



A CENTRE OF REGIONAL EXCELLENCE

AGENDA

ORDINARY MEETING OF COUNCIL

TO BE HELD AT

THE ADMINISTRATION CENTRE, LITHGOW

ON

27 JULY 2015

AT 7.00pm

ENVIRONMENT AND DEVELOPMENT REPORTS

ITEM-4 ENVIRO - 27/07/15 - SECTION 73A AMENDMENT TO LITHGOW LOCAL ENVIRONMENTAL PLAN 2014

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT AND DEVELOPMENT

REFERENCE

Min No 13-390:	Ordinary Meeting of Council held on 28 October 2013
Min No 13-391:	Ordinary Meeting of Council held on 28 October 2013
Min No 14-07	Extra Ordinary Meeting of Council held on 3 February 2014
Min No 14-36	Extra Ordinary Meeting of Council held on 3 February 2014
Min No 14-124	Ordinary Meeting of Council held on 24 March 2014
Min No 14-128	Ordinary Meeting of Council held on 24 March 2014
Min No 15-15:	Ordinary Meeting of Council held on 9 February 2015

SUMMARY

The purpose of this report is to inform Council of some minor errors that have been identified within the gazetted version of the Lithgow Local Environmental Plan 2014 (LLEP2014) and gain approval to prepare an amendment to correct these minor errors.

COMMENTARY

Several minor errors have been identified in the process of working with the Lithgow Local Environmental Plan 2014 over the past seven months since its commencement. These errors may be summarised as follows:

Lot Size Map	Correction of lot size in a small area around the corner of Castlereagh and Great Western Highways
Schedule 5 Part 1 Environmental Heritage	Correction of property descriptions for Theatre Royal, Main St Lithgow and Northbrook, Pipers Flat Road Wallerawang
Heritage Map	Correct Heritage Map to reflect Schedule 5 amendments above
Schedule 1 Additional Permitted Uses Clause 2(1)	Correct the lot description that changed due to registration of a subdivision that only showed on property systems after of LEP2014 to reflect only that property owned by Westfund as intended by Council resolution.

It is not unusual that errors of this nature are identified post commencement of LEPs, particularly Principal LEPs covering all of a Local Government Area. Therefore, in

planning reforms in 2005, the Act was amended to introduce Section 73A of the Act to expedite LEPs to correct minor errors.

Section 73A of the Environmental Planning and Assessment Act 1979 allows certain types of minor amendments to be made to Environmental Planning Instruments (such as Principal LEPs) without following the usual procedures for preparing LEPs (particularly public exhibition) under Part 3 of the Act.

Section 73A may be used to prepare a LEP to amend another LEP to:

- (a) correct an obvious error in the principal instrument such as 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 formatting error, or
- (b) address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature.

Planning Circular PS 06-2014 (Attachment 1 to this report) states that “the ability to make an amendment in accordance with Section 73A will need to be assessed on the facts of each individual case. While judgement will need to be exercised in such assessments, the consequence of an amendment being made in accordance with Section 73A should be that:

- there is no need for exhibition of the draft instrument (eg public exhibition has previously occurred and gazettal of the Section 73A amendment will be sufficient notification), and
- the amendment will not have any material effect “on the ground”.

Attachment 3 to this report details the proposed minor amendments and provides justification for the use of the Section 73A expedited amendment process to correct these errors.

Planning Circular PS 06-2014 also outlines the process for making a Section 73A amendment as summarised below:

1. Council resolves to prepare the LEP amendment in accordance with Section 73A.
2. The NSW Department of Planning and Environment (the Department) will check information and if it agrees the amendment is subject to Section 73A the application will be referred to the LEP Review Panel for consideration.
3. If LEP Review Panel does not agree the amendment is subject to Section 73A it will advise Council in writing and provide suggestions on how best to deal with the outstanding matters.
4. If appropriate for Section 73A the Legal Services Branch of the Department will prepare drafting instructions for the Parliamentary Counsel (PC) and request an opinion.

5. Once the opinion is received by the Department it will confirm with Council that is still wishes to proceed.
6. The Department will then forward the PC opinion along with Council's report as endorsed by the Department to the Minister.
7. The Minister will decide where to make the Plan or not.
8. If the Minister decides to make the plan amendment, public notification will occur through the publication of the amending LEP in the Government Gazette.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

The LEP amendment will be undertaken in accordance with the provisions of the Environmental Planning and Assessment Act 1979 and will, if approved, amend Lithgow Local Environmental Plan 2014.

ATTACHMENTS

1. Department of Planning Circular 06-2014 - Minor amendments to LEPs using S.73A
2. Map showing area of Lot Size Amendment
3. Table detailing proposed minor amendments.

RECOMMENDATION

THAT

1. Council prepare an LEP amendment in accordance with Section 73A of the Environmental Planning and Assessment Act to amend Lithgow Local Environmental Plan 2014 (LLEP2014) to:
 - a) Amend the Lot Size Map of LLEP2014 to identify the land shown in attachment 2 from 2ha to 40ha.
 - b) Amend I 351 in Schedule 5 of the LLEP2014 by deleting 210-212 Main St and Lot 10 DP 131092 and replacing with 208 Main St and Lot 1 DP 169176 respectively
 - c) Amend I220 in Schedule 5 of the LLEP2014 by deleting Lot 1 DP 1124158 and replacing with Lot 2 DP 1124158 respectively
 - d) Delete Lot 1 DP 868379 in Schedule 1 Clause 2 (1) and replace with Lot 1 DP 1198292.
2. Council notify the Department of Planning and Environment of its resolution to prepare an amendment to LLEP2014 in accordance with Section 73A of the Environmental Planning and Assessment Act, 1979 and forward all the necessary documentation as outlined in the Act and Planning Circular PS 06-2014.

