

Planning Proposal – State Environmental Planning Policy (Three Ports) Amendment

LOCAL GOVERNMENT AREA: Wollongong City Council

NAME OF DRAFT LEP: PP-2014/12 Three Ports SEPP – BlueScope Port Kembla & Mens Shed Amendment

ADDRESS OF LAND:

The subject land applies to multiple lots to which the State Environmental Planning Policy (Three Ports) 2013 applies (see Figure 1).

DESCRIPTION OF LAND:

This precinct is located in The Port Kembla Port and Industrial area (see Figure 1).

The site contains heritage items

BACKGROUND:

The precinct is part of State Environmental Planning Policy (Three Ports) 2013. The SEPP is focused on the leased Port area, and contains different provisions for uses within the leased and non-leased areas. In 2014 BlueScope approached the Department of Planning and Environment seeking to amend provisions in the SEPP to improve its operation on the IN3 Heavy Industry land and to provide some flexibility for surplus buildings and sites. The Department advised BlueScope that the best way of achieving the amendments was for Council to prepare a Planning Proposal to amend the State Environmental Planning Policy (Three Ports) 2013.

In 2014 Healthy Illawarra lodged a planning proposal request to use a vacant surplus building on the Bluescope site (located near the visitors centre) for a Mens Shed. Bluescope supported the proposed use.

In 2014, Council was approached by the Islamic Society of Illawarra seeking to use 1-3 Newcastle Street, Cringlia for car parking. This site is owned by Bluescope is zoned IN3 but is outside the production area, being located at the end of a residential street. Bluescope supported the proposed use.

Council at its meeting on 4 April 2016 resolved to prepare a draft Planning Proposal to amend the SEPP.

Part 1: OBJECTIVES OR INTENDED OUTCOMES OF THE PLANNING PROPOSAL:

What is the purpose of the Planning Proposal?

To amend the State Environmental Planning Policy (Three Ports) 2013, to facilitate improved temporary development outcomes, consistent with the State Environmental Planning Policy).

Part 2: EXPLANATION OF THE PROVISIONS OF THE PLANNING PROPOSAL:

How are the objectives of the Planning Proposal to be achieved? How will the SEPP be changed?

The following amendments to the State Environmental Planning Policy (Three Ports) 2013 are proposed:

- a) Amend the SEPP to enable a Community Facility (Men's Shed) on part of Lot 1 DP 606434 off Visitor Road, Springhill Road, Port Kembla.
- b) Permit a car park associated with a Place of Worship on part of Lot 1 DP 060432, nos. 1-3 Newcastle Street, Cringila.
- c) Introduce a heritage map showing the locations of the heritage listed items.
- d) Delete the heritage listing of "Gardens around Former House and Adjacent Driveway" at 2 Electrolytic Street (Gloucester Boulevard) which no longer exist.
- e) Permit a range of Exempt and Complying development on the non-leased lands within the SEPP area.
- f) Permit the use of surplus administration buildings within the BlueScope site for temporary Office premises, where;
 - (i) The additional use ceases if the premises is sold;
 - (ii) The additional use ceases within 10 years;
 - (iii) The reconstruction or replacement of the building is not permitted.
- g) Permit the use of surplus buildings, warehouses and hard stand areas within the BlueScope site for temporary light industrial, storage and distribution, and warehousing uses, where
 - (i) Retail premises are not permitted;
 - (ii) The additional use ceases if the premises is sold;
 - (iii) The additional use ceases within 10 years;
 - (iv) The reconstruction or replacement of the building is not permitted.

Part 3: JUSTIFICATION FOR THE PLANNING PROPOSAL:

Section A – Need for the planning proposal

1. Is the planning proposal a result of any strategic study or report?	No – the Planning Proposal is the result of applications from Healthy Cities Illawarra and BlueScope Steel. The precinct is within the Port of Port Kembla area which is identified in the Illawarra Shoalhaven Regional Plan (2015) as being of regional significance. The objectives of the SEPP are currently too narrow, and there are discrepancies between the treatment of land within the Leased Area, and land outside of the leased area. For example the IN3 zone permits port facilities (ie Bluescope lands), yet the definition of port facilities indicates that the use is only permissible in the leased Port area. Exempt and Complying Development uses permitted in the leased area, and not permitted in the adjoining IN3 zone. In 2014, BlueScope approached the Department of Planning and Environment seeking to standardize provisions and to permit the temporary uses for vacant / underutilized buildings and sites. The Department advised BlueScope that the best way of achieving the amendments was for Council to prepare a Planning Proposal to amend the State Environmental Planning
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	Policy (Three Ports) 2013. Council at its meeting of 4 April 2016 considered the submissions made in relation to the SEPP controls and resolved to seek a "gateway" determination for the Planning Proposal.
2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?	The Department of Planning and Environment advised Council and Bluescope that a planning proposal was necessary to facilitate changes to the SEPP. Council would prefer for the Department to initiate amendments to the SEPP. In light of the Departments advice, the planning proposal is considered the best way of achieving the stated objective of enabling the improved temporary development outcomes sought. The controls only sit within the SEPP and cannot be modified in any other manner.

