



Planning Proposal (Rezoning) Guidelines

Adopted by Council: 26 March 2013

Revised by Council: 6 November 2018

**File Number: 23426E
Version 4.0 (November 2018)**

Prepared by Planning, Environment and Development Services Group



Contents

1. Preliminary.....	3
1.1 Introduction.....	3
1.2 Purpose	3
1.3 What is a Planning Proposal?	3
1.4 What are the steps in the process?	4
1.5 Ownership of the process.....	5
2. Assessment Criteria	5
2.1 When is a Planning Proposal likely to be supported by Council?	5
2.2 Requests to vary timing of future growth / investigation areas	6
3. Lodgement Requirements	8
4. Specialist Studies	8
4.1. What are specialist studies?.....	9
4.2. What specialist studies will be required?.....	9
4.3. Who organises the specialist studies?	9
4.3.1 Council Initiated Planning Proposals	9
4.3.2 Proponent Managed Studies	9
4.3.3 Council Managed Studies	10
4.4. Who pays for the specialist studies?	11
4.5 Threshold Issues	11
5. Planning mechanisms that can be used for a Planning Proposal	11
5.1 Urban Release Areas (URA) – Part 6 of Shoalhaven LEP 2014.....	11
5.2 Biodiversity Certification	11
5.3 Development Contributions Plans	12
5.4 Planning Agreements	12
5.5 Development Control Plans – Site Specific Chapters	12
6. Classification of Planning Proposals	13
7. Community Engagement.....	14
7.1 Engagement methods	14
7.2 Council Meetings (All Planning Proposals)	15
8. Fees and Charges	15
8.1 Council Initiated Planning Proposals.....	15
8.2 Proponent Initiated Planning Proposals	16
9. Risks involved in lodging a Planning Proposal.....	16
10. Who should I contact for more information?	17

1. Preliminary

1.1 Introduction

Land use and development activities within Shoalhaven are subject to the Local Environmental Plan (LEP). A LEP is a legal document prepared under the Environmental Planning and Assessment Act 1979 and consists of a written document and maps. A LEP sets out land use zones and specifies standards to control development such as minimum subdivision lot sizes and the maximum height for buildings.

Council has the ability to amend the LEP as the need arises. The ideal situation is to review the whole LEP regularly or major sections of the plan on a programmed basis.

However, Council may undertake less significant, one-off amendments to the LEP where such a change is warranted, via the Planning Proposal (PP) process.

1.2 Purpose

The purpose of these guidelines is to ensure that Council is consistent and transparent in its consideration and management of PPs. It provides a framework for all PPs within the City, with a particular focus on the issues associated with proponent initiated PPs.

1.3 What is a Planning Proposal?

A PP is a plain English document prepared under Part 3 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) which explains and justifies a proposed amendment to the LEP.

The Shoalhaven LEP 2014 is based on the NSW 'Standard Instrument' LEP and commenced in 2014. Since then, Council has prepared a number of PPs to correct anomalies and resolve a range of issues resulting from the transfer to the Standard Instrument LEP format.

If a landowner or group of landowners (the proponent) wish to change provisions in the LEP that apply to their land (e.g. the zoning, minimum lot size, or maximum height of buildings) they will need to submit a formal PP request to Council.

The steps involved in the process of a proponent-initiated PP are outlined in section 1.4 of these guidelines.

1.4 What are the steps in the process?

The following flow chart illustrates the PP process as undertaken by Shoalhaven City Council.

