

Planning Services

Gateway Determination Report

LGA	Lake Macquarie
PPA	Lake Macquarie City Council
NAME	Increase building height for Charlestown Town Centre and Lake Macquarie Airport (0 homes, 0 jobs)
NUMBER	PP_2018_LAKEM_003_00
LEP TO BE AMENDED	Lake Macquarie Local Environmental Plan 2014
ADDRESS	Multiple land parcels in Charlestown Town Centre & Lake Macquarie Airport
DESCRIPTION	Various lots at Charlestown and Lake Macquarie Airport
RECEIVED	10 July 2018
FILE NO.	EF18/24820
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

EXECUTIVE SUMMARY

Description of planning proposal

The planning proposal seeks to amend the Lake Macquarie Local Environmental Plan (LMLEP) 2014 to change the maximum allowable building height under clause 4.3 (and as shown on the Height of Buildings Maps) of LMLEP 2014, for multiple land parcels in Charlestown town centre, Charlestown Square and Lake Macquarie Airport (LMA).

The purpose of the planning proposal is to alter the height controls over the subject sites to enable a more efficient development approval process for future development. Many planning considerations that arise through the change of use or zone do not arise in relation to this proposal which either reflects existing heights (at Charlestown Square) or results in a minor increase in height only.

Part 1A: Charlestown town centre

The planning proposal seeks to change the maximum building height in the B4 Mixed Use zoned areas in Charlestown town centre that were not specifically identified in *Lake Macquarie DCP – Charlestown Town Centre Area Plan* (DCP) from 10 metres to 13 metres. This is justified as the Business zoned areas are discussed generally in the DCP as being suitable for 3 storeys which equates to 13 metres. One B4 zoned area on Marie Street was left out of the planning proposal which has been included through consultation with Council.

Part 1B: Charlestown Square

Charlestown Square was approved under a separate development planning process at a greater height than the permitted 8.5 metres. The planning proposal seeks to

rectify to the height on the Height of Building map to reflect the approved height constructed on site. The height will be determined by survey and the planning proposal will be updated with the correct height prior to exhibition.

Part 2: Lake Macquarie Airport (LMA)

The planning proposal seeks to change the maximum building height over LMA from 8.5 metres to 15 metres to accommodate the construction of aircraft hangers which are predominantly over 12 metres in height. Several hangers have already been approved over 12 metres under clause 4.6.

The planning proposal seeks to make the following amendments;

Sites	Existing controls	Proposed amendment
Part 1A	Building height control 10-metres	Building height control 10-metre
Part 1B	Building height control 8.5-metres	Height to be determined by survey
Part 2	Building height control 10-metres	Building height control 15-metres

Table 1: Effect of the proposed amendments

Site description

The proposal affects three areas which are described below.

Part 1A: The Charlestown town centre sites are located on the eastern and western sides of the town centre at the interface between the B4 Mixed-use zone and R3 Medium Density zoned land. On the western side, the properties on Canberra and Chapman streets are characterised by single storey dwellings, commercial operations and places of public worship.

On the eastern side of the town centre the properties on Dickson and Frederick streets consist of one/two-storey dwellings, two/three storey multi-dwelling housing complexes and Charlestown Public

