

Planning Proposal – Wangi Power Station Administrative Amendment

Lake Macquarie Local Environmental Plan 2014

(Proposal Version 1– Pre Gateway)

Local Government Area:	Lake Macquarie City
Name of Draft LEP:	Lake Macquarie Local Environmental Plan 2014 (LM LEP) 2014 – Wangi Power Station Administrative Amendment
Subject Land:	Lot 101 DP880089 at 80 Donnelly Road, Arcadia Vale
Land Owner	IJ McDonald Pty Ltd
Applicant	Lake Macquarie City Council
Folder Number	F2015/00260
Date	3 March 2015
Author	Senior Landuse Planner - Shane Cahill
Attachments	Attachment 1 – Locality Map Attachment 2 – Amendment to LMLEP 2014 Key Sites Map –Wangi Power Station Complex Attachment 3 – Amendment to LMLEP 2014 Heritage Map Attachment 4 – Evaluation Criteria for the Delegation of Plan Making Functions

Part 1 – Objectives of the Planning Proposal

The objective of this planning proposal is to correct anomalies in relation to planning provisions for the Wangi Power Station site. The anomalies became evident following the conversion of Council's previous planning instrument, Lake Macquarie Local Environmental Plan (LM LEP) 2004 to the new planning instrument, LM LEP 2014 for the Wangi Power Station Site. Refer to Attachment 1 and Attachment 2 for the locality and the site of the Wangi Power Station.

The conversion retained the intended additional land uses, and the clauses regarding the site-specific requirements, and heritage listing. However, the maps that are associated with these clauses did not convert correctly.

The Planning Proposal thus aims to amend LMLEP 2014 to rectify some anomalies in the planning provisions for the Wangi Power Station Complex by:

- introducing a new Key Sites Map for the Wangi Power Station Complex and amending Clause 7.18 with some minor wording changes to refer to that new map; and
- amending the existing Heritage Map for the Wangi Power Station to include the whole of the Wangi Power Station Complex, consistent with the land identified on the State Heritage Register for this site.

Part 2 – Explanation of the Provisions

The amendment proposes the following changes to Lake Macquarie LEP 2014:

Key Sites Map	
Key Sites Map	Provide a new Key Sites Map to identify the Wangi Power Station Site, being Lot 101 DP 880089. Refer to Attachment 2. The requirement for an Area Plan applies to this area.
Heritage Map	
Sheet HER_010A	Amend the Heritage Map to identify the Wangi Power Station Complex as identified in the State Heritage Register, see Attachment 3. This would be consistent with advice from the NSW Office of Environment and Heritage
Part 7 Additional Local Provisions	
7.18 Development on certain land at Wangi Wangi	Amend the local provision clause 7.18 to refer to the new Key Sites Map “Wangi Power Station Complex” in addition to the existing map reference. This would be consistent with the intent of LEP 2004.

A summary of the proposed issues and suggested changes is contained in Attachment 1.

Council requests delegations for the plan making functions under section 59 of the *EP&A Act 1979*. The Evaluation Criteria for the Delegation of Plan Making Functions is contained in Attachment 4.

Part 3 – Justification for the Provisions

A. Need for the planning proposal

1. Is the planning proposal a result of any strategic study or report?

The amendments contained in the planning proposal are not the result of a strategic study or report. The proposed amendments correct administrative errors identified in the conversion of LM LEP 2004 to LM LEP 2014.

To guide the development of this unique, historic site, LM LEP 2004 referred to Lot 101 DP 88089 in Schedules 7, 8 and 9. These Schedules included specific clauses that relied on the description of the land parcel, and referred to the land use zone to which the particular part of the clause was to apply.

It was prudent to reduce the number of special clauses for this site, and consequently a more concise, single clause was drafted to provide that detail in the *Additional local provisions*. Unfortunately, the new clause does not describe the entirety of the relevant land. During the conversion process, adjustments to the clause lead to a map replacing the description of the relevant land.

Clause 7.18 refers to a map named “Wangi Wangi Area 1” Additional Permitted Uses Map. However, this map indicates only the part of the site where additional uses are permitted; it does not include the all of the area, to which the additional local provisions apply. The proposed changes aim to provide better clarity and sense to the written clause, and to more accurately reflect the intent of LM LEP 2004 in LM LEP 2014.