Section B – Relationship to strategic planning framework

4. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?	Yes – the proposal is consistent with the urban development outcomes stipulated in the Illawarra Regional Strategy (2007) and subsequent Illawarra Shoalhaven Regional Plan (2015) for the Port of Port Kembla. The Port use and Bluescope's steel mill are important economic drivers for the Region and State. The SEPP (Three Ports) recognises this importance but is currently inconsistent in the way it applies to the leased and non-leased area. The SEPP allows exempt and complying uses within the leased area, but not outside the leased area. The SEPP allows Port facilities in the leased area but not on the Bluescope IN3 land (which also has a port use). The SEPP allows flexibility in the leased area, but not in the IN3 zone. The Planning Proposal is in keeping with the Illawarra Shoalhaven Regional Plan Direction 1.2, as still allows for the long term protection of strategically important lands for port or port-related uses, but supports Goal 1 – a prosperous Illawarra-Shoalhaven through the efficient utilisation of scarce industrial lands. The Planning proposal would enable the social and economic benefits from efficient use of vacant areas within the SEPP area, but with no environmental or negative economic impacts The Planning Proposal is consistent with the aims of the State Environmental Planning Policy (Three Ports) 2013, as it allows for the efficient use of the land whilst still protecting the land for future port or port related uses. The amendments sought are minor, and of a temporary nature. They will not prejudice the main aim of the SEPP in protecting scarce land for port or port-related uses.
5. Is the planning proposal consistent with the local council's Community	The planning proposal is consistent with the overall vision contained in the Wollongong Community

Strategic Plan or other local strategic plan?	Strategic Plan 2022. The planning proposal intends to provide for, which is consistent with the plan
6. Is the planning proposal consistent with applicable State Environmental Planning Policies?	Refer to Table A – Checklist of State Environmental Planning Policies. The SEPP seeks to protect the scarce land within the port area for port and port-related purposes and to provide a consistent planning regime for the three port areas. The SEPP is inconsistent however, in how it treats development within the leased area, in comparison to the land outside the leased area. The proposed amendments involve small, minor uses of a temporary nature, and some uses (such as warehousing and storage) which fit well within the industrial area. The proposed amendments would allow for efficient economic use of currently underutilised land, whilst the land is kept in store for long term use for port and port-related uses. The proposed limited additional uses are considered to have a minor impact and to be in keeping with the intent of the SEPP.
7. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?	Refer to Table B – Checklist of Ministerial Directions.

Section C – Environmental, social and economic impact

8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?	The planning proposal is not likely to cause any additional impacts, as it utilises an existing developed area.
9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?	The Planning Proposal will not create additional environmental effects.
10. How has the planning proposal adequately addressed any social and economic effects?	The proposed Men's Shed will contribute to positive social impacts for the area. The proposed use of 1-3 Newcastle Street for parking associated with a place of worship, will reduce local car parking issues. The limitation on additional uses, tenure and sunset clause for the temporary uses will limit negative economic impacts. The allowance of suitable temporary uses for disused buildings will contribute to economic activity within this important state significant precinct. The scarce industrial land will still be maintained for its long term intent to be preserved for port and port-related uses

Section D – State and Commonwealth interests

11. Is there adequate public infrastructure for the planning	Public utility infrastructure can be provided, Satisfactory arrangements with relevant agencies will need to be
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proposal?	made.
12. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?	Prior consultation has occurred with NSW Planning and Environment. If the Planning Proposal passes the "Gateway" determination, consultation will occur with NSW Department of Trade and Investment, Sydney Water, RMS, Office of Environment and Heritage, and the NSW Ports (the Port Kembla lessee).

PART 4: MAPS, WHERE RELEVANT, TO IDENTIFY THE INTENT OF THE PLANNING PROPOSAL AND THE AREA TO WHICH IT APPLIES

Figure 1.0 Planning Proposal Map



Part 5: DETAILS OF COMMUNITY CONSULTATION TO BE UNDERTAKEN ON THE PLANNING PROPOSAL:

The revised Gateway Determination will confirm community consultation requirements. If the revised Planning Proposal is supported, the Proposal will be exhibited for a minimum period of *fourteen (14) days*, and include:

- *Hard copies at Council's Administration building and relevant Libraries;*
- *Electronic copy on Council's website;*
- *Notification letters to relevant State agencies and other authorities nominated by the NSW Department of Planning and Infrastructure.*

Part 6: PROJECT TIMELINE

A primary goal of the plan making process is to reduce the overall time taken to produce LEPs. This timeline tentatively sets out expected timelines for major steps in the process. These timeframes are subject to change and are to be used as a guide only. The Minister may consider taking action to finalise the LEP if timeframes approved for the completion of the Planning Proposal are significantly or unreasonably delayed.