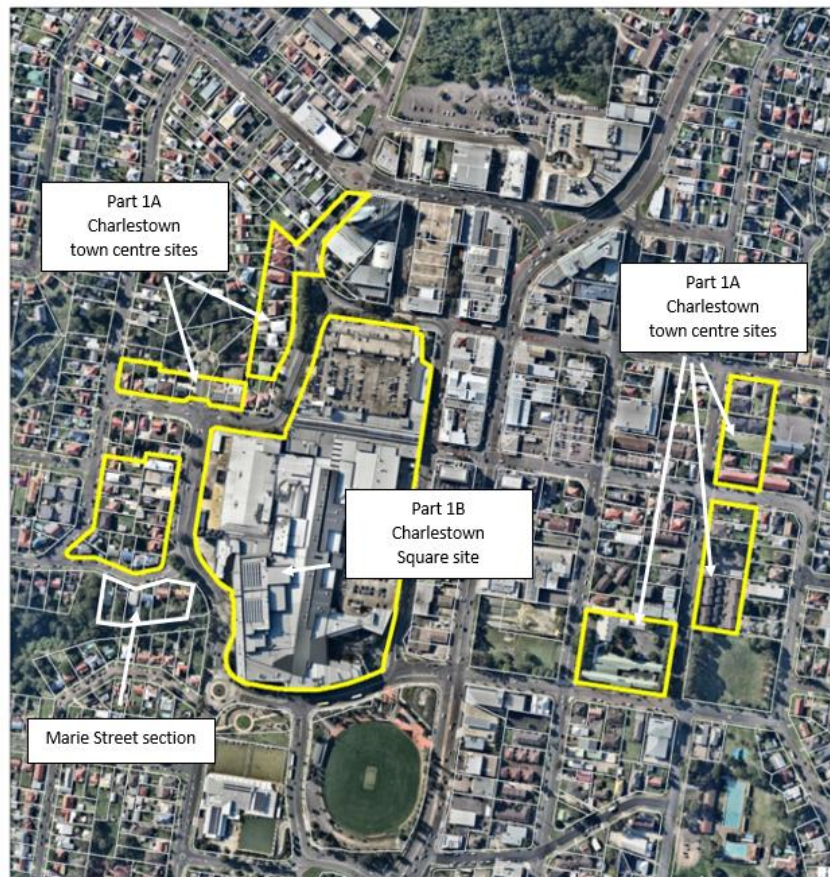


Figure1: Parts 1A and 1B subject site (base map source Planning Proposal)

School. The topography is undulating on both sides of the commercial core which conceals and accentuates the height of structures depending on the slope. A comprehensive list of property details is contained on the cover page table of the planning proposal (**Attachment A**).

An additional area along Marie Street Charlestown was not included in the planning proposal which was a Council oversight. Lake Macquarie Council agreed that street numbers 4, 6, 8, 10, 12, and 14 Marie Street are to be included. The justification for this inclusion is outlined below in the Need for the planning proposal.

Part 1B: The Charlestown Square site consists of the GPT owned shopping centre contained within Frederick Street to Ridley Street outlined in black in Figure 1.

Part 2: Lake Macquarie Airport

The site is on the western side of the Pacific Highway running east-west between heavily vegetated land to the north and south. The site is cleared and flat and contains a runway orientated towards Swansea Channel. The site accommodates the offices at the eastern entrance to the site and a small number of aircraft hangers are situated along the southern boundary adjacent to the offices.



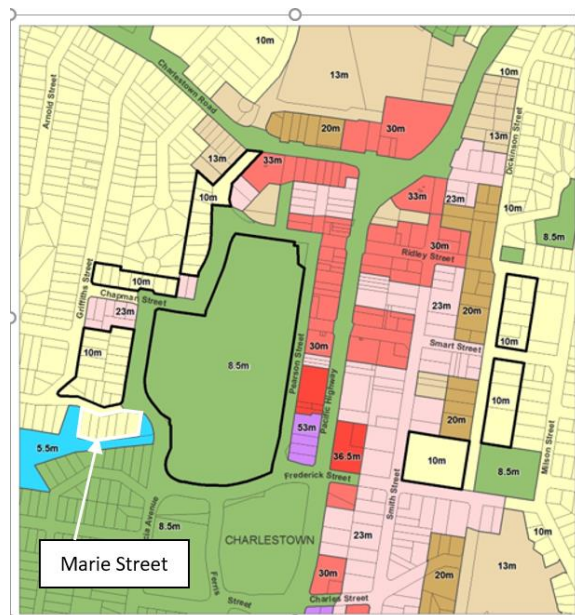
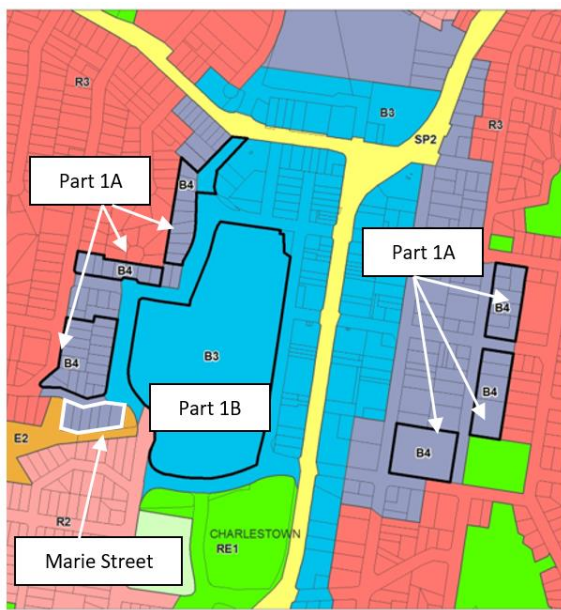
Figure 2: Part 2 subject site (base map source Planning Proposal)