Without the proposed amendment to Clause 7.18, the requirement for a development control plan for the whole of the Wangi Power Station site would be unclear. This particular requirement made possible the

pursuit to rezone the site for the adaptive reuse of the Wangi Power Station building and medium density residential development.

The proposal also amends the heritage map to reflect the sites listed in the state heritage register (SHR) for the Wangi Power Station. LM LEP 2004 described the whole of the lot on which the Wangi Power Station building is sited as being of state heritage significance. LM LEP 2014 however, maps only the station building footprint. Different again, is the SHR that lists the whole of the Wangi Power Station Complex. The proposed amendment to the Heritage Map would avoid potential miscommunication of the listing of this heritage item. It is consistent with the SHR, and advice from NSW Office of Environment and Heritage

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Issues arising from the process of converting Lake Macquarie LEP 2004 to Lake Macquarie LEP 2014, resulted in a lack of clarity and an inconsistency in relation to the application of planning controls for the Wangi Power Station Complex. A planning proposal to amend the Lake Macquarie LEP 2014 is the best and only way to rectify these inconsistencies.

B. Relationship to strategic planning framework

1. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The Lower Hunter Regional Strategy is a strategic planning framework to guide the sustainable growth of the Lower Hunter until 2031. The proposal to amend and clarify the planning provisions for the Wangi Power Station is consistent with the LHRs. It will more clearly provide direction for the adaptive reuse of the heritage building and its site, for a mixture of uses including residential, commercial, retail and recreation. It will also help facilitate some of the employment and housing targets of the LHRs.

2. Is the planning proposal consistent with the local council's Community Strategic plan, or other local strategic plan?

Council's LS2030 provides long-term strategic directions for the City, and is a tool to manage the expected population and employment growth in Lake Macquarie. Although the implications to this Strategy are considered minor, the proposal is consistent with the objectives of LS2030, specifically the objective to facilitate the management and protection of the City's heritage resources.

3. Is the planning proposal consistent with applicable state environmental planning policies?

An assessment has been undertaken to determine the level of consistency the amendment has with relevant State Environmental Planning Policies (SEPPs). The administrative amendment is consistent with all relevant SEPPs.

SEPPs	Relevance	Implications
State Environmental Planning Policy No 1 — Development Standards	This Policy provides flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary	The amendment does not affect upon the operation of this SEPP.

SEPPs	Relevance	Implications
SEPP 19 – Bushland in Urban Areas	Aims to prioritise the conservation of bushland in urban areas, and requires consideration of aims in preparing a draft amendment	The administrative amendments are minor in nature and will not affect bushland in urban areas.
SEPP No 32— Urban Consolidation (Redevelopment of Urban Land)	Aims to promote the orderly and economic use and development of land by enabling urban land, which is no longer required for the purpose for which it is currently zoned, to be redeveloped for multi-unit housing and related development, and to implement a policy of urban consolidation.	The administrative amendments are minor in nature and will not affect the objectives of this SEPP.
SEPP 55 – Remediation of Land	Aims to establish planning controls and provisions for the remediation of contaminated land	The administrative amendments are minor in nature and will not impact on contaminated land.
SEPP 71 – Coastal Protection	This SEPP ensures that development in the NSW coastal zone is appropriate and suitably located, to ensure that there is a consistent and strategic approach to coastal planning and management.	The administrative amendments are minor in nature and will not affect the coastal zone.
SEPP (Infrastructure) 2007	Aims to provide a consistent planning regime for the delivery of infrastructure. It also provides provision for consultation and assessment.	The administrative amendments are minor in nature and will not affect the delivery of infrastructure.
SEPP (Exempt and Complying Development Codes) 2008	Aims to provide streamlined assessment processes for development that complies with specified development standards.	The administrative amendments are minor in nature and will not affect the assessment of Exempt or Complying Development.
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	Aims to provide for the proper management and development of mineral, petroleum and extractive material resources.	The administrative amendments are minor in nature and will not affect the management and development of mineral, petroleum and extractive industries.
SEPP (Affordable Rental Housing) 2009	This policy aims to provide a consistent planning regime for the provision of affordable rental housing to facilitate the effective delivery of new affordable rental housing by providing incentives and non-discretionary development standards.	The administrative amendment will not impact the operation of this SEPP.

4. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The proposal has been assessed against relevant Ministerial Directions. The assessment is provided below. The proposal is considered consistent with all relevant section 117 Directions.

Ministerial Direction	Relevance	Implications
1.1 - Business and Industrial Zones	This direction promotes employment growth in suitable locations.	Yes. The amendment is administrative and does not propose to increase or decrease the amount of employment land available in the Lake Macquarie Local Government area.
1.2 – Rural Zones	This direction protects the agricultural production value of rural lands.	Yes. The amendment is administrative and does not seek to rezone any rural zoned lands.
1.3 – Mining, Petroleum Production and Extractive Industries	Aims to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.	Yes. The proposal is consistent with this direction and does not impact upon these resources. However, the requirement for a Development Control Plan for this site was partially to protect the interests of the Myuna Colliery.
2.1 – Environment Protection Zones	Aims to protect and conserve environmentally significant areas.	Yes. The planning proposal does not rezone any environmental land.
2.2 – Coastal Protection	This direction aims to implement the principles in the NSW Coastal Policy.	Yes. The coastal zone is not impacted by the amendments.
2.3 - Heritage Conservation	The direction requires that a draft LEP include provisions to facilitate the protection and conservation of Aboriginal and European heritage items.	The proposal better communicates the heritage value of the Wangi Power Station Complex by reflecting the SHR listing for this item.
3.1 – Residential Zones	The direction requires a draft LEP to include provisions that facilitate housing choice, efficient use of infrastructure, and reduce land consumption on the urban fringe.	Yes. No changes to residential zones are proposed. However, the proposed Key Sites Map will better reflect the area to which a site specific Development Control Plan is required.
3.4 - Integrating Land Use and Transport	The aim of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives: (a) improving access to housing, jobs and services by walking, cycling and public transport, and (b) increasing the choice of	Yes. The amendment does not make any zoning change.

Ministerial Direction	Relevance	Implications
	available transport and reducing dependence on cars, and (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and (d) supporting the efficient and viable operation of public transport services, and (e) providing for the efficient movement of freight.	
4.1- Acid sulphate Soils	Aim to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils.	Yes. The proposal does not impact on acid sulphate soils.
4.2 – Mine Subsidence and Unstable Land	Aims to ensure development is appropriate for the potential level of subsidence. The direction requires consultation with the Mine Subsidence Board where a draft LEP is proposed for land within a mine subsidence district.	Yes. The proposal does not impact on mine subsidence and unstable land.
4.3 - Flood prone land	Aims to ensure that development of flood prone land is consistent with the NSW Government Flood Prone Land Policy and the Principles of the Floodplain Development Manual 2005, and to ensure that the provision of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.	Yes. The proposal does not impact on flood prone land.
4.4 – Planning for Bushfire Protection	Aims to encourage the sound management of bush fire prone areas and to ensure a planning proposal addresses Planning for Bushfire Protection 2006.	Yes. The proposal does not impact on bush fire prone lands.
5.1 – Implementation of Regional Strategies	Aims to give legal effect to regional strategies, requiring that draft LEPs are consistent with relevant strategies. It also requires draft amendments be consistent with the relevant State strategy.	Yes. The planning proposal is administrative and will have minimal effect on regional strategies. It is considered consistent with the Lower Hunter Regional Strategy.

C. Environmental, social and economic impact

- 1. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

The amendment is administrative and will not impact on critical habitat, threatened species or ecological communities.

- 2. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

There are no other likely environmental impacts from this planning proposal.

- 3. How has the planning proposal adequately addressed any social and economic effects?**

The planning proposal is administrative and will reinstate controls in the former Lake Macquarie LEP 2004. The amendments will clarify the planning requirements for the Wangi Power Station Complex, having a minor albeit positive, social and economic impacts.

D. State and Commonwealth interests

- 1. Is there adequate public infrastructure for the planning proposal?**

The amendment is administrative and does not warrant changes to the delivery of public infrastructure.

