



SECTION 73A EP&A ACT SUBMISSION

Forbes Local Environmental Plan 2013

Change to Zoning Map for land located bounded by Landrace Road, Hereford Street and Charolais Street Map Zoning Sheet LZN_005CB

Change to Zoning Map for land known as Lot 13 DP634665 and Lot 15 DP1173663 Newell Highway, Forbes, Map Zoning Sheet LZN_005AB.

November 2015

Section 73A Request for Amendment to Local Environmental Planning Instrument

Amendment 1 -

Subject

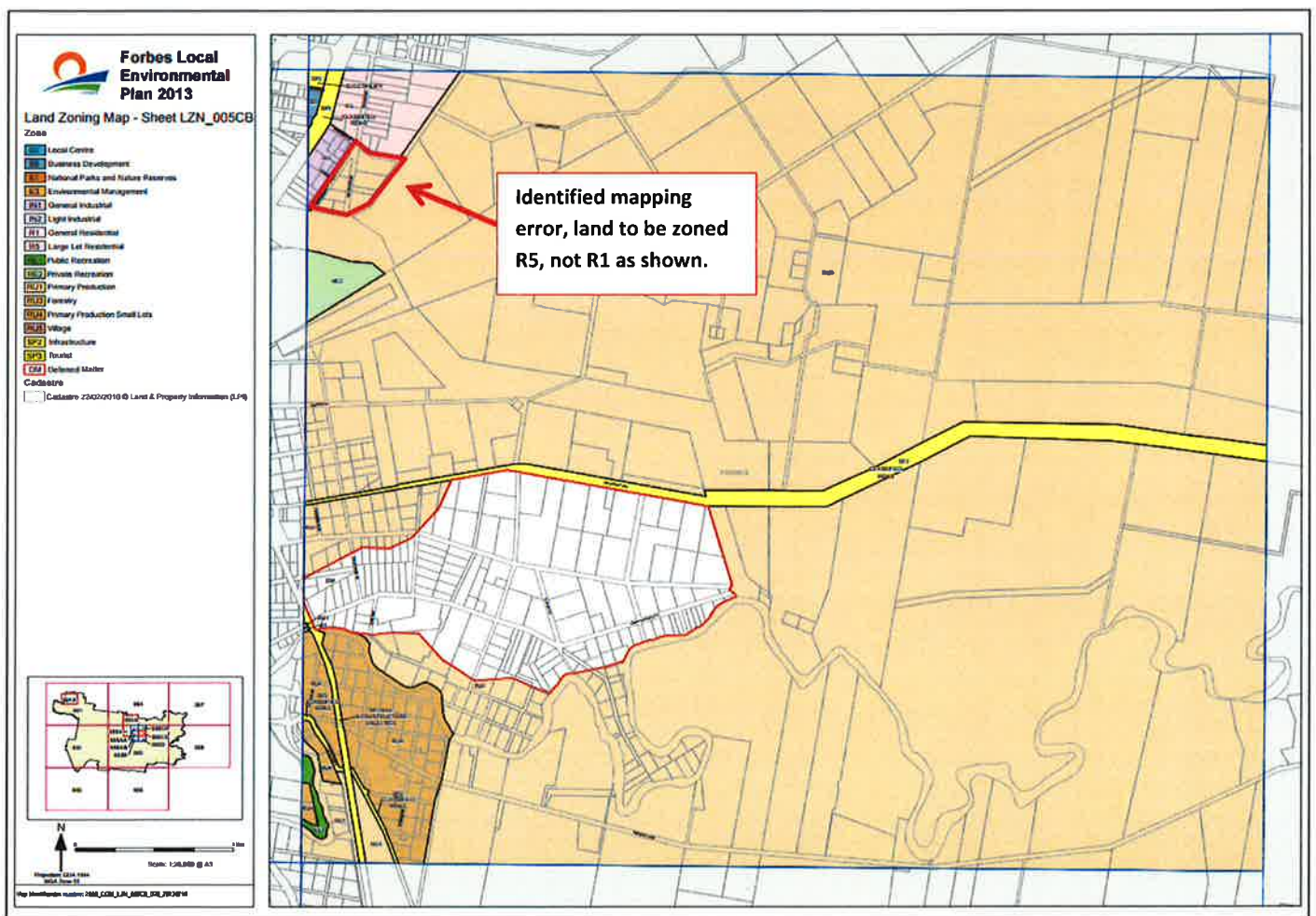
Change to Zoning Map for land located bounded by Landrace Road, Hereford Street and Charolais Street Map Zoning Sheet LZN_005CB

Background

The Land as described above was resolved to be zoned R5-Large Lot Residential, with a minimum lot size of 4000m², when connected to Council Reticulated sewer or a minimum of 1 hectare when not connected (refer to clause 4.1 in the Forbes Local Environmental Plan 2013). However, when the final plan was made and gazetted, the mapping showed the land to be zoned RU1- Primary Production, with a minimum lot size of 4000m², when connected to Council Reticulated sewer or a minimum of 1 hectare when not connected.