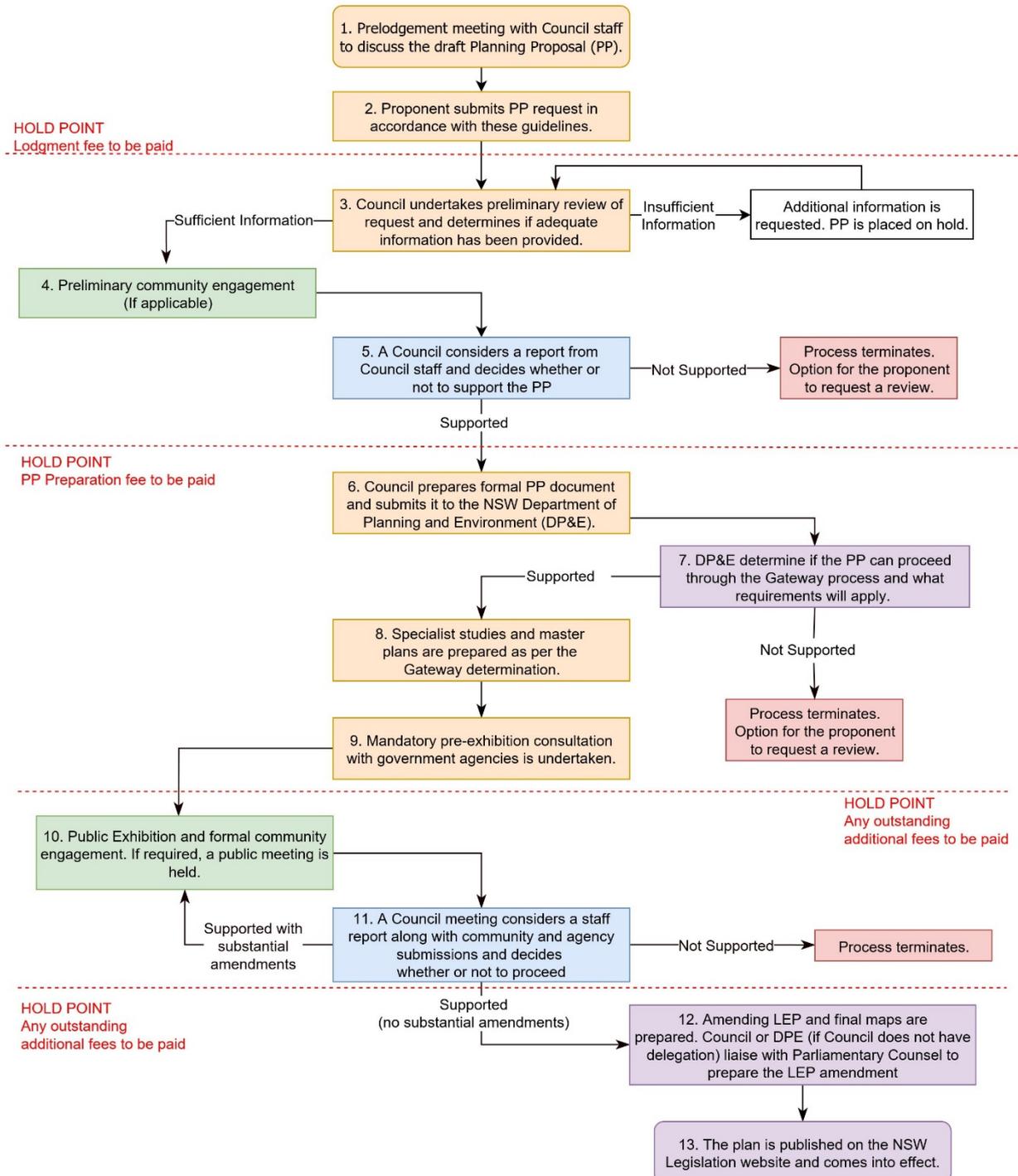


Figure 1: Planning Proposal Process

1.5 Ownership of the process

Council owns all PPs, including those initiated and funded by proponents.

A proponent may request that Council amend the LEP by lodging a formal PP request and paying the required fees. The PP request must include a signed Planning Proposal Lodgement Form and a PP report (prepared by suitably qualified professionals). Should Council decide to progress the PP, the process and proposed outcomes will be managed and controlled by Council.

Council will determine the outcomes sought by the PP, taking into consideration relevant factors such as technical studies, input from Government agencies, and community feedback. The proponent's PP report will be used as a guide for preparing Council's PP, which may differ depending on what Council is prepared to support e.g. Council may not seek to increase the height of buildings to the extent sought by a proponent if it considers the requested height to be excessive or out of character with the area.

The proponent is to nominate one contact to liaise with Council during the PP process. The proponent will be updated on the progress of the PP via the nominated contact.

The proponent is not entitled to:

- have contact with consultants engaged by Council to prepare technical studies or peer reviews, or to see technical studies etc. prior to them being finalised;
- view staff reports to Council before they are finalised; or
- view the LEP amendment documentation before it is notified in the NSW Government Gazette.

2. Assessment Criteria

2.1 When is a Planning Proposal likely to be supported by Council?

Objective: To provide criteria that will be used by Council in determining whether or not to support a PP.