Existing planning controls

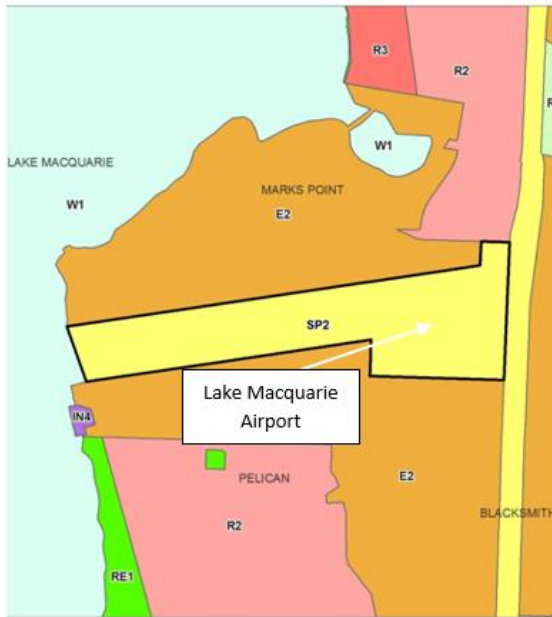
The existing planning controls that apply to the subject sites are listed in Table 1 below.

Sites	Land use zone
Part 1A	The Charlestown town centre sites are zoned B4 Mixed-use zone and a 10-metre existing height control applies under LEP 2014 Height of Building map.
Part 1B	Charlestown Square is zoned B3 Commercial Core and an 8.5 metre existing height control applies under LEP 2014 Height of Building map.
Part 2	Lake Macquarie Airport is zoned SP2 Infrastructure - Airport and an 8.5 metre existing height control applies under LEP 2014 Height of Building map.

Table 2: Existing planning controls



Figures 3.1 and 3.2: Parts 1A and 1B – existing zone and height maps (base map source Planning Proposal)



Figures 4.1 and 4.2: Part 2 – existing zone and height maps (base map source Planning Proposal)

Summary of recommendation

It is recommended that the matter proceed with standard conditions for community consultation and a specified timeframe. Also, to include additional conditions to update the planning proposal accordingly and forward it to the Department prior to exhibition;

- Determine the surveyed heights of the Charlestown Square site;
- Update (Map 6) in the planning proposal to remove reference to 100+m (RL) and replace with the surveyed height(s) after survey;
- Include street numbers 4, 6, 8, 10, 12, and 14 Marie Street, Charlestown in the Charlestown town centre amendment; and

PROPOSAL

Objectives or intended outcomes

The objectives of the planning proposal are adequately conveyed for community consultation. The planning proposal seeks to amend Lake Macquarie Local Environmental Plan 2014 to impose an appropriate building height on the subject sites to reduce red tape for future development applications.

Explanation of provisions

The explanation of provisions is presented in a clear manner which is appropriate for community consultation. The provisions are to amend the Lake Macquarie LEP 2014 Height of Buildings map for the subject sites.

In summary, the provisions of the planning proposal are:

Section 1	
Part 1A	Charlestown town centre - apply a 13-metre height limit to the identified B4 Mixed-use zoned areas
Part 1B	Determine the height of existing Charlestown Square buildings through survey and apply a height limit based on the reduced level (RL) of the existing buildings prior to exhibition. Note planning proposal Map 6 (page 19) indicates Charlestown Square height as 100+m (RL) then adds; **Charlestown Square height value subject to survey. Amend planning proposal to only include height after survey.
Part 2	Lake Macquarie Airport – apply a 15-metre height limit to the identified B4 Mixed-use zoned areas

Table 3: Proposed planning controls

Mapping

The proposal includes amendments to Lake Macquarie LEP 2014 maps the description of which in the planning proposal is adequate for community consultation.

The Lake Macquarie LEP 2014 Height of Building map requires amendment.

NEED FOR THE PLANNING PROPOSAL

The planning proposal is not the result of a study but the **Part 1A** sites are informed by the Charlestown Master Plan 2008 and Lake Macquarie DCP – Charlestown Town Centre Area Plan (DCP). (**Attachment B**). The DCP outlines the desired future structure of the town and identifies specific height in stories of all land in Charlestown Town Centre except for Charlestown Square and the subject sites which transition into the surrounding residential land. The surrounding residential area has a height limit of 10 metres as does the transition area (**Part 1A**) sites. The transition areas are zoned B4 Mixed Use zone.

