

Planning Services

Gateway Determination Report

LGA	Lake Macquarie
RPA	Lake Macquarie Council
NAME	Section 73A Amendment to Heritage Schedule
NUMBER	PP_2017_LAKEM_002_00
LEP TO BE AMENDED	Lake Macquarie LEP 2014
ADDRESS	Various
DESCRIPTION	Various
RECEIVED	31 July 2017
FILE NO.	17/10174
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

INTRODUCTION

Description of Planning Proposal

The LEP amendment seeks to make 23 amendments to 22 items on Schedule 5 - Environmental Heritage of the Lake Macquarie LEP 2014 (LMLEP). The heritage items are on various lots across the LGA. The amendments generally seek to correct errors or make updates to heritage items.

Site Description

The proposal relates to 23 sites located across the Lake Macquarie LGA. The proposal also seeks to make 5 mapping amendments to the Heritage layer.

Summary of Recommendation

The LEP amendment should proceed with conditions. This report recommends that only 18 of the proposed amendments proceed as they comply with Section 73A of the EP&A Act, while the 5 amendments should proceed as a planning proposal.

PROPOSAL

Objectives

The objective of the proposal is to make amendments to correct errors for 22 items in Schedule 5 of the LMLEP 2014.

Explanation of Provisions

The proposed amendments under the LMLEP 2014 are detailed in Council's Section 73A Submission (**Attachment A**). Council's application includes a detailed description of the proposed amendments, the reasons and Council's justification under Section 73A.

The application suggests that 15 of the proposed amendments are consistent with clause 1(a) and 8 of the proposed amendments are consistent with clause 1(b).

Clause	Type	Example	No. of amendments
1(a)	Spelling – Incorrect address spelling or numbering	Amend address from 29 Helens Street to 29 St Helen Street	2
1(a)	Misdescription – Change to Council's address format	Amend Address from 475-477 Lake Road to 475 and 477 Lake Road	12
1(a)	Cross-reference – Discrepancy between Schedule 5 and map	Minor discrepancy between map layer and the written instrument	1
1(b)	Minor in nature	Item has been removed with approval. Change in property description due to subdivision.	8

Mapping

The proposal recommended 5 amendments to the Heritage Map layer. The mapping provided is considered sufficient for assessment.

NEED FOR THE PLANNING PROPOSAL

The proposal is not the result of specific heritage study or strategy. It was initiated by Council and seeks to utilise Section 73A to rectify a number of errors or make updates to items in Schedule 5 of the LM LEP 2014.

Department's Assessment

An assessment of the proposal indicates Section 73A only applies to 18 of the 23 proposed amendments. These amendments are considered to comply with clause 1(a) or 1(b), being minor corrections to spelling errors and formatting, amendments resulting from approved development applications or amendments that were minor in nature. Further, these amendments comply with clause 1(c) being amendments that do not warrant community consultation because they will not have any significant adverse impact on the environment or adjoining land.

The following table shows a breakdown of the Department's assessment against the proposed amendments under Section 73A and Section 55.

Section	Type	Example	No. of amendments
73A 1(a)	Spelling – Incorrect address spelling or numbering	Amend address from 29 Helens Street to 29 St Helen Street	4
73A 1(a)	Formatting Error – Change to Council's address format	Amend Address from 475-477 Lake Road to 475 and 477 Lake Road	4

73A 1(b)	Consequential – Due to subdivision of the site	Change in property description due to subdivision	5
73A 1(b)	Minor in nature	Item has been removed with approval.	5
55	Planning Proposals	Inconsistent with Section 73A	5

The assessment indicates that 5 of the proposed amendments do not comply with Section 73A and should proceed as a planning proposal. The following table provides justification for non-compliance with Section 73A:

