



Section 73A EP&A Act submission

Part A. Council to complete

Subject:

OBERON LEP 2013

(Insert name of amending LEP)

Report requesting the making of amending local environmental plan under section 70 and section 73A.

Background:

OBERON COUNCIL

(Insert name of council) resolved on 21/10/14

to amend OBERON LEP 2013 (Insert name of LEP) and to request that the Minister for Planning make the plan under section 70 and section 73A of the Environmental Planning and Assessment Act 1979.

The draft amending plan is attached. (Attach copy of resolution.)

The land to which this amendment applies is SCHEDULE 5 (HERITAGE ITEM LIST) WHICH HAS DISCREPANCIES BETWEEN MAPPING & WRITTEN INSTRUMENT, TOGETHER WITH MOVING OCA LINE TO ACCURATELY REFLECT LUS (Specify area. Attach map if appropriate)

Why there is a need for the amendment:

BECAUSE THE MAPPING DOES NOT REFLECT THE WRITTEN INSTRUMENT

(Please attach a separate sheet if necessary)

What the amendment does:

RECTIFIES A MISDESCRIPTION.

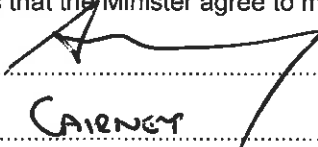
(Please attach a separate sheet if necessary)

Why the amending plan is suitable to be made in accordance with section 73A:

As ABOVE

(Please attach a separate sheet if necessary)

The council requests that the Minister agree to make draft LEP 2013 AMENDMENT 1 (Name of amending LEP)

Signed: 

Date: 31.10.14

Name: ALAN CAIRNEY

Position: GENERAL MANAGER

On behalf of: OBERON COUNCIL (Name of council)



Section 73A EP&A Act submission

Part B. Department of Planning use only

Date of referral to LEP Review Panel: (Insert date)

Department position:

The draft LEP amendment has been considered by the Department and it is satisfied that the amendment can be considered as a minor amendment under section 73A (see advice tagged 'A').

Parliamentary Counsel opinion:

The Parliamentary Counsel has provided an opinion indicating that the plan may legally be made (tagged 'B').

Recommendation:

It is recommended that the Minister:

- (a) under sections 70(1)(a) and (8) and section 73A of the *Environmental Planning and Assessment Act 1979* maketagged 'B')
(Name of LEP)
- (b) authorise the Department to advise council of the Minister's decision.

Date:

Signed: Name:

Position:
for Director-General

ATTACHMENT 4 – EVALUATION CRITERIA FOR THE DELEGATION OF PLAN MAKING FUNCTIONS

Checklist for the review of a request for delegation of plan making functions to councils

Local Government Area: Oberon Council

Name of draft LEP: Oberon Council Amendment 2 - Minor Errors

Address of Land (if applicable): N/A

Intent of draft LEP: Rectify minor errors made between written instrument and mapping data.

Additional Supporting Points/Information: Attached

Evaluation criteria for the issuing of an Authorisation	Council response		Department assessment	
	Y/N	Not relevant	Agree	Not agree
(Note: where the matter is identified as relevant and the requirement has not been met, council is attach information to explain why the matter has not been addressed)				
Is the planning proposal consistent with the Standard Instrument Order, 2006?	Y			
Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Y			
Are appropriate maps included to identify the location of the site and the intent of the amendment?	Y			
Does the planning proposal contain details related to proposed consultation?	NR			
Is the planning proposal compatible with an endorsed regional or sub-regional planning strategy or a local strategy endorsed by the Director-General?	NR			
Does the planning proposal adequately address any consistency with all relevant S117 Planning Directions?	NR			
Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	NR			
Minor Mapping Error Amendments	Y/N			
Does the planning proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?	Y			
Heritage LEPs	Y/N			
Does the planning proposal seek to add or remove a local heritage item and is it supported by a strategy/study endorsed by the Heritage Office?	NR			
Does the planning proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?	NR			
Does the planning proposal potentially impact on an item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?	NR			

