

09STRAT014 Proposed Amendment to Schedule 4, Part 1 of Lake Macquarie Local Environmental Plan 2004

Folder No: F2006/02482
Report By: Heritage Support Officer - Mary Loder - Ext. 1422

Précis:

The City of Lake Macquarie Heritage Study, complete in 1993, identified 250 items of heritage significance for immediate listing in Lake Macquarie Local Environmental Plan 1984 (LMLEP 1984). This occurred and the items were subsequently included in Lake Macquarie Local Environmental Plan 2004 (LMLEP 2004).

The 1993 Heritage Study also identified another 400 inventory items with potential heritage significance that may warrant heritage listing after additional research. Other potential heritage items have been identified since the completion of the 1993 Heritage Study and have been included in a *Supplementary List of Potential Heritage Sites* in Lake Macquarie Development Control Plan No. 1 (DCP No. 1), as Appendix 1 in the Heritage Guidelines. Council now holds sufficient information to proceed to list a number of properties from the Inventory list and the *Supplementary List of Potential Heritage Sites*.

This report proposes the listing of eleven (11) additional heritage items in Schedule 4 of LMLEP 2004. The items referred to in this report have been included as there is a community expectation that they will be listed in the near future. In a number of cases Council, or the property owners, have requested the listing of these items.

Recommendation:

That Council:

- A. Prepare a draft amendment to Lake Macquarie Local Environmental Plan 2004, pursuant to section 54 of the *Environmental Planning and Assessment Act 1979*; and include the following:
 - (i) Amend Schedule 4 to insert additional heritage items including;
 - (a) RAAF Flying-Boat Base – Rathmines,
 - (b) Dudley Monument – Dudley
 - (c) Former WWII RAAF Radar Station 208 – Catherine Hill Bay,
 - (d) Tank Traps – Belmont South,
 - (e) St Hilda's Church – Teralba,
 - (f) Former Union Church – Martinsville,
 - (g) Former Uniting Church – Holmesville,
 - (h) Former Awaba Union Church – Awaba,
 - (i) Former St Pauls Anglican Church – Dora Creek,
 - (j) Shark Tower – Redhead Beach,
 - (k) Former Co-operative Store – Teralba

- B. Notify the NSW Department of Planning of its decision in accordance with section 54(4) of the *Environmental Planning and Assessment Act 1979*.
- C. Undertakes consultation in accordance with section 62 of the *Environmental Planning and Assessment Act 1979*.
- D. In the event that the NSW Department of Planning issues Council with delegations to exhibit, and there are no unresolved comments or concerns resulting from the section 62 consultations, places the draft amendment on public exhibition pursuant to section 65 of the EP & A Act.

Background:

In December 1993, Suters Architects Snell in association with Dr John Turner and C&MJ Doring P/L, completed the City of Lake Macquarie Heritage Study. The study recommended the immediate listing of 250 items of heritage significance in Council's LEP at the time, LMLEP 1984. This occurred and the items were subsequently included in LMLEP 2004. There have been no further items added to LMLEP 2004 for several years.

Another 400 items were identified in the 1993 Heritage Study as having potential heritage significance that may warrant heritage listing after additional research. These potential items are identified in an Inventory List attached to the 1993 Heritage Study. Other potential heritage items have been identified since the completion of the 1993 Heritage Study and are identified in a Supplementary List of Potential Heritage Sites in Appendix 1 of the Heritage Guidelines in DCP No. 1.

Collectively, the places and items that have been identified in the 1993 Heritage Study Inventory List and in DCP No.1, but not formally listed in LMLEP 2004, are known as provisional heritage items. When Council receives a development application that may affect a provisional heritage item the implications for the heritage values of the site are assessed in accordance with s.79C of the EPA Act, though proponents cannot access heritage incentive provisions until formal listing occurs.

Since 1993, further information has been obtained for a number of provisional heritage items that indicates that heritage listing of these places and items is warranted. No action has been taken until now due to limited staff resources.

Council resolutions on 12 December 2005, and 12 November 2007, indicated Council's preference for the Dudley War Memorial and the Belmont Defence Line, respectively, to be considered for heritage listing. Further detail on these two resolutions is provided in the proposal section of this report.

Council has also received requests, from the owners of a number of properties identified as provisional heritage items, for formal heritage listing of their property. Listing would enable the property owner to utilise the heritage conservation incentives in LMLEP 2004 to allow adaptive re-use of sites or to seek concessions on certain requirements in DCP No. 1.

