



LEP practice note

LEP MAKING PROCESS

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Related	Replaces PN 09-004 (dated 20 August 2009)

Requesting that the Minister facilitate the preparation of a local environmental plan

The purpose of this practice note is to explain how requests may be made to the Minister for Planning to facilitate the preparation of a local environmental plan.

Introduction

On 1 July 2009, changes to the *Environmental Planning and Assessment Act 1979* (EP&A Act) commenced giving the Minister for Planning the ability to facilitate the preparation of local environmental plans (LEPs). The Minister may facilitate the process by appointing either the Planning Secretary or a joint regional planning panel (regional panel) as the 'relevant planning authority' for the purpose of preparing the LEP.

When can the Minister facilitate the preparation of a LEP?

Under section 3.32(2) of the EP&A Act, the Minister can appoint the Planning Secretary or a regional panel (or any other prescribed person or body) as the relevant planning authority in a number of circumstances, including (but are not limited to) the following:

- The proposed LEP relates to a matter that, in the opinion of the Minister, is of State or regional environmental planning significance.

For example:

The proposed LEP is of strategic importance because of its location and major contribution to regional development (as identified in a State or regional strategy); its importance to a particular industry sector; for employment, infrastructure service delivery; or, its redevelopment potential to achieve government policy goals.

The proposed LEP is significant to the State for environmental conservation or natural resource reasons, such as sensitive wetlands or coastal areas. The proposed LEP is of State significance in terms of amenity, cultural, heritage, or historical significance.

- The Independent Planning Commission, or
- a regional planning panel has recommended to the Minister that the proposed LEP should be made.

For example:

The Minister may seek the advice of the Independent Planning Commission or a regional planning panel in relation to a planning matter. In the course of their ordinary business, the Independent Planning Commission or a regional planning panel may also recommend that changes be made to a LEP in order to achieve a better planning outcome.

- The council for the local government area concerned has failed to comply with its obligations with respect to the making of the proposed LEP or has not carried out those obligations in a satisfactory manner.

For example:

A failure to give reasonable consideration to a planning proposal provided to a council, or to delay unreasonably the consideration of a planning proposal commenced by the council.

Making a request for the Minister to initiate a LEP?

A request for the Minister to facilitate the preparation of a LEP should be made in writing to the local regional office of the Department of Planning. The contact details of the relevant offices are available on the Department of Planning website.

The request should include details of:

- the objectives or intended outcomes of the proposed LEP

- the land that would be affected by the proposed LEP
- the reasons why the proposed LEP should be prepared by someone other than the local council, in the context of relevant circumstance from those described above
- the views of the local council.

If the Minister agrees to the request, the proponent will be required to prepare a planning proposal in accordance with the *Local Environmental Plan Making Guideline* (2021) to the satisfaction of the person or body appointed by the Minister as the relevant planning authority.

Consultation with council

Before requesting that the Minister facilitate the preparation of a LEP, the request should first be made to the relevant local council.

Any request for the Minister to facilitate the preparation of a LEP should include details as to why the LEP cannot be efficiently prepared by the relevant local council.

Can such a request be made directly to the Independent Planning Commission or a regional planning panel?

In the course of their ordinary business, the Independent Planning Commission or a regional planning panel may recommend that the Minister facilitate the preparation of a LEP. The Minister may also seek the advice of a regional panel or the Independent Planning Commission on a proposal.

A request that the Minister facilitate the preparation of a LEP cannot be made directly to either the Independent Planning Commission or a regional panel.

Further information

A copy of this and other practice notes, and the *Local Environmental Plan Making Guideline* (2021) are available on the Department's website at:

<https://www.planning.nsw.gov.au/Plans-for-your-area/Local-Planning-and-Zoning>

For further information please contact Service NSW on 13 77 88.

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Important note: This circular does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this circular.

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