Reclassifications	Y/N			
Is there an associated spot rezoning with the reclassification?	NR			
If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or strategy?	NR			
Is the planning proposal proposed to rectify an anomaly in a classification?	Y			
Will the planning proposal be consistent with an adopted POM or other strategy related to the site?	Y			
Will the draft LEP discharge any interests in public land under section 30 of the Local Government Act, 1993?	NR			
If so, has council identified all interests; whether any rights or interests will be extinguished; any trusts and covenants relevant to the site; and, included a copy of the title with the planning proposal?	NR			
Has the council identified that it will exhibit the planning proposal in accordance with the department's Practice Note (PN 09-003) Classification and reclassification of public land through a local environmental plan and Best Practice Guideline for LEPs and Council Land?	NR			
Has council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?	NR			
Spot Rezoning	Y/N			
Will the proposal result in a loss of development potential for the site (ie reduced FSR or building height) that is not supported by an endorsed strategy?	N			
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?	Y			
Will the planning proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?	NR			
If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?	NR			

Does the planning proposal create an exception to a mapped development standard?	NR			
Section 73A matters				
Does the proposed instrument 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?; or c. deal with matters that 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? (NOTE – the Minister (or Delegate) will need to form an Opinion under section 73(A)(1)(c) of the Act in order for a matter in this category to proceed).	Y			

NOTES

- Where a council responds 'yes' or can demonstrate that the matter is 'not relevant', in most cases, the planning proposal will routinely be delegated to council to finalise as a matter of local planning significance.
- Endorsed strategy means a regional strategy, sub-regional strategy, or any other local strategic planning document that is endorsed by the Director-General of the department.

13.05 OBERON LEP 2013 MINOR ERRORS – PLANNING PROPOSAL

File No: Land Use and Planning\Planning\LEP Local Environmental Plan
Author: Gary Wallace, Planning & Development Director

Summary

A Planning Proposal has been prepared to rectify minor mapping issues that have been found from the implementation of LEP 2013. The two minor errors include Heritage Item mapping and a minor boundary adjustment to the O'Connell Urban Conservation Area (UCA)

Recommendation:

That Council support the Planning Proposal to rectify minor inconsistency between mapping and the written instrument for current heritage items and forward the document to the Department of Planning & Environment under the Gateway (Section 73(A)) process.

Comment

FOLLOWING is a series of three maps that show the current zoning boundaries and the proposed rectified boundary for the O'Connell UCA. Maps 1 & 2 show where the current zoning boundary exists under LEP 2013. Map 3 provides for the current zoning of the R5 land (highlighted in orange) and the proposed variation to include the land highlighted in yellow to accurately reflect the intention of the UCA that includes land being bounded by ridgelines and natural features such as the Fish River.

The preparation of a Planning Proposal is the first step in preparing a Local Environmental Plan (LEP). Throughout the course of preparing the proposed LEP, the Planning Proposal itself may evolve. This is particularly the case for complex proposals.

A Gateway determination is issued by the Minister (or delegate). It specifies whether a Planning Proposal is to proceed and if so, in what circumstances. The Gateway determination confirms the information (which may include studies) and consultation is adequate prior to making an LEP.

This Planning Proposal proposes to rectify errors found as a result of the implementation of LEP 2013. It is considered through consultation with the Department of Planning & Environment (DPE) that the errors are considered minor and can be rectified through a minor Planning Proposal process. However prior to the process being undertaken a decision from Council is required.

The two minor errors that the Planning Proposal seeks to rectify are:

1. Mapping Errors with Councils Current Heritage Items Map;
2. A minor error in mapping the O'Connell Urban Conservation Area, where the UCA does not align with the zoning boundary

1. Mapping Errors with Councils Current Heritage Items Map

Since the implementation of LEP 2013 an error has been found in the mapping data that was supplied by the Department in relation to Council's Heritage Items. Currently the mapped item numbers do not match that of the written instrument. It is proposed as part of the Planning Proposal to simply rectify the mapping as provided by Table 1.

