

Complying Development - SEPP Three Ports Application Checklist



The State Environmental Planning Policy (Three Ports) enables certain complying development within a designated area within the Port of Newcastle. This document consists of 2 parts:

Part One: A submission checklist for a Complying Development Application under the SEPP (Three Ports) that **must be** completed and returned to the City of Newcastle (CN), with the application.

Part Two: Contains additional information about the standard of application and information to assist in the preparation of an application.

It is recommended that you establish if your proposal consists of development covered by Division 1 (classifiable buildings) or Division 2 of Schedule 2, before preparing your application. This will assist you with determining what information is required to be submitted with your application. More information is available in Part Two of this checklist to assist you with determining the type of development.

Note: All applications associated with Development & Building are to be submitted electronically on a USB or CD Rom or via applications@ncc.nsw.gov.au no paper copies will be accepted.

Part One: Submission Checklist

		Applicant tick when required	Staff tick when submitted
Electronic Submission Requirement	When required	Required	Provided
1. Completed application form	All applications		
2. Fees	All applications		
3. Site Plan identifying any existing development and complying development	All applications		
4. Floor Plan	All applications		
5. Elevations	All applications		
6. Section through the building	Applications involving building works or any excavation (other than that associated with piling)		
7. Drainage Plan	Applications for additions to or new "classifiable buildings" and associated earthworks (Development associated with Schedule 2, Division 1)		
8. A detailed specification	Applications involving building works, works associated with fire safety upgrades and new external lighting.		
9. Engineers details	Applications building works associated with "classifiable buildings", including excavation (Development associated with Schedule 2, Division 1)		

Part One: Submission Checklist

		Applicant tick when required	Staff tick when submitted
Electronic Submission Requirement	When required	Required	Provided
10. Engineers Certification as the development as “being of satisfactory design and structural integrity”	Applications for: a) bridges b) conveyor systems c) cranes d) dry bulk storage silos e) road and rail terminal facilities f) ship loaders, unloaders and cargo handling facilities g) stacker-reclaimers, stackers and reclaimers h) retaining walls more than 1 metre in height i) wharves and berthing infrastructure (Development associated with Schedule 2, Division 2)		
11. A 138 Roads Act application lodged or approved with/or by the Roads Authority. The consent is obtained from the Road Authority. CN is the Road Authority for all roads in Newcastle, with the exception of Classified Roads. The Road Authority for classified roads is the Roads Maritime Services. To obtain a Section 138 consent from CN, complete the application form (Type 1). A CDC can not be issued until an approval has been granted. Permits are not required for connections to private roads.	Applications on public roads requiring: a) an opening of a public road required by the development, and/or b) an area to operate or store machinery, materials or waste required by the development on a road or footpath reserve.		
12. A Section 68 application under the Local Government Act for an on-site effluent disposal system lodged or approved with CN. Note: A CDC can not be issued until an approval has been granted.	Applications on unsewered land that involve the installation or operation of a system of sewage management.		
13. A statement referencing the Department of Planning guidelines, that the development is not a potentially hazardous industry or a potentially offensive industry (within the meaning of the State Environmental Planning	Applications involving a “new use” or a “change of use”, except for some Bulk Liquid storage tanks as specified in Clauses 11-13 of Division 2 of Schedule 2.		

