

The City of Newcastle

Policy

Newcastle Local Environmental Plan - Request for Amendment Policy

PO Box 489 (282 King Street)
NEWCASTLE NSW 2300
Ph 02 4974 2000
Fax 02 4974 2222
Email mail@ncc.nsw.gov.au
www.newcastle.nsw.gov.au



Newcastle Local Environmental Plan – Request for Amendment Policy



Policy title	Newcastle Local Environmental Plan – Request for Amendment Policy
Policy owner	Director Future City
Prepared by	Strategic Planning Services
Approved by	General Manager
Date approved	18 June 2012
Commencement Date	18 June 2012
Version	1
Category	Strategic Planning
Keywords	Amendment, local, environmental, plan, LEP, request, gateway, process, advisory panel, planning proposal.
Revision date	February 2015
Amendments	N/A
Relevant strategic direction	Liveable and Distinctive Built Environment
Relevant legislation/codes	<i>Environmental Planning and Assessment Act 1979 (NSW)</i> <i>Local Government Act 1993 (NSW)</i> <i>Government Information (Public Access) 2009 (NSW)</i> Code of Conduct
Related policies/documents	Guide to Preparing Local Environmental Plans (Department of Planning and Infrastructure) Guide to Preparing Planning Proposals (Department of Planning and Infrastructure) Public Land Reclassification Policy (City of Newcastle) Report to ELT 21 September 2011 Operational Plan (fees and charges) (City of Newcastle) Delivery Plan Public Land Reclassification Policy
Related forms	LEP Amendment Request Application Form- Planning Proposal template (under development)

Table of Contents

Part A	Preliminary	2
1	Purpose	2
2	Scope	2
3	Principles	2
4	Definitions	2
Part B	Amendment of LEP	4
5	Stage A – initiation, enquiry and formal request	4
6	Stage B – assessment, LEP advisory panel meeting and reporting.....	4
7	Stage C – DPI gateway determination and decision.....	6
Part C	Fees and charges	7
8	Fees and charges	7

Part A Preliminary

1 Purpose

- 1.1 The purpose of the policy is to:
 - 1.1.1 Outline Council's process for considering an LEP Amendment Request.
 - 1.1.2 Establish an internal advisory panel to consider all requests to amend the LEP including Council requests to rezone and / or reclassify land.
 - 1.1.3 Outline a fee structure that reflects the three stages of the LEP Amendment Request process.

2 Scope

- 2.1 The policy applies to all requests to amend Council's LEP, whether made by Council, private property owners or public agencies.

3 Principles

- 3.1 Council commits itself to the following principles:
 - 3.1.1 Consistent evaluation of all LEP Amendment Requests.
 - 3.1.2 Consistent application of strategic and policy considerations for all LEP Amendment Requests.
 - 3.1.3 Timely review of LEP Amendment Requests and provision of preliminary advice as to the consistency of a proposed LEP Amendment Request with Council's land use strategies.
 - 3.1.4 Early advice as to likely issues to be addressed and information that will be required to support a LEP Amendment Request.
 - 3.1.5 Early advice of the relative priority and likely timeframes for processing a LEP Amendment Request.

4 Definitions

- 4.1 **Council** means The Council of the City of Newcastle.
- 4.2 **Draft Planning Proposal** means the document described in clauses 5.4 and 5.5.
- 4.3 **Applicant** means the person or company who completes and signs the LEP amendment request application form and is the contact for all matters and correspondence relating to the LEP Amendment Request. An External Applicant can be either a private landowner or State agency or someone nominated by the landowner to act on their behalf. An External Applicant can also include Council when the Draft Planning Proposal is of a commercial nature.
- 4.4 **Gateway Process** means the process established by the Department of Planning and Infrastructure (DPI) to determine whether a Draft Planning Proposal may proceed and in what form, the level of consultation required and appropriate timeframes for the various stages of the process.
- 4.5 **Local Environmental Plan (LEP)** means the legal document that imposes standards to control land use and development. It can apply to the whole of the local government area or to a particular area. The written document is accompanied by maps, such as zoning maps, lot size maps, building height maps and heritage maps.

- 4.6 **LEP Advisory Panel (Panel)** means the internal panel set up by Council to make recommendations about Draft Planning Proposals. The Panel consists of:
- 4.6.1 Manager Strategic Planning Services, or delegate (**Chair**);
 - 4.6.2 Representative/s from Council;
 - 4.6.3 Representative/s from State agencies with specialist knowledge, skills, qualifications or experience depending upon the issues relating to planning proposals.
- 4.7 **LEP Amendment Request** means a formal application to amend Council's Local Environmental Plan (Newcastle LEP 2012) and includes:
- 4.7.1 a completed LEP Amendment Request Application Form;
 - 4.7.2 a written submission in the form of a Draft Planning Proposal, and
 - 4.7.3 any other supporting documentation and payment of the prescribed fees.
- 4.8 **Panel Meeting** means a meeting of the LEP Advisory Panel held on a needs basis to consider LEP Amendment Request Applications.

