

Planning & Environment
C/- Rose-Anne Hawkswood
GPO BOX 39
SYDNEY NSW 2001

APPLICATION	DE-2018/129
Date	13 December 2018

Dear Sir/Madam

Development	Port Kembla Gas Terminal
Location	Lot 22 Port Kembla Road, PORT KEMBLA NSW 2505

I am writing in response to the Departments request of 13 November 2018 to provide advice on the proposed Port Kembla gas terminal. Council has reviewed the documentation and provides the following comments.

General

Council understands that Port Kembla Gas Terminal has been declared as critical state infrastructure under schedule 5 of SEPP (State and Regional Development) 2011, meaning it can be carried out as development without consent under Part 4 of the Act. The SEPP specifies that it will only relate to development on land in the suburbs of Cringila, Port Kembla and Spring Hill and includes land within the port of Port Kembla (whether terrestrial or underwater). The subject project does not appear to cross over any Council owned land. However, Lot 2 DP 837554 is owned by State of NSW and includes identified EECs; it is not apparent whether DPI Lands have been consulted. All the affected roads are classified/RMS roads.

For your information, the proponent has recently contacted Council indicating a desire to connect an extra 6-6.5km of pipeline to the eastern gas pipeline which would be outside of the declared area. The proponent states that this CIV is between 15-20m.

In looking at determination pathways for this additional development, the additional pipeline is outside of the declared area under schedule 5 but may be regionally significant (CIV>5m) under clause 3 of schedule 7 if the pipeline passes through any Council land. If not regionally significant any application may require determination by the Wollongong Local Planning Panel under schedule 2 of the planning Panel Direction dated 23 February 2018 if the pipeline passes through any Council land regardless of CIV. If the above triggers are not met, any application would be determined by council under delegation.

Environment

Considering the scale of development including of generation 720,000m³ excavated and dredge material from the inner and outer harbour, the remediation action plan (RAP) is considered to be inadequate as it lacks detail and the criteria for water quality parameters is incorrect.

As the project will require an EPL the EPA will need to be consulted. In this regard, Council has discussed the application with and viewed the matters raised by the Wollongong EPA in their submission of 14/12/2018 and shares all of those concerns.

The majority of the dredged material will be used for the outer harbour reclamation works (Part 3A approval from March 2011). However the EIS (p55) states that approximately 70,000m³ of dredged

material 'may be used' for an embankment up to 4m in height on the eastern side of the project application area to provide a visual buffer from Sea Wall Road. There do not appear to be details of this embankment, including in the submitted Landscape and Visual Report. The Port Kembla Development Code 216 that is referenced in the Landscape and Visual Report (p25) does not identify the need for landscape embankments to screen views from internal roads (only external access roads). It is not clear whether this material is intended to be remediated.

The use of contaminated material as a landscape embankment is **not** supported. If this component of the project is pursued, the material must be remediated and details of the embankment provided.

The Coastal Management SEPP does not apply to land within SEPP (Three Ports) 2013 however Lot 2 DP 570107 is located outside the SEPP (Three Ports) 2013 and is zoned RE2 Private Recreation under WLEP 2009 (owned by BlueScope). The Coastal Management SEPP 2018 identifies this lot as Coastal Environment and part Coastal Use area which requires consideration.

Heritage

The pipeline appears likely to impact on the archaeological site of the Former Springhill House associated with the Springhill Estate. It is unclear why the area of archaeological potential (blue) within the GHD report does not extent east to the current alignment of Springhill Road.

The 1937 Aerial photo suggests that the potential foundations are directly adjacent to both the eastern and western side of Springhill Road. The Report notes that there is visible evidence of building rubble and rubbish on the surface associated with the structures from the 1950's associated with the homestead in and around this area. Whilst there may be some disturbance of the existing landform related to the construction of Springhill Road, the boundary for the archaeological potential does not appear to reflect the information presented in the Report. This should be clarified through further archaeological clarification associated with the former homestead alignment.

The curtilage should be extended to include the whole area from the West to the alignment of Springhill Road. The proposed pipeline would not be able to avoid this area of archaeological potential. This would require further archaeological work as per recommendation 3 of the Report and under the requirements for the protection of relics under the NSW Heritage Act 1977.

Further work to identify the nature, extent and significance of the remains of Springhill House should be undertaken instead of relying on a contingency plan as per Recommendation 2 of the Report. This would also allow for the opportunities for interpretation of any relics found on the site to be properly considered. Depending on the results of the testing, an Excavation Permit under the Act may be required to proceed with the project.

