

3 July 2018

Lynne Sheridan
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Dear Ms Sheridan,

Re: Housekeeping Amendments to the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP)

Thank you for providing NSW Ports with the opportunity to comment on *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (the Codes SEPP). NSW Ports is responsible for managing the port and freight assets of Port Botany, Port Kembla, the Cooks River Intermodal Terminal, and the Enfield Intermodal Logistics Centre.

In general, the planning pathway for development at the assets of Port Botany and Port Kembla are covered under *State Environmental Planning Policy (Three Ports) 2013* (the Ports SEPP) which includes exempt and complying development provisions. However, exempt and complying developments at the Cooks River Intermodal Terminal and the Enfield Intermodal Logistics Centre are subject to the provisions of the Codes SEPP. Further, if development at Port Botany and Port Kembla is not covered by the exempt and complying provisions of the Three Ports SEPP, then the Codes SEPP may be used provided the same development is not specified in the Three Ports SEPP.

Development Near Rail Corridors

The proposed amendments to the Codes SEPP include a requirement for development in or adjacent to a rail corridor for the purposes of residential accommodation to include appropriate mitigation measures to achieve noise attenuation. NSW Ports is supportive of this amendment, and particularly supportive of the intent to reduce potential land use conflict, which may currently occur through inadequate mitigation measures for noise-sensitive receivers that the complying development system would not otherwise require.

NSW Ports is of the view that this proposed amendment should be expanded to achieve the desired outcome of reducing land use conflict due to insufficient oversight and therefore insufficient mitigation of complying development. Noise attenuation should be mandatory for all residential accommodation and other noise sensitive development when being undertaken near any noisy activity with the potential to be subject to reverse-amenity impacts.

In particular, residential development in the vicinity of port land and supporting infrastructure (including road and rail corridors and freight related lands) should be required to attenuate to achieve noise criteria consistent with appropriate levels, such as those used in the *State Environmental Planning Policy (Infrastructure) 2007* (the Infrastructure SEPP). As the draft amendments have identified there is a gap in avoiding land use conflict for rail corridors, it follows that there is a gap in the Codes SEPP for residential development near any noise generating activity.

In particular, the Codes SEPP should respond to Objective 16 of the Greater Sydney Commission's *Greater Sydney Region Plan* and its policies, including:

- providing buffer areas to nearby activities such as residential uses that are sensitive to emissions from 24-hour port and freight functions
- requiring sensitive developments within the influence of port and airport operations to implement measures that reduce amenity impacts
- improving the capacity of existing stakeholders to implement existing planning noise standards for incoming sensitive developments

The amendments to the Codes SEPP in relation to the protection of rail corridors should be expanded to include the protection of port and freight lands from inappropriate development being undertaken without noise attenuation through the complying development pathway. As stated above, this would be a step towards realising the policy directions set by the *Greater Sydney Region Plan*. Similar to the rail corridors, there is a need to reduce the risk of noise-sensitive development adversely affecting vital infrastructure in the future.

NSW Ports has made previous submissions on the above issue, including most recently in March 2016 when it was proposed to expand the complying development provisions for residential development. Since that time the *Greater Sydney Region Plan* has been released and sets further Government policy on this matter. NSW Ports again requests that the following lands be excluded from the application of complying development, or be subject to the standards now being applied to rail corridors:

- Land within 200m of *State Environmental Planning Policy (Three Ports) 2013*;
- Land within 200m of an intermodal terminal, a railway line used to transport freight, or IN1 General Industrial zoned land; and
- Land which requires referral and / or consideration of potential impact exposures under Division 17 of *State Environmental Planning Policy (Infrastructure) 2007* (e.g. clauses 85, 87, 101 and 102).

Acid Sulfate Soil Mapping Clarification

NSW Ports supports the proposed clarification note concerning the application of acid sulfate soil restrictions over the mapped land rather than the whole of the subject lot. There are several instances of this development standard throughout the Codes SEPP and we request that the note be applied not only to Clause 1.19(1)(c) but also Clause 1.19(5)(c), Clause 5A.27, and where other references to acid sulfate soil mapping occur, for the purpose of clarity.

Warehouse and Distribution Definition

NSW Port supports the proposed amendment to Clause 5A.4 to apply subclauses (b) and (c) to a warehouse or distribution centre. Allowing additions or external alterations to an existing building used for those purposes should be able to be carried out as complying development under the Commercial and Industrial Code due to the minor nature of any impacts and within the context of the general requirements for complying development under the Codes SEPP and Clause 1.18.

If you have any questions regarding the above submission, please do not hesitate to contact me on (02) 9316 1131 or at greg.walls@nswports.com.au.

Yours sincerely,



Greg Walls
Planning Manager