes and housing approvals and completions between July-September 2024.
2. Note that a similar report will be provided at the ordinary February 2025 meeting for the October-December 2024 period.
3. Continue to advocate changes to the Council League Table calculation method to ensure that additional information requests (ie stop the clock), amended plans (ie revised proposal) and Land and Environment Court deemed refusal timeframes are acknowledged and excluded from the Council assessment times.

Item 15.4

Background

This report is the first of the Planning & Development Team's quarterly Development Assessment & Housing Approvals/Completions Report.

A similar report was provided to the elected Council several years ago, and this regular reporting is now being reinstated.

At their ordinary July 2024 meeting, Council endorsed the Development Assessment Policy (DA Policy). The DA Policy provides the framework to improve our development application (DA) and complying development certificates (CDC) assessment times, systems, strategic framework, customer experience, responsiveness, and communication to applicants. It also outlines the process for how Council will identify and manage conflicts of interest in relation to Council related development applications.

It is important that the Council monitors its assessment timeframes etc. as part of an effort to continuously improve its DA and associated certificate/application process.

Statement of Expectations

In addition to need to self-monitor, on 1 July 2024, the Minister for Planning and Public Spaces signed the *Environmental Planning and Assessment (Statement of Expectations) Order 2024* (Attachment 1) and this was issued to all councils in NSW on 4 July 2024.

The Order sets out the Minister's expectations in relation to all councils' performance in dealing with Development Application lodgement and assessment:

The Ministerial Order sets new benchmarks for council performance on development assessment, planning proposals and strategic planning. The benchmarks are based on past performance and reasonable timeframes for each area. The expectations set out in the updated order include:

- *updated minimum performance standards for determining development applications.*
- *a new standard for lodgement times.*

The Order outlines that the Minister expects Kiama Municipal Council to lodge and determine development applications within the following timeframes:

Report of the Director Planning, Environment and Communities

15.4 Quarterly Development Assessment & Housing Approvals/Completion
Report - July to September 2024 (cont)

Application type /DA process	1 July 24 - 30 June 25	1 July 25 - 30 June 26	1 July 26 - 30 June 27	From July 27 onwards
Lodgement of DAs	14 days	7 days	7 days	7 days
Determination of DAs	115 days	105 days	95 days	85 days
Assessment Reports for Regionally Significant DAs	250 days	250 days	250 days	250 days

Item 15.4

If a council routinely fails to meet these timeframes the Order enables the Minister to revoke a Council's planning and development functions (i.e. to assess and determine DAs etc.)

The Statement of Expectations (Attachment 1) also includes requirements in relation to strategic planning including Planning Proposals and Housing Strategies.

Council League Table

As part of monitoring councils' performance against the Statement of Expectation timeframes, the NSW Government is collating data on DA lodgement and assessment timeframes for all councils in NSW. This information is publicly available on the NSW Government Planning website and is updated monthly with monthly averages and year-to-date averages.

<https://www.planning.nsw.gov.au/policy-and-legislation/housing/faster-assessments-program/council-league-table>.

The monthly averages will be published for tracking purposes, but it is the yearly average that will be counted. It should also be noted that an application is counted in the month it is determined, not in the month it is lodged.

The transparency of the NSW Government's Council League Table is supported, but there are also concerns with how data in the League Table is calculated and interpreted.

The DA lodgement and assessment timeframes are calculated as follows:

- Council League Table DA Lodgement timeframe calculation method:

This is calculated from when the customer submits the application on the Portal, to the date fees are paid and the application is accepted by Council (ie date submitted to date lodged).

After a customer submits an application on the NSW Planning Portal, it is reviewed by Council's pre-lodgement team and checked for accuracy and completeness before fees are paid and the application is accepted by Council (ie lodged).

During this time additional information or clarification may be requested and provided by the applicant. Once the application is satisfactory for lodgement an invoice is issued for fees to be paid and then the customer pays the DA lodgement fees.

The timeframe is therefore dependent upon both the applicant and Council staff. In response to the Statement of Expectations it is noted that councils will be more inclined to provide less time for applicants to provide additional information and to pay the DA

Report of the Director Planning, Environment and Communities

15.4 Quarterly Development Assessment & Housing Approvals/Completion
Report - July to September 2024 (cont)

Fees. Councils will also be more inclined to return incomplete applications, which will reduce customer satisfaction.