Council is more likely to support a PP request if:

- The proposed amendment is supported by an adopted/endorsed Council or State Government strategy or plan such as:
 - Illawarra-Shoalhaven Regional Plan;
 - Shoalhaven Growth Management Strategy (GMS), which incorporates;
 - Nowra Bomaderry Structure Plan;
 - Jervis Bay Settlement Strategy;
 - Milton Ulladulla Structure Plan; and
 - Sussex Inlet Settlement Strategy.

Note: a number of investigation or future expansion areas are identified in the above documents.

- There is a clear anomaly in the LEP mapping.
- Council is satisfied that the proposed amendment is minor and has sound justification.

PP requests that do not meet the above criteria will generally not be supported by Council.

Before submitting a PP request, the proponent must have:

1. Held a pre-lodgement meeting at which sufficient information was provided to enable Council staff to provide preliminary feedback on the proposal. Council will write to the proponent following the pre-lodgement meeting to provide preliminary feedback on the proposal and list any studies or other information required, including any that would need to be undertaken before submitting a PP request to Council.
2. Prepared a PP report and supporting documentation in accordance with Council's letter (referred to above).

2.2 Requests to vary timing of future growth / investigation areas

Objective: To ensure that a growth precinct will only be accelerated if:

1. *It is likely that it will be delivered soon after it is accelerated;*
2. *It is the whole of a logical precinct;*
3. *Appropriate infrastructure is provided at no cost to Council or government;*
4. *The demand for additional urban land will exceed supply;*
5. *Environmental land will be conserved and maintained in perpetuity; and*
6. *It will achieve satisfactory amenity and public interest outcomes.*

The GMS and supporting strategies provide guidance on timeframes for investigating and rezoning the future growth areas. These timeframes are based on the best available information at the time of preparing the relevant plan/strategy on infrastructure and servicing needs, and forecast land supply/demand. It is recognised that circumstances can change and that this timing may need to be reviewed as the strategy or plan is implemented.

Where a proponent seeks to initiate a PP for an identified investigation area ahead of the timing in the GMS, they must address the following:

The Proponent

- The proponent must either:
 - Own the majority of the land in the precinct; or
 - Have satisfactory arrangement to purchase the majority of the land in the precinct; or
 - Be authorised to represent all landowners in the precinct and have a funding arrangement with the owners to deliver the precinct.
- Have the financial means to deliver all infrastructure required to service the precinct at no cost to Council or government.
- Have suitable experience in the planning and delivery of land subdivision.

The Proposed Development Area

- Must be contained within the investigation/growth area identified in the GMS.
- Must be a practical and logical part of the investigation/growth area, e.g. in terms of topography, stormwater management, road and other infrastructure. Property boundaries are not necessarily logical precinct boundaries.

Infrastructure

- Roads
 - The proponent/developer is to deliver any new roads or road upgrades required to service the precinct at no cost to Council or government. All roads are to be designed and engineered to the relevant standards agreed by Council. This includes new roads and upgrades to existing roads and intersections.

- Stormwater
 - The proponent is to deliver all stormwater infrastructure required to service the precinct at no cost to Council or government.
 - Detention and treatment devices are to be sized to service the physical catchment in which they are located. The cost of this work is to be borne by the proponent.
 - If the acceleration results in increased maintenance cost, that cost will be borne by the proponent.
- Public Open Space
 - The proponent is to deliver all public open space (including embellishment) required to service the precinct at no cost to Council or government.
 - If the precinct contains an area identified for public open space to service a wider area (such as district or regional open space) then that land is to be dedicated to Council and embellished to one of the following standards:
 - Fully embellished as anticipated by the GMS or its supporting document; or
 - Embellished to ensure it is low maintenance until Council is ready to further embellish it.
- Water and Wastewater Infrastructure
 - The proponent is to deliver all water supply infrastructure required to service the precinct at no cost to Council or government.
 - The proponent is to deliver all waste water infrastructure required to service the precinct at no cost to Council or government.
 - If Shoalhaven Water has identified major works within the precinct (water towers, pumping stations, Sewage Treatment Plant's) then these are to be delivered, with full capacity, by the proponent at no cost to Council or government.
- Electricity Supply
 - The proponent is to deliver all electricity supply infrastructure required to service the precinct at no cost to Council or government.
 - If the supply authority has identified major works within the precinct (substations, transformers etc) then these are to be delivered, with full capacity, by the proponent at no cost to Council or government.

The Local Area

- There must be a demonstrated shortfall in urban land supply in the local area (refer to information provided in the applicable strategy/plan) to the extent that would justify the proposed change in timing.

