

## **8.5. Notification for Planning Proposals**

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**ATTACHMENTS:** Nil

### **PURPOSE:**

To respond to a Notice of Motion regarding the prospect of Council notifying Planning Proposals as they are lodged with Council.

### **EXECUTIVE SUMMARY:**

Proponent led Planning Proposals seek to amend the planning controls contained in the North Sydney Local Environmental Plan 2013 to change the development potential of particular sites. The process requires an initial review and assessment by the Independent Local Planning Panel and Council, before being considered by the Department of Industry and Planning. If local and strategic merit can be demonstrated, the planning proposal may be issued with a Gateway Determination, which requires various matters to be addressed, including consultation with the local community and other relevant stakeholders. This essentially represents the “gateway” to a formal process of consideration for such proposals.

At its meeting of August 2020, Council considered a Notice of Motion which aimed to introduce a process of notification for all proponent led planning proposals received by Council. The underlying issue that the Notice of Motion sought to address, was the lack of awareness, particularly by local residents and landowners, that a planning proposal may have been lodged in their vicinity. This report outlines that the planning proposal process at its inception, is not particularly designed to enable proactive consultation given the lack of status of such applications when they are lodged. In addition, a notification process would represent a significant draw on limited resources for processes that more often than not, end in refusals and come at the expense of more worthwhile strategic planning work.

This report recommends that to meet the objectives of transparency and local awareness whilst not drawing unnecessarily on limited Council resources, a different set of processes could be pursued. Whilst Council currently places planning proposals that are lodged directly on its website, this interface could be improved. This report recommends that improvements to this interface be explored, to make finding such proposals as easy and transparent as possible. Secondly, there is scope to place a notice on site, which is differentiated from site notices that advertise development

applications. This is a very tangible and localised initiative that would raise local awareness that a planning proposal has been lodged.

Both these initiatives would be relatively simple and cost effective to implement.

### **FINANCIAL IMPLICATIONS:**

The amendments to Council's website interface would be relatively cost neutral, only necessitating deployment of existing human resources to consider and adjust several aspects of Council's website. The site signage initiative would represent a modest cost (in the order of \$3-400 per annum) in addition to negligible amounts of staff time required to place such signs on site. These initiatives can be resourced within existing budgets.

### **RECOMMENDATION:**

**1. THAT** Council acknowledge the current practice of posting of proponent led Planning Proposals on its website and that it further instigate the following actions in order to provide wider awareness of their receipt:

- a) Installation of site signage similar but identifiably different to development application site signage as soon as practicable after lodgement of Planning Proposals. This is to include details of the proposal and if possible, with the investigation of a QR code to link back to Council's website containing further details.
- b) Investigate amendments to Council's website dealing with Planning Proposals to maximise transparency.

## **LINK TO COMMUNITY STRATEGIC PLAN**

The relationship with the Community Strategic Plan is as follows:

### **3. Our Future Planning**

3.5 North Sydney is regulatory compliant

### **5. Our Civic Leadership**

5.1 Council leads the strategic direction of North Sydney

5.2 Council is well governed and customer focused

5.3 Community is informed and consulted

## **BACKGROUND**

At its meeting of August 2020, Council considered a Notice of Motion (No. 12/20) as follows:

- 1. THAT Council provide mail notifications to affected and surrounding residents at the time Planning Proposals are first submitted;*
- 2. THAT the mail notifications use the same system to determine who should be notified as is currently used for mail notifications of DA's.*
- 3. THAT mail notifications are issued within seven (7) days of the initial lodgement of every Planning Proposal with Council.*

In response, Council resolved that this matter be deferred for a Councillor Briefing which was conducted on 14 October 2020.

The current Planning Proposal (PP) system to amend a Local Environmental Plan (LEP) was introduced by the Department of Planning in 2009. This included the notion of “rezoning reviews” which essentially introduced an appeal mechanism to Council’s decisions. Prior to this, decisions of the council regarding amendments to the LEP were not subject to such “appeal” rights.

