



PLANNING PROPOSAL POLICY

Policy 22/2022-2025

DATE

- Ordinary Meeting of Council DATE TO BE INSERTED

POLICY NO:	22/ 2022-2025
LEGISLATIVE REQUIREMENTS	Council's Code of Conduct (and the Office of Local Government Model Code of Conduct)
RESPONSIBILITY:	Forward Planning
OBJECTIVE:	To articulate Council's expectations with respect to new planning proposals and to establish a clear, transparent and equitable framework within which planning proposal proponents can address Councillors during the assessment process.
REVIEW	Within the first 12 months of each term of Council or as required.

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1. Introduction

This policy is known as *The Hills Shire Council Planning Proposal Policy* ('the policy'). It applies to all Planning Proposal Applications lodged with Council from DATE TO BE INSERTED and was adopted by resolution of the Council on DATE TO BE INSERTED.

The objective of this policy is to articulate Council's expectations with respect to new planning proposals and to establish a clear, transparent and equitable framework within which Council will process and assess planning proposal applications, including opportunities for planning proposal proponents to address Councillors during the assessment process.

2. Terms and Definitions

Act means the *Environmental Planning and Assessment Act 1979* (NSW).

Council means The Hills Shire Council.

Environmental Planning Instrument has the same meaning as the Act.

Instrument change means a change to an Environmental Planning Instrument.

Minister means the Minister for Planning and Public Spaces, New South Wales.

Regulations mean the *Environmental Planning and Assessment Regulation 2000*.

Planning Proposal Application means an application prepared and lodged with Council which seeks to facilitate an Instrument Change in accordance with the NSW Department of Planning and Environment's '*Local Environmental Plan Making Guideline*'.

Proponent means a person who has sought a change to an environmental planning instrument.

3. Key Strategic Considerations and Assessment Criteria

a) Strategic Context

All Planning Proposals will be assessed against the strategic framework that is in force at the time of assessment. To demonstrate strategic merit, an application must establish consistency with the following Strategic Planning documents, including but not limited to:

- Greater Sydney Region Plan, 'A Metropolis of Three Cities' ([found here](#));
- Central City District Plan ([found here](#));
- Ministerial Directions ([found here](#));
- Council's Local Strategic Planning Statement and Supporting Strategies ([found here](#));
- North West Rail Link Corridor Strategy and related Structure Plans ([found here](#));
- Hills Corridor Strategy ([found here](#)); and
- Precinct Plans ([found here](#)).

Where a proposal seeks to justify an inconsistency with any of the above Plans and Strategies, it must clearly establish how the proposal will result in a superior planning outcome and community benefit. Planning Proposals should also indicate how they give effect to the outcomes and strategies within Council's Community Strategic Plan.

b) Timeframes for Processing Planning Proposals

On 26 November 2021 the Environmental Planning and Assessment (Statement of Expectations) Order was made and stipulates requirements for Councils to comply with in terms of processing planning proposals. If a council does not meet the Minister's Expectations under this order, the Minister may exercise powers under s9.6(1)(b) of the Act and appoint a planning administrator or a regional panel to

exercise Council functions.

The order states :

“A council should:

- (a) Make a decision as to whether to support or not a proponent led planning proposal (rezoning) as soon as practical and no longer than 90 days, or
- (b) submit a proponent led planning proposal for Gateway determinations as soon as practical and no longer than 90 days after having indicated its support for the planning proposal,
- (c) publicly exhibit a planning proposal or hold a public hearing in line with the conditions of a Gateway determination,
- (d) consider or respond to public submission on a draft LEP in accordance with their community participation plan,
- (e) make a LEP, which has been delegated to the Council, in the timeframes specified in the Gateway determination.”