The change to the zoning is therefore to correct an error that has occurred in the plan making process.

Please see map below:



Why is there the need for the Amendment?

Given that the incorrect zoning has been applied to the subject land, the amendment is required to correct the error and ensure that the correct zoning is identified on the map.

What the amendment does:

The amendment will allow for the land to be correctly zoned in line with the Council resolution dated 21 June 2012. Please see attached Council correspondence to the Department of Planning and Environment.

Why the amending plan is suitable to be made in accordance with Section 73A –

In accordance with Section 73A, the proposed amendment is sought to correct an obvious error in the instrument. This amendment refers specifically to a mapping error and therefore 73A(2) is applicable to this amendment, as highlighted in the excerpt from the EP&A Act below.

1. *An amending environmental planning instrument may be made under this Part without compliance with the provisions of this Part relating to the conditions precedent to the making of the instrument if the instrument, if made, would amend or repeal a provision of a principal instrument in order to do any one or more of the following:*
 - a. *correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error,*
 - b. *address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature,*
 - c. *deal with matters that the Minister considers do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land.*
2. *A reference in this section to an amendment of an instrument includes a reference to the amendment or replacement of a map adopted by an instrument*

Amendment 2 -

Subject

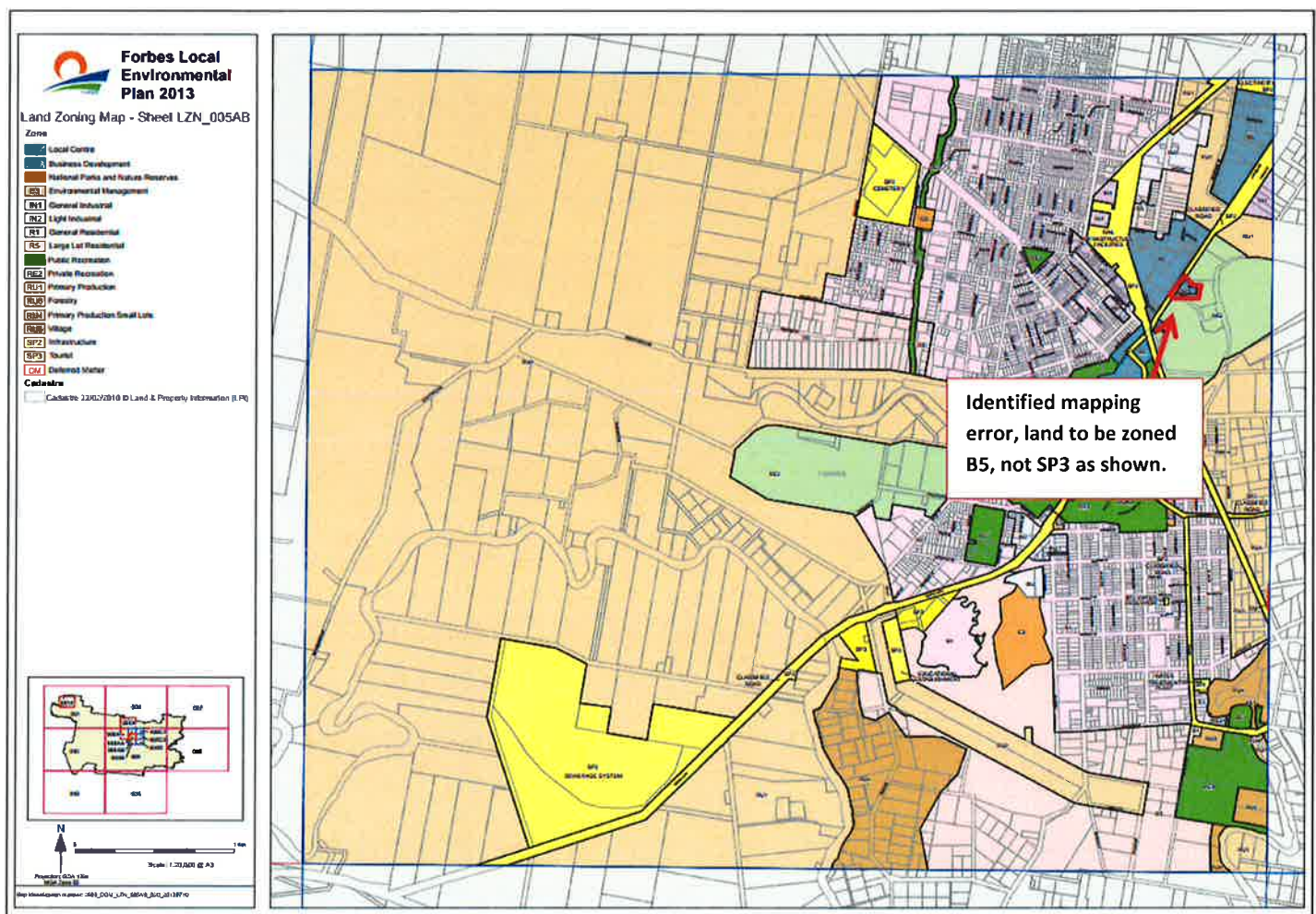
Change to Zoning Map for land known as Lot 13 DP634665 and Lot 15 DP1173663 Newell Highway, Forbes, Map Zoning Sheet LZN_005AB.

