

**Section 54 Decision to prepare a draft local environmental plan.**

Council, may, pursuant to Section 54 of the EP&A Act decide to prepare a draft local environmental plan in respect of lands. Following its decision, a report is forwarded to the Department advising of Council's intentions and requesting approval to proceed. The draft LEP is forwarded to the Department's LEP Review Panel for their consideration.

This report seeks to commence the formal preparation of the proposed draft Wyong LEP 2011 in accordance with the provisions of Section 54. In notifying the Department of Council's intention to prepare draft Wyong LEP 2011, LEP Pro-forma Evaluation Criteria for Comprehensive LEPs must be prepared.

**Section 57 Preparation of environmental study**

An LES under Section 57 may be required to support the draft LEP, unless otherwise directed by the Director-General of the DoP.

As previously stated the Settlement Strategy will replace the function of a LES for the proposed draft Wyong LEP 2011. DoP will be requested to provide any additional requirements for consideration during the Strategy preparation.

**Section 61 Council's responsibilities in preparing draft local environmental plan**

Councils are required to prepare draft LEPs having consideration to any environmental study which is prepared under Section 57 of the Act. In this regard, Council will be required to prepare the proposed draft WLEP 2011 having consideration for the Settlement Strategy.

**Section 62 Consultation**

Following receipt of approval from DoP to proceed with the preparation of a draft LEP, all relevant public authorities are invited to comment on the draft plan and the Settlement Strategy.

While the preparation of the Settlement Strategy will facilitate an early consultation opportunity for relevant state government authorities, the formal Section 62 Consultations will build upon knowledge obtained under Phase 4 of the Comprehensive LEP Review project. It is expected that formal consultations will occur with those authorities and agencies listed within Attachment 3.

**Section 64 Submission of copy of draft local environmental plan to DoP**

Council is required to forward a copy of the draft plan, along with the consideration of issues raised during the section 62 consultation process to DoP.

**Section 65 Certificate of Director-General**

Following receipt of the appropriate documentation under Section 64, a Section 65 Certificate is issued by the Director-General which enables the draft plan to be publicly exhibited.

**Section 66 Public Exhibition of draft LEP**

Public Exhibition of any draft LEP must be carried out in accordance with provisions of Section 66 of the Act and its associated regulations. The Act requires that a draft plan must be exhibited for a minimum of 28 days.

Given the complexities of the Comprehensive LEP Review project and its implications for the Shire, the public exhibition period for the proposed draft Wyong LEP 2011 will be extended.

Further details on the public exhibition of the draft LEP, including details of community meetings and forums, will be reported to Council prior to the Section 64 Report being forwarded to DoP.

### **Section 68 Consideration of Submissions**

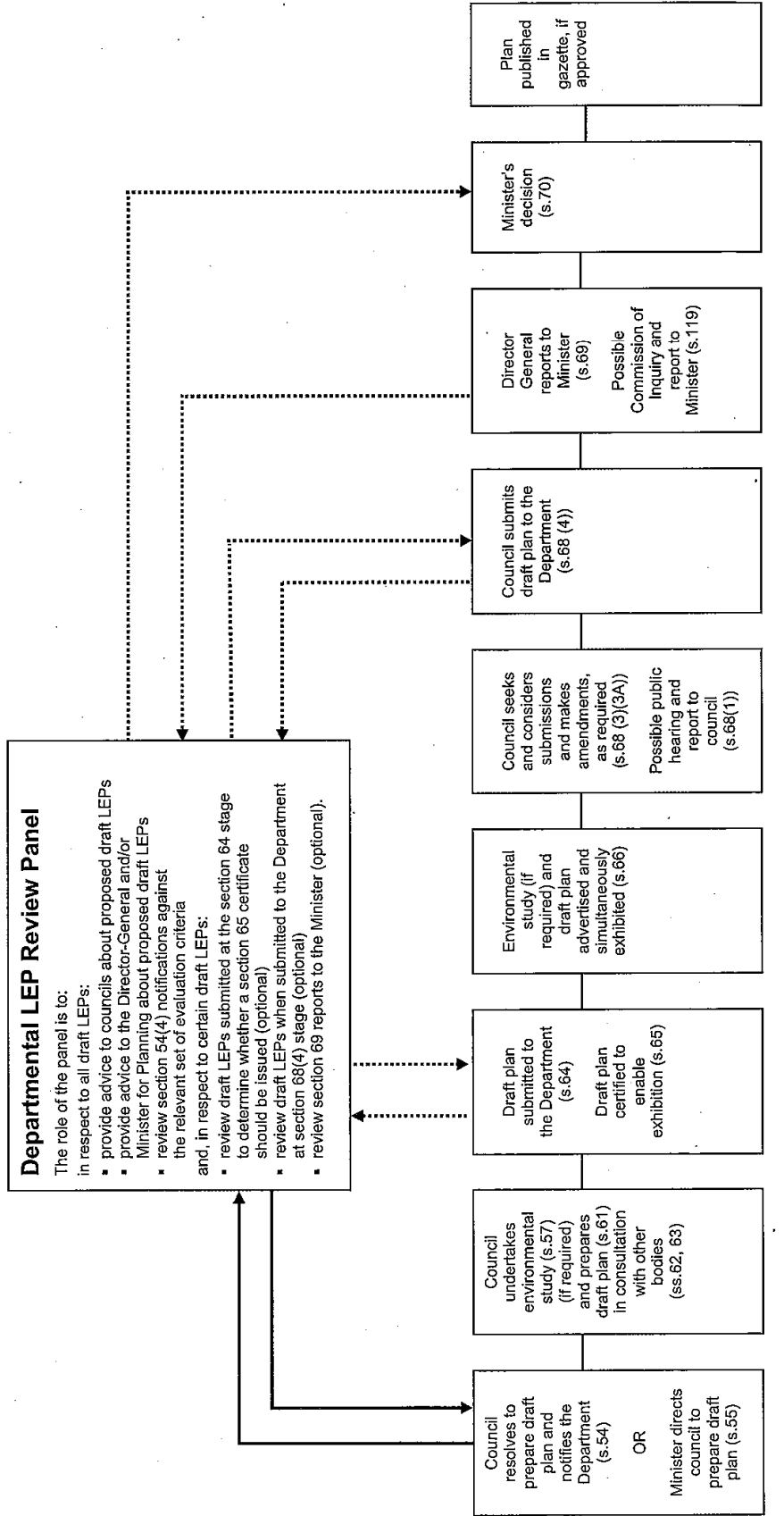
Consideration is given to those submissions received as a result of the public exhibition of the draft LEP, with any changes arising from the exhibition being made by Council. A Section 68 report is forwarded to the DoP requesting that the Minister make the plan.

