



Elliot Weston  
Manager State Rezoning Planning  
Department Planning Housing and Infrastructure  
84 Crown Street  
WOLLONGONG NSW 2500

By email: portkembla.sarp@dphi.nsw.gov.au

Dear Mr Weston,

**Subject: Port Kembla Land Transformation Project – Rezoning Proposal**

Thank you for the opportunity for the Conservation Programs, Heritage & Regulation (CPHR) group of the NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW) to provide formal feedback on the proposal for the Port Kembla Land Transformation Project.

BlueScope Steel (BlueScope) proposes to rezone approximately 200ha of underutilised land within the BlueScope Steel Port Kembla Site. The proposal introduces a new chapter to the State Environmental Planning Policy (Precincts—Regional) 2021, rezoning the precinct from IN3 Heavy Industry under the State Environmental Planning Policy (Transport and Infrastructure) 2021 and RE2 Private Recreation under the Wollongong Local Environment Plan to SP4 - Enterprise.

In general, the rezoning is disappointing whereby all the subject land is proposed to be ‘blanket’ zoned SP4 – Enterprise despite the considerable information on ecological values for the site and the identified strategic planning framework for biodiversity. Conversely, the blanket rezoning relies on limited flood information but opens all areas to a permissible variety of development types despite evidence of flood hazard/risk. The blanket rezoning is also concerning in deferring issues to the development application (DA) process. From experience, deferment results in adverse dynamics such as elevated development aspirations, delay/costs for additional studies, potential legislation/policy change, etc.

For biodiversity, the NSW Government is seeking that biodiversity is addressed upfront in planning processes. The “line of sight” between the Illawarra-Shoalhaven Regional Plan (Objective 11), a key Principle of “Connecting Ecology” set out in the Master Plan, the objective to ‘protect sensitive uses’ stated in the Explanation of Intended Effects, etc, does not carry through to the proposed blanket rezoning. It is noteworthy, also, that large areas not identified for development in the Structure Plan and Master Plan align with those lands with identified important biodiversity values and functioning as flood conveyance but all such lands are zoned SP4.

A more nuanced application of land use zones to the site is warranted so the rezoning reflects the information available, the better integration of the site's attributes and functioning and delivers on the "line of sight" set out in strategic documents. The Rezoning Proposal document even states that it has considered strategies to minimise, avoid and mitigate impacts to native vegetation and threatened species but overlooks a Conservation land use zone.

We also raise the following key issues and recommendations. Our detailed comments are provided in Attachment A.

### ***Floodplain and Coastal Management***

Based on the information provided it is not clear how flood risk issues will be managed through the proposed planning process. There are some significant flood hazards on the sites that could result in longer term flood risks to new development. As such, it is strongly recommended that the Rezoning and Master Planning process for the site are informed by a more comprehensive understanding of flood risk. The FIRAs should be updated to address the issues identified in the attachment demonstrating the flood related risks can be managed and confirming consistency with the Planning Circular PS24-001 Update of addressing flood risk in planning decisions, the objectives of Section 9.1(2) Direction 4.1 and Flood Risk Management Manual, 2023.

To address flooding and coastal management, we recommend:

1. The Rezoning and Master Planning process for the site must be informed by a more comprehensive understanding of flood risk. The FIRAs should be updated to address the issues identified above demonstrating the flood related risks can be managed and confirming consistency with the Planning Circular PS24-001 Update of addressing flood risk in planning decisions, the objectives of Local Planning Direction and Flood Risk Management Manual, 2023.
2. Consultation is undertaken with Wollongong City Council, who holds the best available flood risk information for the site. Consultation should ensure that consistency is achieved with controls for development on floodplains, particularly those which address adverse impacts and public safety risks for the full range of flood events up to and including the Probable Maximum Flood.
3. Riparian corridor mapping should be undertaken in accordance with the riparian land clause 7.4 of Wollongong City Councils Local Environmental Plan and Chapter E23 of their 2009 DCP. The FIRAs should consider the impacts of the rehabilitated riparian corridors on flood behaviour in planning for the proposed development.
4. Watercourses and riparian corridors are sensitive environmental areas that are unsuitable for the proposed SP4 land use zone and consideration should be given to zoning riparian areas for their intended land use function and to avoid flood risks, manage stormwater impacts to support waterway health and biodiversity outcomes consistent with Strategy 11.1 of the Illawarra Shoalhaven Regional Plan.

