



Section 73A EP&A Act submission

Part A. Council to complete

Subject:

Draft North Sydney Local Environmental Plan (NSLEP) 2001 (Amendment No 40)

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

Background:

North Sydney Council resolved to amend North Sydney Local Environmental Plan 2001 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 land to which this amendment applies is Lot 1, DP 557873 and Lots 4-7, DP 16870, 35-51 Mitchell Street, McMahon's Point.

Why there is a need for the amendment:

North Sydney Local Environmental Plan 2001 Amendment No 37 was gazetted on 7 May 2010. The amendment applies to the site 35-51 Mitchell Street, McMahon's Point. The amendment allows the additional use with development consent, of "commercial uses" to be operated from the subject site.

It is noted that Council was not consulted during the drafting of the amendment, as required by section 59 of the *Environmental Planning & Assessment Act 1979*.

Following the gazettal a review of the document was undertaken. There is an error in the description of the site. Under parts 3 and 4 of the amending instrument, the site is described as follows:

Lot 1, DP 57873 and Lots 4-6, DP 16870, 35-51 Mitchell Street, McMahon's Point

This is incorrect, as the legal description of the site should be Lot 1, DP 557873 and Lots 4-7, DP 16870, 35-51 Mitchell Street, McMahon's Point.

What the amendment does:

The amendment would rectify the drafting error to reflect the correct address.

The legal description of the site would be Lot 1, DP 557873 and Lots 4-7, DP 16870, 35-51 Mitchell Street, McMahon's Point.

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

Council considers that the amendment is minor, as it rectifies a drafting error to reflect the correct address. This is the address originally intended under North Sydney Local Environmental Plan 2001 Amendment No 37.

The council requests that the Minister agree to make draft North Sydney Local Environmental Plan (Amendment No 40)

Signed: Date: 12 May 2010

Name: Joseph Hill

Position: Manager Strategic Planning



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On behalf of: North Sydney Council

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* make tagged 'B')
(Name of LEP)
- (b) authorise the Department to advise council of the Minister's decision.

Date:

Signed: Name:

Position:
for Director-General