### **Section 70 Making of local environmental plan**

After considering the report made to the Department under Section 68, the Minister for Planning can make the LEP, provide further directions or decide not to proceed with the draft LEP. It is important to note that the final decision on the LEP will rest with the Minister.

Attachment 1

# Local Environmental Plan Process



## TANDARD INSTRUMENT ZONE SUMMARY

### Rural Zones:

- **RU1 Primary Production** is generally intended to cover land used for most kinds of primary industry production, including extensive agriculture, horticulture, intensive livestock agriculture, mining, forestry and extractive industries. This zone is aimed at maintaining and enhancing the natural resource bases.
- **RU2 Rural Landscapes** is generally intended for rural land with landscape values or land that has reduced agricultural capability due to gradient, soil type, vegetation, rock outcrops, salinity etc, but which is suitable for grazing and other forms of extensive agriculture.
- **RU3 Forestry** is generally intended to identify and protect land that is to be used for long-term forestry use. Land which is to be used for forestry purposes may alternatively been dealt with under the RU1 Primary Production zone.
- **RU4 Rural Small Holdings** is generally intended for land which is to be used for small scale rural and primary industry production. Land within this zone might also provide for emerging primary industries and agricultural uses. It is not intended that this zone be used for land that is primarily residential in function – the R5 Large Lot Residential zone should be used for that purpose.
- **RU5 Village** is generally intended to cover rural villages where a mix of residential, retail and other uses is to be established and maintained.
- **RU6 Transition** is generally intended to be used in special circumstances for land that provides a buffer between rural land uses (including intensive rural land uses) and other sensitive land uses such as residential, education or community uses.

### Residential Zones:

- **R1 General Residential** is generally intended to provide for a variety of residential housing types and densities, including dwelling houses, multi-dwelling houses, residential flat buildings, boarding houses and seniors housing. The zone also provides for additional uses that provide facilities or services to residents, including neighbourhood shops and child care centres.
- **R2 Low Density Residential** is generally intended to be applied where primarily low density housing is to be established or maintained. The zone objectives also encourage the provision of facilities or services that meet the day-to-day needs of residents.
- **R3 Medium Density Residential** is generally intended for land where a variety of medium density accommodation is to be established or maintained. Other residential uses (including typically higher or lower density uses) could also be permitted in the zone where appropriate. A variety of residential uses have been mandated to encourage housing choice in this zone.
- **R4 High Density Residential** is generally intended for land where primarily high density housing (such as residential flat buildings) is to be provided. Other lower density residential uses could also be accommodated where appropriate. The zone provides for additional uses that provide facilities or services to residents, including neighbourhood shops and child care centres.

- **R5 Large Lot Residential** is generally intended to cater for development that provides for residential housing in a rural setting. The allocation of large lot 'rural' residential land must be justified by a strategy prepared in accordance with guidelines issued by the Department.

