



Planning &
Environment

Shoalhaven City Council - Planning Proposal - The Halloran
Trust - Culburra Beach, Callala Bay and Currarong

Planning Team Report

December 2014

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1. EXECUTIVE SUMMARY

The Planning Proposal – The Halloran Trust – Culburra Beach, Callala Bay and Currarong covers approximately 1681.48 hectares and is located approximately 15km south east of Nowra in the Shoalhaven Local Government Area. The Planning Proposal covers 3 distinct areas, namely:

- Culburra Beach (approximately 1,117 hectares including lands in the Lake Wollumboola and Crookhaven River catchments),
- Land at Callala Bay (approximately 364.7ha; and
- Kinghorne Point and Arrow Point located between Wollumboola and Currarong (approximately 199.78ha).

Lake Wollumboola has been identified in several scientific studies, inquiries, reviews and strategies as being of high environmental significance. The catchment of the Lake remains largely undeveloped resulting in excellent water quality. The Lake also contains significant biodiversity values and is home to many endangered species. The scientific studies also emphasise the environmental sensitivity of the Lake, which is highly sensitive to deterioration of water quality from runoff and groundwater.

Culburra Beach is identified as a sensitive urban lands site in the South Coast Regional Strategy which was subject to a 2006 South Coast Sensitive Urban Lands Review (SCSULR). The SCSULR recommends that land within the catchment of Lake Wollumboola is considered unsuitable for urban development, principally on the grounds of the potential negative impacts on the Lake which is a sensitive intermittently closing and opening lake (ICOLL) and that the remaining land within the catchment of the Crookhaven River is considered suitable for limited urban development. The land at West Culburra, outside the Lake catchment, is also identified in the Jervis Bay Settlement Strategy 2003 for potential urban development. The land is zoned for urban expansion under the Shoalhaven LEP 1985. The land is identified as deferred under the Shoalhaven LEP 2014.

Approximately 35 ha of land at Callala Bay is identified in the Jervis Bay Settlement Strategy for potential urban expansion. The Strategy also recommends that any future rezoning of the proposed Callala Bay urban expansion area should seek to consolidate a 685 small lot rural subdivision located at north Callala Bay, as part of the urban development outcomes associated with the Callala Bay township.

The land at Kinghorne and Arrow Points at Currarong is referenced in the Jervis Bay Settlement Strategy but is not identified as an area that is capable for future residential development in light of environmental and cultural heritage constraints.

Planning Proposal

The Planning Proposal seeks to rezone land in the Culburra Beach, Callala Bay and Currarong localities for the purposes of residential, commercial, industrial, recreation and environmental purposes to provide an estimated 6,100 houses (5,400 at Culburra Beach and 700 at Callala Bay). It also seeks to dedicate approximately 1,121ha of land to the State of NSW as an extension to the Jervis Bay National Park. In doing so the Planning Proposal

seeks to address the deferral of the subject land under the Shoalhaven Local Environmental Plan 2014.

Assessment

The key issue in deciding whether the Planning Proposal should be supported is consistency with the strategic and statutory planning framework; including State Environmental Planning Policies, the South Coast Regional Strategy (SCRS), the draft Illawarra Regional Growth and Infrastructure Plan and relevant Section 117 Directions.

The Proposal - which would provide for urban development at Callala Bay and Culburra Beach and provide for the conservation of important environmental lands, is generally supported as it is consistent with the South Coast Regional Strategy, Jervis Bay Settlement Strategy and section 117 Ministerial Directions. The proposed development of land within the Lake Wollumboola catchment is, however, not supported given the environmental sensitivities of the Lake catchment which has been clearly demonstrated by three independent Government inquiries as well as long term research undertaken by the Office of Environment and Heritage Estuaries and Catchments Science Office.

While the development of land north of Culburra Road is generally supported, there is a need to better understand and to define the catchment boundaries of the Lake, both in terms of groundwater and surface runoff, to ensure that the impacts of any urban development on the Lake are minimised.

Conclusion

The Department has reviewed the information provided by Shoalhaven City Council and, although it supports the majority of the proposal, it does not support a number of components, notably proposed recreation development on Long Bow Point and proposed urban investigation on land north of Culburra Road which are both located within Council's estimation of the sensitive Lake Wollumboola catchment. It is recommended that, subject to definition of the catchment boundary, this land is assigned an E2 Environmental Protection Zone to protect Lake Wollumboola.

2. INTRODUCTION

On 4 November 2014 Shoalhaven City Council submitted a planning proposal to the Department seeking a Gateway Determination to zone deferred lands owned by the Halloran Trust at Culburra Beach, Callala Bay and Currarong to provide for residential, commercial, industrial, recreation and environmental purposes under the Shoalhaven Local Environmental Plan (LEP) 2014.

The land was deferred from the Shoalhaven LEP 2014 until a masterplan or overall approach for the Halloran lands in this location had been prepared and considered.

This report has been prepared to document the Department's assessment of the planning proposal. The report is to be read in conjunction with the Planning Team Reports on the LEP Tracking System.

It provides additional information/justification for the recommendation not to support components of the Shoalhaven Planning Proposal for the Halloran Trust lands.

3. THE SITE

Site context

The Halloran Trust lands are located approximately 15km south east of Nowra as shown at **Figure 1**. The lands comprise three sites at Culburra Beach (1,117ha), Callala Bay (364.7ha) and Kinghorn Point (Currarong) (199.78ha). They have a combined area of approximately 1681.5ha. The three localities comprise approximately 1445 individual allotments which are all in the one ownership.

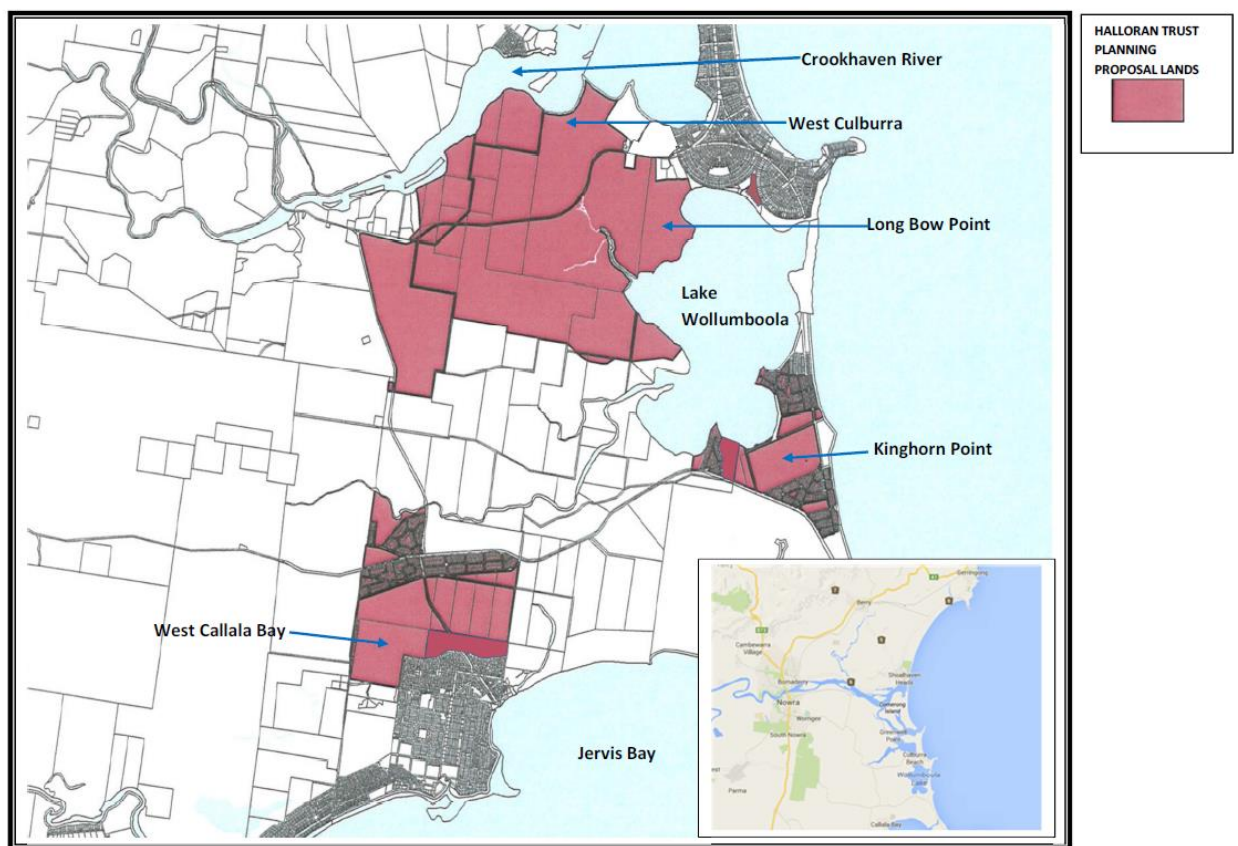


Figure 1 – Site location

Detailed location

The subject land at Culburra Beach is bound by the Crookhaven River and Curley's Bay to the north, Canal Street East, West Crescent and Lake Wollumboola to the east, Jervis Bay National Park (JBNP) to the south and Coonemia Road to the west.

The subject land at Callala Bay is bound by the JBNP to the north, the existing residential development of Callala Bay to the east, Emmett Street to the south and Callala Beach Road to the west.

The subject land at Currarong is known as Kinghorne and Arrow Points and is bound by the Pacific Ocean to the east, Lake Wollumboola to the north and west and Currarong Road to the south.

Site Features

The subject lands are predominantly forested with some cleared areas at the Culburra and Kinghorne Point sites. The Culburra site is bisected by Culburra Road. The road is aligned to the south of the ridgeline that separates the catchments of Crookhaven River/Curleys Bay and Lake Wollumboola. Lake Wollumboola is part of the Jervis Bay National Park. It is a wetland of national and international significance for migratory birds protected under international treaties (JAMBA and CAMBA).

Lake Wollumboola is a highly sensitive 'back dune lagoon' type waterbody, these comprise less than 5% of NSW estuaries (Dr Peter Scanes, Dr Angus Ferguson and Mr Jaimie Potts, Office of Environment and Heritage's Estuaries and Catchment Science Unit, November 2013). Back dune lagoons are characterised by relatively large concentrations of dissolved oxygen in the water and a large biomass of submerged vegetation (called charophytes and macrophytes). Lake Wollumboola is a unique system of high ecological value, characterised by high primary productivity and overall biological diversity, particularly for birds.