In late 2008, Council appointed Consultants to prepare a new Thematic History for the City of Lake Macquarie. The Thematic History is the first stage in a project to update the 1993 Heritage Study. The update is required as there have been changes to the regulatory framework and new guidelines issued by the NSW Heritage Branch since 1993. The full update of the 1993 Heritage Study is expected to take a minimum of three years to complete based on available resources.

Proposal:

It is proposed to add the eleven (11) sites listed in Appendix A of this report as heritage items within LMLEP 2004. Listing the proposed heritage items in Council's LEP will provide statutory protection for the items and allow the owners access to conservation incentives provided for in LMLEP 2004.

A summary of the significance of each property is provided below. Further details of each item are provided by way of Heritage Inventory sheets in Appendix A.

RAAF Flying-Boat Base, Rathmines

The Rathmines RAAF base (1939-1952) has a high significance for post war development in Lake Macquarie. As the largest flying boat base in Australia, the base trained personnel in a variety of skilled professions operated repair shops for all flying boats and was a major RAAF communications centre. Many personnel stayed in the area after the war providing a technologically skilled workforce that helped develop power stations, mechanised coal mines and much of the modern private industrial and commercial base in the City. On 25 November 2005 the base was listed as a NSW State heritage item. Some parts of the site are listed in LMLEP 2004, but the site as a whole is not listed, and this is now proposed. The site is owned by Lake Macquarie City Council (LMCC).

Dudley Monument, Dudley

The Dudley war memorial located on the corner of Redhead Road and Ocean Street, Dudley (Lot 189 DP 755233) and was unveiled on Anzac Day 1922. It records those citizens of Dudley and Redhead who went to World War 1 and identifies those injured or killed in action. A plaque was added on the 60th anniversary of WWII to commemorate WWII and other conflicts. Three bronze badges were also added to represent the Army, Navy, and Air Force.

Council resolved on 12 December 2005:

"That Council officers provide information to councillors on the current status of the possible heritage listing of Dudley War memorial located at the corner of Ocean Street and Redhead Road, Dudley."

Advice from the NSW Heritage Branch indicates that the Memorial is of Local significance and should be listed in LMLEP 2004 as a heritage item.

WWII RAAF Radar Station 208, Catherine Hill Bay

This proposed listing is of the former RAAF Radar Station 208 at Catherine Hill Bay, comprising the remains of the RAAF radar installation. This acknowledges the site as a rare example of NSW's participation in the WWII network of air warning radar, established in strategic locations along Australia's coast during World War II. It is one of nine Advanced Chain Overseas (ACO) radar stations established on mainland Australia, using British imported ACO radar, and the only remaining site of the two established in NSW. This item was listed on the NSW State Register on 22 July 2008 and it is appropriate that the site also be identified in LMLEP 2004. The property is owned by Coal and Allied.

Tank Traps, Belmont South

The tank traps are located on former BHP land at Cold Tea Creek 690A Pacific Highway, Belmont South (Lot 7024 DP 1057186). The tank traps have an important association with those who served in the defence of the area called the Belmont Defence Line during

WWII. Along with the Cold Tea Creek, they are a reminder of the broader role Lake Macquarie made in the defence of the region at a time when Japanese invasion was feared.

Consideration to heritage listing the Belmont Defence Line follows a resolution of Council on the 12 November 2007 that Council:

- A. *refer the matter to the Heritage Officer with a view to nominate to the Heritage Council the WW2 Belmont Defence Line as a site of regional significance and seek support of the listing of that site on the Regional Heritage Register;*
- B. *Consider the provision of funds to carry out interpretive signage at the WW2 Belmont Defence Line;*
- C. *Write to the elected Member for Shortland seeking their support and matching funds for the project, and*
- D. *Inform the Belmont Lagoon Committee and Honourable Peter Morris, the former Member for Shortland, of its intention regarding the WW2 Defence Line.*

The heritage significance of the entire Belmont Defence Line system, which covers a substantial area south of Belmont, will be investigated in the new thematic history currently being researched by consultants. Once the Thematic History update is complete, staff will research the design and cost of possible interpretive signage. In the interim, it is proposed that the remaining Tank Traps be listed as heritage items.

St Hilda's Church, Teralba

St Hilda's is located at 16 York Street, Teralba (Lot 4 DP 447469). The Church has served the community for over 100 years and is significant for its historic connections to the history of the uniting churches and to the residents of the parish. The church was originally built in 1906 and once housed a historic pipe organ built in 1875 by J W Walker & Sons of London. The organ is listed by the Organ Trust as one of the most important instruments in Australia. The Church is now owned by the Pentecostal Family Church and is currently undergoing renovation.