#### Business Zones:

- **B1 Neighbourhood Centre** is generally intended to cover small neighbourhood centres that include small scale convenience retail premises, business premises or community uses that serve the needs of a surrounding area.
- **B2 Local Centre** is generally intended for centres that provide a range of retail, business, entertainment and community functions that typically service a wider catchment than a neighbourhood centre.
- **B3 Commercial Core** is generally intended for major centres that provide a wide range of uses including retail, employment, entertainment and community uses. The zone could be applied to major metropolitan centres or major regional centres. Land which is zoned Commercial Core might be surrounded by other business zones such as Business Development or Mixed Use, where a variety of supporting uses provide a transition to the major centre.
- **B4 Mixed Use** is generally intended for use where a wide range of land uses are to be encouraged, including retail, employment, residential, community and other issues.
- **B5 Business Development** is generally intended for land where employment generating uses such as offices, warehouses, retail premises (including those with large floor areas) are to be encouraged. The zone supports the initiatives of the *Sydney Metro Strategy* but might also be suitable for application in urban areas in regional NSW.
- **B6 Enterprise Corridor** is generally intended to be applied to land where commercial or industrial development is to be encouraged along main roads such as those identified by the *Sydney Metro strategy*. The sale of food and clothing is to be limited to ensure that Enterprise Corridor do not detract from the viability of centres.
- **B7 Business Park** is generally intended for land that primarily accommodates office and light industrial uses, including high technology industries. The zones also permit a range of facilities and services to support the day-to-day needs of works, such as child care centres and neighbourhood shops.

#### Industrial Zones:

- **IN1 General Industrial** is generally intended to accommodate a wide range of industrial and warehouse uses. Councils could chose to supplement the existing mandated industrial and warehouse uses by permitting heavy, and offensive or hazardous industries, if appropriate. This zone would be suitable where a council wishes to have only one industrial zone.
- **IN2 Light Industrial** is generally intended for land that provides light industry, warehouse and distribution uses.
- **IN3 Heavy Industrial** is generally intended for instances where councils wish to designate particular land for heavy industrial uses that require separation from other land uses. The need for such a zone will depend on the type and nature of industrial uses that exist or likely to take place in the area. Other forms of industry might also be permitted in the zone if appropriate.

- **IN4 Working Waterfront** is generally intended for industrial and maritime uses that require waterfront access. The zone could be applied to port facilities (particularly small commercial fishing or other ports) as well as other maritime industrial uses.

#### Special Purpose Zones:

- **SP1 Special Activities** is generally intended for special land uses or sites with special characteristics that can not be accommodated in other zones. Some examples of where this zone may be suitable might include land on which there is, or proposed to be, a major scientific research facility, a major defence or communications establishment, or major international sporting facility.
- **SP2 Infrastructure** is generally intended to cover a wide range of physical and human infrastructure uses, such as transport, utility undertakings, community uses, educational establishments and hospitals. This zone would require a map notation to identify the defined type of facility will be required. Where land is reserved for public infrastructure purposes, the land is to be outlined and annotated on the Land Reservation Acquisition Map and the relevant acquisition authority identified in Clause 24.
- **SP3 Tourist** is generally intended to be located where a variety of tourist-orientated land uses are to be permitted, and includes such as tourist and visitor accommodation, pubs and restaurants.

#### Recreation Zones:

- **RE1 Public Recreation** is generally intended for a wide range of public recreation areas and activities, including local and regional open space. Councils may generally permit typical public recreation uses in this zone. A range of land uses compatible with the recreation uses of land should be permitted. Where land is to be reserved for public recreation purposes (e.g. local and regional open space), the land is to be outlined and annotated on the Land Reservation Acquisition Map and the relevant acquisition authority in Clause 24).
- **RE2 Private Recreation** is generally intended to cover a wide range of recreational areas and facilities on land that is privately owned or managed.

#### Environment Protection Zones:

- **E1 National Parks and Nature Reserves** is generally intended to cover existing national parks and nature reserves. All uses currently authorised under the *National Parks and Wildlife Act, 1974* will continue to be permitted without consent within this zone.
- **E2 Environmental Conservation** is generally intended to protect land that has high conservation value. A number of land uses considered to inappropriate for this zone have been mandated as prohibited uses.
- **E3 Environmental Management** is generally intended to be applied to land that has environmental or scenic values or hazard risk, but where a limited range of development including dwelling houses and other uses could be permitted. This zone might also be suitable as transition areas between areas of high conservation value and other land uses such as rural or residential.
- **E4 Environmental Living** is intended for land with special environmental or scenic values where residential development could be accommodated.

**Waterway Zones:**

- **W1 Natural Waterways** is generally intended for waterways that are to be protected due to their ecological and scenic values. A limited number of low impact uses that do not have an adverse effect on the natural value of the waterway can be permitted in this zone.
- **W2 Recreational Waterways** is generally intended for waterways that are used primarily for recreational purposes such as boating, fishing and waterskiing, but which also have ecological, scenic or other values that require protection.
- **W3 Working Waterways** is generally intended for waterways, which are primarily used for shopping, port, transport and other working uses. This zone recognises that there may be recreation uses.

## Zone RU1 Primary Production

### Direction.

The following must be included as either "Permitted without consent" or "Permitted with consent" for this zone:

Environmental protection works  
Farm buildings  
Roads  
Roadside stalls

### 1 Objectives of zone

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within the zone and land uses within adjoining zones.

### 2 Permitted without consent

Extensive agriculture; Home occupations

### 3 Permitted with consent

Dwelling houses; Extractive industries; Mining

### 4 Prohibited



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## “ SPOT REZONING” PROCEDURE

### OBJECTIVE

To establish Wyong Council's procedure for the receipt and processing of “spot rezoning” requests, including a proposed fee structure.

