



Amendments to Local Environment Plan (LEP) Planning Proposal Frequently Asked Questions

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What is a Local Environment Plan (LEP)?

A local environmental plan (LEP) is a legal document prepared by Council and approved by the State Government to regulate land use and development.

LEPs guide Council's planning decisions. They allow Council to regulate the ways in which all land, both private and public, may be used and protected through zoning and development controls. LEPs are the main planning tool to shape the future of communities and to ensure local development is done appropriately.

What is an amendment to an LEP?

LEPs may be amended to introduce new planning provisions or policies by either Council or State government. An amendment can change the land use permissibility or zoning to enable other uses on the land, and or to include additional development standards and general provisions (e.g. lot sizes, building heights, floor space ratio).

Amending Council's Local Environmental Plan is an action under the *Environmental Planning and Assessment Act 1979*. LEP amendments must be carried out in accordance with the planning proposals process under the Act.

Who can request an amendment to a LEP?

LEP amendments may be requested by landowners, developers or the community through a planning proposal request. Landholders and developers often request rezonings to allow alternative land uses to take place.

What is a planning proposal?

All amendments to the LEP are referred to as planning proposals.

The preparation of a planning proposal is the first step in making an amendment to an LEP. A planning proposal is a document that explains the intended effect of, and justification for, a proposed change to an LEP. Under the Part 3 of the *Environmental Planning and Assessment Act 1979*, Council must prepare and submit a planning proposal to the Department of Planning and Environment for consideration.

The Department of Planning and Environment's website provides guides on Preparing Planning Proposals and Preparing Local Environmental Plans.

A planning proposal must include the following:

- A statement of objectives and intended outcomes of the proposal,
- An explanation of the provisions that are to be included in the proposal,
- A justification of the objectives and outcomes, including the process of how these are to be implemented,
- Maps containing the appropriate details, including land use zones, heritage areas, flood prone areas and other constraints where applicable, and
- Details of the community consultation that will be undertaken

Generally applications to rezone land are not encouraged by Council unless the land is identified for a change in zoning or use in a Council or State Government adopted strategy.

How do I initiate a Planning Proposal?

A preliminary discussion with one of Council's strategic planning officers is recommended prior to preparing a Planning Proposal Application Form. Officers can be contacted on 6626 7126 and can explain the process and discuss any issues that may be relevant to your proposal.

Planning proposals will require planning expertise. It is recommended that an external town planning consultant be engaged for the preparation of your draft planning proposal. Other specialist consultants may also be needed to provide technical input to the proposal. Draft Planning Proposals are to be submitted using Council's Planning Proposal Template.

When is a pre lodgement meeting required?

If your property has not been identified in an existing Council or State Government strategy, or you require further information prior to preparing a draft planning proposal then a pre-lodgement meeting with Council is required, see Figure 1. The minimum fee for the pre-lodgement meeting must be paid on lodgement of the planning proposal application form. Fees will be charged in accordance with Councils Fees and Charges Schedule.

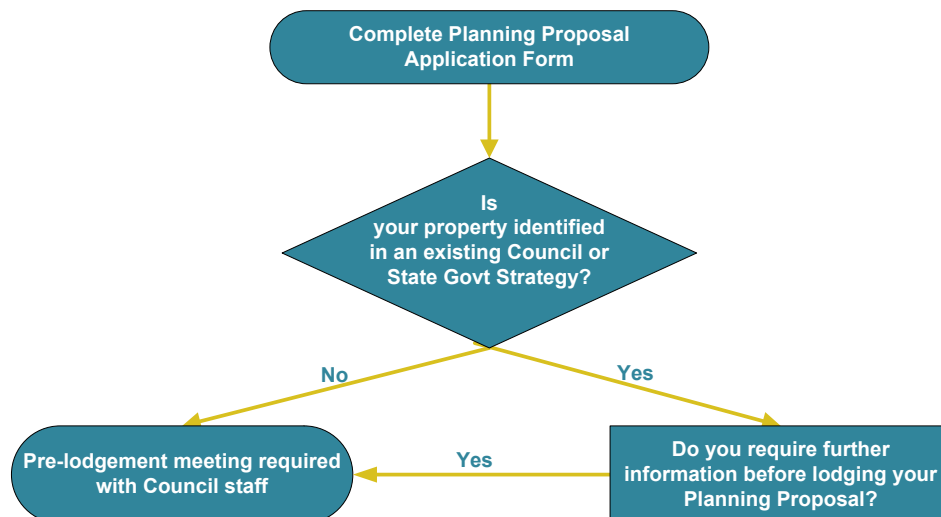


Figure 1: Steps to initiate a draft Planning Proposal

What do I need to provide prior to the pre-lodgement meeting?

