

6 June 2022

Mr David Farmer
Chief Executive Officer
Central Coast Council
2 Hely Street
Wyong NSW 2259

By email: ask@centralcoast.nsw.gov.au

Dear David,

RE: Draft LEP Amendment Request Policy

The Urban Development Institute of Australia NSW (UDIA) is the peak industry body representing the leading participants in urban development in NSW. Our more than 450 member companies span all facets of the industry from developers, consultants, local government and state agencies and we are proud to count Central Coast Council (Council) as a valued member. UDIA advocates for the creation of Liveable, Affordable and Connected Smart Cities, with our local focus on housing, jobs, infrastructure and sustainability for the Central Coast.

UDIA is pleased to offer our comments on the *Central Coast Draft LEP Amendment Request Policy* (draft Policy) currently on exhibition.

The NSW planning system is highly complex and difficult to navigate, even for experienced proponents. We therefore appreciate Council's effort to provide clarity on its policy framework for requests to amend its LEP, including planning proposals, and we agree that a clear policy is the first step to enable efficient assessment.

We believe the Policy could be strengthened to make it more user-friendly and helpful, and we provide the following recommendations in three categories. The full list of recommendations is detailed in our letter.

Recommendations:

- 1 – 8:** Show consistency with DPE's *LEP Making Guideline December 2021* and ensure accountability and transparency by adding benchmark timeframes and other wording changes. See detail below.
- 9 – 17:** Enhance useability by including direct links to all relevant documents within the body of the Policy as well as in "Related resources". See detail below.
- 18 – 19:** Be explicit about when a pre-lodgement meeting is required, and allow for some discretion where a pre-lodgement meeting may not be necessary; and ensure the Policy is consistent with the pre-lodgement process as outlined in DPE's *LEP Making Guideline December 2021*.

Accountability, Transparency and Consistency with LEP Making Guideline December 2021

Item 7 notes that all Council-initiated requests must be prepared in accordance with the DPE's 'Local Environmental Plan [LEP] Making Guideline'.

Item 23 states that accountability and transparency are key principles, and we strongly agree.

To show consistency with the DPE LEP Making Guideline and ensure accountability and transparency, we recommend:

1. Reference the planning proposal Categories identified by DPE's *LEP Making Guideline December 2021* (i.e., Basic/Standard/Complex/Principle).
2. Reference the Review Process as outlined in DPE's *LEP Making Guideline December 2021*.
3. In Item 18: Include Council's timing for issuing a return if a request is deemed deficient.
4. In Item 18(e): This item says a request may be returned for "Insufficient or inadequate supporting studies to address environmental, economic and social impacts." To avoid subjectivity, add at the end: "as outlined in pre-lodgement written advice."
5. In Item 19: Provide the benchmark timing for referral to the LPP as outlined in DPE's *LEP Making Guideline December 2021*.
6. In Item 21: Add Council's timeframe for seeking advice and direction from DPE in the event "a LPP does not provide advice as to whether or not to forward the Planning Proposal to the Minister".
7. In Item 23 (accountability and transparency), include the benchmark timeframes from Table 2 of DPE's *LEP Making Guideline December 2021*.
8. In Item 24 (adequate record keeping and information to stakeholders), include the words "Council staff will provide the proponent with a monthly 'invoice' detailing assessment time spent on the proposal."

Enhance Usability

The NSW planning system is complicated and changes often. Council's *LEP Amendment Request Policy* should aim to make the process easier and more straight forward for residents to navigate.

The draft Policy references several other documents and actions. To assist proponents and to ensure clarity, we recommend including the full names of documents including dates and providing direct links to all documents or URLs relevant to the application process. For ease of use, we recommend linking in every instance within the Policy and also in the "Related resources" section at the end. As these linked documents or URLs may change over time, we believe Council should prioritise usability and commit to keeping its Policy current.

