

PLANNING PROPOSAL

West Wallsend and Holmesville Heritage Conservation Area

Public Exhibition - September 2024

Proposed amendments to Lake Macquarie Local Environmental Plan 2014. The planning proposal explains the intended effect of the proposed changes and provides justification for the proposal.

ACKNOWLEDGEMENT OF COUNTRY

Lake Macquarie City Council dhumaan Awabakala ngarrakal yalawaa, yalawan, yalawanan.

Lake Macquarie City Council acknowledges the Awabakal people and Elders past, present and future.

Dhumaan ngayin ngarrakalu kirraanan barayidin.

We remember and respect the Ancestors who cared for and nurtured this Country.

Ngarrakalumba yuludaka bibayilin barayida baaduka.

It is in their footsteps that we travel these lands and waters.

Wording by the Aboriginal Reference Group. Translated by Miromaa Aboriginal Language and Technology Centre

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Summary table

Summary	Details
Name of draft LEP:	Amending West Wallsend and Holmesville Heritage Conservation Area and Height of Building Standard
Subject land:	Multiple private properties within the proposed West Wallsend and Holmesville HCA. Land in ownership of Lake Macquarie City Council Land in ownership of the NSW Department of Education Land in ownership of NSW Land and Housing Corporation Land in ownership of Hunter and Central Coast Development Corporation
Proponent:	Lake Macquarie City Council (LMCC)
Landowner:	Lake Macquarie City Council (LMCC) NSW Department of Education NSW Land and Housing Corporation Hunter and Central Coast Development Corporation Multiple private landowners within the proposed West Wallsend and Holmesville HCA.
Council reference:	RZ/2/2023
Planning portal reference:	PP-2024-4
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Date:	19 September 2024
Author:	Karin Coon – Strategic Planner
Supporting studies/ documents:	<ol style="list-style-type: none"> 1. Combined Working Report and Heritage Development Control Plan Study for West Wallsend Heritage Conservation Area and Holmesville Heritage Precinct (Umwelt, September 2024) 2. Draft Development Control Plan for the West Wallsend and Holmesville Heritage Conservation Area

Document Revision

Version	Date	Author	Details
1	Adam Kennedy	13/10/22	Scoping Proposal – Pre-Gateway
2	Adam Kennedy	29/05/23	Planning Proposal – Pre-Gateway
3	Karin Coon	19/09/24	Planning Proposal – Public Exhibition

Introduction

This planning proposal explains the intended effect of and the justification for amendments to the West Wallsend Heritage Conservation Area and Height of Building Map in *Lake Macquarie Local Environmental Plan 2014 (LMLEP2014)*.

The proposal aims to better protect the heritage values in West Wallsend and Holmesville, and provide clearer and more precise controls for development, with complementary changes proposed to the Local Environmental Plan and the Development Control Plan.

The planning proposal has been prepared in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979 (EP&A Act)* and the NSW Government's 'Local Environmental Plan Making Guideline'¹ (LEP Making Guideline).



A **Local Environmental Plan (LEP)** is a legal document that sets the rules for land use and development in a local government area. The *Lake Macquarie Local Environmental Plan 2014* provides the framework for land use in Lake Macquarie. It identifies land use zones and other planning controls such as maximum building heights and minimum lot sizes. It also identifies sensitive Aboriginal landscape areas, individual heritage items and heritage conservation areas such as the West Wallsend Heritage Conservation Area. LEPs are made by councils and approved by the state government.

The **Development Control Plan (DCP)** supports the LEP. The DCP provides controls to guide new development. The Lake Macquarie Development Control Plan 2014 contains both general controls and controls for specific land uses and areas. The current West Wallsend/Holmesville Heritage Precinct Area Plan is part of our DCP.

A **planning proposal** explains how and why a Local Environmental Plan (LEP) is proposed to be changed. A planning proposal is written for a wide audience: local and state government, experts in a range of fields and our community members. While a planning proposal needs to include technical terms, we aim to explain matters so they can be understood by everybody. We have added explanations of common terms and processes where appropriate.

A planning proposal can be initiated by a proponent or the council. The planning proposal describes the proposed changes, the expected outcomes, the possible impacts and the reasons for making the changes.

The 'Local Environmental Plan Making Guideline' provides a detailed description of the complete LEP Making process, including description of each stage, who is involved in the process and their roles and responsibilities. While its main purpose is to assist and guide councils, communities, state agencies, proponents and practitioners, it is a good place to start for anyone interested in learning more about planning proposals.

¹ <https://www.planning.nsw.gov.au/sites/default/files/2023-03/lep-making-guideline.pdf>

Document structure – how to read this document

This planning proposal is structured in six parts in accordance with the LEP Making Guideline:

Part 1 – Objectives and intended outcomes	Describes what is intended to be achieved by the proposal.
Part 2 – Explanation of provisions	Describes how the LEP is proposed to be changed.
Part 3 – Justification of strategic and site-specific merit	Describes how the proposal aligns with the strategic planning framework, the potential environmental, social and economic impacts and measures to lessen any harmful impacts.
Part 4 – Mapping	Shows the spatial intent of the planning proposal and the area to which it applies.
Part 5 – Community Consultation	Describes consultation requirements and outcomes with state agencies, authorities and the community.
Part 6 – Project Timeline	Describes the anticipated timeframe for completing the planning proposal.

Part 1 – Objectives and intended outcomes

Objective

- To amend *Lake Macquarie Local Environmental Plan 2014 (LMLEP 2014)* to provide statutory effect to the revised draft Development Control Plan for the West Wallsend and Holmesville Heritage Conservation Area.

Intended outcomes

- Ensure the long-term conservation of the local heritage significance, curtilage and built form of West Wallsend and Holmesville.
- Provide clearer, more accurate and simplified development controls within the draft Development Control Plan for the West Wallsend and Holmesville Heritage Conservation Area.

Part 2 – Explanation of provisions

Amendment applies to	Explanation of provisions
Heritage Conservation Area	Amend the West Wallsend Heritage Conservation Area described as “C3” Local in <i>LMLEP 2014</i> Sheet HER_008B (shown in Figure 1)
Height of Building Map	Reduction in the Height of Buildings from 10.0 metres to 8.5 metres in the R3 Medium Density Residential Zone in <i>LMLEP 2014</i> Sheet LZN_008B (shown in Figure 2) Reduction in the Height of Buildings from 10.0 metres to 8.5 metres in the E1 Local Centre in <i>LMLEP 2014</i> Sheet LZN_008B (Shown in Figure 2)

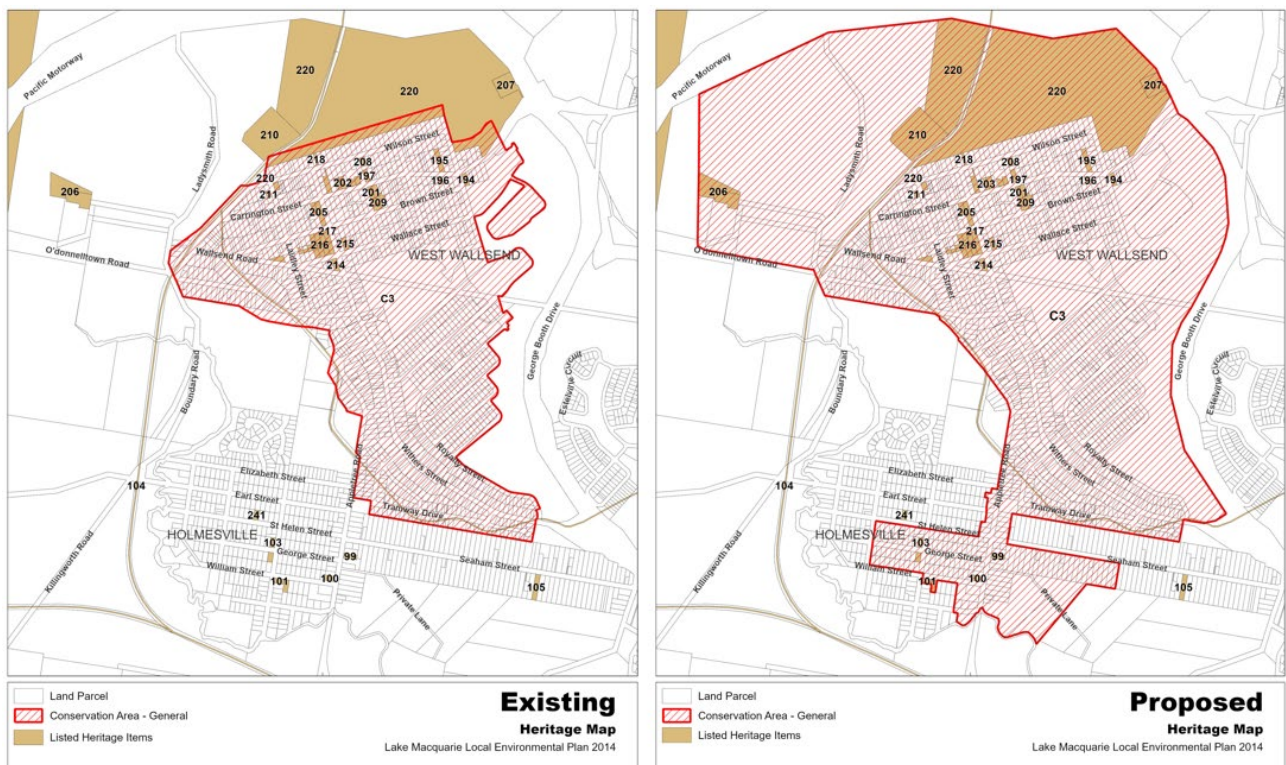


Figure 1 - Existing Heritage Conservation Area (left) and proposed Heritage Conservation Area (right).

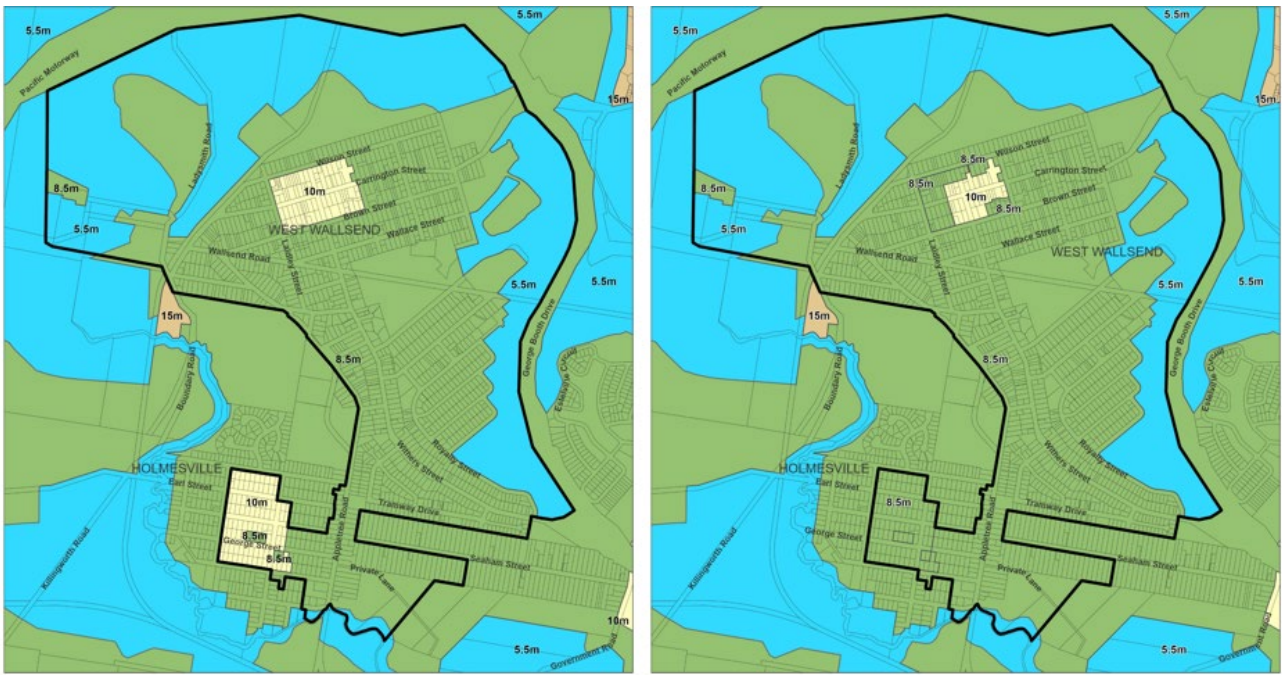
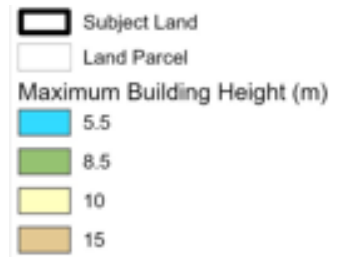


Figure 2 - Existing height of building map (left) and proposed height of building map (right).



Part 3 – Justification of strategic and site-specific merit



This part of the planning proposal contains a detailed assessment and justification for the proposal.

Sections A and B describe how the proposed amendment aligns with the strategic planning framework such as regional plans and government priorities to ensure that the proposal has strategic merit.

Sections C, D, and E identify potential environmental, social, and economic impacts of the proposal, any proposed measures to reduce negative impact, as well as the views of state and federal authorities and government agencies. In this way the planning proposal is to demonstrate that the proposal is suitable for the site and the site is (or can be made) suitable for the resultant development.

Section A – need for the planning proposal

1. Is the planning proposal a result of an endorsed Local Strategic Planning Statement (LSPS), strategic study or report?

Yes. The planning proposal is Council initiated and seeks to give effect to Action 5.1 within the endorsed Lake Macquarie Local Strategic Planning Statement, which states:

“Report to Council for exhibition a review of the Lake Macquarie Local Environmental Plan and Development Control Plan for the West Wallsend heritage conservation area and implement relevant actions from the West Wallsend Heritage Management Strategy and Streetscape Masterplan to conserve the heritage significance of the area and to manage development in the historic suburb”.

The planning proposal is also the result of recommendations within an independent consultant report prepared by Umwelt Environmental and Social Consultants named the Combined Working Report and Heritage Development Control Plan Study for the West Wallsend Heritage Conservation Area and Holmesville Heritage Precinct (Working Report).

Umwelt was engaged by Council to review the sections of the *Lake Macquarie Local Environmental Plan 2014 (LMLEP 2014)* and *Lake Macquarie Development Control Plan 2014 (LMDCP 2014)* that relate to the West Wallsend Heritage Conservation Area and West Wallsend and Holmesville Heritage Precinct. Umwelt’s work included thorough heritage research and field work, and an up-to-date evaluation of the heritage values in the area. Based on their findings, Umwelt provided recommended complementary changes to the Local Environmental Plan (LEP) and the Development Control Plan (DCP).

To give effect and be consistent with the Working Report recommendations and the draft revised West Wallsend and Holmesville Heritage Conservation Area Plan (draft Area Plan), a LEP Local Environmental Plan (LEP) amendment is required to ensure that the boundary of the draft Heritage Conservation Area is consistent with the draft Area Plan (Figure 1), and that the height of buildings development standards are modified (Figure 2)

Currently, the West Wallsend / Holmesville Heritage Conservation Area Precinct Plan under the DCP defines a precinct boundary which includes the West Wallsend Heritage Conservation Area (Figure 3). It is intended to remove this precinct boundary in its entirety as it provides no statutory effect. The West Wallsend Heritage Conservation Area boundary will be expanded and include part of Holmesville. Effectively, this will amend the name of

the Heritage Conservation Area to the West Wallsend and Holmesville Heritage Conservation Area.

