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Planning Proposal

Amendment to Wollongong Local Environmental Plan 2009

Proposed amendments to facilitate medium to high residential density development at the former Port Kembla Public School Site to provide additional housing that will support the Port Kembla Town Centre

Lot 1 DP 811699
Lot 1 Military Road, Port Kembla

**Version 2: Resubmission to Council for revised Gateway
July 2020**



Subject		Proposed amendments to facilitate medium to high residential density development at the former Port Kembla Public School Site to provide additional housing that will support the Port Kembla town centre
In respect of		Planning Proposal – Amendment to Wollongong Local Environmental Plan 2009
Property		Lot 1 DP 811699 Lot 1 Military Road, Port Kembla
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Job No.		15.31
Dated		July 2020

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10. Preliminary Site Investigation on Contamination
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1.0 Introduction

Martin Morris & Jones Pty Limited (MMJ Wollongong) has been engaged by Mr Ostoja Vujic to co-ordinate the preparation and lodgement of a Planning Proposal with Wollongong City Council, seeking to rezone the former Port Kembla Primary School landholding at Military Road, Port Kembla, for primarily residential purposes.

As a brief background on the site, it was formally occupied for many decades by now known as 'Old Port Kembla School'. In fact, the site was used as a primary school from approx. 1916 through to around 2002, after which the site became unused and vacant. The school and all associated buildings have since been demolished, with only hardstand areas and informal vegetation remaining on the site. In 2005 some of the former school buildings were demolished. In January 2013, the school building was destroyed by fire and the NSW Education Department arranged for the demolition of the site.

Port Kembla Copper (PKC) were the previous owners of this land following the NSW Educational Department's disposal in the early 2000's, and it is understood that initial plans were investigated to house and train workers on the site in relation to the copper smelter operations close by to the north. However, a few years ago, PKC ceased such operations of their copper smelter business and, thus, had no need for retaining the subject land parcel. As such, in 2015, the property was sold to Mr Ostoja Vujic, and hence the purpose of this Planning Proposal.

Whilst previously occupied as a school, the subject site was historically zoned for medium density residential purposes for many years. On 7th April 2000, this land was rezoned from '2(b) Medium Density Residential' to '3(a) General Business' by the former *Wollongong LEP 1990 (Amendment No. 184)*. At present, this land is currently zoned 'B4 Mixed Use' under *Wollongong LEP 2009*, because of the change over from former *Wollongong LEP 1990* to the Standard Instrument *LEP*. Under this existing B4 zone, a range of both residential and commercial orientated land uses are already permissible with Council's consent.

For various market reasons/conditions in more recent times, together with the segmented nature of the site away from Port Kembla Town Centre (in addition to immediate surrounding land use context), it is considered that the current zone does not afford practical opportunities for this land to be developed for mixed use purposes. Any commercial activities to be developed on this land under the B4 zone would detract from and have a competing interest with the commercial viability and activity within the nearby Port Kembla Town Centre (Wentworth Street), whilst the residential land uses/conditions available under the current B4 zone preclude the use of ground floor level spaces generally. As such, the B4 zone is limiting the potential for this site to ever be redeveloped in the future. This is consistent with the findings of the Council's Port Kembla 2505 Revitalisation Plan which recommends residential development on this site.

In light of this, as well as the changing demographic profile and nature of the Port Kembla area, and use of surrounding lands (even existing industry to the north), an opportunity has been provided to realise a more suitable development outcome and occupation of this site for primarily residential purposes. As such, in order to facilitate a future residential development outcome on the site, a Planning Proposal for this land is sought:-

- to rezone the site from B4 Mixed Use to primarily R3 Medium Density Residential (with a small portion of RE2 Private Recreation proposed at the northern end);
- increase the maximum floor space ratio control from 0.5:1 to 0.75:1 within the proposed R3 zone area;
- increase the maximum building height control from 9 metres to 11 metres within the proposed R3 zone area; and
- to reduce the minimum lot size for subdivision from 1,999m² down to 299m², within the proposed R3 zone area.

The concise statement setting out the objective or intended outcome of this Planning Proposal can be described as follows:-

“Proposed Rezoning of Land from Mixed Use to Medium to High Residential Density Development at the Former Port Kembla Public School Site.”

This Planning Proposal seeks to initiate this assessment and determination process in accordance with the provisions of the *Environmental Planning & Assessment Act, 1979*, and recommends amendment criteria to achieve the preferred long-term land use strategy for the subject site.

This Planning Proposal has previously been considered by Wollongong City Council and the Department of Planning, Industry and Environment (DPIE). Council had resolved to conditionally support the Planning Proposal to allow for an Urban Design Review Process to determine the preferred built form outcome and determine the appropriate built form controls. This process intends to involve the site owner representatives, NSW Ports, Port Kembla Chamber of Commerce and representatives from Council’s Urban Design Review Panel. Council wants to ensure design excellence and appropriate built form controls. Council also required a site specific DCP chapter to be prepared.

Following a review of Council's Planning Proposal, DPIE assessed the Planning Proposal and provides a Gateway Determination which essentially rejected all the proponent's requested changes and only supported changes relating to the amendment of the Schedule 5 Heritage Listing and a proposed rezoning of Council land in Port Kembla. The Gateway Determination issued by DPIE on 21 November 2018, stated the following reasons for rejecting the proposed LEP amendments to this site:

The future expansion of the Port Kembla port is likely to result in the 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 the 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 Gateway Determination was approved with conditions which required the following:

1. *the planning proposal to be amended to aspects relating to the former 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 supported, as it would result in any 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, technician functioning of the port the potential to grow the capacity of Port Kembla is an international trade gateway, therefore been inconsistent with the Directions 1.2. and 1.4 and Action 1.2.1 of the Illawarra-Shoalhaven Regional Plan (and section 9.1 ministerial directions 5.10);*
 - b) *interview efficient development, redevelopment and protection of land At Port Kembla for purposes, therefore been inconsistent with the aims of State Environment Planning Policy (Three Ports) 2013; and*
 - c) *restrict the use of adjacent industrial lands of employment uses, therefore been inconsistent with the objectives of section 9.1 ministerial directions 1.1 business and industrial zones.*

Following further discussions with Council and DPIE, further specialist consultants have been engaged to prepare an Urban Design Assessment Report (Studio GL) and an Acoustic Feasibility Study (Wilkinson Murray). This detailed work has been undertaken to address the DPIE's concerns. Through a collaborative approach Studio GL and Wilkinson Murray have undertaken detailed design and 3D acoustic modelling to determine the site's capabilities and the potential impacts of future residents and the land.

This revised planning proposal is submitted to Council requesting endorsement for a revised Gateway Determination.

The content of this Planning Proposal report has been aided by the following consulting specialists:-

Pre-Gateway Documentation		
Appendix	Document	Prepared by
1.	SEPP Checklist	MMJ Wollongong
2.	Section 9.1 Directions	MMJ Wollongong
3.	Detailed Site Survey	C. Robson & Associates
4.	Urban Design Analysis Report	Studio GL
5.	Acoustic Feasibility Study	Wilkinson Murray
6.	Preliminary Market Advice	MMJ Wollongong
7.	Traffic Noise Intrusion Assessment	Harwood Acoustics
8.	Historical Heritage Assessment	Biosis
9.	Aboriginal Due Diligence Advice	Biosis
10.	Proposed LEP changes mapping	Studio GL
11.	Detailed Site Investigation	Golder Associates
12.	Report on Conceptual Remediation Action Plan	Douglas Partners Pty Ltd
13.	Report on Data Re-Assessment for Rezoning	Douglas Partners Pty Ltd
14.	Green and Golden Bell Frog Due Diligence Assessment	Biosis

1.1 Conceptual Framework

This report provides a description of the subject site and surrounds, a summary of the existing and relevant legislative framework applying to the site, an identification of the future land use outcome sought by this Planning Proposal and a preliminary environmental review of those relevant matters generally considered for development. In addition to this, this report suggests the proposed amendment criteria required to *Wollongong LEP 2009* in order to allow the implementation of this future desired residential land use outcome.

This Planning Proposal report has been prepared for Council in consideration of those requirements under *Section 55* of the *Environmental Planning and Assessment Act 1979 (the Act)*, together with the NSW Department of Planning and Environment's "*A guide to preparing planning proposals*" (October 2012). In general, this Planning Proposal comprises the following considerations as required:-

- ✓ A statement of the objectives or intended outcomes of the proposed instrument.
- ✓ An explanation of the provisions that are to be included in the proposed instrument.
- ✓ The justification for those objectives, outcomes and the process for their implementation.
- ✓ Based on technical studies.
- ✓ The existing controls that apply to the site based on the Councils LEP Maps.

- ✓ Details of the community consultation to be undertaken on the planning proposal.
- ✓ The timeframe to complete the amendment.

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1.2 Locational Context

In general, the property is situated within an established suburban area in the heart of Port Kembla, a location of which is characterised by a transition of mixed uses and development. This existing neighbourhood is host to a range of property types and development scales, varying from low and medium density residential and the site adjoins other commercial and both light/heavy industry land uses and zones in the adjoining Port of Port Kembla and the industrial zones located adjacent to the Port.

The traditional dynamics and character of the area are changing more than ever in recent years, with the Town Centre area off Wentworth Street not quite the busy commercial shopping strip it once was say throughout the 1970s and 1980s; the former heavy industry PKC site to the north now a platform for less active industry (such as car and freight storage activities); whilst the surrounding traditional low density detached housing is slowly being replaced by infill medium density housing products (such as dual occupancies and townhouses). Also, the subject former school site has been vacant and redundant of any land use for many years, and whilst mixed use residential/commercial land uses are afforded now, this will change overtime to primarily medium density residential (should support for this Planning Proposal be forthcoming).

The overall local and regional context is described in detail in Studio GL's Urban Design Analysis Report attached to this Planning Proposal. An extract of the context maps are included in *Figures 1-3* below.