The Lake has high concentrations of coloured dissolved organic material in the water, plus a range of other factors, which are indicative that groundwater is most probably a major component of freshwater inputs to the lake. Pollution of groundwater therefore represents a major risk to the lake.

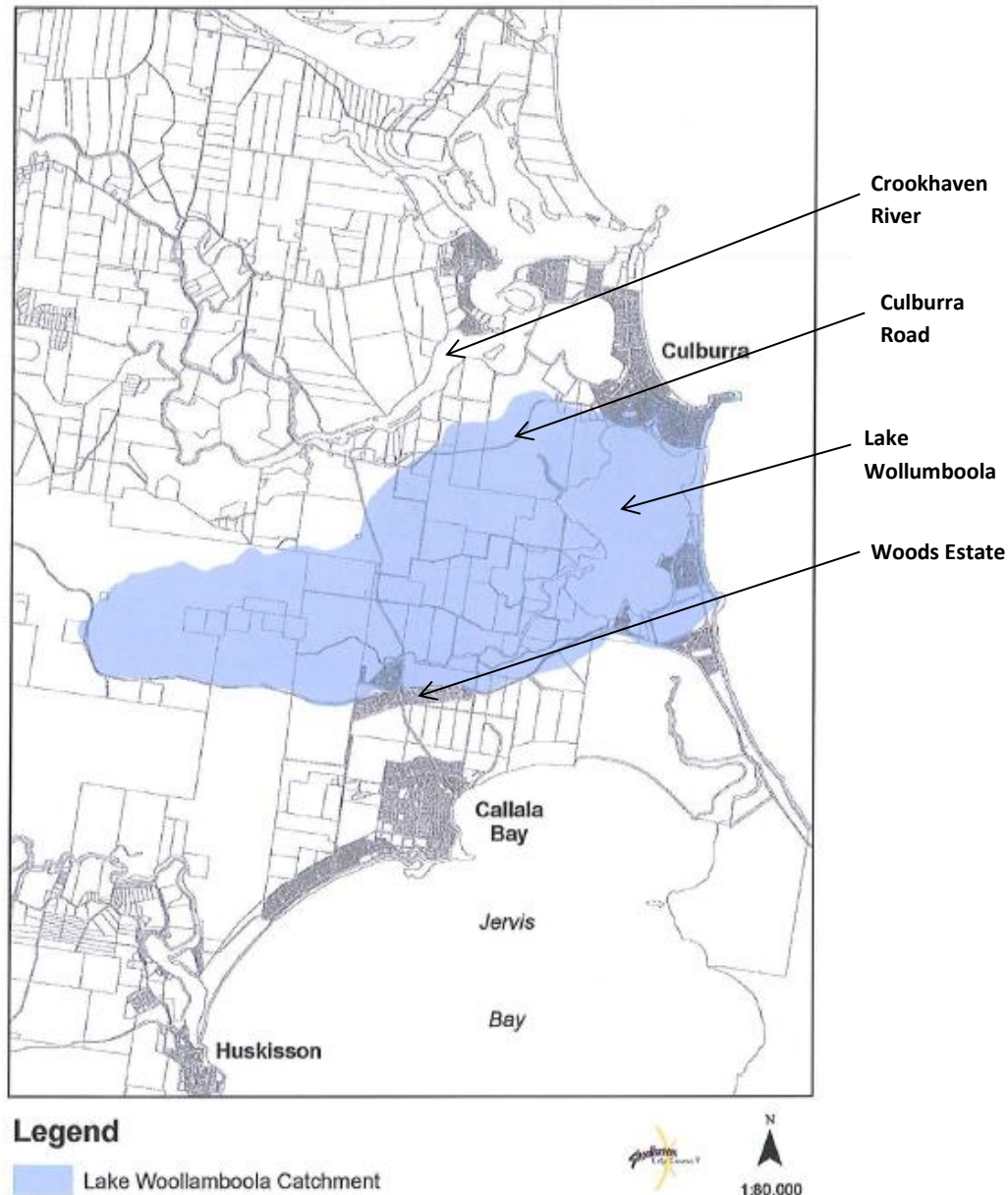
Given the strong control that lake vegetation exerts on lake ecology and water quality, Lake Wollumboola is vulnerable to a catastrophic state change if key processes are disrupted by nutrient enrichment and there is significant loss of charophytes and macrophytes.

If a change of state occurs it is not possible to reverse it. Lake Wollumboola would never recover from loss of charophytes and macrophytes and the ecosystem services they provide, instead it will move to an alternative state which is turbid and phytoplankton or macroalgae dominated.

Higher levels of the food chain are dependent on the charophytes and macrophytes and loss of them will result in the loss of swans and other fauna.

The Lake catchment as defined by Council includes land north of Forest Road, including part of the Woods Estate (Callala Bay), Arrow Point, part of Kinghorne Point (Currarong), extensive areas of Jervis Bay National Park and the existing township of Culburra Beach (refer **Figure 2 – Lake Wollumboola catchment**).

Figure 2 – Lake Wollumboola catchment as defined by Shoalhaven City Council



The Callala Bay site is forested land which is known to contain threatened species such as the Midge Orchid. The site adjoins the existing urban area to the east, Jervis Bay to the south and Jervis Bay National Park to the north. A SEPP 14 coastal wetland extends within the study area, on Wowly Creek with a further wetland area upstream of the identified SEPP 14 wetland, which extends towards Callala Bay Road.

The Kinghorne and Arrow Point sites adjoin the Pacific Ocean to the east, Lake Wollumboola to the north and west and JBNP to the south. The site is largely vegetated, however, there are some cleared areas. An obelisk is located within one of the cleared areas

adjacent to a trigonometric station on the ridge, to the west of the road that provides access to Council's public reserve at Kinghorne Point. The obelisk is inscribed "This marks the site of the proposed University of the City of St Vincent" in memory of the expansive development plans of Mr Henry Halloran for the Jervis Bay region as part of the port for Australia's capital city.

Historical context

Planning for the lands subject to the Planning Proposal, in particular the Culburra lands, has a long and complex history.

The Culburra Urban Expansion Area was first identified by Shoalhaven City Council as a potential urban expansion area in the 1970s. The urban expansion area is in three parcels located north and south of Culburra Road extending from Crookhaven River in the north to Lake Wollumboola in the south. The land was zoned 2(c) Living Area by Shoalhaven LEP 1985 Amendment No 41 (Culburra Urban Expansion Area) which was gazetted in 1992.

The land, part of which is located in the Lake Wollumboola catchment, has been subject to the conduct of three independent Government Inquiries, namely a:

- 2000 Commission of Inquiry into a proposed subdivision at Long Bow Point.
- 2002 Healthy Rivers Commission Independent Inquiry into Coastal Lakes; and
- 2006 South Coast Sensitive Urban Lands Review.

In 1996 the Minister for Planning established a Commission of Inquiry into a proposed 800 lot subdivision at Long Bow Point which is located within the Culburra Urban Expansion Area. The Commissioner recommended refusal of the proposal due to its unacceptable environmental impacts, particularly on threatened flora and fauna, which have been found on the site, and the loss of water quality and habitat of Lake Wollumboola and its likely adverse impact on Lake fauna including important bird species.

The Minister refused the development application in 1996 on the grounds that:

- The proposal would result in the degradation of the water quality of Lake Wollumboola and significantly affect its habitat, recreation and ecological values;
- The proposed subdivision would result in the loss of critical habitat for endangered fauna.
- The proposed subdivision would expose people to the odours from the Lake and intensify calls to the State Government and Council to modify the Lake's hydrological regime; and
- The proposed subdivision fails to take into account the cumulative impact of the proposed six stage expansion of Culburra.

An Inquiry into NSW Coastal Lakes was undertaken by the Healthy Rivers Commission (HRC) in 2002. The HRC recommended that any new development within the catchment of Lake Wollumboola be limited to within existing boundaries of developed areas. As part of the Classification of Coastal Lakes by the Healthy Rivers Commission, a "Comprehensive Protection" management classification was given to Lake Wollumboola.

A South Coast Sensitive Urban Lands Review was undertaken in 2006 as part of the preparation of a South Coast Regional Strategy. The Sensitive Urban Lands Review comprised an independent review of the suitability of 17 specific coastal sites in the South Coast Region, including the Culburra Urban Expansion Area for development, covering the scale and type of land release and priority and timing.

The Review provided a number of specific recommendations concerning the Culburra Beach Urban Expansion Area for development, that are relevant to the current Planning Proposal, notably that:

- land in the catchment of Lake Wollumboola is considered unsuitable for urban development, principally on the grounds of the potential negative impacts on the Lake which is a sensitive intermittently closing and opening lake (ICOLL); and
- the remaining land within the catchment of the Crookhaven River is considered suitable for limited urban development.

The South Coast Regional Strategy, which incorporated the recommendations of the above Review, was prepared by the NSW Government in 2007 to guide sustainable growth throughout the South Coast over a 25 year timeframe.

The subject land at Callala Bay was identified as having “opportunities for urban development” under the Jervis Bay Regional Environmental Plan which was gazetted in 1996. A 35ha area of land adjoining Callala Bay to the west was identified for possible urban investigation in the 2003 Jervis Bay Settlement Strategy which was prepared by Shoalhaven City Council and the Department of Infrastructure, Planning and Natural Resources.

4. PLANNING PROPOSAL

4.1 Statement of outcomes and objectives

The Planning Proposal submitted by Shoalhaven City Council will amend Shoalhaven LEP 2014 to rezone the deferred lands for residential, commercial, industrial, recreation and environment protection purposes. The Planning Proposal states that the intended outcome is to:

- Achieve optimal land use plan which balances conservation with urban development.
- Provide certainty of land use potential for the owner.
- Promote employment opportunities at Culburra Beach.
- Provide a range of residential environments and densities, appropriate to this coastal location.
- Diversify the range of tourist and recreation facilities available to visitors and residents by identifying appropriate sites.
- Establish Culburra Beach as a significant town in terms of the range of services and facilities that will be available.
- Ensure integration of infrastructure, including social infrastructure, provision in the Wollumboola sub-region.
- Protect the marine/mesic vegetation ecologies that border Lake Wollumboola.
- Provide sites for tourist/visitor accommodation within the ownership.