### ***Biodiversity***

The Ecological Constraints Assessment supporting the proposal included a limited site validation exercise and identified native vegetation communities, threatened ecological communities listed under the *NSW Biodiversity Conservation Act 2016* (BC Act) and the *Commonwealth Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act) within the Precinct. The Ecological Constraints Assessment also identified important fauna habitat and ecological features such as

hollow-bearing trees and waterways, and it considered the potential for threatened species listed under the BC Act and EPBC Act to occur at the site.

Further to this, the site also contains:

- Regionally mapped High Environmental Value (HEV) vegetation and biodiversity corridors,
- Vegetation included in the Biodiversity Values Map (BV Map) under Part 7 of the *Biodiversity Conservation Regulation 2017* and
- Entities at risk of Serious and Irreversible Impacts (SII) under the *Biodiversity Conservation Regulation 2017* (NSW)

To address biodiversity, we recommend:

5. Ensure that a Conservation land use zone is utilised so that inappropriate development does not impact on landscape connectivity within the broader area by securing mechanisms now, which improve connectivity between patches of intact vegetation, including revegetation and wildlife friendly road crossings and Green and Golden Bell Frog corridors.
6. Consideration be given to biodiversity certification to front load biodiversity impact assessment upfront which will result in a vastly more streamlined delivery of DAs in the future.
7. Preparation of overlays with legislative power to ensure management, restoration and protection of key areas of ecological value and riparian connectivity. A good example would be the creation of an Environmentally Sensitive Areas Map and inclusion of biodiversity specific conditions within the Precincts-Regional SEPP similar to the Central River City SEPP 2021 Appendix 4 State Significant Precinct – Sydney Olympic Park clause 29.

Please be aware that our advice does not incorporate input on any relevant heritage matters. If heritage advice is sought it is provided by a separate division, and you will need to obtain this via [heritagemailbox@environment.nsw.gov.au](mailto:heritagemailbox@environment.nsw.gov.au).

If you have any further questions about this issue, please contact [REDACTED]  
[REDACTED]  
[REDACTED]

Yours sincerely

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1 October 2025

Enclosures:  
Attachment A – BCS Detailed Response

# Attachment A – Detailed Response

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## Floodplain Risk Management

The Bluescope Land proposal was referred to DCCEEW CPHR for preliminary advice in November 2024. Initial advice was provided including identifying the site as containing flood prone land and recognising the need for a Flood Impact and Risk Assessment (FIRA) to determine the proposed flood risk considering pre and post development flood analysis, public safety risks and to identify appropriate measures to manage the risk (our ref DOC24/976161, Attachment B, 27/11/24).

The Port Kembla Land Transformation Project rezoning proposal has been referred to NSW DCCEEW CPHR by DPHI State Rezoning for flood advice. A review of the relevant documentation has been undertaken including the Draft Masterplan (Ethos Urban, July 2025), the Rezoning Proposal (Ethos Urban, July 2025), the Bluescope Port Kembla Steelworks FIRA Technical Memorandum (Catchment Simulation Solutions, June 2025), the Land Transformation Project FIRA (Northrop, July 2025) and Wollongong City Council's Adopted Allans Creek Floodplain Risk Management Study and Plan (March 2024).

Neither of the two FIRAs provide information on the development intent, the impact of the development on flood behaviour and how flood risk will be managed including the safety or any future occupants or users, as detailed in the previous advice. The provided FIRAs are not considered suitable to support a planning proposal for rezoning as they do not provide a pre or post flood planning area, flood categorisation or establish consistency of proposed land use zones with flood function.