Background

The heritage significance of West Wallsend is recognised by the town’s listing as a Heritage Conservation Area in *LMLEP 2014* and prior to that in the *Hunter Regional Environmental Plan 1989 (Heritage)*. West Wallsend and neighbouring Holmesville also contain a large number of individual local heritage listed items (Figure 1). The awareness of the cultural significance of West Wallsend and Holmesville and its setting and the importance of conserving heritage values is increasing given current development pressures.

The *Hunter Regional Environmental Plan 1989* designated the small coal mining village of West Wallsend as a Conservation Area. This enabled Council to apply development controls for the village under *Lake Macquarie Local Environmental Plan 1984*. The heritage significance of West Wallsend was later reinforced by the ‘Lake Macquarie City Council Heritage Study’ (1993), which instigated the transfer of listings from the Regional Environmental Plan to Council’s Local Environmental Plan in about 1996. That Study described the town as being “*one of the most significant historic townscapes in Lake Macquarie. It has a character clearly influenced by its association with an historic colliery, and strengthened by a picturesque setting on a long hillside above the colliery, with the brooding presence of Mount Sugarloaf in the background*”. The Study also recommended the expansion of a Conservation Area into parts of neighbouring Holmesville noting the “*coherent expression of the early development of the village...and strong association with the pioneer Holmes family*”.

During the preparation of Lake Macquarie Development Control Plan 2004, the recommendations from the 1993 Heritage Study to expand the conservation boundary were applied resulting in the establishment of the ‘West Wallsend and Holmesville Heritage Precinct’ (refer Figure 3). This Heritage Precinct was different in size to the Heritage Conservation Area in the regional plan, recognising the value of and aiming to protect Holmesville and the contributory scenic landscape setting.

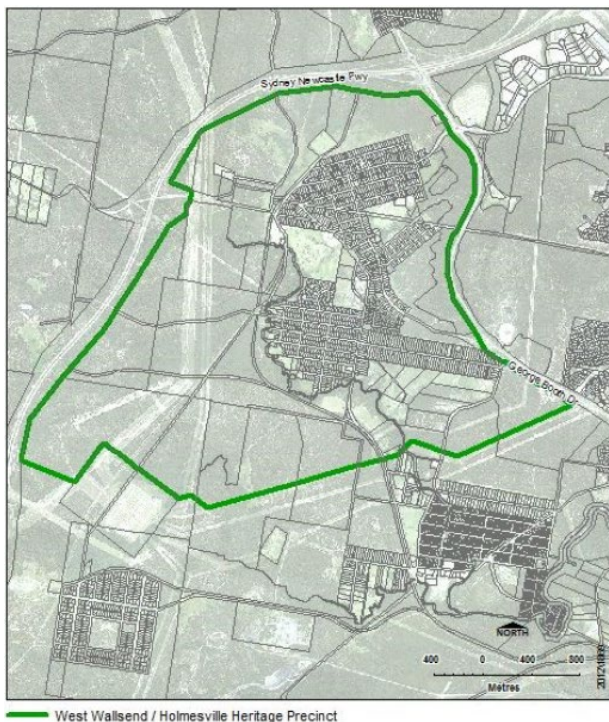


Figure 3 - West Wallsend and Holmesville Heritage Precinct (LMDCP 2014)

In 2012, the 'Hunter and Central Coast Joint Regional Planning Panel' approved the subdivision of Appletree Grove Estate ("Estate") (DA/113/2011), adjacent to the existing township of West Wallsend. A condition of consent (Clause 4B. Building Design Guidelines) was to register a public positive covenant on the title of all lots, to require all dwellings within the estate to comply with the 'Heritage and Urban Design Guidelines'. The guidelines were necessary to mitigate heritage and visual impacts of development. In 2014, the West Wallsend and Holmesville Background Heritage Study (2014) was prepared to determine whether the Estate had merit to be included in the West Wallsend Heritage Conservation Area. The 2014 Study recommended the Conservation Area be expanded into the Estate to ensure the provisions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP)² did not prevail over the conditioned 'Heritage and Urban Design Guidelines'. Council endorsed an amendment to *LMLEP 2014* to extend the Conservation Area to all stages of the Estate on 22 August 2016. The LEP amendment was gazetted on 16 September 2016 (Amendment No.18). The 'Heritage and Urban Design Guidelines' were also incorporated into the 'West Wallsend and Holmesville Heritage Area Plan' in *LMDCP 2014*.

The current West Wallsend Heritage Conservation Area in *LMLEP 2014* is based on the boundaries of the Conservation Area originally designated in the *Hunter Regional Environmental Plan 1989 (Heritage)* and Amendment No.18 to *LMLEP 2014*. To ensure appropriate contemporary measures are provided to protect the heritage values of the HCA a need was identified to review development control provisions relating to the HCA. This included the appropriateness of the HCA boundary.

West Wallsend and Holmesville are identified as an 'urban intensification' and partial 'future growth investigation area' within the Lake Macquarie Local Strategic Planning Statement. This strategy aims to balance the heritage values within the locality with the desire to provide more intensive development in and around the local centre. Proposed and conceptual critical infrastructure is also planned adjacent to the two villages such as the Lower Hunter Freight Bypass Corridor and National Very Fast Rail and Station. Responding to these conflicting pressures will be a key component of the revised area plan and proposed LEP amendment.

The current Lake Macquarie Development Control Plan 2014 (*LMDCP 2014*) provides limited guidance for development that relates to the West Wallsend Heritage Conservation Area. This has created uncertainty for developers. Negotiations over building design have at times resulted in delays in processing development proposals. Improving the clarity of controls would assist the development industry in preparing proposals and assessment by Council staff.

In 2020, Umwelt were engaged by Council to review and revise the sections of the *LMLEP 2014* and *LMDCP 2014* that relate to the West Wallsend Heritage Conservation Area and West Wallsend and Holmesville Heritage Precinct. The findings of the review and recommended revisions to *LMLEP 2014* and *LMDCP 2014* are provided in the Working Report (Appendix 1). In summary the recommendations included:

- Revisions to *LMDCP 2014* to afford a greater degree of cohesive protection to the overall character and setting of West Wallsend and Holmesville. Also, to mitigate development assessment issues currently being experienced in the existing area plan objectives and controls, which are limited and generalised. The recommended provisions will complement the LMCC Heritage Guidelines, providing specific contemporary objectives and controls.

² The Codes SEPP enable simplified pathways for certain developments, that may be 'exempt development' (minor building works that may be done without a development application) or complying development (a fast-track combined planning and construction approval).

- Amend the *LMLEP 2014*, including:
 - Changes to the HCA boundary, which will incorporate a landscape buffer to protect both the scenic landscape and Aboriginal significance of the Nationally recognised Butterfly Cave; and
 - Changes to the Height of Buildings Map, to conserve the unique built form of the local centre of West Wallsend and neighbourhood centre of Holmesville.

The Working Report has identified all heritage values associated within the proposed West Wallsend and Holmesville Heritage Conservation Area, including the identification of contributory elements. It recommends objectives and controls that are specifically intended to protect these identified heritage values, whilst providing direction for future development that enables the continued improvement and growth of the villages.

The Working Report acknowledges that not all the recommendations are directly consistent with regional planning documents/strategies/plans, particularly in terms of development density, vertical additions, and scale of development (height controls). However, the revised DCP controls and LEP amendments are intended to ensure that new development (including alterations and additions) within the proposed revised Heritage Conservation Area is undertaken in a way that protects, conserves and respects its identified heritage significance, and have been developed with consideration of the overarching planning context.

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

Council considered a number of LEP Amendment options to address heritage management and facilitate development in West Wallsend and Holmesville. The LEP Amendment options considered are described below.

Option 1: No change to the current Precinct Area Plan in the LMDCP 2014, and the Heritage Conservation Area in the *LMLEP 2014*.

Consideration was given to *not change* the current Heritage Precinct Area Plan boundary in the Development Control Plan or the Heritage Conservation Area boundary within Local Environmental Plan to enable more appropriate development outcomes.

With the introduction of the Codes SEPP, the provisions within the current Heritage Precinct Area Plan in LMDCP 2014 have limited effect. Whilst the Codes SEPP provisions do not apply to land identified within the West Wallsend Heritage Conservation Area, they do apply to areas within the Heritage Precinct Area Plan boundary, which includes a large portion of land beyond the two villages (Figure 3). Therefore, unless a building is listed as a local heritage item in *LMLEP 2014*, or is located within the HCA, the controls in the Development Control Plan have limited effect outside the HCA boundary.

As documented in the Working Report, Umwelt found that the current HCA boundary and the height of buildings provisions in *LMLEP 2014* are inappropriate to protect the heritage significance of the area. The character of West Wallsend and Holmesville is dependent on an existing building stock that is relatively homogeneous in height, form and materials. Changes to the prevailing height of one storey Miners cottages, and changes to current building form and materials used, will change the fundamental character of the area and diminish its heritage significance. The Working Report also highlights that the Heritage Precinct boundary in LMDCP 2014 is inconsistent with the Heritage Conservation Area Boundary in *LMLEP 2014*. The report states:

“the Heritage Precinct boundaries encompass a large area, the majority of which has not been previously assessed to be of or contain elements of heritage significance. The boundaries of the Heritage Precinct, like those of the existing HCA, appear arbitrary, and are not adequately justified by the historical record”.

The intention of the revised HCA boundaries, coupled with the application of significance gradings for individual properties in the DCP, is to allow for a greater degree of development control for Contributory 1 buildings, whilst enabling an appropriate degree of flexibility for the development of Contributory 2 and Non-Contributory properties. The application of significance gradings means that although more properties are included within the revised HCA, there is a greater degree of discretion available in how individual streetscapes and properties are managed and protected.

The revised HCA boundaries (refer to section 7.2 Heritage Conservation Area in the Working Report) is to better reflect:

- The spatial distribution of local heritage items and contributory properties.
- The heritage values of parts of Holmesville. The expanded area is consistent with the findings of the 1993 and 2014 heritage studies, that identified the need to expand into this township due to its local heritage significance.
- Significant views and vistas that contribute to the setting, character and significance of the area. The current HCA boundaries do not afford protection to all of the significant views and vistas identified. This visual analysis also warranted a landscape buffer to ensure the shared bushland setting surrounding the townships to the Sugarloaf Ranges were preserved, as this setting contributes strongly to the sense of place for both townships and is a defining element in the aesthetic.
- The historical subdivision layout and early development of West Wallsend and Holmesville.

It is therefore proposed to amend the HCA boundary in *LMLEP 2014* to enable a greater degree of development control for contributory properties and remove the Heritage Precinct Boundary in *LMDCP 2014*, to ensure consistency.

It is also proposed to amend permitted building heights to protect the heritage fabric of the West Wallsend and Holmesville centres.

Maintaining the current HCA and Heritage Precinct boundaries, as well as current permissible building heights is not the preferred option as this will not resolve current development pressures in the West Wallsend and Holmesville HCA.

Option 2: Retain the current zones and permissible uses, amend the HCA boundary and amend the Height of Buildings Maps to reduce the maximum height of buildings to mainly 8.5 metres in the HCA, with the exception of retaining 10 metre heights in part of the West Wallsend centre.

This is the preferred option.

The Working Report recommends retaining the current zones and permitted land uses but making a change to the Height of Buildings and the HCA boundary.

The Working Report acknowledges that components of the recommendations are not directly consistent with regional planning documents/strategies/plans, particularly in terms of development density, vertical additions, and scale of development (height controls).

The Working Report recommended controls for the draft Area Plan and LEP amendments are intended to ensure that new development (including alterations and additions) within the HCA is undertaken in a way that protects, conserves and respects its identified heritage significance. Significantly increasing the density and scale of development within the HCA poses a direct and significant risk to its integrity and significance, and is not appropriate to its identified heritage values.

More intensive development can still occur within the HCA, provided that it is designed with regard for the heritage significance of the area, its streetscapes, and associated contributory elements.

The proposed revisions and amendments predominately seek to limit the verticality of development/additions, but do not significantly limit horizontal development where this maintains the streetscape presentation of contributory elements and the impression of a predominant low-scale of development from the public domain.

This can be achieved through locating additions to the rear of existing dwellings, utilising underlying topography, where appropriate, and considering lines of sight from the public domain (e.g. ensuring that multiple storey additions or new dwellings to the rear of existing dwellings are not visible from the public domain). Clear and detailed guidance in this regard is provided within the revised DCP controls.

Analysis shows that the predominant infill development type within West Wallsend and Holmesville has been subdivision, one storey secondary dwellings, or dual occupancy housing developments. As of January 2023 Council's Urban Development Program identifies 32 developments totalling 55 dwellings in various stages of the development process. During the past 10 years there has only been one development which has extended to three-storeys which is a seniors living housing complex adjacent to the West Wallsend Golf Course known as Sugar Valley Lifestyle Estate (DA/1930/2018), which is land outside of the current West Wallsend Heritage Conservation Area.

Development potential within the villages indicates that both under the current, and proposed planning framework, one and two storey multi dwelling housing developments are likely to remain the most viable development outcomes. The reduction in the maximum building height from 10.0 metres to 8.5 metres is unlikely to have a material impact on development outcomes in the local centre of Holmesville and parts of West Wallsend.

The West Wallsend local centre is proposed to retain some of the 10-metre height of building limit within the Carrington and Withers Street axis. This was the recommended approach as the commercial axis of the centre is strongly defined by historic larger-scale development, which presents as two to three storeys in height owing to generous parapets and other design features (refer Figure 4).



Figure 4 - The Carrington and Withers Street Axis area in West Wallsend where the height of existing development is generally greater than one-two-storey

Additionally, if the site coverage was able to meet the merit-based assessment of the revised draft DCP controls and be commensurate with the current site coverage provisions in the LMDCP 2014 of 65% (for Residential Flat Buildings (RFB's) and Multi Dwelling Housing in Zone R3 Medium Density Residential and Zone E1 Local Centre), then the yield on the site is very similar as highlighted in the tables below.

For residential flat building developments, a reduction in the yield may be expected from approximately ten to seven dwellings on sites where the building height is reduced from three to two storeys and site coverage is retained at 45%. However, if the site coverage was increased to 65%, based on a merit assessment on heritage grounds in compensation for the reduction in the height, the estimate yield would remain at 10 dwellings.

Table 1 - Estimated yield for different building height and site coverage scenarios – residential flat building

Residential Flat Building			
Site Coverage	45%	45%	65%
Storeys	3	2	2
Site Area	1,024	1,024	1,024
Total Est. Dwelling Yield	10	7	10

For multi dwelling housing developments, the reduction in building heights from three to two storeys will not have a detrimental impact on yields. However, if site coverage was increased from 45% to 65%, it is expected that yield would increase from three to four dwellings for single storey developments, and from six to nine dwellings for two storey developments.

Table 2 - Estimated yield for different building height and site coverage scenarios - multi dwelling house

Multi Dwelling Housing				
Site Coverage	45%	65%	45%	65%
Storeys	1	1	2	2
Site Area	1,024	1,024	1,024	1,024
Total Est. Dwelling Yield	3	4	6	9

The Working Report proposes to vary the height of building provisions in *LMLEP 2014* that apply within the revised HCA boundaries to better reflect and conserve the predominate scale and character of the area from which its identified significance is in part derived.

A review of the permitted uses within both Zone R3 Medium Density Residential and Zone E1 Local Centre has found that all permissible uses could still be developed with a reduction in height from 10.0 metres to 8.5 metres. The potential density of a proposal is not necessarily determined by height alone. Specifically, for conservation areas the mass, bulk and height of proposed buildings can have a detrimental effect on the existing adjoining buildings and streetscape character and fabric of the conservation area.

Potential permitted uses such as shop top housing in the E1 Zone and residential flat buildings in both the E1 and R3 Zones can still be developed in a horizontal manner, at a

reduced height. Additionally, a reduction in height does not disable the use of Clause 4.6 of the LEP (Exceptions to development standards) if the proposed variation is appropriately justified. In some instances, and dependant on the slope of the land, it would be possible to achieve a greater height of building than the proposed maximum of 8.5 metres. For example, to the rear of the development lot, where the height does not interfere or compromise the existing streetscape or the proposed Contributory Building gradings of the site development, or that of adjoining buildings.