- Provide sites for residential development at different densities i.e. standard, medium and higher residential density; and
- Identify and conserve areas of ecological and /or scientific and /or archaeological significance.

The statement of objectives and outcomes is considered acceptable.

4.2 Explanation of provisions

The Planning Proposal does not provide detailed explanation of provisions. The Proponent's Planning Proposal does, however, provide a masterplan for each of the three sites which describes the broad intended land uses. The Planning Proposal states that the detailed LEP provisions will be determined following the completion of the following proposed studies that will be prepared to help shape the final Planning Proposal prior to public exhibition:

- Flora and fauna (including biodiversity offset strategy)
- Geotechnical
- Contamination
- Stormwater
- Aboriginal Cultural Heritage
- Flood risk
- Bushfire
- Traffic impact
- Visual impact
- Community impact
- Economic/business impact
- Infrastructure (Delivery Plan).

The proposed approach to preparing detailed explanation of provisions after completion of further studies is acceptable given the complex environment, particularly threatened species issues at Callala Bay and catchment issues at Culburra Beach, that need further study and survey prior to establishing suitable zone boundaries. The proposed "low environmental impact community recreation zone" and "residential investigation area" at the Culburra Beach site, which are both located within the Lake Wollumboola catchment, are not, however, considered to be appropriate land uses because development in the Lake catchment is not consistent with the accepted strategic planning for the area or scientific evidence concerning the sensitivity of the Lake.

Following the completion of the proposed studies it is recommended that Council prepare a structure plan to inform the preparation of detailed explanation of provisions namely zones, height of building maps, flood risk and other environmental overlays.

4.3 Strategic justification

In its supporting justification for the planning proposal Shoalhaven City Council notes that the Planning Proposal is the result of a 'deferred' matter from the current Shoalhaven LEP

2014 which was deferred from the LEP in order to achieve a masterplan/holistic approach to the Halloran landholdings.

Additionally the Planning Proposal notes that resolving the zoning of the subject lands has been the subject of several inquiries and strategies, notably:

- 'Long Bow Point Commission of Inquiry commencing in 1996 and completed in 2000.
- Independent Inquiry into Coastal Lakes by the Healthy Rivers Commission 2002.
- Jervis Bay Settlement Strategy 2003.
- South Coast Sensitive Urban Lands Review 2006.
- South Coast Regional Strategy.

The Planning Proposal states that the report to Council's Development Committee recommended the advancement of the Planning Proposal to Gateway determination with the possible exclusion of the residential and recreation areas south of Culburra Road, in the Lake Wollumboola catchment. These areas were recommended to be zoned E2 Environmental Conservation Zone as exhibited in the draft Shoalhaven LEP 2009, to ensure consistency with strategic directions and previous decisions of Council. The Development Committee, however, resolved that the Planning Proposal be submitted to the Gateway as proposed by the Proponent which includes residential and recreation areas south of Culburra Road. In making this decision, Council is keen to see the whole Planning Proposal considered and advanced without excluding any areas at this point until more detailed range of studies is prepared and the potential overall development area at Culburra Beach fully considered.

5. STATUTORY CONTEXT

5.1 SHOALHAVEN LOCAL ENVIRONMENTAL PLAN 1985

The Culburra Beach lands are currently zoned Rural 1(a) Agricultural Production, 1(b) Arterial and Main Road Protection, 1(d) General Rural, Residential 2(c) Living Area, Business 3(f) Village, Industrial 4(a) General, Special Purposes 5(c) School, Open Space 6(c), Environmental Protection 7(a) Ecology and 7(f3) Foreshore Protection under the Shoalhaven LEP 1985. Parts of the land are identified in the LEP as flood prone and environmentally sensitive.

The Callala Bay lands are zoned Rural 1(d) and Environmental Protection 7(a) under the Shoalhaven LEP 1985. Lands located north of Forest Road are identified as environmentally sensitive under the LEP.

The Kinghorne area is predominantly zoned Environmental Protection 7(f3) Foreshore Protection and 7(a) Ecology zones under the Shoalhaven LEP 1985.

5.2 ILLAWARRA REGIONAL ENVIRONMENTAL PLAN 1986

The Illawarra Regional Environmental Plan (now a Deemed SEPP) was prepared in 1986 and aims to identify regional planning issues and provisions applicable to development

proposals and local environmental plans particularly as they relate to the environmental quality and social well-being of residents in the region.

The Deemed SEPP applies to the northern part of the Culburra Beach site that is located outside of the Lake Wollumboola catchment area as defined by the Jervis Bay REP. Key provisions of the Deemed SEPP that applies to this land are those relating to high rise buildings. The Planning Proposal indicates that suitable heights for proposed urban areas will be prepared.

5.3 JERVIS BAY REGIONAL ENVIRONMENTAL PLAN 1996

The Jervis Bay REP (also a Deemed SEPP) was prepared in 1996 and aims to:

- Protect the natural and cultural values of Jervis Bay, and
- Allow proposals that contribute to the natural and cultural values of the area.

The Jervis Bay REP applies to land covered by the Planning Proposal that is located within the catchment of Lake Wollubmoola.

The REP provides a number of matters for consideration for planning and development proposals, concerning catchment protection, landscape quality, cultural heritage, habitat corridors, rehabilitation and restoration of vegetation, sympathetic tourism development and the identification of land for future inclusion to the Jervis Bay National Park and identification of land having opportunities for urban development.

The REP does not identify the subject land at Culburra as having opportunities for urban development. It does, however, identify the subject land at Calalla Bay as having opportunities for urban development.

5.4 SHOALHAVEN LOCAL ENVIRONMENTAL PLAN 2014

The Shoalhaven Local Environmental Plan was completed in April 2014. It was exhibited in 2009 and in 2011. The zoning of the land at Culburra Beach, in the Lake Wollumboola catchment was a highly contentious issue. The land was zoned a combination of environmental protection and rural landscape under the exhibited draft LEP to implement the requirements of the South Coast Regional Strategy and Sensitive Urban Lands Review Panel recommendations for the site. The LEP also contains a Jervis Bay clause to implement the key policies of the Jervis Bay REP described previously. Once the land subject to the Planning Proposal is undeferred, this clause will apply to the land.

The subject land was deferred under the Shoalhaven LEP 2014. The Minister agreed to the deferral subject to a masterplan/planning proposal being prepared for the land that protected the sensitive Lake Wollumboola catchment and also provided sustainable growth of Culburra. The Minister required that the matter to be dealt with quickly and required that a masterplan/planning proposal be submitted to the Department for Gateway determination within 3 months otherwise mechanisms would be implemented to zone the land according to the exhibited zones.

5.5 CURRENT DEVELOPMENT PROPOSALS

There are two significant development proposals currently being assessed that apply to the land covered by the Planning Proposal, namely:

Mixed use subdivision at West Culburra (Concept Plan).

A proposal for a mixed use subdivision at West Culburra (Concept Plan) was lodged with the Department of Planning and Environment in May 2010 under the former Part 3A provisions of the *Environmental Planning and Assessment Act 1979*. The proposal comprises 600 dwellings as well as commercial, industrial, recreation and tourism developments. A proposed concept plan is provided at **Figure 3**.

The proposal, which was exhibited between April and June 2013, is currently being assessed by the Department of Planning and Environment. Key assessment issues are water quality of Lake Wollumboola and the Crookhaven River, threatened species, traffic and access, subdivision design and built form.

Approximately 743 ha of native forest and 92 hollow bearing trees are proposed to be removed as part of the proposed development under the West Culburra Concept Plan. The Proponent has proposed to offset this loss through the conservation of land at Sussex Inlet located around Tullawalla Lagoon, Tullawalla Creek and St Georges Basin (Millalen Estate land). The Office of Environment and Heritage (OEH) has advised that the proposed offset falls well below that required under the OEH Biobanking Guidelines.

The Department is awaiting the Proponent to lodge a Preferred Project Report (PPR) that addresses the key issues raised in submissions. Once the PPR is lodged, the Department will prepare an assessment report which will then be provided to the Planning Assessment Commission for determination.

West Culburra is proposed to be developed over a 7-10 year timeframe. Future applications will be subject to Part 4 of the Act, with Shoalhaven City Council as the consent authority. The Concept Approval determines that future developments are to be generally consistent with the approved Concept Plan.

A development application for a golf course at Long Bow Point, Culburra.

A development application for an 18 hole golf course at Long Bow Point was lodged with Shoalhaven City Council in June 2011 and was placed on public exhibited in August 2011. Key assessment issues are impact on Lake Wollumboola water quality, threatened species and golf course design.

The Proponent's proposed offsets for the current golf course development application are lands contained within the golf course precinct including Wattle Creek, Downes Creek and a 2.5km long foreshore zone with frontage to Lake Wollumboola. In addition certain lands having ecological significance located at East Crescent, Culburra Beach and land at Worrowing Heights have been identified for dedication to Council and the National Parks and Wildlife Service respectively.

The Proponent has prepared a revised Statement of Environmental Effects (SEE) as well as a Species Impact Statement (SIS) that was requested to be prepared by Shoalhaven City

Council due to concerns about impact of the proposal on threatened species. The OEH has yet to provide comment on the adequacy of the proposed offset for the Long Bow Point golf course proposal as the Species impact Statement has yet to be referred to it for assessment.

Council intends to place the revised SEE and the SIS on public exhibition. The SIS will also require to be provided to the Office of Environment and Heritage for their consideration and concurrence to the development application, with or without conditions.

The Development Application for the golf course at Long Bow Point indicates that there may be future development stages including a clubhouse and associated buildings.

