

20DP027	Planning Proposal and draft Heritage Conservation Area Plan for Catherine Hill Bay
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Key focus area	5. Connected communities
Objective	5.3 We are proud of our City's heritage and cultures
File	F2019/00778/05 - D09745269
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Executive Summary

This report seeks Council's resolution to support the Planning Proposal in Attachment 1 to amend the *Lake Macquarie Local Environmental Plan (LMLEP) 2014* and request a Gateway Determination from the Department of Planning, Industry and Environment (DPIE). This report also seeks Council's endorsement to place the revised draft Catherine Hill Bay Heritage Conservation Area Plan (revised draft Area Plan) in Attachment 2 on public exhibition.

The Planning Proposal and revised draft Area Plan will protect the heritage significance of the State listed Catherine Hill Bay heritage precinct and facilitate appropriate development in the precinct. It is intended that, once adopted, the Planning Proposal and revised draft Area Plan will also allow Heritage NSW to reinstate an exemption under the *Heritage Act 1977* which will allow Council to assess and determine most development applications in the heritage precinct without referral to Heritage NSW.

It is intended that on receipt of the Gateway Determination, the Planning Proposal and revised draft Area Plan will be exhibited concurrently.

Recommendation

Council:

- A. requests a Gateway Determination from the Department of Planning, Industry and Environment pursuant to the *Environmental Planning and Assessment Act 1979 (EP&A Act 1979)* in relation to the Planning Proposal in Attachment 1,
- B. requests the use of delegations in respect of the Minister for Planning and Public Space's plan making function under section 59 of the *EP&A Act 1979* for the Planning Proposal,
- C. prepares an amendment to the Catherine Hill Bay Heritage Conservation Area Plan (Attachment 2) as part of the Lake Macquarie Development Control Plan 2014,
- D. places the Planning Proposal and draft Catherine Hill Bay Heritage Conservation Area Plan on public exhibition for at least 28 days, subject to the outcome of the Gateway Determination, and

- E. notifies stakeholders and affected landowners of the Gateway Determination and public exhibition period.

Discussion

Catherine Hill Bay Cultural Precinct (CHBCP) (listing No. 01828) is a State listed heritage item within the Catherine Hill Bay Heritage Conservation Area, which covers the villages of Catherine Hill Bay and Middle Camp. The CHBCP is one of only two State listed cultural precincts in NSW. The CHBCP has State heritage listing due to the landscape setting of the villages, original and intact subdivision pattern and the numerous miner's cottages of standardised height, scale, form and location that reflect the historic coal mining activities in the area.

Council currently needs to refer all development applications in the CHBCP to Heritage NSW for approval. Historically, Council had an exemption under the *Heritage Act 1977* which permitted Council to assess and determine most development applications without referral to Heritage NSW. This exemption existed while the now superseded Lake Macquarie Development Control Plan No. 1 (DCP No. 1) was in place. Once the Lake Macquarie Development Control Plan (LMDCP) 2014 commenced in 2014 the exemption was rescinded. The current requirement to refer all development applications in the CHBCP to Heritage NSW for approval adds time, cost and uncertainty for owners, designers and Council assessment staff.

Staff have been working closely with Heritage NSW to identify appropriate provisions to include in the Planning Proposal and revised draft Area Plan that will protect the heritage significance of the CHBCP and enable the exemption under the *Heritage Act 1977* to be reinstated. The revised draft Area Plan covers the same area as the current Catherine Hill Bay Heritage Conservation Area Plan in LMDCP 2014.

The Planning Proposal applies to land shown in Figures 1 and 2. This excludes the development of land to the south of Catherine Hill Bay (known as "Beaches") and the development of land to the north of Middle Camp (formerly known as Coal and Allied land).