Former Union Church, Martinsville

The former Union Church is located at 447 Martinsville Road, Martinsville (Lot A DP 4329). Church services commenced on the site in August 1893 by Rev. T F Rudd. The present building was largely constructed in 1924, but not completed until the 1940s when parts brought from the Gap End Church were included. The Church is now privately owned.

Former Uniting Church, Holmesville

The former Uniting Church, located at 29 St. Helen Street, Holmesville (Lot 16 Section N DP 3442), was constructed by Joseph Holmes, founder of Holmesville who donated the lot in St. Helen Street to the church in 1904. The Church is now privately owned.

Former Awaba Union Church, Awaba

The former Awaba Union Church is located at 20 Gosford Street, Awaba (Lot 1 Section 8 DP 758041). The site was purchased in 1897 with a small slab church built in 1898, which was demolished in 1913 and a new church built. In 1934, the church was blown off its stumps by wind but was successfully repaired. Interdenominational from the

beginning, this modest building is typical of the early churches built by small rural communities around the turn of the century. The Church is now privately owned.

Former St Pauls Anglican Church, Dora Creek

The former St. Paul's Anglican Church is located at 25 Coorumbung Road, Dora Creek (Lot 101 DP 840020). Completed in 1895, St. Paul's is a rare local example of a 19th century timber Protestant Church. Well crafted, with all of its principal elements and details intact, it is a highly valued representative of its type. Later interventions have not compromised the interpretability of the whole.

The owners of St. Paul's are seeking heritage listing to facilitate the sale of the church for residential conversion and to ensure the existing heritage contribution of the building is preserved for the long term. The site is currently zoned 1(1) Rural Production Zone. Listing as a Heritage Item will allow minor works and maintenance to be undertaken without consent in accordance with Clause 45 in LMLEP 2004 and possible use of the building as a residence, despite the lot the church is built upon being smaller than minimum lot size requirements in the 1(1) zone.

Shark Tower, Redhead Beach

With a relatively recent appearance, the tower located at 2A Beach Road Redhead (Lot 1412 DP 755233), derives historical significance from association with the long established Redhead Surf Lifesaving Club. The tower was constructed to replace an earlier Tower. The Redhead Surf Lifesaving club was founded in 1908 and it is likely there has been a tower constructed in this location since that time. The Redhead Tower was constructed during the Depression in 1929 by relief labour with timber from a local disused coal mine. The tower has become a landmark in the town and a site favoured by photographers for all occasions.

Former Co-operative Store Teralba

Built in 1925, the former Teralba Branch of the Co-operative store is located at 75 York Street Teralba (Lot 1 DP 997733). This substantial brick building is not typical of commercial development in Teralba. It stands alone in a streetscape in an apparent attempt to herald the resurgence of development in the town at around that time. However, due to the Depression, the War and probably the motor car, Teralba never developed into a substantial centre.

The cultural significance of the property has been clearly identified in the LMCC 1993 Heritage Study, and confirmed in the recent heritage assessment by Cracknell & Lonergan Heritage Consultants on behalf of the owner.

The owner has indicated that in principle he does not object to heritage listing of the property in trade off for car parking concessions, which have been requested as part of a current development application for the site. During pre-lodgement discussions, Senior Council staff advised the proponent that concessions for car parking might be agreed to if:

- it can be demonstrated that the retention of the heritage of the site can be adequately maintained in combination with new development; and
- the proposal would not result in a reduction in the amenity of the area due to on-street car parking.

This application is currently being assessed on its merits by Council staff.

Consultation:

Consultation has occurred with the Development Planner-Heritage Focus in DAC who supports the listing of these particular items as a matter of urgency.

Consultation has occurred with the property owners who have requested heritage listing, and with the owners of St Hilda's Church.

If the Department of Planning's LEP Review Panel agrees that an amendment to LMLEP 2004 should proceed, the next stage would involve direct consultation with the owners of the properties and broader consultation with the community as part of the draft LEP process.

If the draft LEP progresses to exhibition the property owners will be notified in writing and a Council officer would be available to meet with owners to respond to questions.

Implications:

Policy Implications:

Section 117(2) Ministerial Directions

2.3 Heritage Conservation

The direction requires that LEP's contain provisions for the conservation of European and Aboriginal heritage values.

The amendment seeks to add several items of local and state significance to Schedule 4 of LMLEP 2004 to recognise their value and significance to the community of Lake Macquarie. The amendment is seen to be consistent with the direction.

Lifestyle 2020

The adoption of local heritage items facilitates the ongoing protection of cultural values and is consistent with goal 8 of Lifestyle 2020, which seeks "To manage the City's heritage in a way that protects the value of these resources and enhances the City's character."