Part One: Submission Checklist

Part One: Submission Checklist		Applicant tick when required	Staff tick when submitted
Electronic Submission Requirement	When required	Required	Provided
<u>Policy No 33—Hazardous and Offensive Development</u>			
14. Details of the proposed and existing use	Applications involving all building work or change of use of a building and where relevant how the development is not “designated development”. Applications associated with Schedule 2, Division 1 must include a statement outlining how the use fits into the definition of a “port facility”, wharf, or boating facility.		
15. Details of compliance with the Building Code of Australia (BCA)	Applications for classifiable buildings, involving all building work or change of use of a building. (Development associated with Schedule 2, Division 1)		
16. A statement of compliance with AS 2601—2001, <i>The demolition of structures</i>	Applications involving demolition covered by SEPP (Three Ports) (Development associated with Schedule 2, Division 2)		
17. A report on the suitability of the emergency services equipment	Applications involving the construction or installation, including upgrading and replacing of emergency services equipment (including fire systems, pump houses, fire water tanks and other essential fire safety facilities). (Development associated with Schedule 2, Division 2)		
18. A contamination statement Note: With the exception of applications for modifications to pipelines and flow rates on Bulk liquid storage tanks - Complying development cannot be carried out on land that has been classified by the Environmental Protection Authority as “significantly contaminated”	Applications for developments that involve: a) New port facility or wharf or boating facility buildings or additions to such buildings. b) External or internal alterations of, or additions to a port facility or wharf or boating facility buildings or additions to such buildings, unless the does not involve any disturbance to the soil. c) Port facilities that involve a change of use from a lawful use to another kind of use for the purposes of a port facility (Development associated with Schedule 2, Division 1)		
19. Evidence of an approval of a ‘specified study’ (e.g. hazard analysis, fire study and hazard and operability study) from the Director-General and a copy of the specified studies	Applications involving the modification to pipelines and flow rates for ‘Bulk liquid storage tanks’ used to store combustible liquids or dangerous goods of class 2 (including liquefied petroleum gas or liquefied natural gas), 3, 5, 6, 8 or 9 under Part 2 of the Australian Dangerous Goods Code. (Development associated with Schedule 2, Division 2)		

Advice and Other Approvals

Hunter Water Act - It is recommended that plans be stamped by Hunter Water prior to submission to Council. Hunter Water are located at 36 Honeysuckle Drive, Newcastle or can be contacted on 1300 657657.

Mine Subsidence Board - It is recommended that plans be stamped by the Mine Subsidence Board, if the property is located within a known Mines Subsidence area. The Mine Subsidence Board is located at 117 Bull St Newcastle West and can be contacted on (02) 49084300 or see their website for more information. Some minor building works are exempt from the requirement to have the plans stamped. The Mines Subsidence Board can provide you with more information on the exemptions available.

A Road Opening Permit is required for connections to public utilities and infrastructure on public roads, and/or the connection of stormwater pipes to Council easements or kerb and gutters. The request for a permit should be made a minimum of 7 days before any required works. Requests are taken over the phone and an invoice is posted out. **Phone:** 4974 6000, 6.30am - 3.30pm for more information. Applications are not required for connections to private roads.

A Permit for Temporary Road Occupancy for Construction Purposes (TROCP) - Permits available include: Crane permits; Shipping container permits for placement on a Council road reserve; Permits to enable for the removal and delivery of materials at a construction site, the temporary use of parking spaces for construction purposes. They include a) Temporary road occupancy (short term e.g.1-3 days) b) Work zone (parking permits) suitable for long term occupation. Phone: 4974 2664, 8:30am - 5pm. Permits are not required for structures on private roads.

A Hoarding Application is required where it is proposed to close off a portion of a public footway for a nominated time period, usually when work on a site generates public safety risks in the public footway. It does not include permits for parking, see (TROCP) above. Phone: 4974 2000, 8:30am - 5pm. Permits are not required for structures on private roads.

Approvals for cranes and other structures Restrictions are placed on the airspace within 15km of Newcastle Airport to maintain the integrity of the airspace of the airport. Permission must be requested to the Department of Defence to erect tall structures and cranes having a height exceeding 30 metres above ground level.

Part Two: Standard of Application and Information

The following pages provide additional information to assist in the preparation of a Complying Development Application. This part of the document is not required to be returned as part of the application.

Guide to structure of the State Environmental Planning Policy (Three Ports) 2013

The criteria for complying development is specified in Schedule 2 of the SEPP. It is divided into 2 divisions.