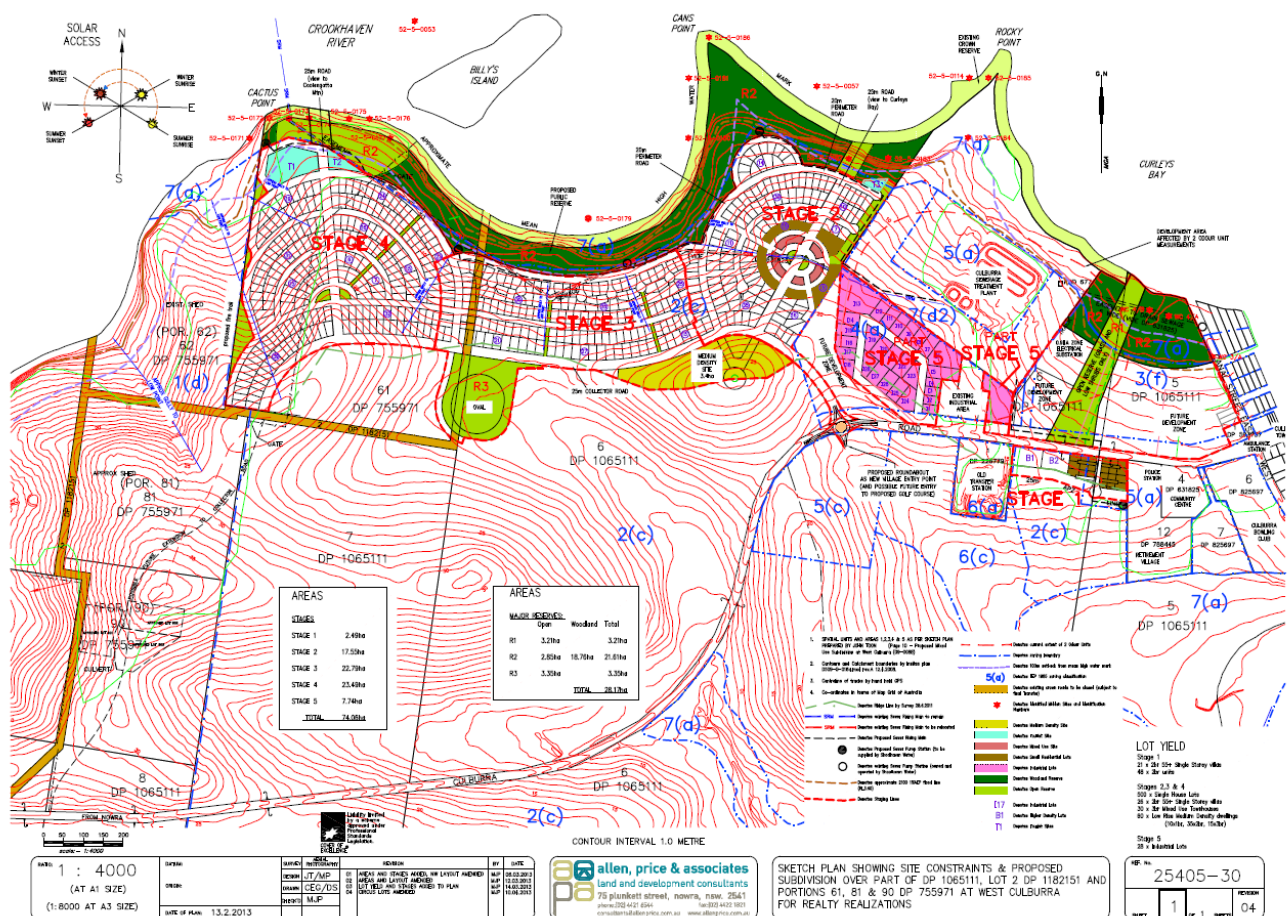


Figure 3 – Proposed Concept Plan for West Culburra Major Project

6. ASSESSMENT

The key issue in deciding whether the Planning Proposals should be supported is consistency with the strategic and statutory planning framework; including State Environmental Planning Policies, the South Coast Regional Strategy (SCRS), Jervis Bay Settlement Strategy and relevant section 117 Directions.

6.1 LEGISLATIVE REQUIREMENTS

6.1.1 State Environmental Planning Policies

The Planning Proposal states that it is generally consistent with the applicable SEPPs except where specified. It identifies the following SEPPs as the most relevant:

SEPP 44 – Koala Habitat Protection

The Planning Proposal identifies that previous flora and fauna surveys undertaken over large areas of the Culburra Beach area by the Proponent have not identified any koalas. Council has recommended that a detailed flora and fauna study is undertaken to confirm or otherwise the presence of koalas and core koala habitat. Council's recommendation is supported to ensure that any core Koala habitat identified as occurring within the subject lands is conserved consistent with the SEPP.

SEPP 55 – Remediation of Land

The Planning Proposal seeks to rezone rural land for urban purposes. The "Managing Land Contamination Planning Guidelines" that were prepared to support the SEPP identifies agricultural/horticulture activities as having the potential to cause contamination of land. Council has recommended that as a minimum a Stage 1 Contamination Assessment, requiring the preparation and exhibition of a Preliminary Site Contamination Report, should be required as part of a Gateway determination, to ensure consistency with the SEPP. Council's recommendation is supported.

SEPP 62 – Sustainable Aquaculture

The Planning Proposal notes that the Crookhaven River is identified as a priority estuary in the NSW Oyster Industry Sustainable Aquaculture Strategy. This Strategy was prepared in support of SEPP 62 - Sustainable Aquaculture. The Planning Proposal states that the proposed urban, industrial and commercial land uses potentially pose a threat to estuary health and ecological integrity of the Crookhaven River and adjacent Curley's Bay.

The impact on the Crookhaven River water quality and oyster growing industry has been raised as a major issue by the Department of Primary Industries as part of agency consultations on the West Culburra Major Project. An independent review of the Proponent's Water Cycle Management Strategy for the West Culburra Major Project, which was undertaken by BMT WBM for the Department of Planning and Environment, has recommended that the Proponent's Water Cycle Management Report and Water Quality Monitoring Report are not sufficient to demonstrate and assess compliance of a Neutral or Beneficial Effect on the Crookhaven Estuary.

The Proponent has indicated that it will negotiate with the Crookhaven Oyster Farmers in the further preparation of the planning proposal. Council has also recommended that, consistent with the requirements of the Direction, the Department of Primary Industries (Fisheries) will be consulted after the Gateway determination and prior to public exhibition.

Council also recommends that buffers to coastal/riparian areas need to be investigated and established in order to preserve the water quality of coastal waterbodies. This recommendation is supported, including consultation with the Department of Primary Industries (Fisheries) to ensure that proposed development, riparian buffers and other environmental management measures are adequate to protect water quality and the oyster industry.

Council has recommended that a stormwater study is undertaken as part of the Gateway determination. It is recommended that the stormwater study implement the recommendations of the BMT WBM review, particularly concerning the consultant's comments concerning the methodology used by the Proponent's consultants for modelling of water quality impacts.

SEPP 71 – Coastal Protection

The aims of SEPP 71 are:

- to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and
- to protect and improve existing public access, and provide new opportunities for public access, along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and
- to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and
- to ensure that the visual amenity of the coast is protected, and
- to protect and preserve beach environments, beach amenity, native coastal vegetation, the marine environment of New South Wales, rock platforms, and
- to manage the coastal zone in accordance with the principles of ecologically sustainable development, and
- to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and
- to encourage a strategic approach to coastal management.

The Planning Proposal identifies that it will need to comply with the matters for consideration provided under the SEPP 71 – Coastal Protection, including the aims of the policy.

The subject lands covered by the Planning Proposal are recognised as extremely important coastal environments. The area is rich in Aboriginal cultural heritage, has very high biodiversity including migratory birds, threatened flora and fauna species and endangered ecological communities, important coastal scenery and geomorphology, fishing and oyster growing, as well as important for birdwatching and nature tourism. The sites also adjoin the Jervis Bay National Park, which includes Lake Wollumboola. The Jervis Bay National Park is identified under the *National Parks and Wildlife Act 1974* to be handed back to traditional owners.

The OEH report into the sensitivity of Lake Wollumboola (Scanes et al 2013) has made the following recommendations which are relevant to the Planning Proposal:

- The demonstrated ecological significance of the Lake, the relative rarity of its biotype and its sensitivity to catastrophic state change justify the current limitations to development within the Lake catchment.
- A precautionary approach to assessing development near the lake be adopted as a high priority, as impacts on the lake are likely to be irreversible.
- Any future development in the vicinity of Lake Wollumboola should be placed as far away from the Lake as possible to minimise risk of contamination of groundwater aquifers which may be directly linked to the Lake.
- Pollution of groundwater by nutrients is a major risk that needs to be properly assessed. Any models used must be carefully evaluated.

Development of land in the Lake Wollumboola catchment is not consistent with the OEH recommendations or with the SEPP because of likely impacts on the natural, cultural, recreational and economic attributes of the Lake which is recognised as having extremely high coastal environmental values.

The Crookhaven River and catchment has also been identified as environmentally sensitive, due to its importance for fishing, oysters and public recreation. The impact of proposed development on water quality will need to be carefully considered in the further preparation of the Planning Proposal to ensure that these coastal values are protected. The previous discussion on the need for a stormwater study is also relevant here.

The Planning Proposal includes a “masterplan”/overall approach to the subject land to help address key biodiversity, catchment and coastal planning issues to achieve a balanced development and conservation outcome. The proposed studies that Council has recommended be undertaken will enable the masterplan and Planning Proposal to be further refined.

SEPP (Infrastructure) 2007

The Planning Proposal states that the Proposal is likely to result in development classed as traffic generating development in accordance with the SEPP. In particular the proposal is likely to increase traffic on Culburra Road and on Kalendar Street intersection with the Princes Highway. Council has recommended that a traffic study is undertaken to ensure compliance with the SEPP, as part of a Gateway determination. Council’s recommendation is supported.

SEPP (Rural Lands) 2008

The Proponent has determined that the Planning Proposal is generally consistent with the Rural Land Planning and Subdivision Principles contained in the SEPP in that a community benefit is anticipated to be achieved through the conservation of high quality ecologically sensitive land.

The Proposal states that prime crop and pasture land located at Culburra Beach, which is currently zoned rural, is proposed to be zoned for environmental and residential purposes in order to balance the social, economic and environmental interests.

DPI (Agriculture) has advised that the land at Culburra Beach is of very low agricultural value due to its isolated location. It is considered that, contrary to Council's view, the Planning Proposal is inconsistent with the SEPP but the inconsistency is justified because, subject to confirmation by DPI (Agriculture) the agricultural land is of a very low value.

Deemed SEPP (Illawarra Regional Environmental Plan No 1)

The Illawarra Regional Environmental Plan No 1 applies to deferred land outside of the Lake Wollumboola catchment. The Planning Proposal states that it is generally consistent with the objectives of the Deemed SEPP.