If the application is returned or rejected (ie not accepted by Council) the application is not included in the average timeframe calculation.

• Council League Table DA Assessment timeframe calculation method:

It is important to note that the assessment timeframes are calculated as follows:

- The timeframe is based on date lodged to date determined – end to end.
- A ‘determination’ includes an approval, refusal and deferred commencement.
- An application to modify an existing approval is not counted.
- An application that is withdrawn by the applicant is not counted.

It is important to note and understand that there are now two main timeframes which are important in the DA process.

1. Deemed refusal period

Section 91 of the *Environmental Planning and Assessment Regulation 2021* outlines that an applicant can assume that Council has refused a DA and commence legal proceedings with the Land and Environment Court (LEC) after the following periods:

- 40 days for most standard DAs.
- 60 days for DAs requiring integrated approval/concurrence.
- 90 days for State significant DAs.

However, if Council requests additional information within 25 days of the date of lodgement the above periods are ‘paused’ while the applicant provides the required information.

In addition to this, if the applicant during the assessment process amends their application, the above periods are ‘reset’ as a new assessment is required.

2. Statement of Expectation

The above deemed refusal periods are different to the Statement of Expectation timeframes.

Council has no ability to ‘pause’ the Expectation timeframes while it requests additional information. Nor does it have the ability to ‘reset’ the timeframes if an amended application is submitted.

It is also worth noting that when an applicant has commenced LEC proceedings for a DA which has gone beyond the applicable deemed refusal period Council has historically not elected to refuse or approve these applications. This has been done to enable unencumbered negotiations to occur throughout the LEC proceedings. The Statement of Expectations includes deemed refusal DAs before the LEC and in these circumstances Assessment timeframe is from the date of lodgement to the date of the LEC judgement. As court processes are beyond Council’s control it is considered unreasonable for these applications to be included, and councils may be inclined to refuse applications.

Report of the Director Planning, Environment and Communities

15.4 Quarterly Development Assessment & Housing Approvals/Completion Report - July to September 2024 (cont)

Quarterly Lodgement timeframes

The Average Lodgement Days for the September 2024 quarter are shown below:

	Applications					
	Submitted	Returned	Lodged (accepted)	Average Lodgement days	Number meeting 14 day expectation	Percentage within 14 day expectation
July	23	5	12	22	3	25%
August	25	6	14	16	8	57%
September	19	6	10	12	9	90%
Q1 2024/25	67	17	36	17	20	56%

It is worth noting that the number of applications submitted, returned and lodged do not add up month by month as applications are submitted, returned and lodged in different months.

For comparison, in the 2023/24 year there were 189 applications submitted and the average Lodgement days was 35. This is a result of the process improvements and changes made to date, and the average Lodgement time has reduced by approx. 50%.

For reference, the Council League Table (Lodgement) for the four Illawarra-Shoalhaven Councils is:

Council	Average lodgement days	Number of applications lodged	Number of applications meeting expectation	% of applications meeting expectations
Kiama	17	36	20	56%
Shellharbour	26	96	32	33%
Shoalhaven	19	236	112	47%
Wollongong	12	227	176	78%

Quarterly Assessment timeframes

The Average Assessment Days for the September 2024 quarter are shown below:

	Applications				
	Lodged	Determined	Average Assessment days	Number meeting 115 day expectation	Percentage within 115 day expectation
July	12	14	137	8	57%
August	14	20	114	13	65%
September	10	10	111	7	70%
Q1 2024/25	36	44	120	28	64%

Report of the Director Planning, Environment and Communities

15.4 Quarterly Development Assessment & Housing Approvals/Completion
Report - July to September 2024 (cont)

It is worth noting that the number of applications lodged and determined will not add up month by month as applications are lodged and determined in different months.

For comparison, in the 2023/24 year there were 187 applications determined and the average Assessment time was 165 days. This figure has dropped dramatically to 120 days in a 3-month period, an improvement of around 30%. This is reflective of the process improvements and changes made to date.

It is noted that in the September 2024 quarter there were 28 applications determined within the 115 target and 16 that were over the 115 day assessment target. All but 1 of these applications required additional information, which took anywhere from 28 days to 4 months for the applicant to provide. This time is not excluded from the average assessment time.