Further, the Department sought to ensure that planning proposals had in-principal strategic merit, i.e. the issuing of a “Gateway Determination”, before requiring detailed studies and consultation. The current “A guide to preparing local environmental plans” prepared by the Department of Planning Industry and Environment states:

*In the case of a large or complex planning proposal, it may also be appropriate to include details of a community consultation strategy in the planning proposal.*

The Department has expressed concerns that consultation prior to a Gateway Determination being issued, could result in duplicated processes and lead to delays in processing of PPs.

In 2015, Council expanded its Development Application (DA) tracking system to include Planning Proposals as a way of keeping the community informed (albeit in a limited sense) early in the plan making process. Under that system, there is currently no ability to register for the “Notify me” email subscription to receive notifications and updates with respect to planning proposals, similar to that for Development Applications.

## CONSULTATION REQUIREMENTS

Community engagement is not required.

## DETAIL

The assessment timeframe to formally consider a planning proposal by Council is 90 days, after which the applicant can apply for a “rezoning review”. This review process excludes public participation. This is reflective of the Department’s decision to conduct the community consultation after Gateway Determination which occurs after Council’s initial review and is illustrated in Figure 1 below. In that 90 days, Council staff are expected to assess the application and report it to the Independent Local Planning Panel for consideration. Subsequently, the matter is reported to Council for determination. Achieving compliance with the 90 days is problematic for many applications, particularly with the recent requirement to report to the Local Planning Panel prior to reporting to Council.

The Planning Proposal process is illustrated below. Whilst there are often significant variations to the illustration provided below, it depicts the general process.

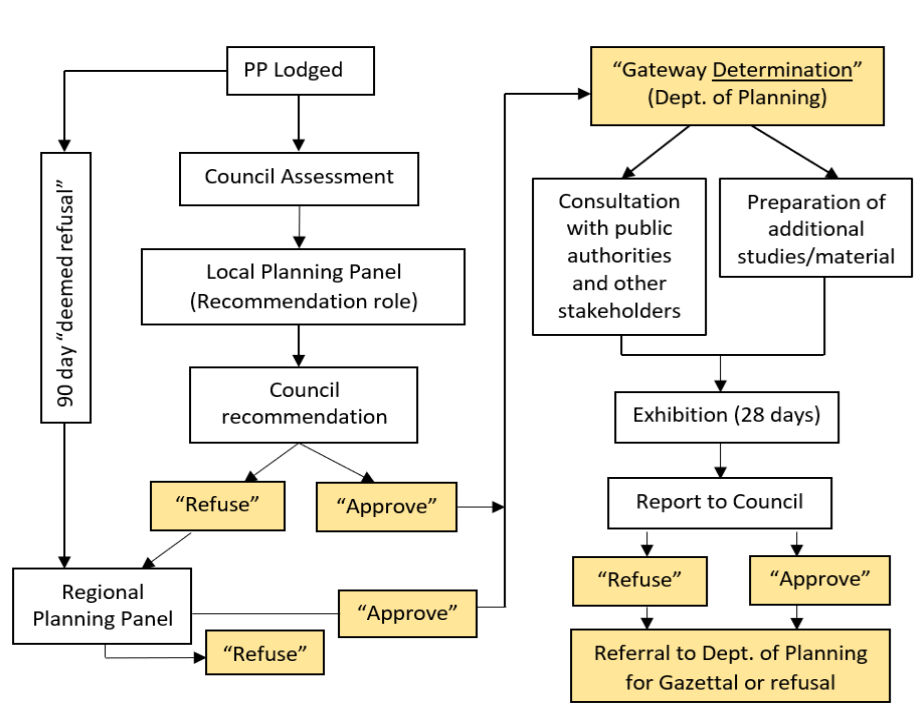


Figure 1 – The Planning Proposal Process

## **Current Approach**

At present, Council places all Planning Proposals on the “DA Tracker” section of its website. This includes all documentation lodged including plans, studies and other relevant material. The Planning Proposal section of the website lists all recently lodged Planning Proposals and they are linked to the DA tracker which attaches all documentation relevant to the PP. Many Sydney Councils do not make Planning Proposals publicly available on their websites. A small minority of Councils notify Planning Proposals when they are first received.

Whilst many frequent visitors to Council’s website (like precinct committee members) are well acquainted with both the process and location of any new PPs lodged, new visitors to the website may experience difficulties in finding such material quickly.