Figure 1 – Land in Catherine Hill Bay village covered by the Planning Proposal

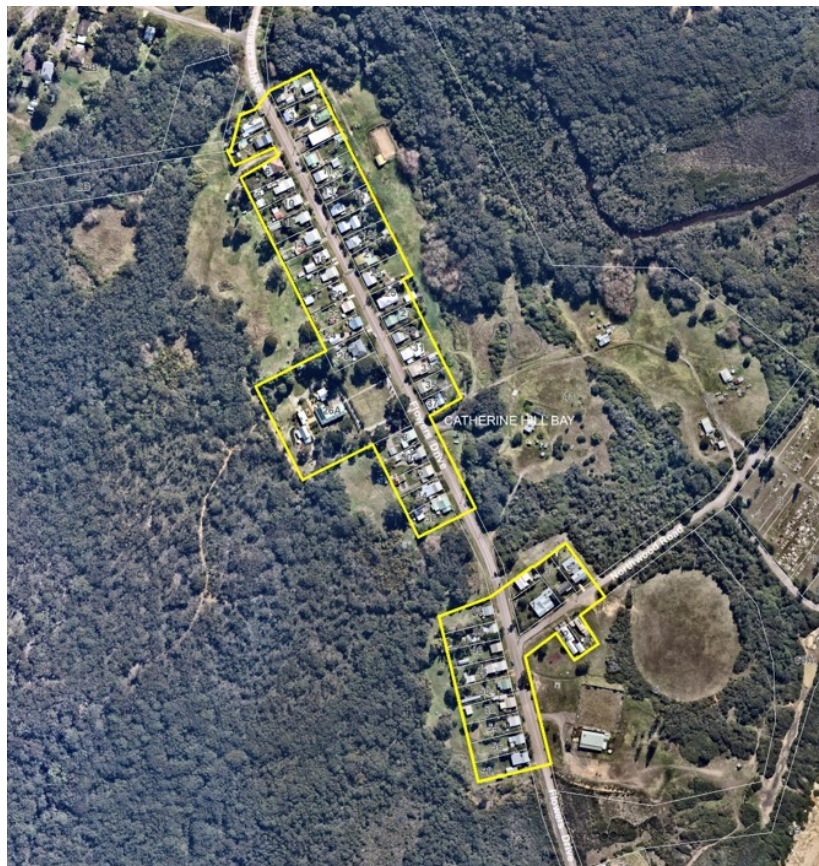


Figure 2 – Land in Middle Camp village covered by the Planning Proposal

The revised draft Area Plan in Attachment 2 provides clear direction for owners, designers and assessment staff to achieve development outcomes that will protect and enhance the heritage values of the CHBCP. A summary of the key changes included in the revised draft Area Plan are outlined in Attachment 3 and include:

- identifying heritage items, providing significance gradings to individual properties, and indicating whether buildings and items are 'contributory' or 'non-contributory' to the heritage fabric
- objectives and controls for the Aboriginal and European history of the locality, and detailed character statements for both Catherine Hill Bay and Middle Camp villages
- objectives and controls to protect the character of the landscape and significant views, and avoid visually intrusive development
- objectives and controls to maintain the character of the original miners' cottages which were built to the street boundary with large side and rear setbacks
- provisions to maintain the historic subdivision pattern (lot sizes and road boundaries) which dates from the mining company era and are largely intact
- guidance for the location and design of attached (dual occupancy) or secondary dwellings to ensure overall built form is consistent with the heritage values of the CHBCP.

The Planning Proposal in Attachment 1 seeks to amend the *LMLEP 2014* to ensure building heights and minimum lot sizes applying to the CHBCP give statutory effect to the revised draft Area Plan and permit development outcomes that will protect and enhance the heritage values of the CHBCP. The key changes proposed to the *LMLEP 2014* are:

- reducing building heights from 8.5 metres to 4.5 metres for Catherine Hill Bay village, and from 8.5 metres to 5 metres for Middle Camp village. This will permit single storey development consistent with the bulk and scale of the historic miners' cottages.
- increasing the minimum lot size from 450m² to 1000m². This will protect the important historic subdivision pattern.

Assessment of options

Proceeding with the draft Planning Proposal and revised draft Area Plan will provide the opportunity for Council to regain the exemption under the *Heritage Act 1977* to remove the need for referrals to Heritage NSW. It will also ensure appropriate development occurs in the CHBCP. This is the recommended option.

Not proceeding with the draft Planning Proposal and revised draft Area Plan will result in all development applications having to continue to be referred to Heritage NSW. This will continue to result in additional costs, delays and uncertainty in assessing development applications. Additionally, provisions in the current Catherine Hill Bay Heritage Conservation Precinct Area Plan are outdated and do not reflect contemporary heritage planning practice.

Proceeding with the revised draft Area Plan without the supporting draft Planning Proposal will result in the existing building heights and minimum lot sizes provided in the *LMLEP 2014* prevailing over those in the revised draft Area Plan. The desired outcomes of the revised draft Area Plan will not be achieved and the ability for Council to regain the exemption under the *Heritage Act 1977* would be unlikely.

Community engagement and internal consultation

Staff from Development Assessment and Certification, Integrated Planning, Asset Management, City Design and Council's Aboriginal Community Development Officer have been involved in preparing the revised draft Area Plan and Planning Proposal.