After receipt of your 'Planning Proposal Application' form an appointment for the pre-lodgement meeting will be arranged. At this time, Staff will advise if you need to provide any additional information to what was provided with your application.

What do I get from the pre-lodgement meeting?

The meeting with Council planning staff (and other specialist staff, if required) will be minuted and a copy of the minutes provided.

The meeting may or may not result in gaining support for your planning proposal to proceed.

If you wish to proceed with a draft planning proposal, on payment of the relevant fee Council will prepare a costs and expenses agreement.

Is your property identified in an existing council strategy?

A pre-lodgement meeting is not required but can assist if you require further information before lodging your draft planning proposal. On completion of the Planning Proposal Application form, and payment of the relevant fee Council will prepare a costs and expenses agreement.

What information needs to be submitted with a planning proposal application form?

Each Planning Proposal is unique in its complexity and nature of issues and therefore it is difficult to prescribe standard 'appropriate information' to support a proposal in each and every case.

The information needed to be submitted with a draft planning proposal is detailed in the Department of Planning and Environment's '*A guide to preparing planning proposals*'. Two hard copies and an electronic copy of the draft planning proposal documentation are required by Council (in both word and pdf format and the pdf in less than 20MB in size).

What are Council's fees?

Planning proposals to amend the LEP are undertaken on a full cost recovery basis. A costs and expenses agreement is prepared for each application. Fees will be charged in accordance with Councils Fees and Charges Schedule.

What is a costs and expenses agreement?

A cost and expenses agreement will detail the known and possible costs against the stages and tasks involved to process the planning proposal to amend an LEP.

The processing of the Planning Proposal is divided into 3 main stages:

- Stage 1: Preparation of Planning Proposal and report to Council – costs to review, and amend planning proposal if required, and prepare report to Council
- Stage 2: Gateway Determination received, public exhibition and report to Council – costs to implement the Gateway Determination conditions, including: public exhibition, analysis of submissions and report to Council and other associated administrative costs.
- Stage 3: Finalisation and making of the Plan – costs to amend the planning proposal if required, prepare LEP maps if required, liaise with Government departments for the drafting and making of the Plan and for updating Council's associated records.

For each stage, a cost and expenses agreement is prepared that includes a fee estimate for the relevant stage. Due to the unique complexities and nature of each planning proposal these costs may vary as the planning proposal is progressed through each stage. Once work on the relevant stage has been completed, it is possible that there may be unused funds due to an overestimate of expected fees. Under such circumstances the surplus amount will be credited to the next stage of the planning proposal, or reimbursed to the applicant. An updated cost and expenses agreement will be issued for Stage 2 upon receipt of a Gateway Determination to proceed to public exhibition and at Stage 3 agreement will be issued upon Council resolution before proceeding to finalisation.

Payment and acceptance of the costs is required prior to work commencing on each stage.

What does each stage to finalise a Planning Proposal include?

Stage 1: Preparation of Planning Proposal and report to Council

Using Council's Planning Proposal Template, applicants are required to submit a draft planning proposal, together with any other supporting documents, with the Planning Proposal Application Form.

A draft planning proposal must be formally considered at a Council meeting. Prior to reporting the draft planning proposal changes may be made to the draft to ensure it accords with the Department of Planning's guidelines. If changes are required the applicant will be informed of these changes prior to reporting the planning proposal to Council.

Council officers will prepare a report to Council on the merits of the proposal. Council does not have to support all planning proposal applications. A Council resolution to proceed with a planning proposal does not guarantee that the amendment will be made.

If Council agrees to proceed with the planning proposal, it will be forwarded with or without changes to the Minister for Planning for a 'gateway determination'.

