

## INQUIRY INTO CROWN LAND IN NEW SOUTH WALES

**Name:** Ms Yasmin Catley MP

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Partially  
Confidential



Sunday 24 July 2016

## GPSC NO 6 INQUIRY INTO CROWN LAND

The Swansea Electorate spans from Croudace Bay and Jewells on the eastern side of Lake Macquarie down to San Remo on the Central Coast. Crown land in this electorate covers a diverse range of land uses, including conservation areas, caravan parks, maritime areas and community facilities.

In general terms, when I speak to people about public assets like Crown land, the overwhelming response is that public access should be maintained, and continue to be available for the benefit of the community. This means keeping Crown land under public ownership.

In this submission, I have noted some specific issues which are pertinent to the Swansea Electorate, along with some broader issues, which would likely traverse multiple electorates.

### Swansea Channel

As a coastal electorate, which also encompasses parts of the largest coast lake in the Southern Hemisphere – Lake Macquarie – the Swansea electorate has a number of unique parcels of Crown land which are integral to the Swansea community.

Of course, the entirety of Lake Macquarie is Crown land, and this extends to the Swansea Channel, which is the only opening between the lake and ocean. Since I was elected in 2015, I have continued to lobby the State Government for a permanent dredge for Swansea Channel.

The Swansea Channel has been the subject of dredging campaigns for more than 50 years. In the past, having a navigable dredge was vital to enable the transportation of heavy equipment to the power stations surrounding Lake Macquarie.

However, the Channel is now largely used for recreational purposes. Despite the shifting use of the Channel, the importance of keeping it navigable has not diminished. Tourism in Lake Macquarie provides a substantial economic benefit to the region and previous research estimated that a Channel dredge of 60 metres would increase visitors from outside Lake Macquarie by 150 per cent. This translates to added local economic benefit of \$3.3 to \$3.7 million per year.

In 2012 over 18,000 vessels used Lake Macquarie and this number is expected to increase to 25,000 by 2020.

In the last ten years at least, the Channel has been dredged on an ad hoc basis, at significant cost to the tax payer. Research suggests that the fixed costs associated with dredging campaigns – particularly the cost of mobilising and demobilising a dredge – can sometimes exceed the component cost of dredging, especially on small projects.

This has been demonstrated by dredging campaigns that have taken place in the last year. In 2015, the NSW Government spent \$2.5 million on dredging the Swansea Channel, to

have it shoal up again by October. By November 2015, I was informed that Marine Rescue Lake Macquarie was rendering assistance to an average of one vessel per day. I welcomed the Government's announcement that a small scale dredging project would be conducted in mid-December 2015. Since then however, the Swansea Channel has again shoaled up.

Lake Macquarie is a beautiful and unique asset to New South Wales, providing the state and local communities with enormous social and economic benefits. Having a navigable channel would allow those benefits to increase, opening the Lake up to a wider tourist market.

The proposal for a permanent dredge in Swansea Channel has broad support across the community, and right around the Lake.

### **The former Pelican Marina site**

The former Pelican Marina, situated on Crown land, has been the subject of much controversy for at least the last two years, under the former lessee.

Located on the foreshore of Lake Macquarie in the lakeside suburb of Pelican, the Pelican Marina hosted the iconic restaurant "Milano's on the Lake", and a number of other commercial maritime entities.

The management of the former marina was so poor that it fell into disrepair and ultimately collapsed into Lake Macquarie in February this year. I had brought this to the attention of the Minister a number of times, as had Lake Macquarie City Council, and little tangible action was taken to address the concerns of the Council, the community, the business owners operating on the site, or myself. The eventual collapse was arguably a tragedy which could have been avoided had the site been properly managed, and it comes at a huge loss to the community.

The site has a unique zoning of IN4 Working Waterfront (see appendix A), of which there are few land parcels in Lake Macquarie with that particular zoning.

This zoning carries with it specific objectives that include providing employment opportunities, encouraging waterfront industry and maritime activities, and the development of tourism (see Appendix B). In a regional area like Swansea, land with an IN4 zoning, is an invaluable asset to the community.