Environmental Land

- The proponent must provide for the long term management of environmental land within the precinct at no cost to Council.

Amenity

- Adequate services must be provided for the precinct. Where this results in additional costs to service providers (including Council) that cost is to be borne by the proponent. Minimum service provision is to include:
 - Public Transport
 - Cycleway and Footpath Connections
 - Medical and Social Support Services
- Isolation
 - The precinct must not be isolated from established urban areas.

Public Interest

- The acceleration must not compromise the interests of any public entity including:
 - The Commonwealth and its agencies
 - The State of NSW and its agencies
 - Shoalhaven City Council
 - Public Utility Companies
- The acceleration must not compromise the interest of any local community (including local Aboriginal communities).

3. Lodgement Requirements

Objective: To establish minimum requirements for the lodgement of PP requests including minimum requirements to consult with Council prior to lodgement.

The following is required to be submitted with any PP request:

1. The PP Lodgement Form (Attachment A).
2. A PP Report

As a minimum, a PP report must include all information set out in Section 55 of the EP&A Act and the Department's *Guide to Preparing Planning Proposals*. Council will determine the need for any other supporting information on a case-by-case basis.

3. Technical Studies

All supporting technical studies (threshold issues – see Section 4.5 below), concept diagrams and preliminary plans requested by Council as part of the pre-lodgement discussions. This may include, but is not limited to, the following technical issues:

- Traffic and transport.
 - Environmental impacts.
 - Bushfire risk and mitigation.
 - Urban design.
 - Economic factors.
 - Social and cultural considerations.
 - Infrastructure requirements.
4. Pre-lodgement meeting outcomes letter.
 5. Applicable fees. For the relevant fees, please refer to the current Shoalhaven City Council Schedule of Fees and Charges.

For more detail, proponents should refer to the Department's *Guide to Preparing Planning Proposals*.

4. Specialist Studies

Objectives:

- 1) *To outline the circumstances in which Council will project manage specialist studies for a PP.*
- 2) *To clarify how Council will exercise oversight of specialist studies that are project managed by proponents.*
- 3) *To outline the process Council will follow when project managing specialist studies for proponent initiated PPs.*

4.1. What are specialist studies?

Specialist studies are expert reports that help Council and government agencies understand a PP and its likely impacts. They must be prepared by persons with appropriate expertise, qualifications, and accreditation (where relevant) and who are independent from the proponent.

4.2. What specialist studies will be required?

Council will review each PP to determine what specialist studies are needed. If the PP is submitted to the Department of Planning and Environment (DP&E) for Gateway determination, DP&E may identify additional specialist studies. Some of the more common specialist studies are:

- Traffic and transport
- Flora and fauna
- Stormwater and water quality
- Bushfire
- Flooding
- Urban design and masterplans
- Aboriginal cultural heritage
- Contaminated Land
- Geotechnical stability and acid sulfate soils
- Infrastructure requirements

4.3. Who organises the specialist studies?

4.3.1 Council Initiated Planning Proposals

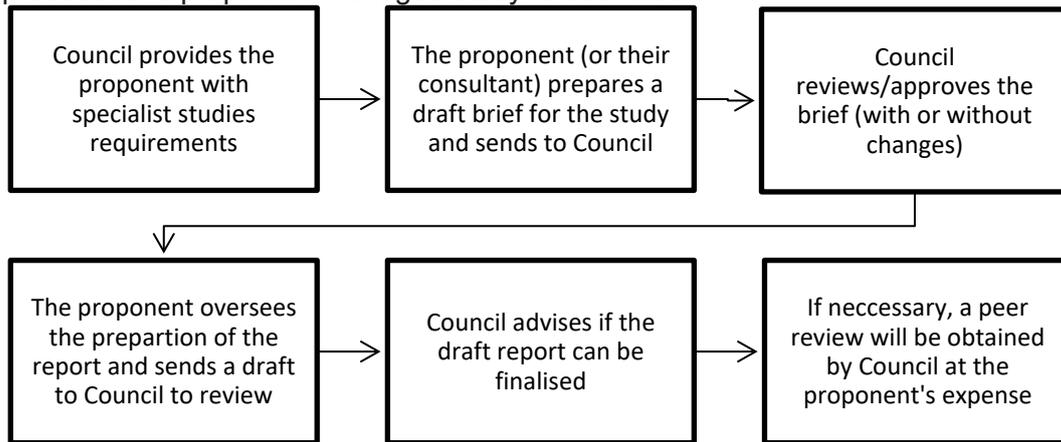
The specialist studies for PP's initiated by Council will be obtained by Council in accordance with Council's standard procurement procedures.