In addition, the 10-metre height limit will be majority maintained along the commercial axis of Withers and Carrington Streets in West Wallsend due to the existing built form (i.e. parapets) presenting at a 3-storey height limit.

Provision of changes to the development standards for the height of buildings was considered as the most appropriate intervention without a substantial decrease in the potential density within the zones, and therefore being more consistent with the s.9.1 Ministerial Direction, i.e. not containing provisions that would reduce the permissible residential density of land.

The Working Report also proposes to amend the boundaries of the West Wallsend Heritage Conservation Area to better reflect the spatial distribution of contributory properties (graded as Contributory 1 and 2), and to capture significant views and vistas that contribute to the setting, character and significance of the area. This includes extending into part of Holmesville.

The consultants indicate that the existing boundaries of the Heritage Conservation Area do not include land in Holmesville, the northern extent of West Wallsend where the former Colliery 1 mine site is located, nor account for the bushland setting. Additionally, the existing boundaries do not strictly follow cadastral boundaries, and do not include all of the individual items (including residential properties) identified in the 1993 Heritage Study as being of heritage significance. The boundaries of the existing HCA appear arbitrary and as such, the revision of the existing HCA boundaries is considered warranted.

Overall, the planning proposal will strengthen planning controls on the setting of the neighbouring heritage items and so contribute to ensuring their heritage significance and character are protected.

Option 3: Retain the current zones, amend the HCA boundary, and provide an additional local provision to Part 7 of the LMLEP 2014 that limits development types and building heights.

Consideration was given to the provision of an additional local clause to Part 7 Additional local provisions of *LMLEP 2014* to enable specific provisions to apply within the existing R3 and E1 Zones of West Wallsend and Holmesville without altering provisions in other areas of the City.

A local clause that limits building heights and some uses such as RFB's or Multi Unit Dwellings within the R3 and E1 zones would enable assessment of more compatible land uses within the sensitive location of the HCA. It would not otherwise be possible to exclude specific land uses from the current LEP zones as the uses are permissible subject to a merit assessment.

An additional local clause is a possible mechanism that could be considered but is not the preferred option as the permitted land uses which currently exist in the R3 and E1 zones can be accommodated by a change to the Height of Buildings only, as discussed in Option 2 above.

With respect to the current HCA boundary, as with Options 1 & 2, it is considered based on the Consultant's report that retaining the current HCA boundary would not be a preferred outcome.

Option 4: Retain the current zones and permissible uses, amend the HCA boundary, retain the current Height of Buildings Maps and provide an additional local provision to Part 7 of the LEP for three storey development.

Consideration was given to retain the current zones and permissible uses, retain the current Height of Buildings Maps, amend the HCA boundary and include an additional local provision that would apply to three storey development.

An additional local provision to Part 7 of the *LMLEP 2014* could provide specific LEP controls for three storey development without a change to the height of buildings Map. This clause could refer the draft DCP requiring a views analysis within the streetscape and heritage assessment of the proposed development to evaluate how the proposed development would fit within the streetscape and character of the heritage area.

However, it is considered that the current provisions in the LEP 2014 are satisfactory and that the controls in the draft DCP will be able to be referred to for development of up to three storeys at the rear of the lot (where the grade of the lot allows). There appear no significant benefits from applying this option.

Option 5: Retain the current zones and permissible uses, amend the HCA boundary and remove the height of building controls within the HCA.

Consideration was given to the retention of the current zones and permissible uses, amend the HCA boundary and remove the height of building controls within the HCA.

This option would rely on a merit-based assessment of development proposals, that considers the impact on the existing streetscape and adjoining buildings. An example of this type of provision exists for the Newcastle City Council Residential HCA's where no prescribed building heights or floor space ratios are given. This is the case with the Hamilton Residential Precinct HCA, where the majority of the HCA is zoned R3 Medium Density Residential, and the Glebe Road Cottages HCA also zoned R3. The purpose as stated within the DCP for excluding the heritage conservation areas is to ensure that new development responds to existing character and ensures that contributory buildings are conserved and protected.

Relevant examples from other HCAs were also investigated. Their heritage significance derives from a building stock of predominantly single-story buildings and not large floor plate industrial or commercial building stock, and includes the Maitland City Wide Development Control Plan 2011 which has several Heritage Conservation Areas - Bolwarra, Central Maitland, Morpeth, and the Cessnock DCP 2010 which contains the Branxton heritage village.

However, there is concern that this approach will over time fragment the HCA's relevance. Merit assessment relies on subjective assessment which provides little clarity and certainty for developers and difficulties for assessing officers. Staff decisions, at times can be inconsistent resulting in ad hoc development outcomes.

This is a possible option, however, it is inconsistent with the current built form in West Wallsend and Holmesville and may conflict with the conservation objectives of this planning proposal.

Option 6: Rezone the subject land to another zone to restrict particular uses from being considered in the zone, and amend the current HCA boundary.

Consideration was given to a differing zone such as an Environmental zone and amending the current West Wallsend Heritage Conservation Area boundary.

An Environmental zone such as Zone E3 Environmental Management or Zone E4 Environmental Living would enable a reduction of permissible uses and ensure that the heritage character and qualities are not compromised by inappropriate development.

Environmental zones provide for landuses which would normally be associated with land which have scientific, ecological, cultural or aesthetic qualities. These zones are not usually applied to urban areas that support residential and commercial development, such as occurs in the West Wallsend Heritage Conservation Area. Urban development in environmental zones is likely to conflict with zone objectives that include the protection, management and restoration of areas with special ecological, scientific, cultural or aesthetic values; and providing for a limited range of development that does not have an adverse effect on those values.

The residential and business zones in West Wallsend and Holmesville have existed since the Northumberland Plan and therefore to reduce the current zone entitlements by back zoning to a more restrictive zone would be contrary to a s.9.1 Ministerial Direction – Section 6.1 Residential Zones where it states that an LEP amendment “must not contain provisions which will reduce the permissible residential density of land”.

With respect to the current HCA boundary, based on the findings and recommendations of the Working Report, retaining the current boundary is not the preferred outcome.

Section B – relationship to the strategic planning framework

Consistency with regional plans and strategies

3. Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?

Hunter Regional Plan 2041

The objective of the Hunter Regional Plan is to deliver a long-term vision for the region with clear objectives and approaches to pursue the vision. The regional vision of the Hunter seeks to continue to be the leading regional economy in Australia, connected to Country with a vibrant metropolitan core.

The following objectives, outcomes, strategies and districts are of specific relevance to the planning proposal:

Objective 5: Plan for ‘nimble neighbourhoods’, diverse housing and sequenced development

The Objective aspires to plan for neighbourhoods to become more nimble to accommodate different demographics, and that support people to grow older in communities they know and allow people to stay in communities they grew up in as kids.

In support of the Objective, Strategy 5.2 aspires for optimal urban densities in new and existing neighbourhoods to achieve a 15-minute neighbourhood. An indicative minimal optimal urban density of 30-40 dwellings per hectare is targeted for development proposals in general suburban or inner suburban contexts.

Although the proposal deviates slightly from this target, it still meets the following relevant performance outcomes:

1. Efficient use of existing infrastructure and services
4. Densities support local business and public transport services
7. A diversity of housing provides for choice, independence and affordability to match the specific needs of different communities

The West Wallsend and Holmesville area has historically been a lower density township due to its isolation from other economic centres and limited transport infrastructure. A lower urban density is considered appropriate due to this historical context of below 25 dwellings per hectare. This density is also considered appropriate to ensure the existing character of West Wallsend and Holmesville is maintained. As stated throughout Section 2 of this proposal, the proposed reduction in height will not preclude the potential for horizontal urban density, prohibiting denser residential land use and therefore the efficient use of existing infrastructure and services, nor eliminate the Clause 4.6 variation option for future applicants. This reduction in height may be viewed as accounting for the need to consider neighbourhood character.



The proposal will not impact on the type of housing use under *LMLEP 2014*, and the draft DCP will apply building controls to ensure future development within the revised HCA is sympathetic to the heritage character and significance of West Wallsend and Holmesville. This ensures that housing development can continue to provide for choice, independence and affordability to match the specific needs of the community whilst also ensuring the ongoing management and heritage character of West Wallsend and Holmesville.

Objective 6: Conserve heritage, landscapes, environmentally sensitive areas, waterways and drinking water catchments

The Objective aspires to enhance and preserve the heritage that is fundamental to the region's cultural economy. This is achieved by supporting the regeneration of heritage assets, and the adaptive re-use of places and spaces that strengthens vibrant neighbourhoods, centres, towns and villages, with beautiful heritage, connections with nature and a strong sense of community.

Strategy 6.6 notes the following, '*Local strategic planning will ensure all known places, precincts, landscapes and buildings of historic, scientific, cultural, social, archaeological, architectural and aesthetic significance to the region are identified and protected in planning instruments.*'

The proposal is consistent with this Strategy as the application of the revised HCA ensures that the heritage character and significance of the West Wallsend and Holmesville centres are protected under *LMLEP 2014*. The proposal aspires to a vibrant and unique heritage character for the West Wallsend and Holmesville centres. Mixed-uses and denser land users will continue to be permitted within the E1 and R3 Zones, while complementing the local character and heritage assets.

Part 3 – District Planning and Growth Areas

The proposal is located on land contained within the West Wallsend and Holmesville Precinct of the North West Lake Macquarie regionally significant growth area. The following place strategy outcomes apply:

- Hunter and Central Coast Development Corporation and Council to investigate suitable land uses for land zoned for transition.
- Support and progress proposals for critical infrastructure such as the Lower Hunter Freight Corridor and potential for fast rail.
- Ensure new development complements and enhances the West Wallsend Heritage Conservation Area.
- Recognise, manage and conserve the Aboriginal cultural heritage significance of Butterfly Caves, Mount Sugarloaf and Mount Sugarloaf Range.

The planning proposal is consistent with the place strategy outcomes as it establishes mechanisms to ensure that new development complements and enhances the West Wallsend Heritage Conservation Area, without impinging on the development of critical infrastructure projects, and the ongoing conservation of items and areas of Aboriginal cultural heritage significance.

Greater Newcastle Metropolitan Plan 2036

The Greater Newcastle Metropolitan Plan sets out strategies and actions that will drive sustainable growth across the Lake Macquarie City area. The Plan also helps to achieve the vision set in the Hunter Regional Plan 2041. The proposal is consistent with the Greater Newcastle Metropolitan Plan.

West Wallsend and Holmesville are located on the western periphery of the North West Lake Macquarie Catalyst Area. It is within the Metro Frame, is partially within a Housing Release Area and within an Existing and Urban Area with Infill Opportunities.

The proposal is consistent with **Strategy 9 ‘Plan for jobs closer to homes in the metro frame’** - Actions 9.1 and 9.2 – developing housing and job targets for strategic centres and enabling business growth in residential zones close to centres and transport. West Wallsend and Holmesville is not nominated as a strategic centre in the GNMP and the proposal continues to enable business growth in the local centre and the HCA.

The proposal is consistent with **Strategy 10 ‘Create better buildings and great places’** - Action 10.1 at dot point 3. The proposal, along with the draft DCP, promotes innovative approaches to the creative re-use of heritage places, ensuring good urban design preserves and renews historic buildings and places.’

The proposal is consistent with **Strategy 11 ‘Create more great public spaces where people come together’** - Actions 11.1 and 11.12. The proposal supports the retention of existing land uses and therefore does not impede on the activation of public spaces centres that are suitable for community events like markets, festivals, commemorations and assemblies. The proposal also ensures that future development within the revised HCA is sympathetic to the heritage character and significance of West Wallsend and Holmesville. This ensures the ongoing identification and protection of historic heritage items.

The proposal is consistent with **Strategy 16 ‘Prioritise the delivery of infill housing opportunities within existing urban areas’** - Action 16.1. The proposal supports new housing in existing urban areas. Although the proposal is not located within a strategic centre infill housing is supported in the proposal, with heights of buildings limited to conserve the heritage of the local centre. Future housing design will be assessed against the revised draft DCP.

The proposal is consistent with **Strategy 19 ‘Prepare local strategies to deliver housing’** - Action 19.1 – delivery of infill housing. Council’s Housing Strategy reflects the priority to deliver infill housing opportunities within the existing urban areas and has been endorsed by the DPE. The Housing Strategy actions the following: ‘actively support and pursue housing in the North West Lake Macquarie Catalyst Area including the West Wallsend urban intensification corridor’. Although not in the North West Lake Macquarie Catalyst Area, West Wallsend and Holmesville will play a role in supporting change in the wider area. The proposal will not impact upon housing opportunities within the West Wallsend intensification corridor, as much of that land is not within the HCA. Additionally, land within the HCA will still be able to achieve medium density outcomes at a scale that reflects the heritage values of the area.



Consistency with local plans and strategies

4. Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?

Lake Macquarie Local Strategic Planning Statement

Yes. The planning proposal is consistent with the Lake Macquarie Local Strategic Planning Statement (LSPS). The LSPS seeks to guide long-term land use and focus investment and growth within key growth areas. This will be achieved by LSPS planning priorities and supportive actions.

West Wallsend and Holmesville are within the North West Growth Area and are identified specifically within the Glendale – West Wallsend Urban Intensification Corridor, which seeks to increase supply of diverse and affordable housing. The western edge of this corridor is a potential location for a Very Fast Train station, and proposed Lower Hunter Freight Bypass Corridor that could support surrounding intense housing and employment, while the high heritage and biodiversity values within this area will be retained and contribute to the overall liveability. The proposal will continue opportunities for more medium density residential development, affordable housing choice, and new critical infrastructure while balancing and conserving the significant local heritage of both townships both in built form and natural scenic setting through provision of a landscape buffer, which makes part of the HCA. This landscape buffer also incorporates the Nationally significant Aboriginal Place of the Butterfly Cave.

Additionally, the North West Growth Area specifically sets place directions for the West Wallsend Area, this proposal and draft DCP is consistent and seeks to give effect to the following direction:

- New development complements the character of West Wallsend Heritage Conservation Area
- Human-scale, pedestrian-friendly development occurs within the centre along Carrington and Withers streets
- The Aboriginal cultural heritage significance of Butterfly Caves, Mount Sugarloaf and Mount Sugarloaf Range is recognised, managed, conserved and interpreted in cooperation with the local Aboriginal community
- The values of West Wallsend Heritage Conservation Area are protected and enhanced.

The proposal will contribute to the following principles associated with planning priority 5: a city of progress and play – where people come together in natural and vibrant public spaces:

- Promote innovative approaches to the adaptive re-use of heritage places and buildings
- Protect and conserve the natural, built and Aboriginal cultural heritage of Lake Macquarie.

The proposal will also give direct affect to Action 5.1:

Report to Council for exhibition a review of the Lake Macquarie Local Environmental Plan and Development Control Plan for the West Wallsend heritage conservation area and

Part 3 – Justification of strategic and site-specific merit



implement relevant actions from the West Wallsend Heritage Management Strategy and Streetscape Masterplan to conserve the heritage significance of the area and to manage development in the historic suburb.

Lake Macquarie Housing Strategy

The Lake Macquarie Housing Strategy aims to deliver a diverse mix of affordable and sustainable housing supply close to services, facilities and infrastructure to meet the growing population's housing needs.

The Housing Strategy has five housing priorities and supporting objectives. They are informed by evidence-based analysis, and technical reports and studies. The priorities for housing over the next 15-20 years are supported by the actions outlined in the strategy.

The proposed amendments to height of buildings and changes to the boundary of the HCA, as well as the associated proposed DCP amendments are generally consistent with the aspirations and housing priorities of the Housing Strategy.