Since the demolition, I have conducted broad consultation with the community in Pelican around what should be done with the site going forward. At a public meeting in June, the community unanimously voted to keep the site in public hands. A number of community members have since provided their own thoughts, and I have attached these to this submission (Appendix C).

### **Coastal erosion**

This year, the NSW Parliament debated the *Coastal Management Bill*, which subsequently passed the Legislative Assembly. During that debate, I noted in my own contribution the concerns of Surf Life Saving Clubs throughout NSW, many of which are actually situated on Crown land.

Their concerns around coastal erosion and continued access to Crown land – which is integral in allowing them to continue their role in keeping our beaches safe – are important to consider when making decisions about protecting and maintaining Crown land for the benefit of future generations.

## **Ministerial discretion pertaining to Crown reserve**

In 2013, the *Crown Lands Act* was amended to include s34A, which broadened Ministerial powers to issue leases, licences or permits over Crown reserve for purposes the Minister thinks fit – including purposes which are contrary to those specified under the relevant governing instrument. Whilst the Act dictates that the Minister must consult with stakeholders when making such a direction, failure to do so does not affect the validity of the Minister's decision.

The NSW Law Society's Indigenous Issues Committee, at the time of the amendment, expressed strong reservations about such broad powers, arguing that it undermined the *Aboriginal Land Rights Act 1983*. The Committee further noted that the Government was effectively legislating to legalise non-compliance with its own legislation.

One might suggest that such broad Ministerial discretion is contrary to the overall principles of Crown land management, as set out in s11 of the *Crown Lands Act* and inhibits the operation of the *Aboriginal Land Rights Act*.

The interests of Aboriginal people in the decision making process regarding Crown land should not be underestimated. By way of example, in 2012, there were more than 7000 registered Aboriginal sites within the boundaries of the Darkinjung Local Aboriginal Land Council area. It would be remiss of governments to ignore the cultural significance of Crown land sites to Aboriginal people.

Decisions relating to the management of Crown land cannot be made without genuine consultation with the traditional owners of that land. The current level of Ministerial discretion does not guarantee consultation with the traditional owners will even take place, and this is certainly something that should be addressed within the purview of this inquiry.

**Yasmin Catley MP is the Member for Swansea in the NSW Parliament.**



# Appendix "A"



## Lake Macquarie Local Environmental Plan 2014

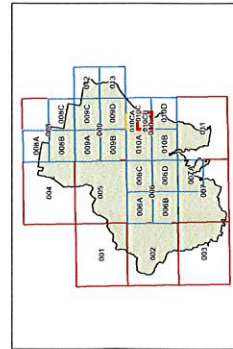
### Land Zoning Map - Sheet LZN\_010CB

#### Zone

- B1 Neighbourhood Centre
- B2 Local Centre
- B3 Commercial Core
- B4 Mixed Use
- B7 Business Park
- E1 National Parks and Nature Reserves
- E2 Environmental Conservation
- E3 Environmental Management
- E4 Environmental Living
- IN1 General Industrial
- IN2 Light Industrial
- IN4 Working Waterfront
- R1 General Residential
- R2 Low Density Residential
- R3 Medium Density Residential
- RE1 Public Recreation
- RE2 Private Recreation
- RU2 Rural Landscape
- RU3 Forestry
- RU4 Primary Production Small Lots
- RU6 Transition
- SP1 Special Activities
- SP2 Infrastructure
- SP3 Tourist
- W1 Natural Waterways
- DM Deferred Matter