- 2. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?**

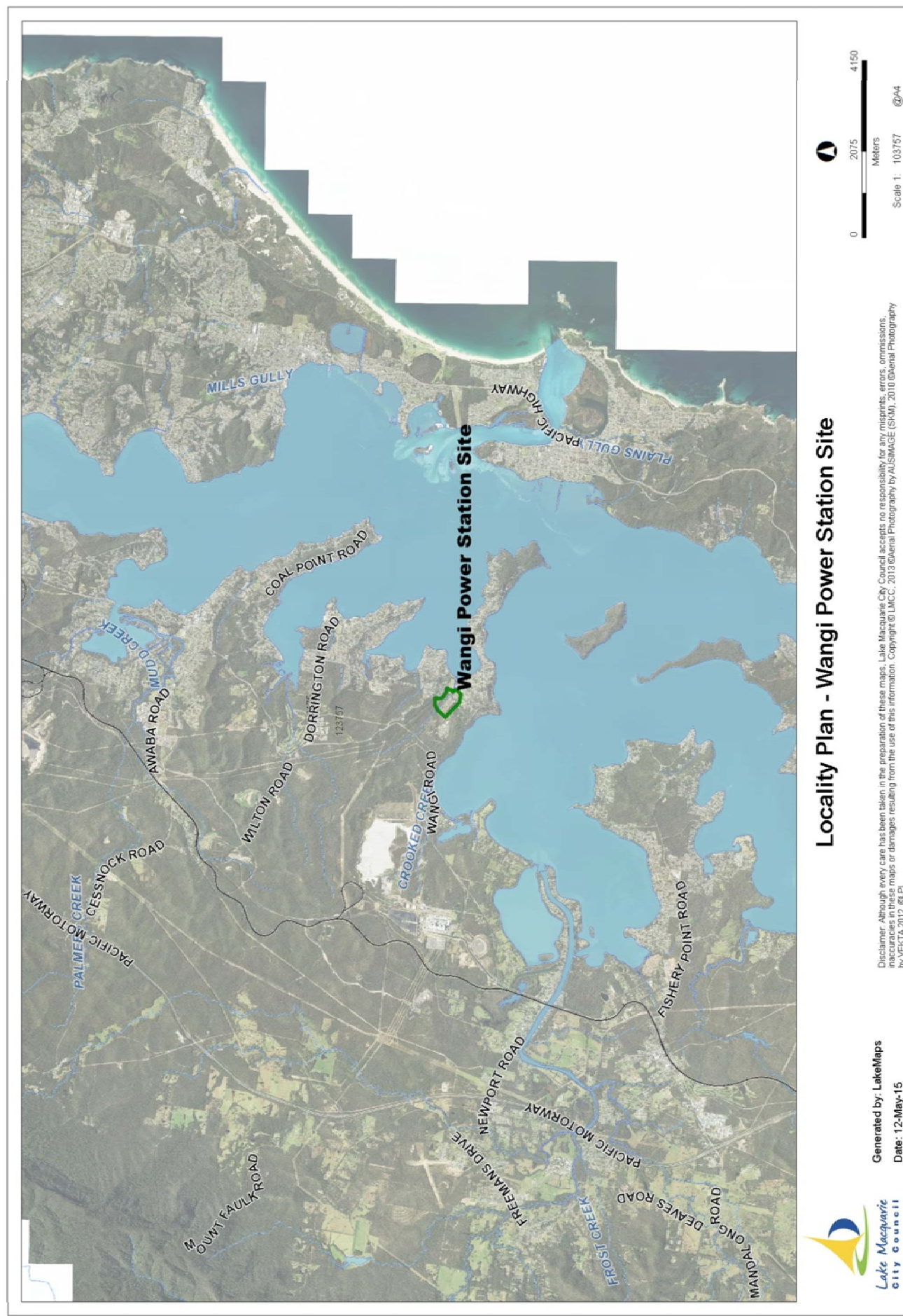
Formal consultation has not occurred with any government agencies. Council has discussed the anomaly between the State Heritage Register and heritage listing in Schedule 5 and the associated Heritage Map of LM LEP 2014. The proposed changes, in this respect, are consistent with the informal advice by the NSW Office of Environment and Heritage.

As the changes are minor, and administrative in nature, and reinstate controls of the previous Lake Macquarie LEP 2004 into the Lake Macquarie LEP 2014, no further consultation is considered necessary. However, Council will consult with government agencies if directed by the Gateway determination.