In December 2021, the Department of Planning and Environment released the Local Environmental Plan Making Guideline ([found here](#)), which stipulates categories for types of planning proposals and benchmark timeframes for the consideration and determination of planning proposals. Council’s adopted Fees and Charges identify planning proposal categories consistent with the Guideline and provide for corresponding fees. The benchmark timeframes in the Guideline are shown in the following figure:

Stage	Maximum Benchmark Timeframes (working days)			
	Basic	Standard	Complex	Principal
Stage 1 – Pre-lodgement	30 days	50 days	60 days	20-30 days
Stage 2 – Planning Proposal	80 days	95 days	120 days	40 days
Stage 3 - Gateway determination	25 days	25 days	45 days	45 days
Stage 4 – Post-Gateway	20 days	50 days	70 days	160 days
Stage 5 – Public Exhibition & Assessment	70 days	95 days	115 days	95 days
Stage 6 - Finalisation	25 days	55 days	70 days	80 days
Sub-total (Department target)	140 working days	225 working days	300 working days	380 working days
Total (end to end)	220 days	320 days	420 days	420 days

Note: Department target of 380 working days is measured from Stage 3 – Stage 6 (inclusive).

Figure 1
Local Environmental Plan Making Guideline Benchmark Timeframes for Planning Proposals

The benchmark timeframes in the Guideline differ from the Minister’s Expectations. The time required to undertake each stage in the LEP making process varies, depending on the nature, scale and complexity of a proposal, the issues that need to be resolved, and the level of community interest. Council will process planning proposals in an efficient, transparent, accountable, and outcomes focused manner to set clear expectations for the community.

Council is expected to determine whether or not a planning proposal will proceed to Gateway Determination within a maximum of 120 working days of a proposal being lodged. Therefore, detailed consideration of infrastructure, design or other technical matters cannot be deferred to the post-Gateway stage and there are no opportunities to negotiate and revise elements of a proposal following formal lodgement. The Scoping Phase of the process (refer to Section 4 below) provides an opportunity for Proponents to present their proposal to Council officers and receive feedback on their proposal prior to lodgement.

Following formal lodgement of the planning proposal, Council officers will promptly progress with the following steps:

- Proponents will be invited to provide a presentation to the elected Council at the next available Councillor Briefing, in accordance with this Policy;
- Council officers will complete a full technical assessment of the application, as submitted, and

- report this to the Local Planning Panel for advice; and
- Following the Local Planning Panel, Council officers will promptly report the application to Council, as submitted, for a determination on whether or not to progress to Gateway Determination.

c) Assessment of Infrastructure Demand

Proponents must undertake an assessment of the capacity of local, regional and state infrastructure, identify solutions/ opportunities to address any infrastructure shortfalls, and establish a mechanism for fair and reasonable contributions to be made that are proportionate to the demand for additional infrastructure generated by the proposed uplift.

Where planning proposals are seeking uplift beyond current planning controls, Proponents must demonstrate that satisfactory arrangements are in place to address additional demand for local and State infrastructure. This includes (but is not limited to):

- Passive and active open space;
- Community facilities;
- Educational establishments;
- Traffic and transport infrastructure; and
- Drainage and Water Management.

Any offer to enter into a Voluntary Planning Agreement or draft Contributions Plan amendment proposed in conjunction with a planning proposal must be lodged with the planning proposal application in order to be considered with the planning proposal.

The timeframes set out by the Department (Figure 1) require these matters to be considered concurrently as one application package. The assessment of infrastructure demand and the potential solutions or mechanisms provided with the planning proposal will inform the assessment of the proposal in terms of the services and infrastructure that are or will be available to meet the demands arising from the proposal. This is a fundamental consideration in the assessment of whether or not a proposal should proceed to Gateway Determination. If a Proponent intends to make a Voluntary Planning Agreement offer or amend a Contributions Plan in association with a planning proposal, these discussions should occur with Council officers during the 'scoping' phase of the process, prior to lodgement.

d) Lodgement Requirements

The following information would likely be required with any Planning Proposal Application;

- a) Application Form, Owners Consent and completed Political Donations forms;
- b) A Planning Proposal Report, which addresses the Department of Planning and Environment's Local Environmental Plan Making Guideline;
- c) Master Plan, Structure Plan, Concept Development Plans, Urban Design Report and/or Architectural Plans that include a site and concept plan and depict landscaped areas, car parking, setbacks, shadow diagrams, building footprints and building heights (at a minimum);
- d) A draft Development Control Plan;
- e) Traffic, Parking and Accessibility Report;
- f) Environmental constraints reports (stormwater, flooding, biodiversity & bushfire);
- g) Utilities Servicing Report;
- h) Economic and Residential Demand Analysis,
- i) Local Infrastructure Analysis and Mechanism – which considers the impacts of the proposal local infrastructure and recommends a suitable development contributions framework in association with any development uplift on the land, along with the proposed development contributions plan or draft Voluntary Planning Agreement; and
- j) Briefing Presentation material for Councillor briefing session.

