

## Planning Services

### Gateway Determination Report

<b>LGA</b>	Wollongong
<b>PPA</b>	Wollongong City Council
<b>NAME</b>	Rezone the former Port Kembla Public School site from B4 Mixed Use to part R3 Medium Density Residential and part RE2 Private Recreation, and rezone Gallipoli Park from R2 Low Density Residential to RE1 Public Recreation (110 dwellings, 0 jobs)
<b>NUMBER</b>	PP_2018_WOLLG_008_00
<b>LEP TO BE AMENDED</b>	Wollongong Local Environmental Plan 2009
<b>ADDRESS</b>	Port Kembla Public School site – Military Road, Port Kembla Gallipoli Park – Marne Street, Port Kembla
<b>DESCRIPTION</b>	Port Kembla Public School site – Lot 1 DP 811699 Gallipoli Park – Lot 301 DP 878127
<b>RECEIVED</b>	5 June 2018
<b>FILE NO.</b>	IRF18/3098
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required.
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal.

## INTRODUCTION

### Description of planning proposal

The planning proposal (**Attachment A**) seeks to amend zoning, floor space ratio, lot size and building height controls to allow medium-density residential development (110 dwellings) on the former Port Kembla Public School site. The planning proposal also seeks to rezone Gallipoli Park, Port Kembla from R2 Low Density Residential to RE1 Public Recreation to recognise its use as a public park and amend the heritage listing of the school site to “Site of former Port Kembla Public School”.

### Site description

#### Regional context

The planning proposal relates to two sites (the former Port Kembla Public School site and Gallipoli Park) located immediately south of the port of Port Kembla in the suburb of Port Kembla. Port Kembla is approximately 8km south of the Wollongong city centre in the Wollongong local government area (Figure 1, next page).



Figure 1: Site location – regional context (source: Nearmap).

#### Former Port Kembla Public School site

The former Port Kembla Public School site is located on Military Road, Port Kembla (Lot 1 DP 811699).

The site is approximately 2.195ha and trapezoidal in shape (Figure 2, next page). It is bounded by Military Road, Marne Street, Reservoir Street and Electrolytic Street. The site generally slopes upwards from north to south such that most of the site overlooks the port of Port Kembla and surrounding industrial lands.

The site was formerly used as the Port Kembla Public School until 1999. In 2013, the school building was destroyed by fire and subsequently demolished. The site is listed as a heritage item and is vacant, with only the foundations of the main school building remaining.

#### Gallipoli Park

Gallipoli Park is located on Marne Street, Port Kembla (Lot 301 DP 878127).

The site is approximately 1.1ha and has an irregular shape (Figure 2, next page). The site is used as a public park.



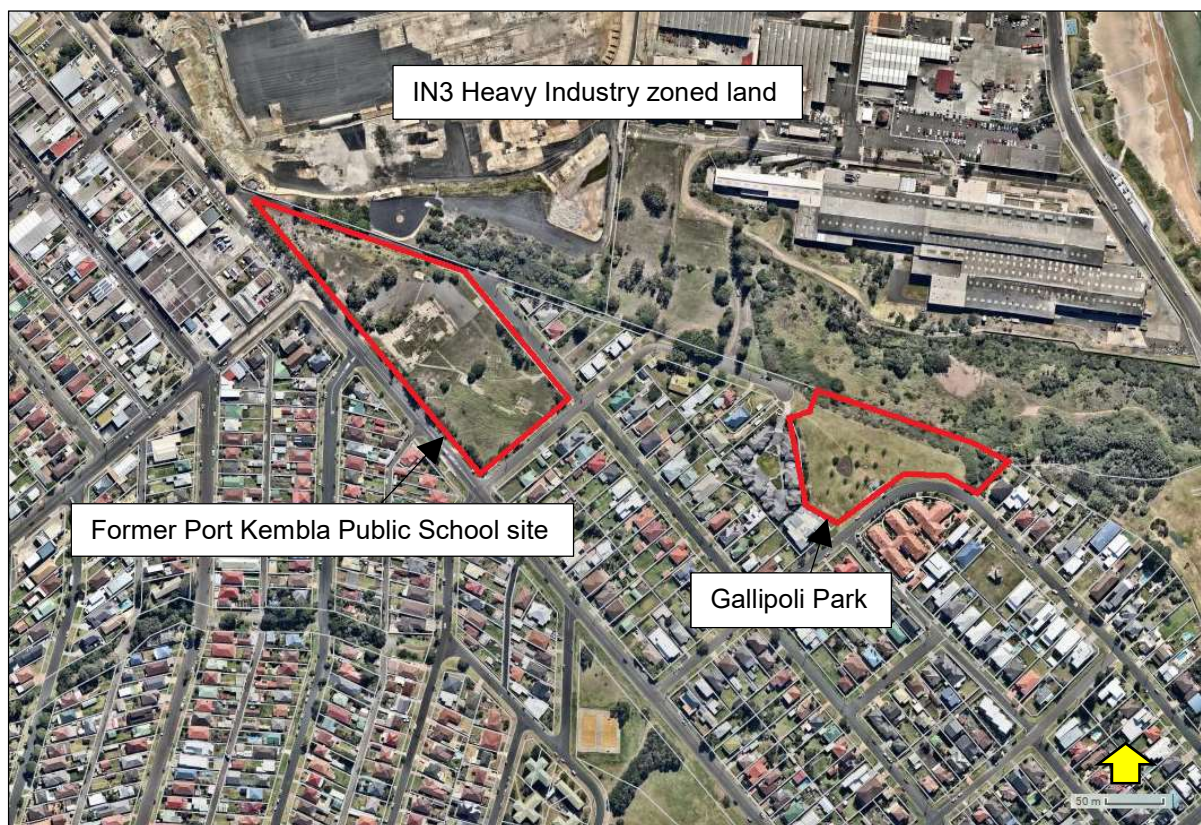


Figure 2: Site location – local context (source: Nearmap).