As mentioned previously, suitable height controls will be required to be prepared for the subject lands in the undeferring of the subject land to replace the Deemed SEPP controls relating to building heights.

Jervis Bay REP (Deemed SEPP)

The Deemed SEPP defines the Jervis Bay Region which includes Lake Wollumboola. The Planning Proposal states that the Deemed SEPP will be considered through the studies recommended to be completed after the Gateway determination, including studies to identify the natural and cultural values of the land and recommend measures to avoid impact by zoning the land applying appropriate LEP provisions.

A key issue of concern is the impact of proposed recreation/urban development in the Lake Wollumboola catchment on Lake water quality and fauna. The Deemed SEPP requires that proposals must outline a water quality management strategy that demonstrates how water quality will be maintained or improved. Scientific evidence, however, indicates that there is an extreme risk of catastrophic impact on the sensitive ecological values of the Lake as a result of development. It is therefore recommended that land in the catchment is zoned E2 Environmental Conservation.

There is some disagreement concerning the Lake Wollumboola catchment boundary. The boundary is defined under the Jervis Bay Regional Environmental Plan as occupying the high ridge at RL38 located north of Culburra Road. This catchment boundary is the same as that used by Shoalhaven City Council (refer Figure 2). The Proponent's West Culburra Major Project Assessment report, however, states that the actual divide between the Lake and the Crookhaven River catchments is the low ridge located further north at RL16 declining to RL10 near the Culburra Police Station. The catchment divide will need to be resolved as part of a Gateway determination. The OEH/Scane's report also indicates that a study of the catchment divide should consider groundwater issues.

It is recommended that a hydro-geomorphological study, that considers groundwater issues, should be undertaken to define the Lake Wollumboola catchment divide to enable the zone boundary to be defined.

6.1.2 Section 117 Directions

The Minister for Planning, under section 117(2) of the EP&A Act issues directions that relevant planning authorities, such as local councils, must follow when preparing planning proposals for new Local Environmental Plans. Directions relate to employment and resources, housing and infrastructure, environment and heritage, hazard and risk, regional planning, and local plan making.

The following Directions are particularly relevant to the Planning Proposals for the Halloran Trust lands at Culburra, Callala Bay and Currarong:

1.1 *Business and Industrial Zones*

This Direction aims to protect employment land in business and industrial zones. It directs that a Planning Proposal must:

- retain the areas and locations of existing business and industrial zones,
- not reduce the total potential floor space area for employment uses and related public services in business zones, and
- not reduce the total potential floor space area for industrial uses in industrial zones.

The Planning Proposal states that it is inconsistent with the Direction because it does not retain existing business zones. It states that this is justified as the inconsistency is of minor significance as there is technically no loss in business zoned land (at West Culburra), as the existing business zoned land has not yet been developed. Furthermore additional commercial/tourism centres are proposed and an extension of the existing industrial lands at Culburra Beach. Council has recommended that an economic/business impact study is undertaken as part of the Gateway determination to give consideration to the proposed commercial and industrial land uses, their extent and the objective of the Direction.

It is difficult at this stage to determine whether the Proposal is consistent or otherwise with the Direction because the zone boundaries of the proposed commercial and industrial areas have not been defined. Council's recommendation that an economic study is undertaken as part of a Gateway determination is supported to ensure consistency with or alternatively to justify any inconsistency with the Direction.

The Planning Proposal identifies the proposed private recreation zoning of Long Bow Point is designed to facilitate employment in the area. While this report recommends the Long Bow Point area to be zoned E2 Environmental Conservation there is still merit identifying an appropriate golf course site within the subject lands in an area not within the Lake Wollumboola catchment.

1.2 *Rural Zones*

The Planning Proposal states that it is inconsistent with the Direction as it proposes to rezone part of the land from a rural zone to a residential zone. The Planning Proposal notes that the inconsistency may be justified by the Jervis Bay Settlement Strategy

which applies to part of the land at Callala Bay. It states that the studies recommended to be completed after Gateway determination will need to give consideration as required to the objectives of the Direction.

The statement that the inconsistency of the Proposal with the Direction, as it applies to the Callala Bay site, is justified by the Jervis Bay Settlement Strategy is supported. The Settlement Strategy specifically identifies the proposed area for “potential urban expansion”.

An area of rural zoned land on the western side of the Culburra Beach site in the Crookhaven River catchment, which is proposed to be zoned residential, is also identified in the South Coast Regional Strategy (p.38) as suitable for investigation for additional urban development/release, subject to environmental assessments and demand for land.’ The inconsistency with the Direction is therefore justified by the SCRS.

The inconsistency of the proposed gifting of rural zoned land at Culburra Beach and at Callala Bay to the State of NSW as an extension of the Jervis Bay National Park with the Direction will need further justification through an appropriate study. The flora and fauna study (including biodiversity offset strategy) that has been recommended by Council as part of a Gateway determination should address this matter.

1.4 Oyster Aquaculture

As previously mentioned in relation to SEPP 62 - Oyster Aquaculture, the Planning Proposal identifies that the subject lands at Culburra Beach are adjacent to the Crookhaven River which is identified as a priority estuary in the NSW Oyster Industry Sustainable Aquaculture Strategy.

It is noted that a Planning Proposal can only be inconsistent with the Direction if the relevant planning authority can satisfy the Secretary of the Department of Planning and Environment that the inconsistency is of minor significance. The onus is therefore on the relevant planning authority to ensure that any issues raised by the Department of Primary Industries have been satisfactorily addressed via changes to the Planning Proposal in order to comply with the requirements of the Direction.

1.5 Rural Lands

The Planning Proposal states that it is inconsistent with the Direction because it proposes to rezone existing rural zoned land to residential. It states, however, that the inconsistency is justified by the terms of the Direction as it is deemed to be of minor significance as the land is not identified as prime crop and pasture land.

As previously discussed, the Department of Primary Industry has advised that only rural land at Culburra has any agricultural value, however, this is very low given its isolated location. It is likely that the Planning Proposal is consistent with the Rural Planning Principles provided under the SEPP Rural Lands.

As previously mentioned, the rural land proposed for residential development is identified under the Jervis Bay Settlement Strategy and South Coast Regional Strategy and so any inconsistency with the Direction would be justified by these strategies.

The Planning Proposal is also inconsistent with the Direction because it seeks to rezone land which is currently zoned environmental protection at the Culburra Beach site (namely at the northern and southern ends of Long Bow Point) to a “community recreation/private recreation zone”. These lands currently have a 40 hectare minimum lot size which protects the environmental lands from subdivision into smaller lots. The rezoning of the land at Long Bow Point, which is in the Lake Wollumboola catchment, to enable private recreation is inconsistent with the South Coast Regional Strategy. Given the sensitivity of the Lake Wollumboola catchment to land use change, as evidenced by OEH research, it is unlikely that the removal of the current environmental protection zoning in this location can be justified.

2.1 Environmental Protection Zones

The Direction requires that a planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas and must not reduce the environmental protection standards that apply to the land. A Planning Proposal can be inconsistent with the Direction if it is justified by an endorsed strategy, a study prepared in support of the planning proposal or is of minor significance.

The subject sites are known to contain environmentally sensitive areas, notably Lake Wollumboola and its catchment which is recognised as having extremely high conservation values of State, national and international significance.

The Lake and its catchment supports numerous threatened species and ecological communities including migratory birds that are protected under international treaties. The Lake, which itself is part of the Jervis Bay National Park, is recognised as a Wetland of National Importance under the ANZECC Wetlands Network 1994 and as such a potential candidate for listing under the Ramsar Convention on Wetlands. A 2002 Healthy Rivers Commission’s Independent Inquiry into Coastal Lakes determined that Lake Wollumboola is one of only a few NSW coastal lakes warranting the highest level of protection due to the high natural variability of its processes and ecosystems.

Recent research undertaken by the Office of Environment and Heritage scientists has identified that Lake Wollumboola is vulnerable to a catastrophic and irreversible state change if key processes are disrupted by nutrient enrichment and there is significant loss of Lake vegetation, leading to a substantial loss of wildlife. The research has also identified that the groundwater is most probably a major component of freshwater inputs to the Lake. Pollution of groundwater therefore represents a major risk to the Lake.

Previous studies undertaken of the Callala Bay site have indicated that the area contains the Currumbene-Batewms Lowlands Forest endangered ecological community as well as a number of threatened flora and fauna species, namely the midge orchid and Masked Owl.

The Crookhaven River and its catchment are also recognised as environmentally sensitive due to its importance for fishing, aquaculture and public recreation.

The Planning Proposal states that it is consistent with the Direction as it is not proposing to reduce existing environmental protection zones, instead approximately 65% of the land subject to this Planning Proposal is proposed for environmental protection and dedication to the State Government as an extension of the Jervis Bay National Park.

Although the proposed dedication of land to the Jervis Bay National Park, including land within the Lake Wollumboola catchment, is a significant contribution to the conservation estate, the majority of this land is currently zoned rural or environment protection which already limits development of these areas.

The OEH has previously identified, as part of a 2008 rezoning proposal by Malbec Properties, that the land that is identified as having potential for urban investigation under the Jervis Bay Settlement Strategy could be offset via the conservation of remaining land that is identified in the Strategy at Callala Bay, including the Woods Estate small lot subdivision area.

The Proposal has not provided adequate justification for the rezoning of environmental protection land on the Lake Wollumboola foreshore at Long Bow Point, including the Downs Creek area, to “low environmental impact community recreation zone with private conservation area” as shown on the Culburra Beach Masterplan. The subject land has extremely high conservation value due to its proximity to the Lake and should have an environmental protection zoning.

The Planning Proposal has also not adequately justified why, with the exception of land proposed for dedication to National Park, it is not proposing to assign an environmental protection zoning to remaining land in the Lake Wollumboola catchment consistent with the widely recognised extremely high conservation values of the land and requirements of the strategic planning and 3 independent Government Inquiries as previously discussed.

Recommendation: That land in the Lake Wollumboola catchment, currently zoned environmental protection, and other land in the catchment currently zoned for urban development, up to a catchment boundary defined by a suitable hydro-geomorphic study, that considers groundwater issues, is assigned an E2 Environmental Conservation Zone, due to its recognised extremely high environmental importance at a State, national and international level.