The range of matters considered by Council in the assessment of a planning proposal includes, but is not limited to, the following:

- North Coast Regional Plan
- Any relevant State Environmental Planning Policies (SEPPs), deemed SEPPs Departmental Circulars or Ministerial Directions under s117 of the EP&A Act 1979
- Whether the proposed rezoning is consistent with both the State Government and Council's long-term strategic directions for the area
- The relevant objectives and provisions of the Byron LEP 1988 and 2014
- The provisions of Byron Shire Development Control Plan 2010 and 2014
- Any relevant non-statutory planning document adopted or exhibited by Council (strategic plans, codes, concept plans and the like)
- The environmental impacts of the proposal
- Public infrastructure capacity
- Whether site contamination, flood, agricultural status, slope, bushfire risk, ecological values or other constraint may restrict the proposed land use
- Any precedent that may be set as the result of the rezoning.

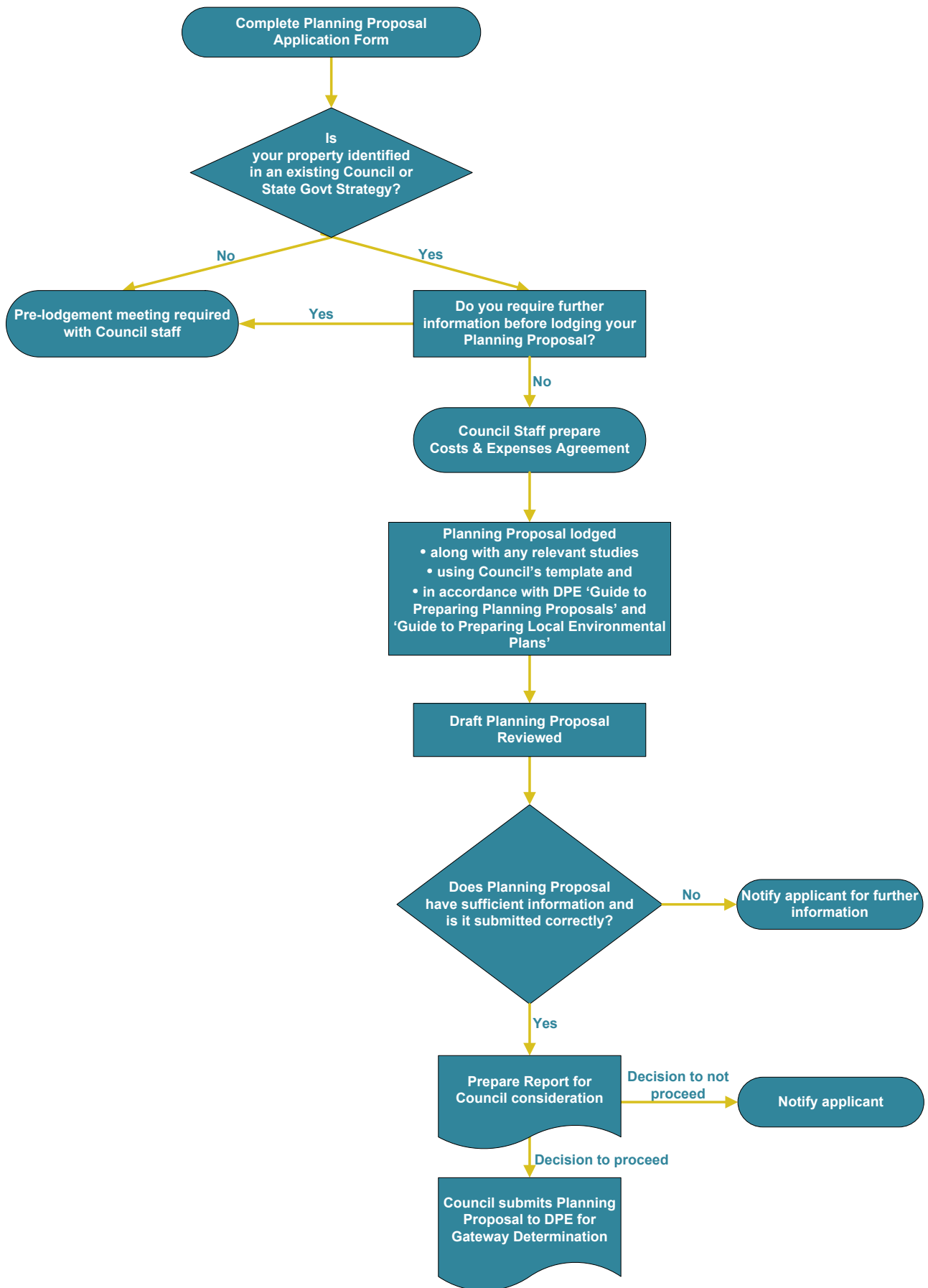


Figure 2: Preparation of Planning Proposal and initial report to Council (Stage 1)

Stage 2: Gateway Determination received, public exhibition and report to Council

The Minister decides whether the planning proposal can proceed (with or without variation) and subject to other matters including further studies being undertaken, public consultation, public hearings, agency consultation and time frames. A planning proposal generally does not proceed without conditions of this nature. The conditions are then complied with and if necessary, the proposal is changed. A decision on whether Council is able to finalise particular types of LEPs is also determined at this stage.