According to the DCP, these sites were intended to permit 3 storeys to allow more integrated housing which is 13 metres. Through the conversion to the Standard Instrument, a blanket 10 metres was applied to all B4 Mixed-use zone land outside the areas identified in the DCP. The planning proposal seeks to address this error created by the conversion.

One area, on Marie Street zoned B4 Mixed Use zone and has a 10-metre height limit is not identified in **Part 1A**. This is considered appropriate as the

Storeys	Height (m)
2	10
3	13
4	16.5
5	20
6	23.0
7	26.5
8	30
9	33
10	36.5
11	39.5
12	43
13	46
14	49.5
15	53

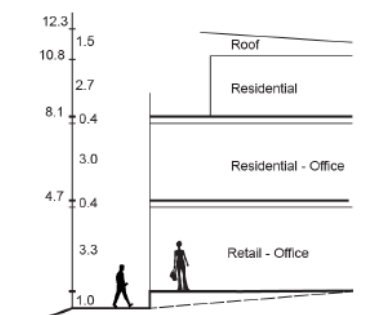


Figure 6: Extract from Charlestown Town Centre Area Plan 2014 (Revision 2018)

height increase is a moderate 3 metres above the current permitted 10 metres which will translate into one additional storey. This approach will maintain consistency in the B4 zone, reflecting the desired built form outlined in the DCP.

The Marie Street section has a 20% gradient and is in a T4 geotechnical zone under LMDCP 2014. These attributes are likely to require a geotechnical report and slope stability assessment for future development applications. The Marie Street section is suitable for a moderate additional height increase as these constraints can be addressed through the development assessment process.

Part 1B: Charlestown Square was also not a focus in the DCP as it underwent a separate approval process. Due to significant topographical variation across the site it is considered that reduced levels measured from a fixed datum are more appropriate in this instance than measured from natural or finished ground level. The planning proposal does not provide actual height(s) for Charlestown Square but undertakes to confirm the built height of the structures through survey and include these heights in the planning proposal prior to exhibition. This is an acceptable process as the heights identified through survey will be forwarded to the Department in the amended planning proposal prior to exhibition.

The proposed heights to be identified as a Reduced Level (RL) on the HOB map are complemented by the *building height* definition in LEP 2014 which clarifies that the RL heights are based on the Australian Height Datum (AHD).

building height (or height of building) means:

(b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,

Part 2 – Lake Macquarie Airport has an 8.5 metre height limit which is not a reasonable building control given the ancillary uses to an airport permitted on the site. The Airport has attracted recent investment in the form of aircraft hangers which typically require around a 12 metres height for the type of aircraft being accommodated on the site.

Council has recently issued development consent for three hangars on the site using clause 4.6 Exceptions to development standards for structure around 12.25 metres at an investment value of \$4.5m. Council also foreshadows two more applications for aircraft hangers over 10 metres at a value of \$2.9m.

The proposed 15 metre height limit is considered appropriate given the intention is to expediate the approval of structures permitted with consent in the SP2 Infrastructure for the benefit of the airports operation.

A planning proposal to amend the Height of building map is the most effective way to address these issues.

STRATEGIC ASSESSMENT

State

The planning proposal is not inconsistent with the state strategic planning framework.

Regional / District

Hunter Regional Plan 2036

The planning proposal is not inconsistent with the Hunter Regional Plan 2036 (HRP). Many of the HRP Directions are not directly relevant as the prime objective of the draft Plan is to facilitate streamlined development pathways for intended development. However, it is considered that the additional storey proposed for the **Part 1A** areas will contribute to Direction 20 – Revitalise existing communities and Direction 21 – Create a compact settlement.

The proposed **Part 2** amendment to LMA building height will contribute to Direction 9 – Grow tourism in the region as more tourist operators may be attracted to joining the existing tourist operators by improving the development approval process.

Draft Greater Newcastle Metropolitan Plan – 2036

The planning proposal is not inconsistent with the strategies of the draft GNMP which build on the Hunter Regional Plan 2036 directions. Specifically, the changes to building heights in **Part 1A** will increase the permissible heights in Charlestown town centre in a logical manner. Increasing capacity on these sites will contribute to Strategy 3.2 to unlock supply of priority housing release in strategic centres and deliver more housing closer to jobs.