A previous version of the draft Area Plan was placed on public exhibition in 2013 and referred to Heritage NSW for comment. A community workshop was conducted at the same time. Council received nine formal submissions, raising a total of 67 planning issues. A summary of the submissions from 2013 is provided in the table below.

Category	No. of issues and description
Application area	Seven planning issues relating to the land the draft Area Plan applies to.
Site history	Eleven planning issues relating to the history of Catherine Hill Bay.
Heritage significance ranking	Sixteen planning issues relating to the heritage significance rankings of buildings.
Viewshed analysis	Three planning issues on the viewshed analysis included in the draft Area Plan.
Subdivision and landscape controls	Five planning issues relating to the subdivision and landscape controls.
Building controls	Twenty-two planning issues relating to building controls.
Procedural matters	Three planning issues relating to procedural aspects of the draft Area Plan.

Staff considered the planning issues raised during the 2013 public exhibition process and provided a review of public submissions and discussion paper to those who had made a submission, for further comment. Council received five submissions, raising previously identified and few new issues.

Heritage NSW responded in 2016 identifying a number of issues the draft Area Plan needed to address in order to achieve its stated objectives and, in particular, for Heritage NSW to consider reinstating Council's development assessment exemption under the *Heritage Act 1977*. These included a requirement to undertake a rigorous assessment and grading of each building within the CHBCP. Heritage NSW also requested an opportunity to review the revised draft Area Plan prior to public exhibition.

The revised draft Area Plan, addressing all the requirements and issues raised, was provided to Heritage NSW in November 2019. Written comment on the revised draft Area Plan was received in June 2020. Apart from requests for minor changes to terminology and mapping, Heritage NSW supports the proposed changes to the revised draft Area Plan and the provisions provided in the Planning Proposal, as they are considered to have positive heritage outcomes consistent with the State heritage listing.

A preliminary version of the Planning Proposal was provided to the Department of Planning Infrastructure and Environment for comment. Their feedback has been incorporated into the Planning Proposal provided in Attachment 1.

A Councillor briefing providing a summary of the Planning Proposal and revised draft Area Plan was held on 16 November 2020. Further consultation with Councillors will occur via portfolio committees during the public exhibition process.

It is intended that on receipt of the Gateway Determination, the Planning Proposal and revised draft Area Plan be placed on public exhibition concurrently and for at least 28 days. Public exhibition will provide an opportunity for the community, landowners and other key stakeholders to comment on the proposed changes.

Following exhibition, community feedback will be considered and reported to Council with any recommendations for further changes to the Planning Proposal or the revised draft Area Plan.

Key considerations

Economic impacts	There are no economic impacts associated with proceeding with the Planning Proposal and revised draft Area Plan. The amendments are designed to conserve the heritage significance of Catherine Hill Bay and Middle Camp villages and reduce development application costs and uncertainty for applicants.
Environment	The draft provisions seek to protect the built and natural heritage values that give the area its distinct character.
Community	Exhibiting the Planning Proposal and revised draft Area Plan will provide further opportunity for the community to comment on the future character and development controls aimed to preserve and maintain the heritage values in the CHBCP.
Civic leadership	Exhibiting the Planning Proposal and revised draft Area Plan will ensure ongoing collaboration with the community.
Financial	The cost to Council of the public exhibition and community consultation processes will be funded from existing operational budget.
Infrastructure	None.
Risk and insurance	There are minimal risk and insurance implications to Council with proceeding with the Planning Proposal and the revised draft Area Plan. Relevant legislative requirements and Council procedures for preparing the Planning Proposal and revised draft Area Plan have been followed.

Legislative and policy considerations

The recommendations of this report are consistent with the following:

Environmental Planning and Assessment Act 1979

Environmental Planning and Assessment Regulation 2000

Lake Macquarie Local Strategic Planning Statement

Hunter Regional Plan 2036

Greater Newcastle Metropolitan Plan 2036

Lake Macquarie Community Strategic Plan

Attachments

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| 1. Planning Proposal - Catherine Hill Bay Heritage Conservation Area | Under separate cover | D09865636 |
| 2. Draft DCP 2014 - Revision XX - Part 11 - Catherine Hill Bay Heritage Conservation Area Plan | Under separate cover | D09841560 |
| 3. Summary of the key changes to the draft Heritage Conservatrion Area Plan for Catherine Hill Bay | | D09882652 |