#	Action	Estimated Timeframe	Responsibility
1	Anticipated date of Gateway Determination	2 months	Department of Planning and Environment
2	Government agency consultation	21 days	Agencies
3	Public exhibition period	2 weeks	Council
4	Date of Public Hearing (<i>if applicable</i>)	N/A	Council
5	Consideration of submissions	2 weeks	Council
6	Assessment of proposal post-exhibition	2 weeks	Council
7	Report to Council	2 months	Council
8	Final maps and Planning Proposal prepared	2 weeks	Council
9	Submission to Department for finalisation of LEP	1 week	Council
10	<i>Anticipated date RPA will make the LEP</i>	<i>Unknown</i>	Council (if under delegation)
11	Anticipated date Council will forward final Planning Proposal to DOP&I for notification	Unknown	Council
12	Anticipated date LEP will be notified	Mar 2017	<i>Parliamentary Counsel and DP&E</i>

Table A - Checklist of State Environmental Planning Policies

State Environmental Planning Policy		Compliance	Comment
State policies			
SEPP No. 1	Development Standard	N/A	N/A
SEPP No. 4	Development Without Consent and miscellaneous Exempt and Complying Development	N/A	Clause 6 and parts 3 and 4 of SEPP were repealed by Wollongong LEP 2009.
SEPP No. 6	Number of Storeys in a Building		N/A
SEPP No. 14	Coastal Wetlands		N/A
SEPP No. 15	Rural Land Sharing Communities	Does not apply to Wollongong	N/A
SEPP No. 19	Bushland in Urban Areas	Does not apply to Wollongong	N/A
SEPP No. 21	Caravan Parks		N/A
SEPP No. 26	Littoral Rainforests		No littoral rainforests identified by the policy in the Wollongong LGA.
SEPP No. 29	Western Sydney Recreational Area	Does not apply to Wollongong	N/A
SEPP No. 30	Intensive Agriculture	N/A	N/A
SEPP No. 32	Urban Consolidation (Redevelopment of Urban Land)	N/A	N/A
SEPP No. 33	Hazardous and Offensive Development	Yes	Does not contradict the SEPP
SEPP No. 36	Manufactured Home Estates	N/A	N/A
SEPP No. 39	Spit Island Bird Habitat	Does not apply to Wollongong	N/A
SEPP No. 41	Casino/Entertainment Complex	Does not apply to Wollongong	N/A
SEPP No. 44	Koala Habitat Protection	Yes	The precinct does not constitute 'potential koala habitat'.
SEPP No. 47	Moore Park Showground	Does not apply to Wollongong	N/A
SEPP No. 50	Canal Estate Development	N/A	N/A
SEPP No. 52	Farm Dams, Drought Relief and Other Works	Does not apply to Wollongong	N/A
SEPP No. 55	Remediation of Land	Yes	SEPP 55 – Remediation of Land applies to sites which are suspected of contamination. Further assessment will be undertaken at

State Environmental Planning Policy		Compliance	Comment
			development application stage.
SEPP No. 56	Sydney Harbour Foreshores and Tributaries	Does not apply to Wollongong	N/A
SEPP No. 59	Central Western Sydney Economic and Employment Area	Does not apply to Wollongong	N/A
SEPP No. 62	Sustainable Aquaculture	N/A	N/A
SEPP No. 64	Advertising and Signage	N/A	N/A
SEPP No. 65	Design quality of residential flat development	N/A	N/A
SEPP No. 71	Coastal Protection	N/A	N/A
SEPP	Affordable Rental Housing (revised schemes) 2009	N/A	N/A
SEPP	Housing for Seniors or People with a Disability 2004	N/A	N/A
SEPP	Building Sustainability Index: BASIX 2004	N/A	N/A
SEPP	Exempt and Complying Development Codes 2008	N/A	N/A
SEPP	State and Regional Development 2011	Yes	Complies with the objectives of the SEPP
SEPP	State Significant Precincts 2005	Yes	Complies with the objectives of the SEPP
SEPP	Development on Kurnell Peninsular 2005	Does not apply to Wollongong	N/A
SEPP	Sydney Region Growth Centres 2006	Does not apply to Wollongong	N/A
SEPP	Three Ports 2013	Yes	This Planning Proposal seeks to amend the Three Ports SEPP, but is in keeping with the intent of that policy. The amendments would result in a more consistent application of exempt and complying development. The amendments would enable efficient economic use of the land, whilst still maintaining the long term protection of the land for port and port-related uses.
SEPP	Mining, Petroleum Production and Extractive Industries 2007	N/A	N/A
SEPP	Infrastructure 2007	Yes	The Planning Proposal is consistent with the SEPP
SEPP	Temporary Structures 2007	N/A	N/A