## Surrounding area

### Former Port Kembla Public School site

To the north, the site adjoins the former Port Kembla Copper site (zoned IN3 Heavy Industrial) and the southern extent of the port of Port Kembla as defined in State Environmental Planning Policy (Three Ports) 2013 (Three Ports SEPP) (Figure 3, next page). To the west of the site is a strip of industrial land (zoned IN2 Light Industrial), the southern end of the Port Kembla town centre (zoned B2 Local Centre) and low-density residential development (zoned R2 Low Density Residential).

To the south and east of the site is low-density residential development (zoned R2 Low Density Residential).

### Gallipoli Park

The site is adjoined by low-density residential development (zoned R2 Low Density Residential), except for the north-eastern perimeter, which adjoins a strip of recreational land separating residences along Marne Street from the Metal Manufacturers site (zoned IN3 Heavy Industrial) further beyond (Figure 3, next page).

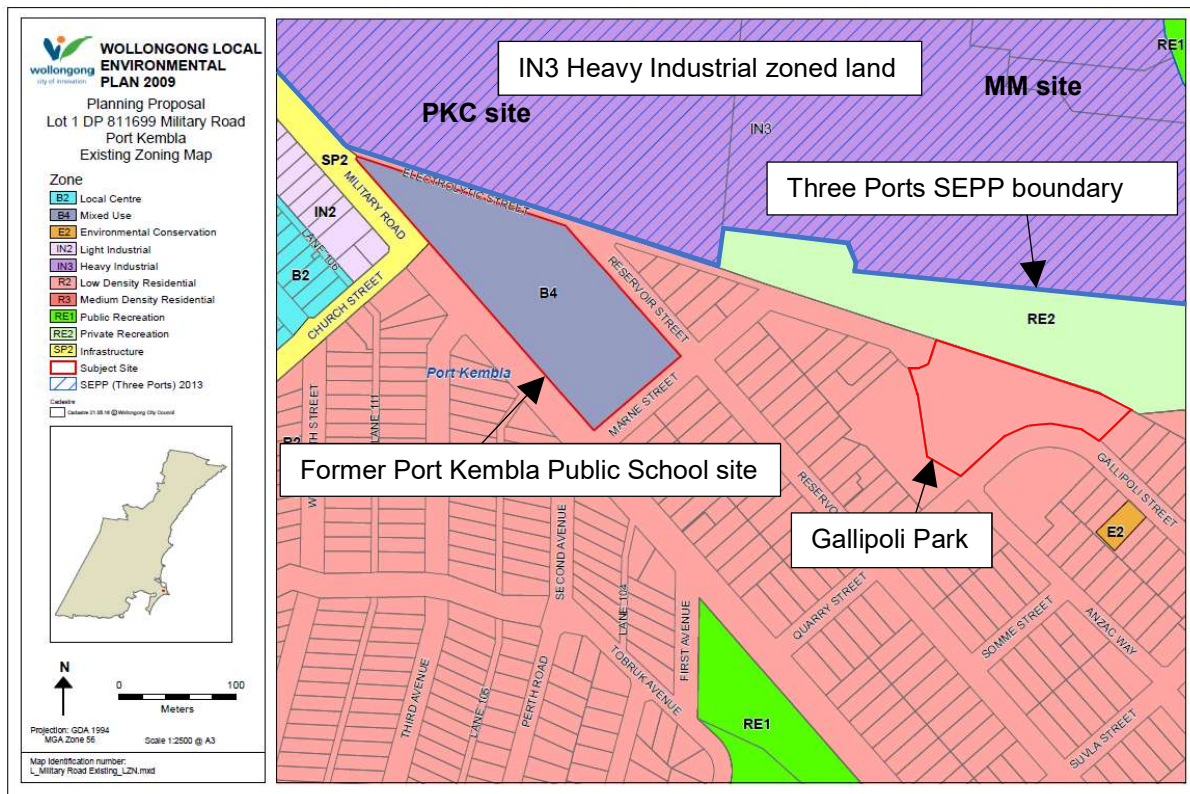


Figure 3: Zoning of site and surrounds (source: Wollongong City Council).

## Summary of recommendation

It is recommended that the planning proposal be amended to remove the proposed rezoning of the former Port Kembla Public School site (and Electrolytic Street) to allow medium-density residential development as it is likely to result in increased land-use conflicts, which would hinder the operation of adjacent heavy industrial and port land uses.

It is recommended that the planning proposal as it relates to Gallipoli Park and the amendment to the heritage listing proceed as submitted.

## PROPOSAL

### Objectives or intended outcomes

The primary objective of the planning proposal is to enable medium-density residential development on the former Port Kembla Public School site. The planning proposal also seeks to rezone Gallipoli Park (owned by Council) for public recreation purposes in recognition of its public reserve status.

