

1. POLICY OBJECTIVES

- 1.1 The objectives of this policy are to:
- a) Establish Council's requirements for the submission of planning proposals by proponents,
 - b) Establish the minimum requirements for preliminary community consultation,
 - c) To provide guidance for the processing of planning proposals so that Council can be consistent in its approach.

2. BACKGROUND

- 2.1 The *Wollondilly Local Environmental Plan 2011* is legislation that guides planning decisions on development and land use within Wollondilly. It does this through zoning land and development controls which set out what can and cannot be undertaken on the land. It is made up of a written document (legislation) and a series of maps.
- 2.2 The *Wollondilly Local Environmental Plan 2011* is one of Council's core documents and is key to delivering on the long term strategic planning for the Shire. It supports the implementation of the Wollondilly Community Strategic Plan by implementing those actions which are influenced through land use planning.
- 2.3 The statutory process for amending Local Environmental Plans (LEPs) is through the preparation of a Planning Proposal. A Planning Proposal is a written document which explains the intended effect of a proposed amendment to a Local Environmental Plan and considers potential impacts and sets out the justification for the change(s). It is used and read by Council's and NSW Government, public agencies and other key stakeholders, as well as the general community to inform and make decisions, provide technical advice and local input.
- 2.4 Amendments to a local environmental plan, and the related Planning Proposal explain the change, can deal with many different matters such as, but not limited to, heritage listing buildings, rezoning land to enable urban development for a few or thousands of houses through to a comprehensive review of a local environmental plan.
- 2.5 The NSW Department of Planning & Environment (the Department) determines the statutory process for amending Local Environmental Plan's through legislation and through the preparation of guidance documents.
- 2.6 The guidance documents which include *A guide to preparing planning proposals* and *A guide to preparing local environmental plans* although detailed are focussed on the content within a planning proposal and the statutory process in terms of who can initiate an amendment to the local environmental plan and the process once a planning proposal has been submitted to the Department. The guides do not cover matters such as how a proposal is submitted to Council, any fees and charges or other local procedures.

- 2.7 Council is a Relevant Authority under the *Environmental Planning and Assessment Act 1979*. This means that Council is required to assess and prepare planning proposals to amend its LEP.

3. APPLICABILITY

- 3.1 This policy applies to all Planning Proposals. This includes proposals submitted to Council for consideration and also proposals initiated by Council.
- 3.2 Where this Policy is inconsistent with statutory provisions or guidance documents prepared by the NSW Department of Planning and Environment those provisions shall prevail.

4. GUIDELINES

4.1 DEFINITIONS

In this policy words and phrases have the following meaning:

Draft Planning Proposal refers to a planning proposal which has not been considered by Council. For example, when a planning proposal is submitted to Council it is referred to as a “draft planning proposal” until Council resolves to support it and forward it to the Greater Sydney Commission or delegate with a request for a Gateway Determination.

Gateway Determination means a document issued by the Minister for Planning, the Greater Sydney Commission or their delegate that specifies whether a planning proposal is to proceed and, if so, in what circumstances.

Planning Proposal means a written document that explains the intended effect of a proposed local environmental plan and sets out the justification for making that plan which has been prepared in accordance with the NSW Government Department of Planning & Environment’s *A guide to preparing planning proposals*.

Preliminary Consultation means consultation undertaken at the start of the process prior to a proposal being considered at an Ordinary Meeting of Council and prior to a Gateway Determination.

Preliminary consultation is not a statutory requirement but is considered by Council to be good practice.

Proponent means the person or organisation who submits/initiates a planning proposal. Where a planning proposal is submitted to Council for consideration the proponent will most likely be a landowner, developer or consultant. Where Council initiates a planning proposal, Council is the proponent.