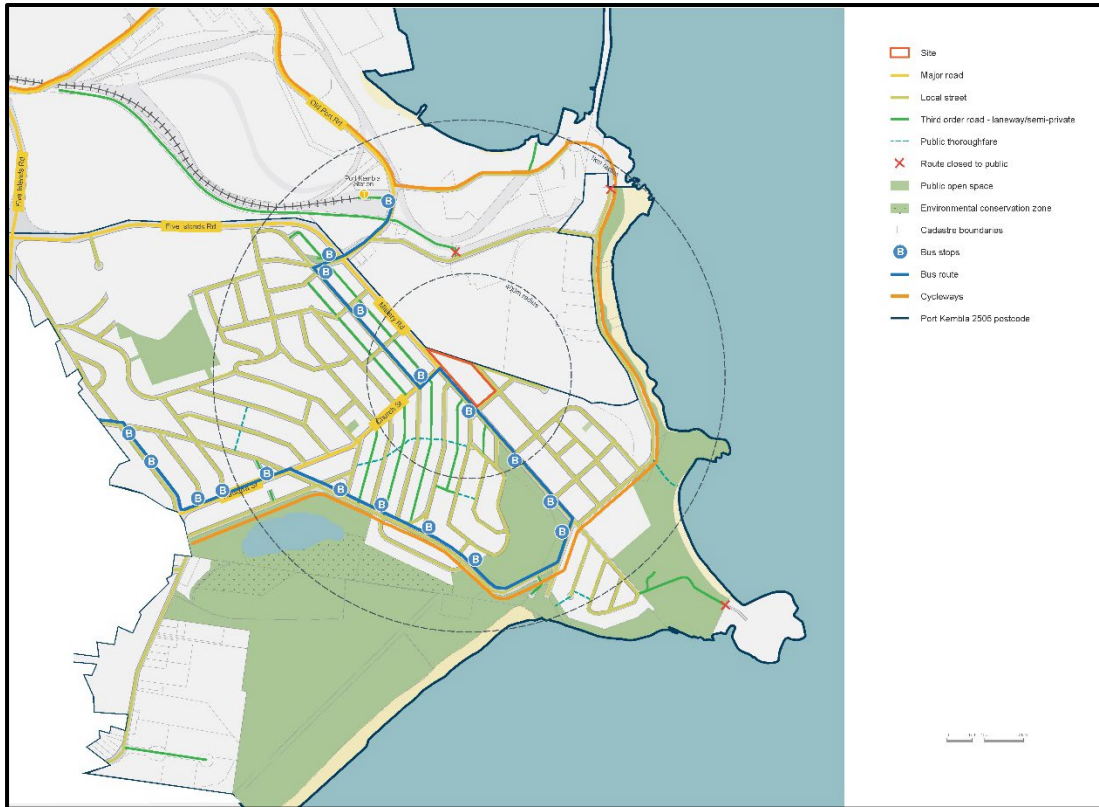


Figure 1: Regional Context (Source: Studio GL)

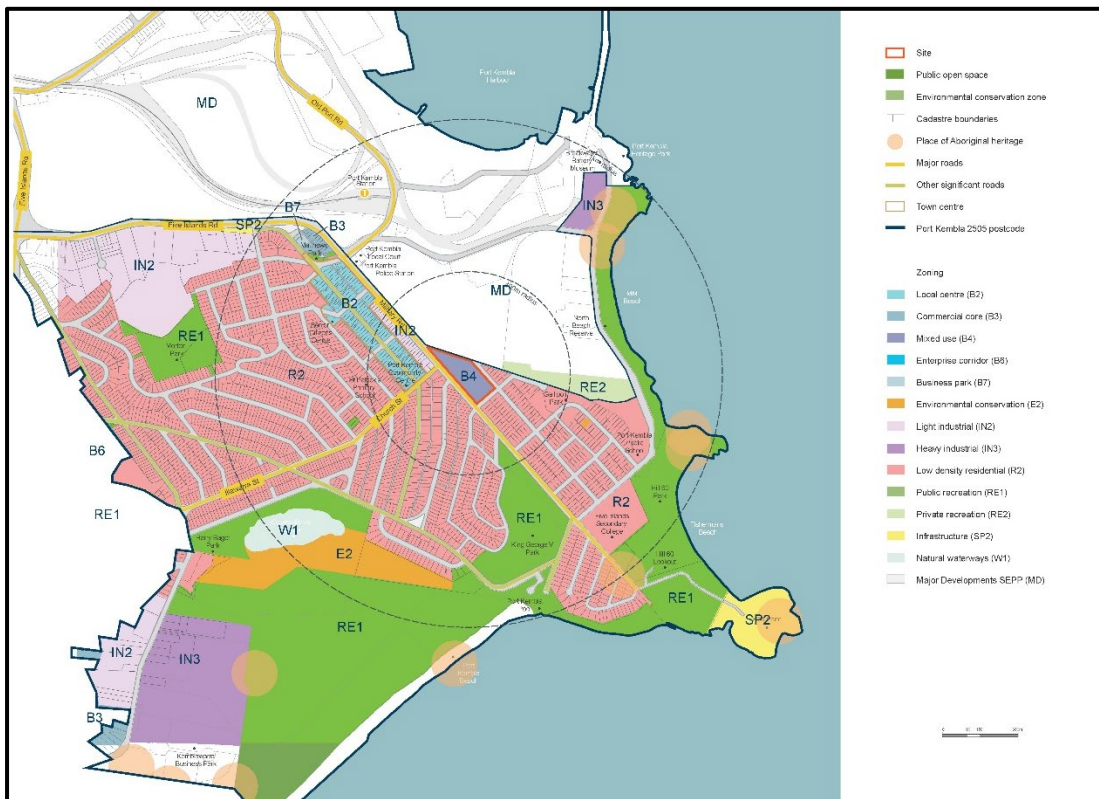


Figure 2: Local Context – Land Zoning (Source: Studio GL)

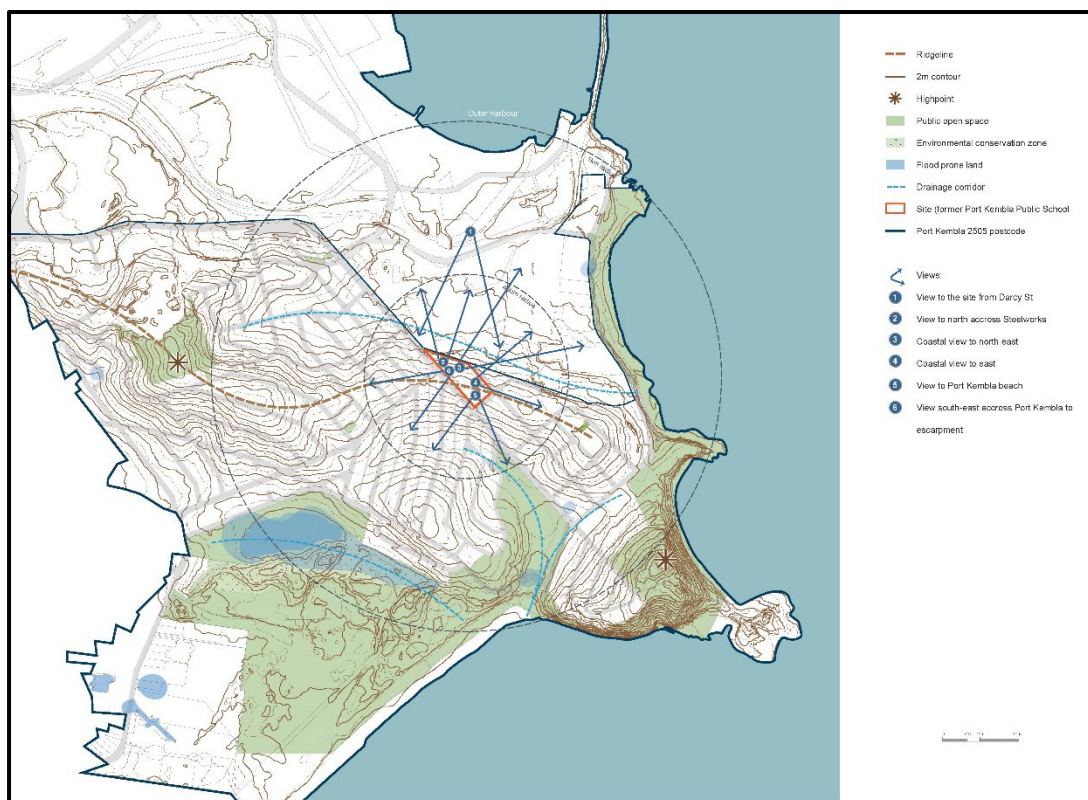


Figure 3: Regional Context – Topography and Views (Source: Studio GL)

In the immediate context, the subject site is surrounded by the following land uses and building forms:-

North: The former PKC heavy industry smelter site on the opposite side of Electrolytic Street. With PKC operations ending at the site a few years ago now, the historic stack within the property was demolished on 20th February 2014. Shortly after the site was cleaned up, other associated buildings/structures were removed from site and in part the ground was resurfaced, to provide a platform(s) for the existing car and freight storage activities which occupy the site today. The topographic levels for this site primarily sit much lower than the subject site. The boundary fronting Electrolytic Street is currently fenced with no access, incorporating partial vegetation screening/mounds as a buffer between the subject site and the storage operations.

Electrolytic Street is quite a narrow two-way road, with a carriageway (kerb-to-kerb) of only some 6 metres wide.

South: Existing residential areas on the opposite sides of Military Road and Marne Street. These areas have been developed over time to provide low density detached residential housing products, with both single and double storey building forms.

Marne Street is a two-way road, with a 9 metre wide carriageway (kerb-to-kerb), whilst Military Road (being a more local collector road) has a much larger carriageway of some 12.5 metres (kerb-to-kerb), allowing for two-way travel and clear parking lanes either side.

East: Existing residential areas on the opposite side of Reservoir Street. Again, traditional low density housing and lots, however, part of this area has been redeveloped in recent times for more medium density housing type products (with some still under construction at present).

Reservoir Street is also a two-way road, with an approx. 9.5 metre wide carriageway (kerb-to-kerb).

West: Opposite the southern part of the site extends the residential area off Military Road. This residential area transitions as it approaches the intersection and cross-road of Church Street. On the southern side of Church Street is an existing church and childcare centre premises, whilst to the north of this road is a small light industrial strip fronting Military Road. Behind this light industrial strip is the main Town Centre area of Port Kembla, which follows Wentworth Street to the north. The Town Centre is generally characterised by mixed-use business development. This existing area is host to a range of residential, commercial and quasi industrial land uses and activities. The building types and forms vary significant throughout the Wentworth Street corridor, however, the scale is generally restricted to single and double storey construction (apart from the historic Port Kembla Hotel further north which is 3 to 3.5 storeys).

In the wider context, the property is in close proximity to the Warrawong Town Centre area (flanking King Street some 1.7km west of the site) which has a relatively full range of retail, commercial and other support activities and uses. Also, the site has relatively good and convenient access to a variety of community facilities including recreation areas, schools, public transport, etc, as well as the ocean foreshore area only 600 metres to the east of the site. Public bus transport is available in front of the site off Military Road, whilst Port Kembla train station is only some 650 metres to the north.

1.3 Subject Land

The Planning Proposal covers one individual site in the suburb of Pork Kembla. Known as Lot 1 Military Road, this land incorporates one large allotment title described as Lot 1 in Deposited Plan 811699. The subject site is situated on the eastern side of Military Road, Port Kembla, between the intersections of Electrolytic Street and Marne Street - see *Figure 4* below. The landholding is bound by public roads on all sides, with the follow direct boundary frontage distances:-

- Military Road – western boundary (301.62 metres);
- Reservoir Street – eastern boundary (142.91 metres);
- Electrolytic Street – northern boundary (185.99 metres); and
- Marne Street – southern boundary (97.535 metres).

The overall property is somewhat trapezoidal in shape and has a total site area of approximately 2.195 hectares. The site is currently with some remaining hardstand areas following the demolition of the Port Kembla Public School buildings - see *Figure 5* below.