### APPLICATION

This procedure does not apply to:

- Rezoning identified in the Future Planning's Work Program as major land releases;
- Those precinct releases within the Residential Development Strategy. A procedure for processing these rezonings will be negotiated separately with the land owners.
- Council initiated rezonings, except where land owners have agreed in writing in advance to progress a rezoning matter and to pay/ share the cost of the proposed rezoning.

### REQUIREMENTS

#### RECEIPT OF REZONING REQUESTS

Council staff may:

- 1 Refuse to accept a rezoning request (over the counter or at a meeting).  
*Reason:* A rezoning request may be premature, inappropriate or not a priority for Council. There is no statutory requirement for Council to accept a rezoning request/ application.
- 2 Return a rezoning request to the applicant, without any work being undertaken on it (including refunding of any fees paid –less a 10%Administration Fee).  
*Reason:* Applicants may not accept preliminary advice from Council or not contact Council prior to submitting a rezoning request. Once received, a rezoning request may be deemed to be premature, inappropriate or not a priority. An Administration Fee is retained by Council to cover receipting, recording and return of the request by staff).
- 3 Receive and undertake a desktop assessment but determine, upon undertaking an initial review of the information received, to return the request and advise that the request will not be processed further (fees will be refunded, less administration and staff time costs).  
*Reason:* Initial review of the information reveals that the proposal does not comply with Council's adopted procedure or the standing advice and requirements of the Department of Planning.
- 4 Accept the rezoning request and process it in accordance with Council's adopted procedure, including legal agreement and fee structure.

The request will be allocated to the appropriate staff member within the Land Use and Policy Unit in accordance with the Unit's current work program.

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## TIMING

Upon receipt of an acceptable rezoning request (per No 4 above), Phase 1 of the process will be undertaken as staff are available. For large rezonings they will move to Phase 2 and 3 as the previous stage is completed and fees paid for the next phase.

For small rezonings that are straight-forward with little likelihood of local objection, Phases 2 and 3 will only be commenced by Council (staff or anyone working on behalf of Council) in "bundled LEP amendment packages" generally every six months.

The Director, Shire Planning can postpone the processing of any bundle of proposed LEP amendments if there are insufficient numbers of requests to warrant the utilisation of resources in processing them or if adequate resources are not available.

## PRIORITISATION OF ISSUES

Council gives higher priority to rezoning proposals which provide:

- \* Significant ongoing permanent employment (eg. This would normally involve 40 or more full time direct equivalent positions);
- \* Retail (in accordance with Council's adopted Retail Strategy); or
- \* Significant education, medical or community facilities/ services,

over those for residential development (outside of Council's adopted Residential Development Strategy) or other spot rezonings.

## REZONING PROCESS

Council gives no undertaking to an applicant that the processing of the rezoning request will be successful (i.e. accepted by Council or the Minister of Planning) or the timing that the process will take. The process may stop and/ or be extinguished at any stage by either Council or the applicant.

The following are the three phases of the rezoning process adopted by Council.

### PHASE 1 –RECEIPT AND DESKTOP ASSESSMENT

Process commences when an applicant submits a rezoning request (including Phase 1 fees) to Council that is acceptable in terms of the prioritisation of issues outlined.

This phase involves undertaking a desktop review of the material provided by the applicant. Tasks include:

- \* Review of the submitted information.
- \* Records research and investigation of subject land and/ or subject proposal.
- \* Review of strategic context for proposal.
- \* Identification of outstanding information for proposal.
- \* Site inspection.
- \* Preliminary consultation with relevant Council staff, (eg. Traffic Engineer, Landscape Officer, Environmental staff).

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- \* Report to DMP meeting (not a Section 54 report). Resolves to either:
    - 1 Refuse the application (applicant is notified).
    - 2 Support the request and refer it for ongoing assessment under Phase 2.  
The proponent is notified of:
      - \* any additional information needed
      - \* timing of next bundle of amendments
      - \* Phase 2 fees to be paid
  - \* Report to Council on proposed “bundle” to ascertain initial support (or otherwise) prior to proceeding to Phase 2 of the process.

#### PHASE 2 –REPORT, FURTHER ASSESSMENT AND DLEP PREPARATION

Commences when the applicant has paid the Phase 2 fees, timing for the next bundle of LEP amendments has arrived, applicant has submitted any additional information required to support the request.

Tasks include:

- \* Preparation and execution of Legal Agreement by Proponent and Council for fees and charges to be paid (“initial fee “ and “pay in advance”), including an agreement to pay for LES preparation (including any studies or other consultancies) needed to assess the request and prepare the DLEP.
- \* Any additional investigations, consultancies, studies either within Council or by external consultants required to check information or undertake studies required by the rezoning proposal.
- \* Preparation of Section 54 report to DMP and/ or Council (through DMP, delegations may be used to prepare LEP and undertake steps of the rezoning process).
- \* Section 54 report to Department of Planning (DoP) and clearance by the LEP Panel.
- \* Preparation of statutory planning instrument (LEP), any amendment to DCP or Section 94 Contribution Plan or equivalent (i.e. planning agreement).
- \* Preparation of LES, if required by DoP. Proponent is to pay costs for LES preparation (staff time, consultants and specialist advice).
- \* Section 62 consultations with relevant agencies and organisations.