Local

Lake Macquarie Development Control Plan 2014 – Charlestown Town Centre Area Plan (DCP)

Part 1A of planning proposal completes the intention of the DCP for the B4 mixed use zoned land. Street block controls are set out for the majority of land in the Business Zones in Charlestown town centre which shows the overall structure and spatial relationship between development and the street. The block controls are based on site context and existing street character which have informed the desired future character of the town centre.

The intention of the DCP was to devise suitable built form controls, including building height, on Business Zone land. The **Part 1A** subject sites were not specifically addressed in the block by block analysis but are captured by the intention to address built form in Charlestown town centre Business Zones.

Section 9.1 Ministerial Directions

Parts 1A and 1B – Charlestown town centre and Charlestown Square

4.2 Mine subsidence – Direction 4.2 applies to the Charlestown town centre site as it is in a mine subsidence district. According to clause 4, the relevant planning authority must consult with Subsidence NSW to determine if the scale of development is appropriate for the potential level of subsidence. Any provisions required by Subsidence NSW must be incorporated into the draft Plan prior to undertaking community consultation. Any inconsistency determined through consultation with Subsidence NSW can be addressed by the Minister's delegate upon finalisation of the draft Plan.

Part 2 – Lake Macquarie Airport

Direction 2.2 Coastal Management – The LMA site is identified as a high hazard flood control lot under LEP 2014. Council considers that the planning proposal is inconsistent with Clause (5) which states that development must not enable more intensive use of land affected by a coastal hazard. However, allowing the additional height (8.5 to 15 metres) is not a more intensive use for land uses and structures that are currently permissible with consent in the zone. Therefore, the planning proposal is consistent with the Direction 2.2.

Direction 3.4 Integration Land Use and Transport – Councils considers the planning proposal to be inconsistent with Direction 3.4 as the airport is not connected by public transport. However, allowing additional height on development already permissible with consent in the zone does not increase the airport's need for public or active transport. The planning proposal is not inconsistent with Direction 3.4.

Direction 3.5 Development Near Licensed Aerodrome. – the Direction does not apply as Lake Macquarie Airport is not a license aerodrome. According to the Department's aviation policy advisors, LMA is a minor airport in relation to National and State airport planning and regulation. This is reflected in the fact that it is neither certified or registered by Civil Aviation Safety Authority (CASA).

However, it is recommended that the planning proposal be referred to CASA, and Airservices Australia. Also based on further information provided by Council on 30 July 2018, an emergency services organisation also operates from the site and therefore NSW Emergency Services should be consulted.

4.1 Acid Sulfate Soils – Direction 4.1 applies to the planning proposal as LMA is affected by Classes 2 and 3 Acid Sulfate Soils. However, it is considered allowing additional height from 8.5 to 15 metres on land uses and structures that are permissible with consent in the zone is not a more intensive use. The planning proposal is consistent with Direction 4.1.

4.3 Flood Prone Land – Direction 4.3 applies as the planning proposal seeks to alter controls over Lake Macquarie Airport land which is flood prone. However, it is considered allowing additional height from 8.5 to 15 metres on land uses and structures that are permissible with consent in the zone is not a more intensive use. The planning proposal is consistent with Direction 4.3.

4.4 Planning for Bushfire Protection – Direction 4.4 applies as Lake Macquarie Airport is affected Category 1 vegetation and is within a 'vegetation buffer area'. Category 1 which is the highest risk category. Council is required to consult with NSW Rural Fire Service following receipt of the Gateway determination and prior to community consultation and take into account any comments made.

State environmental planning policies

SEPP 55 – Remediation of land

Council information indicates the LMA site has a 'potential' contamination listing due its historic and current land use which leads to a high probability of hydrocarbon contamination on site. The long-term use of the site as an airport implicates fuel as a potential source of this contamination. However, studies would need to be conducted to determine the full extent and cause of contamination, and this is considered more appropriate should the site changes to a more sensitive land use.

The proposed amendment will not permit a change of use of the land according to SEPP 55 clause 6(1). The proposal does not seek to include contaminated land in a particular zone and therefore a preliminary investigation report is not required as prescribed under clauses 6(2) and (3). Therefore, the planning proposal is consistent with SEPP 55 - Remediation of land. Any future development application is required to address clause 7 of the State Policy.

SEPP (Coastal Management) 2018 seeks to manage development in the coastal zone by protecting the environmental coastal assets and mapping 4 coastal management areas. The LMA is identified within the 'Coastal Environment Area', 'Coastal Use Area' and 'Proximity Area for Coastal Wetlands'. Development controls for coastal management areas relate to development and not a rezoning proposal.