4.3.2 Proponent Managed Studies

The proponent will generally be required to obtain the studies that are needed for a proponent initiated PP. The exceptions to this are:

- a) Heritage studies (including Aboriginal Cultural Heritage Assessments)
- b) Studies where there is a significant community interest
- c) Studies that have a particular significance for Council (including Shoalhaven Water) or have a potential probity issue
- d) Studies that are otherwise significant from a public interest perspective.

The process for a proponent managed study is outlined below:-

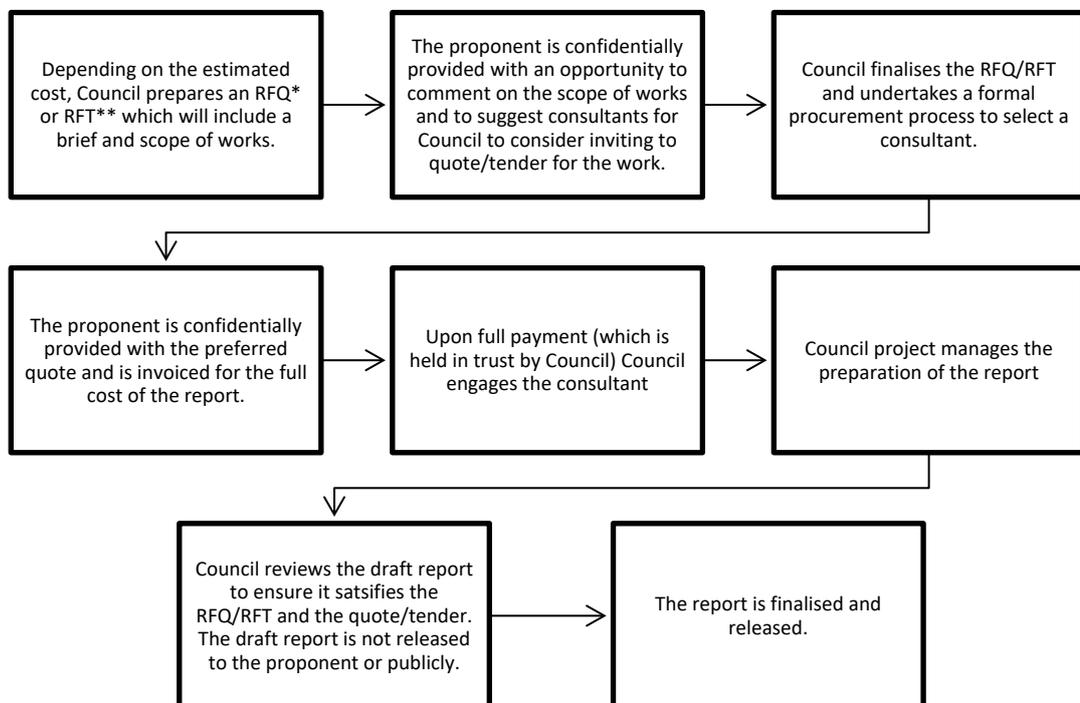


4.3.3 Council Managed Studies

Some studies will need to be project managed by Council, namely:

- a) Heritage studies (including Aboriginal Cultural Heritage Assessments)
- b) Studies where there is a particularly significant community interest
- c) Studies that have a particular significance for Council (including Shoalhaven Water) or have a potential probity issue
- d) Studies that are otherwise significant from a public interest perspective.

The process for a Council managed study is outlined below:



* Request for quote
 ** Request for tender

4.4. Who pays for the specialist studies?

The full cost of all studies for proponent initiated PPs is to be met by the proponent. Specialist studies associated with Council initiated PPs are funded by Council except where Council has resolved to do otherwise.

4.5 Threshold Issues

Threshold issues are any issues that need to be addressed in detail to enable Council to make a decision on whether or not the PP request will be supported.

5. Planning mechanisms that can be used for a Planning Proposal

Objective: To allow for the use of a variety of planning mechanisms to achieve good planning outcomes.