The inconsistency of the proposed urban zoning of environmentally sensitive land at Callala Bay and at Culburra Beach, that is located outside of the Lake Wollumboola catchment, is justified by the recommendations of the South Coast Sensitive Urban Lands Review Panel as well as the Jervis Bay Settlement Strategy.

2.2 Coastal Protection

The Direction requires that Planning Proposals must implement the principles of the NSW Coastal Policy to protect the natural, cultural, recreational and economic attributes of the NSW coast.

As discussed previously in relation to SEPP 71 - Coastal Protection, the proposed development in the Lake Wollumboola catchment is inconsistent with the Direction, namely concerning impact on the natural, cultural (Aboriginal and non-Aboriginal), recreational and economic (ecotourism) attributes of the Lake.

A number of the studies that Council has recommended be undertaken as part of the Gateway determination are relevant to ensuring that the further preparation of the Planning Proposal complies with the Direction.

2.3 Heritage Conservation

The Direction requires a planning proposal to contain provisions that facilitate the conservation of items of Aboriginal and/or European heritage.

The Planning Proposal states that the subject land contains potential sites of Aboriginal heritage significance. The Jerrinja Local Aboriginal Land Council (JLALC) has written to the Department advising of the importance of the subject lands to traditional owners including JLALC. As mentioned previously, the ownership of Jervis Bay National Park is identified to be transferred to traditional owners. The JLALC has requested specific and culturally appropriate consultation with the JLALC and traditional owners be undertaken to ensure that local Aboriginal values and interests are identified and addressed in the further preparation of the Planning Proposal. The Planning Proposal has not justified the impact of proposed development in the Lake Wollumboola catchment on Aboriginal heritage and other issues. Given the established sensitivity of the Lake to land use change, the impact may not be able to be mitigated and an environmental conservation zoning is warranted.

Council has recommended that an Aboriginal Cultural Heritage Study be undertaken to identify items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance. The study should be undertaken in close consultation with traditional owners including JLALC.

3.1 Residential Zones

This Direction states that a Planning Proposal must not reduce the permissible residential density of land. A proposal may be inconsistent with the Direction if it is justified by an endorsed strategy, a study prepared in support of the proposal or the inconsistency is of minor significance.

The Planning Proposal states that it is consistent with the Direction in that it proposes areas for residential purposes at Culburra Beach north and south of Culburra Road and adjoining Callala Bay to the south. Although no specific residential zonings have been

determined at this stage, the intended outcome of the Planning Proposal indicates that it is intended to provide a range of residential environments and densities appropriate to this coastal location.

It is agreed that the Planning Proposal is consistent with the Direction for the reasons provided in the Planning Proposal. The removal, however, of proposed urban development on land located north of Culburra Road, within the Lake Wollumboola catchment, would be inconsistent with the Direction because the land currently has a deferred residential zoning. It is considered that the inconsistency is justified because of the identification of the land as unsuitable for urban development in the South Coast Regional Strategy.

3.4 Integrating Land Use and Transport

The Direction requires a Planning Proposal to locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of “Improving Transport Choice - Guidelines for planning and development” (DUAP 2001) and “The Right Place for Business and Services - Planning Policy” (DUAP 2001). A proposal may be inconsistent with the Direction if it is justified by an endorsed strategy, a study prepared in support of the proposal or if the inconsistency is of minor significance.

The proposed new urban areas at Culburra are generally not accessible to jobs and services by walking, cycling or public transport. The Planning Proposal states that a traffic study will be completed after the Gateway determination to look at existing transport facilities (road and public transport) and assess their adequacy including alternative modes of travel and future transport connections to/from the Princes Highway. Also the proposed new neighbourhood centres at Culburra Beach may impact on the ability for the existing Culburra Beach centre to grow. Council has recommended an economic/business impact study be undertaken to address this issue. The proposed study is supported to justify any potential inconsistencies with the Direction in the further preparation of the Planning Proposal.

The proposed study should also canvas the potential of and suitable sites for a golf course development (outside of the Lake Wollumboola catchment). This will ensure the economic opportunities presented by a golf course development are preserved and recognised in the planning process.

4.1 Acid Sulphate Soils

The objective of the Direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils.

The Proponent's Planning Proposal notes that areas of high potential for acid sulphate soils at ground surface or within 1 metre of ground surface are largely located immediately adjacent to the Crookhaven River/Curley's Bay and Downes Creek (which is within the Lake Wollumboola catchment). There may also be areas of low potential acid sulphate soils between 1-3 metres of ground surface located in the vicinity of the SEPP 14 wetland associated with Wowly Creek located within the Callala Bay site.

Acid sulphate soil has a potential impact on the water quality of Lake Wollumboola and Crookhaven River via stormwater and groundwater flows. This is particularly of concern for water quality in Lake Wollumboola given its reliance on surface and groundwater water flow from the surrounding catchment area.

Areas containing potential acid sulphate soils are proposed to be avoided as part of the Planning Proposal. The Planning Proposal states that a geotechnical study, which assesses the acid sulphate soil levels in soils, will be completed after the Gateway determination and that areas of high risk will not be developed for urban purposes. The recommended study is supported to ensure compliance with the Direction in the further preparation of the Planning Proposal.

4.3 Flood Prone Land

The Planning Proposal states that a flood risk assessment will be completed after the Gateway determination and areas identified as flood prone land will be zoned to minimise development potential and ensure that dwellings are not constructed in a flood prone area. The study recommended by Council is supported to ensure compliance with the Direction in the further preparation of the Planning Proposal.

4.4 Planning for Bushfire Protection

The Planning Proposal states that the majority of the Planning Proposal is bushfire prone due to forested areas and proximity to Jervis Bay National Park. It states that Council will consult with the Commissioner of the NSW Rural Fire Service following receipt of a Gateway determination and prior to public exhibition to identify any relevant issues and a detailed bushfire assessment prepared. Council's recommendation is supported to ensure compliance with the Direction.

5.1 Implementation of Regional Strategies

The consistency of the Planning Proposal with the South Coast Regional Strategy is discussed in section 6.3.

6.2 Reserving Land for Public Purposes

The Direction requires that a planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Secretary of the Department of Planning and Environment or delegate.

The Planning Proposal states that it proposes to create new environmental protection zones and facilitate the dedication of approximately 800 hectares of land (approx. 65% of the total area) to the State Government, namely to the extension of the Jervis Bay National Park at Culburra, Callala Bay and Kinghorne Point.

The Planning Proposal also indicates that land will be set aside for the purposes of three public reserves, namely at Kinghorne Point, within land proposed for inclusion to the Jervis Bay National Park, and two proposed public reserves at the Culburra site. The proposed public reserves may raise issues concerning access and management which will need to be addressed via the proposed flora and fauna/biodiversity offset strategy study in the further preparation of the Planning Proposal.

The Planning Proposal indicates that it will consult with the Office of Environment and Heritage with respect to the acceptance and process of dedication of the subject environmental land. The Department has had preliminary discussions with the Office of Environment and Heritage and National Parks and Wildlife Service on the cost of proposed dedications. The Planning Proposal also identifies that a Voluntary Planning Agreement will need to be prepared and exhibited with the Planning Proposal if the Proposal is given a Gateway determination.

6.2 STRATEGIC PLANNING

The applicable strategic planning for the area is set out in the draft Illawarra Regional Growth and Infrastructure Plan, the South Coast Regional Strategy (which incorporates the recommendations of the South Coast Sensitive Urban Lands Review Panel), the Jervis Bay Settlement Strategy and Shoalhaven Growth Management Strategy.

6.2.1 Draft Illawarra Regional Growth and Infrastructure Plan 2014

The Draft Illawarra Regional Growth and Infrastructure Plan 2014 was prepared in October 2014. It provides a framework to guide growth in the Wollongong, Shellharbour, Kiama and Shoalhaven local government areas between now and 2031. The draft Plan, which was placed on public exhibition until 7 December 2014:

- supports the recommendations of the Sensitive Urban Lands Review Panel, including guiding the development form and environmental management of Lake Wollumboola;
- endorses the OEH study on the environmental sensitivity of Lake Wollumboola and states that the report will guide future development proposals within the Lake Wollumboola catchment.
- States that it will be important for any future planning proposals in this area to protect the environmental values of Lake Wollumboola. This may require strong environmental zonings and other appropriate provisions in a Local Plan.

The private recreation and urban investigation zonings sought by the Planning Proposal within land located within the Lake Wollumboola catchment is not consistent with the intent of the draft Regional Growth Plan for the Illawarra. Removal of this component, and application of an environment protection zoning, would ensure consistency with the draft Regional Growth Plan.

6.2.2 South Coast Regional Strategy (SCRS)

The South Coast Regional Strategy, which was released in 2007, is the current Regional Strategy applying to the subject lands. The aims of the SCRS that are particularly relevant to the Planning Proposal are:

- To protect high value environments including pristine coastal lakes, estuaries, aquifers, threatened species, vegetation communities and habitat corridors by ensuring that no new urban development occurs in these important areas and their catchments.
- Cater for a housing demand of up to 45 600 new dwellings by 2031 to accommodate the additional 60,000 people expected in the Region over the next 25 years.
- Increase the amount of housing in existing centres to ensure the needs of future households are better met, in particular the needs of smaller households and an ageing population.
- Use the recommendations of the Sensitive Urban Lands Panel to guide the finalisation of the development form and environmental management of the 17 'sensitive urban lands'.
- Manage the environmental impact of settlement by focusing new urban development in existing identified growth areas such as Nowra-Bomaderry and Milton Ulladulla.
- Only consider additional development sites if it can be demonstrated that they satisfy the 'Sustainability Criteria'.
- Limit development in places constrained by coastal processes, flooding, wetlands, important primary industry resources and significant scenic and cultural landscapes.
- Protect the cultural and Aboriginal heritage values and visual character of rural and coastal towns and villages and surrounding landscapes.

A number of key components of the Planning Proposal are consistent with the South Coast Regional Strategy, namely:

- The proposal will provide opportunities for sustainable growth of Culburra Beach and Callala Bay including providing new housing and supporting the local economy and local jobs particularly in construction, tourism and local services.
- Development at the Callala Bay site is identified in the Jervis Bay Settlement Strategy which is supported by the South Coast Regional Strategy. A small additional area outside that shown on the Jervis Bay Settlement Strategy is proposed to be developed, which will, however, require further justification via the proposed studies.
- A substantial area of land identified as having high conservation value is proposed to be gifted and dedicated for extension to the Jervis Bay National Park, including some land in the Lake Wollumboola catchment at Culburra Beach as well as land containing threatened species at Callala Bay.
- The proposed development of land at Culburra Beach located within the Crookhaven River catchment is consistent with the recommendations of the South Coast Sensitive Urban Lands Review, which identified that "land within the catchment of the Crookhaven River is considered suitable for limited urban development". The size of the new urban area that ensures the Crookhaven River oyster industry is protected will, however, need to be identified via the proposed stormwater/water quality study.