We acknowledge that there is no specific development proposal at this point, however, there is sufficient existing information in Council's adopted Allans Creek Flood Risk Management Plan (2024) to determine areas required to convey flood waters which are unsuitable for the proposed zoning. Alternatively, development scenarios near critical flood flow paths could be modelled to demonstrate that the FIRA's design principles are sound and the flood risk is appropriate for the proposed zoning.

To demonstrate that the proposal is appropriate for rezoning, the FIRAs should establish that the proposed development is in accordance with the objectives of the Section 9.1 (2) Local Planning Direction - Focus Area 4: Resilience and Hazards 4.1 Flooding and the NSW Government's Flood Prone Land Policy as set out in the Flood Risk Management Manual, 2023 (FRMM).

The determination of consistency with the Local Planning Direction in Table 11 of the Rezoning Proposal is not supported. Table 11 should be updated to transparently identify where the proposal has not demonstrated consistency with the Local Planning Direction, preferably with suitable land use zones for floodways and the flood planning area.

The proposed blanket rezoning of the sites including flood prone land and flood conveyance areas is not in accordance with the objectives of the Local Planning Direction (Part (2), Part (3)a, c, d, g & h) and potentially creates unrealistic development aspirations on flood prone land. Land required for flood conveyance are not yet identified and/or zoned for their intended land use function such as a conservation, public recreation or open space. The flood assessment should identify climate change and interaction with coastal hazards including those associated with sea level rise.

The proposal will result in watercourses and riparian corridors being zoned inappropriately for development. We suggest that these are sensitive environmental areas that are unsuitable for the proposed land use zone and consideration should be given to zoning riparian areas for their intended land use function and to avoid flood risks, manage stormwater impacts to support waterway health and biodiversity outcomes consistent with Strategy 11.1 of the Illawarra Shoalhaven Regional Plan.

Riparian corridor mapping should be undertaken in accordance with the riparian land clause 7.4 of Wollongong City Council's Local Environmental Plan and Chapter E23 of their 2009 DCP. The FIRA should consider the impacts of the rehabilitated riparian corridors on flood behaviour in planning for the proposed development.

We recommend that consultation is undertaken with Wollongong City Council, who holds the best available flood risk information for the site. Consultation should ensure that consistency is achieved with controls for development on floodplains, particularly those which address adverse impacts and public safety risks for the full range of flood events up to and including the Probable Maximum Flood. Undertaking this approach at the rezoning stage will facilitate a coherent flood risk assessment approach for future development and will streamline the future Development Application processes.

Based on the information provided it is not clear how flood risk issues will be managed through the proposed planning process. However, there are some significant flood hazards on the sites that could result in longer term flood risks to new development. As such, we strongly recommend that the Rezoning and Master Planning process for the site is informed by a comprehensive understanding of flood risk. The FIRA should be updated to address the issues identified above demonstrating the flood related risks can be managed and confirming consistency with the Planning Circular PS24-001 Update of addressing flood risk in planning decisions, the objectives of local planning direction and Flood Risk Management Manual, 2023.

## **Recommendations**

1. The Rezoning and Master Planning process for the site must be informed by a comprehensive understanding of flood risk. The FIRA should be updated to address the issues identified above demonstrating the flood related risks can be managed and confirming consistency with the Planning Circular PS24-001 Update of addressing flood risk in planning decisions, the objectives of Local Planning Direction and Flood Risk Management Manual, 2023.
2. That consultation is undertaken with Wollongong City Council, who holds the best available flood risk information for the site. Consultation should ensure that consistency is achieved with controls for development on floodplains, particularly those which address adverse impacts and public safety risks for the full range of flood events up to and including the Probable Maximum Flood.
3. Riparian corridor mapping should be undertaken in accordance with the riparian land clause 7.4 of Wollongong City Councils Local Environmental Plan and Chapter E23 of their 2009 DCP. The FIRA should consider the impacts of the rehabilitated riparian corridors on flood behaviour in planning for the proposed development.
4. Watercourses and riparian corridors are sensitive environmental areas that are unsuitable for the proposed land use zone and consideration should be given to zoning riparian areas for their intended land use function and to avoid flood risks, manage stormwater impacts to support waterway health and biodiversity outcomes consistent with Strategy 11.1 of the Regional Plan.