Unless stated otherwise, a reference to a clause is a reference to a clause of the policy.

Part B Amendment of LEP

5 Stage A – initiation, enquiry and formal request

Initiation

- 5.1 An amendment to the LEP is initiated by the relevant planning authority. The relevant planning authority may be:
- 5.1.1 Council; or
 - 5.1.2 the Minister for Planning and Infrastructure; or
 - 5.1.3 others nominated by the Minister for Planning and Infrastructure.

Enquiry

- 5.2 An External Applicant may request Council initiate an amendment to the LEP by making a preliminary enquiry with a member of Council's Urban Planning Team to discuss the merits of the proposed request.

Formal request

- 5.3 If the Urban Planning Team determines that the amendment is consistent with relevant State and local planning policies and strategies and has merit to proceed, the Applicant may proceed by lodging a formal LEP Amendment Request.

Draft Planning Proposal

- 5.4 Draft Planning Proposals must be prepared in accordance with the DPI's 'Guide to preparing planning proposals'.
- 5.5 If a Draft Planning Proposal includes the reclassification of public land, it must address:
- 5.5.1 the specific criteria set out in the DPI's 'Guide to preparing local environmental plans'; and
 - 5.5.2 relevant Council policies including the Public Land Reclassification Policy.

6 Stage B – assessment, LEP advisory panel meeting and reporting

Assessment by Council Officers

- 6.1 Once an External Applicant lodges a formal request in accordance with clause 5.3, the Urban Planning Team will commence an assessment of the request.
- 6.2 Council's Urban Planning Team will prioritise LEP Amendment Requests by taking into account Council's overall strategic planning work program and the DPI's capacity for processing amendments.
- 6.3 The Urban Planning Team will complete an initial assessment of the LEP Amendment Request against the criteria contained in the DPI's guides to preparing LEPs and planning proposals.
- 6.4 If the Urban Planning Team support the LEP Amendment Request (based on the assessment described in clause 6.3) a Panel Meeting will be arranged and the request will be placed on the agenda.
- 6.5 Relevant Council Officers will be required to attend the meeting to provide information and advice in relation to their area of expertise and may provide a report to the Panel.

LEP Advisory Panel Meeting

- 6.6 Quorum of a Panel Meeting is three plus the Chair. The Panel Meeting will be postponed if quorum is not present within 15 minutes of the scheduled commencement time
- 6.7 The Applicant is entitled to attend the initial part of the Panel Meeting and address the Panel.
- 6.8 The Applicant may be asked questions by the Panel to clarify any issues with their LEP Amendment Request.
- 6.9 Panel Meetings are closed to the public and the Applicant cannot be present after the part of the meeting referred to in clause 6.7 and 6.8 has concluded.
- 6.10 The Panel will:
 - 6.10.1 Consider any reports or information provided by Council's Urban Planning Team.
 - 6.10.2 Assess the Draft Planning Proposal against existing land use planning strategies and/or other relevant policies.
 - 6.10.3 Identify any outstanding information or issues that should be addressed in the Draft Planning Proposal.
 - 6.10.4 Consider the relative priority and likely timing of the LEP Amendment Request based on:
 - (a) directions by the Minister for Planning and Infrastructure;
 - (b) formal Council resolution;
 - (c) whether the amendment is support by an adopted strategy or study;
 - (d) the timing of provision of necessary public infrastructure;
 - (e) employment generation; and
 - (f) capacity for urban revitalisation.
 - 6.10.5 Identify stakeholders and determine Council's consultation requirements.
- 6.11 The minutes of the Panel meeting will be provided to the Applicant.
- 6.12 The Panel may request a further Panel Meeting be scheduled where there are unresolved issues or to further consider issues where additional information has been supplied by the Applicant. The Panel Chair is to approve any additional Panel Meetings.