- The proposed gifting of land at Kinghorne Point, Currarong to the State of NSW as an extension of Jervis Bay National Park. A large portion of the site is located within the Lake Wollumboola catchment. The proposed dedication of land in the Lake catchment by the Proponent is consistent with the Sensitive Urban Lands Panel recommendation that land in the Lake Wollumboola catchment, should be zoned for conservation purposes and that negotiations should be commenced with the landowner to determine their interest in dedicating the land to the Jervis Bay National Park in the Lake Wollumboola catchment for conservation purposes.

A number of key components of the Planning Proposal are not, however, considered to be consistent with the South Coast Regional Strategy, namely:

- Proposed zoning and development of land at Long Bow Point, Culburra Beach, for “low environmental impact community recreation” (golf course) located within the Lake Wollumboola catchment as well as “residential investigation” on land located north of Culburra Road also located within the catchment of Lake Wollumboola.

As previously mentioned, land in the Lake catchment was recommended by the Sensitive Urban Lands Review Panel as unsuitable for urban development, principally on the grounds of the potential negative impacts on the Lake which is a sensitive intermittently closing and opening lake (ICOLL).

The Panel recommended that land in the Lake Wollumboola catchment should be zoned for conservation purposes and that negotiations should be commenced with the landowner to determine their interest in dedicating the land in the Lake Wollumboola catchment for conservation purposes and including the site as a potential bio-banking site.

- The SCRS contains a specific action that ‘Council-based mechanisms or controls will be identified to preserve and support the hierarchy of commercial centres for the South Coast Region’. The proposed 274.52ha new urban/investigation land at Culburra Beach, which has the potential to provide up to 5,500 dwellings (assuming standard residential lot sizes), could undermine the adopted regional centres hierarchy that identifies Vincentia district, not Culburra, as the nearest Major Town for the Jervis Bay and St Georges Basin area and Nowra-Bomaderry as the Major Regional Centre.

The Planning Proposal has not justified the need for the scale of development proposed for Culburra, potential impact on the role of Vincentia and Nowra – Bomaderry as Major Town and Major Regional Centres respectively.

- The Planning Proposal has not satisfactorily justified that the scale of development proposed at Culburra Beach will not have a significant impact on coastal processes, flooding, wetlands, important primary industry resources (fisheries & oyster growers), significant scenic and cultural landscapes and Aboriginal heritage values and places.

The Proponent's Planning Proposal justifies the additional urban areas in the Lake Wollumboola catchment via the Sustainability Criteria provided in Appendix 1 of the

SCRS. It is considered that the assessment against these Criteria identifies significant concerns and potential inconsistency for the following Sustainability Criteria:

- Criteria 6 - Natural Resources. The assessment does not adequately address the impact on primary industries in the Crookhaven River (fisheries and oyster growing areas) via water quality impacts, despite this being raised as a key issue by the Department of Primary Industries in its submission on the West Culburra Major Project Concept Plan. An independent peer review of the Proponent's Water Cycle Management Plan (Part 3A) undertaken for the Department of Planning and Environment has also raised serious concerns about the ability of the Proponent to ensure a neutral or beneficial effect on water quality to ensure minimal impact on oyster industry.
- Criteria 7- Environmental Protection. The Proponent's assessment does not address the extremely high sensitivity of Lake Wollumboola and its catchment nor the recommendations of three independent Government Inquiries that have recommended that the catchment is not suited to urban development. The assessment does not refer to the OEH report on environmental sensitivity of the Lake catchment despite the report being referred previously to the Proponent.

6.2.3 Jervis Bay Settlement Strategy

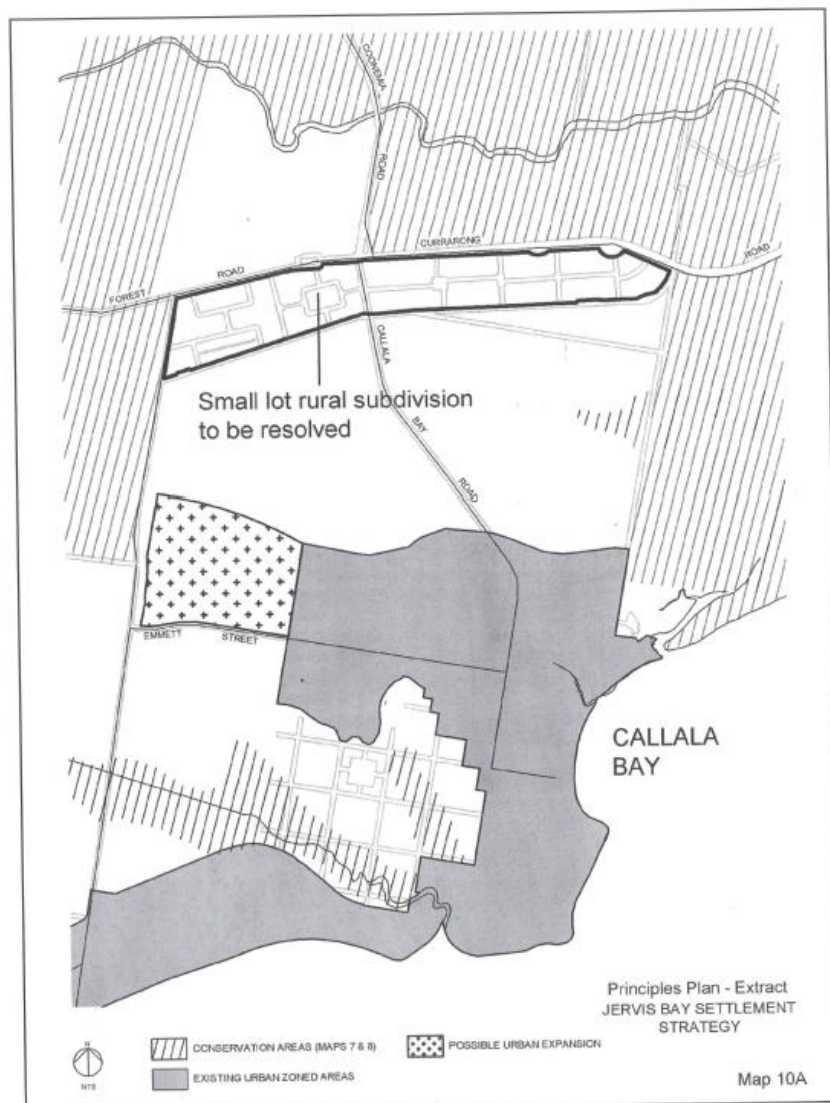
The Jervis Bay Settlement Strategy was prepared jointly by the Shoalhaven City Council and the Department of Infrastructure, Planning and Natural Resources, in 2003 to provide a strategic framework to manage residential and rural residential growth in the Jervis Bay area defined under the Jervis Bay REP. The Strategy provides a vision for the Jervis Bay area "to maintain and enhance the marine, estuarine and natural resources by providing balanced future living and visiting opportunities which are environmentally, socially and economically sustainable".

The Strategy identifies that, given the Minister's decision in the 1996 COI, the future of the existing residential zoned land near Culburra Beach is uncertain, and will need to be given detailed individual consideration in line with the COI findings and recommendations and the Minister's decision.

The Strategy identifies that Callala Bay is constrained to the south and east by Jervis Bay, and to the south west by a substantial wetland and low-lying flood liable land. The land to the north is heavily vegetated and has a wetland on the eastern side. In light of the environmental constraints, the Strategy identifies approximately 35 ha for potential urban expansion (**Figure 4 - Jervis Bay Settlement Strategy map**).

Jervis Bay SETTLEMENT STRATEGY

Detail Map 10A - Callala Bay/Callala Beach



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Figure 4 – Jervis Bay Settlement Strategy Map – Callala Bay

The Strategy recommends that the 685 lot small lot rural subdivision (Woods Estate) which is located within the “new urban release area” and is currently in one ownership, should be resolved together with investigations into the proposed expansion of Callala Bay. The Strategy also identifies that there is a lack of available developable land in the Callala Bay area and that early action should be taken to determine the capability of the locality to support further urban development.

The Strategy states that Kinghorne Point is not identified as an area that is capable for future residential development in light of environmental and cultural heritage constraints and that detailed investigations will be required to determine its use in the long term.

The Planning Proposal is generally consistent with the Jervis Bay Settlement Strategy with the exception that the proposed development of land at Long Bow Point and land north of Culburra Road, both located within the Lake Wollumboola catchment, is not consistent with the Commission of Inquiry findings and recommendations into development at Long Bow Point and the Minister's decision concerning the development application.

6.2.4 Shoalhaven Growth Management Strategy 2014

The Shoalhaven Growth Management Strategy (GMS) was prepared by Council in 2014. It was endorsed by the Department of Planning and Environment in 2014 to provide a framework for sustainable growth in the Shoalhaven LGA until 2031.

The GMS identifies that the growth needs of the LGA in the medium to longer term can be met by existing zoned land including land recently zoned at Nowra Bomaderry under the Shoalhaven LEP 2014. This does not include the Culburra urban expansion area which was deferred under the LEP.

The GMS supports the Jervis Bay Settlement Strategies recommendations concerning development at Callala Bay and Culburra Beach as well as the findings of the NSW Coastal Lakes and South Coast Sensitive Urban Lands Review Panel concerning development at Culburra Beach.

The GMS provides a commercial centres hierarchy for the Shoalhaven LGA that identifies St Georges Basin District as the Major Town for the Jervis Bay/St Georges Basin area, Culburra Beach as a Coastal Town and Callala Bay as a Coastal Village. As mentioned previously, the substantial scale of the proposed new residential and investigation areas at Culburra Beach may undermine the GMS centres hierarchy and requires further justification.