## **Notice of Motion**

The intent behind the Notice of Motion tabled at the Council meeting of 20 August 2020, is clearly to make the Planning Proposal process as transparent as possible and make people aware of the lodgement of such applications. Notwithstanding this, it would represent the formalisation of an additional step in the plan making process that has no legislative standing and that is not anticipated in the timeframes prior to review rights. The proactive notification of PPs after their receipt would have the following implications:

- Increased staff workloads at a time when significant demands on staff resourcing by the NSW Government reform agenda are increasingly demanding.
- Council officers being required to familiarise themselves with (what is often complex and lengthy) proposals early to field enquiries at the expense of more worthwhile strategic planning work.
- An increase in the number of informal submissions that would require consideration by Council staff.
- Increased timeframes to complete assessment reports.
- Potentially more Rezoning Reviews through the Department of Planning as timeframes become increasingly difficult to meet.
- Increased costs for additional mailouts and staff resourcing, which can vary significantly from proposal to proposal and is not factored into Council’s current fee regime.

For these reasons, it is not recommended that a formal notification process be undertaken when a Planning Proposal is received.

## **Alternative Approaches**

The Environmental Planning and Assessment Act mandates (Section 3.33) that amongst other things, a PP is required to be justified in terms of its consistency with the Local Strategic Planning Statement (LSPS).

Local Priority L1.5 in the North Sydney LSPS outlines the following action:

*Only support Planning Proposals that are consistent with Council's endorsed planning studies, that have identified growth being delivered in locations that support the role of centres and have critical infrastructure and services in place to support the North Sydney community.*

The default is that unless an amendment to the Local Environmental Plan is anticipated by a Council prepared, consulted and endorsed study or strategy, a planning proposal is discouraged and will generally be refused. Council's record in defending refusals at the Regional Planning Panel is good, further reinforcing the priority outlined in the North Sydney LSPS.

The endorsed LSPS position is that the required level of public and stakeholder consultation will occur at the study/strategy development stage of the process. Examples of this are the St Leonards Crows Nest - Precincts 1, 2 and 3 Planning Studies, the ongoing Military Road Corridor Planning Study and Civic Precinct Planning Study. Comprehensive consultation occurs at this stage of the process and it's at this time, that changes to the land use and built environment, are anticipated and ventilated for public discussion.

In this context and in acknowledgment of the broader PP process as illustrated in Diagram 1 above, it is appropriate that *ad hoc* planning proposals not be heavily resourced and provided status that they simply do not have. The time that staff are required to resource notification and other efforts to widely notify planning proposals, undermines the limited resourcing available to invest in other, more worthwhile strategic planning projects and processes.

Options to maximise awareness of planning proposals whilst managing resourcing implications are listed below.

### **More Accessible Website**

Council's website as it relates to Planning Proposals, could be improved. The Planning Proposals section (under "Building and Development") could identify lodged Planning Proposals more clearly.

In addition to this, the DA tracker website could include a map of the local government area identifying the location of current planning proposals and their status (eg, undetermined, subject of rezoning review, approved etc) to provide a simple overview

of PPs lodged and their location. A link to more detail could be provided on such high-level map.

Council's Engagement HQ website is utilised for public consultation and awareness raising of projects and processes. It is a widely used resource that generally receives many web visits. These are able to be tracked and reported on.

### **Site Signage**

DAs lodged with Council are notified to local residents and stakeholders as well as requiring a site notice to be placed on the subject site, to make local residents and others who may have an interest to be made aware of an application for development.

This may be a useful tool to raise awareness of a PP, particularly in the locality. The main issue/problem with this is that there is no formal notification period so the wording on such notice would need to reflect this very clearly. Such signage could be placed on site reasonably quickly after lodgement of the PP. It should be noted, however, that because there is no formal notification period, the expedience to place the site on site, is not as acute as with a DA. Notwithstanding this, it should, generally be possible to place such notice on site within 7 days. The site notice colour would also be differentiated with the colours adopted for DA related matters.

A site notice relating to a PP would, then alert local stakeholders to the lodgement of a PP, with further information being available on Council's website.