The site is currently zoned B4 Mixed Use. It is largely surrounded by low density residential (R2) to the east and south with a small provision of Light Industrial (IN2) to the north west of the site towards the Town Centre (B2 Local Centre) – see *Figure 4* below.



Figure 4: Existing Land Use Context (Source: Studio GL)

1.4 Existing Development

As aforementioned, the site was used as a primary school from approx. 1916 until the year 2002, after which the site has been vacant of activity, with the majority of the former primary school infrastructure removed shortly after closure of the school (apart from a heritage listed building which was present at the site up until 2013).

The site surface is a mix of grass cover, hardstand areas and former building footprints. The heritage listed building that was demolished in recent years was located in the centre of the site, on a small hill on the crest of a ridgeline trending north west to south east, with the ground surface sloping down from this area in every direction. As per the survey data provided by C. Robson & Associates (see *Appendix 3*), the crest of the ridge within the central portion of the land sits at approximately RL 34m AHD; the northern boundary varies between RL 24.5m and RL 28m AHD; whilst the southern-most boundary ranges between RL 27m and RL 34m AHD.

Apart from general grass cover and sections of hardstand areas, scattered domestic vegetation/trees are also located throughout the property (primarily to the peripheries).



Figure 5: Aerial Image (Source: Nearmap 2020)

Under the current Wollongong LEP controls including the B4 Mixed Use zone, there is potential for a development yield of 88 dwellings with 3120.6m² and a total residential GFA of 6070m². This is below the current 0.5:1 FSR.

The Planning Proposal intends to remove the requirement to include commercial uses on the ground floor as required by the B4 Mixed Use Zone and Clause 7.13 in Wollongong LEP 2009 and permit medium-high density residential development as per the recommendations in the *Port Kembla 2505 Revitalisation Study* and the Urban Design Analysis Report (*Appendix 4*).

The site photos below illustrate the site and surrounding conditions.



Plate 1: View of the site from Military Road viewing north/east
(*Source: MMJ Planning)



Plate 2: View of the subject land from Military Road viewing north
(*Source: MMJ Planning)



Plate 3: View looking south on Military Road from the site (*Source: MMJ Planning)



Plate 4: View looking north/east up Marne St adjoining the site
(*Source: MMJ Planning)



Plate 5: View looking south/east along Electrolytic St (*Source: MMJ Planning)



Plate 6: View looking south/east from most northern point of the site looking (*Source: MMJ Planning)



Plate 7: View looking north from the corner of Electrolytic Street and Military Road towards the Port (*Source: MMJ Planning)



Plate 8: View looking north towards the port from Military Road(*Source: MMJ Planning)



Plate 9: Existing residential properties on Reservoir Street looking south (*Source: MMJ Planning)



Plate 10: View from Marne Street across the site looking North (*Source: MMJ Planning)



Plate 11: Two storey multi dwelling housing/dual occupancy development on Marne Street directly opposite the south east corner of the site. View looking north towards the new development from Marne Street (*Source: MMJ Planning)

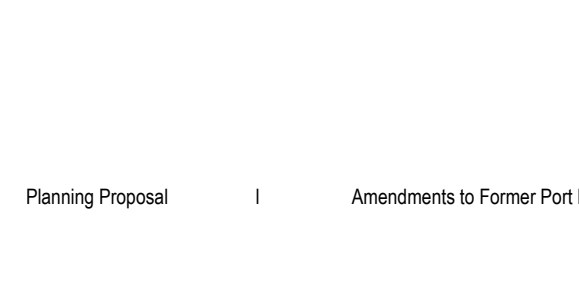


Plate 12: View looking west to the site from the corner of Reservoir and Marne Street (*Source: MMJ Planning)





Plate 13: View of Military Road looking north from the corner of the site (*Source: MMJ Planning)



Plate 14: View of light industrial area on Military Road looking west towards the Heritage Listed Former Fire Station (*Source: MMJ Planning)

2.0 Part 1 – Statement of Objectives or Intended Outcomes

The primary objective of the Planning Proposal is to enable residential development with a medium to high density. This will be achieved by rezoning the site from B4 Mixed Use to part R3 Medium Density Residential and part RE2 Private Recreation. Ancillary to the rezoning, the Proposal seeks to amend the floor space ratio, increase the building height, reduce the minimum lot size and amend the heritage listing. Consistent with Council's *Port Kembla 2505 Revitalisation Plan*, the site is *"appropriate for residential development, as it will provide additional housing that will support the town centre"*.

The concise statement setting out the objective or intended outcome of this Planning Proposal is as follows:-

"Proposed amendments to facilitate medium to high residential density development at the former Port Kembla Public School Site to provide additional housing that will support the Port Kembla Town Centre".

3.0 Part 2 – Explanation of Provisions

The PP proposes to amend Wollongong LEP 2009 to:

- Rezone the land from B4 Mixed Use to R3 Medium Density Residential and RE2 Private Recreation;
- Increase the Maximum Building Height from 9m to 17m over part of the site and remove the Maximum Building Height layer over the RE2 zoned portion;
- Amend the Minimum Lot Size from 1999m² to 200m² and 449m²;
- Amend the Floor Space Ratio from 0.5:1 to 0.5:1, 0.75 and 0.8m (variable) with no minimum lot size over the RE2 portion of the land;
- Reduce the heritage overlay affecting the site and map the proposed RE2 zoned land on the Heritage Map being the location for the Heritage Interpretative park;
- Amend Schedule 5 in Wollongong LEP 2009 to update the heritage listing to the “Site of former Port Kembla Public School”.
- Remove Clause 7.13 from Wollongong LEP 2009 as it is no longer necessary to burden the site with site specific provisions.

Part 4 of this Planning Proposal illustrates the proposed map amendments to the relevant Wollongong LEP 2009 layers and the Urban Design Analysis Report provides further detail on proposed Development Controls to compliment the LEP amendment. The Acoustic Feasibility Study includes recommendations that relate to potential development controls and the appropriate location for these controls will be determined in consultation with Council and DPIE.

Under the current Wollongong LEP controls including the B4 Mixed Use zone, there is potential for a development yield of 88 dwellings with 3120.6m² and a total residential GFA of 6070m². This is below the current 0.5:1 FSR.

The Planning Proposal intends to remove the requirement to include commercial uses on the ground floor as required by the B4 Mixed Use Zone and Clause 7.13 in Wollongong LEP 2009 and permit medium-high density residential development as per the recommendations in the *Port Kembla 2505 Revitalisation Study* and the Urban Design Analysis Report (*Appendix 4*).

4.0 Part 3 – Justification

Since the closure and later fire that destroyed the historic school, this large site close to the Port Kembla town centre has been vacant. The Urban Design Analysis Report (*Appendix 4*) illustrates suitable development concepts that will provide a suitable density, development yield, diversity of housing choice and through the Acoustic Feasibility Study (*Appendix 5*) and 3D modelling undertaken, the proposed development concepts respond to the site opportunities and constraints.

This Planning Proposal includes measures that ameliorate conflict with the heavy industrial uses of the Port and its associated noise impacts through development concepts developed in collaboration with the landowner, the Urban Designers, Studio GL and the Acoustic Engineers, Wilkinson Murray. The primary noise protection measures are through the proposed increased building form, height, building design controls and landscaping to reduce the noise levels from the adjoining Port and industrial uses across the remainder of the site and neighbouring residential development that will also benefit from the increased noise protection.

Whilst this Planning Proposal seeks to amend the *Wollongong LEP 2009* by way of a rezoning and an increase in FSR and building height controls, indicative development concepts have been prepared by Studio GL in the Urban Design Analysis Report which inform the desired vision for this site and development controls for a future site specific DCP chapter to ensure design excellence and appropriate built form controls.

4.1 Section A – Need for the Planning Proposal

4.1.1 Q1: Is the Planning Proposal a result of an endorsed local strategic planning statement, strategic study or report?

Yes. This PP is the result of Wollongong City Council's strategic study "*Port Kembla 2505 Revitalisation Plan*". Following the previous submission of this Planning Proposal, Council has exhibited and adopted the Port Kembla 2505 Revitalisation Plan. The Plan examined the Port Kembla suburb (excluding the Three Ports SEPP area), and identified the former school site as being suitable for residential development to support the economic viability of the Port Kembla Town Centre.

An extract from the Urban Design Analysis Report is included below:

Released in 2018, the Port Kembla 2505 Revitalisation Plan was developed by Wollongong Council, with input from Studio GL, HillPDA and John Oultram Heritage & Design. The document sets out the 25 year aspirational vision for the future of Port Kembla. It identifies suburb-wide actions, and drills down into five precincts where detail is provided on "key moves" to deliver change across the suburb.

One of these precincts focuses on the Military Rd Spine. It identifies this significant road as:

"Military Rd is the green spine running through Port Kembla, connecting key destinations and promoting an active lifestyle by making walking and cycling fun and convenient."

One of the key moves for Military Rd is to alter the character of the road, to reflect location and primary use, with a possible shift in character for the Church St to Hill 60 section, that reflects the local traffic use, and its pedestrian priority, with improved walkability and accessibility. This change of character could occur part way along the subject site boundary along Military Rd.

The Planning Proposal has been prepared in direct response to the redevelopment opportunities presented by the site and the limited development capacity under the current B4 Mixed Use zone with Clause 7.13 requiring non-residential uses on the ground floor. The proposed changes to the LEP are consistent with the Port Kembla 2505 Revitalisation Plan. Consistent with Council's adoption of this Planning Proposal, an Urban Design Analysis Report has been prepared to review the site's capacity and to consider design responses to the local context, the noise impacts from the Port of Port Kembla and neighbouring industrial uses. As discussed within the accompanying Urban Design Analysis Report and throughout this Planning Proposal, the site is afforded by a unique opportunity to provide additional housing and future residents in a well-connected and accessible location, on a site that is currently vacant/redundant and unlikely to be redeveloped for a land use directly associated with the current zoning.

As a vital urban environment close to Wollongong City Centre, Port Kembla is accessible by road and public transport. Population growth in Port Kembla and surrounds will bring more people to the centre and increase demand for retail variety, services and housing.

4.1.2 Q2: Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes.

The Planning Proposal is the only means of legally achieving the objectives or intended outcomes. It is considered that the Planning Proposal is the best means of achieving the intended outcome. In this regard, a Planning Proposal is required in order to make the necessary amendments to *Wollongong LEP 2009* which will enable this vacant site to be redeveloped for residential purposes sometime in the future.

Essentially, the current zoning of B4 Mixed Use does not facilitate residential land uses at ground level and, as such, a rezoning to R3 is considered the most appropriate means of achieving the intended and desired outcomes. Due to the current underlying permissibility constraints at ground level on this site, a redevelopment for residential purposes under the current zone does not provide for good urban design outcomes and any commercial development of this scale will detract from the viability of the existing Port Kembla town centre. There is sufficient demand to provide approximately 127 dwellings in medium-high density residential housing products in such a desirable location, within close proximity to a range of services and with suitable amenities for future residents as detailed in the *Preliminary Market Advice* (See Appendix 6).