6.2.5 Environmental, social and economic impacts

Environmental impacts

The key environmental impacts of the Planning Proposal are:

- impact on Lake Wollumboola and its catchment, particularly as a result of changes to water/groundwater quality and flow.
- impact on threatened species and endangered ecological communities particularly at the Callala Bay site;
- impact on Crookhaven River oyster areas via water quality impacts.

The OEH report on the environmental sensitivity of Lake Wollumboola and its catchment supports the recommendations of three Government Enquires on the Lake catchment that the Lake catchment is unsuited to urban development. It goes further in concluding that there is a high risk of catastrophic impact on Lake Wollumboola water quality, habitat and fauna if development is allowed to occur within the Lake catchment. It is strongly recommended that the land in the Lake catchment should be zoned E2 Environmental Conservation to protect the sensitive environmental values of the Lake and that the catchment boundary is defined by a suitable hydro-geomorphological study that considers groundwater issues.

A preliminary analysis undertaken by the Office of Environment and Heritage (OEH) for all of the Halloran lands proposed for development and conservation (including offsets proposed for the West Culburra Major Project and Long Bow Point development application) using the biobanking methodology indicates that, subject to a more detailed study, the lands proposed for conservation may provide an acceptable offset but only if Long Bow Point as well as land north of Culburra Road in the Lake catchment is also protected.

The impact of the Proposal on Crookhaven River oysters will require further detailed study to refine the proposed development areas and riparian buffers. The study should implement the recommendations of the peer review of the Proponent's water cycle management strategy for the West Culburra Major Project.

Social and economic impacts

The Planning Proposal states that:

- the localities of Culburra Beach and Callala Bay are relatively small coastal towns and villages with a high proportion of non-permanent residents.
- The proposal has the potential to have positive social and economic impacts through encouraging higher permanent population in the area.
- This has the potential to ensure sustainability of existing services whilst maintaining areas of high environmental value for environmental purposes and proposed dedication of land to the NPWS.
- The creation of new commercial/tourist centres within the Culburra Beach lands may potentially impact on the existing Culburra Beach centre.
- The impact of the development on the existing oyster industry at Curley's Bay is unknown and will need to be fully considered.

The social and economic impacts of the Proposal are supported for the reasons provided. It is, however, considered that the Proposal may have a negative impact on ecotourism as a result of potential damage to Lake Wollumboola, particularly birdlife, as a result of proposed private recreation and residential development in the Lake catchment. The recommended environmental protection zoning of land in the Lake catchment would, however, protect the Lake, its wildlife and its ecotourism values for birdwatchers.

The Proposal may also have a negative impact on the Culburra Beach commercial centre. Council has recommended that economic/business impact, visual impact and community impact studies are undertaken as part of a Gateway determination. Council's recommendation is supported for the reasons provided by Council.

Concern has also been raised by Callala Bay businesses that the proposed dedication of land to the Jervis Bay National Park may limit future growth of Callala Bay. This matter should be addressed via the proposed studies in the further preparation of the Planning Proposal.

One of the economic and social benefits of the Planning Proposal is the potential job creation of the proposed golf course on Long Bow Point. Although the Long Bow Point

land is not considered to be suitable for any form of development, the identification of an alternative site for the Golf Course and club house should be investigated in the planning proposal. This has been addressed in the recommended economic studies.

7. CONCLUSION

With the exception of a number of components, namely proposed development in the Lake Wollumboola catchment and potential impact on the Culburra, Vincentia and Nowra-Bomaderry commercial centres, the majority of Planning Proposal is generally consistent with the strategic planning that has been done for the area, notably the South Coast Regional Strategy, Jervis Bay Settlement Strategy, Jervis Bay Regional Environmental Plan, Illawarra Regional Environmental Plan No.1 (Deemed SEPPs) and applicable SEPPs and Section 117 Directions. The proposal will provide for sustainable growth of Culburra Beach and Callala Bay and will also conserve important environmental areas and facilitate their inclusion to the Jervis Bay National Park.

The proposed development of land at the Culburra Beach site in the Lake Wollumboola catchment is not consistent with the very clear and consistent policy position that has been established over many years that land in the Lake Wollumboola catchment should be maintained in an undeveloped state due to the sensitivity of the Lake and its catchment and the extremely high environmental values it contains which are recognised at a State, national and international level.

The extreme environmental sensitivity has recently been confirmed via research on “back dune lake systems” which has been undertaken by the Office of Environment and Heritage which was recently presented to the Coastal Conference in November in Ulladulla and is being prepared for submission to a peer reviewed scientific journal.

8. RECOMMEDATION

It is RECOMMENDED that the Acting Deputy Secretary, as delegate of the Minister for Planning, determine under section 56(2) of the EP&A Act that an amendment to the Shoalhaven Local Environmental Plan 2014 to rezone land in the Culburra Beach, Callala Bay and Currarong localities for the purposes of residential, commercial, industrial, recreation and environmental purposes, should proceed subject the following conditions.

1. The land that is located in the Lake Wollumboola catchment is to be zoned E2 Environmental Conservation due to its recognised extremely high environmental sensitivity.
2. The following studies are to be prepared for the subject sites prior to exhibition of the Planning Proposal:
 - (a) A flora and fauna study (including biodiversity offset strategy) using the Office of Environment and Heritage (OEH) biobanking and/or biocertification methodology. The study is to be undertaken by a Biobank Accredited Assessor in consultation with OEH. The flora survey is to include a targeted survey of threatened orchids at the Callala Bay site.

- (b) A study that:
 - defines the catchment boundaries of the Lake Wollumboola and Crookhaven River catchments based on a hydro – geomorphic study, that considers groundwater issues.
 - Investigates proposed buffers to coastal/riparian areas in order to preserve the water quality of coastal waterbodies, fisheries and aquaculture resources.
 - Considers the recommendations of the “West Culburra Water Cycle Management Review” undertaken by BMT WBM on behalf of the Department of Planning and Environment, particularly concerning the modelling of water quality impacts in the Crookhaven and Lake Wollumboola catchments.
 - Includes a water quality management strategy to achieve a neutral or beneficial effect on water quality of coastal waterbodies.
 - (c) A geotechnical study that assesses, amongst other relevant matters, the potential acid sulphate soil levels on the subject lands identified for development.
 - (d) A Stage 1 Preliminary Contamination Investigation for lands identified for development undertaken in accordance with the “Managing Land Contamination Planning Guidelines SEPP 55 – Remediation of Land, 1998, Department of Urban Affairs and Planning, Environment Protection Authority”.
 - (e) An Aboriginal Cultural Heritage study to identify items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance. The study is to be undertaken by a qualified person in consultation with local traditional owners including the Jerringa Local Aboriginal Land Council.
 - (f) Flood risk study.
 - (g) Bushfire hazard study.
 - (h) Traffic impact study to look at existing transport facilities (road and public transport) and assess their adequacy including alternative modes of travel and future transport connections to/from the Princes Highway.
 - (i) Visual impact study.
 - (j) Community impact study.
 - (k) Economic/business impact study that considers:
 - the impact of the proposed new neighbourhood centres at Culburra Beach on growth of Culburra Beach centre.
 - the impact of the proposal on the growth of other neighbouring settlements, notably Vincentia District Centre and the Nowra Bomaderry Major Regional Centre.
 - housing supply and demand at Culburra Beach and Callala Bay.
 - the potential of suitable sites for a golf course development (outside of the Lake Wollumboola catchment).
 - (l) Infrastructure study (delivery plan).
3. A Voluntary Planning Agreement (VPA) is to be prepared addressing the proposed dedication of lands to the State of NSW for extension to the Jervis Bay National Park or other public open space.
 4. Following the completion of the required studies and Voluntary Planning Agreement, the Masterplan and Planning Proposal are to be revised to include detailed

explanations of provisions including proposed zoning maps and other development controls.

5. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal must be made publicly available for 60 days; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of 'A guide to preparing local environmental plans (Planning and Infrastructure, 2013)'.
6. The required studies as well as the Voluntary Planning Agreement are to be included with the exhibition materials.
7. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - NSW Rural Fire Service (prior to undertaking community consultation under s117 Direction 4.4)
 - Roads and Maritime Service
 - Office of Environment and Heritage
 - National Parks and Wildlife Service
 - Department of Primary Industries (s117 Direction 1.4 Oyster Aquaculture)
 - Environment Protection Authority

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

3. Specific consultation is required with the following organisations:
 - Jerringa Local Aboriginal Land Council (representing traditional owners)
 - Crookhaven River Oyster Growers
4. No public hearing is required to be held into the matter under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example in response to a submission or if reclassifying land).
5. Council is not to commence exhibition until the studies and further assessment have been completed and the revised Masterplan and Planning Proposal have been prepared as required by the Gateway determination, and this information has been resubmitted to the Department for consideration.
6. The timeframe for completing the LEP is to be 24 months from the week following the date of the Gateway determination.
7. SECTION 117 DIRECTIONS - It is recommended that the Secretary's delegate note:

- (a) That the Planning Proposal is potentially inconsistent with a number of the Directions, notably 1.1 Business and Industrial Zones, 1.2 Rural Zones, 1.4 Oyster Aquaculture, 1.5 Rural Lands, 2.1 Environmental Protection Zones, 2.2 Coastal Protection, 2.3 Heritage Conservation, 3.1 Residential Zones, 4.1 Acid Sulphate Soils, 4.3 Flood Prone Land, 4.4 Planning for Bushfire Protection, 5.1 Implementation of Regional Strategies and 6.2 Reserving Land for Public Purposes. The inconsistencies will need to be justified by Shoalhaven City Council following the completion of the required studies to the satisfaction of the Secretary's delegate.
- (c) The Secretary's delegate can be satisfied that the planning proposal will be consistent with s117 Direction 4.4 Planning for Bushfire Protection, when Council has consulted with the Rural Fire Service prior to undertaking community consultation;
- (d) The Secretary's delegate can be satisfied that the planning proposal is consistent with all other relevant s117 Directions or that any inconsistencies are of minor significance; and
- 8. State Environmental Planning Policies (SEPPs) - It is recommended that the Secretary's delegate note that the planning proposal is potentially inconsistent with a number of SEPPs, notably Jervis Bay REP (Deemed SEPP), SEPP 71 Coastal Protection and SEPP 62 – Sustainable Aquaculture. The inconsistencies will need to be justified by Shoalhaven City Council following the completion of the required studies to the satisfaction of the Secretary's delegate.



15 December 2014

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