### Explanation of provisions

To achieve the objectives and intended outcomes of the planning proposal, the Wollongong Local Environmental Plan (LEP) 2009 would be amended as follows:

#### Former Port Kembla Public School site

- Amend the land zoning map to rezone the site from B4 Mixed Use to part R3 Medium Density Residential and part RE2 Private Recreation (Figure 4, next page).
- Amend the land zoning map to rezone the part of Electrolytic Street adjoining the site from R2 Low Density Residential to RE2 Private Recreation.
- Amend the floor space ratio (FSR) map to increase the maximum FSR applying to the proposed R3-zoned area from 0.5:1 to 0.75:1 and remove FSR controls from the proposed RE2-zoned area.



- Amend the height of buildings map to increase the maximum building height applying to the proposed R3-zoned area from 9m to 11m.
- Amend the lot size map to reduce the minimum lot size applying to the proposed R3-zoned area from 1999m<sup>2</sup> to 499m<sup>2</sup> and remove minimum lot size controls from the proposed RE2-zoned area.
- Amend the heritage map and heritage schedule to refer to the site as “site of former Port Kembla Public School”.
- Amend the key sites map to identify the site as a key site to which the provisions of Clause 7.18 Design Excellence apply to any future development application for the site.
- Require at least 5% affordable rental housing on the former Port Kembla Public School site.

### Gallipoli Park

- Amend the land zoning map to rezone the site from R2 Low Density Residential to RE1 Public Recreation (Figure 4).
- Amend the lot size map to remove minimum lot size controls applying to the site.
- Amend the FSR map to remove FSR controls applying to the site.

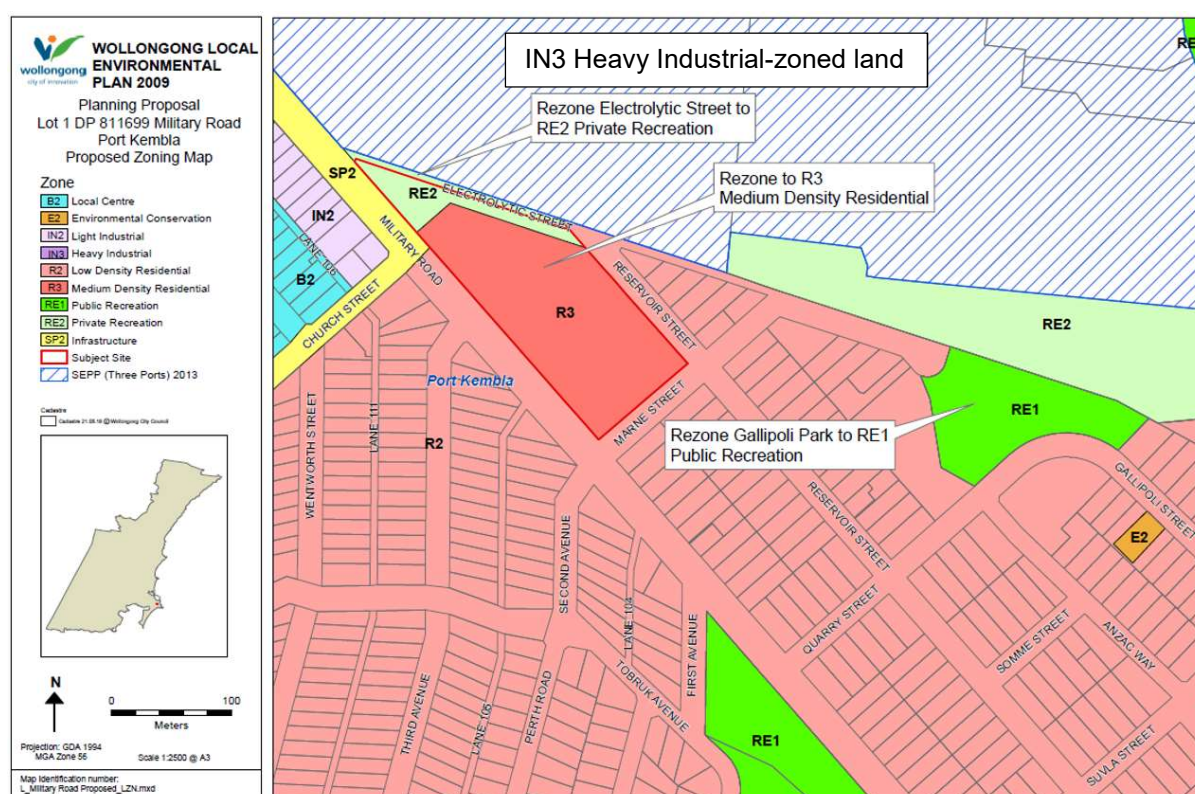


Figure 4: Proposed zoning map (source: Wollongong City Council).

Prior to exhibition of the planning proposal, Council proposes to undertake an urban design review (UDR) process to refine the proposed amendments to FSR, maximum building height and minimum lot size controls in the Wollongong LEP 2009. Few details have been provided regarding this process except that it would involve the proponent, NSW Ports, the Port Kembla Chamber of Commerce and representatives from Council's UDR panel to ensure the proposal achieves design excellence.

Council would also require the proponent to prepare a site-specific development control plan (DCP) chapter outlining appropriate built form controls based on the outcomes of the UDR.

Following the UDR, Council proposes to seek a revised Gateway determination and exhibit the DCP chapter with the revised planning proposal.