Background

The Land as described above was resolved to be zoned B5 – Business Development at the Council Meeting of 21 June. However when the final plan was made and gazetted, the mapping showed the land to be labelled as SP3 Tourist, but coloured as B5 – Business Development.

The change to the zoning is therefore to correct an error that has occurred in the plan making process.

See map below:



Why is there the need for the Amendment?

Given that the incorrect zoning has been applied to the subject land, the amendment is required to correct the error.

What the amendment does:

The amendment will allow for the land to be correctly zoned in line with the Council resolution dated 21 June 2012. Please see attached Council correspondence to the Department of Planning and Environment.

Why the amending plan is suitable to be made in accordance with Section 73A –

In accordance with Section 73A, the proposed amendment is sought to correct an obvious error in the instrument. This amendment refers specifically to a mapping error and therefore 73A(2) is applicable to this amendment, as highlighted in the excerpt from the Act below.

1. *An amending environmental planning instrument may be made under this Part without compliance with the provisions of this Part relating to the conditions precedent to the making of the instrument if the instrument, if made, would amend or repeal a provision of a principal instrument in order to do any one or more of the following:*
 - a. *correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error,*
 - b. *address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature,*
 - c. *deal with matters that the Minister considers do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land.*
2. *A reference in this section to an amendment of an instrument includes a reference to the amendment or replacement of a map adopted by an instrument*

Attachments:

- Council Resolution for submission of the Section 73A Planning Proposal to the Department of Planning and Environment for assessment, dated 19 November 2015.
- Forbes Shire Council correspondence to the Department of Environment and Planning regarding the Draft Forbes Local Environmental Plan 2012, and Forbes Development Control Plan 2012, dated 9 July 2012.

Attachment 1:

DIRECTOR OF ENVIRONMENTAL SERVICES AND PLANNING
REPORT TO COUNCIL – PART 1

**CLAUSE 1 - SECTION 73A OF THE ENVIRONMENTAL PLANNING AND
ASSESSMENT ACT 1979**

Council have identified some errors in the current Local Environmental Plan mapping. These errors relate to land that has either been incorrectly mapped or incorrectly zoned. The following areas of land are the areas that have been incorrectly mapped:

- Land bounded by Landrace Road, Hereford Street and Charolais Street Map Zoning Sheet LZN_005CB, land has been incorrectly zoned RU1- Primary Production; and
- Land known as Lot 13 DP634665 and Lot 15 DP1173663 Newell Highway Map Zoning Sheet LZN_005AB, land has been incorrectly labelled SP3 – Tourist.

The Land as bound by Landrace Road, Hereford Street and Charolais Street was resolved to be zoned R5-Large Lot Residential, with a minimum lot size of 4000m², when connected to Council Reticulated sewer, refer to clause 4.1 in the Forbes Local Environmental Plan 2013. However when the final plan was made and gazetted, the mapping showed the land to be zoned RU1- Primary Production, with a minimum lot size of 4000m², when connected to Council Reticulated sewer, refer to clause 4.1 in the Forbes Local Environmental Plan 2013.

The Land as known as Lot 13 DP634665 and Lot 15 DP1173663 Newell Highway was resolved to be zoned B5 – Business Development in the Council Ordinary Meeting Resolution of 21 June. However when the final plan was made and gazetted, the mapping showed the land is labelled SP3 Tourist, but zoned B5 Business Development.

The change to both the above errors is therefore to correct an error that has occurred in the plan making process.

To amend the error, Council must submit an application under section 73A of the Planning and Assessment Act. This will facilitate the amendment to the plan in an expedited manner. To undertake the application, council must first resolve to undertake the amendment. The Application will then be sent to the Department of Planning and Environment for approval. This amendment will not require public exhibition.