TABLE 1

LEP ITEM	ITEM NO IN LEP 2013	PROPOSED CORRECTION
Tarana –Oberon Rail Line	I2	I57
Old Arkstone Cemetery	I3	I1
Lone Knight Grave	I4	I4
St Aidans Church, Black Springs	I5	I6
Black Springs Cemetery	I7	I3
Old Black Springs Cemetery	I8	I5
Avoca Church	I6	I2
Old Cemetery Back Burruga	I9	I8
Burruga Cemetery	I10	I7
Brisbane Valley Cemetery	I11	I9
Isabella Cemetery	I12	I10
Jenolan Caves	A1	A1
Jenolan Caves House	I13	I11
Limestone Bridge	I14	I12
Mt Olive Methodist Cemetery	I15	I13
Mt Werong Cemetery	I16	I14
Lone Grave – Springvale	I17	
Old Bathurst Sydney Rd	I22	No reference, refer future DCP
Phills Falls	I23	No reference, refer future DCP
The Six Foot Track	I18	No reference provided
Wisemans Creek	I19	No reference provided
XXX 111 Freight Stock – 4 wheel underframe	I20	Unknown - No Local reference
Xxx 222 Freight Stock – 4 wheel louvre van	I21	Unknown - No local reference
Oberon General Cemetery	I24	I26
Homestead – Rows	I25	I56
Oberon Public School – Original Building	I26	I27
Old Methodist Cemetery	I27	I31
Apple Grove House	I28	I15
Hogan Grave	I29	No reference on mapping
Hazeltown Cemetery	I30	I17
Lowes Mount Road	I31	No reference, refer future DCP
Nurse Fox Maternity Hospital	I32	I25
2 Storey Weatherboard house – Hogan	I33	I18
Oberon Uniting Church	I34	I29
Masonic Lodge	I35	I23
St Barnabas Church	I36	I35
National Australia Bank	I37	I24
Malachi Gilmore Memorial Hall	I38	I22
Ramsgate	I39	I33
St Josephs Convent	I40	I36
Oberon Railway Station Group	I41	I28
Bloomfield House	I42	I16
St Thomas Cemetery Church & Hall	I43	I50
Bloom Hill Methodist Cemetery	I44	I41
Sidmouth Valley Cemetery	I45	I48
O'Connell Roman Catholic Church Group	I46	I45
St Francis Church & Roman Catholic cemetery	I47	I49
Bolton Vale	I48	I42

O'Connell Hotel	I49	I44
O'Connell School House	I50	I47
Former Butchers Shop	I51	I43
Pise Barn, Slab Barn, post office and cottage	I52	I46
Graves on Wrens Nest	I53	I51
Shooters Hill Cemetery	I54	I52
St Peters Church	I55	I53
Macquarie House	I56	I54
Brisbane Valley Creek – Gold Diggings	I57	I55

Additionally, as indicate in Table 1 some Items that have been included (separate to those proposed by Council) and reference is provided indicating '*No reference, refer to future DCP*'. It has been found that these items were included as part of a Rural Local Environmental Study undertaken in 1994 and prepared by Hoynes Wheeler & Thorne Pty Ltd. Interestingly the items identified in this study were not included in the 1998 LEP and have been incorporated into the 2013 document. Through consultation with the Department it is proposed to have these items listed in the table referred to a future DCP that will prompt consultation with the 1994 document rather than have the items included in LEP 2013 in a statutory sense.