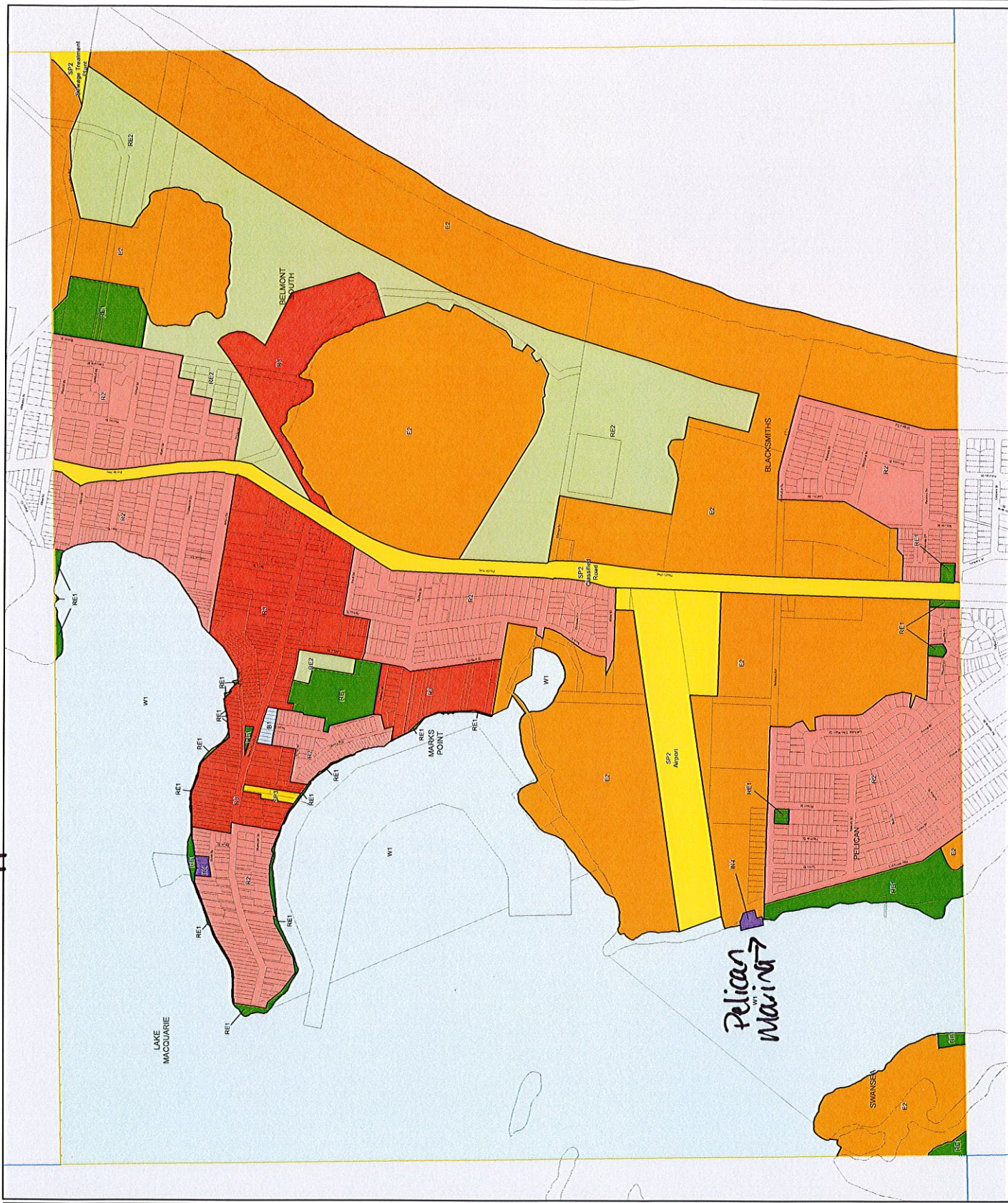
#### Cadastre

- ☐ Cadastre 13/6/2014 @ Land and Property Information (LPI)



Projection: GDA 1984  
MGA Zone 56

Map Identification Number: 4850\_COM\_LZN\_010CB\_010\_20140625





# Appendix "B"

## Lake Macquarie Local Environmental Plan 2014

Current version for 8 July 2016 to date (accessed 24 July 2016 at 13:04)

[Land Use Table](#) > [Zone IN4](#)



### Zone IN4 Working Waterfront

#### 1 Objectives of zone

- To retain and encourage waterfront industrial and maritime activities.
- To identify sites for maritime purposes and for activities that require direct waterfront access.
- To ensure that development does not have an adverse impact on the environmental and visual qualities of the foreshore.
- To encourage employment opportunities.
- To minimise any adverse effect of development on land uses in other zones.
- To recognise the contribution that marinas make to the recreational needs of the community.
- To ensure development does not adversely affect the ecology, scenic values or navigability of Lake Macquarie or its waterways.
- To encourage tourism development that is sensitively designed to enhance and complement its location and avoid unacceptable adverse impacts on the environment.