4.2 DIFFERENT TYPES OF PLANNING PROPOSALS

- 4.2.1 In this policy, planning proposals are categorised into one of six (6) categories as detailed below:

Category/Type of Planning Proposal	Description
Housekeeping Amendment	A Council initiated planning proposal that seeks to correct an error or an anomaly in the local environmental plan.
Council Initiated Planning Proposal	Any Council initiated planning proposal that is not a Housekeeping Amendment.
Planning Proposal (Minor)	<p>A proponent initiated planning proposal that Council considers to be:</p> <ul style="list-style-type: none"> a) Small/minor in scale, and b) Simple in nature, and c) Unlikely to have significant impacts on the natural, built, social and economic environment (i.e. unlikely to require a number of specialist studies). <p>A proposal to rezone land is unlikely to be considered a minor planning proposal except where the rezoning was not for the purposes of growth (i.e. to subdivide the land to create additional lots for houses).</p> <p>An example of a Minor Planning Proposal would be where a correction/minor change to the local environmental plan is sought which has not resulted from an error on Council's account.</p> <p>Other examples include proposals submitted by or on behalf of not-for-profit organisations and other community based organisations <u>and</u> where the objective or intended outcome has a community focus.</p>
Planning Proposal (Major)	A proponent initiated planning proposal which is modest in size, i.e. generally up to 50 lots and where specialist studies are required.
Planning Proposal (Significant)	<p>A proponent initiated planning proposal for significant growth, i.e. generally more than 50 lots.</p> <p>All planning proposals within a Growth Centre.</p>
Planning Proposal (Employment Generating)	<p>A proponent initiated planning proposal where the focus of the proposal is for an employment generating objective or outcome.</p> <p>Where there is a mix of changes proposed, a proposal will be considered 'Employment Generating' where the job forecast to housing ratio is greater than 1:1.</p>

4.3 REQUIREMENTS FOR SUBMITTING A PLANNING PROPOSAL

- 4.3.1 Proponents are strongly encouraged to have a pre-lodgement meeting prior to preparing and submitting a planning proposal with Council.
- 4.3.2 The “Proponent” is to be identified on the application form. Council will deal with the proponent nominated on the form as our first point of call.
- 4.3.3 Planning proposals must be submitted along with a completed Planning Proposal Application Form.
- 4.3.4 The submission date for a planning proposal will be the date on which Council has received all of the following:
 - i. Planning Proposal, and
 - ii. Typical studies (where required)(refer to 4.11.1), and
 - iii. Payment of the relevant planning proposal fee, and
 - iv. Completed Planning Proposal application form

Note: for explanation, if the above requirements are submitted/paid on different dates, the submission date will be the date on which the last submission requirement is made.

- 4.3.5 Council will not process a planning proposal until 4.4 has been met.

4.4 PLANNING PROPOSAL FEES

- 4.4.1 The following fees apply to proponent initiated planning proposals where relevant:

Fee	When is it relevant to a planning a minor/major planning proposal?
Initial Planning Proposal Fee	All planning proposals
Environmental Study Finalisation Fee	All planning proposals where a specialist study is required to inform the planning proposal
Planning Proposal Mapping Fee	All proposals lodged which require an amendment to one of the maps.
LEP Amendment Mapping Fee	All proposals lodged which require an amendment to one of the maps.
DCP Amendment	Where a proponent initiates site specific controls.
Other fees	Refer to legislative ability.

- 4.4.2 Fees will be determined based on Council’s Fees and Charges as at the date of:
 - a) lodgement of the Planning Proposal in the case of initial planning proposal,
 - b) lodgement of the last completed specialist study in the case of the Environmental Study Finalisation Fee.
 - c) Public exhibition in the case the Planning Proposal Mapping Fee.
 - d) Finalisation in the case of the LEP Amendment Mapping Fee.

Note: Mapping fees are only applicable to planning proposals submitted on or after 1 July 2013.

4.4.3 Council will charge an initial planning proposal fee for all proponent initiated planning proposals. This fee will be set out in Council's adopted Fees and Charges and will be payable when the proposal is submitted.

4.4.4 Council will charge an Environmental Study Finalisation Fee to review and finalise the studies for planning proposals.

This fee will be levied once all the studies have been completed to the satisfaction of Council. Council will not formally exhibit a planning proposal unless the relevant study review fee has been paid.

4.4.5 The Environmental Study Finalisation Fee is a proportional fee and is calculated on the basis of the total cost, exclusive of GST, of preparing each required study. The proponent is to provide a copy of the invoice for each study once the study has been finalised to Council's satisfaction.