For reference, the Council League Table (Assessment) for the four Illawarra-Shoalhaven Councils is:

Council	Expectation days	Average assessment days	Number of applications assessed	Number of applications meeting expectation	% of applications meeting expectation
Kiama	115	120	44	28	64%
Shellharbour	111	106	88	62	70%
Shoalhaven	110	117	246	166	67%
Wollongong	94	97	222	157	71%

Outstanding Applications:

As at 30 September 2024 there were 59 undetermined DAs in the system. Of these DAs:

- **1 is a Regionally significant DA (250-day Statement of Expectation timeframe)**
 - It has been in the system for 244 days
- **58 are a local DAs (115-day Statement of Expectation timeframe)**
 - 22 (37%) have been in the system for more than 115 days
 - 20 (34%) have been in the system for less than the 115 days but more than 40 days
 - 16 (27%) have been in the less than 40 days

Commentary have been provided against each DA, as at 30th September 2024, over 115 days in the table below.

Report of the Director Planning, Environment and Communities

15.4 Quarterly Development Assessment & Housing Approvals/Completion Report - July to September 2024 (cont)

DA Number	Assessment days as at 30/09/2024	Comments
Regionally Significant DAs – Statement of Expectation timeframe: 250 days		
10.2023.220.1	224	<p>Amended plans have been submitted in response to Council’s request for additional information.</p> <p>The amended DA was re-exhibited.</p> <p>A meeting is scheduled with the SRPP, as the consent authority, to determine next steps.</p>
Local DAs over Statement of Expectation timeframe: 115 days		
10.2023.109.1	413	<p>This is a deemed refusal DA currently before the LEC. Hearing dates are scheduled for 27 & 28 November 2024.</p> <p>This DA will negatively contribute to either the November or December average assessment timeframes.</p>
10.2023.134.1	350	<p>This is a deemed refusal DA currently before the LEC.</p> <p>On 1 November the LEC issued consent orders.</p> <p>This DA will negatively contribute to the November average assessment timeframes.</p>
10.2023.179.1	318	<p>This DA is included in Council’s Ordinary November business paper for determination.</p> <p>This DA will negatively contribute to the November average assessment timeframes.</p>
10.2023.176.1	287	<p>This is a deemed refusal DA currently before the LEC. Hearing dates are scheduled for 11 & 12 November 2024</p> <p>This DA will negatively contribute to either the November or December average assessment timeframes.</p>
10.2023.221.1	237	<p>This DA includes retrospective approval for unauthorised works and as such is also accompanied by a Building Information Certificate.</p>

Item 15.4

Report of the Director Planning, Environment and Communities

15.4 Quarterly Development Assessment & Housing Approvals/Completion Report - July to September 2024 (cont)

DA Number	Assessment days as at 30/09/2024	Comments
Regionally Significant DAs – Statement of Expectation timeframe: 250 days		
		Staff propose to meet with the applicant to discuss ways to progress this application as it has been in the system for almost a year.
10.2024.18.1	195	Staff continue to work with the applicant on the most appropriate means of addressing stormwater issues.
10.2024.20.1	194	This DA was lodged on 21 March 2024. Following the exhibition period the applicant requested to amend their proposal. Amended plans were eventually submitted on 5 September 2024. Council has requested minor additional information on 28 October 2024.
10.2024.24.1	193	This DA was approved on 11 October 2024. This DA will negatively contribute to the October average assessment timeframes.
10.2023.198.1	181	This DA was approved on 3 October 2024. This DA will negatively contribute to the October average assessment timeframes.
10.2021.348.2	174	As a modification, this application is not included in the average assessment timeframes. This modification was approved on 29 October 2024.
10.2024.42.1	166	This DA was approved on 18 October 2024. This DA will negatively contribute to the October average assessment timeframes.
10.2024.44.1	157	This DA was approved on 14 October 2024. This DA will negatively contribute to the October average assessment timeframes.