## Biodiversity

We note that the site contains various sensitive environmental attributes:

- the project area contains:
  - areas mapped as containing High Environmental Value (HEV) attributes as described in the Illawarra Shoalhaven Regional Plan 2041
  - vegetation included in the Biodiversity Values Map (BV Map) under Part 7 of the *Biodiversity Conservation Regulation 2017*
  - Plant Community Types (PCTs) aligned with threatened ecological communities (TECs) listed under Schedule 2 of the *Biodiversity Conservation Act 2016*
- the project area contains numerous records of threatened flora and fauna species listed under Schedule 1 of the BC Act. Of particular note are:
  - *Litoria aurea* Green and Golden Bell Frog
  - Threatened Micro-bats e.g. *Myotis macropus*
  - *Pteropus poliocephalus* Grey Headed Flying Fox
  - *Lathamus discolor* Swift Parrot
  - Migratory bird species
  - *Syzygium paniculatum* Magenta Lilly Pilly
  - *Cynanchum elegans* White-flowered Wax Plant
  - *Eucalyptus scoparia* Wallangarra White Gum

The Ecological Constraints Assessment (ECA) by Ecoplanning has carried out a limited site validation exercise and identified native vegetation communities, threatened ecological communities listed under the *NSW Biodiversity Conservation Act 2016* (BC Act) and the *Commonwealth Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act) within the Precinct. The ECA also identified important fauna habitat and ecological features such as hollow-bearing trees and waterways, and it considered the potential for threatened species listed under the BC Act and EPBC Act to occur at the site.

- Native Vegetation
  - PCT 3327 – Illawarra Lowland Red Gum Grassy Forest, TEC Illawarra Lowland Grassy Woodland and SAll (BC Act)
  - PCT 3962 – Coastal Floodplain Phragmites Reedland, TEC Freshwater Wetlands on Coastal Floodplains of the NSW North Coast, Sydney Basin and South East Corridor bioregions (BC Act) and
  - PCT 4028 – Estuarine Swamp Oak Twig-rush Forest, TEC Swamp Oak Floodplain Forest (BC Act).
  - total 40 ha of the Precinct was identified as supporting native vegetation (including planted native vegetation).
- Two threatened flora species were recorded within the Precinct: *Eucalyptus scoparia* (Wallangarra White Gum), and *Eucalyptus nicholii* (Narrow-leaved Black Peppermint). The Precinct is outside the natural distribution of these species (the Northern Tablelands) and both species are known to be commonly planted within urban areas.
- Threatened Fauna
  - high likelihood: *Littoria aurea* (Green and Golden Bell Frog) and *Pteropus poliocephalus* (Grey-headed Flying Fox)
  - moderate likelihood: *Ninox strenua* (Powerful Owl) *Miniopterus orianae oceanensis* (Large Bent-winged Bat) *Myotis macropus* (Southern Myotis)
  - potential migratory corridors for the Green and Golden Bell Frog

- Serious and Irreversible Impacts (SAIL)
  - Known ecological communities and threatened species at risk of SAIL occurring within the study area include Illawarra Lowlands Grassy Woodland, a threatened ecological community observed within the study area; and Swift Parrot, of which the important habitat map for this species intersects the study area. The important habitat map for Swift Parrot correlates with areas on the biodiversity values map within the study area.
  - For Part 4 developments (not SSD), the consent authority must refuse to grant consent if, in their opinion, the proposal is likely to have a serious and irreversible impact on biodiversity values.
  - For SSDs, the consent authority can grant consent to a proposal that is likely to have serious and irreversible impact. If consent is to be granted, the consent authority must consider those impacts and determine whether any additional and appropriate measures will minimise those impacts.
- The constraint report shows groundwater dependent ecosystems (GDEs) mapped on site, and while there is a description, there is no discussion regarding future assessment of impacts.
- The potential mitigation measures in Table 4-4 is unclear how any of these have been integrated into the SEPP amendment.