The planning proposal is supported by a number of studies / documents, including:

- Attachment A1 – Detailed Site Investigation;
- Attachment A2 - Conceptual Remediation Action Plan;
- Attachment A3 – Draft Re-Assessment for Rezoning;
- Attachment A4 – Noise Assessment;
- Attachment A5 – Traffic Impact Assessment;
- Attachment A6 – Council Report;
- Attachment A7 – Council Report - Applicant's Planning Proposal Report;
- Attachment A8 – Council Report - Urban Design Report;
- Attachment A9 – Council Report – Attachment 3 – Concept Plan;
- Attachment A10 – Council meeting minutes – 28 May 2018; and
- Attachment A11 – Council's Gateway determination request letter.

### **Mapping**

Council has included mapping (**Attachment A**) of the proposed planning controls for both sites in the planning proposal.

Given the findings and recommendations of this report, all maps relating to the former Port Kembla Public School site (and Electrolytic Street) will need to be removed from the planning proposal and amended zoning, lot size and FSR maps applying to Gallipoli Park only will need to be prepared for exhibition purposes.

### **NEED FOR THE PLANNING PROPOSAL**

---

Council has identified that the planning proposal is needed to:

- achieve the intended outcomes and enable medium-density residential development on the former Port Kembla Public School site;
- facilitate a mix of dwelling types that encourage social mix and provide housing choice to meet the needs of the community; and
- facilitate growth in Port Kembla in line with Council's adopted Port Kembla 2505 Revitalisation Plan.

Council acknowledges the current B4 Mixed Use zoning of the former school site enables shop-top housing, multi-dwelling housing and residential flat buildings. However, Council notes that clause 7.13 of the Wollongong LEP 2009 – Ground floor development on land within business zones – requires ground floor retail across the site. Council has advised that additional retail floor space is not required in Port Kembla due to an existing oversupply.

## STRATEGIC ASSESSMENT

---

### **Illawarra-Shoalhaven Regional Plan**

Council has assessed the proposal against the Illawarra-Shoalhaven Regional Plan. Council states that the proposal is consistent with the plan, specifically:

- Direction 2.1: Provide sufficient housing supply to suit the changing demands of the region;
- Direction 2.4: Identify and conserve biodiversity values when planning new communities;
- Direction 3.2: Enhance community access to jobs, goods and services by improving connections between centres and growth areas;
- Direction 3.3: Build socially inclusive, safe and healthy communities; and
- Direction 3.4: Protect the region's cultural heritage.

### Former Port Kembla Public School site

The Department notes that the planning proposal is generally consistent with the regional plan directions identified by Council. The proposal: would facilitate a mix of housing on the former Port Kembla Public School site, which is located close to existing services in the Port Kembla town centre and local public transport options; and is unlikely to result in adverse biodiversity or cultural heritage impacts (subject to the preparation of a heritage interpretation strategy).

However, Council has not addressed the following key direction and action of the regional plan, which are considered relevant to the planning proposal as it relates to the former school site:

- Direction 1.2: Grow the capacity of the port of Port Kembla as an international trade gateway; and
- Action 1.2.1: Reduce land use conflicts by managing buffers around the port and its supporting freight network.

The port of Port Kembla contributes approximately \$418 million annually to the regional economy and supports 3500 jobs as an international trade gateway. A large proportion of the land identified as the port of Port Kembla is currently unused, vacant or underused, and this reduces the potential for land-use conflicts. The vacant sites, such as Port Kembla Copper adjacent to the school site, act as a buffer between the port and residential areas. However, these sites do not contribute to the economy or create jobs when they are vacant.

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 its capacity expand over the next approximately 20 years.

NSW Ports has advised that industrial land at Port Kembla is of strategic importance to the growth of Port Kembla. For example, in Port Botany, the container terminal is supported by several container and logistics facilities on port land and in surrounding industrial areas. NSW Ports has advised that a similar pattern of development should be anticipated at Port Kembla. The Navigating the Future: NSW Ports' 30 Year Master Plan also identifies the outer harbour of Port Kembla as the future home of NSW's second container port to cater for future trade volumes as Port Botany reaches capacity.

The regional plan reflects the master plan and states that “freight and logistics (port-related activities) – Logistics-related industry is predicted to grow in the region as the port of Port Kembla expands into containerised trade and other exports”.

It is proposed to change the zoning of the former Port Kembla School site from a commercial zone to medium-density residential and to increase the maximum building height and FSR controls, intensifying residential use of the site and the number of residents (an estimated additional 62 - 89 dwellings).

The site has an area of 2.195ha and an FSR of 0.5:1 applies. As residential uses are currently not allowed on the ground floor, the allowable floorspace for residential uses is 0.55ha at present. Under the proposal the FSR would be increased to 0.75:1 allowing approximately 1.5ha of residential floorspace. This is an additional 0.95ha of residential floorspace.

Using a dwelling size of 120m<sup>2</sup> in floor area, the existing controls would allow approximately 48 dwellings.

Using the dwelling size as above, the proposal would allow for approximately 137 dwellings, which is three times more (or 89 dwellings) than allowed under current controls.

It is noted that the concept plan submitted with the proposal contains 110 dwellings (**Attachment A9**) in a mix of sizes and built forms – terraces, small lot housing and residential flat buildings. This is 62 dwellings more than the current controls allow (assuming a dwelling size of 120m<sup>2</sup>).

The Department is of the view an intensification of residential use of up to an additional 89 dwellings on the boundary of the Three Ports SEPP area presents the risk for land-use conflict with adjacent heavy industrial uses within the Port area. This is because the future expansion of the Port of Port Kembla is likely to result in increased noise, air, dust, odour, traffic, visual impacts 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).