4. Scoping Phase

Prior to lodging a planning proposal application, all Proponents are required to prepare a scoping study in accordance with the Local Environmental Plan Making Guideline (DPE) and meet with Council's Forward Planning Team to obtain pre-lodgement feedback and submission requirements.. The scoping study is to be provided to Council and the fee detailed in the adopted Fees and Charges

is to be paid prior to the meeting with Council officers being arranged.

Meetings can be arranged by completing the online form on Council's website.

5. Planning Proposal Application Process

Figure 1 shows the key steps in the Planning Proposal Application process:

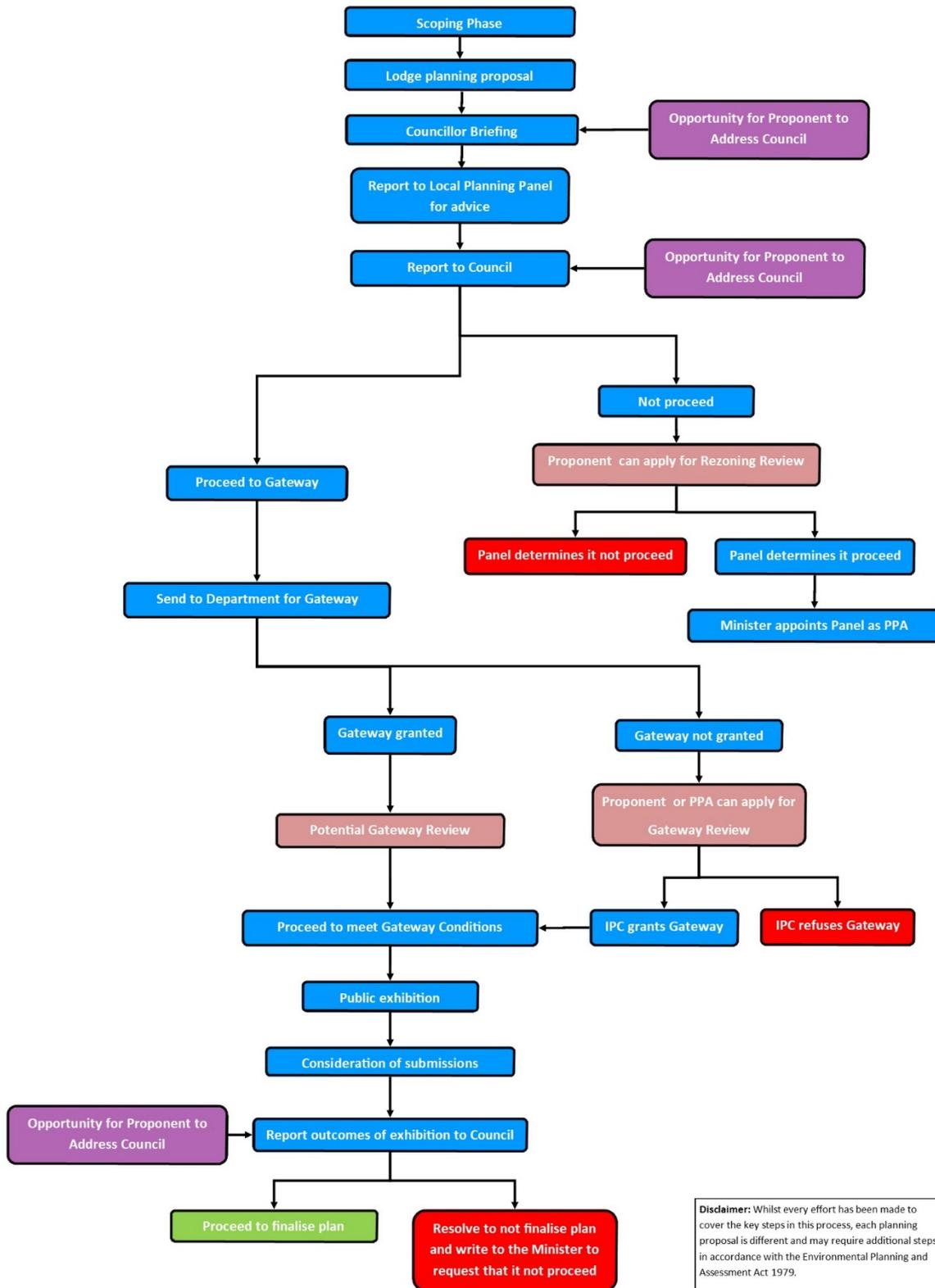


Figure 2
Planning Proposal Application Process

6. Local Planning Panel

A Planning Proposal is required to be referred to the Panel in accordance with section 2.19 of the Environmental Planning and Assessment Act 1979 and the Local Planning Panels Direction – Planning Proposals (Ministerial Direction). Planning Proposals are referred to The Hills Local Planning Panel for advice only in accordance with Council’s Operational Guidelines ([found here](#)).

As the Panel has an advisory role only and no determinations are made, Panel meetings are held “*in camera*” and are not open to the public or proponents. The making of decisions with respect to Planning Proposals by the Elected Council will be held in public in accordance with Council’s adopted Code of Meeting Practice.

The Panel’s advice on Planning Proposals will be published on Council’s website within 2 business days following the electronic determination. In order to meet the timeframes specified by DPE, Council officers will schedule the planning proposal to be reported to the next available Council meeting, where the Panel’s advice will be provided to Council when determining whether or not a Planning Proposal should proceed to Gateway Determination.

