PORT MACQUARIE HASTINGS COUNCIL

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Council Policy
PLANNING PROPOSAL POLICY

Contents

1. Introduction 2
2. Policy Statement and Scope 2
   2.1. Policy Statement 2
   2.2. Objectives 2
   2.3. Policy Scope 2
3. Requirements for a Planning Proposal Application 2
   3.1. Pre-Lodgement Meetings 2
   3.2. Lodgement 3
4. Processing Planning Proposals 3
5. Voluntary Planning Agreement 5
6. Applications on Council Land 5
7. Changing the Proponent 5
8. Risks in Making a Planning Proposal Application 5
9. Application Fees 5
10. Policy Implementation and Review 6
11. Definitions 6
12. Process Owner 6
13. Policy History 6

1. INTRODUCTION

Port Macquarie-Hastings Council has prepared this Planning Proposal Policy (Policy) to establish Council's process and the requirements for the submission of Planning Proposal Applications (Application) by Proponents.

A Planning Proposal is a document that explains the intended effect of a proposed Local Environmental Plan (LEP) or an amendment to the LEP and sets out the justification for making that plan or amendment. A Planning Proposal can request an amendment to the zoning of land, development standards applying to land, or to the permitted land uses.

This Policy aims to ensure compliance with the requirements of the NSW Department of Planning and Environment (DPE) who play a key role in the Planning Proposal and LEP process and improve efficiencies in the components of the plan-making process that are within the control of Council.

Importantly, the content of this Policy cannot be inconsistent with the EP&A Act, *Environmental Planning and Assessment Regulations 2021* (Regulation), and DPE's key document for Planning Proposals being the Local Environmental Plan Making Guideline, September 2022 (DPE's guideline).

2. POLICY STATEMENT AND SCOPE

2.1 Policy Statement

This Policy aims:

- to explain Port Macquarie-Hastings Council's role and responsibilities as a local plan making authority under the EP&A Act;
- provide information on the Planning Proposal process and guide Proponents in the submission of an Application, in order to improve the quality and efficiency of assessment of Planning Proposals by Council; and
- ensure compliance with DPE's Local Environmental Plan Making Guideline.

2.2 Objectives

The objective of this Policy are to:

- ensure Council's process and the requirements for amending the LEP are in accordance with DPE's guideline, State and local planning strategies.

2.3 Policy Scope

This Policy applies to all Applications to amend the Port Macquarie-Hastings LEP 2011 (LEP). This includes:

a) Council staff when reviewing Planning Proposals that have been lodged via the NSW Planning Portal (Portal); and
b) Proponents when lodging Planning Proposal via the Portal.

Where there is an inconsistency between this Policy, State planning legislation and the DPE's guidelines, the provisions of the State legislation and the DPE's guidelines prevail.

3. REQUIREMENTS FOR A PLANNING PROPOSAL APPLICATION

3.1 Pre-lodgement meeting

a) A pre-lodgement meeting is a mandatory requirement for Port Macquarie-Hastings Council. The Proponent is required to prepare a scoping proposal prior to this meeting, in accordance with DPE's guideline.

3.2 Lodgement

a) All Applications to amend the LEP must be submitted via the Portal.

b) Application fees apply to all Applications. Payment of applicable fees is in accordance with Council's current Fees and Charges.

c) Applications must be consistent with State legislation as well as key strategies and policies prepared by State Government and Council.

d) Applications must contain all the necessary supporting studies to justify the proposal, as indicated within Attachment C of DPE's guideline and the minutes of the pre-lodgement meeting.

e) Supporting studies must be prepared by appropriately qualified specialists and certification is required to ensure compliance with the relevant legislation.

f) The supporting documentation and mapping data lodged on the Portal shall comply with the following:
   - All documentation shall be in an electronic format (PDF) and shall have a maximum size of 20MB.
   - Mapping data is to be supplied in a georeferenced format, compatible with standard GIS software (e.g. georeferenced CAD file (dwg etc.)).