The housing priorities that apply to the proposal include:

Housing Priority 2: Increase diversity and choice in housing

The proposal will not impact on the type of housing use under *LMLEP 2014* ensuring housing development can continue. The draft DCP will apply building controls to ensure future development within the revised HCA is sympathetic to the heritage character and significance of West Wallsend and Holmesville.

Housing Priority 3: Facilitate infill opportunities for housing in proximity to jobs and services

The Housing Priority 3 objectives relevant to this proposal are as follows:

- Prioritising the delivery of housing within areas mapped as having a high liveability rating and within the existing urban footprint.

The West Wallsend and Holmesville areas are mapped as having a low to medium liveability score due to its urban fringe location and limited transportation links, therefore it is not a high-priority to facilitate housing compared to other area across the City.

- Providing housing supply, choice and affordability, in areas with more access to jobs, services and public transport.
- Ensuring infill development is sensitive to the character of existing places.

The West Wallsend HCA is one of three Heritage Conservation Areas in Lake Macquarie. The Catherine Hill Bay HCA is State Listed, and the Teralba HCA is also Locally Listed. These three Heritage Conservation Areas were listed in the *Hunter Regional Environmental Plan 1989* and have been included in subsequent iterations of LEP Planning Instruments to date.

Of importance for the revised West Wallsend and Holmesville HCA is that any future infill development is sensitive to the character of existing places. This does not negate development potential for West Wallsend and Holmesville, which can provide for medium density housing and additional services. However, it does mean that future development must consider the historic and cultural values of the revised HCA and ensure that development respects, is sensitive to and sympathetic to that historic character.



The Working Report (Umwelt 2024, p.58 and 63) highlights:

West Wallsend

The predominate height limit across West Wallsend is 8.5 m. This allows for development up to two storeys in height, depending on design. Within a portion of West Wallsend, the permissible development height rises to 10 metres; this portion is concentrated on the principal commercial axis of the suburb, as defined by the intersection of Carrington and Withers Streets. It extends as far north as Wilson Street, as far south as Brown Street, as far west as Laidley Street and as far east as Hyndes Street.

The commercial axis of West Wallsend is strongly defined by larger-scale development, which presents as two to three storeys in height (owing to generous parapets and other design features).

Holmesville

The predominate height limit across Holmesville is 8.5 metres. This allows for development up to two storeys in height, depending on design. Within a portion of Holmesville, the permissible development height rises to 10 metres; this portion is concentrated on the principal commercial axis of the suburb, as defined by the intersection of George and Charlotte Streets, and extends as far west as Mary Street, and as far north and south as Elizabeth Street and William Street. With the exception of the handful of isolated examples, almost all development within Holmesville is single storey.

Within the area where the current permissible development height is 10m, the only building that is not single storey is the 'Holmesville Hotel'. Aside from the 'Holmesville Hotel', there is no real infrastructure, services or commercial tenancies present that would adequately support higher-density residential development in this area. With regards to commercial development, the size of Holmesville and the proximity of West Wallsend (and the services present there) means it is unlikely that a high demand for large-scale commercial offerings within Holmesville itself will eventuate. For these reasons, the area with a height limit of 10 metres is considered to be inappropriate and unwarranted within the suburb of Holmesville.

Overall, it is recommended to vary the HCA boundary as well as the height of building provisions in *LMLEP 2014* that apply within the revised HCA boundary to better reflect and conserve the predominate scale and character of the area from which its identified significance is in part derived.

An analysis of permissible uses in West Wallsend and Holmesville was undertaken for Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone E1 Local Centre. The analysis shows that all permissible uses with consent in particular (residential accommodation, residential flat buildings, shop top housing, bed and breakfast and hotel or motel accommodation) can all be considered for approval even with a reduction in height across the R3 and E1 zones. This is possible because the development of the individual land uses within the three zones is not limited by height alone. However, development must take into consideration the objectives of the zone and how the proposal fits into the context of surrounding streetscape, and for this specific location, the heritage conservation characteristics as well.

Councils' Economic Strategist has also indicated that one and two storey multi dwelling housing will most likely remain the most viable development, and that the reduction in the height of buildings from 10.0 metres to 8.5 meters, in particular for Holmesville, is unlikely to have a material impact on development outcomes. For multi dwelling housing developments, the reduction in building heights from three to two storeys, for standard residential lots of some 1,000 square metres, will not have a detrimental impact on yields. Additionally, if site coverage was increased from 45% to 65% on merit assessment and

based on heritage grounds, it would be expected that the yield could increase from three to four dwellings for single storey developments, and from six to nine dwellings for two storey developments.

The Housing Strategy sets the specific vision for West Wallsend and Holmesville area, which forms part of the North West Growth Area:

Completion of residential housing release areas in Edgeworth, Cameron Park and West Wallsend area

The proposed amendments mainly apply to the existing urban area of West Wallsend and Holmesville and will not impact areas identified for future housing release to the south of Holmesville. Remaining housing release areas in West Wallsend known as the Appletree Grove Estate north east of West Wallsend are already included in the HCA and there will be no impact from this proposal.

Lastly, the Housing Strategy actions the following: ‘actively support and pursue housing in the North West Lake Macquarie Catalyst Area including the West Wallsend urban intensification corridor’. Although not in the North West Lake Macquarie Catalyst Area, West Wallsend and Holmesville will play a role in supporting change in the wider area. The proposal will not impact upon housing opportunities within the West Wallsend intensification corridor, as much of the land is not within the HCA. Additionally, land within the HCA will still be able to achieve medium density outcomes at a scale that reflects the heritage values of the area.

Consistency with other applicable State and regional studies and strategies

5. Is the planning proposal consistent with any other applicable State and regional studies or strategies?

Future Transport Strategy: Vision for transport in NSW, Draft Regional Transport Plan 2041, Hunter Regional Transport Plan 2014 and Greater Newcastle Future Transport Plan 2018 – 2056

All transport strategies and plans aspire to provide integrated transport and supportive land use planning to ensure transport infrastructure can cater and is adequate for projected long-term population growth across the State, the Hunter Valley and Greater Newcastle.

A specific priority in all plans and strategies is to ensure the efficient and separate movement of freight which does not impact upon passenger rail services, though could also be integrated with alternative services in future. Specially to the West Wallsend and Holmesville area, the strategies and plans prioritise the preservation of the Lower Hunter Freight Bypass Corridor (LHFBC) to alleviate pressure on the existing Northern Railway within Greater Newcastle (Figure 5).

Council lodged a submission to Transport for NSW (TfNSW) on 13 September 2021, during the time of public exhibition of the proposed corridor, which emphasised mitigation measures to preserving or minimising impact upon the West Wallsend HCA and surrounding natural and scenic landscape that contributed to the heritage curtilage.

Council also engaged TfNSW on 15 November 2021 during the initial review of the Working Report (Umwelt, 2022) and sought comment from TfNSW whether there was any issue with the proposed HCA, specifically the incorporated landscape buffer which would be within the lands of the proposed LHFBC (Refer Figure 5). Council did not receive any response from TfNSW.

In December 2022 the NSW Government confirmed the alignment of the Lower Hunter Freight Corridor through an amendment of the State Environmental Planning Policy

(Transport and Infrastructure) 2021, and identified as SP2 Infrastructure on the [Future Infrastructure Corridor Map](#).

TfNSW also published a [Strategic Environmental Assessment for the Lower Hunter Freight Corridor](#) at the same time. The assessment considered impact on Aboriginal heritage and Non-Aboriginal heritage items. The assessment noted that the recommended corridor passes close to the West Wallsend Cemetery and the West Wallsend Heritage Conservation Area and intersects with the locally listed West Wallsend (no 1) Colliery (item number 202). The assessment concludes that potential direct and indirect impacts on these heritage items depends on the design of the future trail infrastructure and would be considered during the next phase of design development.

The proposed West Wallsend and Holmesville Heritage Conservation Area does not obstruct the reserved infrastructure corridor or prevent delivery of the future freight line; however, it appropriately addresses the need for TfNSW to consider these heritage values in its future design phase to minimise adverse impacts on the local community and character of West Wallsend and Holmesville. Overall, the proposal is considered to be consistent with the aims, objectives and actions within the strategies and plans.

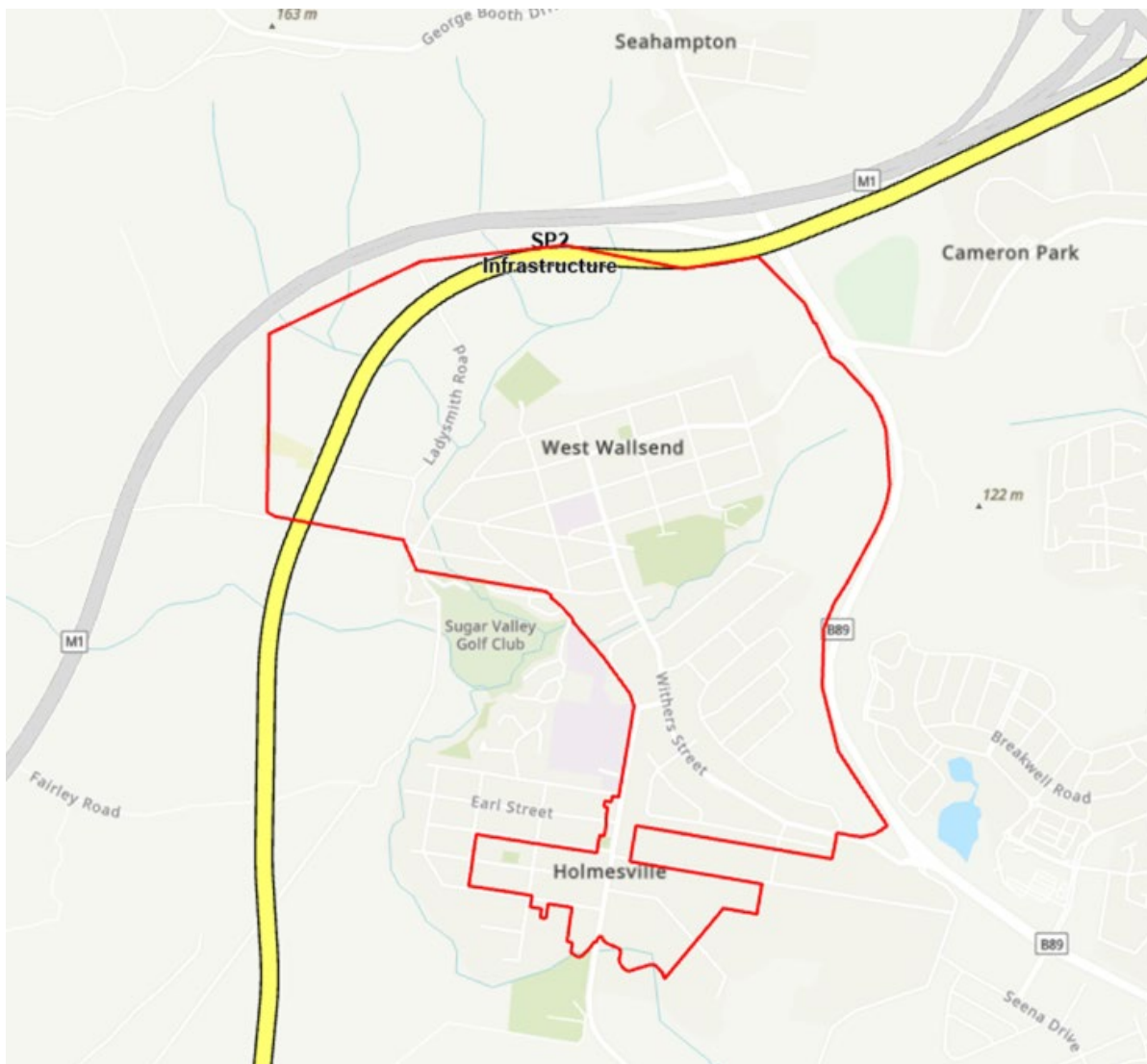


Figure 5 - Location of gazetted Lower Hunter Freight Bypass Corridor in relation to the proposed West Wallsend and Holmesville Heritage Conservation Area

Consistency with State Environmental Planning Policies (SEPPs)

6. Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPPs)?

SEPP (Biodiversity and Conservation) 2021

Chapter 2 Vegetation in Non-Rural Areas.

Applies requirements for clearing permits within Non-rural zones. Tree removal Permit or Development Consent requirements apply, as the Without Consent Exemptions do not apply within heritage conservation areas.

Chapter 3 Koala Habitat Protection 2020

The SEPP aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend - koala population decline.

Chapter 3 Koala Habitat protection 2020 only applies to land zoned RU1, RU2 and RU3 in the Lake Macquarie Council Area.

The proposal is **consistent** with the SEPP as there are no Koala sites in proximity to this proposal and there are no changes proposed that would affect existing Koala populations within these rural zoned lands.

Chapter 4 Koala Habitat Protection 2021

The SEPP aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend - koala population decline.

Chapter 4 Koala Habitat protection 2021 applies to all other zones except land zoned RU1, RU2 and RU3 in the Lake Macquarie Council Area.

The proposal would be **consistent** with this SEPP as there are no Koala sites in proximity to this proposal and there are no changes proposed that would affect existing Koala populations in the remaining zones.

SEPP (Exempt and Complying Development Codes) 2008

The Policy applies to the State and aims to provide streamlined assessment processes for development that complies with specified development standards.

The proposal is considered **consistent** with this SEPP as the proposal is located within a Heritage Conservation Area which is identified in an EPI - *LMLEP 2014*.

Pursuant to Clause 1.16 (1A) (a) of the Codes SEPP, Exempt development only applies if an exemption has been granted under s.57 (2) of the *Heritage Act 1977*.

Complying development only applies if the land does not comprise:

an item that is listed on the State Heritage Register under the [Heritage Act 1977](#) or on which such an item is located, or ...

(iii) is identified as an item of environmental heritage or a heritage item by an environmental planning instrument or on which is located an item that is so identified,

SEPP (Housing) 2021

The Planning Proposal is **considered to be consistent** against all Chapters of the SEPP. Only applicable parts or divisions have been included.

Chapter 2 Affordable housing

The SEPP provides a consistent planning regime for the provision of affordable rental housing; the effective delivery of new affordable rental housing; the retention and to mitigate the loss of existing affordable rental housing; and to facilitate the development of housing for the homeless and other disadvantaged people.

The Planning Proposal **is considered to be consistent** with land use permissibility within all of the divisions (see further discussion under Seniors Housing below).

Division 1 – In-fill affordable housing

The SEPP permits the development of in-fill affordable housing where the development is permitted with consent under another environmental planning instrument (EPI). The proposal additionally does not preclude the application of Clause 18 - *Non-discretionary development standards* to developments to which this division applies.

The proposal is considered **consistent** with the SEPP.

The SEPP does not apply to development that is on land that contains a heritage item that is identified in an environmental planning instrument (EPI) refer to Clause 10 (b). The proposal is considered **consistent** with the SEPP.

Division 2 – Boarding houses

The SEPP permits the development of Boarding houses in Zone R2 Low Density Residential; Zone R3 Medium Density Residential and Zone E1 Local Centre zone where residential accommodation is permitted under an LEP. The proposal additionally does not preclude the application of Clause 24 - *Non-discretionary development standards* to developments to which this division applies.

The proposal is considered **consistent** with the SEPP as Boarding houses are permissible with consent under *LMLEP 2014* in Zone R2, R3 and E1.

Division 4 – Supportive accommodation

The SEPP permits supportive accommodation on land where a Boarding house or Residential flat buildings (RFB's) are permissible.

The proposal is considered **consistent** with the SEPP as Boarding houses and RFB's are permissible under *LMLEP 2014*.

