

Section 3.22 EP&A Act submission

Part A. Council to complete

Subject:

Wyang Local Environmental Plan 2013 (WLEP 2013) (Amendment No. 17)

This Report requests that the Department of Planning and Environment make an amendment to WLEP 2013 under sections 3.22 and 3.36(2) of the *Environmental Planning and Assessment Act, 1979* (EP&A Act) to rectify an error in the wording of Amendment 17 to the WLEP 2013.

Background:

Central Coast Council resolved on 26 October 2016 and further on 26 July 2017 (Attachment 1), to proceed with the steps for drafting and making of Amendment No. 17 to Wyong Local Environmental Plan 2013. Council requests that the Minister for Planning make an amendment to the plan under sections 3.22 and 3.36(2) of the *EP&A Act, 1979* to rectify a drafting error made in respect of this plan

The land to which this amendment applies is:

Lot 36 DP 755249; Lot 41 DP 123953; Lot 1 DP 229971; Lot 1 DP 229970; Lot 1 DP 120512; Lot 101 DP 604655; Lot A DP 396415 and Lot 1 DP 554423 (414 Old Maitland Road), Mardi as outlined in the attached locality plan (Attachment 2) (*Specify area. Attach map if appropriate*)

The intended effect of the Planning Proposal that supported the WLEP 2013 Amendment 17, sought a specific outcome in respect of the proportion of minimum sized lots of 900m² compared to 1800m². This intended effect and proportions of the differing lots sizes was clearly explained in the exhibited and notified planning proposal and was supported by the former Wyong Shire Council (fWSC) and endorsed by the Administrator of the Central Coast Council.

The intended effect of the Planning Proposal is not reflected in the wording of the gazetted clause in Amendment 17 to WLEP 2013 (see discussion below)

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What the amendment does:

The amendment will correct the instrument made to reflect the intent of the Planning Proposal as exhibited and endorsed by Council.

This would involve the amendment of *Wyang Local Environmental Plan 2013* (as notified 20 July 2018) to alter the wording of Clause 4.1C (3)(d) as follows (refer also to Attachment 5):

Clause 4.1C Exceptions to minimum subdivision lot size under community title schemes for certain large lot residential development

*Omit "lots created by the subdivision have an area that is" from clause 4.1C (3) (d).
Insert instead "area of the lots created by the subdivision consists of lots that are".*

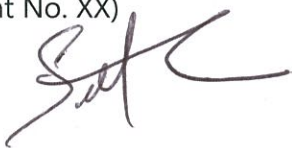
Why the amending plan is suitable to be made in accordance with section 3.22:

The amending plan corrects an obvious error. The plan notified clearly does not achieve the intent of the Planning Proposal which can be rectified by a very minor amendment to the wording of Clause 4.1C(3)(d).

The Planning Proposal documenting this intent was publicly exhibited twice (between March and May 2015, and from April to June 2016) and was supported by Council to proceed to instrument drafting with this intent.

The council requests that the Minister agree to make *draft Wyong Local Environmental Plan 2013* (Amendment No. XX)

Signed:



Date:

4/9/18

Name: Scott Cox

Position: Director, Environment and Planning

On behalf of: Central Coast Council (*Name of council*)