4.4.6 A Planning Proposal Mapping Fee will be charged to prepare any maps for the public exhibition.

Council will not formally exhibit a planning proposal unless the relevant mapping fee has been paid.

4.4.7 An LEP Amendment Mapping Fee will be charged to prepare the final LEP Maps according to the standards.

Council will not forward a planning proposal to the Greater Sydney Commission (or their delegate) to finalise the amendment unless the relevant mapping fee has been paid.

4.4.8 No refund of fees is applicable except for the circumstances under section 4.13.

4.5 MINIMUM REQUIREMENTS FOR PRELIMINARY CONSULTATION

4.5.1 Council is committed to engaging with the community and key stakeholders early and throughout the planning proposal process.

4.5.2 As a part of its preliminary assessment for any planning proposal Council will undertake community engagement by way of preliminary consultation to better understand planning considerations and local attitudes to the planning proposal.

4.5.3 All preliminary consultation will provide a submission period of no less than 15 calendar days for;

- Planning Proposals (Minor); and
- Certain Housekeeping Amendments.

The minimum consultation period will be 28 calendar days for;

- Planning Proposals (Major),
- Planning Proposals (Significant),
- Planning Proposals (Employment Generating),
- Council Initiated Planning Proposals

4.5.4 The minimum consultation period may be longer at staff discretion for particularly complex or large proposals or during holiday periods.

4.5.5 The minimum requirements for Preliminary Consultation for all draft planning proposals are summarised in the table below:

Minimum Requirements

Category/Type of Planning Proposal	Consultation Period	Landowner & Occupant	Adjoining landowner & occupant immediately adjoining the site(s) of the proposal	landowner/occupant within 2km	Adjoining Council(s)	Local newspaper	Council's website	Wollondilly Library	Public Agencies
Planning proposals (minor)	15 days*	✓	✓	#	**	✓	✓	✓	***
Planning proposals (major)	28 days	✓	✓	#	**	✓	✓	✓	***
Planning proposals (significant)	28 days	✓	✓	✓	**	✓	✓	✓	***
Planning proposal (employment generating)	28 days	✓	✓		**	✓	✓	✓	***
Council initiated planning proposals (site specific)	28 days	✓	✓		**	✓	✓	✓	***
Council initiated planning proposals (non-site specific)	28 days	n/a	n/a	n/a	✓	✓	✓	✓	***
Housekeeping amendments (site specific)	15 days	✓			**				***
Housekeeping amendments Apply across the Shire or to specific zones)	Nil		No preliminary Consultation will be undertaken where the error or anomaly is general in nature and applies broadly.						

* A minimum consultation period of 21 days should be provided for public agencies.

**Any adjoining Council(s) will be notified where the site is located close to the boundary.

***Refer to 4.8 Consultation with Public Agencies.

required for proposals that would result in more than 25 lots

4.5.6 The outcome of any preliminary consultation will be reported to Council to inform the initial decision on whether a planning proposal is supported and should be forwarded to the Greater Sydney Commission or their delegate with a request for a Gateway Determination.

4.5.7 If a planning proposal is modified following initial consultation the Council will undertake additional consultation as outlined at 4.4.5 but will also notify any previous submitters. This clause does not apply to minor amendments.

4.6 CONSULTING THE COMMUNITY – PUBLIC EXHIBITION

4.6.1 The main consultation period for planning proposals will be the formal public exhibition held in accordance with the Environmental Planning and Assessment Act, 1979 and required by a Gateway Determination.

- 4.6.2 The minimum requirements for a public exhibition are set out by the NSW Department of Planning and Environment.
- 4.6.3 As part of any formal public exhibition Council will notify any submitters from previous community engagement.
- 4.6.4 Where a planning proposal is to be supported by an action under a separate statutory process (for example a planning agreement under the *Environmental Planning & Assessment Act 1979* or a biodiversity certification application under the *Biodiversity Conservation Act 2016*), the public exhibitions should be coordinated and held at the same time.
- 4.6.5 The provisions described under 4.6.4 do not apply to planning controls proposed to be included within the Development Control Plan.