The planning proposal is consistent with State policies.

SITE-SPECIFIC ASSESSMENT

Social

Built form impacts on the town centre and surrounding residential land are adequately addressed in the desired town structure and future character outlined in the DCP. The town centre structure expressed in the DCP assist in transitioning from the taller buildings in the commercial core; to moderately tall buildings (20-30 metres) secondary ring; to the **Part 1A** areas which act as a buffer to the surrounding residential. The proposed height increase is 3 metres higher than the 10 metres permitted in the adjoining residential zone. An additional storey permitted on the Part 1A areas is a modest increase from standard residential two/one storey buildings and is an orderly stepping stone of built form towards the commercial core of the town centre.

The planning proposal will deliver positive social impacts by providing new housing opportunities in Charlestown town centre and more development certainty for high order retail corporations who provide significant employment in the vicinity.

There are also social benefits for increasing the heights at the LMA which will provide more certainty in the development approval process for new and existing tourism operators at the Airport.

Environment

Vegetation communities

Parts 1A and 1B - There are no potential environmental impacts as a result of the proposed changes to height controls in Charlestown town centre.

Part 2 – There will be no impact on the surrounding Endangered Ecological Community identified as Swamp Sclerophyll Forest on Coastal Floodplains as a result of the proposed height increase.

Water quality

Although Lake Macquarie is sensitive to surface runoff from additional hard stand, increasing the building height will not contribute to cumulative effect on water quality. Any future development application will be required to address stormwater management and water quality impacts as the result of additional hard stand on the site.

Economic

The proposed changes to development controls at Charlestown town centre and Charlestown Square provide opportunities for additional mixed-use housing adjacent to a significant employment zone. It will provide development opportunities transitioning from higher commercial buildings to single and two-storey residential around the town centre and improve development pathways.

The change in height at the Airport will assist to attract other tourist operators which will have a flow-on effect to other ancillary sectors such as accommodation and hospitality.

Infrastructure

There is adequate infrastructure in Charlestown and Lake Macquarie Airport to accommodate the proposed height changes.

CONSULTATION

Community

Council has requested 14 days community consultation however as the proposed heights in the transition areas were not subject to the same public scrutiny as the sites identified in Charlestown Town Centre Area Plan 2014, a 28-day public exhibition is recommended to provide surrounding residential areas adequate opportunity to comment on the planning proposal.

Agencies

Consultation is required for the following Government agencies;

- Subsidence Advisory NSW regarding consistency with Section 9.1 Direction 4.2
- NSW Rural Fire Service regarding consistency with Section 9.1 Direction 4.4
- Civil Aviation Safety Authority
- Airservices Australia
- NSW Emergency Services

TIME FRAME

Council has asked for 4 months to complete the planning proposal process. A 6-month timeframe is recommended due to the potential for the matter be captured by the December holiday period and the need to allow for drafting the instrument.

LOCAL PLAN-MAKING AUTHORITY

Council has requested plan-making delegation. Given the nature of the proposal and that Council has indicated it is not a landowner of any of the subject sites, this can be supported. Council would still need to seek the Secretary's approval for the three Local Plan-making Directions where consistency has not yet been determined.

CONCLUSION

The proposal is supported to proceed with conditions that address the orderly change to development controls. Consultation with agencies and the community is required to address the proposed changes.

RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. **Note** that the consistency with section 9.1 Directions 4.2 Mine Subsidence and Unstable Land and 4.4 Planning for Bushfire Protection are unresolved and will require justification.

It is recommended that the delegate of the Minister for Planning determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the following public authorities:
 - Subsidence Advisory NSW regarding consistency with Section 9.1 Direction 4.2
 - NSW Rural Fire Service regarding consistency with Section 9.1 Direction 4.4
 - Civil Aviation Safety Authority
 - Airservices Australia
 - NSW Emergency Services
3. The time frame for completing the LEP is to be 6 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should be the local plan-making authority.
5. Before placing the matter on public exhibition planning proposal be updated to;
 - (a) Include the determined surveyed heights of the Charlestown Square site;
 - (b) Update provisions in the planning proposal (Map 6) to remove reference to 100+m (RL) and replace with the surveyed height(s) after survey;
 - (c) Include street numbers 4, 6, 8, 10, 12, and 14 Marie Street, Charlestown in the Charlestown town centre amendment; and

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14/8/2018

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