State Environmental Planning Policy		Compliance	Comment
SEPP	Kosciuszko National Park – Alpine Resorts 2007	Does not apply to Wollongong	N/A
SEPP	Rural Lands 2008	Does not apply to Wollongong	N/A
SEPP	Affordable Rental Housing 2009	N/A	N/A
SEPP	Western Sydney Employment Lands 2009	Does not apply to Wollongong	N/A
SEPP	Exempt and Complying Development Codes 2008	Yes	The Planning Proposal will not contradict the objectives of the SEPP
SEPP	Western Sydney Parklands 2009	Does not apply to Wollongong	N/A
Deemed SEPPS(former Regional Plans)			
Illawarra REP 1	Illawarra	Repealed within Wollongong	N/A
Illawarra REP 2	Jamberoo	Does not apply to Wollongong	N/A
Greater Metropolitan REP No.2	Georges River catchment	Does not apply to Wollongong	N/A

Table B - Checklist of Section 117 Ministerial Directions

Ministerial Direction		Comment
Employment and Resources		
1.1	Business and Industrial Zones	The Planning Proposal is consistent with the Direction and will not reduce industrial areas. ✓
1.2	Rural Zones	N/A – no rural zoned land is to be affected by the planning proposal. ✓
1.3	Mining, Petroleum Production and Extractive Industries	N/A ✓
1.4	Oyster Aquaculture	N/A ✓
1.5	Rural Lands	N/A ✓
Environment and Heritage		
2.1	Environment Protection Zone	N/A ✓
2.2	Coastal Protection	The Planning Proposal involves existing industrial land and will be of minor significance. ✓
2.3	Heritage Conservation	The precinct contains heritage items. The Planning Proposal would remove one item which is assessed as not being worthy of retention. ✓
2.4	Recreation Vehicle Areas	N/A ✓
2.5	Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	N/A ✓
Housing, Infrastructure and Urban Development		
3.1	Residential Zones	N/A ✓
3.2	Caravan Parks and Manufactured Home Estates	N/A ✓
3.3	Home Occupations	N/A ✓
3.4	Integrating Land Use and Transport	The planning proposal considers the integration of land use and transport by utilising existing developed areas. ✓
3.5	Development Near Licensed Aerodromes	N/A ✓
3.6	Shooting Ranges	N/A ✓
Hazard and Risk		
4.1	Acid Sulfate Soils	There are some minor acid sulphate soils within the subject precincts. They are however of only minor significance. ✓
4.2	Mine Subsidence and Unstable Land	N/A ✓

4.3	Flood Prone Land	Some portions of the precinct are affected by flood prone land. The Planning Proposal will not increase flood risk areas, nor increase development within flood risk areas. The planning proposal is considered to be consistent with the NSW Government's Flood Prone Land Policy and also the principles contained in the Floodplain Development Manual 2005. The precinct plans and draft zonings have considered the flood risk. Clause 7.3 of the Wollongong Local Environmental Plan 2009 provides suitable controls on flood liable land.
4.4	Planning for Bushfire Protection	The Planning Proposal does not increase bushfire risk nor increase development within bushfire risk areas.
Regional Planning		
5.1	Implementation of Regional Strategies	The planning proposal will enable development of the Port Kembla industrial precinct in accordance with the Illawarra Regional Strategy and Illawarra Shoalhaven Regional Plan.
5.2	Sydney Drinking Water Catchments	N/A
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	N/A
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	N/A
5.5	Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	N/A
5.8	Second Sydney Airport: Badgerys Creek	N/A
5.9	North West Rail Link Corridor Strategy	N/A
Local Plan Making		
6.1	Approval and Referral Requirements	The planning proposal complies with the direction and does not envisage additional approval or referral requirements.
6.2	Reserving Land for Public Purposes	The planning proposal complies with this direction.
6.3	Site Specific Provisions	The planning proposal does not contain unnecessary site specific provisions.
Metropolitan Planning		
7.1	Implementation of the Metropolitan Plan for Sydney 2036	N/A
7.2	Implementation of Greater Macarthur Land Release Investigation	N/A