Item 15.4

Report of the Director Planning, Environment and Communities

15.4 Quarterly Development Assessment & Housing Approvals/Completion Report - July to September 2024 (cont)

DA Number	Assessment days as at 30/09/2024	Comments
Regionally Significant DAs – Statement of Expectation timeframe: 250 days		
10.2024.60.1	133	This DA requires integrated approvals for various State agencies. Staff are working with agencies in order to expedite assessment.
10.2024.47.1	131	This DA was approved on 18 October 2024. This DA will negatively contribute to the October average assessment timeframes
10.2020.163.2	130	As a modification, this application is not included in the average assessment timeframes. This modification was approved on 21 October 2024.
10.2024.62.1	129	This DA was approved on 10 October 2024. This DA will negatively contribute to the October average assessment timeframes.
10.2024.65.1	126	On 16 August 2024, Council sought additional information from the applicant. The applicant has met with Council regarding this request. To date, no additional information has been provided.
10.2024.50.1	125	This DA was approved on 9 October 2024. This DA will negatively contribute to the October average assessment timeframes.
10.2024.55.1	125	This DA was approved on 25 October 2024. This DA will negatively contribute to the October average assessment timeframes.
10.2024.48.1	119	On 24 October 2024, Council sought additional information from the applicant. The applicant provided additional information on 28 October 2024.

Item 15.4

Report of the Director Planning, Environment and Communities

15.4 Quarterly Development Assessment & Housing Approvals/Completion
Report - July to September 2024 (cont)

DA Number	Assessment days as at 30/09/2024	Comments
Regionally Significant DAs – Statement of Expectation timeframe: 250 days		
		Staff are continuing to assess this DA.
10.2024.64.1	119	This DA is included in Council's Ordinary November business paper for determination. This DA will negatively contribute to the November average assessment timeframes.
10.2024.69.1	115	This DA was approved on 8 October 2024. This DA will negatively contribute to the October average assessment timeframes.

Item 15.4

While 12 of the 22 DAs over 115 days as at 30 September have subsequently been determined, as of 5 November the number of DAs over 115 has risen back to 14.

As noted above, several hearing dates are listed for November. It is therefore likely that the averaging assessment times for November and December will be unfavourable.

Processing times for the December 2024 quarter are anticipated to be impacted by the planned system upgrade which will occur over one week in November when the current Authority system is upgraded to Altitude. This shutdown period will impact on the Council's ability to receive payments and accept and process applications.

The Planning & Development Team are currently identifying a program of improvements to Council's assessment process. Improvements will be categorised as follows:

- Teir 1 – minor operational improvements – improvements to templates, forms etc.
- Teir 2 – major operational improvements – reintroduction of Duty Planner services, identification of old DAs and solutions to progress and improvements to associated application processes, such as Construction Certificates etc.,
- Teir 3 – strategic improvements – Preparation of a Council report early 2025 to re-report the DA Policy, Delegations, CPP etc. so that all of these are aligned and facilitate efficient assessments

Quarterly Housing Approvals & Completions

In response to the housing crisis and through the National Housing Accord, on 29 May 2024 the NSW Government issued Kiama Council with a local housing target of 900 dwelling completions between 1 July 2024 to 30 June 2029.

Report of the Director Planning, Environment and Communities

15.4 Quarterly Development Assessment & Housing Approvals/Completion Report - July to September 2024 (cont)

These targets reflect the government’s commitment for more well-located housing supply around existing infrastructure and have been reflected in Council’s Draft Growth and Housing Strategy.

Housing Approvals

The dwelling approvals, based on DA approvals and Complying Development Certificates (CDCs) issued, are shown below:

Dwellings	July 2024	August 2024	September 2024	Sept 2024 Quarter
Dwelling Approvals DAs	5	5	3	13
Dwelling Approvals CDCs	1	2	0	3
Total Dwelling Approvals	6	7	3	16

Housing Completions

The dwelling completions, based on Occupation Certificates issued, are shown below:

Dwellings	July 2024	August 2024	September 2024	Sept 2024 Quarter
Dwelling completions	23	7	10	40

The Illawarra-Shoalhaven Urban Development Program (UDP) has historically relied on Sydney Water connection data for dwelling completions. Staff have been unable to source Sydney Water data to compare with Occupation Certificate data for this quarter.

Staff have been in conversations with the NSW Department of Planning, Housing & Infrastructure’s UDP staff about receiving Sydney Water data and enquiring about updates to the UDP dashboard which displays approval and completion data.

Conclusion

Council staff are continuing to review all aspects of the Development Assessment process, much of which is legislated by the NSW Government, and will continue to improve our assessment timeframes, systems, strategic framework, customer experience, responsiveness, and communication to applicants.