4.2 Section B – Relationship to Strategic Planning framework

4.2.1 Q3: Is the planning proposal within the objectives and of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

The Planning Proposal is consistent with the *Illawarra Shoalhaven Regional Plan* (ISRP), which identifies increased demands/targets for housing within the region. In this regard, the Plan is very focussed on a collective vision “...for a sustainable future and a resilient community, capable of adapting to changing economic, social and environmental circumstances...” To achieve this, five main goals have been set down, being:-

- 1) *a prosperous Illawarra-Shoalhaven;*
- 2) *a region with a variety of housing choices, with homes that meet needs and lifestyles;*
- 3) *a region with communities that are strong, healthy and well-connected;*
- 4) *a region that makes appropriate use of agricultural and resource lands; and*
- 5) *a region that protects and enhances the natural environment.*

In terms of the above goals, the most relevant in this instance are “Goal 1 – a prosperous Illawarra-Shoalhaven” and “Goal 2 – a variety of housing choices, with homes that meet needs and lifestyles”, given the site’s context and residential development opportunities afforded. The *Port Kembla 2505 Revitalisation Plan* and the *Preliminary Market Advice* (Appendix 6) provide further background on the current economic conditions in Port Kembla and the need to provide residential accommodation only on this site to support the viability of the town centre, the growing and ageing population.

By 2036, the population of the Illawarra-Shoalhaven is expected to increase by another 60,400 persons, and such growth will provide a need for an estimated 35,400 new homes. For Port Kembla (especially the subject site), there is capacity for contribute to this housing availability need, which is to be balanced against the need to see Port Kembla port grow as an international trade gateway.

In this regard, the following main directions/actions are noted for consideration:-

DIRECTION	ACTION	COMMENT
1.2 Grow the capacity of the port of Port Kembla as an international trade gateway	<i>Reduce land use conflicts by managing buffers around the port and its supporting freight network</i>	In considering this matter, the proposed RE2 strip of land at the northern end of the site will provide a buffer to any proposed new residential development with proposed building form, layout and landscaping development controls to provide noise attenuation measures on site. At present, no zone and/or land use restrictions apply to the northern end of the site, meaning that any form of residential and/or commercial development is capable of being proposed and constructed at that northern end (without any buffer restrictions). As can be seen from the objectives and permitted land uses within the RE2 zone above, the implementation of a ‘buffer’ strip to this edge would limit the use of this land for more recreational purposes only. This is consistent with the current RE2 zoned area within the MM Kembla site immediately to the east, which provides for a similar buffer transition between existing industry and residential areas. In addition, having the land zoning strip only 10m wide, also practically restricts building envelope opportunities to create or develop more intensive land uses within this part of the site, as permitted by the zone (eg. registered clubs, function centres, child care centres, respite day care centres, etc.). Therefore, the implementation of the RE2 zoned strip of land as proposed will provide a net-positive outcome from a land use context perspective consistent with the Port Kembla Land Use Study, compared to that which exists at this present time.

		Further, whilst the proposal seeks to rezone the land to primarily medium density residential, it is important to recognise that certain forms of medium density residential development are already permitted under the current B4 zone (eg. residential flat buildings, multi-dwelling housing, shop top housing, etc). However, this type of development has just not come to fruition due for various market reasons and ground floor restrictions on such residential. As such, the proposal will not be changing the existing land use context permissibility's available in terms of residential close to port lands and, thus, will not be enhancing any land use conflicts.
1.4 Support new and expanded industrial activity by providing well-located and -serviced supplies of industrial land	<i>Investigate opportunities to better utilise industrial landholdings at Port Kembla</i>	This will be the responsibility of government and landowners of port properties, however, the Planning Proposal rezoning of the subject land (as proposed) aims to reduce any potential increased utilisation of landholdings at Port Kembla. Particularly with the proposed RE2 zoned buffer outcome providing a restricting land use transition between the subject site and port lands and improved acoustic measures and urban design outcomes to unlock the land for suitable residential development
2.1 Provide sufficient housing supply to support the changing demands of the region		The Planning Proposal will provide for some additional development yield with a variety of housing choices including townhouses, terraces and residential flat buildings. There is the potential to include an aged care facility on site.
2.2 Support housing opportunities close to existing services, jobs and infrastructure in the region's centres	<i>Investigate the policies, plans and investments that would support greater housing diversity in centres</i>	As described in the Plan, the "NSW Government will work with Councils to review planning controls in existing urban areas to identify opportunities to increase the range of housing types". This site alone provides an opportunity to develop a range of housing types, close to existing services, jobs and infrastructure. In planning this future vision for this site, DWA have prepared an 'Urban Design Report' that includes massing and building forms, which is attached to the Planning Proposal application for consideration. In this regard, various forms of housing are achievable, from single storey villas through to multi-level apartments.
2.5 Monitor the delivery of housing to match supply with demand	Monitor land and housing supply through the Illawarra Urban Development Program and incorporate the Shoalhaven Local Government Area	Again, the ability to 'unlock' the appropriate redevelopment opportunities afforded to this relatively large vacant and redundant site (already serviced) and, thus, supporting the NSW Government's objective to release development of in-fill sites located close to infrastructure and services. The opportunity to provide an additional future housing within the locality will assist in the delivery of the housing yields contained in the Plan.

<p>3.2 Enhance community access to jobs, goods and services by improving connections between centres and growth areas</p> <p>3.3 Build socially inclusive, safe and healthy communities</p>		<p>The subject site has the potential to provide a mix of housing close to existing services offered by Port Kembla Town Centre providing connectivity and direct linkage to public transport, public facilities and the coast. The sites location, within eight kilometres of Wollongong City Centre, provides connectivity and direct access to Wollongong by bus (at Military Road frontage), train (850m to station) and private vehicle. It is located within five minutes' walk of the coastline and the public park at the eastern end of Electrolytic Street (zoned R2 Low density Residential – Gallipoli Park) and King George V oval to the south. In addition, Port Kembla Town Centre can be reached in less than five minutes' walk from the subject site.</p>
<p>3.4 Protect the Region's cultural heritage advice</p>		<p>Biosis Pty Ltd was commissioned to undertake a heritage assessment and statement of heritage impact of an area of land proposed for development of future residential uses. This was to identify if any heritage items or relics exist within or in the vicinity of the study area; assess the heritage significance of these heritage items; and determine the most appropriate management strategy required from a heritage perspective (if any).</p> <p>The key findings of the assessment are noted as follows:</p> <ul style="list-style-type: none"> • The assessment has identified that the study area contains one locally listed heritage item (former school) and three locally listed heritage items adjacent to the study area (the former Port Kembla Fire Station, St Stephens Anglican Church and the House and Shop). • A physical inspection confirmed that there were little remains of the Port Kembla Public School and its associated buildings. • An assessment of the archaeological resources likely to be present within the study area has concluded that these are likely to be limited to structural and depositional remains associated with the 1916 and 1932 buildings. • There will be no impacts to built fabric within the study area as the former Public School Buildings have been demolished to ground level. • Whilst archaeological remains associated with the footings and occupational deposits may be present within the study area, these have been assessed as possessing limited archaeological research potential.

		<ul style="list-style-type: none"> • The proposed development thus will not have a significant impact on the item as the items significance relates to intangible elements such as its historical, associative and social significance. These elements would be best managed through a program of interpretation that is incorporated into the proposed development and that celebrates the sites contribution to Port Kembla. • The project will result in an indirect aesthetic impact upon the significance of the adjacent heritage items along Military Road, Port Kembla. These are considered to be minor and can be managed through ensuring that the developments design and landscaping is sympathetic to these items. • A heritage interpretation plan is suggested that celebrates the history of the study area as the former Port Kembla Public School and its contribution to Port Kembla as a suburb. • The project should use sympathetic colour treatments. Colours that match the existing palette will ensure that the adjacent heritage items are not visually dominated by the proposed works. <p>The site has been identified as a prominent location with potential to reflect its past social significance as a school. In relation to the site's heritage status, it is considered that heritage interpretation could be utilised to reflect the historical significance of the site. A Heritage Interpretation Strategy is to be undertaken should the Planning Proposal attain Gateway Determination. Given the Heritage Listing Buildings have been demolished, the Planning Proposal seeks to reduce the mapped area of the Heritage Item to the proposed RE2 zoned land.</p>
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Being mindful of this, it is clear that the proposed rezoning of land for primarily medium density residential purposes within an already defined urban area will directly accord with the objectives and actions of this Plan.

NSW Ports Master Plan

It is well recognised that Port Kembla port is critical to the future economic growth, development and prosperity of NSW. In October 2015, NSW Ports adopted a 30 year Master Plan for Port Botany, Port Kembla, Cooks River Intermodal Terminal and the Enfield Intermodal Logistics Centre. This Master Plan outlines the priorities and the actions they believe are necessary for a sustainable and efficient port supply chain, well beyond the next 30 year horizon. In doing so, the Master Plan provides a forecast of the

30 year trade volumes expected; considers requirements for efficient and sustainable port and intermodal operations; and identifies land use and infrastructure requirements to support future demand.

For Port Kembla, the port *“will continue to be NSW’s largest motor vehicle import hub and bulk grain export port, while catering for a growing range of dry bulk, bulk liquid and general cargo. It will be home to NSW’s second container port after Port Botany”*. In respect of the subject site and Planning Proposal, the key driver for consideration will be their objective to protect the port from urban encroachment. This objective is based on interface issues that can exist between industry and residential land use activities, so as to not restrict the port from maximising its 24 hour operations. In this regard, the following comments are noted:-

- The current B4 zone already permits various forms of medium density housing, such as residential flat buildings, multi-dwelling housing, shop top housing, etc. As such, rezoning this land for primarily these purposes will not add to urban encroachment at this location, as it already exists and/or is available.
- The Planning Proposal directly responds to the ports’ objective by introducing a land use and zone buffer restriction at the northern end of the subject site (ie. Proposed RE2 strip of land). That restriction is currently not implemented for the subject site under the current zoning, thereby contributing towards this objective to reduce interface issues.
- Land use interface issues for a specific development can only be considered at the Development Application (DA) stage, where detailed concept designs and direct environmental impacts can be measured. Both Council and NSW Ports will get an opportunity to review any forthcoming proposal at a later date to ensure land use considerations are managed and sustainable outcomes are balanced.
- The traditional dynamics and character of the area are changing more than ever in recent years, with the adjoining former heavy industry PKC site to the north now a platform for less active industry (such as car and freight storage activities). As identified in the Master Plan, immediate port activities are expected to continue towards more vehicle and bulk grain export, meaning that these less intrusive industrial activities (like storage and handling) are likely to continue within the PKC site, compared to the more traditional heavy industry of the past.

As mentioned, the Planning Proposal will not contribute to urban encroachment at this location, rather put land use/zone restrictions and a buffer in place to better manage land use interface between the subject site and port lands. Therefore, the proposed rezoning will not contradict the intent of this Master Plan.