This is likely to impact existing industrial uses from expanding and limit the potential future uses of adjacent industrial/port land, adversely impacting on the efficient functioning of the port and hindering the potential to grow the capacity of the port of Port Kembla.

Two of the key land use conflict issues likely to result from the intensification of residential use on the former Port Kembla School site are hazards and risks and noise impacts.

The Department's Major Hazards Unit (MHU) has reviewed the planning proposal and noted existing major hazards facilities within the Port area and potential future uses such as the bulk liquids terminal (approved by the Department in 2015) and planned liquefied natural gas (LNG) terminal present safety risks to surrounding land uses.

While the risks associated with these current facilities are unlikely to impact the former Port Kembla School site due to their separation from the site, the MHU has advised an intensification of residential population on the school site is likely to limit future hazardous industrial development within the Port area and intensify potential future land use safety conflicts.

The Department is of the view that Port Kembla should be protected from encroachment by intensified residential land uses which could limit the potential use of state significant port land. The Department's Resources Policy branch has



reviewed the planning proposal and raised similar concerns regarding the need to protect the continued operation of port land into the future.

In relation to noise, the Department accepts that the planning proposal is supported by a noise assessment, which concludes that future buildings could be designed to achieve an acceptable internal noise level of amenity for residents. Further, it is acknowledged that Council proposes to undertake an urban design review process, list the site as a key site in the Wollongong LEP 2009 and prepare a site-specific DCP prior to exhibition of the planning proposal to ensure it achieves design excellence.

However, the Department cannot be certain that the results of the urban design review would be implemented through the development assessment process and construction, or that they would be adequate to manage land-use conflict.

Even with clever building design, the Department is of the view that an intensification of residential land use of this scale on the former Port Kembla Public School site immediately adjacent to an expanding port could result in increased land-use conflicts and community complaints. As noted by NSW Ports, these land-use conflicts are likely to be further exacerbated by the topography of the site, which is elevated above the port. This maximises the potential exposure of residents to amenity impacts.

The Environment Protection Authority has also advised that there are limitations to the best practice pollution controls and management measures available to industrial/port operators, and unforeseen environmental incidents can occur that are best avoided by effective land-use planning considerations.

The Department also agrees with the statement in Council's report on the proposal (**Attachments A6 to A9**) that the proposed 10m-wide strip of RE2 Private Recreation-zoned land along the north-eastern boundary of the site is unlikely to provide any significant reduction in noise or improved amenity for future residents.

The Department's assessment of the proposal has also considered alternate arrangements such as limiting residential uses to the Military Road or Marne Street frontages of the site.

The Department concludes that the planning proposal (as it relates to the former Port Kembla Public School site) is inconsistent with Direction 1.2 and Action 1.2.1 of the regional plan as it would result in an intensification of residential land use immediately adjacent to state significant heavy industrial land and an expanding port, which is likely to result in increased land-use conflicts and limit or sterilise the use of port land.

The Department is of the view it would be premature to support a proposal of this nature 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.

- Direction 1.4: Support new and expanded industrial activity by providing well-located and serviced supplies of industrial land; and
- Action 1.4.1: Investigate opportunities to better utilise industrial landholdings at Port Kembla.

The proposal does not support new and expanded industrial activity or better utilisation of industrial land at Port Kembla. It is proposed to increase residential density on the site, which adjoins the Three Ports SEPP area. This increases the potential for land-use conflict between industrial and residential uses. The proposal is therefore considered to be inconsistent with Direction 1.4.

For the above reasons, the Department concludes that the planning proposal (as it relates to the former Port Kembla Public School site) is inconsistent with Directions 1.2 and 1.4 and Action 1.2.1 of the regional plan.

It is noted 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 and satisfy action 1.2.1 of the Illawarra Shoalhaven Regional Plan. This will be particularly important as the use of the port and surrounding industrial lands intensifies. The study will make recommendations (which may or may not be adopted by the responsible authority) for improved planning measures to reduce the potential for land use conflicts between the port and its supporting road and rail freight network and growing residential areas in Wollongong. 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.

The Department therefore also considers it would be premature to support a proposal of this nature without understanding the outcomes and implications of this study (if any) for the subject site. The study is due for completion this year and will be made available to government agencies (including Wollongong City Council) and operators who attended workshops held as part of the study.

The Department does consider that the amendment of the heritage listing component of the proposal is not inconsistent with the regional plan.

#### Gallipoli Park

The Department considers that the Gallipoli Park component of the proposal is consistent with the regional plan – specifically Direction 3.3: Build socially inclusive, safe and healthy communities - as it will formally recognise the park as open space to be enjoyed by the community.

#### **Local**

Council has identified that the planning proposal is consistent with the relevant provision of its Wollongong 2022 Community Strategic Plan, the Port Kembla 2505 Revitalisation Plan and the Draft Urban Greening Strategy 2017 – 2037.

#### Former Port Kembla Public School site

The Department accepts that this component of the planning proposal is consistent with the plans identified by Council in that it:

- would facilitate increased housing choice and residential growth in Port Kembla;
- involves a site that is close to services in the Port Kembla town centre and local public transport options; and
- provides a strip of RE2 Private Recreation-zoned land to form part of a “green link” between the Port Kembla town centre, the site and the coast.

However, the revitalisation plan also contains a vision to “grow with the port and industry” that seeks to balance the needs of the growing port and industry with the neighbouring resident population. It states: “Clearer delineation between industrial lands and residential homes brings an improved physical relationship between the two.” The proposal is inconsistent with this vision as it brings a residential zone closer to heavy industrial lands.

