

1. What is a rezoning / LEP amendment request?

Lake Macquarie Local Environmental Plan (LMLEP) 2014 provides the framework for land use planning in Lake Macquarie. It identifies land use zones and other planning provisions, such as building heights and minimum lot sizes.

Sections 3.31 to 3.36 of the *Environmental Planning and Assessment Act 1979 (EP&A Act)* set out the process to amend the LEP.

2. Can I rezone my land?

Yes, in certain circumstances. Rezoning is usually only supported when the proponent can demonstrate one or more of the following:

- An error or anomaly in LMLEP 2014; or
- The rezoning would provide considerable community/public benefit; or
- The land could not reasonably be developed or used for a permitted use under the existing zone;

In all cases, the amendment must be consistent with the *Hunter Regional Plan 2036*, *Greater Newcastle Metropolitan Plan*, and Council's *Imagine Lake Mac strategy*.

3. Discuss your amendment request with Council

In the first instance, an LEP amendment request should be discussed with Council's strategic planning staff.

Council staff may recommend a meeting to help determine the information required to proceed to the next stage.

4. When might Council encourage rezoning?

Land identified in the Priority Growth and Change Areas in Council's *Imagine Lake Mac* has priority.

LMLEP 2014 also has a number of sites zoned RU6 Transition Zone. These sites require studies to determine the capability and suitability of the land prior to rezoning. Council prioritises rezoning requests for this land in order to resolve the RU6 zoning. Note however, that an RU6 zone does not guarantee that a site has development potential.

5. What should you include in a preliminary LEP amendment request?

Information required for a preliminary LEP amendment request will vary depending on the specifics of the site and the proposal. Information should be concise. It often helps if you engage someone with relevant experience and expertise, such as a qualified planning consultant.

Your LEP amendment request needs to include:

- The property description (Lot, DP, and address);
- Reasons why an LEP amendment is requested;
- Requests to facilitate a particular development must provide an indicative development concept illustrating the nature and scale of development envisaged.

Further information is available in *A guide to preparing planning proposals* prepared by the NSW Department of Planning Industry and Environment (the Department).

Note: No specific studies are required at this preliminary stage, although it is useful to identify and investigate possible issues that will need to be addressed, such as biodiversity offsetting or land contamination.

6. Lodgement of a formal LEP amendment request

Formal LEP amendment requests should only be submitted after discussing the request with Council's Integrated Planning (IP) staff. Formal requests must address all the requirements of *A guide to preparing planning proposals*.

Council staff will do a preliminary review of the application to check if all required information is included, and will issue an invoice for the Phase 1 fixed fee.

7. LEP amendment process

Phase 1

Phase 1 involves an initial assessment of the proposal by one of Council's strategic planners. This assessment will identify whether the LEP amendment request has strategic merit. The proposal is then considered by Council's Rezoning Advisory Panel, made up of a number of senior staff from a range of Council departments.

A report is then prepared for the (elected) Council either seeking authority to proceed with the preparation of a Planning Proposal or recommending that the LEP amendment not proceed.



Note: Planning Proposal is the term used in the EP&A Act for a document that explains and justifies a proposed LEP amendment.

If Council supports the preparation of a Planning Proposal, the proposal is forwarded to the Department, who undertake their own review before providing a “Gateway determination”. The Gateway determination will:

- indicate whether the planning proposal should proceed,
- detail requirements surrounding necessary studies or further information, and
- provide requirements for consultation with the public and government authorities.

Phase 2

If the Gateway determination is favourable, Council will request the applicant to pay the Phase 2 fixed fee, and enter into an agreement to cover the cost of any additional studies, as well as additional staff time spent processing the LEP amendment.

Phase 2 generally includes:

- Preparation of supporting studies;
- Notification of relevant authorities;
- Exhibition for public comment;
- Review of public submissions and preparation of a further report to Council;
- If Council resolves to submit a Planning Proposal to the Minister to make the plan, staff prepare the required documentation; and
- If the Minister makes the Plan, staff arrange public notices and updating of Council records.

8. What fees are applicable to an LEP amendment request?

Preliminary Request – Nil

Phase 1 – \$10,694*.

This fee covers: Initial staff review, report to elected Council; if supported, Planning Proposal sent to the Department for a Gateway Determination.

Phase 2 - \$8,319* plus ‘do and charge’ fees where costs exceed \$8,319 (approx. \$199.00 per hour).

This fee covers: Preparation of required studies, consultation with the public and government agencies, further report to Council.

‘Do and charge’ costs vary depending on the nature of the proposal, processing time and studies required. An LEP amendment is a time intensive process that can be costly.

‘Do and charge’ costs can range from approx. \$15,000 to \$100,000+.

* Fees are non-refundable.

* GST is not applicable.

* Fees quoted are valid from 1 July 2019 to 30 June 2020.

9. Can I appeal a decision not to support my LEP amendment request?

Yes. If Council has formally notified an applicant that their LEP amendment request is not supported, the applicant may, within 42 days of Council’s notification, make a written application and pay a fee to the Department for a Rezoning Review. An applicant may also request a Rezoning Review if Council has not made a determination within 90 days from the date of submission of the LEP amendment request; or if Council has failed to submit a planning proposal for a Gateway determination within a reasonable time after Council has indicated support. (Note: The 90 days commence on the date of receipt of Phase 1 fees.)

Council or an applicant may also request a Gateway Review of a Gateway determination within 42 days of being notified by the Department.

Further information on the LEP amendment process, including independent reviews, is available on the Department’s website: www.planning.nsw.gov.au.

The LEP amendment process follows a statutory process involving the Minister for Planning, State authorities, and community comment.

It is a lengthy process that takes between 12 to 18+ months. Unfortunately, there is no guarantee of Council or State Government support for the rezoning proposal.

10. Enquiries

For advice regarding a Rezoning you may:

- Visit Council’s Customer Service Centre during business hours between 8.30 am and 5.00 pm at 126-138 Main Road, Speers Point, NSW 2284;
- Make an appointment with Council’s Integrated Planning staff on (02) 4921 0333; or
- Email or write to Council addressing your correspondence to Integrated Planning at council@lakemac.nsw.gov.au or Box 1906, Hunter Region Mail Centre, 2310.

This fact sheet is a general guide outlining the LEP amendment process.

Please be aware that not every scenario and issue is addressed in this fact sheet; therefore, discussion with the relevant Council staff should be arranged.