Schedule 2, Division 1 includes the following "classifiable" development:

- The erection and use of a new building for the purposes of port facilities or wharf or boating facilities (must be accompanied by a contamination statement)
- External or internal alteration of, or addition to, an existing building that is used for the purposes of port facilities or wharf or boating facilities (must be accompanied by a contamination statement or not involvement the disturbance of any soil)

"port facilities" means facilities on land in the Lease Area used in connection with the carrying of freight and persons by water from one port to another for business or commercial purposes, and includes any of the following:

- (a) facilities for the embarkation or disembarkation of passengers onto or from any vessels, including public ferry wharves,
- (b) facilities for the loading or unloading of freight onto or from vessels and freight receipt, processing, land transport and storage facilities,
- (c) wharves for commercial fishing operations,
- (d) refuelling, launching, berthing, mooring, storage or maintenance facilities for any vessel,

- (e) sea walls or training walls,
- (f) administration and port operations buildings and facilities,
- (g) communication, security and safety facilities,
- (h) utilities and services, road and rail infrastructure, pipelines and car parks

“classifiable” development means the development is within a classification of building under the Building Code of Australia

Schedule 2, Division 2 includes the following development types:

Development	Part of Code
Awnings or canopies	Schedule 2, Division 2, Clause 10
Bridges used for purposes other than roads	Schedule 2, Division 2, Clause 11
Bulk liquid storage tanks – modification to pipelines and flow rates	Schedule 2, Division 2, Clause 12
Conveyor systems	Schedule 2, Division 2, Clause 13A
Cranes	Schedule 2, Division 2, Clause 14
Demolition of certain structures	Schedule 2, Division 2, Clause 15
Dry bulk storage silos	Schedule 2, Division 2, Clause 15A
Emergency services equipment	Schedule 2, Division 2, Clause 16
Food and drink premises	Schedule 2, Division 2, Clause 17
Road and rail terminal facilities	Schedule 2, Division 2, Clause 17A
Port facilities—change of use (change of building classification or increased fire hazard level)	Schedule 2, Division 2, Clause 18
Ship loaders, unloaders and cargo handling facility	Schedule 2, Division 2, Clause 18A
Stacker-reclaimers, stackers and reclaimers	Schedule 2, Division 2, Clause 18B
Retaining Walls	Schedule 2, Division 2, Clause 19
Wharves and berthing infrastructure	Schedule 2, Division 2, Clause 19A

Standard of Application

All plans are to be drawn to scale, in ink, on unlined paper and coloured to distinguish new work from existing structures.

- 1. A Completed Application Form** – The form is to include consent of all owner/s, contact phone numbers for the applicant and owner and an accurate assessment of the cost of works. The cost of works must include both the cost of materials and the market value of labour. The cost of works will be checked against building industry cost guides and you may be required to provide three (3) builders quotes to substantiate estimates, where the amount stated is below industry standards.
- 2. An electronic copy of the application and application form.** A pdf copy of all documents and plans contained in the application shall be provided on a non-returnable CD or USB stick or emailed to applications@ncc.nsw.gov.au. More details about how the file is to be formatted can be found in the document titled '[Plan Standards](#)' available on our website. Examples of the appropriate naming convention of the documents, is given below:

- Architectural Plans - 1333 James St Lambton
- Notification Plan - 1333 James St Lambton
- SEE - 1333 James St Lambton
- Shadow Diagrams -1333 James St Lambton
- Basix Certificate - 1333 James St Lambton

3. **Fees** – Fees are payable in accordance with CN's Fee Schedule. To obtain a fee quote please contact CN's Customer Contact Centre on 02 4974 2000. A Long Service Levy is payable on for building proposals costing \$25,000 or more (inclusive of GST).
4. **Site Plan** (drawn to a scale of 1:200) – must clearly identify the proposed complying development. If the site plan includes any proposed exempt development it is to be clearly identified as such.

The plan is to include, all relevant information:

- the north point
- boundary dimensions
- the general fall of the site
- the building/structures footprint and the distances of the proposal to the boundaries and all buildings/structures on site
- any easements
- the proposed drainage system (where required)
- the location of all existing structures and those to be demolished
- the position of any street or lane adjoining the site
- the scope of development that forms part of the complying development application.

Exempt development

NOTE: The SEPP (Three Ports) has a large scope of works that are covered by [Exempt Development](#). If the application contains the development components listed below the works may be exempt. You are advised to review the SEPP for the assessment criteria and to clearly distinguish between the proposed exempt and complying development.