The Rezoning Justification Report section 5.3.3. includes the future considerations of biodiversity are to identify the key strategies to minimise, avoid and mitigate impact to biodiversity. However, the document uses non-committal phrasing such as “where feasible” and does not clarify how this will be incorporated into the proposed SEPP amendments or the masterplan.

CPHR understand from the Explanation of Intended Effects (EoIE):

- Proposed legislation changes
  - Excise the Precinct from Chapter 5 of the T&I SEPP and introduce a new chapter into the Precincts-Regional SEPP for the Precinct to provide a new land use zoning, site-specific provisions, and preparation and consideration of a Master Plan for all new development.
  - Amendments will also be made to the Planning Systems SEPP to include the Precinct as a listed site under Schedule 2.
  - Additional minor amendments are proposed to the WLEP to excise a small portion of land at the west of the Precinct to be included in the Precincts-Regional SEPP.
- All future development will follow a precinct-specific Master Plan, which will guide the long-term transformation of the Precinct. It is proposed to include a provision in the Precincts-Regional SEPP that a Master Plan is prepared and approved by the Minister for Planning and Public Spaces (the Minister).
- Strategic Goals (there are 5) number 2 is Environmental Sustainability “*support the transition to the low emissions industries and sustainable technologies. Integrate green infrastructure and remediation strategies to improve environmental outcomes, and enhance biodiversity and ecological resilience through landscape and open space planning*”.

CPHR note that the proposed provisions do not include any biodiversity controls (and overlooks the use of Conservation land use zones).

To “*ensure that development is well co-ordinated, supported by necessary infrastructure and aligned with land use constraints*” (source Explanation of Intended Effects) biodiversity should be addressed upfront to avoid potential confusion and delay for future Development Applications, including but not limited to the BV Map, TECs and SAILs.

Under the current Rezoning Proposal, a BDAR (or BDARs) will be required at DA stage. However, biodiversity certification should be a consideration for this proposal so that the overlapping biodiversity matters are addressed upfront to offer clarity and certainty around impacts within future development areas.

There is a new impetus in the NSW Plan for Nature (July 2024) in which the Government wants to “*front-load environmental considerations in planning processes*” so biodiversity certification and appropriate zoning are two effective ways to achieve this. Biodiversity certification also has benefits in terms of dealing with ‘serious and irreversible impacts’ (SAIL) which underpins why the biodiversity is identified on the regulatory Biodiversity Values Map. The use of biodiversity certification should be addressed.

## **Recommendations**

5. Ensure that a Conservation land use zone is utilised so that inappropriate development does not impact on landscape connectivity within the broader area by securing mechanisms now, which improve connectivity between patches of intact vegetation, including revegetation and wildlife friendly road crossings and Green and Golden Bell Frog corridors.
6. Consideration be given to biodiversity certification to front load biodiversity impact assessment upfront which will result in a vastly more streamlined delivery of DAs in the future.
7. Preparation of overlays with legislative power to ensure management, restoration and protection of key areas of ecological value and riparian connectivity. A good example would be the creation of an Environmentally Sensitive Areas Map and inclusion of biodiversity specific conditions within the Precincts-Regional SEPP similar to the Central River City SEPP 2021 Appendix 4 State Significant Precinct – Sydney Olympic Park clause 29 (see below)

### *29 Development within an environmental conservation area*

*(1) This section applies to land within the Sydney Olympic Park site that is shown on the [Environmental Conservation Areas Map](#) as within an environmental conservation area.*

*(2) Despite any other provision of this Appendix, the following development may only be carried out with development consent on land within an environmental conservation area—*

- (a) filling, clearing, draining or dredging the land,*
- (b) constructing a levee on the land,*
- (c) removing or destroying any vegetation on the land.*

*(3) Before granting development consent to development on land within an environmental conservation area, the consent authority must consider the likely effect of the proposed development on that environmental conservation area.*

*(4) Development consent must not be granted for development on land to which this section applies if, in the opinion of the consent authority, the development would reduce significantly the ecological value of that environmental conservation area.*