



Draft LEP Amendment Request **Policy**

May 2022

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Purpose

1. The purpose of this policy is to establish a framework for the efficient assessment of requests to amend Council's Local Environmental Plan (LEP) under the *Environmental Planning and Assessment Act 1979 (EP&A Act)*. These applications are also known as Planning Proposals or rezoning requests.

Policy Summary

2. This Policy describes Council's process for the assessment of LEP amendment requests and aims to ensure the necessary information is included to enable an efficient and timely review and assessment.
3. In assessing these requests, Council will consider a range of local and state policy to determine if the request has merit and if additional reports or justification will be required i.e. ensuring that the LEP amendment request is consistent with the strategic planning framework.
4. Council requires that all LEP amendment requests are supported by the relevant justification and technical documentation.
5. LEP amendment requests will be assessed in a consistent, equitable, efficient, and transparent manner.

Scope

6. This Policy applies to all LEP amendment requests submitted to Central Coast Council.
7. A Council may also initiate an LEP amendment or new LEP by drafting a planning proposal and submitting it to the Department of Planning and Environment for Gateway determination. Council is responsible for preparing the information and supporting documentation for any Council-initiated proposal, however may engage an independent consultant for probity, transparency, independence or other reasons. All Council-initiated requests must be prepared in accordance with the Department of Planning and Environment's '*Local Environmental Plan Making Guideline*.'

Background

8. A LEP prescribes what can be undertaken on land and is supported by mapping (including land use zones, lot size maps etc.). Through zoning and development controls, the LEP allows Council to manage the way in which land is used to shape our local communities.

9. LEP amendment requests are often made where an LEP does not allow a particular form of desired development, or where new/improved development controls are required to facilitate a particular form of development. Requests may seek to change the development controls and/or zoning applying to the land. These requests are referred to as 'Planning Proposals'.
10. Information on how Council processes the application is described in Council's documented procedure for amendments to LEPs.
11. Relevant supporting information and studies must be submitted with the 'Lodgement Form', as described in Council's document '*Planning Proposal Documentation Requirements*'.
12. Proponents are required to discuss proposals with Council prior to lodgement to ensure all issues are considered and addressed. Proponents are also encouraged to make use of Council's formal pre-lodgement meeting service (as described in '*Procedure for Amendments to Wyong Local Environmental Plan 2013 or Gosford Local Environment Plan 2014.*')
13. The onus is on the proponent to ensure that the request, when submitted, is complete and ready for assessment.

General

Pre-Lodgement & Lodgement of Planning Proposals

14. To facilitate the lodgement and assessment of good quality and complete requests, Council provides the following services:
 - a. A pre-lodgement meeting (fees apply) with relevant planning and technical staff is required to give written advice as to the suitability of a proposed LEP amendment and the information to be lodged with a request to amend an LEP. The meeting will provide prospective proponents an overview of the process and procedures involved in the preparation, assessment, progression and timing of LEP amendments. The written advice will be referred to at the time of lodgement to ensure the applicant has provided all information as per the written advice.
 - b. Availability of all LEPs, Development Control Plans and site constraint mapping (e.g. flooding, bushfire etc.) on Council's website.
 - c. Additional information on Council's website regarding the Planning Proposal process can be found within Council's documented procedures for amending an LEP.
 - d. Once an application is lodged, public access to the request is provided through the NSW Planning Portal including progress tracking and supporting documentations.

- e. Clear and direct communication with applicants. Council will communicate directly with the applicant who is responsible for communicating with all other associated parties.
15. All LEP amendment requests are to be lodged via the NSW Planning Portal at www.planningportal.nsw.gov.au.
16. All LEP amendment requests will be processed in accordance with Council's documented procedures for amending an LEP.
17. All LEP amendment requests will be evaluated against criteria established by Council's 'Planning Proposal Documentation Requirements'. Relevant supporting information and studies to be included and submitted with the Lodgement Form are described in this document.
18. If an LEP amendment request is deemed deficient it will be returned to the proponent via the Planning Portal outlining the reason/s for return. Such reasons may include, but are not limited to:
 - a. Not meeting the pre-lodgement review criteria.
 - b. No evidence of prior discussion with Council's strategic planning unit.
 - c. No strategic merit justification or assessment against regional and local strategies.
 - d. No consideration of relevant legislation including SEPPs / Ministerial Directions.
 - e. Insufficient or inadequate supporting studies to address environmental, economic and social impacts.
 - f. Not meeting the minimum requirements for the lodgement of LEP amendment requests as outlined in Planning Proposal Documentation Requirements.
19. A Planning Proposal must be referred to the relevant Local Planning Panel (LPP) in accordance with the referral criteria and procedural requirements set by the Minister's Local Planning Panel Direction. The relevant LPP will undertake an assessment of the proposal and provide independent advice to the Council as the Planning Proposal Authority.
20. In accordance with the Minister's Local Planning Panels Direction given under section 9.1 of the *Environmental Planning and Assessment Act 1979*, all Planning Proposals must be referred to the Local Planning Panel for advice, unless Council's Chief Executive Officer (or their delegate) determines the Planning Proposal relates to:
 - a. The correction of an obvious error in a LEP.
 - b. Matters that are of a consequential, transitional, machinery or other minor nature, or