#### Gallipoli Park

The rezoning of Gallipoli Park as public open space is consistent with Council’s local strategies as it will provide green space to support healthy communities.

## **Section 9.1 Ministerial Directions**

The planning proposal has identified applicable section 9.1 Directions, which are discussed below.

### **Direction 1.1 Business and Industrial Zones**

The objectives of this Direction are to:

- encourage employment growth in suitable locations;
- protect employment land in business and industrial zones; and
- support the viability of identified centres.

This Direction applies to the planning proposal as it involves an alteration to an existing business zone on an industrial zone boundary.

The planning proposal is inconsistent with this Direction as the proposed rezoning of the former Port Kembla Public School site would result in the loss of employment lands in a business zone (i.e. B4 Mixed Use).

Council has identified that the Port Kembla 2505 Revitalisation Plan and previous studies undertaken by Council have identified an oversupply of commercial/retail-zoned land in Port Kembla. Council considers the development of the site for business use would further erode the viability of businesses in the Port Kembla town centre. Given the above, Council concluded that the planning proposal is justifiably inconsistent with this Direction and of minor significance.

The Department considers that the planning proposal has not properly considered *objective (b) protect employment land in business and industrial zones* of this Direction. As noted earlier in this report, the Department considers an intensification of residential land use on the former Port Kembla Public School site adjacent to heavy industrial land and an expanding port is likely to result in increased land-use conflicts. These conflicts present the risk of sterilising or limiting the use of adjoining industrial land by approving incompatible residential land uses.

The Department considers the planning proposal to be inconsistent with the objectives of this Direction and is not satisfied the inconsistency is of minor significance.

### **Direction 2.3 Heritage Conservation**

The objective of this Direction is to conserve items, areas, objects and places of environmental heritage and indigenous significance.

This Direction requires planning proposals to facilitate the conservation of heritage items.

The Port Kembla Public School site is listed as a local heritage item in the Wollongong LEP 2009 and is in proximity to three other locally listed heritage items (the former Port Kembla Fire Station, St Stephens Anglican Church and a dwelling house/shop).

The planning proposal is supported by a heritage assessment that found:

- little remains of the Port Kembla Public School and its associated buildings (due to a fire in 2013);
- the site has limited archaeological potential; and
- the project will have a minor indirect impact on heritage items near the site and overall minor heritage impacts (subject to the preparation of a heritage interpretation strategy prior to finalisation of the planning proposal).

As no school structures remain on the site, the planning proposal seeks to amend the heritage listing in the Wollongong LEP 2009 to “site of former Port Kembla Public



School” as it is intended that heritage interpretation will be provided as part of any future redevelopment to reflect the historical significance of the site.

Given the findings of the heritage assessment, the Secretary’s delegate can be satisfied that any potential inconsistency with this Direction is of minor significance.

### Direction 3.1 Residential Zones

The objectives of this Direction are to:

- encourage a variety and choice of housing types to provide for existing and future housing needs;
- make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services; and
- minimise the impact of residential development on the environment and resource lands.

This Direction applies to planning proposals that would affect land within a proposed residential zone and aims to encourage housing to meet local demand, ensure new housing makes efficient use of existing infrastructure and services, and minimise the impact of residential development on the environment.

The planning proposal states that it would facilitate a mix of housing types (i.e. townhouses, semi-detached and semi-attached dwellings) on the former Port Kembla Public School site and can comply with the nominated objectives of this Direction.

The Department notes that the site is close to services in the Port Kembla town centre and local transport options, has the potential to be serviced by utilities (see further discussion below) and is unlikely to adversely impact on the environment or resource lands.

The Department is satisfied that the planning proposal (as it relates to the former Port Kembla Public School site) is consistent with this Direction.

The Department also considers that rezoning one residential lot (i.e. Gallipoli Park) for public recreation purposes would not adversely impact on housing supply in the Wollongong local government area. The Secretary’s delegate may therefore be satisfied that any potential inconsistency with this Direction is of minor significance.

### Direction 5.10 Implementation of Regional Plans

This Direction gives legal effect to the vision, directions and actions contained in regional plans. Planning proposals must be consistent with the relevant regional plan.

As noted earlier in this report, the planning proposal (as it relates to the rezoning of the former Port Kembla Public School site) is inconsistent with Directions 1.2 and 1.4 and Action 1.2.1 of the Illawarra-Shoalhaven Regional Plan.

The planning proposal would undermine the achievement of directions and actions in the regional plan and the Department does not consider the inconsistency to be of minor significance.

The planning proposal (as it relates to the former Port Kembla Public School site) is therefore considered to be inconsistent with this Direction.

### **State environmental planning policies (SEPPs)**

The planning proposal has identified applicable SEPPs, which are discussed below:

#### State Environmental Planning Policy (Three Ports) 2013

The Three Ports SEPP seeks to ensure the consistent development and delivery of infrastructure and the protection of land at Port Botany, Port Kembla and the Port of Newcastle for port purposes.

Council has identified that the Three Ports SEPP is not applicable to this planning proposal. The provisions of the SEPP have therefore not been considered in the planning proposal.

The Department accepts the land to which the planning proposal relates is outside the Three Ports SEPP land application area for Port Kembla. However, the former Port Kembla Public School site adjoins IN3-zoned heavy industrial land within the SEPP area and the Department therefore considers the Three Ports SEPP to be relevant to this planning proposal.