Site	Proposed amendment	Reason not compatible
Police Station - 23, 25 and 27 Clarke Street, Catherine Hill Bay, Lot 1, 3 and 5 DP 163	Change to address listing. Police lockup destroyed in bushfire. The amendment seeks to align listing with remaining items.	• Changes are different to the State Heritage Register listing and should be referred to OEH. • This amendment does not comply with clause 1(c) as it requires consultation.
Four Pines Cottage - 75 Flowers Drive, Catherine Hill Bay, Lot 5, 7 DP 1180181	Item affected by bushfire. The house was destroyed and three of the four pines have also been killed. The amendment seeks to align the listing with the surviving item.	• Only one pine tree remains on the site. Given the heritage context of the site has been lost, the heritage significance of the single pine is brought into question. The community should be given the opportunity to comment on the validity of the continued heritage significance. • This amendment does not comply with clause 1 as it is not an error and requires consultation.
Morisset Hospital - 84 Bridge Street, Morisset, Lot 1 DP 880557	This amendment is to align the listing under the LMLEP 2014 Schedule 5 to the State Heritage register.	• This site is a State Significant Heritage Item and should be referred to OEH. • PP should also include amendment to Heritage Map to remove Lot 556 DP 729949. • Property description and mapping should be amended. • This amendment does not comply with clause 1(c) as it requires consultation, and it also may affect adjoining neighbours.
Dobell House - 47 Dobell Drive, Wangi Wangi, Lot 13 DP 8840, Part Lot 7332 DP 1164228 MAP AMENDMENT	Property has now been listed as a State Significant Heritage Item, with an additional portion to protect the view from the property.	• This site is a State Significant Heritage Item and should be referred to OEH. • The amendment will extend the heritage listing to part of another site. The community

		should be given an opportunity to comment. • This amendment does not comply with clause 1(c) as it requires consultation and may have an impact on additional land.
Cardiff Railway Workshop, 460 Main Road, Glendale, Lots 1, 2, 3 and 4 DP1222625.	Change property description due to a subdivision.	• This site is a State Significant Heritage Item and should be referred to OEH. • Rail Corporation NSW own the site and any amendments should be referred to Rail Corporation NSW. • The amendment applies to only part of the proposed lots. • This amendment does not comply with clause 1(c) as it requires consultation and changes the land to which the listing applies.

STRATEGIC ASSESSMENT

Regional

HUNTER REGIONAL PLAN 2036 (HRP)

The proposal is consistent with Goal 3 of the HRP which aims to create thriving communities through the conservation of Aboriginal cultural heritage and protecting the built heritage values. The proposal will contribute to this goal by meeting the following Direction:

- Direction 19 – Identify and protect the region's heritage.

The proposal will contribute to the protection of local and state heritage items through maintaining up to date records and descriptions of heritage items.

Local

All items are listed as Local Heritage Items in the LMLEP 2014.

Section 117(2) Ministerial Directions

Council did not identify any Section 117 Directions for this LEP amendment.

2.3 HERITAGE CONSERVATION

This Direction applies to the proposed LEP amendment as it relates to heritage items within the Lake Macquarie LGA. The LEP amendment is consistent with the objectives of the Direction as it will correct minor errors in Schedule 5 – Environmental Heritage and will contribute to the conservation of heritage items, areas, objects and places of environmental heritage significance.

State Environmental Planning Policies

There are no SEPPs considered to be relevant to the LEP amendment.

SITE SPECIFIC ASSESSMENT

Social

The proposed amendments are minor and will not have a negative impact on the community.

Environmental

The proposed amendments are minor and will not have a negative impact on the heritage items or natural environment.

Economic

The proposed amendments are minor and are unlikely to have a negative economic impact.

Infrastructure

The proposal is unlikely to result in any impacts on infrastructure.

CONSULTATION

Community

The amendments are minor and will be assessed under Section 73A, as such community consultation is not required.

Agencies

The proposed amendments are to locally listed heritage items. Agency consultation is not required.

TIMEFRAME

A timeframe of 3 months is sufficient in this case.

DELEGATION

Council has not requested plan making delegations. However, given the minor nature of the LEP amendment Council has been granted plan making delegation.

CONCLUSION

The LEP amendment is supported to proceed with conditions as the proposed amendments are minor.

RECOMMENDATION

It is recommended that the delegate of the Minister for Planning determine that the LEP amendment should proceed subject to the following conditions:

1. Proposed amendments at the following sites should not proceed under this LEP amendment:
 - 23, 25 and 27 Clarke Street, Catherine Hill Bay, Lot 1, 3 and 5 DP 163;
 - 75 Flowers Drive, Catherine Hill Bay, Lot 5, 7 DP 1180181;
 - 84 Bridge Street, Morisset, Lot 1 DP 880557;
 - 47 Dobell Drive, Wangi Wangi, Lot 13 DP 8840; and

- 460 Main Road, Glendale, Lots 1, 2, 3 and 4 DP1222625.

2. No agency consultation is required under section 56(2)(d) of the EP&A Act.
3. No community consultation is required under section 56(2)(c) and 57 of the EP&A Act.

A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission).

4. The timeframe for completing the LEP is to be 3 months following the date of the Gateway determination.
5. The final LEP map shall be prepared in accordance with the requirements of the Department's "Standard Technical Requirements for Spatial Datasets and Maps" Vers: 1.0 November 2015.



24/8/2017

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