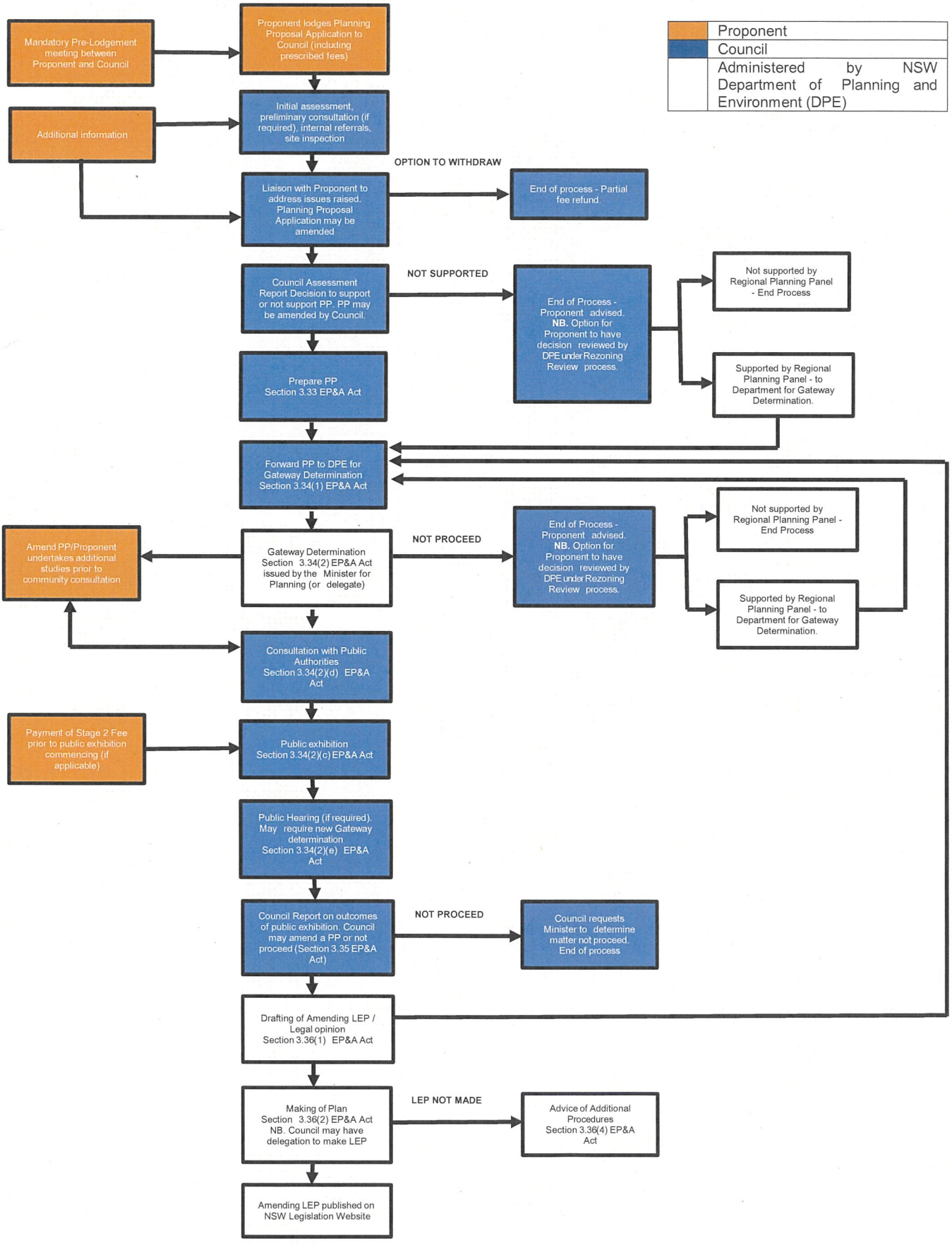
4. PROCESSING PLANNING PROPOSALS

DPE's guideline provides details of the Planning Proposal process. Figure 1 below provides a flowchart of the Application process. A summary of the Application process is provided below:

a) Applications that meet Part 3 of this Policy will be accepted via the Portal for consideration.

b) Applications that do not meet Part 3 of this Policy may not be supported.