#### PHASE 3 –PUBLIC EXHIBITION, SUBMISSIONS AND FINALISATION

This phase commences when the proponent pays the Phase 3 fee, payment of all Phase 2 charges (including consultancies) are finalised and Section 65 is to be issued, either by a Council officer (under Delegation of the Planning Director General) or by request and issue from the Department of Planning.

Tasks include:

- \* Preparation of Section 65 request to DoP, or preparation of Section 65 Certificate by Council delegate.
- \* Issue of Section 65 Certificate by DoP or Council (as delegate of Planning Director-General).

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- \* Public exhibition of dLEP:
    - Advertisement.
    - Exhibition material.
    - Customer Service briefing.
    - Public meetings/ consultation (as required).
    - Council briefing.
    - Public hearing (as required).
  - \* Section 68 and 69 reports to Minister.
  - \* Gazettal.
  - \* Notification of Gazettal.

#### FEE STRUCTURE

Fees are charged to applicants for receipt and processing of rezoning requests based on the following fee structure:

Phase 1 – Appraisal and Prioritisation – Lodgement fee amount.

Phase 2 – Further Assessment and DLEP Preparation – actual Cost Basis (Initial fee amount plus “pay in advance” where costs exceed the initial fee amount).

Phase 3 – Public Exhibition, Submissions and Finalisation – actual Cost Basis (Initial fee amount plus “pay in advance” where costs exceed the initial fee amount.)

In addition to staff costs, the proponent will pay for any studies, specialist advice, consultancies necessary to review/ assess and/ or prepare the LES. Proponents will be invoiced as these progress. Commencement of each phase is contingent on full payment of all fees in the previous phase.

The initial fee of each phase of the rezoning process plus an agreed amount (“pay in advance”) will be paid by the proponent prior to the next phase commencing. Staff will provide the proponent with a time allocation record each month. The proponent may need to provide additional “pay in advance” amounts throughout Phases 2 and 3. Staff are required to keep records of all hours worked, charges and costs associated with the rezoning for accounting purposes. Applicants are required to pay invoices for any payments (“pay in advance” or studies) within 14 days of receipt to ensure continuation of the process.

Should the proponent not pay in accordance with this procedure and the terms of the legal agreement (including payments for LES studies, consultancies, etc), staff will notify the proponent that no further work will be undertaken until the outstanding amount is paid.

Fees are adopted by Council annually as part of the fees and charges of the Management Plan. The fees will be reviewed annually to ensure that it covers staff time spent on each phase. It is therefore not tied to CPI.

Staff rates will also be set by the Management Plan on a yearly basis. These will reflect staff and administration costs and will be adjusted by CPI annually.

There will be no fee for general rezoning enquiries (written or verbal) and preliminary discussions with applicants. This will include answering enquiries about the provisions of Council’s LEP, DCP and other policy considerations. Additionally, there will be no charge for Council initiated rezonings or amendments to Council’s LEP (eg. LEP amendments that aim to implement adopted planning strategies, minor corrections to the LEP) except where land owner(s) have agreed in writing in advance to pay/ share the cost of the proposed rezoning.

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## TERMINOLOGY

**Rezoning Request:** A written request by an applicant, not including Council, requests an amendment to Council's adopted LEP.

**Spot Rezoning:** A rezoning request which seeks to amend the LEP provisions of one or a small number of specific land parcels, usually for a nominated land use.