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That Council:

- request the Department of Planning and Environment to undertake amendments to Map Zoning Sheet LZN_005CB for the area bounded by Landrace, Charolais and Hereford Streets to identify the land's zoning as R5 – Large Lot Residential in accordance with the resolution at Council's Ordinary Meeting dated 21 June 2012; and
- request the Department of Planning and Environment to undertake amendments to Map Zoning Sheet LZN_005AB for lots known as Lot 13 DP 634665 and Lot 15 DP 1173663 Newell Highway to remove the SP3 – Tourist Zone label from the area designated as B5 – Business Development in accordance with the resolution at Council's Ordinary Meeting dated 21 June 2012.

Attachment 2:

9 July 2012

Department of Planning & Infrastructure
PO Box
Dubbo NSW 2830

**Subject: *Draft Forbes Local Environmental Plan 2012 and
Draft Development Control Plan 2012***

Dear Sir,

I wish to advise that Council at its meeting of 21 June, 2012 resolved to:

1. **Adopt the Draft Forbes Local Environmental Plan 2012 and proceed to submit a submission under Section 68 of the Environmental Planning and Assessment Act 1979 (as amended) requesting that the Minister make the Draft Forbes Local Environmental Plan 2012 subject to the following amendments resulting from issues raised in submissions.**
 - (a) **Land bounded by Newell Highway, Landrace Road, Hereford Street and Wyndham Avenue be zoned R5 – Large Lot Residential with a minimum lot size for the construction of a dwelling of 4,000m²;**
 - (b) **Land bounded by Landrace Road, Hereford Street and Charolais Street be zoned R5 – large Lot Residential with a minimum lot size for the construction of a dwelling of 4,000m²;**
 - (c) **Former Service Station and Motel being Lot 13 DP 634665 & Lot 15 DP 1173663 Newell Highway be zoned B5 – Business Development; incorporating recent boundary adjustment;**
 - (d) **Permit with development consent within the B5 – Business Development Zone “Shops” and “Light Industries”;**
 - (e) **Sam Street former 2(b) Special Home Business Zone be zoned R5 – Large Lot Residential with a minimum lot size of 2000m². Land at 43 Sam Street being Lot 5 DP 263463 be added to this zone and land 6-8 Jones Street, being lots 969 & 1274 DP 750158 being deleted from this zone to be zoned IN2 Light Industrial;**
 - (f) **The Minimum Lot Size in the former 2(b) Special Home Activities Zone in Reymond Street be reduced to 1500m² for lots facing Reymond Street & College Road located North of Council’s park, with the remaining former 2(b) Special Home Activities Zone remaining at 4,000m²;**
 - (g) **Bathurst Street west of the Railway be zoned R1 – Residential with a minimum lot size for a dwelling of 550m;**
 - (h) **Young Street Low Hazard Flood Fringe Land adjoining Lachlan Vintage Village be zoned R1 – Residential with a minimum lot size for a dwelling of 1,000m²;**

- (i) **Modifications to Clause 1.9A, 7.8 Heading to Schedule 5 and deletion of Note 2 be made as per Heritage Council recommendations;**
 - (j) **Sandhills Winery be correctly identified on the heritage map;**
 - (k) **15 William Street be deleted off the Heritage Listing to Schedule 5 and Mulyandry Creek Bridge be included;**
 - (l) **Mapping errors of DPI Forests and Aquatic Habitat Unit be made;**
 - (m) **Kiosks be permissible in the B5 – Business Development zone; and**
 - (n) **Land in the Farnell Street/Calarie Road area identified on Lot Size Map Sheet LSZ_005AA as Y – 1HA being altered to W – 4000m² to reflect the minimum lot size subject to connection to Council's reticulated sewer system.**
 - (o) **the SP2 Airport Zone be amended to reflect the new airport boundaries.**
- 2. Council adopt Draft Forbes Development Control Plan 2012 to come into force following gazettal of Draft Forbes Local Environmental Plan 2012 subject to the following amendments:**
- (a) **Minor clerical changes;**
 - (b) **Provide additional requirements for Shops within the B5 Business Development Zone;**
 - (c) **Update reference to the NSW Flood Plain Development Manual from 2001 to 2005;**
- 3. Upon receipt include responses from NSW Government Department of Environment and Heritage in regard to sensitivity mapping of potential flood impacts and NSW Government of Office and Water in relation to potential impacts upon ground water for consideration in the Section 68 Report. (Cr C Roylance/Cr M Jelbart)**

Council has written to the Office of Water and the Office of Environment & Heritage in regard to the issues raised in the Section 65 Certificate.

Council is also finalising a report in relation to SEPP 55 for the River Road, Bathurst Street and Lachlan Vintage Village areas.

This report will be forwarded to you in the near future.

Should you have any enquiries, please contact the undersigned on **6850 2344**

Yours faithfully



Paul Bennett
Director
ENVIRONMENTAL SERVICES & PLANNING