Figure 1: Flowchart of Planning Proposal Application Process



5. VOLUNTARY PLANNING AGREEMENT

Any Application accompanied by an offer to enter into a planning agreement under Section 7.4 of the EP&A Act, is to be in accordance with Council's Planning Agreement Policy.

6. APPLICATIONS ON COUNCIL LAND

a) Applications lodged:
   i. on Council land or where Council is the Proponent, or
   ii. by Council staff or a Councillor and / or a relative of Council staff or a Councillor,

   are to be referred to the Director Community Planning Environment for a determination on whether external planning consultants should be engaged to assess and report to Council on an Application, in order to manage potential conflict of interest and increase transparency in the process.

b) To maintain independence and transparency in the assessment and reporting process, Council will not use consultants who undertake planning and development work in the Port Macquarie-Hastings Local Government Area.

c) The Proponent will be advised when external consultants have been engaged.

d) Council may engage probity advisors to independently review the planning process and provide probity reports and / or recommendations on the statutory procedures involved in preparing a Planning Proposal on Council land or by Council staff or a Councillor and / or relative of Council staff or a Councillor.

7. CHANGING THE PROPONENT

Council is to be advised in writing via the Planning Portal, of a request to change the Proponent for an Application and this shall be supported by an acknowledgement, in writing, from the previous Proponent. Council staff will confirm in writing the change of Proponent.

8. RISKS IN MAKING A PLANNING PROPOSAL APPLICATION

The following risks may be encountered with an Application:

a) At any point in the process, Council can request that the Minister for Planning not proceed with the Application, in accordance with section 3.35(4) of the EP&A Act.

9. APPLICATION FEES

a) Refer to Council's current Schedule of Fees and Charges for the fees applicable to Applications. **Note:** Until the Portal accepts payment of the applicable fees, Council will notify the Proponent of the applicable fees in accordance with Council's current Fees and Charges, which are to be paid via Council's website.

b) A two-stage fee structure applies being:
   - Stage1 (Lodgement and Review). To be paid on lodgement of the Application on the Portal; and
   - Stage 2 (Exhibition and Finalisation). To be paid prior to public exhibition of the proposal commencing.

c) Council retains the right to peer review supporting studies. The Proponent will be required to pay Council's costs in accordance with Section 3.32(3) of the EP&A Act, in addition to the fees payable under Council's current Fees and Charges, when Council engages external consultants to assess and review Applications / supporting studies.

10. POLICY IMPLEMENTATION AND REVIEW

To ensure this Policy is implemented effectively, Council will:

a) refer to the relevant sections of this Policy when assessment reports on Applications are being considered by Council,

b) undertake a review of this Policy:
- within 12 months of any general election of Council; or
- at the discretion of the Chief Executive Officer; or
- when DPE initiates any changes to the relevant legislation or guidelines that affect Planning Proposals to enable incorporation into this Policy.

11. DEFINITIONS

In this Policy, words and phrases have the following meaning:

Council means the Council of a Local Government Area, and includes an administrator.

Planning Portal means the Department of Planning and Environment's online environment designed to provide public access to a collation of digitised planning services where community, industry and government can work together to better understand and meet their obligations under the *Environmental Planning and Assessment Act 1979*. This includes the lodgement of Applications.

Planning Proposal means a written document that explains the intended effect of a proposed LEP and sets out the justification for making that plan which has been prepared in accordance with DPE's guideline as updated by DPE.

12. PROCESS OWNER

The Director Community, Planning and Environment is responsible for the implementation of this Policy.

The Land Use Planning Team may provide advice and support on this Policy.

13. POLICY HISTORY

Revision	Date Approved	Description of Changes
1	DRAFT 8 December 2022	Changes in accordance with DPE's guideline.