Report to elected Council

- 6.13 After considering the recommendations of the Panel, Council's Urban Planning Team will advise the Applicant whether or not it supports the LEP Amendment Request proceeding.
- 6.14 If the Urban Planning Team supports the LEP Amendment Request, it will finalise the Draft Planning Proposal and prepare a report to the elected Council. The report may seek a resolution of Council to forward the Draft Planning Proposal to the Minister for Planning and Infrastructure for Gateway determination.
- 6.15 If the LEP Amendment Request is not supported by Council's Urban Planning Team, the Applicant may request it be reported to the elected Council for a decision as to whether the Draft Planning Proposal should be submitted to the Minister for Planning and Infrastructure for a Gateway determination. Such request must be made in writing and outline the reasons for the LEP Amendment Request to be considered by the elected Council.

- 6.16 Payment of Stage B fees will be required before any report proceeds to the elected Council.

Report to Department of Planning and Infrastructure

- 6.17 If the LEP Amendment request is supported by resolution of the elected Council, Council's Urban Planning Team will forward the final Draft Planning proposal to the DPI for Gateway determination and will provide written notice to this effect to the Applicant.
- 6.18 If the LEP Amendment Request is not supported by a resolution of the elected Council, the External Applicant will be notified.

7 Stage C – DPI gateway determination and decision

Department of Planning and Infrastructure gateway determination

- 7.1 If the DPI supports the LEP Amendment Request, it will advise Council of instructions and conditions for processing the amendment in the Gateway determination. The instructions may relate to consultation requirements, detailed studies to be provided by the Applicant or the requirement for other actions to be undertaken. The DPI will also provide timeframes to Council.
- 7.2 If the Draft Planning Proposal proceeds through the DPI Gateway, Council will require payment of Stage C fees prior to continuing with the processing of the application in accordance with the DPI's instructions.
- 7.3 If the DPI does not support the Draft Planning Proposal, the DPI will advise Council and Council's Urban Planning Team will advise the Applicant including any reasons provided by the DPI for not supporting the Draft Planning Proposal.
- 7.4 A new LEP Amendment Request will need to be submitted for any subsequent amended Planning Proposal.

Consultation

- 7.5 Once the DPI has approved the Draft Planning Proposal, Council's Urban Planning Team will arrange for the required consultation in accordance with the DPI's Gateway determination.

Report to elected Council

- 7.6 After the consultation period, Council's Urban Planning Team will report to the elected Council on the issues raised in any submissions received and whether amendments should be made to the Draft Planning Proposal to resolve these issues.
- 7.7 If the elected Council resolves to support the Draft Planning Proposal (or amended Draft Planning Proposal), Council's Urban Planning Team will forward the resolution to the DPI with a request that it finalises the Draft Planning Proposal in accordance with Council's resolution and make the requested amendments to the LEP.
- 7.8 If the elected Council resolves not to support the proposal, Council's Urban Planning Team will make a request to DPI not to proceed and advise the Applicant of Council's resolution.

DPI decision

- 7.9 If the DPI determines that the amendment should proceed, the DPI will finalise the Draft Planning Proposal, amend the LEP and publish the amended LEP on the NSW legislation website.
- 7.10 If the DPI determines that the amendment should not proceed, the DPI will inform Council. Council's Urban Planning Team will inform the Applicant of the decision.

Part 4 Fees and charges

8 Fees and charges

- 8.1 Due to the statutory processes and timelines associated with LEP Amendment Requests even relatively minor proposals can have significant costs for Council.
- 8.2 The *Environmental Planning and Assessment Regulation 2000* allows Council to charge a fee to recover the costs and expenses incurred. These fees are prescribed in Council's Delivery Program and Operational Plan and include:
 - 8.2.1 Stage A fee
 - 8.2.2 Stage B fee
 - 8.2.3 Stage C fee
- 8.3 Fees will apply to LEP Amendment Requests as follows:
 - 8.3.1 External (private land owners) requests including:
 - 8.3.2 Amendments to mapping / rezoning (other than identifying minor mapping anomalies where an error in the Newcastle LEP can be identified and where the proposed amendment is consistent with the intent and direction of the LEP and Council);
 - 8.3.3 Amendments to schedule 1 to the LEP to list an additional permitted use on a specified property that would otherwise not be permitted in the zone; or
 - 8.3.4 Modification of development standards or local clauses; or
 - 8.3.5 Other requests that incur costs to Council.
 - 8.3.6 External (public agencies) requests of a commercial nature. That is, any amendment to enable development of land for use other than those defined as an 'Infrastructure Facility' under State Environmental Planning Policy (Infrastructure) 2007.
 - 8.3.7 Internal (Council) requests of a commercial nature, including rezoning and / or reclassification of community land to operational. That is, any amendment to enable the sale, or lease of Council owned land, improve land values, or undertaking of development other than for the provision of infrastructure or community facilities.
- 8.4 Each stage of the LEP Amendment Request process will not proceed until the relevant fee is paid.