4.2.2 Q4: Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plans?

Wollongong 2022 Community Strategic Plan

Wollongong 2022 is a long term Community Strategic Plan for the City. The Plan plays a vital role in the future of Wollongong, and provides direction for the delivery of key projects and services, which will help meet the needs of the community. The vision for this Plan is stated as – *"From the mountains to the sea, we value and protect our natural environment and we will be leaders in building an educated, creative and connected community."*

To achieve this vision, 6 community goals were created to guide Council, business and the community over the coming years:

- ✓ *We value and protect our environment*
- ✓ *We have an innovative and sustainable economy*
- ✓ *Wollongong is a creative, vibrant city*
- ✓ *We are a connected and engaged community*
- ✓ *We are a healthy community in a liveable city*
- ✓ *We have sustainable, affordable and accessible transport*

In considering these community goals, the Planning Proposal outcome will assist in the delivery of various types and forms of housing products for local residents and the wider community. In this regard, the following objective based outcomes will be achieved as relevant to the subject site:-

- Through the provision of future housing construction, local employment opportunities are increased within a strong local economy.
- Residents have improved access to a range of different housing options.
- Walking, cycling and public transport is accessible to the site's location and surrounding land use considerations.
- The location is afforded a wide range of recreational areas so as to encourage participation in recreation and lifestyle activities.

- The opportunities to redevelop a vacant site will improve community safety and public surveillance at this location.
- Through this Planning Proposal process, residents are able to have their say through the consultation opportunities to be provided as due process requires.
- Community awareness and appreciation of the site's school heritage will be increased by the representation/interpretation opportunities to be provided in any redevelopment.

Port Kembla 2505 Revitalisation Town Centre Plan

The **Vision** states:

“Port Kembla is a product of its unique people and exceptional natural surroundings. It's rich cultural history and diverse population contribute to a lively and active place that is inclusive and attractive for residents and visitors alike.”

The Plan specifically seeks to deliver on the following strategies which are designed to realise the vision and achieve the nominated aims. Primarily the focus being on increasing population, economic viability, built form quality and amenity within the Town Centre and including:

“Lively and Diverse” – Port Kembla streets and spaces are alive with people day and night.

“Active and Connected” – Port Kembla enjoys an active and healthy lifestyle. Military Road is transformed into the green spine connecting through the suburb making it convenient to get around.

“Grow with the Port and Industry” – The regional significance and growth of the Port is recognized and planned for, providing opportunities and benefits to the Region and suburb of Port Kembla, and more importantly - The needs of the growing Port and industry are balanced with those of the neighbouring resident population and managed proactively and transparently.

The Proposal is commensurate with the ‘Revitalisation Plan’ as it supports the key noted strategies through its intent of increasing residential population, increasing housing choice, providing key linkages throughout the site, to the coast and to the Town Centre and highlighting the heritage significance of the site whilst managing its interface with the Port area.

It is considered that the intent of the Planning Proposal is supportive of the Port Kembla Town Centre Revitalisation Plan.

Urban Greening Strategy 2017 - 2037

The *Urban Greening Strategy 2017-2037* aims to strategically increase the quality and quantity of all vegetation in an urban setting. The Strategy identifies opportunities for our City to harness the benefits of trees and vegetation, contributing towards creating a world class urban landscape.

The Vision is that:

Wollongong will grow and nurture a healthy, diverse and well-managed urban forest to deliver a renewed and resilient place for people, enterprise and the ecosystems that support us.

The following Principles will inspire and inform Council's approach to urban greening in Wollongong:

- more strategic and targeted urban greening;
- evidence-based decision making and programming;
- enhanced amenity of public spaces;
- maximisation of ecosystem services and biodiversity connections;
- stronger leadership and partnerships with the community; and
- greater diversity of urban greening.

The Planning Proposal is conducive to the Strategy as it seeks to enhance connectivity and linkage throughout the site with the locality and town centre to an existing 'green link' which will ultimately connect with the coast. Furthermore, the proposal will contribute to increasing the canopy cover of the City.

4.2.3 Q5 - Is the planning proposal consistent with applicable state environmental planning policies?

Yes. A review and assessment against the proposal's consistency with the applicable SEPPs is attached as *Appendix 1* of this report.

Whilst a number of the SEPPs are applicable, most are not relevant to the proposed reclassification and this Planning Proposal. The following SEPPs are relevant to this Planning Proposal:

- **SEPP (Coastal Management) 2018**

Both properties are mapped as “Coastal Environment Area” and “Coastal Use Area” in the SEPP (Coastal Management) 2018. The Planning Proposal is not inconsistent with the SEPP and any future development will be subject to the provisions of the SEPP.

- **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. The subject site is outside of the Three Ports SEPP boundary, however DPIE have outlined that the Three Ports SEPP must be addressed. DPIE consider “the Planning Proposal to be inconsistent with the aims of the 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”.

As detailed earlier in this report, the land use conflict currently in existence with up to 88 dwellings currently permitted in the B4 zone, albeit residential land uses are not permitted on the ground floor in a B4 zone. Additional work has been undertaken from an Acoustic Engineer to prepare a 3D model of the potential noise impacts and work with the Urban Designer to provide a considered design response to the Port operations. The overall benefit of the Planning Proposal is of great benefit to the Port Kembla Town Centre and whilst the port of Port Kembla required protection to ensure ongoing and future operations are not restricted, this should not be at the detriment of adjoining properties and the viability of the Port Kembla Town Centre.

- **SEPP No. 55 – Remediation of Land**

SEPP 55 provides state wide planning controls for the remediation of contaminated land. The policy states that land must not be developed if it is unsuitable for a proposed use because it is contaminated. Subsequently, SEPP 55 requires consideration of contamination issues as part of the preparation or making of an environmental planning instrument (rezoning) land.

The following reports were submitted: Phase 1 detailed Site investigation prepared by Golder Associates, report on Conceptual Remediation Action Plan (December 2015 and revised September 2016) prepared by Douglas Partners and report on data reassessment for rezoning (September 2016) prepared by Douglas Partners. It was concluded that the site is contaminated, although can be rehabilitated to enable residential development. A Site Auditor will be required to be appointed to monitor the proposed development works.

Refer to Appendix 1 – Checklist of State Environmental Planning Policies.

4.2.4 Q6 - Is the planning proposal consistent with applicable Ministerial Directions (Section 9.1 Directions)?

Yes. A review and assessment against the proposal's consistency with the applicable Section 117 Directions is attached as *Appendix 2* of this report. Being mindful of this assessment, it is considered that this Planning Proposal is clearly consistent with the relevant current strategic State-based planning initiatives applying to the site.

The following Ministerial Directions (s.9.1 Directions) are highlighted with respect to the Planning Proposal and further detail is provided in response to these Directions:

- Direction 1.1 Business and Industrial Zones
- Direction 2.3 Heritage Conservation
- Direction 3.1 Residential Zones
- Direction 5.1 Implementation of Regional Plans

Direction 1.1 Business and Industrial Zones

The objective of Direction 1.1 is to:

- a) Encourage employment growth in suitable locations,*
- b) Protect employment land in business and industrial zones, and*
- c) Support the viability of identified centres.*

This direction affects land within an existing mixed-use zone. The current B4 Mixed Use zoning on the site reflects a previous rezoning proposal to enable a variety of uses on the site, including cultural use and artist accommodation in the former school buildings. The rezoning will result in a numeric loss of employment lands, however the Port Kembla 2505 Revitalisation Plan and Port Kembla previous studies have identified that there is an oversupply of commercial/retail zoned land in Port Kembla. The

development of the site for business use would further erode the viability of businesses in Wentworth Street, Port Kembla (Town Centre).

Given the existing B4 Mixed Use Zone and application of Clause 7.13, a redevelopment of the site permitted in the current LEP is not really financially viable and there is little demand for commercial development in a shop top housing form across the entire site due to oversupply in Port Kembla Town Centre, the development of Warrawong Shopping Centre and the reduction in the workforce associated with the steelworks required outside the boundaries of the Three Ports SEPP. Refer to the Preliminary Market Advice included as *Appendix 6*. As referred to in the Port Kembla 2505 Revitalisation Plan and in the Preliminary Market Advice, the Port Kembla Town Centre has an extremely high vacancy rate of 25%. Through the proposed LEP amendments, the subject site will provide a potential development yield of 129 dwellings within 100m of the Port Kembla Town Centre and bolster the trading catchment for the businesses.

In the opinion of DPIE, the Planning Proposal is inconsistent with this Direction given the potential of the development to hinder the potential to grow the capacity of the port. In response to the concerns raised by DPIE, the Planning Proposal will not provide a substantial increase in dwelling numbers from the existing potential dwelling yield (that DPIE had assumed) and through the Urban Design Analysis process, 3D acoustic modelling and the development of the preferred development concepts as a collaborative process, high quality urban design and noise mitigation measures have been developed to provide suitable redevelopment options that reduce the potential for noise conflicts from the port and also to ensure the site does not remain sterilised due to inappropriate land use zoning.

Whilst the land use conflict currently exists and noise impacts are likely to increase with growing industries and 24/7 port operations, we believe it is unreasonable to expect that all land use conflict and environmental impacts must be solely managed outside of the Ports operation and future development on land in Port Kembla be unreasonably restricted from the operations of the port. Noise mitigation measures should be provided both at the source and surrounding properties. It is completely reasonable for all residential landowners adjacent to Port operations to expect that the Port will provide this.

As detailed in the Port Kembla 2505 Revitalisation Plan, the viability of the Port Kembla Town Centre requires action to facilitate economic growth. The current B4 zone on the site which essentially requires

commercial on the ground floor of the entire site which is not feasible and will further restrict the viability of the Port Kembla Town Centre. In considering this Planning Proposal, there must be a balanced approach between the growth of the port of Port Kembla and the viability of this historic port town. It would be unfortunate to see a further reduction in the viability of the Town Centre because of the NSW Government's actions to prevent a suitable and sympathetic residential development adjoining the Port.

Through the additional acoustic, urban design and market assessment review, the planning proposal is justifiably inconsistent with the Direction and is considered to be of minor significance.

Direction 2.3 Heritage Conservation

The objective of Direction 2.3 is to '*conserve items, areas, objects and places of environmental heritage significance and indigenous significance*'.

The Direction indicates that a planning proposal must contain provisions that facilitate the conservation of items of historical significance to an area. Biosis was engaged to undertake a Historical Heritage Assessment and Aboriginal Due Diligence Assessment of the site.

In terms of heritage, the Planning Proposal seeks to ensure that the cultural significance of the site is retained. It is a prominent location with potential to reflect its past social significance as a school. The site sits adjacent to three other heritage items, St Stephen's Anglican Church, former Fire Station and a dwelling house/shop on the corner of Third Avenue/Military Road. The heritage value and its context, sitting adjacent to a number of heritage items should also inform the future interpretative strategy of the site. It is recommended that a Heritage Interpretation Management Strategy be developed prior to the finalisation of the Planning proposal.

