

Mr David Farmer
General Manager
Wollongong City Council
Locked Bag 8821
WOLLONGONG DC NSW 2500

Attention: Mr David Green

Dear Mr Farmer

David

Planning proposal PP_2018_WOLLG_008_00 to amend Wollongong Local Environmental Plan 2009

I am writing in response to Council's request for a Gateway determination under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* in respect of the planning proposal to amend zoning, floor space ratio, lot size and building height controls to allow medium-density residential development on the former Port Kembla Public School site and to rezone Gallipoli Park, Port Kembla to recognise its use as a public park.

Recent investments and development approvals, and the current focus of strategic planning for the port (the Department, NSW Ports, Transport for NSW, etc), are likely to see the capacity of Port Kembla expand over the next approximately 20 years.

I note that the Port Kembla 2505 Revitalisation Plan contains a vision to "grow with the port and industry", and I appreciate Council's efforts in aiming to create a balance between the needs of the port and industry and the needs of the community.

The Department has also commissioned the Port Kembla Land Use Conflict Management Study that seeks to reduce land use conflicts around the port and heavy industrial lands into the future. This will be particularly important as the use of the port and surrounding industrial lands intensifies. A focus area of this study is the interface between the Three Ports SEPP area and Port Kembla, including the former Port Kembla School site.

While I recognise that the proposal would facilitate increased housing choice and residential growth in Port Kembla, this aspect of the proposal is not supported as it would result in an intensification of residential land use immediately adjacent to heavy industrial land and an expanding port. It is estimated that the proposal could result in up to a three-fold increase in the number of dwellings allowed on the site under the current controls (i.e. from approximately 48 to 137 dwellings assuming an

average floor area of 120m² per dwelling). It is noted that the concept plan submitted with the proposal contains 110 dwellings.

The future expansion of the Port Kembla port is likely to result in increased noise, air, dust, odour, traffic, visual, hazards and risks and other amenity impacts which are unlikely to be tolerated by/acceptable to incoming residents, particularly when the port is at capacity and operating 24 hours a day, seven days a week (as is the case with Port Botany).

An intensification of residential population on the school site is also likely to limit future industrial development within the Port area and intensify potential future land use safety conflicts.

The proposed level of intensification of residential use on the former Port Kembla School site is therefore likely to result in increased/unacceptable land-use conflicts with adjacent heavy industrial uses within the port that could:

- restrict the existing and likely future uses of adjacent industrial/port land, adversely impact on the efficient functioning of the port and hinder the potential to grow the capacity of the port of Port Kembla as an international trade gateway, therefore being inconsistent with Directions 1.2 and 1.4 and Action 1.2.1 of the Illawarra-Shoalhaven Regional Plan (and section 9.1 Ministerial Direction 5.10);
- hinder the efficient development, redevelopment and protection of land at Port Kembla for port purposes, therefore being inconsistent with the aims of State Environmental Planning Policy (Three Ports) 2013; and
- restrict the use of adjacent industrial lands for employment uses, therefore being inconsistent with the objectives of section 9.1 Ministerial Direction 1.1 Business and Industrial Zones.

The Department is of the view Port Kembla should be protected from encroachment by incompatible land uses which could sterilise or limit the potential use of state significant port land.

It is considered that rezoning the former school site to intensify residential development at this time is premature as there is currently too much uncertainty about the potential restrictions it may place on the future use of heavy industrial land within the port of Port Kembla. Any future proposal must address the Department's reasons for not supporting the rezoning of the former school site, the outcomes of the Port Kembla Land Use Conflict Management Study when completed and demonstrate that land use conflict can be avoided.

I do, however, support the amendment to the heritage listing for the former school site and the rezoning of Gallipoli Park to facilitate its ongoing use as public open space for the local community.

As delegate of the Minister for Planning, I have determined that the planning proposal should be amended to remove all aspects relating to the former Port Kembla Public School site (Lot 1 DP 811699) and Electrolytic Street (not including the proposed amendment to the heritage listing) prior to public exhibition.

Notwithstanding, as delegate of the Minister for Planning, I have determined that the planning proposal as it relates to Gallipoli Park should proceed subject to the conditions in the enclosed Gateway determination.

I have also agreed, as delegate of the Secretary, that the planning proposal's inconsistencies with section 9.1 Directions 2.3 Heritage Conservation and 3.1 Residential Zones are minor and justified in accordance with the terms of the Directions. No further approval is required in relation to these Directions. It is noted that Council has requested to be authorised as the local plan-making authority. I have considered the nature of Council's planning proposal and have conditioned the Gateway for Council to be authorised as the local plan-making authority.

The amending local environmental plan (LEP) is to be finalised within 9 months of the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office six weeks prior to the projected publication date. A copy of the request should be forwarded to the Department of Planning and Environment.

The state government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 3.32(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any further enquiries about this matter, I have arranged for Mr Graham Towers, Team Leader, Southern, to assist you. Graham can be contacted on 4224 9467.

Yours sincerely



Marcus Ray
Deputy Secretary
Planning Services

21/11/2018

Encl! Gateway determination

Authorised plan-making reporting template

Gateway Determination

Planning proposal (Department Ref: PP_2018_WOLLG_008_00): to rezone Gallipoli Park (Lot 301 DP 878127), located on Marne Street, Port Kembla, from R2 Low Density Residential to RE1 Public Recreation and remove minimum lot size and floor space ratio controls applying to the site.

I, the Deputy Secretary, Planning Services, at the Department of Planning and Environment, as delegate of the Minister for Planning, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Wollongong Local Environmental Plan (LEP) 2009 as described above should proceed subject to the following conditions:

1. The planning proposal is to be amended to remove all aspects relating to the former Port Kembla Public School site (Lot 1 DP 811699) and Electrolytic Street (not including the proposed amendment to the heritage listing) prior to public exhibition. This aspect of the proposal is not supported as it would result in an intensification of residential land use immediately adjacent to heavy industrial land and an expanding port, which is likely to result in increased land-use conflicts that could:
 - (a) restrict the existing and likely future uses of adjacent industrial/port land, adversely impact on the efficient functioning of the port and hinder the potential to grow the capacity of the port of Port Kembla as an international trade gateway, therefore being inconsistent with Directions 1.2 and 1.4 and Action 1.2.1 of the Illawarra-Shoalhaven Regional Plan (and section 9.1 Ministerial Direction 5.10);
 - (b) hinder the efficient development, redevelopment and protection of land at Port Kembla for port purposes, therefore being inconsistent with the aims of State Environmental Planning Policy (Three Ports) 2013; and
 - (c) restrict the use of adjacent industrial lands for employment uses, therefore being inconsistent with the objectives of section 9.1 Ministerial Direction 1.1 Business and Industrial Zones.
2. Amended land zoning, lot size and floor space ratio maps applying only to Gallipoli Park (Lot 301 DP 878127) are to be prepared for public exhibition.
3. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **14 days**; and
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning

proposals as identified in section 5.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment 2016).

4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
 - a. the planning proposal authority has satisfied all the conditions of the Gateway determination;
 - b. the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
 - c. there are no outstanding written objections from public authorities.
6. The time frame for completing the LEP is to be **9 months** following the date of the Gateway determination.

Dated 21st day of November 2018.



Marcus Ray
Deputy Secretary
Planning Services
Department of Planning and
Environment

Delegate of the Minister for Planning