Division 5 – Residential flat buildings (RFBs): social housing providers, public authorities and joint ventures

The SEPP does not apply to RFB's in West Wallsend or Holmesville as it is not described as one of the towns or commercial land zones in Clause 36(1)(b) of the SEPP. However, RFB's are permissible with consent under the *LMLEP 2014* for the R3 and E1 zones.

The proposal is considered **consistent** with the SEPP.

Division 6 – Residential development – Aboriginal Housing Office and Land and Housing Corporation

The SEPP provides for residential development without consent – max height 8.5 metres, up to 60 dwellings or less on a single site. However, demolition of dwellings and associated structures is not permissible if identified as an HCA refer to Clause 42 (2) (a) (ii).

The proposal is considered **consistent** with the SEPP.

Chapter 3 Diverse Housing

Part 1 – Secondary dwellings

The SEPP permits the development of Secondary dwellings in the R2 Low Density Residential Zone and R3 Medium Density Residential zones.

The proposal does not preclude the application of Clause 53 - *Non-discretionary development standards* to developments to which Division 2 – *Secondary dwellings permitted with consent* applies.

Complying development for Secondary dwellings is subject to the provisions of Clause 54 of the SEPP; and Clauses 1.17A (iii); 1.18 (1) and (2), and Clause 1.19 (1) (a) of the Codes SEPP;

For Exempt development, an exemption has been granted under section 57(2) of the *Heritage Act 1977*.

The proposal is considered **consistent** with the SEPP as the land contains a heritage item that is identified in Schedule 5 of the *LMLEP 2014*.

Part 2 - Group homes

The SEPP provides for Group homes in Zone R2 and R3 and in a zone where development for the purpose of dwellings, dwelling houses or multi dwelling housing may be developed under another EPI. Group homes are permissible with consent in Zones R2 and R3 in *LMLEP 2014*. Complying development for Group homes needs to satisfy Clauses 1.18 and 1.19 of the Codes SEPP 2008.

The proposal is considered **consistent** with the SEPP.

Part 3 – Co-living housing

The SEPP provides for residential accommodation to be used as co-living housing. The Part applies to the development of RFB's or Shop top housing in a zone RFB's or Shop top housing are permissible in another EPI.

In *LMLEP 2014*, RFB's are permissible in both the R3 and E1 zones. Shop top housing is permissible in the R2, R3 and E1 zones.

The proposal does not preclude the application of Clause 68 - *Non-discretionary development standards* to developments to which this Part applies.

The proposal is considered **consistent** with the SEPP.

Part 4 – Build to rent housing

The SEPP provides for residential accommodation to be used as build-to-rent housing. The Part applies to the development of Multi dwelling housing, RFB's or Shop top housing in a zone where Multi dwelling housing, RFB's or Shop top housing are permissible in another EPI.

In *LMLEP 2014*, multi dwelling housing is permissible in Zone R3, RFB's are permissible in both the R3 and E1 zones. Shop top housing is permissible in the R2, R3 and E1 zones.

The proposal does not preclude the application of Clause 74 - *Non-discretionary development standards* to developments to which this Part applies.

The proposal is considered **consistent** with the SEPP.

Part 5 - Housing for seniors and people with a disability

The proposal is considered **minorly inconsistent** with the Part. The proposal does not prohibit these uses within the revised HCA. Seniors housing is permissible with consent in Zone R2, R3 and E1 in *LMLEP 2014*.

However, the proposed reduction in height for the Zones R3 and E1 from 10.0 to 8.5 metres may cause the proposal to be considered inconsistent with the building heights enabled under the Housing SEPP. Council will therefore seek the agreement of the Secretary of DPE that if there is an inconsistency, it is of minor significance in this case.

For Seniors Housing, Residential Flat Buildings and Shop Top Housing on sites above 1500m², there are available Floor Space Ratio and Height bonuses to 3.8m above the permissible building height.

These height standards are clearly in excess of the predominantly single storey heritage character Council is seeking to protect, with the exception of the retention of the 10 metre height within most of the West Wallsend Local Centre. The SEPP will override the LEP provisions, nevertheless, the SEPP will apply protections to heritage characteristics. These are subjective controls relating to Seniors Housing, Hostels and Residential Care Facilities, where “adequate consideration” is to be given by the determining authority to the Design Principles within Division 6, Section 99. The principles established under Section 99, as well as all other Design principles under Division 6, are also to be considered by NSW Land and Housing Corporation (LAHC), where development is undertaken (as “Complying Development”) under Chapter 3, Part 5, Division 8 of the Housing SEPP (LAHC self-assessment pathway for specified seniors housing development).”

The Design Principles will be sufficient to ensure that future Seniors Developments will be compatible in scale and character with the neighbourhood. Accordingly, determination of such development proposals are to be addressed by the Determining Authority on design merit, having regard to the Section 99 Design Principles and encouraging design which is in character with the heritage significance of the site and locality.

The planning proposal retains a potential for 3 storeys (10 metres) at the rear of sloping sites and where a height variation can be justified on heritage grounds.

Notwithstanding the above, Division 7 of Part 5 notes that there is nothing under the non-discretionary development standards that would permit the granting of consent to development, if the consent authority is satisfied that that the design of the seniors housing does not demonstrate that adequate consideration has been given to the principles set out in Division 6.

In relation to the planning proposal, Council maintains that if the revised building heights create an inconsistency with the SEPP or Ministerial Direction 6.1, then that inconsistency is justified, in providing guidance of appropriate height and scale to the development industry for general housing projects, and Council seeks agreement from the DPE Secretary that the inconsistency created by Council’s new controls is justified on heritage grounds within the HCA.

[SEPP \(Industry and Employment\) 2021](#)

Chapter 3 Advertising and signage

This Chapter applies provisions for the location and type of advertising and signage.

The proposal is **consistent** with this Chapter. The revised HCA will apply to parts of Holmesville. Pursuant to Sections 3.7(1) and 3.8(1), advertising and signage, other than business identification signs, building identification signs, signage that is exempt under LMLEP 2014 and signage on vehicles, is likely to be prohibited.

[SEPP \(Resilience and Hazards\) 2021](#)

Chapter 4 Remediation of land

This Chapter aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

The proposal is **consistent** with this Chapter. The revised HCA will be applied to the following known contaminated properties:

- 125 George Booth Drive, WEST WALLSEND
- 40 Killingworth Road, HOLMESVILLE

The revised HCA will provide an additional layer of development control to these properties further mitigating any future development impacts. Additionally, the proposal does not seek to rezone any of these lands to a residential use.

SEPP (Sustainable Buildings) 2022

The aim of this policy to encourage the design and delivery of sustainable buildings to minimise energy and reduce carbon emissions.

Chapter 2 Standards for residential development—BASIX

The proposal is **consistent** with this Chapter. Properties within the revised HCA will not require the preparation of a BASIX pursuant to Section 2.1(4).

SEPP (Transport and Infrastructure) 2021

Chapter 2 Infrastructure

The aim of this Policy is to facilitate the effective delivery of infrastructure across the State.

The proposal is **consistent** with the Chapter.

A potential impact of the proposal, if any, may be the proposed reduction to the Height of Buildings Map (from 10.0 metres to 8.5 metres) should infrastructure or works be located in the R3 Medium Density or E1 Local Centre zones.

Chapter 3 Educational establishments and child care facilities

Policy is to facilitate the effective delivery of educational establishments and early education and care facilities across the State.

Consultation required with councils if a development impacts on local heritage.

The proposal is **consistent** with the Chapter.

A potential impact of the proposal, if any, may be the proposed reduction in height to the Height of Buildings Map (from 10.0 metres to 8.5 metres) should a school or educational facility be located in the R3 Medium Density Residential zone. It is noted that the West Wallsend Primary School is located within the R2 Low Density Residential zone and will not be impacted by the proposed Height of Building amendments.

Consistency with Ministerial Directions (section 9.1 Directions)

7. Is the planning proposal consistent with the applicable Ministerial Directions (section 9.1 Directions)?

The Minister issues Local Planning Directions that councils must follow when preparing a planning proposal. Consideration of consistency with directions relevant to the planning proposal is detailed below.

FOCUS AREA 1: PLANNING SYSTEMS

1.1 Implementation of Regional Plans

This Direction gives legal affect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.

The proposal is **consistent** with relevant directions within the Hunter Regional Plan 2041, as outlined in Direction 6.1 Residential Zones.

1.3 Approval and Referral Requirements

This Direction ensures that LEP provisions encourage the efficient and appropriate assessment of development.

The proposal is **consistent** with this Direction as it seeks to support and give statutory effect to a DCP which minimises concurrence with Heritage NSW.

The proposal will ensure *LMLEP 2014* provisions are consistent with provisions in the draft DCP.

1.4 Site Specific Provisions

This Direction is to discourage unnecessarily restrictive site-specific planning controls.

The proposal is **consistent** with this Direction as the planning proposal does not relate to a site specific development.

FOCUS AREA 3: BIODIVERSITY AND CONSERVATION

3.1 Conservation Zones

This Direction seeks to protect and conserve environmentally sensitive areas.

The proposal is **consistent** with this Direction. The proposal does not include provisions that would reduce the protection and conservation of environmentally sensitive areas.

3.2 Heritage Conservation

This Direction aims to conserve areas, objects and places of environmental heritage significance and indigenous heritage significance.

A planning proposal must contain provisions that facilitate the conservation of:

(a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area.

The proposal is **consistent** with this Direction as it will enable appropriate protection of listed heritage items and an area of environmental heritage significance being a listed Heritage Conservation Area.

The proposal will do this utilising best practice as recognized by Heritage NSW, by proposed DCP changes with the introduction of a classification of buildings being either Contributory 1; Contributory 2; or Non-Contributory; utilisation of a views and vista analysis process; a reduction in the Height of buildings from 10.0 metres to 8.5 metres in the R3 and E1 zones; and by the realignment of the Heritage Conservation Area Plan boundary.

FOCUS AREA 4: RESILIENCE AND HAZARDS

4.1 Flooding

This Direction applies when a relevant planning authority prepares a planning proposal that creates, removes, or alters a zone or a provision that affects flood prone land.

The proposal is **consistent** with this Direction.

There are a number of properties within the existing and revised HCA that will be impacted by high and low level flooding due to the catchment of Slatey Creek Catchment. The proposal does not seek to increase density within these flood prone areas, nor propose additional residential accommodation uses.

The proposal only seeks to apply heritage conservation controls to ensure balanced conservation outcomes with the surrounding natural scenic setting and existing built form. All future development is subject to Clause 7.3 Flood Planning of *LMLEP 2014*.

4.2 Coastal Management

Not applicable to this proposal.

4.3 Planning for Bushfire Protection

This Direction aims to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and encourage sound management of bush fire prone areas.

The proposal is **consistent** with this Direction as the majority of the West Wallsend and Holmesville urban area is not bush fire prone land. Vegetated land surrounding the urban fringe however, is identified in the Lake Macquarie Bushfire Prone Land Map as both Vegetation Category 2 and Vegetation Category 1. The proposed revised HCA boundary, in particular the landscape buffer will include these bushfire prone lands. However, the proposal does not seek to increase residential density, nor propose additional residential accommodation uses. The proposal only seeks to apply heritage conservation controls to ensure balance conservation outcomes with the surrounding natural scenic setting and existing built form.

Council consulted with NSW Rural Fire Service (RFS) following the Gateway determination. They raise no concerns or issues in relation to bush fire (see Section E – State and Commonwealth interests, p 39).

4.4 Remediation of Contaminated Land

The proposal applies to the following of this Direction:

(c) the extent to which it is proposed to carry out development on it for residential, educational, recreational or childcare purposes, or for the purposes of a hospital – land:

(i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and

(ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).

A planning proposal authority must not include in a particular zone (within the meaning of the local environmental plan) any land specified in paragraph (2) if the inclusion of the land in that zone would permit a change of use of the land, unless:

(a) the planning proposal authority has considered whether the land is contaminated, and

(b) if the land is contaminated, the planning proposal authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and

(c) if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning proposal authority is satisfied that the land will be so remediated before the land is used for that purpose.

The proposal is **consistent** with this Direction. The revised HCA will be applied to the following known contaminated properties:

- 125 George Booth Drive, WEST WALLSEND
- 40 Killingworth Road, HOLMESVILLE

The revised HCA will provide an additional layer of development control to these properties further mitigating any future development impacts. The proposal does not seek to increase

residential density, nor propose additional residential accommodation uses. The proposal only seeks to apply heritage conservation controls to ensure balanced conservation outcomes with the surrounding natural scenic setting and existing built form. All future development on known or potentially contaminated lands will be assessed on its merits and will require a contamination assessment at the time of the development application stage.

4.5 Acid Sulfate Soils

Not applicable to this proposal.

4.6 Mine Subsidence and Unstable Land

This Direction aims to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.

The site is within a proclaimed Mine Subsidence district pursuant to section 15 of the *Mine Subsidence Compensation Act 1961*. This direction requires consultation with Subsidence Advisory NSW for amendments to the *LMLEP 2014* within a Mine subsidence district.

Council consulted with Subsidence Advisory following the Gateway determination. They advised that as the site of the proposal is located within a declared Mine Subsidence District, future development will require approval from Subsidence Advisory NSW. They did not raise any specific concerns or issues related to the proposal (see Section E – State and Commonwealth interests, p 39).

FOCUS AREA 5: TRANSPORT AND INFRASTRUCTURE

5.1 Integrating Land Use and Transport

The proposal is **consistent** with this Direction as the planning proposal does not change the location of zones for urban purposes and is consistent with Improving Transport Choice and the Right place for Business and Services.

West Wallsend and Holmesville are existing small urban residential (villages) within part of an existing Heritage Conservation Area.

The proposal will alter a land use provision to reduce the Height of Buildings within the Heritage Conservation Area. The proposal is generally consistent with the Hunter Regional Plan 2041 and the Greater Newcastle Metropolitan Plan for future development of the Heritage Conservation Area and Council's LSPS, and Housing Strategy.

5.2 Reserving Land for Public Purposes

Not applicable to this proposal.

FOCUS AREA 6: HOUSING

6.1 Residential Zones

The proposal applies to the following of this Direction:

- (a) Encourage a variety and choice of housing types to provide for existing and future housing needs,
- (b) Make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and
- (c) Minimise the impact of residential development on the environment and resource lands.

(1) A planning proposal must include provisions that encourage the provision of housing that will:

- (a) broaden the choice of building types and locations available in the housing market, and
- (b) make more efficient use of existing infrastructure and services, and
- (c) reduce the consumption of land for housing and associated urban development on the urban fringe, and
- (d) be of good design.

(2) A planning proposal must, in relation to land to which this direction applies:

- (a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and
- (b) not contain provisions which will reduce the permissible residential density of land.

Consistency

A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:

...

- (d) of minor significance.

The proposal may be considered **inconsistent** with Direction 1(a) of this Direction as the proposal may limit the choice of housing types to provide for existing and future housing needs, by limiting development to single and two storey dwellings (in the R3 Medium Density and E1 Local Centre zones) through a reduction in the Height of Buildings of 10.0 metres to 8.5 metres. The reduction in height of buildings has been proposed to be consistent with the existing heritage character of the HCA and the current heights of the single storey cottages found in Holmesville. Majority of the existing 2-3 storey built form in the West Wallsend Local Centre (i.e. 10 metres) will be retained.

The inconsistency with 1(a) is considered to be of minor significance to enable consistency with the HCA heritage character of the area, and Ministerial Direction 3.2 Heritage conservation, as demonstrated by Heritage consultants in their Working Report. The proposal is also consistent with relevant regional strategies and Council's LSPS.

The proposal would be consistent with Direction 1(b) as there are no changes to current water, sewer or other public infrastructure connections.

The proposal would be consistent with Direction 1(c) as no further land for housing and associated urban development is proposed. Future residential or commercial development will be confined to those areas already zoned for development.

The proposal would be consistent with Direction 1(d) based on the guidelines that will be provided in the revised draft LMDCP which this Planning Proposal will enable.