7. Opportunities for Proponents to Address Councillors

Proponents will be provided with opportunities to address Councillors with respect to their Planning Proposal Application at the following stages in the Planning Proposal Application assessment process (identified in red):

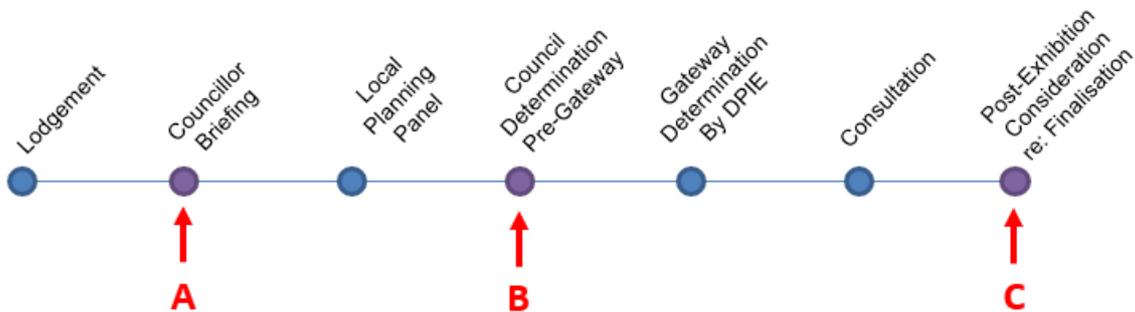


Figure 3
Engagement Opportunities throughout Planning Proposal Process

Opportunities to address Councillors will be administered and regulated in accordance with the following requirements and parameters:

A. Councillor Briefing - Following Lodgement of a Planning Proposal Application

Following the lodgement of a new Planning Proposal Application, Proponents will be invited to provide a short presentation to Councillors at a Councillor Briefing, subject to the following:

- Councillor Briefings are generally held on the first Tuesday of each month;
- Proponents will generally be advised of the opportunity to present 4 weeks prior to the scheduled Councillor Briefing however the agenda for each Briefing may be subject to change;
- Presentations will be limited to a maximum of 15 minutes;
- Based on the time available, the number of participants representing the proponent is to be kept to a minimum with the expectation that no more than four (4) attendees is appropriate;
- An electronic copy of all presentation material must be provided to Council officers with lodgement of the Planning Proposal Application. The matter will be scheduled for the next available Councillor Briefing.; If the material is not provided, Council officers will provide a technical briefing to

Councillors, however the Proponent will not have the opportunity to present; and

- Councillors will have the opportunity to ask questions of a Proponent following each presentation.

