

Ms Morven Cameron  
Chief Executive Officer  
Lake Macquarie City Council  
Box 1906  
HUNTER REGIONAL MAIL CENTRE NSW 2310

Attention: Sherrie-Lee Evans, Heritage Support Officer  
[sevens@lakemac.nsw.gov.au](mailto:sevens@lakemac.nsw.gov.au)

**Catherine Hill Bay Heritage Conservation Area – Advice on Heritage Assessment, Peer Review, Draft Development Control Plan and Proposed Local Environmental Plan Amendments**

Dear Ms Cameron

Thank you for the opportunity to comment on the draft Development Control Plan (DCP), Heritage Assessment and Peer Review for the Catherine Hill Bay Heritage Conservation Area (HCA), and associated draft amendments to *Lake Macquarie Local Environmental Plan 2014* (LEP).

As you are aware, the Catherine Hill Bay HCA covers the same area as the State Heritage Register (SHR) listed 'Catherine Hill Bay Cultural Precinct' (SHR 01828). The Statement of Significance for the precinct describes it as follows:

*The Catherine Hill Bay Cultural Precinct comprises picturesque and distinctive historic townscapes forming the oldest group of buildings in Lake Macquarie, set in land/seascapes of exceptional aesthetic and technical significance, both visually and as an archaeological resource for industrial heritage.*

The precinct includes distinctive dwellings and coal mining infrastructure. Most original buildings are small vernacular cottages dating from the 1890s to 1920s. The buildings display a high degree of consistency in terms of size, scale, form, setback, siting and materials.

The draft DCP, Heritage Assessment, Peer Review and the draft amendments to Council's LEP have been reviewed in the preparation of the following advice.

**Proposed Alternative Terminology**

The Peer Review identified alternative terminology for the level of contribution of individual buildings to the Catherine Hill Bay HCA, proposing to replace:

- 'Contributing' with 'Contributory 1'
- 'Neutral' with 'Contributory 2', and
- 'Non-Contributing' to 'Non-Contributory'.

It is understood that this proposed change in terminology is in response to concerns raised in the caselaw *Nisbet v Newcastle City Council [2017] NSWLEC 1480* which called into question the level of protection afforded to a 'neutral' building in an HCA, allowing the building to be demolished.

There are precedents for using terminology different from the generally accepted 'Contributory', 'Neutral'; and 'Non-Contributory' categories, for example:

- City of Newcastle uses 'Contributory 1', 'Contributory 2', 'Neutral' and 'Non-Contributory', and
- Mosman Council uses a similar approach, but with 'Detracting' in place of 'Non-Contributory'.

As such, the alternative terminology identified in the Peer Review is considered acceptable and appropriate given the significance of this SHR precinct. It is recommended that Council adopt the Peer Review's proposed terminology in amendments to the DCP.

### Proposed Significance Grading Changes

As well as proposing the alternative terminology identified above, the Peer Review also proposed to increase or decrease the significance grading of nine buildings within the HCA, as follows:

Address	Heritage Assessment	Peer Review
15 Clarke Street	Neutral	Contributory 1
1 Flowers Drive	Contributing	Contributory 2
25 Flowers Drive	Contributing	Contributory 2
36 Flowers Drive	Contributing	Contributory 2
6 Northwood Road	Non-Contributing	Contributory 2
41 Flowers Drive (House 4 Slack Alley)	Non-Contributing	Contributory 2
41 Flowers Drive (House 3 Slack Alley)	Non-Contributing	Contributory 2
6a Clarke street	Neutral	Non-Contributory
6 Clarke street	Neutral	Non-Contributory

The above proposed changed gradings are considered acceptable as they more accurately reflect the level of contribution which these individual buildings make to the HCA. It is recommended that Council adopt these proposed changes.

### Individual Local Heritage Items with the Heritage Conservation Area

It is noted that Council have identified certain buildings as being 'LEP listed' under the 'Level of Area Contribution'. This could cause confusion as an LEP listing defines a building's statutory level of protection, not necessarily its contribution to the overall precinct. It is recommended that Council change this wording to 'Local Heritage Item' and also provide an explanatory note in the DCP which indicates what this term means and the controls that apply.

### Mapping

It is recommended that the DCP include mapping showing the individual buildings within the HCA and their level of contribution (i.e. 'Contributory 1', 'Contributory 2' or 'Non-Contributory') or level of statutory protection (i.e. 'Local Heritage Item'), this information should also be provided in table form.

## Draft Local Environmental Plan Amendments

Council has proposed amendments to Clause 4.1 and 4.1A of *Lake Macquarie Local Environmental Plan 2014*, which would regulate dual occupancies, minimum subdivision lot size and exceptions to minimum lot size subdivision in the Catherine Hill Bay HCA. These changes are considered to have a positive heritage outcome and it is recommended that they are supported.

If you have any questions please contact James Sellwood, Senior Heritage Programs Officer, Statewide Programs, Heritage NSW, Department of Premier and Cabinet by phone on 02 9274 6354 or via email at [james.sellwood@environment.nsw.gov.au](mailto:james.sellwood@environment.nsw.gov.au).

Yours sincerely



**Rochelle Johnston**  
**Manager, Statewide Programs**  
**Heritage NSW**  
As delegate of the Heritage Council of NSW

22 June 2020

### Heritage NSW

The former Office of Environment and Heritage (Heritage Division) is now Heritage NSW.

Correspondence should be sent to us via email at [HeritageMailbox@environment.nsw.gov.au](mailto:HeritageMailbox@environment.nsw.gov.au). If you need to provide hard copies, please send to Heritage NSW, Locked Bag 5020, Parramatta NSW 2124.

Please update your records as using an incorrect name and address could cause significant delays or non-delivery of your correspondence.