A key aim of the Three Ports SEPP is to “to allow the efficient development, redevelopment and protection of land at Port Botany, Port Kembla and the Port of Newcastle for port purposes”. Key objectives of the IN3 zone under the SEPP are to provide suitable areas for industries that need to be separated from other land uses and to minimise the effect of heavy industry on other land uses, including noise, odour, hazards and risks.

This is particularly important for hazardous industries which require adequate separation from more sensitive land uses to mitigate potential land use safety conflicts (e.g. human fatality or injury because of industrial explosions, fires or the like).

The Department’s Major Hazards Unit (MHU) has reviewed the planning proposal and advised an intensification of residential population on the site is likely to limit future hazardous industrial development within the Port area and intensify potential future land use safety conflicts.

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

The Department considers the planning proposal is inconsistent with the aims of Three Ports SEPP and with objectives of the IN3 zone as it would result in the encroachment of medium-density residential development on heavy industry, which is likely to result in increased land-use conflicts and hinder the efficient development, redevelopment and protection of land at Port Kembla for port purposes.

As previously discussed, it is considered premature to support a proposal of this nature 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.

#### State Environmental Planning Policy No 55 – Remediation of Land

SEPP 55 provides a state-wide approach to the management of contaminated land and outlines the relevant considerations in preparing an environmental planning instrument to rezone land.

The former Port Kembla Public School site adjoins the former Port Kembla Copper smelter and stack site, which is zoned IN3 Heavy Industrial. Asbestos sheeting and other contaminating building materials were used to construct the former school buildings, and part of the site appears to have been filled with slag.

The planning proposal was supported by a phase 1 detailed site investigation (**Attachment A1**), a further data reassessment report (**Attachment A3**) for the rezoning and a conceptual remediation action plan (RAP – **Attachment A2**). Based on these reports, it was concluded that the site is contaminated but can be remediated to enable residential development.

The conceptual RAP outlines a range of remediation strategies and would require review following the finalisation of the development design and further assessment through the development application process. It is anticipated that conditions of consent would be imposed on any development consent to ensure the land is remediated in accordance with the final RAP before it is used for residential purposes. A site auditor would be required to be appointed to monitor the proposed development works.

The Department is satisfied that the relevant considerations of SEPP 55 for preparing an environmental planning instrument to rezone land have been met.

## **SITE-SPECIFIC ASSESSMENT**

---

### **Social and economic**

The planning proposal states that it would provide a net socioeconomic community benefit because it would:

- provide additional housing supply in a convenient location and by using existing facilities and services (including public transport) such that the economic and social cost of future development would be minimised;
- facilitate a mix of dwelling types that encourage social mix and provide housing choice to meet the needs of the community;
- create local employment opportunities in construction and home maintenance; and
- recognise the existing public reserve status of Gallipoli Park.

### Former Port Kembla Public School site

The Department accepts that this aspect of the proposal would be likely to have positive social and economic impacts.

However, the planning proposal has not considered the economic impacts of the potential sterilisation of adjacent industrial and port land by approving incompatible land uses. These lands are state significant and should not be compromised.

The Department considers that the positive socioeconomic impacts of the planning proposal on a single site would be outweighed by the potential negative economic impacts (as it relates to the former Port Kembla Public School site) by:

- causing increased land-use conflicts, which are likely to restrict the existing and likely future uses of adjacent industrial/port land;
- adversely impacting on the efficient functioning of the port; and
- hindering the potential to grow the capacity of the port of Port Kembla as an international trade gateway.

### Gallipoli Park

The rezoning of Gallipoli Park will provide a positive social outcome by protecting the use of the park as public open space.



## Environmental

### Former Port Kembla Public School site

Council has identified that the key potential environmental issues arising from the future development of the former Port Kembla Public School site would be contamination and noise impacts. These issues, along with potential environmental amenity and other impacts, are discussed below.

#### *Contamination*

As noted earlier in this report, the planning proposal was supported by several contamination reports (**Attachments A1 to A3**), which concluded that the former school site is contaminated but can be remediated to enable residential development.

The Department is satisfied that contamination issues have been suitably considered as part of the planning proposal, and the detailed design of the RAP for the site could be resolved through the development application process to ensure the land is remediated before it is used for residential purposes.

#### *Noise and environmental amenity impacts*

The former Port Kembla Public School site is exposed to noise from adjacent heavy industrial land and the port of Port Kembla. Careful consideration must therefore be given to the potential noise impacts of industry/port uses on future residents of the former school site.

The planning proposal is supported by a noise assessment (**Attachment A4**), which concludes that the future buildings could be designed to achieve an acceptable internal noise level of amenity for residents. The Department has reviewed the noise assessment and concludes it has not properly considered the main acoustic challenges of the site, which are likely future industrial noise impacts.

Heavy industrial sites surrounding the former school site are at historically low use levels, with many being temporarily vacant or underused. As a result, industrial and traffic noise levels are not what they have previously been, nor are they what is expected in the future.

The acoustic report largely places the onus on industry to address these challenges (despite introducing a new sensitive receiver to an existing noise conflict zone) and proposes architectural design treatments, which are unlikely to result in an acceptable level of internal amenity for future residents due to industrial noise from a fully utilised port.

Even with clever building design, the Department is of the view that an intensification of residential land use on the former school site immediately adjacent to an expanding port of this scale would result in increased land-use conflicts and community complaints in relation to noise, air, dust, odour, traffic and the like.