#### 2 Permitted without consent

Nil

#### 3 Permitted with consent

Boat building and repair facilities; Boat launching ramps; Business premises; Car parks; Charter and tourism boating facilities; Eco-tourist facilities; Environmental facilities; Environmental protection works; Flood mitigation works; Jetties; Kiosks; Light industries; Marinas; Passenger transport facilities; Registered clubs; Restaurants or cafes; Roads; Signage; Take away food and drink premises; Tourist and visitor accommodation; Water recreation structures; Wharf or boating facilities

#### 4 Prohibited

Funeral homes; Any other development not specified in item 2 or 3



## The future use of the Pelican Marina site

### Have Your Say

Do you think that the Pelican Marina should be replaced with another marina with a restaurant and commercial/residential space?

YES

☐

NO

☐

If no, what would you like to see replace the Pelican Marina?

I'm happy with a development or public parkland as long as it all stays in public hands.

Name: .....

# Have Your Say

NO

☒

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This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There is a larger margin at the top, likely for a header or title. The paper appears to be from a notebook or a standard ruled sheet of paper.

Name: .....



# The future use of the Pelican Marina site

## Have Your Say

Do you think that the Pelican Marina should be replaced with another marina with a restaurant and commercial/residential space?

YES



NO



*Ideas below:*

If no, what would you like to see replace the Pelican Marina?

*With consideration given to the environment*

*Disability friendly.*

*Access for all community, cafe + restaurant / function*

*Commercial*

*Boat hire / ice / bait / icecreams as previously.*

*Restaurant set back from lake front allowing pedestrian access to enjoy lake front.*

*KEEP THIS BEAUTIFUL PART OF LAKE MACQUARIE*

*SAFE + PROTECTED FROM THOSE*

*~~WHO DO NOT HEAR OR SEE THE LAKE BOUNDARY~~*

*FROM MAJOR INVASIVE ~~DEE~~ DEVELOPMENT.*

Name: .....



# The future use of the Pelican Marina site

## Have Your Say

Do you think that the Pelican Marina should be replaced with another marina with a restaurant and commercial/residential space?

YES



NO



If no, what would you like to see replace the Pelican Marina?

only if it serves the community  
and it is how the  
community wants it to happen.

Name: .....

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# The future use of the Pelican Marina site

## Have Your Say

Do you think that the Pelican Marina should be replaced with another marina with a restaurant and commercial/residential space?

YES

☒

NO

☐

If no, what would you like to see replace the Pelican Marina?

The marina should stay  
in public hands and certainly  
a restaurant should be there.

Name: .....

# The future use of the Pelican Marina site

## Have Your Say

Do you think that the Pelican Marina should be replaced with another marina with a restaurant and commercial/residential space?

YES

☐

NO

☐

If no, what would you like to see replace the Pelican Marina?

*What ever there must be public access ALONG WATER FRONT*

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Name: .....



# The future use of the Pelican Marina site

## Have Your Say

Do you think that the Pelican Marina should be replaced with another marina with a restaurant and commercial/residential space?

YES

NO



If no, what would you like to see replace the Pelican Marina?

- A restaurant & cafe & kiosk + small boat hire
- would like to keep the foreshore area for swimming & "picnicing"
- A ecologically friendly development would be great - back from the foreshore.
- We would like an area everyone can enjoy - NOT just a select few!

Name: .....

# The future use of the Pelican Marina site

## Have Your Say

Do you think that the Pelican Marina should be replaced with another marina with a restaurant and commercial/residential space?

