



## NSW RURAL FIRE SERVICE

Lake Macquarie City Council  
Box 1906  
HUNTER REG MAIL CENTRE NSW 2310

Your reference: F2019/00778/05 - D09745269  
Our reference: SPI20210530000080

**ATTENTION:** Gabriele Calcagno

Date: Wednesday 28 July 2021

Dear Sir/Madam,

**Strategic Planning Instrument  
LEP Amendment  
Revised draft Area Plan for the Catherine Hill Bay heritage precinct.**

I refer to your correspondence dated 26/05/2021 inviting the NSW Rural Fire Service (NSW RFS) to comment on the above Strategic Planning document.

The NSW RFS has considered the information submitted and subsequently raise no concerns or issues in relation to bush fire.

For any queries regarding this correspondence, please contact Adam Small on 1300 NSW RFS.

Yours sincerely,

Nika Fomin  
**Manager Planning & Environment Services  
Built & Natural Environment**

**Postal address**

NSW Rural Fire Service  
Locked Bag 17  
GRANVILLE NSW 2142

**Street address**

NSW Rural Fire Service  
4 Murray Rose Ave  
SYDNEY OLYMPIC PARK NSW 2127

**T** (02) 8741 5555  
**F** (02) 8741 5550  
[www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au)

Gabriele Calcagno  
Senior Strategic Planner  
Lake Macquarie City Council  
[gcalcagno@lakemac.nsw.gov.au](mailto:gcalcagno@lakemac.nsw.gov.au)

Dear Gabriele

### **INVITATION FOR COMMENT CATHERINE HILL BAY DRAFT HERITAGE CONSERVATION AREA PLAN - EOTH21-00150**

Subsidence Advisory NSW (SA NSW) is pleased to comment on the Draft Conservation Area Plan for Catherine Hill Bay referred to above.

It is noted that the planning proposal seeks to ensure that future development for the village of Catherine Hill Bay remains consistent with existing heritage values. It is also noted that the proposal involves a reduction in allowable height limits in some areas and proposed restrictions on the further subdivision of land within the village area. Given the above, SA NSW has no objection to the proposal.

The village of Catherine Hill Bay is located within a declared mine subsidence district. As such applications for future development in the village will require SA NSW approval.

Please contact me on (02) 4908 4300 or at [subsidedevelopment@customerservice.nsw.gov.au](mailto:subsidedevelopment@customerservice.nsw.gov.au) if you have any questions or wish to discuss.

Yours sincerely



**Kieran Black**  
Technical Specialist

**15 June 2021**



Reference: DOC21/420610

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)  
Gabriele Calcagno, Senior Strategic Planner – [gcalcagno@lakemac.nsw.gov.au](mailto:gcalcagno@lakemac.nsw.gov.au)

### **Planning Proposal – Catherine Hill Bay Heritage Conservation Area**

Dear Ms Cameron

Thank you for the opportunity to comment on the Planning Proposal and amended Development Control Plan (DCP) for the Catherine Hill Bay Heritage Conservation Area (HCA).

We previously provided advice on Council's Heritage Assessment, Peer Review, draft DCP and proposed Local Environmental Plan (LEP) amendments for the HCA on 22 June 2020 (attached for your information) recommending that Council:

- adopt the Peer Review's proposed terminology identifying 'Contributory 1', 'Contributory 2' and 'Non-Contributory' buildings in amendments to the DCP
- make changes which Council had identified to the significance of nine buildings in the HCA
- to avoid confusion, change the wording 'LEP listed' to 'Local Heritage Item', and provide an explanatory note in the DCP which indicates what this term means and the controls that apply
- include mapping and a table in the DCP showing 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'), and
- support proposed amendments to Clause 4.1 and 4.1A of Council's LEP, which would regulate dual occupancies, minimum lot size and exceptions to minimum lot sizes in the HCA.

We have reviewed the planning proposal and amended DCP provided by Council and note that our recommendations have been adopted by Council.

Additionally, we noted that Council has identified further amendments in the planning proposal:

- reduce the height of buildings, as follows:
  - for parts of Catherine Hill Bay from 8.5 metres and 5.5 Metres to 4.5 metres, and
  - for parts of Middle Camp from 8.5 metres to and 5 metres
- increase the minimum lot size for subdivision for parts of Catherine Hill Bay and Middle Camp from 450sqm to 1000sqm.

The additional proposed changes above are considered to have a positive heritage outcome as they will protect both the historic subdivision pattern and the buildings heights in the Catherine Hill Bay and Middle Camp areas. We recommend that Council support these proposed changes.

Prior to finalisation of the planning proposal, Council should be satisfied that all necessary due diligence, assessments and notifications have been undertaken.

If you have any questions about the above matter please contact James Sellwood, Senior Heritage Programs Officer, Strategic Relationships and Planning at Heritage NSW 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, Heritage Act Programs**  
**Heritage NSW**  
As delegate of the Heritage Council of NSW

22 June 2021

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.

---

**From:** Malcolm Drummond <malcolm.drummond@planning.nsw.gov.au>  
**Sent:** Friday, 4 June 2021 11:45 AM  
**To:** Gabriele Calcagno  
**Cc:** DRG GSNSW Landuse Minerals Mailbox  
**Subject:** FW: Planning Proposal - Catherine Hill Bay Heritage Conservation Area - Consultation with Agencies

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

**CAUTION:** This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Good Morning Gabriele,

Thank you for the opportunity to provide advice on the above matter. Department of Regional NSW - Mining, Exploration & Geoscience (MEG) - Geological Survey of NSW (GSNSW) has no concerns or comments in relation to the planning proposal at Catherine Hill Bay.

Please note that future correspondence and requests for advice should be directed to the following email address [landuse.minerals@geoscience.nsw.gov.au](mailto:landuse.minerals@geoscience.nsw.gov.au)

Regards

**Malcolm Drummond**  
**Senior Geoscientist, Geological Survey of NSW**

Mining, Exploration & Geoscience | Department of Regional NSW  
T 02 4063 6702 | E [malcolm.drummond@planning.nsw.gov.au](mailto:malcolm.drummond@planning.nsw.gov.au)  
516 High Street | Maitland NSW 2320  
PO Box 344 | Hunter Region MC NSW 2310  
[nsw.gov.au/regionalnsw](http://nsw.gov.au/regionalnsw)



*The Department of Regional New South Wales acknowledges that it stands on Country which always was and always will be Aboriginal land. We acknowledge the Traditional Custodians of the land and waters, and we show our respect for Elders past, present and emerging. We are committed to providing places in which Aboriginal people are included socially, culturally and economically through thoughtful and collaborative approaches to our work.*

---