In respect of Direction 2(a), the proposal would be consistent with this objective as the *LMLEP 2014* at Clause 7.21 requires that essential services are provided to the satisfaction of council.

In respect of Direction 2(b) the proposed LMLEP amendment is inconsistent with this provision as the LEP amendment reduces the height of Buildings from 10.0 metres to 8.5 metres for the R3 Medium Density Residential Zone.

Generally, the predominant infill development type within the precinct has been one and two storey multi dwelling housing developments, dual occupancies or secondary dwellings.

Council's Urban Development Program identifies 32 developments totalling 55 dwellings in various stages of the development process. During the past 10 years there has only been one development which has extended to three-storeys which is a seniors living housing complex adjacent the West Wallsend Golf Course known as Sugar Valley Lifestyle Estate (DA/1930/2018), which is land outside of the current West Wallsend HCA.

Additionally, the possibility of a Clause 4.6 *LMLEP 2014* variation exists subject to appropriate justification on heritage grounds i.e. Contributory grading of the current building, streetscape vistas, etc.

There are no proposed restrictions to any of the current permissible uses in the zones of the proposal.

It is acknowledged that there will be some loss of potential density. However, given the location and issues that the planning proposal seeks to resolve, and analysis of current and potential development in the local centres of Holmesville and West Wallsend, it is considered that the inconsistencies with the Direction are of minor significance. Council will therefore seek the agreement of the Secretary of DPE that if there is an inconsistency, it is of minor significance in this case.

FOCUS AREA 7: INDUSTRY AND EMPLOYMENT

7.1 Business and Industrial Zones

The proposal applies to the following of this Direction:

A planning proposal must: (a) give effect to the objectives of this direction (To: (a) encourage employment growth in suitable locations, (b) protect employment land in business and industrial zones, and (c) support the viability of identified centres),

(b) retain the areas and locations of existing business and industrial zones,

(c) not reduce the total potential floor space area for employment uses and related public services in business zones,

(d) not reduce the total potential floor space area for industrial uses in industrial zones, and

(e) ensure that proposed new employment areas are in accordance with a strategy that is approved by the Secretary of the Department of Planning and Environment.

The proposal is **consistent** with this Direction.

The proposal will not discourage employment growth as the E1 Local Centre zone in West Wallsend and Holmesville will maintain its current one and two storey building heights to reflect the heritage character of the HCA.

In regard to (c), the proposal will not reduce the potential floor space area for employment uses and related public services in business zones.

Although there will be a reduction to the maximum height of buildings from 10.0 metres to 8.5 metres - the primary objective of the LEP amendment is to respect and conserve the heritage character of the HCA. Development to date in the HCA has been primarily limited to residential with some additions and alterations to commercial buildings.

It is proposed to vary the height of building provisions in *LMLEP 2014* that apply within the revised HCA boundaries to better reflect and conserve the predominate scale and character of the area from which its identified significance is in part derived.

The possibility of a Clause 4.6 *LMLEP 2014* variation exists subject to appropriate justification on heritage grounds i.e. Contributory grading of the building, streetscape, vistas, etc.

FOCUS AREA 8: PRIMARY PRODUCTION

8.1 Mining, Petroleum Production and Extractive Industries

This Direction 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.

The proposal is **consistent** with this Direction. The proposal does not include provisions that would affect land for the potential development of resources of coal, other minerals, petroleum, or winning or obtaining of extractive materials.

FOCUS AREA 9: PRIMARY PRODUCTION

9.1 Rural Zones

This Direction aims to:

A planning proposal must:

- (a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.
- (b) not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).

The proposal is **consistent** with this Direction.

The proposal includes three RU2 zoned properties within the revised HCA. The proposal however, does not:

- (a) rezone land from a rural zone to a residential, business, industrial, village or tourist zone.
- (b) contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).

Section C – environmental, social and economic impact

Environmental impact

8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal?

The proposal will not affect land which contains any habitat. The proposal is intended to provide specific controls to ensure that the existing historic village of West Wallsend and Holmesville will continue to enhance the HCA. The inclusion of a landscape buffer, as part of the HCA, will also help to ensure that the landscape and scenic qualities are preserved which will offer additional controls to ensure the natural environment and any existing habitats continue to be preserved.

9. Are there any other likely environmental effects of the planning proposal and how are they proposed to be managed?

There are no other likely environmental effects as a result of the Planning Proposal.

Social and economic impact

10. Has the planning proposal adequately addressed any social and economic effects?

The proposal and draft DCP encourage continued commercial uses within the Local Centre zone of West Wallsend and Holmesville, and seek to conserve the unique 'local centre feel' through the protection of buildings that contribute to and complement the heritage significance and character of the centre. The proposed planning framework creates a point of difference for West Wallsend and Holmesville that can be utilised to encourage tourism and more boutique commercial uses. West Wallsend and Holmesville have the opportunity of continuing to reflect the heritage and commercial qualities of townships like Morpeth and Dungog where heritage and commercial activities support each other, and create a lively village atmosphere whilst providing retail and commercial activities.

If the proposal does not proceed then there will be potential detrimental impacts on the culture and heritage of West Wallsend and Holmesville. There will potentially be a loss of the heritage fabric within the HCA in the longer term as inappropriately designed buildings potentially replace existing buildings and potentially have little to no regard to the streetscape character of the heritage area.

Should the proposal not go ahead it may also have a detrimental social and economic impact on those businesses and community groups that rely on the heritage draw card of the centre.

Having surety of what development controls apply to the historic village of West Wallsend and Holmesville will provide more certainty to development proponents and ensure the social and economic well-being of the area continues to grow and support heritage conservation. It is anticipated that economic and commercial activity will be enhanced by the proposed LEP amendment as is evidenced in heritage towns such as Morpeth and Dungog.

Section D – Infrastructure (Local, State and Commonwealth)

Impact on public infrastructure

11. Is there adequate public infrastructure for the planning proposal?

There is no change to the current water, sewer or other public infrastructure provisions which exists in the West Wallsend and Holmesville area.

Section E – State and Commonwealth interests

Views of state and federal authorities and government agencies

12. What are the views of state and federal authorities and government agencies consulted in order to inform the Gateway determination?

Pre-lodgement consultation

Pre-lodgement consultation occurred with the following agencies:

- Transport for NSW (TfNSW)
- Hunter and Central Coast Development Corporation (HCCDC)
- Heritage NSW

Consultation was conducted with TfNSW on 15 November 2021 who provided no comment.

HCCDC were engaged on 15 November 2021 and 6 March 2023 who own landholdings within the impacted area, no objections were raised.

Heritage NSW were engaged 1 February 2023, no comment was provided.

Gateway Determination

The Department of Planning, Housing and Infrastructure considered the proposal through the Gateway assessment, and a Gateway Determination was made on 22 May 2024, enabling the proposal to proceed with Public Exhibition.

In their Gateway determination report, the Department of Planning, Housing and Infrastructure confirmed the proposal is considered to be consistent with the Hunter Regional Plan 2041 and the Greater Newcastle Metropolitan Plan 2036. The report also states that the planning proposal has been assessed against relevant Ministerial directions, and is considered consistent with the intent of these directions, and all relevant SEPPs.

Post-Gateway consultation

In its Gateway Determination dated 22 May 2024, the Department of Planning, Housing and Infrastructure required consultation with the following agencies:

- NSW Rural Fire Service
- Subsidence Advisory NSW
- Heritage NSW

Council sent a referral on 23 May 2024 requesting advice within 30 days. Council also requested advice from Transport for NSW due to the Lower Hunter Freight Corridor planning works.

NSW Rural Fire Service (NSW RFS) – 13 June 2024

The NSW RFS considered the proposed LEP amendment and raise no concerns or issues in relation to bush fire.

Heritage NSW – 14 June 2024

Heritage NSW supports the proposed changes. The proposed increase in the size of the HCAs is supported as this will assist to protect heritage values across the area.

Subsidence Advisory - 1 July 2024

Subsidence Advisory informed that the site of the proposal is located within a declared Mine Subsidence District and future development will require approval from Subsidence Advisory NSW. They raise no specific concerns related to the proposal.

Transport for NSW (TfNSW) – 2 July 2024

TfNSW advised that The Pacific Highway (HW10) and Main Road (MR 527) are classified State Roads, and that Council is the roads authority for these roads and surrounding local roads in accordance with Section 7 of the Roads Act 1993. TfNSW advice focused on the Lower Hunter Freight Corridor:

“In 2021, TfNSW undertook a consultation and engagement program and invited submissions from key stakeholders on the proposed alignment for the Lower Hunter Freight Corridor (LHFC).

Council’s submission to this consultation period was considered and TfNSW responded to the identified issues (which included impacts on existing townships and communities and the proposed Cockle Creek West Precinct of the North-West Lake Macquarie Catalyst Area, economic considerations, biodiversity, Aboriginal and Non-Aboriginal Heritage, Council owned land and community/recreation facilities and local road infrastructure) in the LHFC submissions report (dated December 2022).

The Lower Hunter Freight Corridor Strategic Environmental Assessment was published in December 2022. The assessment brought together the strategic justification for the identification and protection of land for the recommended corridor option.

On 2 December 2022, State Environmental Planning Policy (SEPP) Amendment Miscellaneous (No 2) 2022 under the Environmental Planning and Assessment Act 1979 was gazetted.

This SEPP amendment identified the LHFC by introducing Sheet No. 23 on the Future Infrastructure Corridor Map (under Chapter 4 of State Environmental Planning Policy (Transport and Infrastructure) 2021 (T&I SEPP 2021) on the making of this policy.

Pursuant to Section 4.6(5)(a) of the T&I SEPP 2021, land shown on the ‘Future Infrastructure Corridor Map’ is land deemed within SP2 Infrastructure.

TfNSW recommendations

- 1. Given the LHFC corridor traverses through the proposed expansion of the West Wallsend Conservation Area it should be zoned SP2 Infrastructure Rail Corridor as part of any LEP amendment, thus ensuring Council’s LEP map is consistent with the T&I SEPP 2021.*
- 2. As the LHFC is shown on the ‘Future Infrastructure Corridor Map’ (pursuant to Chapter 4 of the T&I SEPP 2021), Council should consider potential implications for*

heritage consideration (e.g. disturbance to the proposed 'landscape buffer zone', compatibility of adjacent land uses with the future operation of a freight rail line, implications for future excavation within vicinity of the corridor, potential impacts of rail noise & vibration on original building fabric/architectural design guidelines etc).

3. *The following matters should be considered in the finalisation of the Draft DCP – West Wallsend / and Holmesville Heritage Conservation Area:*
 - *Impact of rail noise or vibration*
The relevant planning authority should ensure that future noise-sensitive developments (i.e. residential accommodation, places of public worship, hospitals, educational establishments and child care centres) within the subject planning proposal area be designed to mitigate against impacts from the future LHFR Corridor.
Rail noise from the future LHFR Corridor shall be mitigated by appropriate measures to satisfy the requirements of in the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads-Interim Guidelines".
 - *Excavation in, above, below or adjacent to future LHFC corridor*
The relevant planning authority should ensure that developments involving excavation in, above, below, or adjacent to the future LHFR corridor should comply with the requirements of Section 4.9 of State Environmental Planning Policy (Transport and Infrastructure) 2021 (T&I SEPP).
 - *Vandalism involving objects being thrown onto passing trains, or into the LHFC (from balconies, windows and other external features*
For developments with external openings (e.g. balconies, windows and other external features such as roof terraces and external fire escapes) that are within 20 metres of, and face, the LHFR corridor, the relevant planning authority should ensure appropriate mitigation measures are installed, to the satisfaction of TfNSW (e.g. awning windows, louvres, enclosed balconies, window restrictors etc) which prevent the throwing of objects onto the rail corridor."

Council evaluation:

Council staff have reviewed the recommendations from Transport for NSW as follows:

1. **Rezoning Land to SP2 Infrastructure Rail Corridor.** Including the rezoning of land to SP2 Infrastructure Rail Corridor as part of this planning proposal is not advisable. This is beyond the scope and objective of the planning proposal. Such change to the planning proposal at this stage in the LEP making process would also negatively impact the progression of the proposal, as it would be significantly different to the planning proposal presented to the Council and the Department of Planning, Infrastructure and Housing through Gateway determination process. More importantly, the subject land is only a part of the Lower Hunter Freight Corridor in Lake Macquarie. Rezoning sections individually would not result in a good planning outcome and is likely to cause confusion. Any changes to the Lake Macquarie Local Environmental Plan relevant to the Lower Hunter Freight Corridor should apply to the entire infrastructure corridor.

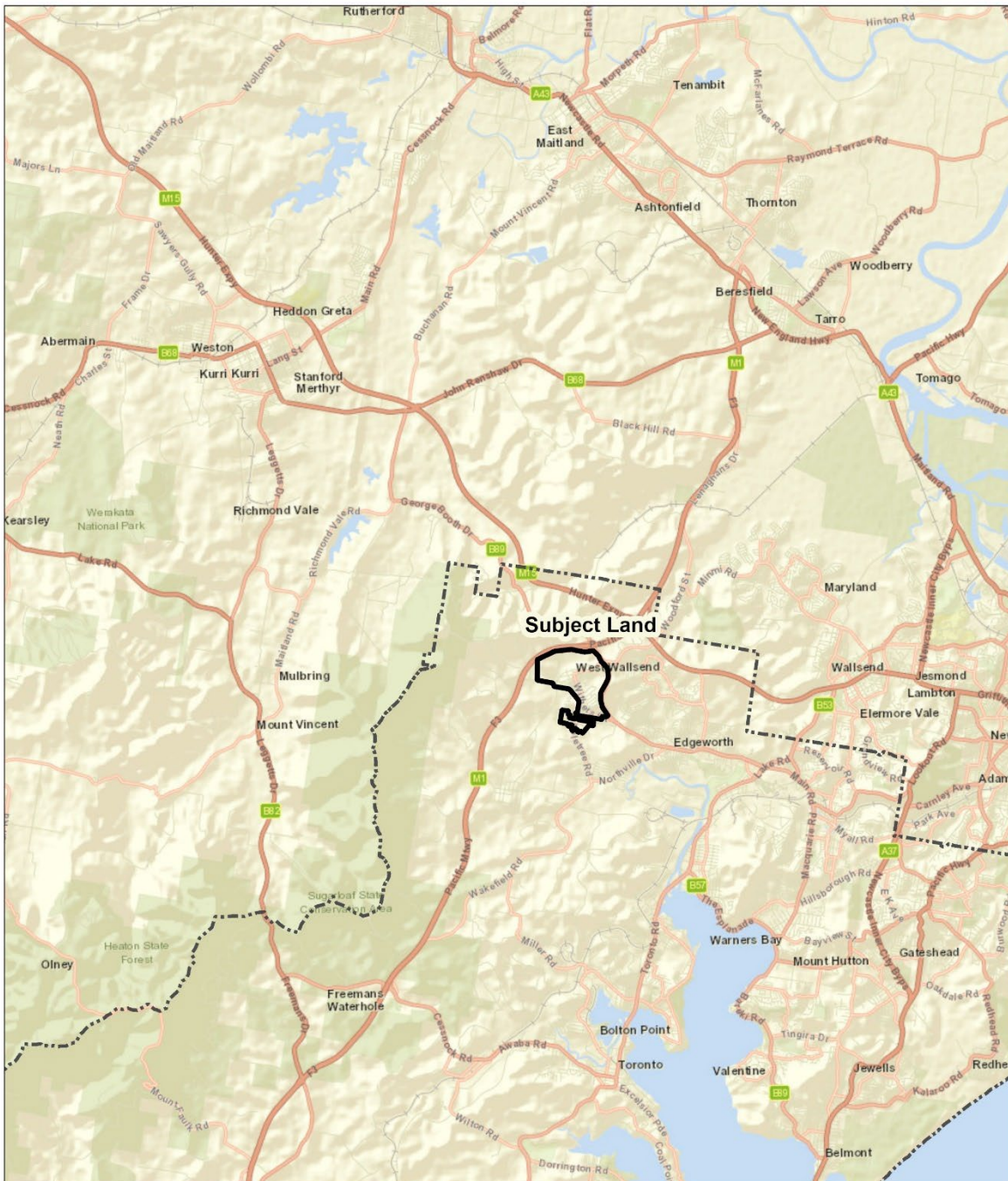
The future infrastructure corridor was confirmed in December 2022 and is protected through the amendment of the *State Environmental Planning Policy (Transport and Infrastructure) 2021*. If Transport for NSW believes additional changes to our Local Environmental Plan are necessary, there are different opportunities to consider. This could be pursued as an independent Planning Proposal or as included in a general amendment.