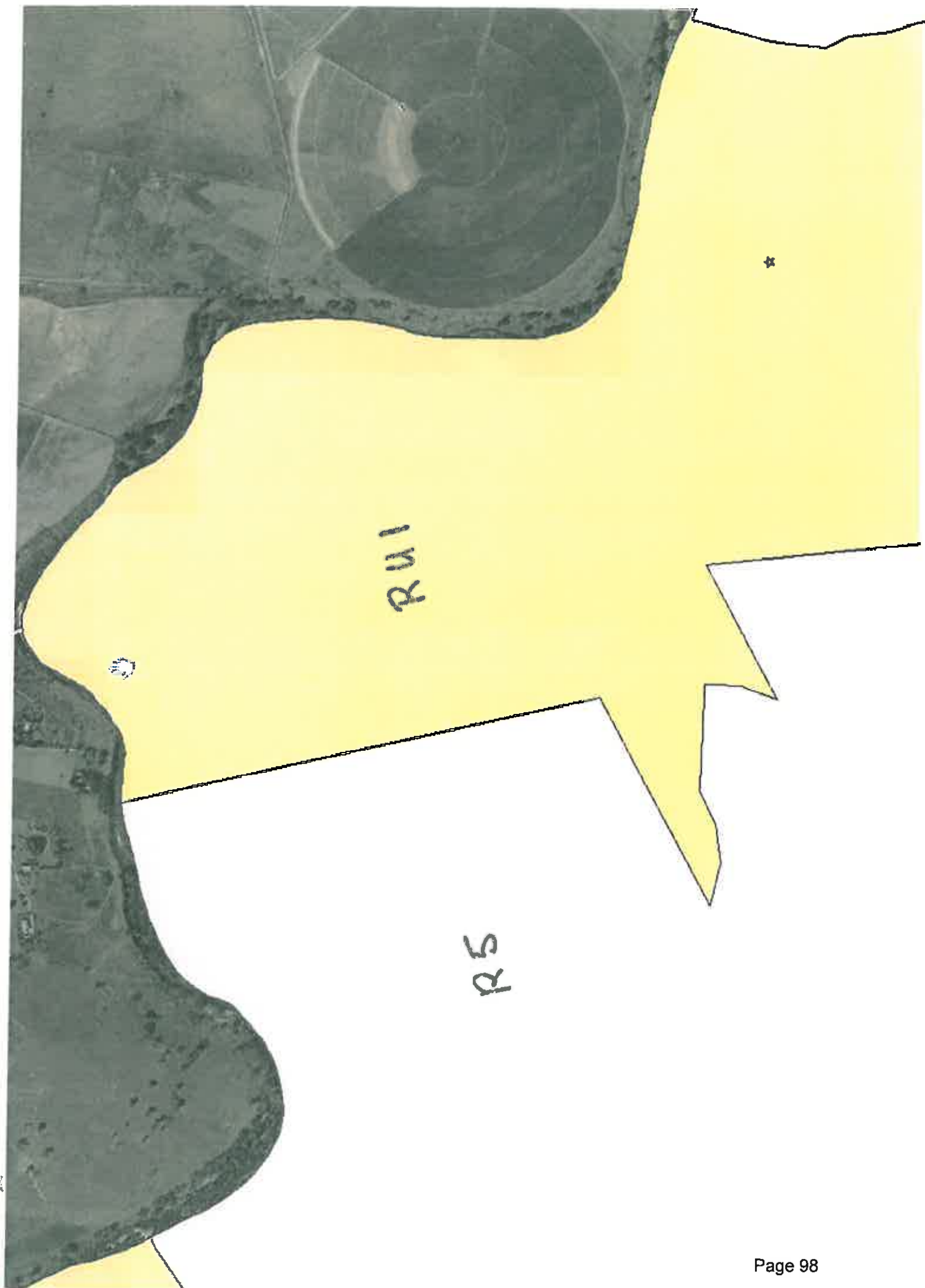
2. A minor error in mapping the O'Connell Urban Conservation Area, where the UCA does not align with the zoning boundary

Councils approved Land Use Strategy sought to create the O'Connell Urban Conservation Area (UCA) which abutted a proposed R5 Large Lot Residential Zone on land described as Lot 1 DP 1167558 and known as 2519 O'Connell Road. Through Councils assessment of a subdivision application for division of the R5 land made under LEP 2013 it was found that the UCA alignment was incorrectly located on the mapping.