Part 4 – Details of Community Consultation

The Planning Proposal will be placed on exhibition for the relevant period as advised by the Gateway determination.

ATTACHMENT 1 – Locality Plan

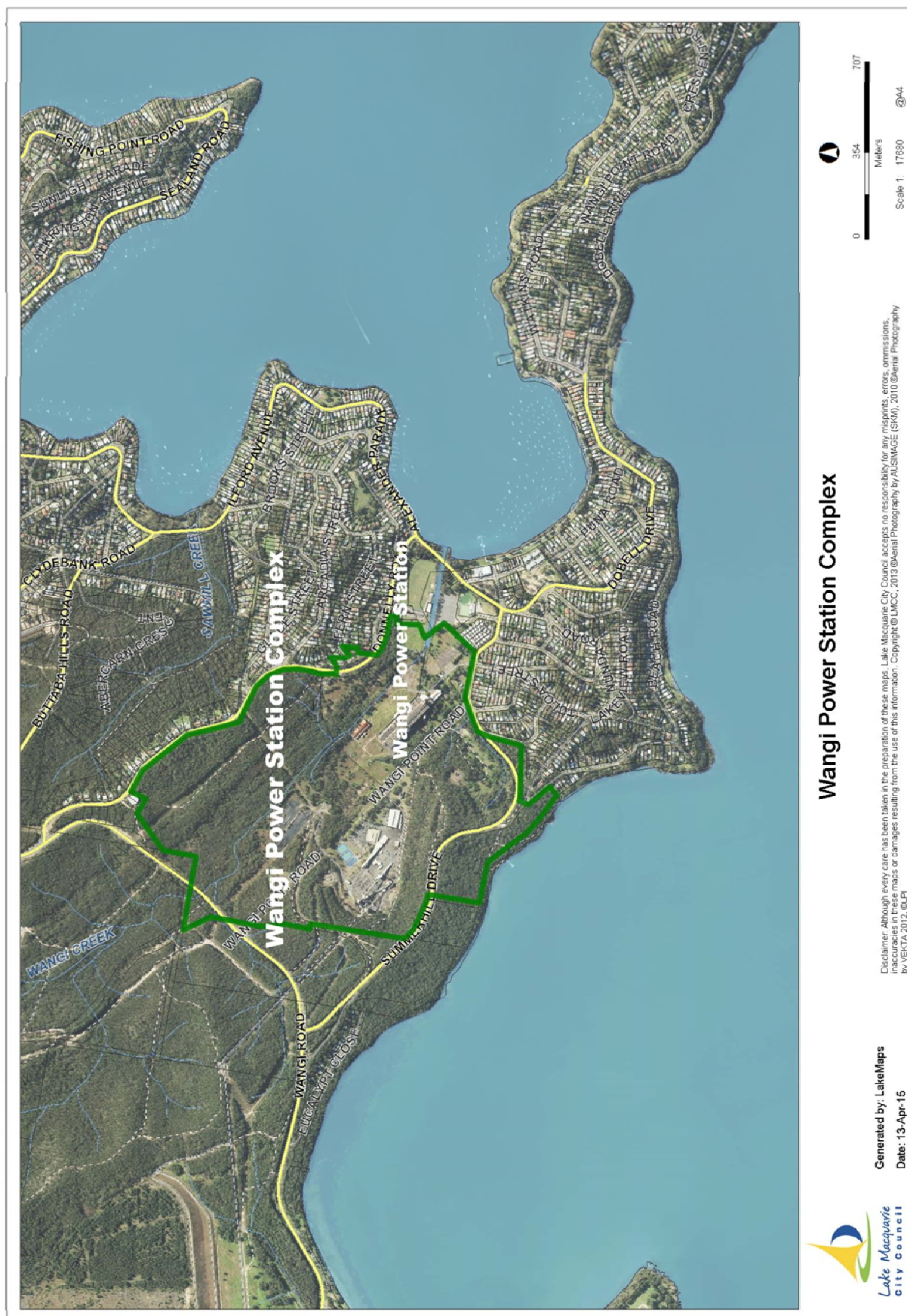


ATTACHMENT 2 – Key Sites Map: Wangi Power Station Site



Wangi Power Station Site - Lot 101 DP 880089

ATTACHMENT 3 – Heritage Map – Wangi Power Station Complex



ATTACHMENT 4 – Evaluation Criteria for the Delegation of Plan Making Functions

Local Government Area: Lake Macquarie City

Name of draft LEP: Lake Macquarie Local Environmental Plan 2014 – Administrative Amendment - Part 7 Additional Local Provisions – Clause 7.18 Development on certain land at Wangi Wangi

