

Gateway Determination

Planning proposal (Department Ref: PP_2016_WOLLG_005_00): to amend State Environmental Planning Policy (Three Ports) 2013 to allow a greater range of uses such as community facilities, storage and warehousing, office buildings, and car parks on identified vacant sites and unused buildings, and update/improve heritage information.

I, the Executive Director, Regions, at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the State Environmental Planning Policy (Three Ports) 2013 as described above should proceed subject to the following conditions:

1. Part 1 Objectives or Intended Outcomes of the Planning Proposal should be amended prior to community consultation to:
 - (a) remove the wording that says the SEPP is being amended consistent with the SEPP; and
 - (b) include a reference to all of the intended outcomes of the proposal apart from the extension of exempt and complying development provisions.
2. Part 2 Explanation of provisions of the planning proposal should be amended prior to community consultation to:
 - (a) remove reference to permitting a range of Exempt and Complying development on the non-leased land (ensuring all other references to Exempt and Complying development provisions are also deleted from the proposal);
 - (b) change the 10 year sunset to a 5 year sunset; and
 - (c) include wording to identify that Additional Permitted Uses sites will be mapped.

Council is to provide a copy of the amended proposal to the Department prior to community consultations.

3. The Planning Proposal is to be amended to include mapping to identify heritage items and the 'Additional Permitted Uses' sites.
4. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
 - (a) the planning proposal is to be made publicly available for 28 days; and
 - (b) the relevant planning 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 Infrastructure 2013).

5. Consultation is required with NSW Ports. NSW Ports are to be given at least 21 days to comment on the proposal.
6. Consultation is required with the following public authorities under section 56(2)(d) of the Act:
 - Office of Environment and Heritage
 - Transport for NSW – RMS
 - Transport for NSW - Freight Strategy & Planning
 - Department of Trade and Investment
 - Environment Protection Authority

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal or to indicate that it will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

7. No public hearing is required to be held into the matter under section 56(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).
8. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.

Dated 25th day of August 2016


Stephen Murray
Executive Director, Regions
Planning Services
Department of Planning and
Environment

Delegate of the Minister for Planning



Mr David Farmer
General Manager
Wollongong City Council
Locked Bag 8821
Wollongong DC NSW 2529

16/10392

Attention: Jon Bridge

Dear Mr Farmer

Planning proposal to amend State Environmental Planning Policy (Three Ports) 2013 (Three Ports SEPP) – BlueScope Port Kembla (PP_2016_WOLLG_005_00)

I am writing in response to Council's letter requesting a Gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the planning proposal to amend the Three Ports SEPP.

Specifically, the proposal seeks to:

- permit a men's shed on land off Visitor Rd, Port Kembla;
- permit a car park for a place of worship on 1-3 Newcastle Road, Cringila;
- introduce a heritage map showing the location of heritage listed items;
- remove heritage listing for 'garden around former house and adjacent driveway' at 2 Electrolytic Street, Port Kembla;
- permit a range of exempt and complying development on land outside of the 'Lease Area';
- permit the use of existing surplus administration buildings for temporary office use, provided the additional uses cease within 10 years or if the premises is sold; and
- permit the use of existing surplus industrial buildings, warehouse and hard stand areas for temporary light industrial, storage and distribution and warehousing uses (but not retail uses), provided the additional uses ceases within 10 years or if the premises is sold.

As delegate of the Minister for Planning, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination.

In making this decision, I have agreed that the proposed changes to the Three Ports SEPP are relatively minor and do not undermine the aims of the SEPP. However, this does not include the proposed extension of exempt and complying development provisions. This aspect of the proposal is inconsistent with Aims (a) of the SEPP which aims to: provide a consistent planning regime for development and delivery of infrastructure on land in the ports; and (c) of the SEPP which aims to: identify certain development within the Lease Area as exempt development or complying development.

I note Council's view that it is unreasonable to differentiate between the Lease Area and other land to which the SEPP applies. However, this decision was taken when the SEPP was made to support and protect port related operations. The provisions reflect the planning regime that applied prior to the lease of the port. The Department would be willing to discuss the Exempt and Complying provisions with Council and BlueScope separate to this proposal.

Prior to exhibition, Council is required to amend the proposal as follows:

- Part 1 – Objectives or intended outcomes:
 - remove the wording that says the SEPP is amended consistent with the SEPP; and
 - include a reference to all of the intended outcomes of the proposal (apart from the expansion of Exempt and Complying development provisions).
- Part 2 – Explanation of provisions
 - remove reference to permitting a range of exempt and complying development on the non-leased land;
 - change the reference to a 10 year sunset to a 5 year sunset; and
 - include wording to identify that Additional Permitted Use sites will be mapped.
- Mapping to identify heritage items and the 'Additional Permitted Use' sites should be prepared and included with exhibition material.

Council is to provide a copy of the amended proposal to the Department prior to exhibition.

Plan making powers were delegated to Councils by the Minister in October 2012. It is noted that Council has expressed a willingness to be issued with delegation for this planning proposal. I have decided not to issue an authorisation for Council to exercise delegation in this case as it is proposed to amend a State Environmental Planning Policy.

The amending Local Environmental Plan is to be finalised within 12 months of the date of the Gateway determination.

The State Government is committed to reducing the time taken to complete Local Environmental Plans 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 54(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, I have arranged for Ms Louise Myler of the Department's regional office to assist you. Louise can be contacted on (02) 4224 9463.

Yours sincerely

 25 August 2016
Stephen Murray
Executive Director, Regions
Planning Services

Encl: Gateway determination