5.1 Urban Release Areas (URA) – Part 6 of Shoalhaven LEP 2014

The Urban Release Area (URA) provisions provide a mechanism to defer the subdivision and development of land rezoned in a PP. These provisions are normally used to control the timing of the release of urban land for development particularly if there are unresolved infrastructure issues, or if more detailed master planning is needed before development can proceed.

Council's view is that the URA provisions should only be used in the following circumstances:

- a) Where an adopted strategy/plan identifies multiple precincts with differing infrastructure issues and/or delivery timeframes;
- b) Where there is a need to resolve State public infrastructure or public utility infrastructure before the land can be subdivided;
- c) For major land releases that will be delivered over a long period of time and that require a staged master planning approach.

Council will generally oppose the use of URA provisions if it does not meet the above criteria, or if it:

- a) Would defer a critical issue that could prevent the development from proceeding;
- b) Is clearly intended solely to facilitate the "flipping" of the site;
- c) Would result in unreasonable 'consultation fatigue' for a community;
- d) Is unwarranted having regard to the scale and complexity of the PP.

5.2 Biodiversity Certification

Biodiversity Certification is a streamlined biodiversity assessment process through which the potential impacts on biodiversity can be fully resolved at the PP stage. Where land is certified, development may proceed without the usual requirement for further assessment at the development stage. Biodiversity Certification is administered by the NSW Office of Environment and Heritage under the authority of the NSW Minister for the Environment.

To prevent any complications or delays at the development stage, Council may insist that sites with significant flora and fauna issues be biodiversity certified as part of the PP process.

5.3 Development Contributions Plans

Development Contributions Plans (CPs) are a mechanism under the EP&A Act allowing councils to levy developers for certain types of infrastructure in certain situations. Once adopted, development contributions are compulsory at the development approval stage. CPs are an appropriate means to fund infrastructure in the following circumstances:

- All required infrastructure is able to be levied in a CP
- The financial risk to Council is acceptable
- The ownership of the land is fragmented or the owner(s) are otherwise unwilling to negotiate a planning agreement.

Council's CP has a number of site-specific contributions. If a PP adjoins or is within a site-specific CP area, Council will consider the appropriateness of amending that site-specific CP. If a CP is proposed, it should be identified as early as possible in the PP process. Generally, a CP will be exhibited with the PP.

5.4 Planning Agreements

Voluntary Planning Agreements (VPAs) are an agreement between a public authority and a landowner. A VPA must provide for a "Material Public Benefit" (MPB). The definition of a MPB is broad and can include items that are not able to be levied under a CP. A VPA can exclude the application of the CP if this is appropriate.

A VPA is generally preferable to a CP in that it offers more flexibility to Council and the landowners. A VPA is, however, a voluntary agreement. Consequently, this mechanism can only be used where all landowners involved and the Council are willing to sign off on the agreement.

VPAs must be prepared in accordance with Council's policy on Voluntary Planning Agreements which can be found at: <https://shoalhaven.nsw.gov.au/My-Council/Policies-plans-strategies/Policies>

The cost of VPA preparation is to be borne by the proponent in accordance with Council's fees and charges.

If a VPA is proposed it should be identified as early as possible in the PP process. Generally, a VPA will be exhibited with the PP.

5.5 Development Control Plans – Site Specific Chapters

A Development Control Plan (DCP) is a Council document that supports the Local Environmental Plan (LEP) and provides additional objectives, development controls and guidance.

Shoalhaven DCP 2014 is divided into over 60 individual chapters that have been grouped into the following:

- Generic chapters: 28 chapters (G1-G28) relating to types of development or development-related issues across the Shoalhaven LGA.
- Area specific chapters:
 - Various Areas: Lot averaging (V1), building lines for specific localities (V2), and miscellaneous site-specific issues (V3)
 - Nowra-Bomaderry Urban Release Areas: Reserved for URAs identified in the Nowra-Bomaderry Structure Plan.

- North Shoalhaven: Area specific provisions between Berry to the north of Sussex Inlet. (N1-N24)
- South Shoalhaven: Area specific provisions between Sussex Inlet and North Durras (S1-S10).

Council will determine the form and place for any DCP controls required to accompany a given PP on a case by case basis, but in general does not wish to see unnecessary site-specific DCP chapters that do not achieve substantial planning outcomes.