The Hon Paul Scully MP
Minister for Planning and Public Spaces



Ref: IRF24/1443

Cr Neil Reilly
Mayor
The Council of the Municipality of Kiama
11 Manning St
Kiama NSW 2533
neil.reilly@kiama.nsw.gov.au

Dear Mayor

As you are aware, the NSW Government is taking immediate action to meet our commitment under the National Housing Accord to build 377,000 new well-located homes by June 2029 to help address the housing crisis.

Local government are a critical enabler of housing, assessing about 85 per cent of housing development applications (DA) in NSW. However, over the past two years, average council DA timeframes have increased by 37 per cent, from 83 in FY21/22 to 114 days in FY23/24, which is contributing to the delays in housing completions and costing the NSW economy at least \$89 million each year.

In line with the beginning of the National Housing Accord, and our shared commitment to addressing the housing crisis, I am providing an updated Ministerial Statement of Expectations Order planning.nsw.gov.au/statement-of-expectations-order.

This new Statement of Expectations sets out expectations for council performance in the areas of development assessment, planning proposals and strategic planning. The performance of councils in meeting this Statement of Expectations will be monitored and reported publicly, as will the Department of Planning, Housing and Infrastructure's timeframes for approval of planning proposals and state significant development.

Addressing the housing crisis is a shared responsibility, and all levels of government must do more.

The Government is also developing a program to support councils achieve local housing targets, reduce average DA timeframes and deliver more homes. We have started this through initiatives funding cadetships for planners in councils and opening a new TAFE course for para-planning. We've completed substantial work on the NSW Planning Portal and are introducing artificial intelligence to support further efficiencies in the local DA process and timely decision-making.

The attached document outlines the key performance metrics within the Statement of Expectations and the associated infrastructure grant funding program. Additional initiatives to support councils achieve faster assessments will be announced in the coming months to help local and State government deliver approvals and particularly homes more effectively.

With these measures, I am confident that councils in NSW can achieve a significant reduction in average DA timeframes and meet our Housing Accord commitments.

I appreciate your leadership and support for this critical work in the spirit of shared responsibility that underpins the National Housing Accord and I look forward to working with you and all councils across New South Wales to deliver more housing for our communities.

Yours sincerely



Paul Scully MP
Minister for Planning and Public Spaces

03/07/2024

Attachment A

This Attachment provides an overview of the initial programs the NSW Government is proposing to support councils in determining more housing-related planning matters during the period of the National Housing Accord. More details of these programs and initiatives will be released in the coming months.

Updated Statement of Ministerial Expectations

- The Ministerial Statement of Expectations establishes the planning-related expectations of the Minister for Planning and Public Spaces in terms of planning assessment performance. The updated Statement includes the expectation for councils to:
 - lodge DAs as soon as practical and within an average of:
 - 14 days from submission, from 1 July 2024 to 30 June 2025
 - 7 days from submission, from 1 July 2025 onwards
 - determine DAs as soon as practical and whichever is the lesser of council's previous financial year average, or an average of:
 - 115 days from lodgement, from 1 July 2024 to 30 June 2025
 - 105 days from lodgement, from 1 July 2025 to 30 June 2026
 - 95 days from lodgement, from 1 July 2026 to 30 June 2027
 - 85 days from lodgement, from 1 July 2027 onwards
 - assess Regionally Significant DAs and refer them to the relevant planning panel for determination as soon as practical and within an average of 250 days from lodgement.

Department of Planning, Housing and Infrastructure Performance

- To assist with delivering major housing projects, the Department will be required to determine State Significant DAs for infill affordable housing and housing in transport-oriented development precincts within an average of 275 days from lodgement.
- As per the LEP Making Guidelines (August 2023) the Department must collaborate with councils to finalise planning proposals in 140 business days for basic proposals, 225 business days for standard proposals, 300 business days for complex proposals, and 380 business days for principal proposals.

Resourcing and financial incentives

- The Department will establish a new \$200 million grant program that provides milestone payments to councils based on their performance in meeting the Statement of Expectations. These grants will be for use in improving critical local infrastructure.

- The Department has made \$5.6 million worth of funding for grants to councils to integrate AI and other digital solutions into the development assessment process.
- The Department is working with industry, local government and the private sector to support a skilled planning workforce through the Strong Start mentoring program as well as a new TAFE pathway into the planning profession.