Address of Land (if applicable): 80 Donnelly Road, Arcadia Vale,

Intent of draft LEP: The intent of the planning proposal is to amend the Lake Macquarie LEP 2014 in relation to a number of administrative items. The planning proposal will amend clauses within Part 7 – Additional Local Provisions to ensure controls within the previous Lake Macquarie LEP 2004 are carried over into the Lake Macquarie LEP 2014.

The current map referred to in Clause 7.18 indicates only the part of the site where additional uses are permitted; it does not include the whole of the area to which the additional local provisions apply. The changes proposed are to give clarity and sense to the written clause, and to reflect, more accurately the intent of the LM LEP 2004 in LM LEP 2014.

The proposal also amends the heritage map to reflect the state heritage register (SHR) for this site. LM LEP 2004 described the whole of the lot on which the Wangi Power Station building is sited as being of state heritage significance. LM LEP 2014 however, maps only the station building footprint. Different again is the SHR, which maps the whole of the Wangi Power Station Complex.

Additional Supporting Points/Information:

- Planning Proposal prepared by Lake Macquarie City Council

Evaluation criteria for the issuing of an Authorisation (Note: where the matter is identified as relevant and the requirement has not been met, council is to attach information to explain why the matter has not been	Council response		Department assessment	
	Y/N	Not relevant	Agree	Not agree
Is the planning proposal consistent with the Standard Instrument Order, 2006?	Y			
Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Y			
Are appropriate maps included to identify the location of the site and the intent of the amendment?	Y			
Does the planning proposal contain details related to proposed consultation?	Y			
Is the planning proposal compatible with an endorsed regional or sub-regional planning strategy or a local strategy endorsed by the Director-General?	Y			
Does the planning proposal adequately address any consistency with all relevant S117 Planning Directions?	Y			
Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	Y			
Minor Mapping Error Amendments	YIN			
Does the planning proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?	N			
Heritage LEPs	YIN			
Does the planning proposal seek to add or remove a local heritage item and is it supported by a strategy/study endorsed by the Heritage Office?	N			
Does the planning proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?	N			

Does the planning proposal potentially impact on an item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?	Y			
Reclassifications	Y/N			
Is there an associated spot rezoning with the reclassification?	N			
If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or strategy?		NA		
Is the planning proposal proposed to rectify an anomaly in a classification?	N			
Will the planning proposal be consistent with an adopted POM or other strategy related to the site?		NA		
Will the draft LEP discharge any interests in public land under section 30 of the Local Government Act, 1993?		NA		
If so, has council identified all interests; whether any rights or interests will be extinguished; any trusts and covenants relevant to the site; and, included a copy of the title with the planning proposal?		NA		
Has the council identified that it will exhibit the planning proposal in accordance with the department's Practice Note (PN 09-003) Classification and reclassification of public land through a local environmental plan and Best Practice Guideline for LEPs and Council Land?		NA		
Has council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?	N			
Spot Rezoning	Y/N			
Will the proposal result in a loss of development potential for the site (ie reduced FSR or building height) that is not supported by an endorsed strategy?	N			
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?	Y			
Will the planning proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?	N			

If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?		NA		
Does the planning proposal create an exception to a mapped development standard?	N			
Section 73A matters				
Does the proposed instrument a. correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error?; b. address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?; or c. deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land? (NOTE – the Minister (or Delegate) will need to form an Opinion under section 73(A)(1)(c) of the Act in order for a matter in this category to proceed).	Y			

NOTES

- Where a council responds ‘yes’ or can demonstrate that the matter is ‘not relevant’, in most cases, the planning proposal will routinely be delegated to council to finalise as a matter of local planning significance.
- Endorsed strategy means a regional strategy, sub-regional strategy, or any other local strategic planning document that is endorsed by the Director-General of the department.