

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 change the LEP.

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

2. Can I rezone my land?

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

- 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; and
- The proposal has strategic and site-specific merit.

All amendments must be consistent with the strategic planning framework including the *Hunter Regional Plan*, *Greater Newcastle Metropolitan Plan*, and Council's [Local Strategic Planning Statement](#).

3. When might Council encourage rezoning?

Land identified in the Priority Growth and Change Areas in Council's [Local Strategic Planning Statement](#) has priority.

LMLEP 2014 also has a number of sites zoned RU6 Transition. 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. An RU6 zone does not guarantee that a site has development potential. RU6 land with high conservation value or other constraints may only be suitable for a zone that supports conservation.

4. Discuss your amendment request with Council

An LEP amendment request needs to be discussed with Council's Integrated Planning staff early.

Council staff may recommend lodging a rezoning pre-lodgement application to confirm whether or not the proposal has strategic merit and to identify the detailed studies needed for Council to consider a rezoning. Such studies may include Biodiversity, Transport, Bushfire, Flooding, and Contamination among others.

5. How is an LEP amended?

It is strongly recommended that you engage someone with relevant experience and expertise, such as a qualified town planning consultant.

The LEP amendment process follows a statutory process involving the NSW Department of Planning and Environment, State agencies and service authorities, and public exhibition.

It is a lengthy process that takes between 12 to 18+ months and can cost between \$65,000 to \$150,000+ depending on the complexity of the proposal. Unfortunately, there is no guarantee of Council or State government support for the rezoning. After an initial enquiry, the process includes the following steps:

5.1 Pre-lodgement (Preliminary LEP amendment request/scoping proposal)

Pre-lodgement includes:

- a) Submission and review of a preliminary LEP amendment request/scoping proposal to determine strategic merit,
- b) consultation with specialist staff, State agencies and service authorities to identify planning proposal requirements and supporting studies.

- c) Council staff issuing written advice that sets the requirements for a Planning Proposal.

What information should be submitted as part of rezoning pre-lodgement?

Information required for pre-lodgement will vary depending on the specifics of the site and the proposal.

A preliminary LEP amendment request/scoping proposal must include:

- the property description (Lot, DP, and address)
- a summarised scope of the proposal
- identification of key issues/matters that need to be addressed by the Planning Proposal
- a brief justification as to why the proposal has strategic merit
- identification of supporting studies required to demonstrate site specific merit (e.g. Biodiversity, Transport, Bushfire, Flooding, Contamination etc)
- identification of State agencies and service authorities that need to be consulted during the preparation of the Planning Proposal
- requests to facilitate a particular development outcome must provide an indicative development concept illustrating the nature and scale of development envisaged.

Further information is available in the [LEP Making Guideline](#) prepared by the Department.

5.2 Phase 1 - Lodgement of a Planning Proposal

Planning Proposals should only be submitted on the NSW Planning Portal after all the Pre-lodgement steps, above, have been completed and any required studies (e.g. Biodiversity, Transport, Bushfire, Flooding, Contamination etc) have been prepared. The Planning Proposal must address all the requirements of the [LEP Making Guideline](#) and requirements set out by Council in the pre-lodgement written advice.

A Planning Proposal lodged on the NSW Planning Portal must be complete, coherent and justified to be accepted by Council. Council staff may reject incomplete or inadequate Planning Proposals.

If the Planning Proposal is accepted by Council staff, an assessment will be undertaken and a report will be prepared for the elected Council either seeking authority to proceed with the Planning Proposal or recommending not to proceed.

If the elected Council supports the Planning Proposal, the NSW Department of Planning and Environment is requested to undertake their own review before providing a "Gateway determination". The Gateway determination will detail:

- whether the Planning Proposal should proceed,
- further information needed to address issues,
- any further consultation with State agencies and service authorities, and
- requirements for public exhibition.

5.3 Phase 2 – Post-Gateway Determination to Finalisation

If the Gateway determination is to proceed, Council staff will undertake the steps required by the Gateway determination. After any required consultation and resolution of any issues, the Planning Proposal will be publicly exhibited. Council staff will review all submissions and make any necessary changes to the Planning Proposal. A report is then prepared for the elected Council either seeking endorsement of the Planning Proposal or recommending the proposal not proceed.

If Council endorses the Planning Proposal, the Plan Making Authority will be requested to finalise the LEP amendment.

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

An LEP amendment is a costly process that comes with uncertainty.


Fees are charged upfront at commencement of each phase and work will not proceed for the relevant phase until the fee is paid. Fees are not negotiable and are non-refundable.

Planning proposal type ¹	Pre-lodgement	Phase 1	Phase 2
Basic	\$15,000	\$30,000	\$20,000
Standard	\$15,000	\$40,000	\$35,000
Complex	\$15,000	\$80,000	\$60,000

¹ The type (basic, standard, complex) of LEP amendment/Planning Proposal is determined during the pre-lodgement phase based on advice from the Department.

'Do & charge' rates for Council staff only applies to Pre-lodgement/Scoping Proposals or LEP Amendments/Planning Proposals that were lodged before 1 July 2023.

Advertising	\$2,030.00
Manager Integrated Planning	\$338.00



Assessing Planner	\$189.00
Planning Technician (GIS)	\$176.00
Business support and administration	\$118.00
Other Professional staff	\$219.00
Coordinator	\$271.00

This fact sheet is a general guide outlining the LEP amendment process. Not every scenario and issue is addressed. Early discussion with Council staff is strongly recommended.

* Fees are non-refundable.

* GST is not applicable.

* Fees quoted are valid from 1 July 2023 to 30 June 2024.

7. Can I appeal a decision not to support my Planning Proposal?

Yes. A proponent has the opportunity to pay the required fee and request an independent planning panel evaluate a Planning Proposal and recommend whether it should proceed. A review can be requested if Council:

- notifies the proponent in writing that it does not support the proposal
- does not indicate support for the proposal within 90 or 115 calendar days (depending on the Planning Proposal category) of the Planning Proposal being lodged on the NSW Planning Portal
- does not submit the Planning Proposal for Gateway determination within 28 calendar days after it has indicated support.

Council or a proponent may also request a review of a Gateway determination within 42 days of the determination.

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

8. Enquiries

For advice regarding an LEP amendment you may:

- make an appointment (by calling (02) 4921 0333) to meet Council's Integrated Planning staff at Council's Customer Service Centre during business hours at 126-138 Main Road, Speers Point, NSW 2284 or
- call 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.