Generally, site-specific DCP chapters or provisions will only be considered in the following circumstances:

- URAs
- Sites that have been master planned in detail during the PP process
- Sites that have significant constraints that are best managed through a site specific DCP chapter or provisions
- Heritage conservation areas and/or groups of heritage items
- Sites that require detailed urban design controls because of their particular context
- Town and village centres

If the DCP needs to be amended to facilitate the intended outcomes of a PP, it should be identified as early as possible in the PP process. Generally, a DCP amendment (including a new chapter) will be exhibited with the PP.

All amendments are managed by Council. In the case of proponent initiated PPs, fees apply for preparing any supporting DCP amendments in accordance with Council's fees and charges.

6. Classification of Planning Proposals

Objective: To define 'major' and 'minor' PPs for the purpose of determining any applicable fees and undertaking community engagement.

PPs can vary in size, complexity and purpose, ranging from correcting a mapping or typing error, to rezoning land to create a new urban centre.

Council broadly classifies PPs as either 'minor' or 'major' based on potential impact. This informs community engagement approaches and is used to determine the applicable fees (for proponent-initiated PPs). Minor and major PPs are defined as follows:

Minor PP: a PP for which no more than one (1) specialist study is required. This includes 'housekeeping' PPs (prepared by Council to address minor anomalies etc) and other minor impact PPs.

Major PP: a PP for which two (2) or more specialist studies are required. Major PPs include:

- Local Impact PP - requires specialist studies that relate only to potential impacts on the locality; and
- Broader Impact PP - requires at least one (1) specialist study to address potential impacts beyond the land directly adjoining the subject land.

Note: any necessary studies not already completed prior to Gateway will be listed on the Gateway determination (if approved) issued by DP&E.

7. Community Engagement

Objective: To provide an outline of the types of community engagement methods employed for various PPs, prior to, and during the formal public exhibition phase.

7.1 Engagement methods

All PPs approved at the Gateway stage must be publicly exhibited for a minimum period specified by DP&E in the Gateway determination. The duration Feedback received during this formal exhibition period will inform Council's decision on whether to finalise the PP, with or without any changes. In terms of preliminary/informal consultation, Council also notifies relevant stakeholders prior to public exhibition, and where appropriate, provides opportunities for community input. For example, Council writes to directly affected (i.e. adjoining) landowners upon receiving proponent-initiated PPs prior to the matter being reported to Council for initial consideration.

The following table lists the types of community engagement methods used for the different PP classifications, prior to, and during the formal public exhibition phase.

	Minor PPs		Major PPs	
	Housekeeping PP	Minor Impact PP	Local Impact PP	Broader Impact PP
✓ = Generally Required ⌚ = Determined on a case by case basis 🚫 = Generally Not Required				
Preliminary notification/consultation				
Make available online ² (applies to proponent-initiated PPs)	NA	🚫	🚫	🚫
Notify directly affected & adjoining landowners	⌚	🚫	🚫	🚫
Invite submissions ³	🚫	🚫	🚫	🚫
Formal public exhibition phase				
Notify directly affected & adjoining landowners	⌚	🚫	🚫	🚫
Notify relevant Community Consultative Bodies (CCB)	🚫	🚫	🚫	🚫
Newspaper notice(s)	🚫	🚫	🚫	🚫
Official hard copy display at Council	🚫	🚫	🚫	🚫
Post on Council's 'On exhibition' webpage	🚫	🚫	🚫	🚫
Invite submissions	🚫	🚫	🚫	🚫
Prepare/exhibit explanatory statement	⌚	⌚	🚫	🚫
Prepare/exhibit FAQs	🚫	🚫	⌚	⌚
Article(s) in community newsletter	🚫	🚫	⌚	🚫
Media release	🚫	🚫	⌚	🚫
Interactive Website ('Get Involved') ⁴	🚫	🚫	⌚	⌚
Public hearing ⁵	⌚	⌚	⌚	⌚
Information sessions, public meetings, workshops etc.	🚫	🚫	⌚	⌚
Social media	🚫	🚫	⌚	⌚

Notes on following page.

Notes:

1. Preliminary notification/consultation is not required if the PP is prepared by Council as the direct result of a strategic planning project that included community engagement.
2. PP request documents are published on Council's Planning Proposal webpage: <https://shoalhaven.nsw.gov.au/Planning-amp-Building/Strategic-planning/Planning-Proposals>
3. Proponents can appeal if their PP request has not been determined within 90 days of lodgement. This timeframe limits the opportunity for preliminary community consultation.
4. Council's Get Involved page will be utilised where there is a high level of public interest in the PP, and will generally be used for the duration of the PP process.
5. Public hearings are mandatory for all PPs seeking to reclassify Council land from 'community' to 'operational'. DP&E's Gateway determination may also stipulate if a public hearing is necessary.