The applicant proposes to retain the heritage listing of the site, however it is proposed that the mapped Heritage layer be reduced to the proposed RE2 Private Recreation zoned area given this site will be a future Heritage Interpretation Park and to reduce the unnecessary restriction on new development. As no physical structures remain, it is recommended that the current heritage listing identifying the school building structure be updated with a listing covering the site reflecting the historical significance of the site. The listing as detailed should be updated and the significance of the site acknowledged accordingly to focus more on the history of the site, its cultural significance and contribution and the interpretation of this to ensure the stories associated with the school and its controversial location are

not lost. As such, it is recommended that the Heritage listing be amended to read "Site of former Port Kembla Public School".

Council has recently raised the recent discovery of WWII anti-aircraft pits at Wollongong Public School. A report associated with this find included a newspaper clipping that indicating the similar structures were constructed a Port Kembla Public School in 1942. Council has stated that any further planning proposal work on the Port Kembla site will be requiring an archaeological report, to try to locate any structures. It is requested that any further archaeological work be requested as a Gateway Determination condition.

The Biosis (2018) Historical Heritage Assessment prepared for this Planning Proposal included the following recommendations:

These recommendations have been formulated to respond to client requirements and the significance of the site. They are guided by the ICOMOS Burra Charter with the aim of doing as much as necessary to care for the place and make it useable and as little as possible to retain its cultural significance.⁶⁸

Recommendation 1 Heritage Interpretation Plan

The analysis for this report has determined that the site has limited potential to contain archaeological resources of local or state significance. However, a heritage interpretation plan is suggested.

Recommendation 2 Use of sympathetic colours during project works

The project should use sympathetic colour treatments. Colours that match the existing palette will ensure that the adjacent heritage items are not visually dominated by the proposed works

Recommendation 3 Unexpected archaeological finds

In NSW, archaeological sites of State or local significance are considered "relics", which are protected by the Heritage Act 1977. In NSW impacts to relics are only permitted with a section 140 approval (excavation permit) or an exception for the requirement of a section 140 approval (exception notification). This document has been drafted to act as supporting documentation for a section 140 (excavation permit).

The proposal to reduce the mapped Heritage Layer is not subject to Heritage Advice from a specialist consultant and has been included in this Planning Proposal through consideration of the future implications to the development potential on a former School Site. Further work can be undertaken as

part of a condition of a future Gateway Determination. It is noted that the NSW Heritage Act 1977 continues to apply to any archaeological records located on site.

Biosis were also engaged to provide Aboriginal due diligence advice for the Planning Proposal. Based on the investigation undertaken, based on this investigation, Biosis recommended that:

Recommendation 1: No further archaeological assessment is required

No further archaeological work is required in the study area due to the entire study area assessed as having low archaeological potential.

Recommendation 2: Discovery of unanticipated Aboriginal objects

All Aboriginal objects and Places are protected under the NSW National Parks and Wildlife Act 1974. It is an offence to knowingly disturb an Aboriginal site without a consent permit issued by the OEH. Should any Aboriginal objects be encountered during works associated with this proposal, works must cease in the vicinity and the find should not be moved until assessed by a qualified archaeologist. If the find is determined to be an Aboriginal object the archaeologist will provide further recommendations. These may include notifying the OEH and Aboriginal stakeholders.

Recommendation 3: Discovery of Aboriginal ancestral remains

Aboriginal ancestral remains may be found in a variety of landscapes in NSW, including middens and sandy or soft sedimentary soils. If any suspected human remains are discovered during any activity you must:

- 1. Immediately cease all work at that location and not further move or disturb the remains*
- 2. Notify the NSW Police and OEH's Environmental Line on 131 555 as soon as practicable and provide details of the remains and their location*
- 3. Not recommence work at that location unless authorised in writing by OEH.*

Recommendation 4: Unexpected finds protocol

All construction workers should be subject to an induction which details the kinds of historical relics, structures or deposits which may be encountered during the construction works and what the process should be if unexpected archaeological remains are encountered.

Any inconsistency with this direction is considered to be justifiably of minor significance.

Direction 3.1 Residential Zones

The objectives of Direction 3.1 are:

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

The Planning Proposal seeks to provide a diverse housing product including residential flat buildings, a mix of townhouses, semi-detached and semi attached dwellings on smaller lot holdings. The proposal is conducive to the nominated objectives and is capable of complying with the nominated objectives.

Direction 5.10 Implementation of Regional Plans

This Direction gives legal effect to the vision, directions and actions contained in regional plans. As detailed earlier in this report, The Planning Proposal is consistent with the Illawarra-Shoalhaven Regional Plan. The Department has raised concerns with the consistency of this Planning Proposal with the Illawarra-Shoalhaven Regional Plan and consequentially 5.10.

Through additional acoustic feasibility, urban design and review of market conditions, it is evident that the proposed medium-high density residential zoning of the site is suitable to bolster the failing Port Kembla Town street and ensure that the site is not developed with a commercial orientated development that would even further reduce the viability of the Port Kembla Town Centre.

Consistent with the recommendations of the Port Kembla 2505 Revitalisation Plan, the Urban Design Analysis Report, Acoustic Feasibility Assessment and Preliminary Market Advice, the site is capable of achieving suitable residential development that will mitigate the noise impacts from the adjoining port and industrial land and will provide increased dwelling yield to support the Port Kembla Town Centre.

Any inconsistency with this direction is considered to be justifiably of minor significance.

4.3 Section C – Environmental, Social and Economic Impact

4.3.1 Q7 - 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?

A due diligence assessment was carried out by Biosis to determine the presence of breeding, foraging and dispersal habitat for the Green and Golden Bell Frog *Litoria aurea* within the property. The assessment concluded as follows:

“Overall the property itself has minimal habitat values for the Green and Golden Bell Frog and there should be no limitations for development with regard to this species. In our opinion, no further assessments are required for the Green and Golden Bell Frog.”

The Planning proposal will not have a detrimental impact on critical habitat or threatened species populations or ecological communities or their habitats.

4.3.2 Q8 - Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Potential environmental effects arising from this Planning Proposal and subsequent future development may include:

- Contamination
- Future potential Noise Impacts

In order to carry out due diligence with respect to processing this proposal the proponent submitted a number of technical studies in support of the Planning Proposal.

- Detailed Site Investigation (December 2013) Golder Associates
- Report on Conceptual Remediation Action Plan (December 2015 and revised September 2016) Douglas Partners
- Report on Data Reassessment for rezoning (September 2016) Douglas Partners
- Acoustic Feasibility Assessment (July 2020) Wilkinson Murray
- Traffic and Noise Intrusion Assessment (April 2018) Harwood Acoustics.

Based on the submitted Site Assessment reports, it was concluded that the site is contaminated although can be rehabilitated to enable residential development. This will be managed through existing legislation such as SEPP 55 – Remediation of Land and Council's requirements for contaminated land.

The submitted acoustic assessments denotes that any future residential development is capable of achieving compliance with appropriate noise measures applicable to the site and suitable noise protection measures are included to ensure appropriate noise levels are received at future residential accommodation on site.

4.3.3 Q9 - How has the planning proposal adequately addressed any social and economic effects?

No adverse social and/or economic effects are anticipated. Additional housing opportunities will be provided in a location convenient to existing community services and facilities including public transport.

4.3.4 Is there a net community benefit?

The proposal is considered to provide a net community benefit for the following reasons;

- a) It constitutes a balanced and appropriate use of land and is in keeping with the adjoining residential zoning and future character.
- b) It will provide additional housing supply in a convenient location and by utilising existing facilities and services the economic and social cost of future development would be minimised.
- c) It would facilitate a mix of dwelling types that encourage social mix and provide housing choice to meet the needs of the community.
- d) It would not result in any significant adverse environmental impacts.
- e) It would create local employment opportunities in construction and home maintenance.
- f) The ability to 'unlock' the appropriate redevelopment opportunities afforded to this relatively large vacant and redundant site and, thus, supporting the NSW Government's objective to release development of in-fill sites located close to infrastructure and services;
- g) The opportunity to provide an additional future housing with varying degrees of affordability within the locality will assist in the delivery of the housing yields contained in the *ISRP*;
- h) The supply of available and serviced residential land within the locality will be increased (together with increased housing choice and diversity);

- i) The provision of additional housing in close proximity to public transport and the Port Kembla Town Centre, that will contribute to the commercial activity/viability of this centre;
- j) Appropriate infrastructure is provided to the site to facilitate the required land use, without any further public costs;
- k) To deliver zoning restrictions at the northern end of the subject site, so as to provide a transitional land use buffer between existing industry and proposed residential; and
- l) The ability to represent and interpret the historic site use and make this available to the community from a social and recreational enjoyment perspective.

4.4 Section D – State and Commonwealth Interests

4.4.1 Q10 - Is there adequate public infrastructure for the planning proposal?

Utilities

The site has the potential to be serviced by all utilities.

Roads

Development of the subject site as proposed will require the construction and potential dedication to Council of new roads.

Development Contributions

The approval and subsequent construction of any future residential development of the site will involve a contribution towards the provision of facilities in accordance with the Wollongong Development Contributions Plan.

4.4.2 Q11 - What are the views of State and Commonwealth Public authorities?

Council sought preliminary feedback from NSW Ports and NSW EPA. There comments were noted within the Council report requesting endorsement of the Planning Proposal. In summary, both NSW Ports and NSW EPA were concerned that future complaints from residents living on the site will affect the 24/7 operation of the Port of Port Kembla.

In issuing the Gateway Determine, DPIE essentially refused the primary intention of the Planning Proposal due to intensification of residential use on the former Port Kembla School site which in their opinion is likely to result in increased/unacceptable land-use conflicts with adjacent heavy industrial uses within the port. DPIE referred to a Land Use Conflict Management Study (Cardno) in this Gateway Determination. It took some time before a copy of this Study was made available to MMJ Wollongong and it is understood that this report is not publicly available and there are no current plans to publicise this report or pursue any actions in this report.

The Gateway Determination letter discusses the Port Kembla Land Use Conflict Management Study (LUC study), commissioned by DPE. At the time of the Gateway Determination being made in November 2018, the LUC study was still being drafted. We have recently obtained a copy of this report from DPE on 17 June 2019. The purpose of DPE commissioning this study is to address Action 1.2.1

from the Regional Plan, to ensure that the Port remains a key driver of the NSW and Regional economy, with the capacity for growth over time to meet demand.

Implementation of this action requires the NSW Government to work with Wollongong City Council and the Port Authority of NSW to:

- *Identify and reduce land use conflicts between growing residential areas and the freight network and, where appropriate, include buffer measures in local planning controls to minimise the impact of development on the efficient functioning of the Port and the freight industry*

The LUC Study examines the current and future anticipated conflicts between the Port and surrounds, with management and mitigation measures identified to ensure these conflicts do not impact on Port operations into the future, without sterilising the surrounding land.

The former Port Kembla Public School site is identified in the LUC as being within a Sensitive Area – Precinct A – see *Figure 6* below and extract from the Study.