The Project should be referred to the NSW Heritage Council for their comment on the potential of the project to impact on archaeology and relics protected under the NSW Heritage Act 1977.

It is noted that the "Spring Hill" Estate was occupied by 1833 and was central to a major scandal in early Illawarra, with the alleged murder of Captain Waldron at the property, apparently by his maidservants (who were initially charged with Murder but then had their sentence downgraded to assault). This event remains a mysterious scandal that continues to be written about and questioned to this day. The homestead at this site therefore dates to the earliest period of formalised settlement in the area and is worthy of proper archaeological investigation and consideration.

The Aboriginal Heritage Report notes that consultation was undertaken with the ILAC and the OEH, details of their recommendations are not included in the report. This should be provided to Council.

An AHIMS Site 52-2-3618 was identified in an area of Moderate archaeological potential as the "Actual location". Another location for the same site number noted as an "isolated find" is directly impacted by

the pipeline route. It is unclear whether this is the same site, or another site that will be impacted upon. This should be clarified through provision of the site card, coordinates and description.

The applicant then follows the Due Diligence Process, which is a defence to harming unknown Aboriginal Objects. The Report notes that site 52-2-3618 will be avoided despite being mapped directly in the path of the pipeline. The location and nature of site 52-2-3618 should be clarified. If the pipeline will impact on a known Aboriginal site an Aboriginal Heritage Impact Permit will be required under the National Parks and Wildlife Act 1974.

The section of the pipeline that runs through an area of Aboriginal Cultural potential has also been assessed under a Due Diligence Process as being able to avoid harm to unknown Aboriginal Objects. However it is not clear in the Report how directional drilling to 2m will allow impacts to be avoided on potential Aboriginal Cultural Material. Council is of the opinion that relying on a Due Diligence Defence in this area is not an adequate assessment of the potential impacts, without any further archaeological testing undertaken to determine the depth of cultural deposits and/or without giving further consideration to the impacts of subsurface disturbance on the archaeological resource.

The OEH has consistently made it clear that any ground disturbance in the vicinity of Aboriginal cultural material has the potential to cause impacts. There is also the question of how the pipeline will be maintained or repaired in the area without causing further impacts (for example, in the event that the pipeline needs replacing in the future, or is subject to a leak or fault). These issues should be managed through the formal AHIP process.

The Area of Aboriginal Archaeological Potential corresponds with the area of High historic archaeological potential, as per the comments above the disturbance to either side adjacent to Springhill Road has not been clearly established in the Report and this area is expected to have at least some level of archaeological potential due to the natural landform and soil profile. Archaeological testing to establish the extent and nature of the area of High Potential should be undertaken in conjunction with further historic archaeological work in the area directly adjacent to Springhill Road should be undertaken.

The retention of culturally significant Fig Trees is supported.

Council is not of the view that the Due Diligence defence can be applied to this project as there is no evidence that impacts to areas of archaeological potential can be avoided. Therefore further testing of the areas proposed to be impacted by the pipeline that are expected to have a level of archaeological potential should be undertaken as part of a formal Aboriginal Cultural Heritage Assessment Report that clearly documents consultation with the Aboriginal Community in line with the OEH Consultation Guidelines.

The advice of the OEH should be sought in relation to the Due Diligence Report provided.

Council recommends that the following additional information is sought from the applicant and that it is carefully considered in finalisation of assessment of the application:

1. The NSW Heritage Council should be asked to comment on the potential of the project to impact on archaeology and relics protected under the NSW Heritage Act 1977;
2. An Updated Historic Heritage report should be sought to clarify the area of Archaeological potential associated with "Spring Hill" as the area of archaeological potential is not well justified at present. The report should consider the need for further archaeological work to clarify the extent of the archaeological site based on the historic evidence presented in the report;
3. The advice of the OEH should be sought in relation to the Due Diligence Report provided as it is Council's opinion that the proposed works are likely to result in disturbance of a recorded Aboriginal site;

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4. An Aboriginal Cultural Heritage Assessment Report should be sought, including details of consultation with the OEHL and the Local Aboriginal Community to ensure thorough consideration of the potential Aboriginal Heritage Impact arising from the proposed works.
 5. The application should be notified (if it was not already) to the Local Aboriginal Community for comment and input to ensure the Cultural Significance of the area is properly considered in the assessment of the application.

This letter is authorised by

Pier Panozzo

City Centre & Major Development Manager

Wollongong City Council

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