Environmental Implications:

Appropriate additional listings will ensure greater conservation of the City's cultural environment including visual-scenic values and heritage significance. Listing also encourages people to maintain and improve the current building rather than contemplating demolition as a first option. The amendment therefore has potentially beneficial environmental outcomes.

Social Implications:

Listing sites and buildings with clear historic value on schedule 4 of LMLEP 2004 promotes the preservation of the City's cultural and heritage assets for the continued appreciation of current and future generations. The listings proposed will have no impact on safety, health, employment or income opportunities or the lifestyle of the neighbourhood and broader community.

Property owners of heritage listed items benefit from heritage incentive clauses in Council's LEP that allow for adaptive re-uses which would otherwise be prohibited on the land. Any potential adverse impacts to the neighbourhood or broader community that may arise from a normally prohibited use would need to be avoided, mitigated or managed to a socially acceptable level as part of the development application process. Council would also have to consider the effect of any proposed development in the area surrounding the heritage item, which ensures an appropriate context for heritage items.

Listing can also provide savings for owners through special heritage valuations for land rating purposes, possible tax concessions for businesses and access to funding for heritage conservation works. Listing does not exclude changes or additions or new buildings on the site, provided they do not detract from the heritage significance of the item.

Financial Implications:

Inclusion of additional heritage items in Schedule 4 of LMLEP raises no financial implications to Council. Detailed studies are not expected to be required for this LEP amendment as Council already holds sufficient information on the significance of the proposed heritage items.

Risk and Insurance Implications:

Risks:

The level of risk attached to the preparation of a draft LEP is minimised through following due process as established by the EP&A Act, and Environmental Planning and Assessment Regulation 2000. Council's procedures for amending local environmental plans reinforce the statutory process. Consultation with government agencies and other stakeholders will occur in accordance with section 62 of the EP&A Act.

Listing sites and buildings of significance to the State and local community assists Council to fulfil obligations under the Environmental Planning and Assessment Act 1979, and the Heritage Act 1977. There are no known risks to Council.

Insurance:

Council's professional indemnity insurance coverage includes draft LEP preparation as a standard activity. Each of the amendments detailed below are seen to have no impact on premiums or other requirements of Council's insurance policies.

Listing additional local heritage items in schedule 4 has no implication for Council's insurance cover. Further development of each site remains subject to normal development assessment processes.

Options:

Council has obligations under the *Environmental Planning and Assessment Act 1979* and the *Heritage Act 1977* to ensure the preservation of cultural and archaeological assets for the enjoyment of present and future generations.

1. Council may resolve to amend LMLEP 2004 by adding the proposed additional local and State significant items in Schedule 4.

Option 1 is preferred, as it will enable protection of a range of WWII and religious sites and buildings. Listing enables owners to seek consideration under part 6 of LMLEP2004 for a change of use or adaptation of a building (even where the use would otherwise be prohibited) where it can be shown that permitting the development is beneficial to the long term preservation of the building or site.

2. Council may resolve not to amend schedule 4 of LMLEP 2004 with regard to local heritage items.

Option 2 is not preferred, as this would limit the potential for Council to protect a range of significant sites and buildings. Furthermore, some of the sites are already listed at a State level; the absence of these items in LMLEP 2004 may contribute to their respective owners inadvertently damaging the heritage values through lack of information and advice.

Conclusion:

Since 1993, Council has held information on more than 400 provisional heritage items in the City. The provisional items are considered to potentially have heritage significance but require further investigation to enable decisions to be made on whether they should be listed in LMLEP 2004 or removed from the list of provisional heritage items.

Since 1993 further information has been obtained on eleven (11) of the provisional heritage items. This further information indicates that heritage listing of these places and items is warranted. It is proposed that Council resolve to amend LMLEP 2004 to add these eleven (11) heritage items to Schedule 4.

Manager Integrated Planning - Sharon Pope

Internal Doc *No:*

Appendix *A: Individual inventory sheets for heritage items in report – 67 Pages*

**09STRAT015 Proposed Amendment to Schedule 4, Part 1 of Lake
Macquarie Local Environmental Plan 2004**

Folder No: F2006/02482

Report By: Heritage Support Officer - Mary Loder - Ext. 1422

Submissions and Committee's Recommendation:

No. 4

That Council:

- A. Prepare a draft amendment to Lake Macquarie Local Environmental Plan 2004, pursuant to section 54 of the *Environmental Planning and Assessment Act 1979*; and include the following:
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**Recommendations of the City Strategy Committee Meeting held on
16 February 2009**