1. Building alterations
2. Bulk liquid storage tanks
3. Bulk liquid storage tanks-change of stored liquid
4. Bulk liquid storage and handling facilities-fittings, fixtures and pipelines-maintenance and repair
5. Car parks (at-grade)
6. Demolition
7. Driveways
8. Emergency works
9. Fences or gates (including security boom gates)
10. Flagpoles
11. Fuel storage tanks
12. Hail netting
- 12A. Investigations
13. Landscaping
14. Lighting
15. Liquefied petroleum gas storage tanks
- 15A. Maintenance and repair
16. Minor works for securing, accessing or protecting wharves or vessels
17. Paving
18. Pedestrian ramps, paths and mechanical and non-mechanical stairways
- 18A. Preloading works
19. Movable plant and equipment
20. Pollution control facilities, work health and safety measures and environmental protection works
21. Port facilities-change of use
22. Railway tracks
- 22A. Reefer points
23. Retaining walls (not including sea walls).
24. Road and rail infrastructure-minor maintenance, repairs and works
25. Roads-marking out
26. Safety or security barriers
27. Satellite dishes

28. Scaffolding
29. Security and monitoring cameras and other devices
30. Signage
31. Signage- changes and maintenance and repair
32. Subdivision by Port Operator of Port Corporation
33. Switch rooms and security booths
34. Temporary structures
35. Temporary uses of land
36. Truck marshalling area
37. Truck weighbridges and train weighbridges
38. Utilities and service facilities
39. Wash bays
40. Water tanks

5. **A Floor Plan** (drawn to a scale of 1:100) – A fully dimensioned plan showing the size and use of each room site. New work must be coloured so it can be clearly distinguished. Floor plans for additions and alterations to an existing building must show the existing room layout including all existing windows, doors, facilities and fire safety measures installed etc.
6. **Elevations** (drawn to a scale of 1:100) – Elevations are to be a fully dimensioned plan showing all faces of the building, existing and proposed windows, and existing and finished floor levels, the height above natural ground level. New work must be clearly distinguished.
7. **A Section Through the Building** (drawn to a scale of 1:100) – The section is to show the proposed method of construction and must be fully dimensioned. Sections for buildings with suspended floors must indicate the subfloor clearance of the floor.
8. **Drainage Plan** – A plan is required to indicate the proposed method of stormwater disposal i.e. to the street, an easement, drainage pit or **complete details of the existing system**. The plan is to include any required stormwater discharge control systems i.e. rainwater tanks, absorption trenches, swales or on site retention tanks. A “classifiable” building is a building that can be classified using the classification system in the Building Code of Australia.
9. **A Detailed Specification** - The specification detailing:
 - The method of construction
 - The standard to which any framing, wet area flashing, termite protection and glazing shall be installed, and
 - All existing and proposed fire safety measures including the standard to which they are, and/or will be installed.
 - The standard to which any new external lighting will be designed (e.g. AS 4282—1997, *Control of the obtrusive effects of outdoor lighting*, Sections 9.1.3 (Lighting in the Vicinity of an Aerodrome) and 9.21 (Lighting in the Vicinity of Aerodromes) of the *Manual of Standards Part 139—Aerodromes* made under the [Civil Aviation Safety Regulations 1998](#))
 - Food preparation areas must comply with AS 4674-2004, *Design, construction and fit out of food premises*.
 - Retaining walls must comply with:
 - (i) AS 3700—2011, *Masonry structures* and AS 3700 Supp 1—2012, *Masonry structures—Commentary (Supplement to AS 3700—2011)*, and
 - (ii) AS/NZS 1170.1:2002, *Structural design actions Part 1: Permanent, imposed and other actions* and AS/NZS 1170.1 Supp 1:2002, *Structural design actions—Permanent, imposed and other actions—Commentary (Supplement to AS/NZS 1170.1:2002)*, and
 - (iii) if the structure is made of timber, AS 1720.1—2010, *Timber structures Part 1: Design methods*.
10. **Engineers Details** - You will require input from an engineer for the following type of work:
 - Concrete footings and/or slabs.
 - Steel members (e.g. beams or posts)
 - Where it is proposed to build on an existing structure, a statement of structural adequacy is required for the existing building/slab to ensure it is capable of carrying the additional loads.