This presents the risk of sterilising adjoining industrial land by approving incompatible land uses. These conflicts are likely to be further exacerbated by the topography of the site, which increases the potential exposure of residents to impacts.

The Environment Protection Authority has advised that there are limitations to the best practice pollution controls and management measures available to industrial/port operators, and unforeseen environmental incidents can occur, which are best avoided by effective land-use planning considerations.

The Department agrees with Council that the proposed 10m-wide strip of RE2 Private Recreation-zoned land along the north-eastern boundary of the site is unlikely to provide any significant reduction in noise or improved amenity for future residents.

The Department has considered alternate arrangements such as limiting residential uses to the Military Road or Marne Street frontages of the site. The Department concludes that intensification of residential uses on the site would be unsatisfactory as the expansion of the Port Kembla port is likely to result in increased noise, air, dust, odour, traffic, visual impacts 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).

#### *Hazards and risks*

The planning proposal has not considered potential land use safety conflicts and hazards and risks from hazardous industries within the Port area.

Hazardous industries require adequate separation from more sensitive land uses to mitigate potential land use safety conflicts (e.g. human fatality or injury because of industrial explosions, fires or the like).

The Department's Major Hazards Unit (MHU) has reviewed the planning proposal and noted major hazards facilities within the Port area such as the bulk liquids terminal (approved by the Department in 2015) and planned liquefied natural gas (LNG) terminal present safety risks to surrounding land uses.

While the risks associated with these facilities are unlikely to impact the former Port Kembla School site, the MHU has advised an intensification of residential population on the site is likely to limit future hazardous industrial development within the Port area and intensify potential future land use safety conflicts.

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

#### *Other impacts*

The planning proposal gives rise to the need for consideration of a range of other environmental issues, such as the potential flora, fauna, traffic and waste impacts from the construction and operation of housing on the former Port Kembla Public School site.

Any future development application for the site would need to be accompanied by a detailed assessment of all environmental impacts, including relevant technical studies.

The Department considers that the potential impacts of other environmental issues associated with the development of housing on the site could be suitably managed through the development assessment process.

#### Gallipoli Park

No environmental issues would arise from the rezoning of Gallipoli Park.

#### **Infrastructure**

The planning proposal indicates that the former Port Kembla Public School site has the potential to be serviced by utilities and will require the construction and potential dedication of new roads to service the proposed development. Council has advised that any future residential development application for the site would require developer contributions to be paid in accordance with the Wollongong development contributions plan.

The Department agrees that the site has the potential to be adequately serviced by infrastructure and is satisfied that suitable arrangements are in place to fund this.

The provision and funding of state infrastructure is not considered relevant to this proposal.

## **CONSULTATION**

---

### **Community**

Council has proposed a 28-day community consultation period. It is considered that 14 days is adequate having regard to the nature of the planning proposal which will only apply to Gallipoli Park.

### **Agencies**

Council has proposed consultation with the following agencies during the exhibition of the planning proposal:

- Environment Protection Authority;
- Office of Environment and Heritage;
- National Trust of Australia – Illawarra Shoalhaven Regional Branch;
- Endeavour Energy;
- Transport for NSW;
- Roads and Maritime Services;
- NSW Ports; and
- Sydney Water.

Given that the scope of the planning proposal would be reduced significantly so it only relates to the proposed rezoning of Gallipoli Park and the amendment to the heritage listing, no agency consultation requirements are recommended.

## **TIME FRAME**

---

Council anticipates a 14-month time frame to finalise the LEP. However, given the reduced scope of the planning proposal, it is recommended that a 9-month period be provided to finalise the proposal.

## **LOCAL PLAN-MAKING AUTHORITY**

---

Council has asked for plan-making authority in relation to this proposal. This is considered appropriate given the minor nature of the amended planning proposal as it only applies to the zoning of Gallipoli Park.

## **CONCLUSION**

---

### Former Port Kembla Public School site

It is recommended that the planning proposal 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 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. This aspect of the proposal is not supported as it 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 Direction 1.2 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.

It is considered premature to support a proposal of this nature 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.

It is recommended that the proposed amendment to the heritage listing of the school site to “Site of former Port Kembla Public School” proceed as submitted.

#### Gallipoli Park

It is recommended that the planning proposal as it relates to Gallipoli Park should proceed as submitted as it would result in the rezoning of land for public recreation purposes benefiting the community. The land is currently vacant and used as public open space by the local community and the proposal will ensure that the community has continued access to this green space.

#### **RECOMMENDATION**

---

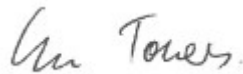
It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Directions 2.3 Heritage Conservation and 3.1 Residential Zones are justified; and
2. note that the planning proposal (as it relates to the former Port Kembla Public School site) is inconsistent with section 9.1 Directions 1.1 Business and Industrial Zones and 5.10 Implementation of Regional Plans and these inconsistencies are not justified.

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

1. The planning proposal 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 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 would:
  - (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 only applying to Gallipoli Park (Lot 301 DP 878127) are to be prepared for public exhibition.
3. The planning proposal should be made available for community consultation for a minimum of 28 days.
4. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
5. Given the nature of the amended planning proposal, Council should be authorised to be the local plan-making authority.



15/11/18

**Graham Towers**  
**Team Leader, Southern**



15/11/2018

**Luke Musgrave**  
**A/Director Regions, Southern**  
**Planning Services**

Contact Officer: Andrew Hartcher  
Senior Planning Officer  
Southern Region