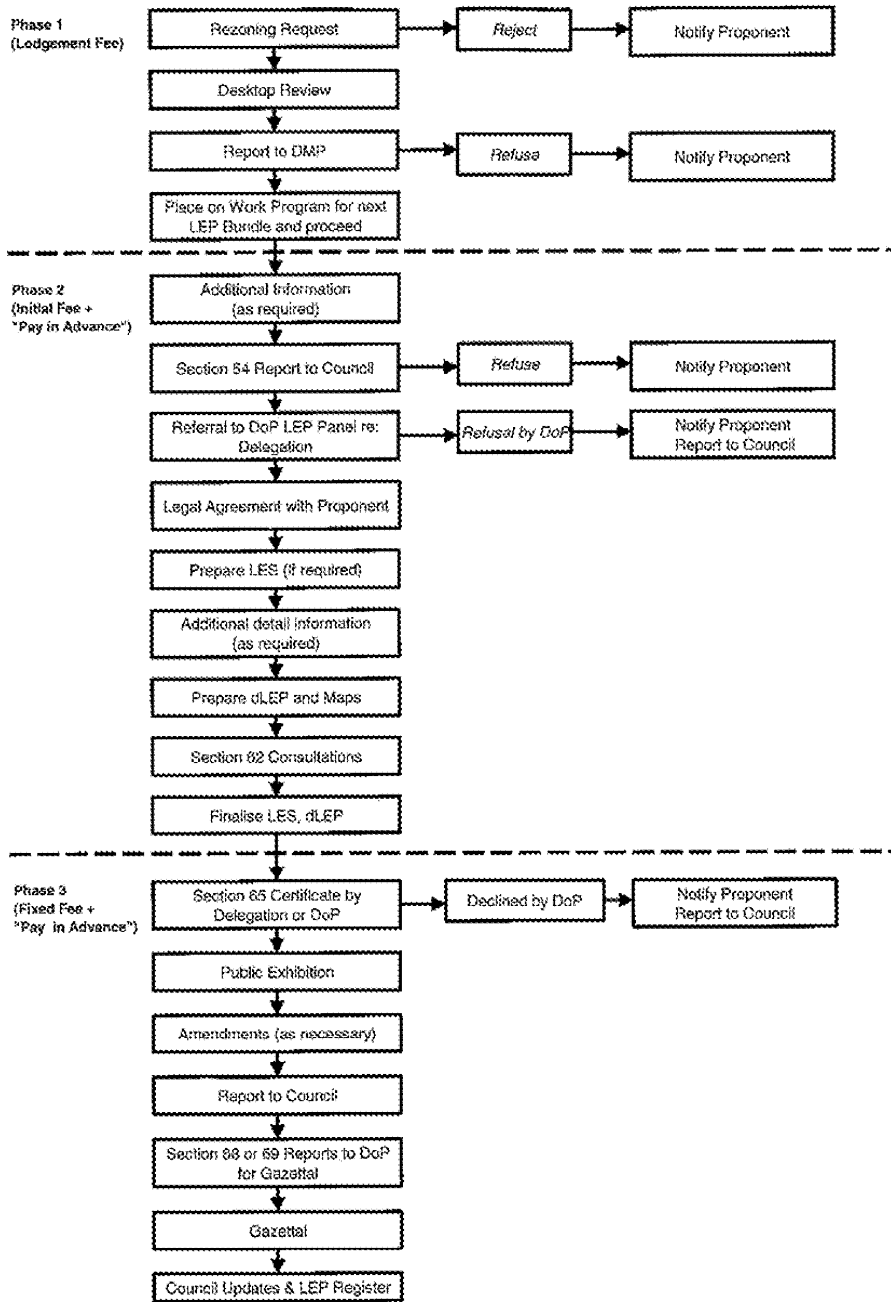
**Bundle:** In terms of this procedure, bundle is taken to be a number of small rezoning requests that are processed at the same time.

**Legal Agreement:** In terms of this procedure a legal agreement is a document which is signed by Council and landowner(s)/ proponents setting out terms where the landowner(s)/ proponents will pay for Council's cost involved in the rezoning process, including any studies/ consultancies and the like necessary for the preparation of the DLEP.

**Deed of Agreement:** In terms of this procedure a Deed of Agreement will be signed by Council (under Council's seal) and the landowner(s)/ proponent where a transfer of land forms part of the rezoning process.

**"Pay in Advance"** In terms of this procedure it is an amount of money paid by a proponent(s) to Council to provide funds for staff resources to work on the rezoning. It may include, subject to agreement by the proponent and Council, pre-payment of monies for studies/ research necessary for the rezoning.

REZONING PROCESS FLOWCHART



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**“ SPOT REZONING” FEES & CHARGES**

DESCRIPTION	FEE 2007 / 2008	Comments
Phase 1	\$3,000.00	Lodgement Fee
Phase 2	\$7,000.00 + Staff Time	Initial fee of \$7,000.00 to be paid in advance. If staff time exceeds 60 hours then a rate of \$120 (Professional) or \$75 (Technical / Admin) per hour is payable by the proponent for additional hours.
Phase 3	\$5,000.00 + Staff Time	Initial fee of \$5,000.00 to be paid in advance. If staff time exceeds 40 hours then a rate of \$120 (Professional) or \$75 (Technical / Admin) per hour is payable by the proponent for additional hours.

## Notes:

- Fees above are as in Council's adopted Management Plan 2007/ 2008
- GST is not applicable to fees for undertaking rezoning proposals

# REZONING REQUESTS STRATEGY

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## OBJECTIVE

To establish Wyong Shire Council's procedure for the receipt and processing of 'rezoning requests,' including a proposed fee structure, for consideration under the Comprehensive LEP Review project.

## APPLICATION

This procedure does not apply to:

- Rezoning identified in the Future Planning Work Program as major land releases;
- Precinct releases identified within the Residential Development Strategy.
- Council initiated rezonings.

## REQUIREMENTS

### Call for Rezoning Requests:

- Council will request the lodgement of Rezoning Requests in conjunction with the Comprehensive LEP Review and notify the community through relevant media outlets. The date for the commencement of Rezoning Requests submission period will be established by Council in its Section 54 Report to the Council, i.e. 1 April 2009.

### Lodgement of Rezoning Requests:

- Rezoning Requests must be lodged with Council **no later** than Friday, 29 May 2009.
- Rezoning Requests must satisfy the criteria established by this Rezoning Requests Strategy (Attachment 1) and include, any required studies or reports with the proposal.