Copies of structural details signed by the engineer must refer to any required certification.

- 11. Engineers Certification** – Bridges, conveyor systems, cranes, dry bulk storage silos, road and rail terminal facilities, ship loaders, unloaders and cargo handling facilities, stacker-reclaimers, stackers, reclaimers, retaining walls more than 1 metre in height, wharfs and berthing infrastructure will be required to be certified by a qualified engineer as “having a satisfactory design and structural integrity”:
- 12. A 138 Roads Act application lodged or approved with/or by the Roads Authority** for any required kerb, crossover or driveway on a public road. The consent is obtained from the Road Authority. The City of Newcastle (CN) is the Road Authority for all roads in Newcastle, with the exception of Classified Roads. The Road Authority for classified roads is the Roads Maritime Services. To obtain a Section 138 consent from CN, complete the application form (Type 1). A CDC cannot be issued until an approval has been granted. Permits are not required for connections to private roads.
- 13. A Section 68 application lodged or approved** for an on-site effluent disposal system under the Local Government Act, from CN, if the development is undertaken on unsewered land and involves the installation or operation of a system of sewage management. An application form is available on our website. A system accredited by the NSW Department of Health, consisting of a collection well, pump out system is the recommended method of disposal, providing the best health and environmental outcome and streamlining the assessment process. A CDC cannot be issued until an approval has been granted.
- 14. A statement that the development is not a potentially hazardous industry or a potentially offensive industry** (within the meaning of the [State Environmental Planning Policy No 33—Hazardous and Offensive Development](#)) (SEPP 33)

In SEPP33:

potentially hazardous industry means a development for the purposes of any industry which, if the development were to operate without employing any measures (including, for example, isolation from existing or likely future development on other land) to reduce or minimise its impact in the locality or on the existing or likely future development on other land, would pose a significant risk in relation to the locality:

- (a) to human health, life or property, or
 - (b) to the biophysical environment,
- and includes a hazardous industry and a hazardous storage establishment.

potentially offensive industry means a development for the purposes of an industry which, if the development were to operate without employing any measures (including, for example, isolation from existing or likely future development on other land) to reduce or minimise its impact in the locality or on the existing or likely future development on other land, would emit a polluting discharge (including for example, noise) in a manner which would have a significant adverse impact in the locality or on the existing or likely future development on other land, and includes an offensive industry and an offensive storage establishment.

In determining whether a development is not a potentially hazardous industry, or a potentially offensive industry, the person preparing the statement must give reference to the guidelines published by the Department of Planning relating to hazardous or offensive development.

- 15. Details of the proposed and existing use.** The application is to include:
- The current use of the building and the details of how it is lawful (e.g. any approved consent)
 - The gross floor area of the use and any individual components

The details must include a statement outlining how the use fits into the definition of a “port facility”, wharf, or boating facility.

Port facilities mean facilities on land in the Lease Area used in connection with the carrying of freight and persons by water from one port to another for business or commercial purposes, and includes any of the following:

- (a) facilities for the embarkation or disembarkation of passengers onto or from any vessels, including public ferry wharves,
- (b) facilities for the loading or unloading of freight onto or from vessels and freight receipt, processing, land transport and storage facilities,
- (c) wharves for commercial fishing operations,
- (d) refuelling, launching, berthing, mooring, storage or maintenance facilities for any vessel,
- (e) sea walls or training walls,
- (f) administration and port operations buildings and facilities,
- (g) communication, security and safety facilities,
- (h) utilities and services, road and rail infrastructure, pipelines and car parks

16. Details of compliance with Building Code of Australia for any “classifiable” building. A “classifiable” building is a building that can be classified using the classification system in the Building Code of Australia.