4.7 CONSIDERATION OF SUBMISSIONS

- 4.7.1 Where more than one response is received from the same address, the submission will be counted as individual submissions where submitted by different people except where the content of the submissions is identical.
- 4.7.2 Where a response is submitted by more than one (1) person from the same address (for example Mr & Mrs Smith) this will be considered as one (1) submission.
- 4.7.3 Where a person submits more than one response those responses shall be considered as one (1) submission.
- 4.7.4 Where a petition is received, Council will advise the head petitioner only of the outcome of the consultation.

Note: The head petitioner is considered to be the person who submitted the petition and if this is not clear than the first person listed on the petition.

- 4.7.5 Late submissions will be accepted but will only be considered where these are received in sufficient time to allow for their reporting.

4.8 CONSULTATION WITH PUBLIC AGENCIES

- 4.8.1 Consultation with relevant public agencies prior to a Gateway Determination will be undertaken where there is considered to be a potential critical threshold issue.

A 'critical threshold issue' is considered to be where there is a known constraint that has the potential to significantly influence the suitability of part or the principle of the draft planning proposal.

Note: In some cases there may also be a statutory requirement to consult with public agencies prior to Gateway Determination. For example, Ministerial Direction 5.2 (Sydney Drinking Water Catchments) requires consultation for planning proposals for land located within the Sydney Drinking Water Catchment prior to the issuing of a Gateway determination.

- 4.8.2 Council will consult with relevant public agencies after the Gateway Determination as required by the Gateway Determination.

4.9 LOCAL PLANNING PANEL

- 4.9.1 All Draft Planning Proposals are to be referred to the Local Planning Panel for advice before Council considers whether to request a Gateway Determination.
- 4.9.2 Pre-Gateway advice from the Local Planning Panel is to occur concurrently with the relevant preliminary consultation exercise as described in clause 4.5
- 4.9.3 Despite clause 4.9.1, the Chief Executive Officer may determine that a draft planning proposal or planning proposal may not require referral to the local planning panel where the proposal relates to:
- the correction of an obvious error in the Wollondilly Local Environmental Plan 2011,
 - matters that are of a consequential, transitional, machinery or other minor nature, or
 - matters that will not have any significant adverse impact on the environment or adjoining land.

Note: *Local Planning Panels Direction – Planning Proposals* issued by the Minister for Planning on 27 September 2018 supersedes this policy in terms of the minimum requirements for referring planning proposals to the local planning panel.

4.10 INCLUDING ADDITIONAL LAND AND REMOVING LAND

- 4.10.1 The Council may add land to a planning proposal and likewise may remove land from a planning proposal.
- 4.10.2 Council will only do this if:
- It has consulted with the landowner of the land to be added or removed,
 - It has consulted with the proponents and to fund any specialist studies likely to be required after the amendments, and
 - It is satisfied that the addition and/or subtraction will lead to a better planning outcome.

4.11 PREPARATION OF STUDIES FOR PROPONENT INITIATED PLANNING PROPOSALS

- 4.11.1 Studies 'typically' required to inform a planning proposal are to be submitted with the Draft Planning Proposal.

'Typical' studies include:

- Traffic,
- Flora & Fauna,
- Preliminary contamination assessment,
- Bushfire prone land,
- Stormwater management,
- Wastewater & Servicing Strategy,
- Aboriginal archaeological & heritage assessment
- European heritage assessment
- Agricultural land capability/land use conflict
- Any other study required by a Ministerial Direction

Note: While these studies are required for most planning proposals involving a spot rezoning, the actual studies required for a planning proposal will need to be determined on a case by case basis.

- 4.11.2 Before submitting a draft planning proposal, the proponent should obtain confirmation, in writing from Council, to determine what studies are required to be submitted with the draft planning proposal.
- 4.11.3 Studies required to inform a draft planning proposal or planning proposal (i.e. required post Gateway Determination) are to be commissioned and funded by the proponent.
- 4.11.4 Council maintains absolute discretion in relation to specialist studies and will not adopt a study unless it is satisfied that it addresses all relevant matters.
- 4.11.5 Where additional studies are required after a Gateway Determination has been issued Council will review briefs for specialist studies before the studies are commissioned and will provide technical advice for its requirement.
- 4.11.6 If necessary, the studies may be amended to address deficiencies identified by the Council.
- 4.11.7 Council will only request studies that it believes are necessary for the thorough and proper assessment of the planning proposal. Studies that trivialise issues and are dismissive of the need for proper investigation and reporting will not be accepted.