“6.1.1 Precinct A

Precinct A contains an eclectic mix of land uses along the interface area, with interactions between commercial, light industry, heavy industry, residential and recreational uses. Review of key planning and policy documents as well as extensive consultation with different stakeholders has provided mixed direction for this area, however, the following conclusions can be made:

- *The potential for reactivation of the industrial land directly north of the precinct as a container terminal in conjunction with the outer harbour expansion will introduce new conflicts to the area.*
- *New residential development near the port presents the potential for additional land use conflict and safety risks which requires more detailed investigation and careful consideration of mitigation and management measures to ensure these risks are minimised or avoided/*
- *The close proximity of large commercial areas and business parks in surrounding suburbs limit the effective utilisation of the commercial district within precinct A, limiting its potential as a buffer in its current state.”*

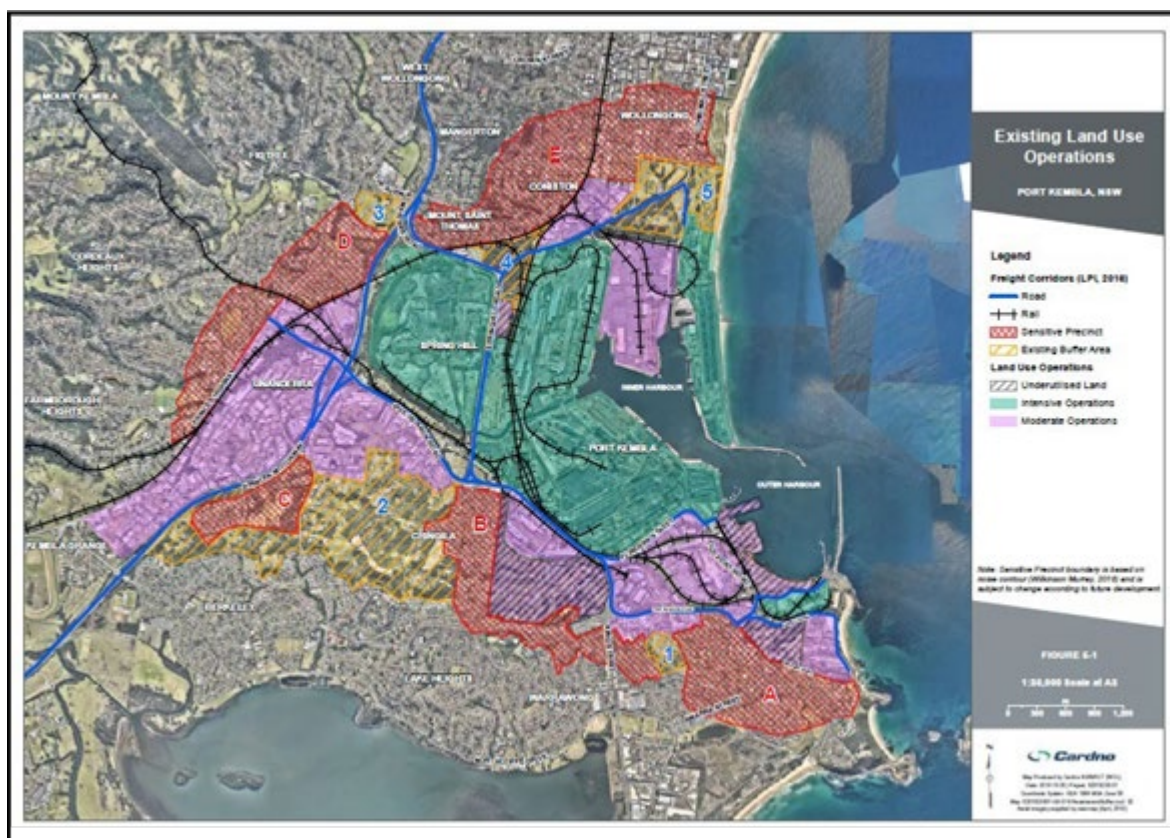


Figure 6: Existing Land Use Operations, Port Kembla (Source: Cardno LUC 2018)

The LUC Study recognises that:

“noise impacts are best mitigated by appropriate design and construction of buildings and provides the following design controls for consideration:

- *Good building design and orientation so that sleeping areas are orientated away from the Port and surrounding industrial areas. The location of utility areas, such as laundries and bathrooms as noise buffers is a worthwhile strategy.*
- *Improved glazing to habitable rooms and windows to incorporate good seals.*
- *Provision of fresh air ventilation, which would ensure that windows can be closed when improved amenity is desired by occupants.*
- *Outdoor areas designed to take advantage of any acoustic shielding by the building structure or surrounding buildings.”*

Recommendations in the LUC Study can be further investigated and applied to this Planning Proposal, see information regarding the Precinct Approach below:

It is recommended that planning instruments such as the 'Precinct Approach' identified in the Noise Policy for Industry (2017) (NPI) and the principles of the State Environmental Planning Policy (Infrastructure) 2007 (ISEPP) and Development Control Plans for buildings surrounding Kingsford Smith Airport be further investigated with a view to adoption to Port Kembla harbour and associated industrial lands.

- *Using the natural topography to prevent line of sight between the noise source and residential areas and thus block direct propagation of noise*
- *locating activities that are not noise sensitive, such as commercial areas and parkland, between residences and the noise source*
- *orienting dwellings so that living areas face away from noise sources*
- *defining areas affected by noise where building and subdivision design needs to incorporate noise mitigation.*

Part of the site has been identified for a zoning change to a proposed Light Industrial Buffer in the recommendations and associated Proposed Land Use Changes map below.

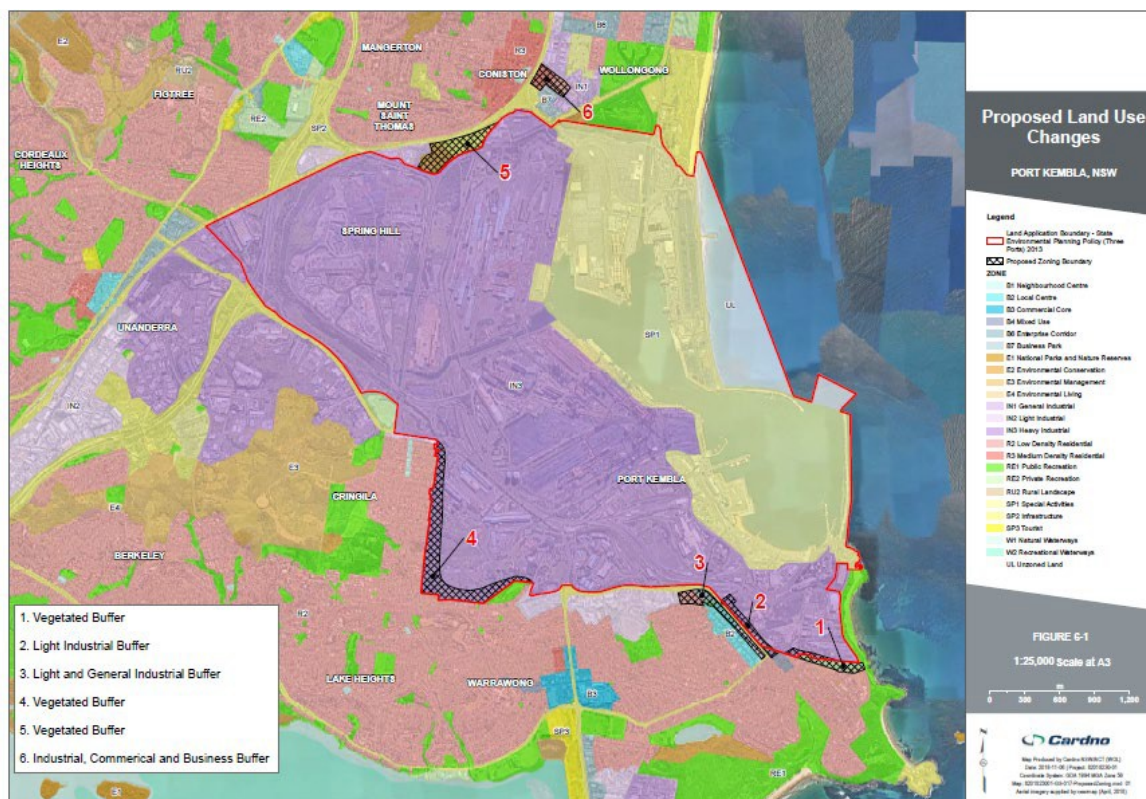


Figure 7: Proposed Land Use Changes – LUC Study, Port Kembla (Source: Cardno LUC 2018)

Whilst the concept of a buffer in the hatched area is supported, a RE2 Private Recreation zone has been proposed through this Planning Proposal instead of a light industrial zone which may exacerbate the existing land use conflict. The purpose of the RE2 Private Recreation zone is to reflect the proposed private Heritage Interpretation Park and provide a buffer from the Port.

In addition to the LUC study, Council staff in the report to Council's Ordinary Meeting of 28 May 2018, made the following comments in support of the Planning Proposal and potential noise impacts to the site.

"The level of noise emission from any future industrial premises or expansions within the Port will not increase the construction requirements for future dwellings providing the new premises comply with the EPA's Noise policy for Industry 2017 as should be required. The submitted acoustic assessment which denotes that any future residential development is capable of achieving compliance with noise measures applicable to the site and the current residential re-development within proximity of the site, it can be concluded that from an acoustic perspective there is no reason why rezoning of the subject site to the proposed residential zone cannot occur. In addition, it is recommended the provision of more stringent noise mitigation measures be incorporated within the design controls of the site to ensure that the future residential amenity is protected."

The recommendations and conclusions in the study require further investigation and proposed changes will be developed in consultation with the Department, Council and port operators (with supporting studies). As further investigation has not commenced, the timeframe for recommended changes to be investigated is unknown. Given the uncertainty regarding future changes, it is requested that the Planning Proposal continues to be considered with possible precinct and buffer options in accordance with the concepts in the LUC study and EPA's Noise Policy for Industry 2017 and considering existing controls in other LEPs for suitable model clauses and applied to the land through the Planning Proposal.

The Acoustic Feasibility Study prepared by Wilkinson Murray provides a detailed assessment including the 3D Acoustic Modelling used by Wilkinson Murray in their work for NSW DPIE on the Land Use Conflict Study. The Acoustic Feasibility Study demonstrates that through building design, form, layout and landscaping, the site is capable of achieving a suitable well design medium – high density residential development.

Subject to a positive Gateway determination and based on the identified issues and constraints,

consultation will be required with the following agencies and departments:

- NSW EPA
- NSW Office of Environment and Heritage
- National Trust of Australia, Illawarra Shoalhaven Regional Branch
- Endeavour Energy
- Transport for NSW
- Roads and Maritime Services
- NSW Ports
- Sydney Water

Any future Gateway Determination will nominate any additional State or Commonwealth authorities required for consultation. All identified authorities/stakeholders will be notified during the exhibition period.

5.0 Part 4 Mapping

The proposed mapping changes to the Land Zoning, Height of Building, Heritage, Floor Space Ratio and Minimum Lot Size layers are outlined below.