### Receipt of Rezoning Requests:

- Council staff may:
  - i. Refuse to accept a rezoning request, or return a rezoning request to the applicant, without any work being undertaken on assessing the proposal (including a refund of any fees paid – less a 10% Administration Fee).

*Reason:* A rezoning request may not satisfy the criteria established by this Rezoning Requests Strategy or may be deemed inappropriate or premature. The Administration Fee is retained by Council to cover receipting, recording and return of the request by Staff).
  - ii. Refuse to accept a rezoning request, or return a rezoning request to the Applicant and advise that the request will not be processed further (fees, will be refunded, less administration and staff time costs).

*Reason:* Initial review of the information reveals that the proposal does not comply with Council's adopted procedure or the standing advice and requirements of the Department of Planning.
  - iii. Accept the rezoning proposal and process it in accordance with the adopted Rezoning Requests Strategy, including fee structure.



## REZONING REQUESTS PROCEDURE

Council gives no undertaking to an applicant that the processing of the rezoning request will be successful (i.e. accepted by the Council or the Minister for Planning); or for the timing that the process will take. The process may be altered; stopped and/or be extinguished at any stage by the Council or the applicant.

The following are the phases of the rezoning process adopted by Council.

### PHASE 1 RECEIPT AND DESKTOP ASSESSMENT

As discussed with 'Requirements,' all Rezoning Requests will be lodged with Council **no later** than Friday, 29 May 2009, along with the payment of required Phase 1 Fees.

Phase 1 involves the undertaking of a desktop review of the material provided by the Applicant. Tasks include:

- Review of submitted information in conjunction with criteria.
- Research and investigation of subject land and/or subject proposal.
- Review of strategic context for the proposal.
- Identification of outstanding information for proposal.
- Site inspection.
- Preliminary consultation with relevant Council staff.
- Report to Development Management Panel, with resolution for:
  - i. Further assessment; or
  - ii. Refusal

### PHASE 2 DETAILED ASSESSMENT AND DETERMINATION

On the resolution for continued assessment by the Development Management Panel, Applicants will be required to pay Phase 2 Fees.

Phase 2 Tasks include:

- Any additional studies and/or investigations, consultancies or studies either within Council or by external consultants required to support the rezoning proposal or determine its viability.
- Further consideration of the rezoning request.
- Preparation of a Council Report recommending:
  - i. Inclusion in the Settlement Strategy for implementation through *Wyong LEP 2011*, including the relevant Section 54 Notification.
  - ii. Inclusion in the Settlement Strategy as an area identified for further investigation and/or for implementation through subsequent gazettals of *Wyong LEP 2011*.
  - iii. Extinguishment of rezoning request.

### PHASE 3 PROGRESSION OF REZONING REQUEST

Phase 3 of the Rezoning Requests Strategy commences on receipt of the recommendation under Phase 2.

Where Council recommends inclusion within the Settlement Strategy for implementation through *Wyong LEP 2011*, including the relevant Section 54 Notification, Phase 3(i) will commence.

In this regard, the tasks associated with Phase 3(i) include:

- Notification of Rezoning Request to the Department of Planning.
- Rezoning Request identified within the Settlement Strategy.
- Public Exhibition of the Settlement Strategy.
- Consideration of submissions on the Settlement Strategy.
- Adoption of the Settlement Strategy
- Section 62 Consultations of the *Wyong LEP 2011*
- Public Exhibition of *Wyong LEP 2011*
- Section 69 Report to Minister
- Gazettal of *Wyong LEP 2011*.

There are no fees associated with tasks under Phase 3(i), as these will be absorbed the Comprehensive LEP Review project.

Where Council recommends the rezoning requests be identified within the Settlement Strategy for further consideration, Phase 3(ii) will commence. In this regard, the tasks associated with Phase 3(ii) include:

- Identification of proposal within the Settlement Strategy for further consideration.
- Public Exhibition of the Settlement Strategy.
- Adoption of the Settlement Strategy.

At such time the further consideration of the rezoning request is appropriate, the progression of the proposal will be undertaken in accordance with Council's Spot Rezoning Procedure, 2006; however Phase 1 and Phase 2 Fees will be waived. The Applicant will be required to pay for any Phase 3 Fees associated with the later consideration and progression of the rezoning request.

Where Council recommends the rezoning requests be extinguished under Phase 2, the Applicant will be appropriately notified, with no refund of fees. There are no appeal rights to rezoning requests under the *EP&A Act, 1979*.

## FEE STRUCTURE

Fees are charged to the Applicants for the receipt and processing of rezoning requests in conjunction with the Rezoning Requests Strategy. The Fee Structure aligns with the fees adopted by Council for the Spot Rezoning Procedure. In this regard, the Applicant will be required to pay for following.

Phase 1	Receipt and Desktop Assessment:	\$3,165*
Phase 2	Detailed Assessment and Determination:	\$7,350* + Staff Time**
Phase 3	Progression:	\$0***

\* Initial Fees to be paid in advance, i.e. on lodgement of rezoning proposal and if appropriate, prior to the detailed assessment and determination of rezoning proposal is undertaken.