4.12 CHANGING THE PROPONENT

- 4.12.1 A request to change the proponent should be supported by acknowledgment, in writing, from the previous proponent.

4.13 WITHDRAWING A PLANNING PROPOSAL

- 4.13.1 A draft planning proposal can only be withdrawn by the proponent prior to a request for a Gateway Determination.
- 4.13.2 If withdrawn prior to being reported to Council for Gateway determination a proponent will be eligible for up to 50% refund of the Planning Proposal Fee.
- 4.13.3 Where Council resolves not to support a draft planning proposal, the proponent will be eligible for up to 25% refund of initial planning proposal fee.
- 4.13.4 After this point no refund.
- 4.13.5 The amount of refund will be determined by Council and may be based on the amount of Council resources used.
- 4.13.6 Any refund will be made to the same person or company who made the original payment.

4.14 VARYING THE POLICY IN EXTENUATING CIRCUMSTANCES

- 4.14.1 Departures from any part of this policy can be considered where there are extenuating circumstances.

4.14.2 Requests to vary any provision in this policy must be in justified in writing by the Proponent.

4.14.3 Variations must be approved by Council's Director Planning. In the instance where the Director of Planning has a conflict of interest the variation must be approved by the Chief Executive Officer.

4.15 PLANNING PROPOSAL PROCESS

4.15.1 A diagram is provided at Attachment 1 to provide an overview of the process for proponent initiated planning proposals.

5. RESPONSIBILITY/ACCOUNTABILITY

- 5.1 Executive
- 5.2 Director Planning
- 5.3 Manager Growth & Strategic Planning
- 5.4 Strategic Planning
- 5.5 Growth

6. RELATED POLICIES/PROTOCOLS

- 6.1 Planning Agreements – PLA0037
- 6.2 Interaction with Developers, Lobbyists & Submitters – GOV0071
- 6.3 Environmental Protection Zones – AP0014

7. RELATED PROCEDURES

- 7.1 Nil

8. RELATED LEGISLATION

- 8.1 Part 3 of the *Environmental Planning and Assessment Act 1979*
- 8.2 Part 2 of the *Environmental Planning and Assessment Regulation 2000*
- 8.3 State Environmental Planning Policies (SEPPs)
- 8.4 *Wollondilly Local Environmental Plan 2011*

9. ATTACHMENTS

- 9.1 Attachment 1 – Summary of Dates for when Fees apply to Planning Proposal

10. RESOURCES

- 10.1 Nil

11. IMPLEMENTATION STATEMENT

- 11.1 To ensure this policy is implemented effectively, Council will employ a variety of strategies involving awareness, education and training. These strategies will be aimed at Councillors, staff and council representatives and will involve:
- a. a regular review of the legislation and guidelines from the Department of Planning and Environment to ensure that any relevant changes that affect planning agreements are incorporated into this Policy. This will be particularly important should new planning legislation be introduced;
 - b. regular emphasis on relevant sections of the Policy when planning agreements are reported to Council,
 - c. a review of this policy every 12 months. This will include consideration of the impact of this policy on the preparation of planning proposals, review of similar policies prepared by other Councils, and obtaining legal advice where appropriate.

12. POLICY HISTORY

12.1 Date First Adopted	## / ## / ##
12.2 Most Recent Adoption	## / ## / ##
12.3 Next Review Date	## / ## / ##
12.4 Responsible Officer	Manager Sustainable Growth

Wollondilly Shire Council
PO Box 21 Picton NSW 2571
62-64 Menangle St Picton NSW 2571
Tel: 02 4677 1100 Fax: 02 4677 2339
Email: council@wollondilly.nsw.gov.au
Rural Living www.wollondilly.nsw.gov.au

Attachment 1 - Planning Proposal Process; (for proponent initiated proposals)