To enhance usability and ensure clarity, UDIA recommends changes to the following Items:

9. In Item 7: link to DPE's *Local Environmental Plan Making Guideline* and add "December 2021, or as amended".

10. In Item 10: Name and link the relevant document which is “Council’s documented procedure for amendments to LEPs.”
11. In Item 11: Link to *Planning Proposal Documentation Requirements*.
12. In Item 12: This Item references *Procedure to Amendments to Wyong LEP 2013 and Gosford LEP 2014*.
 - i) Link to both documents.
 - ii) Clarify whether this *LEP Amendment Request Policy* replaces both or either of the above documents.
13. In Item 14:
 - 14(a). Link to contact to book pre-lodgement meeting service.
 - 14(b). Link to Council’s *Plan and Build* webpage.
 - 14(c). Name and link to “Council’s documented procedures for amending an LEP”.
 - 14(d). Link to NSW Planning Portal planning proposal tracker.
14. In Item 15: Link directly to the NSW Planning Portal URL address where LEP amendment requests are lodged.
15. In Item 16: Name and link to “Council’s documented procedures for amending an LEP”.
16. In Item 17: Link to Council’s ‘*Planning Proposal Documentation Requirements*’.
17. In Item 18(f): Italicise and link to Council’s ‘*Planning Proposal Documentation Requirements*’.

Use of Pre-Lodgement Meetings

UDIA supports the use of pre-lodgement meetings which can assist both the proponent and Council in an efficient assessment process. However, we do note that neither the current DPE *LEP Making Guideline December 2021* nor the draft DPE new approach to rezoning actually mandates pre-lodgement meetings. These meetings can be costly and while their benefits can be enormous, Council should acknowledge there may be instances where they are not necessary to support the efficient assessment of an application.

It is not altogether clear in the draft Policy what the requirement is for pre-lodgement meetings. The draft Policy includes:

- Item 12 states: *Proponents are required to discuss proposals with Council prior to lodgement to ensure all issues are considered and addressed. Proponents are also encouraged to make use of Council’s formal pre-lodgement meeting service (as described in ‘Procedure for Amendments to Wyong Local Environmental Plan 2013 or Gosford Local Environment Plan 2014.’)*

Item 12 is confusing. Can the required “discussion with Council” be informal, or is a formal pre-lodgement meeting (with fees) required (versus “encouraged”)?

- Item 14(a) states *“A pre-lodgement meeting (fees apply) with relevant planning and technical staff is required to give written advice as to the suitability of a proposed LEP amendment and the information to be lodged with a request to amend an LEP.”*

Is the pre-lodgement meeting required merely to obtain written advice for the benefit of the proponent, or is it a prerequisite to lodging any request to amend the LEP?

- Item 18(a) states that an LEP amendment request may be deemed deficient and returned including for “*Not meeting the pre-lodgement review criteria.*”

Again, it is unclear whether the pre-lodgement review is required in all instances.

Together, we assume these Items imply that a pre-lodgement meeting is required for all requests to amend the LEP, but we are not sure. Again, it may not be appropriate to require the pre-lodgement meeting in every instance. We recommend being more explicit about when a pre-lodgement meeting is required, and allowing for some discretion where it may not be necessary.

In order to add greatest value to the overall assessment process, the pre-lodgement meetings and procedures must be efficient themselves and consistent with the process as outlined in DPE’s *LEP Making Guideline December 2021*.

Consistency with the Guideline means external authorities and agencies should be consulted, and ideally participate in the pre-lodgement meeting, and high-quality meeting minutes should be issued within 10 working days. Unfortunately, our members’ current experience at Council is that it takes several weeks to get the pre-lodgement meeting scheduled; not all stakeholders participate; and Council takes six weeks or longer to issue meeting minutes of variable quality. We note that other councils’ pre-lodgement meetings include external agency stakeholders, and they are able to turn around high-quality meeting minutes in days. UDIA has practical ideas to improve the pre-lodgement meeting process, and we look forward to our upcoming meeting with the Director of Environment and Planning to discuss this area in more detail.

UDIA recommends:

- 18. Be explicit about when a pre-lodgement meeting is required, and allow for some discretion where a pre-lodgement meeting may not be necessary.**
- 19. Council’s Policy should be consistent with the pre-lodgement process as outlined in DPE’s *LEP Making Guideline December 2021*, including the participation of agencies in the pre-lodgement meeting, and issuance of high-quality meeting minutes within 10 working days.**

Conclusion

UDIA commends Council for working to provide clear policies on how to engage with Council for more efficient assessment outcomes. Our recommendations are offered constructively to enhance the useability of the Policy. We look forward to our upcoming meeting with the Director of Environment and Planning to discuss Council’s approach to assessment, including the pre-lodgement process.

Should you have any questions, please contact UDIA Regional Manager Elizabeth York at eyork@udiansw.com.au or 0434 914 901.

Kind Regards,


Steve Mann
Chief Executive
UDIA NSW