Preliminary Community Consultation and Public Exhibition are to be undertaken in accordance with this section at the points in the process shown in Figure 1 of these guidelines.

7.2 Council Meetings (All Planning Proposals)

Council will notify the relevant stakeholders prior to a PP being considered at a meeting of Council (including a committee that has delegation to make decisions on Council's behalf). Relevant stakeholders include:

- Owner(s) of the subject land OR the proponent
- Relevant CCB(s)
- Anyone who has made a submission on the PP (whether or not that submission was received in a submission period)
- Anyone who has requested to be notified of the PP after its lodgement with Council

Note: Due to limitations imposed by Council processes and timeframes, it is generally not possible to provide more than 5 days' notice. The notification will include details of the meeting time and place, and information on how to register to make a deputation to the meeting.

8. Fees and Charges

Objective: To provide a workable and streamlined system for accounting for the costs of proponent initiated PPs so that these costs can be recovered from the proponent.

8.1 Council Initiated Planning Proposals

Council initiated PPs are generally funded by Council. However, where one or more landowners stand to gain a clear benefit, Council may choose to recoup some or all of the costs associated with preparing the PP from the benefitting landowner(s). In the case of certain legacy planning issues Council has a longstanding position that the benefitting landowners will have to fund the rezoning process.

8.2 Proponent Initiated Planning Proposals

Fees apply for preparing proponent initiated PPs in accordance with Council's fees and charges. Fees apply for:

- Lodging the PP with Council
- Preparing a 'Minor PP' for submission to DP&E – includes up to 40 hours of staff time
- Preparing a 'Major PP' for submission to DP&E – includes up to 80 hours of staff time
- Excess staff time

The table below specifies inclusions and exclusions for the purpose of calculating chargeable staff time. In the event of an inconsistency, the exclusion prevails over the inclusion.

Inclusions (charges apply)	Exclusions
<ul style="list-style-type: none"> • Attending meetings (excluding meetings with submitters) • Attending public meetings, workshops and forums held specifically for the PP • Phone conversations with the proponent that exceed 30 minutes • Document preparation by professional staff • Document review by professional staff • Project management • Map preparation where the proponent has not provided digital data in the format required. 	<ul style="list-style-type: none"> • Management staff time reviewing the work of professional officers • Consultant's time that is otherwise paid for by the proponent • Travel time to meetings • Attending Committee and Ordinary meetings of Council (and associated Councillor briefings) • Attending meetings that are general in nature and cover multiple unrelated projects • Time worked on a PP before Council decides whether or not to support it for a Gateway determination • Map preparation where the proponent has provided satisfactory data.

9. Risks involved in lodging a Planning Proposal

Objective: To clarify the risks in the PP process for proponents and landowners.

Council gives no undertaking that the processing of a PP will result in the requested amendment to the LEP occurring. It is possible that all steps in the process can be completed and an amendment be declined by Council or by the Minister for Planning. There is no merit-based court appeal avenue available in NSW where an LEP amendment is declined or processing is ceased. However, proponents can request an independent review of decisions through the local Southern Joint Regional Planning Panel if Council has decided not to support the PP or failed to respond to the PP within 90 days of the lodgement of all required information.

Council can request that the Minister terminates a PP at any point of the process including after all investigations, analysis and community engagement has been completed.

Council may process LEP amendment requests in the order it sees fit. Time of lodgement does not determine the priority for processing and progressing of an amendment. The timeframe stated on a Gateway determination for completion of a PP can be extended. Council may seek an extension of time if for example, the PP is delayed due to resourcing issues or a change in priorities.

It is important that proponents liaise with Council prior to preparing any technical studies. Council may decline to accept proponent's technical studies where they are considered inadequate, or may require an independent peer review of studies at the proponent's cost.

Costs associated with the PP process are to be paid by the proponent. The cost of any investigations commissioned by Council (at any phase) are to be paid by the proponent prior to commencement. These costs are not refundable should the PP process be terminated for any reason.

10. Who should I contact for more information?

Please contact Council's Strategic Planning Section on (02) 4429 5377. All proponents are encouraged to liaise with Council on the PP as soon as possible in the concept and preliminary design phase.

The Department of Planning and Environment's Guideline on preparing PPs can be viewed on their website: www.planning.nsw.gov.au.