2. **Planning Proposal Update:** The Planning Proposal has been updated to reflect the status of the confirmed Lower Hunter Freight Corridor. It includes considerations related to impacts informed by the Strategic Environmental Assessment for the Lower Hunter Freight Corridor (TfNSW 2022), as detailed on page 25.
3. **Land Use Zones and Development:** This Planning Proposal does not seek to alter any land use zones. It does not increase density or introduce additional noise-sensitive developments along the future infrastructure corridor. The complementary DCP amendment is specific to a geographic area – the West Wallsend and Holmesville Heritage Conservation Area. The matters addressed are relevant not only to future development within the subject land area and the Hunter Freight Corridor but also to railway and highway corridors in general. If existing statewide rules and guidelines mentioned are insufficient and should be complemented by local clauses or controls, we suggest addressing the matters mentioned through a general amendment to the LEP or DCP, or a potential separate planning proposal for the Lower Hunter Freight Corridor.

Recommendation: We suggest placing items 1 and 3 on the agenda for discussion in regular meetings between the Council and TfNSW.

Part 4 – Mapping

Map 1 – Locality



Subject Land

Locality

0
4

Kilometres

N

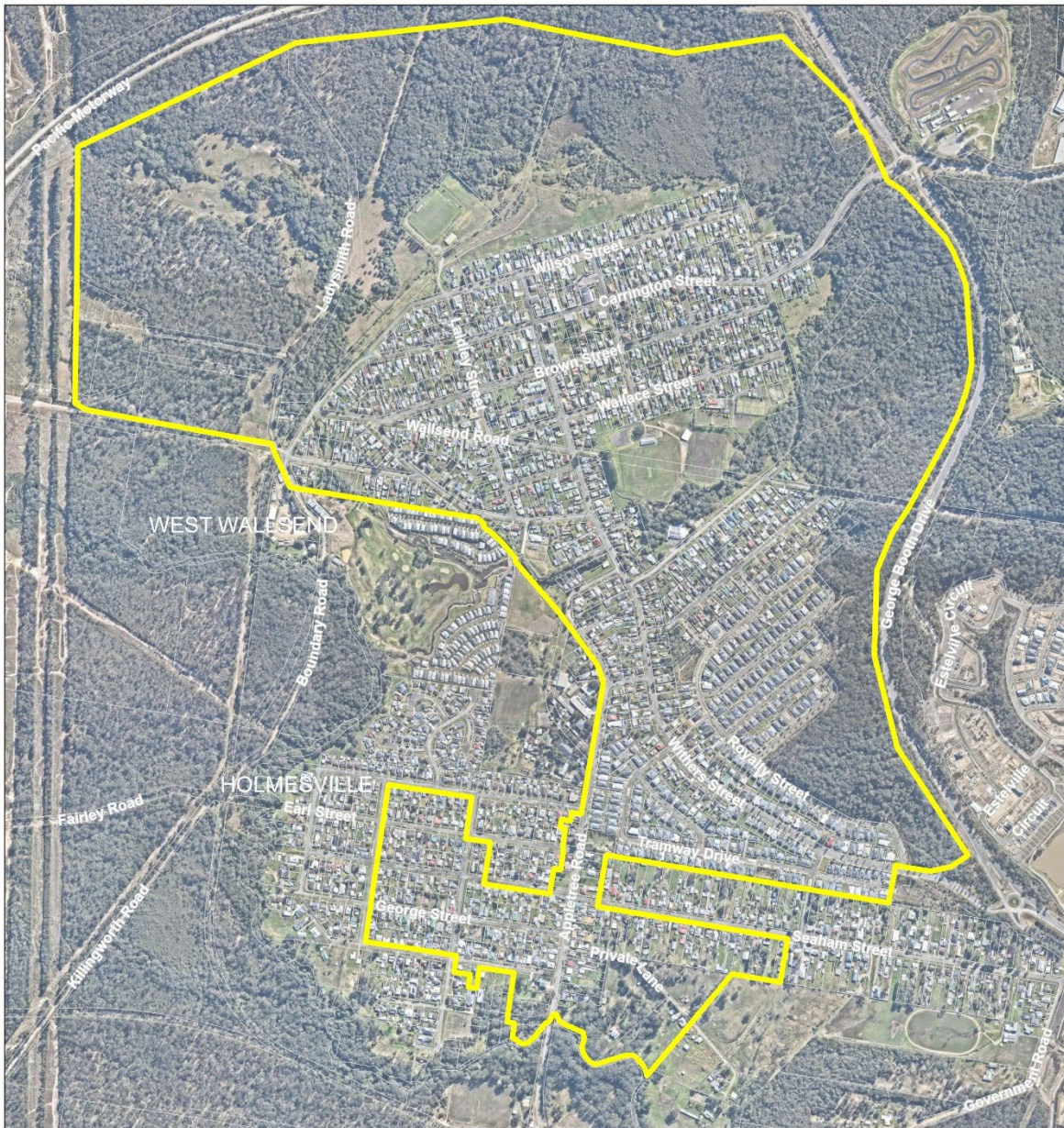
Projection GDA 1994
Zone 56

Base Map Credits: World_Street_Map: Esri, HERE, Garmin, NGA, USGS

Date: 21/08/2024

Planning Proposal: F2012_02466_01_01

Map 2 – Aerial



 Subject Land
 Land Parcel

Air Photo

2022 Aerial Photography
Nearmap Imagery 2022

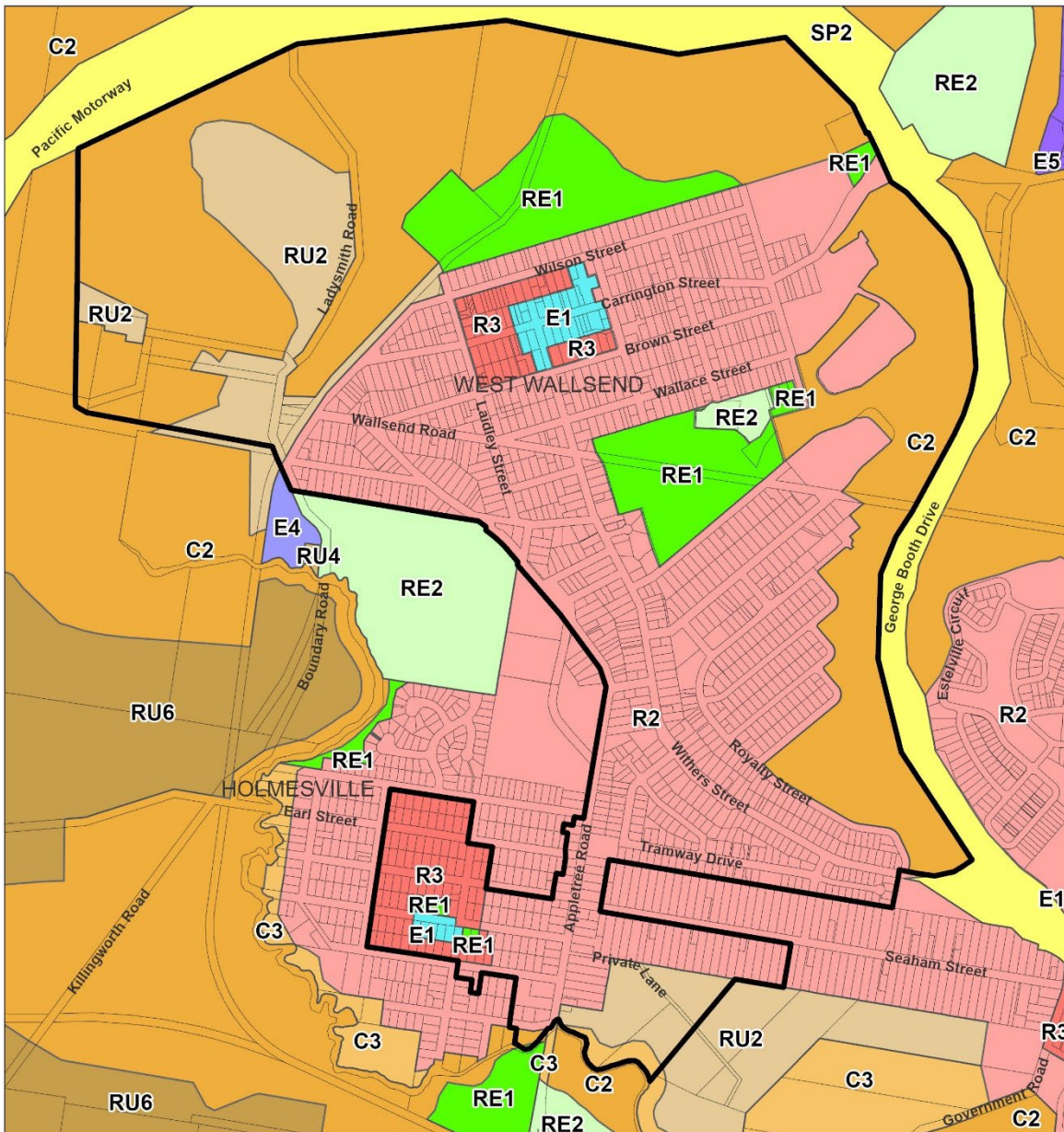
0 500
Metres

N
Projection GDA 1994
Zone 56



Date: 13/09/2022 Planning Proposal: F2012_02466_01_01

Map 3 – Existing Land Zoning Map



Subject Land	R2 - Low Density Residential
Land Parcel	R3 - Medium Density Residential
Land Zoning	RE1 - Public Recreation
C2 - Environmental Conservation	RE2 - Private Recreation
C3 - Environmental Management	RU2 - Rural Landscape
E1 - Local Centre	RU4 - Primary Production Small Lots
E4 - General Industrial	RU6 - Transition
E5 - Heavy Industrial	SP2 - Infrastructure

Existing

Land Zoning Map

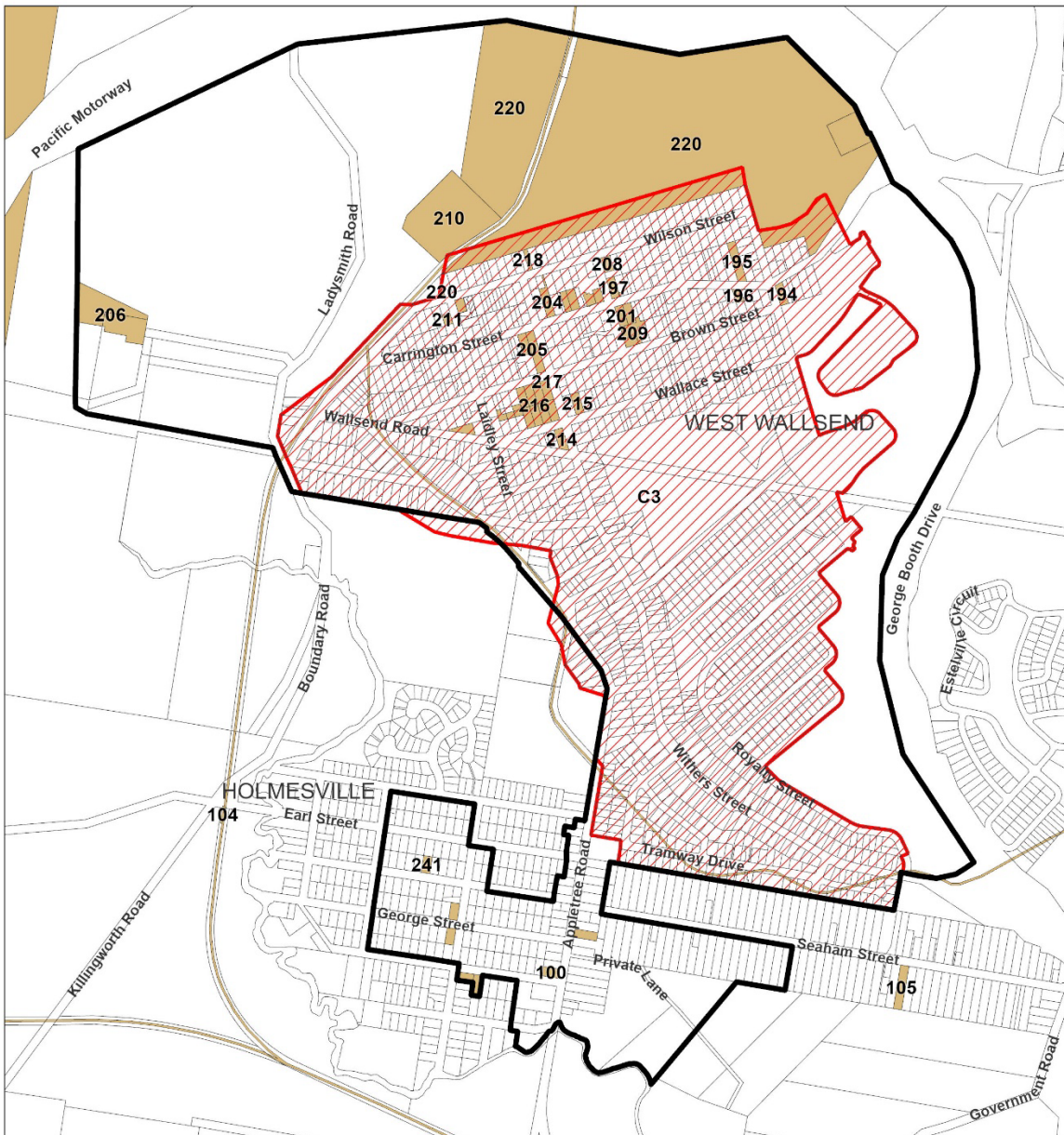
Lake Macquarie Local Environmental Plan 2014

0 500
Metres

Projection GDA 1994
Zone 56

Date: 9/08/2024 Planning Proposal: F2012_02466_01_01

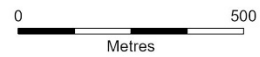
Map 4 – Existing Heritage Conservation Area (HCA)