17. The application is to include:

- All existing and proposed fire safety measures including the standard to which they are, and/or will be installed.
- The number and location of sanitary facilities, hand basins, urinals and wash basins
- Evidence of any required fire rating between different classes of building
- The location of any openings used to provide light and ventilation or if the building is mechanically ventilated a statement to that effect
- Where mechanical ventilation is to be installed details of the installation, including emitted noise levels.
- A document that describes the design, construction and mode of operation of the new fire safety measure and any associated works.

Fire Safety Schedule: Any measure (including any item of equipment, form of construction, or fire safety strategy) that is, or is proposed to be implemented in a building to ensure the safety of persons using the building in the event of fire (e.g. exit signs, fire extinguishers, hydrants, fire dampers).

18. A statement of compliance with AS 2601—2001, *The demolition of structures*— A statement outlining the compliance with the Australian Standard.

19. A report on the suitability of the emergency services equipment – The report shall demonstrate that the development does not:

- a) reduce the level of fire safety of a building, or
- b) detrimentally affect the structural integrity of a building, or
- c) alter or extend an existing sprinkler system of a building that is unsuitable for the level of fire hazard arising from the use of the building unless the alteration or extension is for the purpose of or includes upgrading the fire sprinkler system so that it is suitable for that level of fire hazard.

20. A contamination statement relating – - *contamination statement* means a statement issued by a qualified person, after considering any applicable guidelines made under section 105 of the [Contaminated Land Management Act 1997](#), certifying that the land is suitable for the intended purpose of the development having regard to the contamination status of the land.

A qualified person means a person who has the competencies that are essential to contaminated site assessment and investigation as set out in the document entitled *Schedule B9 Guideline on Competencies and Acceptance of Environmental Auditors and Related Professionals* published by the National Environment Protection Council in 2013.

Note: **With the exception of applications for modifications to pipelines and flow rates on Bulk liquid storage tanks**, complying development cannot be carried out on land that is “significantly contaminated” within the meaning of the [Contaminated Land Management Act 1997](#). Significantly contaminated land will be identified on a 149 Certificate.

21. Evidence of an approval of a 'specified study' (e.g. hazard analysis, fire study and hazard and operability study) from the Director-General and a copy of the specified studies. .

The specified studies are as follows:

- (a) **a hazard analysis** that:
- i. is prepared in accordance with the *Hazardous Industry Planning Advisory Paper No 6, Hazard Analysis*, dated January 2011 and published by the Department of Planning and Infrastructure on its website, and
 - ii. demonstrates that the proposed development meets the applicable risk criteria set out in the *Hazardous Industry Planning Advisory Paper No 4, Risk Criteria for Land Use Safety Planning*, dated January 2011 and published by the Department of Planning and Infrastructure on its website, and
 - iii. if constructed or installed on land at Port Botany—demonstrates that the proposed development will not cause any increase in the individual risk levels shown on Figure 2 of the *Port Botany Land Use Safety Study Overview Report*, published by PlanningNSW in 1996, or will not cause societal risk to exceed the ALARP band as shown in Figure 9 of that Report, and
 - iv. is prepared having regard to the most hazardous substance proposed to be stored in the tanks,
- (b) **a fire safety study** that is prepared in accordance with the *Hazardous Industry Planning Advisory Paper No 2, Fire Safety Study Guidelines*, dated January 2011 and published by the Department of Planning and Infrastructure on its website,
- (c) **a hazard and operability study** that is prepared in accordance with the *Hazardous Industry Planning Advisory Paper No 8, HAZOP Guidelines*, dated January 2011 and published by the Department of Planning and Infrastructure on its website.

A hazard analysis must be prepared by a qualified person approved by the Director-General for the purposes of this clause that:

- (a) is prepared in accordance with the *Hazardous Industry Planning Advisory Paper No 6, Hazard Analysis*, dated January 2011 and published by the Department of Planning and Infrastructure on its website, and
- (b) demonstrates that the proposed development meets the applicable risk criteria set out in the *Hazardous Industry Planning Advisory Paper No 4, Risk Criteria for Land Use Safety Planning*, dated January 2011 and published by the Department of Planning and Infrastructure on its website.