

GUIDE TO PREPARING A PROPOSAL TO AMEND A LOCAL ENVIRONMENTAL PLAN

WHAT IS IN THIS GUIDE ?

This guide has been prepared to assist in the preparation of applications to amend a Local Environmental Plan. Submitting a proposal that addresses all the requirements of Council will assist in the consideration and assessment of your application.

This guide contains information such as:

- § Details on how Council assesses amendment applications.
- § Relevant fees required
- § Information required to be submitted with your application.
- § An example Table of Contents of an Application Support Document

INFORMATION FOR APPLICANTS PREPARING AN AMENDMENT TO A LOCAL ENVIRONMENTAL PLAN

1. What is an amendment to an LEP and what effect does it have ?

A rezoning or amendment to a Local Environmental Plan (LEP) is a legal town planning process which, when complete, alters the range of activities permissible on a site. This may increase or decrease the range of permissible uses for the property.

2. How much does an amendment cost ?

Please phone Council for an up-to-date fee.

3. What are the key steps in considering an application once it has been received ?

- (a) Preliminary assessment by Planning and Environment Department.
- (b) Report to Council on proposal.
- (c) Decision by Council as to whether to proceed with the draft LEP.
(If Council decides not to proceed with the proposal, the process stops now)
- (d) If Council decides to proceed with the draft LEP, the proposal is submitted to the Department of Planning and Environment (DPE) for concurrence. (If DPE does not support the proposal, the process stops now)
- (e) If the concurrence of DPE is forthcoming, public exhibition of the draft LEP (28 days) and notification of relevant authorities, takes place.
- (f) Report back to Council regarding results of exhibition, submissions etc, for resolution on whether to proceed with proposal.
(If Council decides not to proceed with the proposal, the process stops now)

- (g) If Council decides to proceed with the proposal, a report is submitted to DUAP requesting the LEP be made.
(If DPE does not make the LEP, the process stops now)
- (h) If DPE does consent to the making of the plan, the Minister signs the plan.
- (i) The plan is gazetted.

4. How long does it take for an amendment to be approved ?

In general it takes at least 6-8 months for a LEP from the time you lodge your application for a rezoning to become law (if it is approved) but the time can be much longer if the issues are complex or controversial.

5. Are all applications approved by Council ?

No. Council does not approve every application, some are refused. If you fail to convince Council that your application is appropriate it will be refused.

6. Can I take legal action if the rezoning is refused ?

No. Presently there is no right of appeal against Council's decision on the merits of an amendment to a LEP.

7. If my application is refused will my fee be refunded ?

No. There is no refund of fees for an unsuccessful amendment application. A partial refund may be available if the application is withdrawn before Council makes a decision on it, or if Council resolves not to exhibit a draft LEP for the rezoning/amendment.

8. What is my first step in making an application to amend an LEP ?

The first thing to do is talk to Council's town planner in the Planning and Environment Section. The town planner will advise whether your application is likely to be supported by staff when a recommendation is presented to the Councillors. (Staff are generally available during office hours, but for important or complex proposals it is better to make an appointment).

9. What information must I submit with my application?

Your application to rezone a property/amend an LEP must include three (3) copies of the following information:

- § The completed application form.
- § The written consent of the owner of the property subject of the application;

- § Details of the property (including address, lot and deposited plan number);
- § A plan of the property drawn to scale;
- § Details of any activities you wish to carry out on the property;
- § Details of the use of surrounding properties and how your proposal might affect these properties (including issues such as traffic, noise, privacy etc);
- § What impact – if any – the loss of the existing use of the site will have on the Shire;
- § An analysis of how the amendment would comply with any relevant aims and objectives contained in the relevant Local Environmental Plan – this plan is available from Council;

OR

If the rezoning would be inconsistent with the aims and objectives contained in these plans, why you believe the aims should be varied or why they are inadequate;

- § Details of any substantial public benefit that would result from your proposal;
- § A concept plan showing how the site might be redeveloped if the amendment was successful (plan at a scale suited to the nature of the proposal);
- § Details of whether the site was ever used for industrial or agricultural purposes and whether the site may contain contamination;
- § Related necessary information (for example in some instances traffic studies, commercial/retail viability analysis, ecological assessments for threatened species, noise analysis);
- § The fee (this is subject to change annually and you should check with Council before you lodge your application);
- § A support document containing the above and other relevant information. Attached to the rear of this guideline, is an example Table of Contents for a support document.

Additional copies of the above information may be required if the application needs to be referred to many government authorities.