-  Subject Land
-  Land Parcel
-  Conservation Area - General
-  Item - General

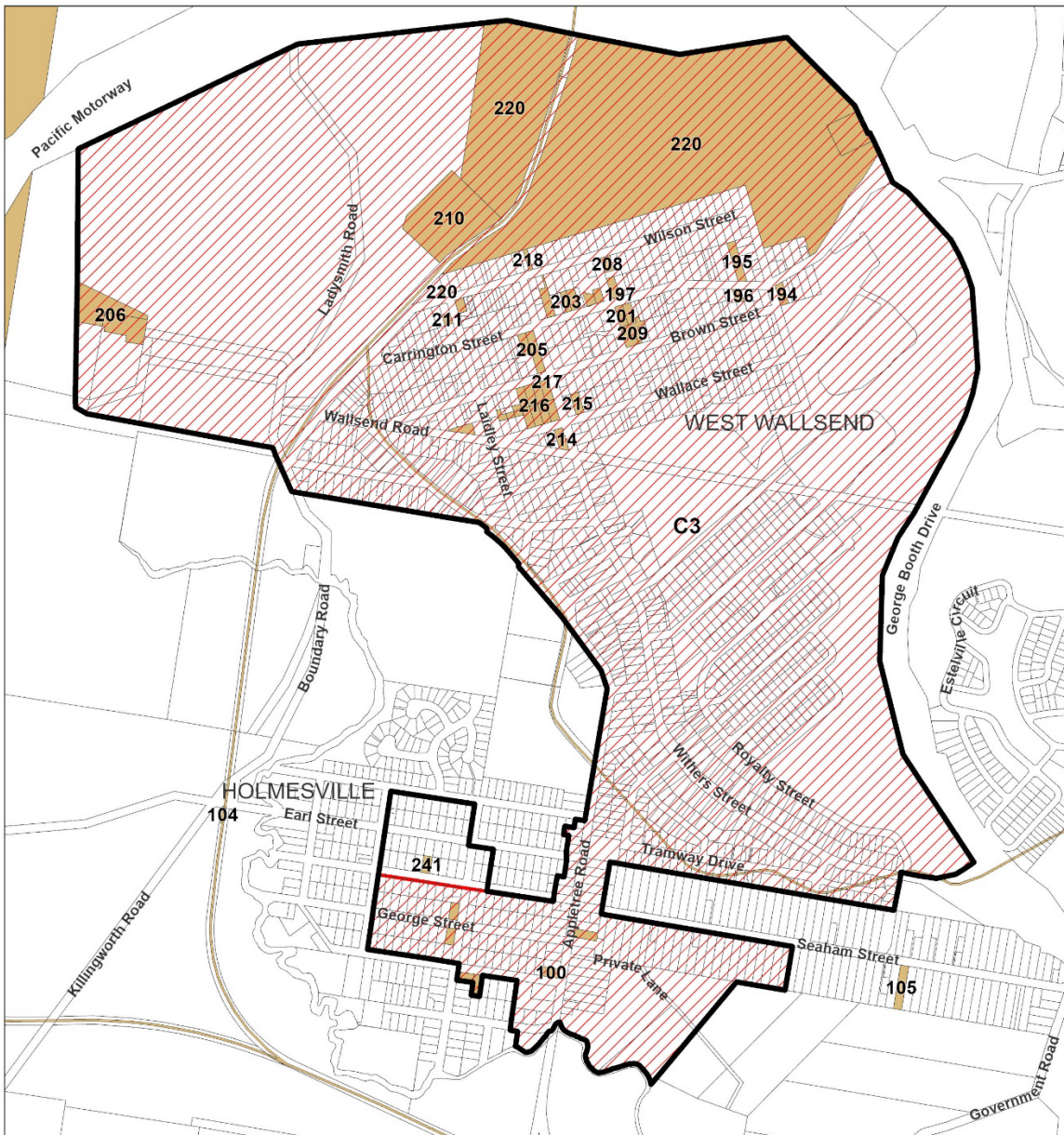
**Existing
Heritage Map**

Lake Macquarie Local Environmental Plan 2014



Date: 13/09/2022 Planning Proposal: F2012_02466_01_01

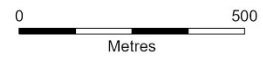
Map 5 – Proposed Heritage Conservation Area (HCA)



-  Subject Land
-  Land Parcel
-  Conservation Area - General
-  Item - General

Proposed Heritage Map

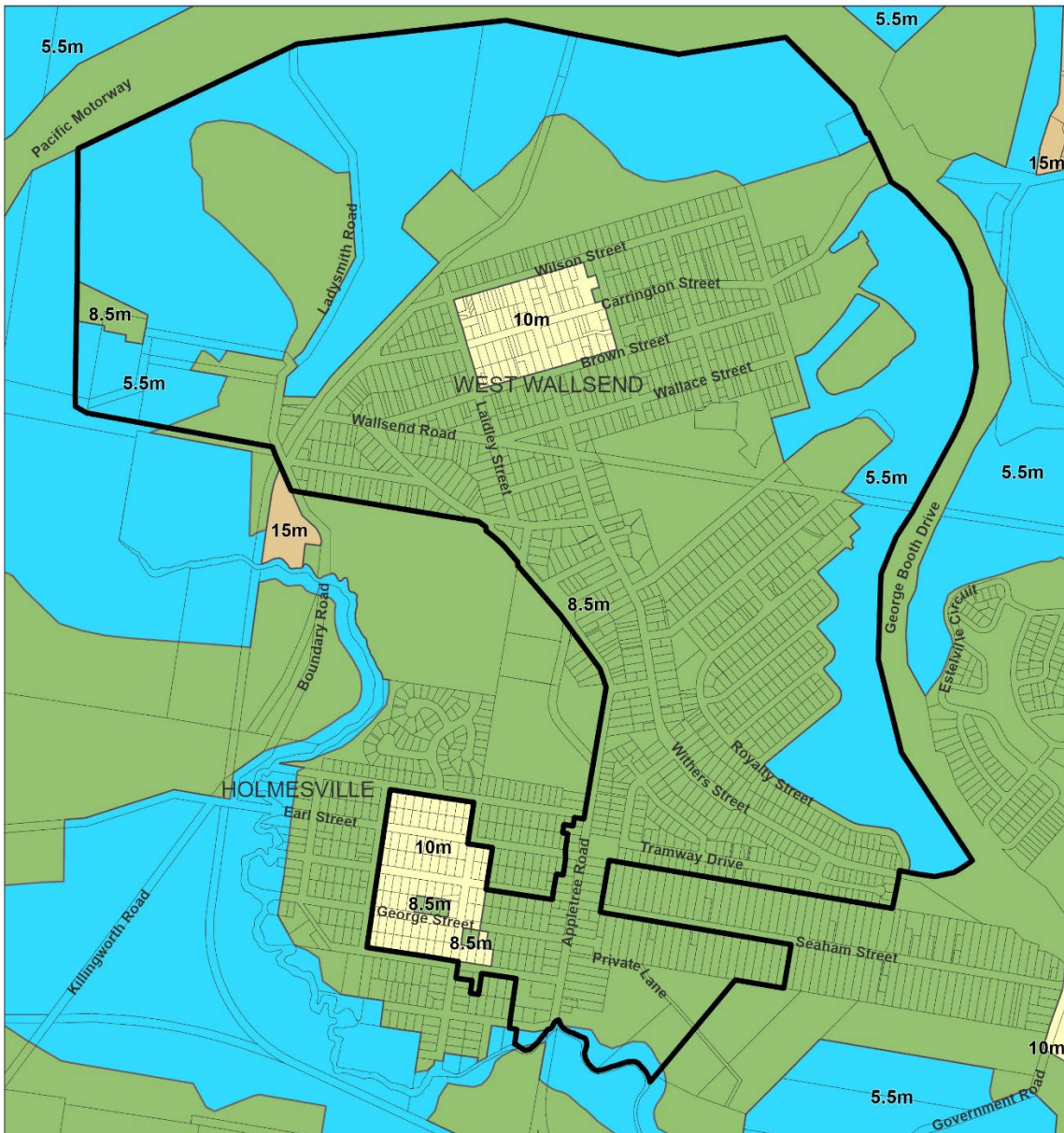
Lake Macquarie Local Environmental Plan 2014



Date: 13/09/2022

Planning Proposal: F2012_02466_01_01

Map 6 – Existing Height of Building Map

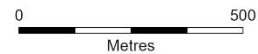


- Subject Land
- Land Parcel
- Maximum Building Height (m)
- 5.5
- 8.5
- 10
- 15

Existing

Height of Buildings Map

Lake Macquarie Local Environmental Plan 2014



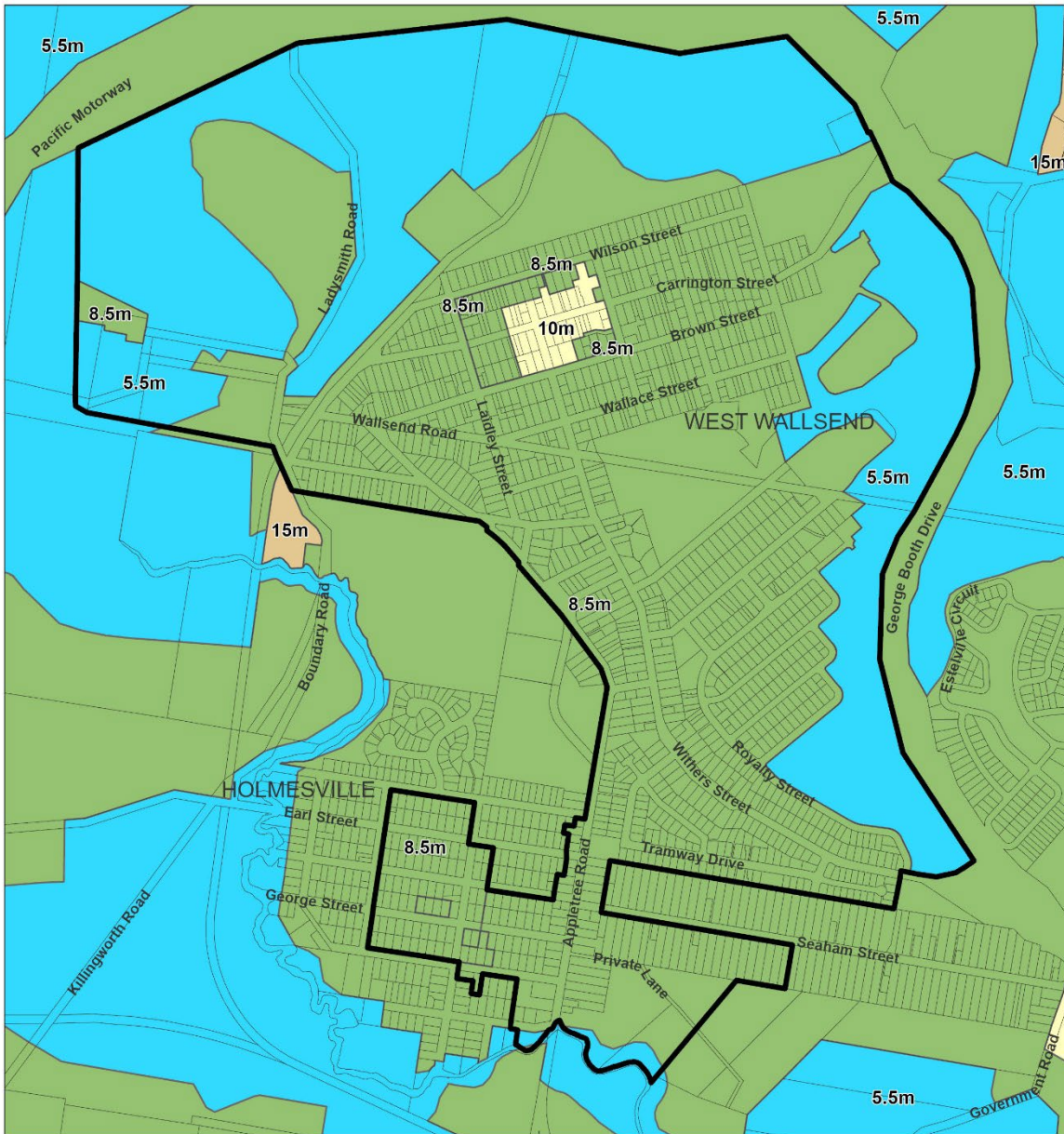
Projection GDA 1994
Zone 56









Date: 13/09/2022

Planning Proposal: F2012_02466_01_01

Map 7 – Proposed Height of Building Map



	Subject Land
	Land Parcel
Maximum Building Height (m)	
	5.5
	8.5
	10
	15


Proposed

Height of Buildings Map

Lake Macquarie Local Environmental Plan 2014

0
500

Metres



Projection GDA 1994
Zone 56

LAKE
MACQUARIE
CITY

Date: 14/09/2022 Planning Proposal: F2012_02466_01_01

Part 5 – Community Consultation

Consultation with state agencies or authorities

Council has consulted with state agencies or authorities in preparing the planning proposal. For details, see section E, page 39 . No objections were noted.

Community consultation

Early engagement

Between 18 July and 15 August 2022, Council consulted with landowners to inform them of the proposed changes to planning controls affecting their properties and gather feedback on building assessments prepared by Umwelt. Based. This consultation offered opportunity for the community to review the draft Working Report, draft DCP and provide comment on the individual building assessment reports which applied a contribution rating against the heritage significance of properties.

Early engagement community feedback and Council response can be found attached to the 22 May 2023 Council Report '[Exhibition of the Planning Proposal and draft Area Plan for the West Wallsend and Holmesville HCA](#)' (23SP042) .



Public exhibition

The planning proposal describing the proposed changes to the LEP, and draft DCP area plan is on public exhibition between **20 September and 20 October 2024**.

Landowners within the Lake Macquarie Development Control Plan (LMDCP) 2014 West Wallsend/Holmesville Heritage Precinct Area Plan (refer to map on page 10) are affected by the proposed changes to the planning rules and are notified in writing.

During the public exhibition, the proposal and related documents are available for inspection on the NSW Planning Portal, Council's community engagement platform ShapeLakeMac, with hard copies at our Customer Service centre and the Sugar Valley Library Museum.

Any person may make a written submission to Council about the proposed changes. Council staff will consider all submissions before making a recommendation to Council. The timeline on the next page outlines the next steps after public exhibition.



In preparing a planning proposal, Council staff review studies, consult with internal experts, state agencies and authorities and our community.

Council's 'Community Engagement Strategy' [Let's Shape Lake Mac](#) outlines our approach to engaging with the community and stakeholders. The strategy outlines who, when and how we will engage on plans and policies.

The level of community consultation for each planning proposal depends on its complexity and impact. The main opportunity for the community to give feedback on a planning proposal is usually during the **Public Exhibition** period. Council will consider all submissions and may make changes to the planning proposal before it is finalised.

Part 6 – Project Timeline

The process of making or amending a Local Environmental Plan (LEP) involves six key stages, as outlined in the NSW Government's 'Local Environmental Plan Making Guideline'. The planning proposal is updated as it advances through these stages.

This planning proposal is currently in stage 5 Public Exhibition and Assessment. This stage includes the exhibition, consideration and assessment of any submissions received, and Council decision on the proposed changes (whether supported or not).

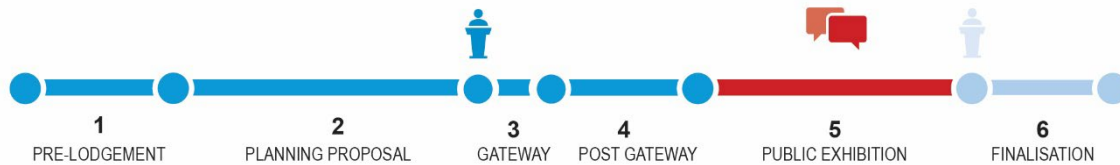





Figure 6 shows where the planning proposal is at in the Local Environmental Plan making process.

The table below provides an overview of the key activities and expected timeline for this planning proposal, based on standard benchmark timeframes. These are indicative timeframes which may change as a result of assessment and feedback during future stages.

Stage		Date/Timeframe
Stage 1	Pre-lodgement phase	2022-2023
Stage 2	 Council resolution to proceed to Gateway and Public exhibition	22 May 2023
Stage 3	Gateway determination	22 May 2024
Stage 4	Post Gateway phase – consultation with agencies and preparation of exhibition	June -September 2024
Stage 5	 Public Exhibition – 30 days	20 September – 20 October 2024
	Post-exhibition assessments - consideration of submissions, review of proposal and any additional studies.	~70 working days
	 Council consideration of proposal	February 2025
Stage 6	Finalisation – notification / gazettal of LEP Amendment (55 days*)	May 2025

* Benchmark timeframes – Local Environmental Plan Making Guideline

** Estimate based on benchmark timeframes