As a result and in consultation with the Department of Planning & Environment it is proposed to move the R5 zoning onto the correct alignment in accordance with the requirements of the approved LUS which indicated;

- the curtilage for the 1974 National Trust Listing of the O'Connell Urban Conservation Area, which was adopted by the 1998 LEP be refined to more accurately reflect the key aspects of the cultural landscape of the valley. The NTA listing is an 0.8km radius around the junction of the Bathurst – Oberon Road and the Beaconsfield / Wiseman's Creek Road. This issue was considered by members of the Oberon Heritage Committee in 2010 together with local representatives of the Bathurst Branch of the National Trust and an alternative curtilage was developed. This curtilage was developed 'on the ground' in O'Connell and took into consideration critical views, vistas and other natural and built components essential to the character of the O'Connell Landscape to arrive at a revised curtilage. In essence the proposed curtilage uses ridgelines of the immediately surrounding hills that contain and frame the O'Connell landscape as the primary determinant. The other key element that defines the curtilage is the Fish River to the northern and eastern edges of the landscape and the boundary of the Oberon LGA. .







In accordance with Section 375A of The Local Government Act 1993 the following votes are recorded for and against the Motion:

Votes For: Councillors Gibbons, Morgan, Sajowitz, McCarthy, Lord, Doney and Evans
Against: Nil

13.04 DEVELOPMENT APPLICATION 10.2014.78.1 – RESIDENTIAL GARAGE

File No: Property/PO63-12

Author: Kerry Davison, Health and Building Surveyor,

Summary

A Development Application has been received for the construction of a residential garage at 12 Parkes Street, Oberon. A variation to Development Control Plan (DCP) 2001 is sought, with particular reference to Part C.6.4 – “Carports and Garages” of the Oberon Development Control Plan 2001 (DCP) which states that the maximum total floor area of garages and or carports is to be 60m², the proposal is for a garage which is 85m².

Moved: Lord
Second: McCarthy

That delegation is granted to the Planning & Development Director to vary Part C.6.4 “Carports and Garages” of the Oberon Development Control Plan 2001 associated to Development Application 10.2014.78.1 for the construction of a new residential garage at Lot 3 in DP 1112869, 12 Parkes Street, Oberon.

Carried 12 211014

In accordance with Section 375A of The Local Government Act 1993 the following votes are recorded for and against the Motion.

Votes For: Councillors Gibbons, Morgan, Sajowitz, McCarthy, Lord, Doney and Evans
Against: Nil

13.05 OBERON LEP 2013 MINOR ERRORS – PLANNING PROPOSAL

File No: Land Use and Planning\Planning\LEP Local Environmental Plan

Author: Gary Wallace, Planning & Development Director

Summary

A Planning Proposal has been prepared to rectify minor mapping issues that have been found from the implementation of LEP 2013. The two minor errors include Heritage Item mapping and a minor boundary adjustment to the O’Connell Urban Conservation Area (UCA)

Moved: Doney
Second: Sajowitz

That Council support the Planning Proposal to rectify minor inconsistency between mapping and the written instrument for current heritage items and forward the document to the Department of Planning & Environment under the Gateway (Section 73(A)) process.

Carried 13 211014

13.06 LIBRARY INFRASTRUCTURE GRANT

File No: Governance/Ordinary/2014

Author: Lynette Safranek, Finance & Community Services Director

Summary

The Public Library Infrastructure Grant is open until the end October for submissions. This year the emphasis is on projects that meet the needs of regional areas to position libraries as community hubs, including appropriate co-locations that increase use of public space and technology usage.

Moved: Sajowitz
Second: Lord

That Council use the previous plans drawn up for the Library and Community Centre as a basis for a \$100,000 submission to the Public Library Infrastructure Grant.

Carried 14 211014

13.07 OBERON YOUTH COUNCIL YOUTH MUSIC FESTIVAL

File No: Governance/Ordinary/2014

Author: Lynette Safranek, Finance & Community Services Director

Summary

The Oberon Youth Council held an Informal Briefing Session to discuss the proposed Youth Music Festival on 31 December 2013. It is now proposed to hold the Youth Music Festival and Family Picnic on Saturday 24 January 2015 at the Oberon Showground.

Moved: McCarthy
Second: Sajowitz

That Council approve the Oberon Youth Council holding a Youth Music Festival and Family Picnic on Saturday 24 January 2015 at the Oberon Showground.

Carried 15 211014