- c. Matters that Council's Chief Executive Officer considers will not have any significant adverse impact on the environment or adjoining land.
21. The Local Planning Panel must give its advice on the planning proposal before Council considers whether or not to forward it to the Minister under section 3.34 of the *Environmental Planning and Assessment Act 1979*. If a LPP does not provide advice as to whether or not to forward the Planning Proposal to the Minister, Council would seek advice and direction from the Department of Planning and Environment.
22. Where Council assumes the planning authority role, Council assesses planning proposals on merit in accordance with the provisions of the Environmental Planning and Assessment Act 1979, State Environmental Planning Policies, relevant LEPs, regional plans, district plans and local strategies including the *Central Coast Local Strategic Planning Statement* and *Central Coast Community Strategic Plan*.
23. The key probity principles supporting all stages of the Planning Proposal assessment process are accountability and transparency. Accountability and transparency give proponents and stakeholders confidence in the decisions being made and reduce opportunities for corrupt conduct, fraud and omission.
24. Staff are required to keep adequate records that will leave an auditable trail, show willingness to open decision-making processes, provide reasons for all decisions that are made and provide appropriate information to relevant stakeholders.
25. Council maintains the discretion to terminate a request and if it is terminated, that no damages, penalties or other costs are payable by the Council in respect of any costs incurred by the proponent in relation to the request.
26. Where fees are outstanding, Council will not be compelled to undertake any further work on the request until applicable fees have been paid.
27. The process may stop and/or be extinguished at any stage by Council (EP&A Act, 1979 s.3.35 (1)) or the Minister (EP&A Act, 1979 s. 3.34 (7)).

Compliance, monitoring and review

28. Suspected breaches or misuse of this policy are to be reported to the Chief Executive Officer. Alleged breaches of this policy shall be dealt with by the processes outlined for breaches of the Code of Conduct, as detailed in the Code of Conduct and in the Procedures for the Administration of the Code of Conduct.
29. This policy will be reviewed every four years, following the election of a new Council, or as required by legislative change.

Records management

30. Staff must maintain all records relevant to administering this policy in a recognised Council record keeping system.

Definitions

In this policy:

Act: means the *Environmental Planning and Assessment (EP&A) Act, 1979*.

Council: means the Central Coast Council which includes any reference to the former Wyong Shire Council or Gosford City Council.

Guidelines: means the operational procedures and assessment Guidelines, as amended from time to time, and endorsed by the DCC or CEO

NSW Planning Portal: a digital space where community, industry and government can work together to better understand and meet their obligations under the Environmental Planning and Assessment Act 1979.

Related resources

1. Legislation:
 - a. *Local Government Act 1993* (NSW)
 - b. *Environmental Planning and Assessment Act 1979* (NSW)
<https://legislation.nsw.gov.au/view/html/inforce/current/act-1979-203#pt.3-div.3.4>
2. Associated documents:
 - a. Procedure for Amendments to *Wyong Local Environmental Plan 2013, Gosford Local Environment Plan 2014 or Central Coast Local Environmental Plan (when it comes into effect)*.
 - b. Department of Planning and Environment's *Local Environmental Plan Making Guideline* (December 2021).
 - c. Planning Proposal Documentation Requirements
 - d. Local Environmental Plan (LEP) Amendment Request Form
 - e. These documents can be accessed on the Central Coast Council website:

Local Environmental Plans (Gosford and Wyong)

<https://www.centralcoast.nsw.gov.au/plan-and-build/planning-controls-and-guidelines/planning-controls/local-environmental-plan-lep>

EXHIBITION DRAFT



History of revisions

Amendment history	Details
Original approval authority details	This Policy was originally endorsed at the Ordinary Meeting of the Council on [insert meeting date, minute number and resolution detail]
Version 1	No amendments since adoption.

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