Once a proposal has been passed through the Gateway, Council will be advised of the relevant community consultation that is to occur. A proposal will be publicly exhibited during which the public can make written submissions in response to the proposal for a period of either 14 or 28 days, depending on the type of proposal.

In addition to placing an advertisement in the local press and on Council's website advising the community of the exhibition, Council will also notify in writing property owners who may be affected by the planning proposal. A public hearing may also be arranged at the discretion of Council or the Minister in response to any issue.

Council must take into consideration submissions from the public when it makes a decision whether or not to proceed with the planning proposal. Council officers will prepare a report to Council on the public submissions received for Council's consideration.

Stage 3: Finalisation and making of the Plan

Once Council has considered the draft LEP and all submissions made during the exhibition, any variations considered necessary will be made by Council. The Minister may permit Council in the gateway determination to exercise its delegations to finalise the plan. Otherwise, the plan will be forwarded to the Department of Planning where the legal instrument will be drafted for the Minister.

With the Minister's approval the plan becomes law and is published on the NSW Legislation website. The Minister may:

- Make the full plan
- Vary the plan
- Decide not to proceed with the plan
- Defer certain matters from the plan
- Delegate the making of the plan to the Director General

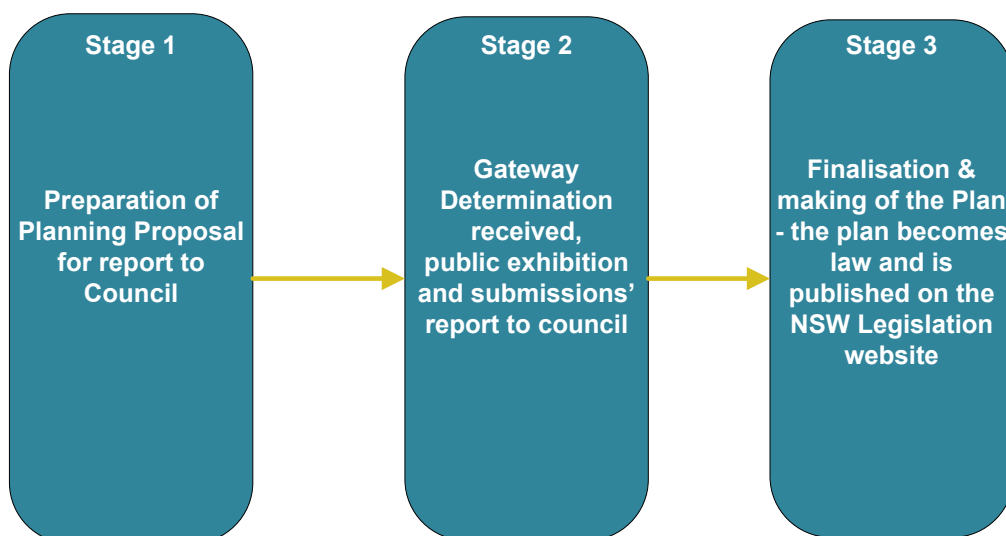


Figure 3: Planning Proposal Stages

How long does a Planning Proposal take to finalise?

The process for the preparation and assessment of a planning proposal/LEP amendment differs for each proposal, with varying degrees of complexity.

The timeframe can be longer for complex or controversial issues, or for proposals that are not consistent with the State planning framework. Through experience Council has found that the vast majority of LEP amendments take more than a year. Council may also choose to bundle several planning proposals into a single LEP amendment to allow for more efficient processing. This is generally undertaken on an annual basis.

Online tracking of a draft LEP

The Department of Planning and Environment provides an [online tracking system](#) to follow the process of a planning proposal once it has been submitted to them.

Further information regarding the process to amend an LEP can be found on the [Department of Planning & Environment website](#).