Councillor Briefings are for information purposes only and are not a forum in which decisions are made or feedback is given. The opportunity to present at a Councillor Briefing occurs prior to the assessment of the application by Council officers or the receipt of advice from the Local Planning Panel. The nature of questions received during the briefing or any subsequent discussion should *not* be taken as an indication of the likely outcome of their application. Decisions on planning matters are made in public at Council meetings following detailed assessment of the proposal and preparation of a report to Council by Council officers.

At the opening of each Councillor Briefing, the Mayor shall read the following statement:

Councillor Briefings are for information purposes only and are not a forum in which decisions are made. Decisions on planning matters are made in public at Council meetings following detailed assessment of the proposal and preparation of a report to Council by Council officers. Councillors must ensure that no action, statement or communication conveys any suggestion of a pre-determined view on a planning matter or willingness to provide concessions or preferential treatment to individual Proponents. Any such action, statement or communication may result in a Councillor being disqualified from making a decision on that planning matter.

B. Ordinary Council Meeting – Pre-Gateway Determination

Proponents have the opportunity to address Council during a public Council meeting, prior to the Council making a decision on whether or not a Planning Proposal should be forwarded to the Department of Planning and Environment for Gateway Determination.

Council will be provided with a report on the Planning Proposal Application (including any associated Development Control Plan amendments, draft Voluntary Planning Agreements or draft Contributions Plans) prepared by Council officers and Proponents will have the opportunity to address Council during the meeting in accordance with Council's adopted Code of Meeting Practice.

C. Ordinary Council Meeting – Post-Exhibition Consideration of Planning Proposal

Proponents have the opportunity to address Council during a public Council meeting when Council considers the outcomes of the consultation period, prior to the Council making a decision on whether or not a Planning Proposal should proceed to finalisation.

Council will be provided with a report on the Planning Proposal and outcomes of the consultation period prepared by Council officers and Proponents will have the opportunity to address Council during the meeting in accordance with Council's adopted Code of Meeting Practice.

8. Community Participation

Consultation with the Community will be undertaken in accordance with requirements under the *Environmental Planning and Assessment Act 1979*, the *Environmental Planning and Assessment Regulations 2000* and Council's adopted [Community Participation Plan](#).

A Planning Proposal will be exhibited concurrently with any associated draft Voluntary Planning Agreement or draft Development Control Plan.

9. Probity and Proper Conduct

In accordance with the Statement of Business Ethics, Council will ensure all its business relationships are ethical, fair and consistent. Anyone 'doing business with Council' (including all applicants, political lobbyists, consultants and owners) must act ethically, fairly and honestly in all dealings with the Council. Engagement with Councillors or Council Officers should be undertaken in accordance with the Statement of Business Ethics and this Planning Proposal Policy.

In accordance with the Environmental Planning and Assessment Act 1979, political donations and gifts are to be disclosed when planning proposals are lodged and at any point during the process if any component of the disclosure changes during this period.

In accordance with Council's Code of Conduct, Councillors are required to ensure that land use planning decisions are properly made in a fair and transparent manner. Decisions on planning matters are made in the public Council Meeting forum.

The Code of Conduct and the Statement of Business Ethics are available on Council's website. Any concerns relating to Probity or Conduct should be directed to the Council's Public Officer on 9843 0159, the Council's General Manager or any Group Manager by telephone or in writing.

10. Associated Documents

Strategic Documents:

- Greater Sydney Region Plan, 'A Metropolis of Three Cities' ([found here](#));
- Central City District Plan ([found here](#));
- Ministerial Directions ([found here](#));
- Council's Local Strategic Planning Statement ([found here](#));
- North West Rail Link Corridor Strategy and related Structure Plans ([found here](#));
- Hills Corridor Strategy ([found here](#)); and
- Precinct Plans ([found here](#)).
- Local Environmental Plan Making Guideline ([found here](#))

Council Documents:

- Political Donations and Disclosures Form ([found here](#));
- Community Participation Plan ([found here](#));
- Fees and Charges ([found here](#));
- Statement of Business Ethics ([found here](#));
- Council's Code of Conduct ([found here](#)); and
- Council's Local Planning Panel Operational Guidelines ([found here](#)).

11. Appendices

Appendix 1 – Planning Proposal Application Form and Checklist