YES

☐

NO

☐

If no, what would you like to see replace the Pelican Marina?

*I would like a restaurant without Marina  
as the channel flows past too fast*

Name: ....

.....

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# The future use of the Pelican Marina site

## Have Your Say

Do you think that the Pelican Marina should be replaced with another marina with a restaurant and commercial/residential space?

YES

☐

NO

☒

If no, what would you like to see replace the Pelican Marina?

Possibly a smaller version with a twist:- Change the position of the troubled boat ramp in Pelican Park to the corner next to R.M.S. shed along with Boat + Trailer parking & a small commercial building to provide eg. Boat Hire bait take away food & drinks etc and use the present boat ramp parking for a possible eat in restaurant leaving the entire area from Marine Rescue toward the Bridge for bathing etc without intermingling with small to med trailer boats which would mostly head in the Drogheda direction.

Boats could call in to shore or small jetty for food, drink, bait etc which is not readily available, also Marine Rescue is in a good position to spot trouble

25.06.16

Name: .....

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# The future use of the Pelican Marina site

## Have Your Say

Do you think that the Pelican Marina should be replaced with another marina with a restaurant and commercial/residential space?

YES



NO



If no, what would you like to see replace the Pelican Marina?

Yes.

1). The site should remain in public hands & remain owned by the state.

2). I'd like to see a new building on the site, with restaurant, wedding reception area & community space. A marina would be good if it's deemed safe to have one, very fast currents.

3). Public access - I'd like to see a board walk style public thorough-fair from the Rescue Station through to the other side of the creek.

4). If we want private funding to develop the site then a residential space on the second level would be necessary.

Name: ....

M/s Y Catley, State Member for Swansea, M/s Catley, Thank you for your invitation to the community meeting at Pelican foreshore on Saturday 25 June 2016, I found it most interesting and was pleased at the number of people who turned out on such a cold day.

After thinking about what was said by others at the meeting I would like to add my thoughts to your list of comments re Pelican foreshore redevelopment, but before I commence I must report that the subject of Pelican foreshore redevelopment has not only been an issue for the residents of Pelican, but also for other people that reside in the Lake Macquarie/Newcastle area.

Over the weekend I have had people approach me asking what was resolved at the meeting and what was Council's response to the community concerns, all I could do was to repeat what was said at the meeting.

After giving it a lot of consideration I have formed the opinion that the following may be a good suggestion to the problem of what should be done at Pelican.

The old Milano's site was and will always have a problem with tidal surge, thus needing a lot of money to construct something that will be strong enough to withstand any further tidal surges and I can not see the State Government spending great amounts of money to render the site a safe place to construct a building of any type let alone another restaurant and marina.

I would therefore suggest we settle for a cafe come food store that could be built closer to the toilet block. If this cafe was constructed along the lines of Sal's which is situated in the Speers Point Park and run by the Salvation Army. In this cafe they train young people to run a fresh food outlet as well as serving hot take away and dine in meals.

If in time it was thought that a restaurant was warranted this building could be expanded to accommodate a restaurant and function centre. Pelican foreshore is one of the most popular picnic sites if not the most popular on Lake Macquarie, yet there is no retail outlet serving hot and cold food as well as hot and cold drinks within a kilometre of the foreshore. During summer and public holidays this area is packed to the rafters with families wanting to picnic and swim at Pelican. It is that popular that Council had to upgrade the public toilet block a while ago to accommodate the increased use it caters for.

As far as residential accommodation is concerned I do not believe that a site like the foreshore of Lake Macquarie should be built on for residential purpose and only a very small amount of retail premises should be allowed, this is pristine public land and should be kept exclusively for the use of the general public.

If the general consensus is that a marina is required maybe the Pelican Inlet could be dredged and used as a marina/ restaurant, this is a protected area and not prone to tidal surge, even a new boat ramp could be built making this area a complete boating facility. At the moment this land is mostly covered with Lantana and morning glory, this could be cleared and only native

species left to grow and prosper.

27 June 2016