10. What is the law on amending an LEP or DCP?

An amendment of Council's LEP's is an action under the Environmental Planning and Assessment Act, and must be carried out in accordance with that Act. Council planners or your planning consultant will attend to these matters.

11. What is the role of the public in the process?

If the draft Local Environmental Plan reaches the exhibition stage, the public has a right to view the plan and comment on its content. Apart from placing an

advertisement in the newspaper advising the community of the exhibition, Council will notify in writing those residents and property owners it feels may be affected by the draft plan. Council must take into consideration submissions from the public when it makes a decision whether or not to proceed with the application.

12. What is meant by “Substantial Public Benefit”?

A rezoning application has “substantial public benefit” if:

- § When, compared to any of the range of activities presently permitted on the site, the proposal will result in an improved physical, social and economic environment not only for the subject site but for its surrounds and Young as whole, and
- § the application satisfies Council’s rezoning application assessment criteria (detailed below).

13. What matters does Council consider when determining your application? (Assessment Criteria)

Council considers the following matters when it determines your application:

- § The objects of the Environmental Planning and Assessment Act;
- § The relevant heads of consideration for development applications (as detailed under Section 79C of the EP & A Act);
- § any relevant state or regional environmental policies, circulars or Ministerial directions;
- § the relevant visions, mission statements, aims and outcomes contained in the Young Shire Council Management Plan;
- § the objectives of the relevant Local Environmental Plan;
- § any relevant non-statutory planning document adopted or exhibited by Council (e.g. strategic plans, Codes, policies, concept plans and the like);
- § any precedent that may be set as a result of the rezoning;
- § whether site contamination may restrict rezoning of the property;
- § any cumulative impact that may result across the Shire/area as a result of the application being followed by other applications;
- § any relevant experience with similar proposals or circumstances applying in other LGA’s.

Assessment of the application must also include an appraisal of any other alternative zoning for the site that may be appropriate (i.e. other than the current zone or the zone being proposed).

In determining the application, Council must take into consideration any submissions from the public, the response of any authority to which the matter was referred and the

advice of other Departments within Council. The application must also demonstrate the substantial public benefit arising from the proposal.

14. Should I use a Town Planning Consultant?

It is not mandatory to use a Town Planning Consultant, but as can be seen, an application to amend an LEP needs to include some very detailed information. To ensure your application is comprehensive Council strongly recommends you employ a qualified Town Planning Consultant to prepare your proposal. Town Planning Consultants are listed under "Town and Regional Planning" in the Yellow Pages.

Alternatively, other professional services related to land development, such as Engineering Consultants or Property Consultants etc., may be able to provide a similar service. You should ensure that your consultant is suitably qualified to advise you on town planning matters.

Your Town Planning Consultant will advise you whether other specialist advice may be necessary.

15. When are amendments considered by Council?

Council considers these applications at its monthly meetings. If you intend to lodge an application it must be submitted (with all information) three (3) weeks before the first day of that month (this time is to permit staff to thoroughly consider and report on your application). A longer "lead time" may be required if it is considered necessary to consult with other relevant authorities and/or affected persons prior to a presentation of a report to Council.

**APPLICATION
SUPPORT DOCUMENT**

EXAMPLE
TABLE OF CONTENTS

1. INTRODUCTION

(A brief introduction to the proposal)

2. BACKGROUND

(A brief history of the site and circumstances that has resulted in this application)

3. THE SITE

- 3.1 Site Description
- 3.2 Legal Description
- 3.3 Title Details
- 3.4 Existing Zoning
- 3.5 Description of Locality

4. LAND USE OPTIONS

- 4.1 Objectives of Proposed Zone
- 4.2 Alternative Land Uses
- 4.3 Proposed Amendment

5. STATUTORY PLANNING PROVISIONS

- 5.1 State Planning Controls
- 5.2 Local Controls
- 5.3 Draft Environmental Planning Instruments
- 5.4 Likely Council Concerns

6. STATEMENT OF ENVIRONMENTAL EFFECTS

- 6.1 Compatibility with Surrounding Land Uses
- 6.2 Physical Site Assessment
- 6.3 Protection of any Special Features
- 6.4 Open Space Opportunities
- 6.5 Likely Traffic Impact
- 6.6 Availability of Utilities and Other Services
- 6.7 Attitude of Relevant Public Authorities
- 6.8 Availability of Public Transport
- 6.9 Social and Economic Impact
- 6.10 Alternative to Rezoning
- 6.11 Significance to State, Regional or Local Planning Policies etc.

7. CONCLUSION/RECOMMENDATION

(Summary of the proposal and justification for it to proceed. How will the public substantially benefit from this proposal).