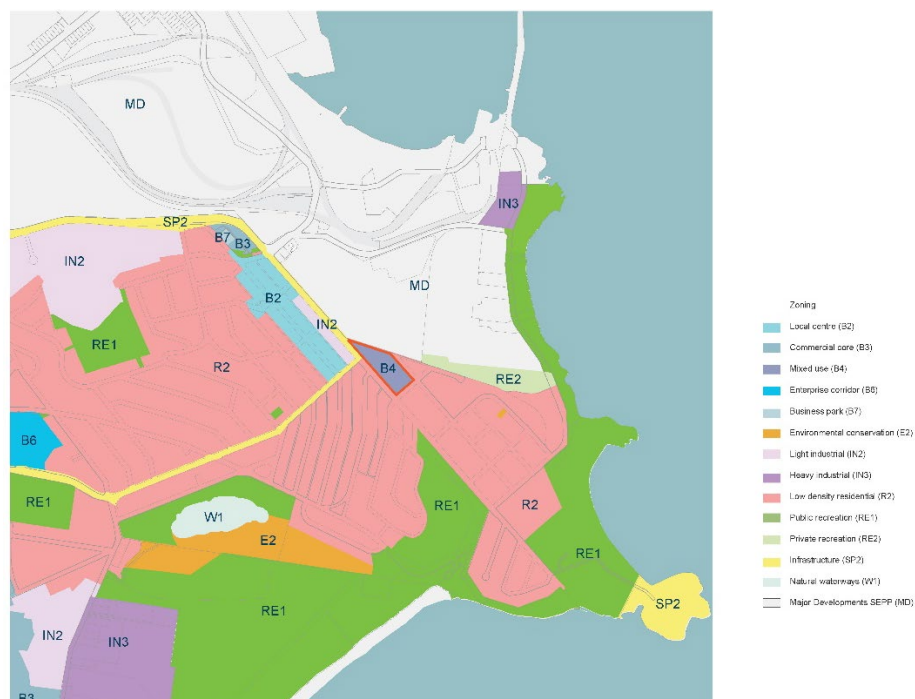


Figure 8: Existing zoning



Figure 9: Proposed zoning

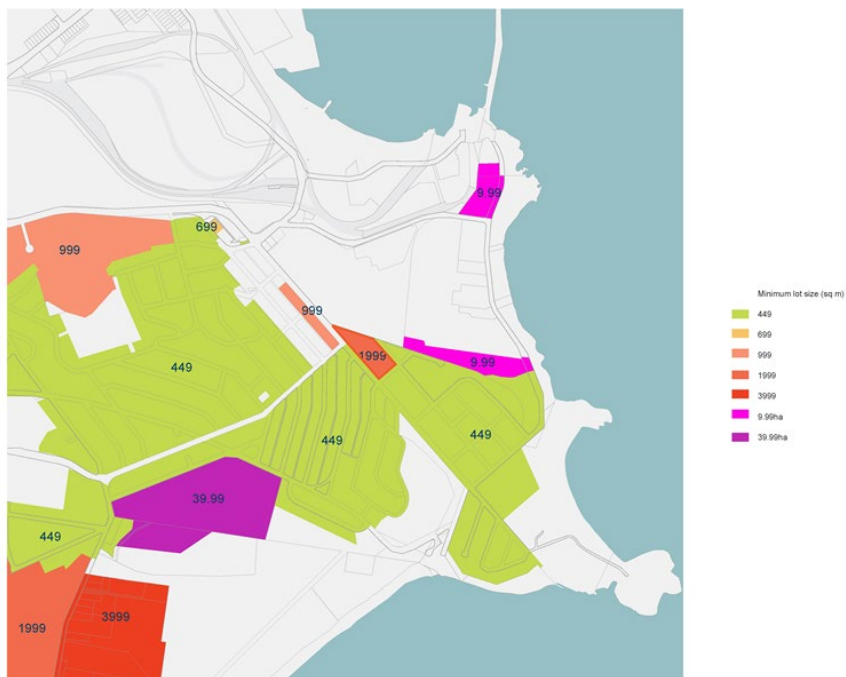


Figure 10: Existing minimum lot size



Figure 11: Proposed minimum lot size

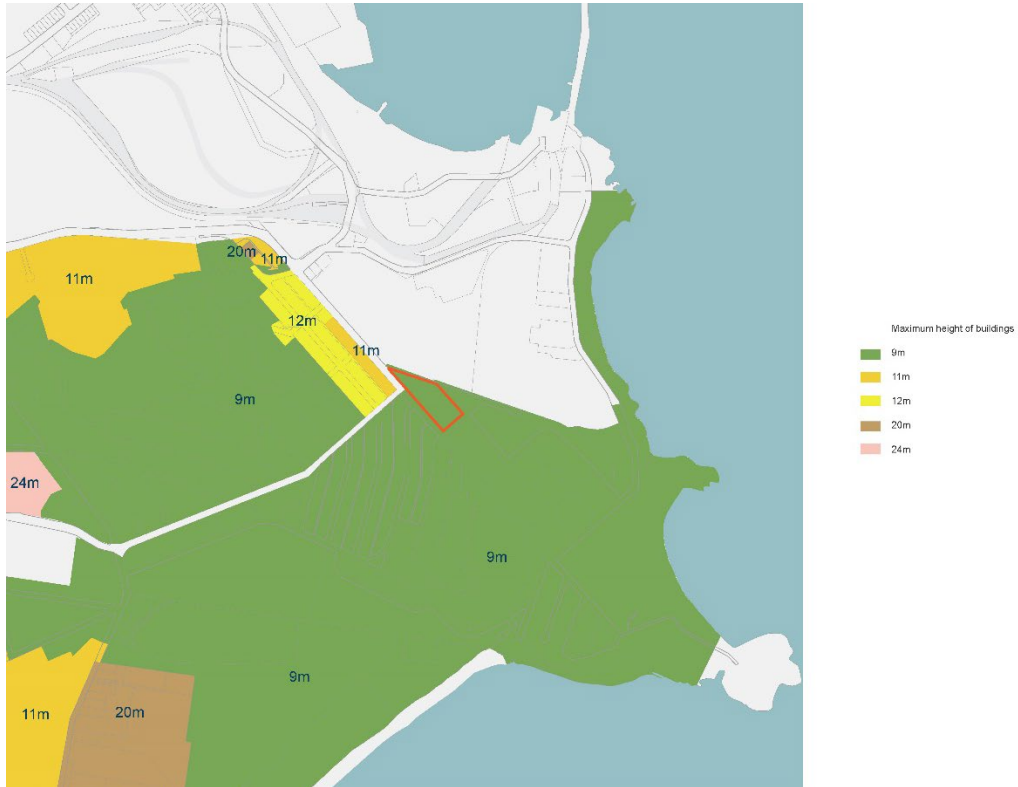


Figure 12: Existing height of building



Figure 13: Proposed height of building

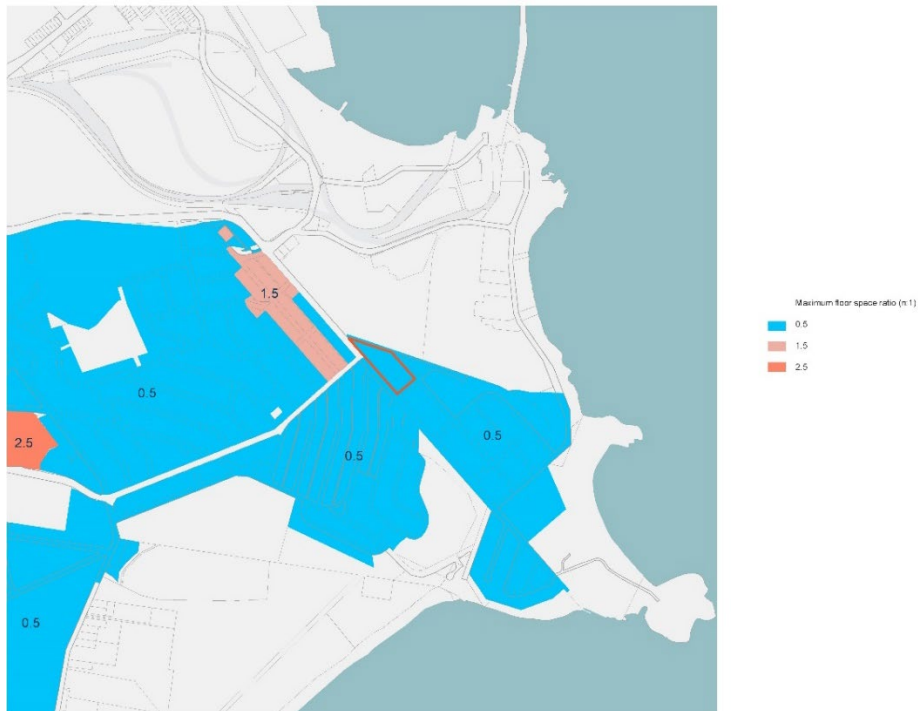


Figure 14: Existing floor space ratio



Figure 15: Proposed floor space ratio



Figure 16: Existing heritage



Figure 17: Proposed heritage

6.0 Part 5 Community Consultation

Any Gateway Determination will confirm community consultation requirements. If the Planning Proposal is supported, community consultation will involve an exhibition period for a minimum of 28 days. The community are likely to be notified of the commencement of the exhibition period via a notice in a local newspaper and through publication on Council's website. Additionally, notification letters will be distributed to surrounding and nearby property owners.

The written notice will likely:

- Give a brief description of the objectives or intended outcomes of the Planning Proposal;
- Indicate the land affected by the Planning Proposal;
- State where and when the Planning Proposal can be viewed/inspected;
- Give the name and address of the relevant planning authority (Council) for the receipt of submissions; and
- Indicate the last date for submissions.

During the exhibition period, the following material will likely be made available for inspection:

- The Planning Proposal (as amended following Gateway Determination requirements);
- The Gateway Determination; and
- Any studies relied upon by the Planning Proposal.

7.0 Part 6 Project Timeline

Task	Time Period	Anticipated Timeframe
Planning Proposal Submitted to NSW DPIE requesting Gateway Determination	2 Months	October 2020
Date of Gateway Determination	2 Months	January 2021
Completion of Gateway Determination Requirements	2 Months	March 2021
Agency Consultation	1 Month	April 2021
Public Exhibition	1 Month	May 2021
Consideration of Submissions	1 Month	June 2021
Post exhibition consideration of PP – report to Council and submission of Final PP to NSW DPIE requesting finalisation	1 Month	July 2020
Department or Council to finalise the draft LEP amendment	2 Months	September 2021
Finalisation and notification of Plan by Parliamentary Counsel and NSW DPIE	2 Months	November 2021

Given the indicative timeline provided, a Gateway Determination period of 12-18 Months is requested for completion of any Gateway Determination requirements, Public Exhibition, Council Reporting, submission of the final Planning Proposal, and finalisation of the LEP Amendment.