\*\*Where staff time on Phase 2 exceeds 60 hours; the Applicant will be required to pay for each additional hour in accordance with the relevant Council Management Plan., i.e. \$126/hr for professional staff and \$78.75/hr for technical staff, in accordance with the 09/10 Management Plan.

\*\*\* Phase 3 Fees will be waived where recommendation for inclusion with the Settlement Strategy and consequently first version of *Wyong LEP 2011* is recommended. Where rezoning proposals are identified by the Settlement Strategy are requiring further consideration and subsequently, implemented through future amendments to *Wyong LEP 2011*, relevant Spot Rezoning Fees for Phase 3 will be required.

In addition to staff costs, applicants will pay for any studies, specialist advice, consultancies necessary to review or assess their rezoning proposal. Applicants will be invoiced as these charges progress. Commencement of each phase, and therefore inclusion with the Comprehensive LEP Review Project, is contingent on the full payment of fees in the previous phase.

Should the applicant not pay in accordance with this procedure, the Applicant will be notified that no further work will be undertaken until the outstanding amount is paid – and may, subject to timeframe, have consequences on the inclusion of the rezoning proposal within the final Settlement Strategy.

Fees are adopted by Council annually as part of the fees and charges of the Management Plan. The Fees will be reviewed annually to ensure that it covers staff time spent on each phase. Staff rates will also be set by the Management Plan on a yearly basis.

Attachment 1      Criteria

## ATTACHMENT 1

Wyong Shire Council  
**Comprehensive LEP Review**



## Rezoning Requests Strategy

Criteria for Consideration

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Prior to lodging an application with Council for a rezoning proposal, the following should be considered:

Is your proposal:

	YES	NO
Located west of the F3 Freeway?	<input type="checkbox"/>	<input type="checkbox"/>
Located within an existing precinct?	<input type="checkbox"/>	<input type="checkbox"/>
Located within an existing strategy area?	<input type="checkbox"/>	<input type="checkbox"/>

If you answered 'yes' to any of the above, your proposal may not be suitable for consideration. It is advised that you speak to a Council Officer prior to lodging your application.

When a rezoning proposal is lodged with Council, the following criteria will be used to assess the application. Please note that further information may be required. Council is not legally required to accept rezoning applications and there are currently no appeal rights for the decisions relating to the refusal or approval of rezoning applications.

1. **The Central Coast Regional Strategy (CCRS)**
  - a *Consistency with the requirements of the CCRS*
2. **The strategic context of the proposal:**
  - a *Surrounding land uses and Zones*
  - b *Existing draft Local Environmental Plans relating to the property*
3. **Economic Considerations:**
  - a *Potential for employment generation*
  - b *Economical viability*
  - c *Potential for employment loss*

**4. Environmental Considerations:**

- a *Mine Subsidence*
- b *Flooding*
- c *Bushfire Prone land / vegetation*
- d *Significant vegetation (Endangered Ecological Communities, Plants, animals, populations etc)*

NOTE: If the proposal is affected by any of the above, you may be required to submit additional studies and / or reports by suitably qualified consultants

**5. Infrastructure:**

- a *Servicing (water, sewer)*
- b *Roads*
- c *Public Transport*

**6. Social Considerations:**

- a *Existing community facilities available*
- b *The need for additional community facilities to support the proposal*

In addition to the above criteria, Council will also assess the proposal against the DoP of Planning's Criteria for spot rezonings (LEP Review Panel section 54 pro forma), relevant section 117 directions, State and Regional Environmental Planning Policies and Council's Residential Development Strategy.

These documents can be located at the following web sites:

NSW DoP of Planning: <http://www.planning.nsw.gov.au/index.asp>

Parliamentary Counsel's Office: <http://www.legislation.nsw.gov.au/>

## LEP PRO-FORMA EVALUATION CRITERIA

### Category 1: Spot Rezoning LEP

DRAFT LOCAL ENVIRONMENTAL PLAN (AMENDMENT NO. «Amendment No»)

Criteria	Consistency
1. Will the LEP be compatible with the agreed State and regional strategic direction for development in the area (e.g. Land release, strategic corridors, development within 800m of a transit node)?	Yes/No
Explanation:	
2. Will the LEP implement studies and strategic work consistent with State and regional policies and Ministerial (s117) directions?	Yes/No
Explanation:	
3. Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/sub-regional strategy?	Yes/No
Explanation:	
4. Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?	Yes/No
Explanation:	
5. Will the LEP be compatible/complementary with surrounding land uses?	Yes/No
Explanation:	
6. Is the LEP likely to create a precedent; or create or change the expectations of the landowner or other landholders?	Yes/No
Explanation:	
7. Will the LEP deal with a deferred matter in an existing LEP?	Yes/No
Explanation:	
8. Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?	Yes/No
Explanation:	

# Rezoning Requests Strategy

RELATIONSHIP OF OPTION 5 TO PROJECT COMPONENTS

## Option 6

