

Planning Services

Gateway Determination Report

LGA	Shoalhaven
PPA	Shoalhaven City Council
NAME	Callala Bay and Kinghorne Point (700 dwellings at Callala Bay)
NUMBER	PP_2018_SHOAL_002_00
LEP TO BE AMENDED	Shoalhaven LEP 2014
ADDRESS	Callala Bay and Currarong localities
DESCRIPTION	Various lots (refer to planning proposal)
RECEIVED	27 November 2017
FILE NO.	IRF18/1280
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

INTRODUCTION

Description of planning proposal

The planning proposal seeks to rezone 564.48ha of land owned by the Halloran Trust in the Callala Bay and Kinghorne Point (Currarong) localities for the purposes of residential development (approximately 700 lots adjoining Callala Bay urban area to the west) and environmental purposes. It is also proposed to dedicate the environmental land (approximately 529.48ha) to the Jervis Bay National Park estate.

Background

The Callala Bay and Kinghorne Point localities are the subject of planning proposal no. PP_2014_SHOAL_004_00, which seeks to rezone the land for the purposes of residential, commercial, industrial, recreation and environmental purposes. This planning proposal also includes land at Culburra and received a Gateway determination on 16 November 2015.

Shoalhaven City Council has requested an Alteration of the Gateway determination to remove the Callala Bay and Kinghorne Point sites from that proposal so it only relates to the Culburra Beach site. A separate Alteration of Gateway determination has been prepared (refer to IRF18/2443).

Site description

The subject land comprises two sites at Callala Bay and Kinghorne Point (Currarong) within the Shoalhaven LGA. The subject land is approximately 15km south of Nowra (Figure 1, next page). The subject land is in numerous allotments and is held primarily in the one ownership (the Halloran Trust).

The Callala Bay site includes part of Lot 212 DP 1177757, which is not owned by Halloran Trust. This lot is not part of PP_2014_SHOAL_004_00. The land has been included in the current planning proposal because it is identified for "possible urban expansion" along with the rest of the subject site. The lot has also been included to provide a logical zone boundary along Emmett Street.



Figure 1: Site location map (source: Google Maps).

Existing planning controls

The Callala Bay site is zoned 1d General Rural and 7(a) Environment Protection (Ecology) under the Shoalhaven LEP 1985. A small part of the site (part of Lot 212 DP 1177757 Emmett Street) is zoned RU2 Rural Landscape under the Shoalhaven LEP 2014 (Figure 2).

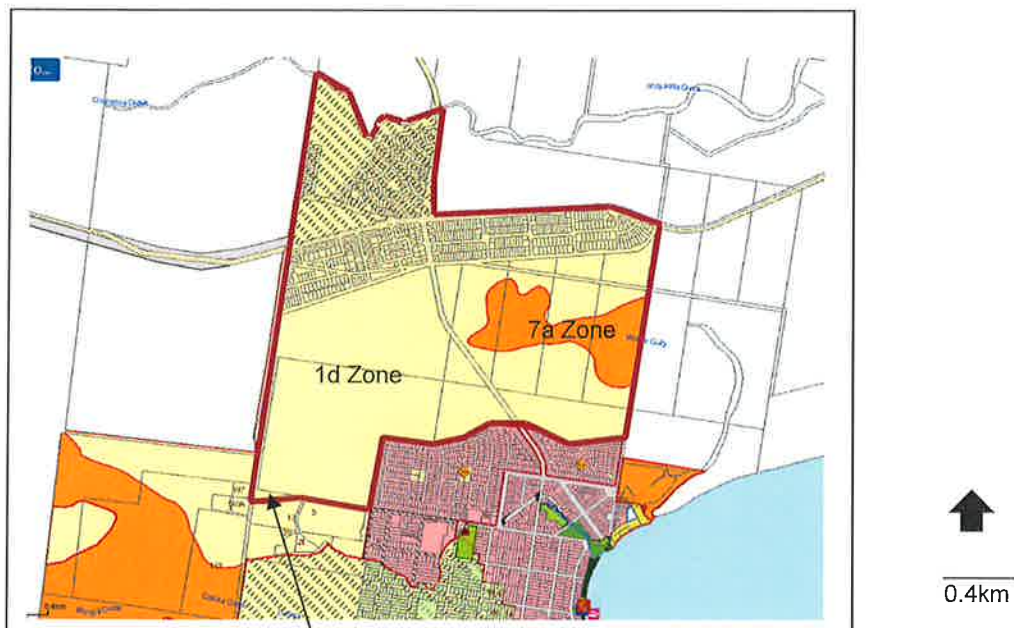


Figure 2: Current zoning – Callala Bay site (source: Shoalhaven LEP 1985).

The Kinghorne Point site is zoned 7(f3) Environment Protection (Foreshore Protection) under the Shoalhaven LEP 1985 (Figure 3).

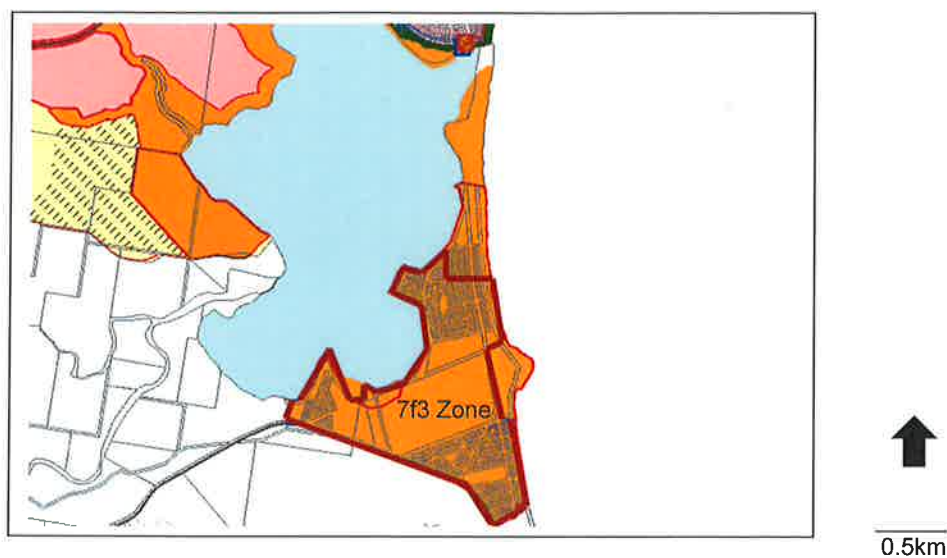


Figure 3: Current zoning – Kinghorne Point site (source: Shoalhaven LEP 1985).

Surrounding area

Callala Bay

The subject land at Callala Bay comprises 364.7ha and is bound by the Jervis Bay National Park 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 (Figure 4, next page).

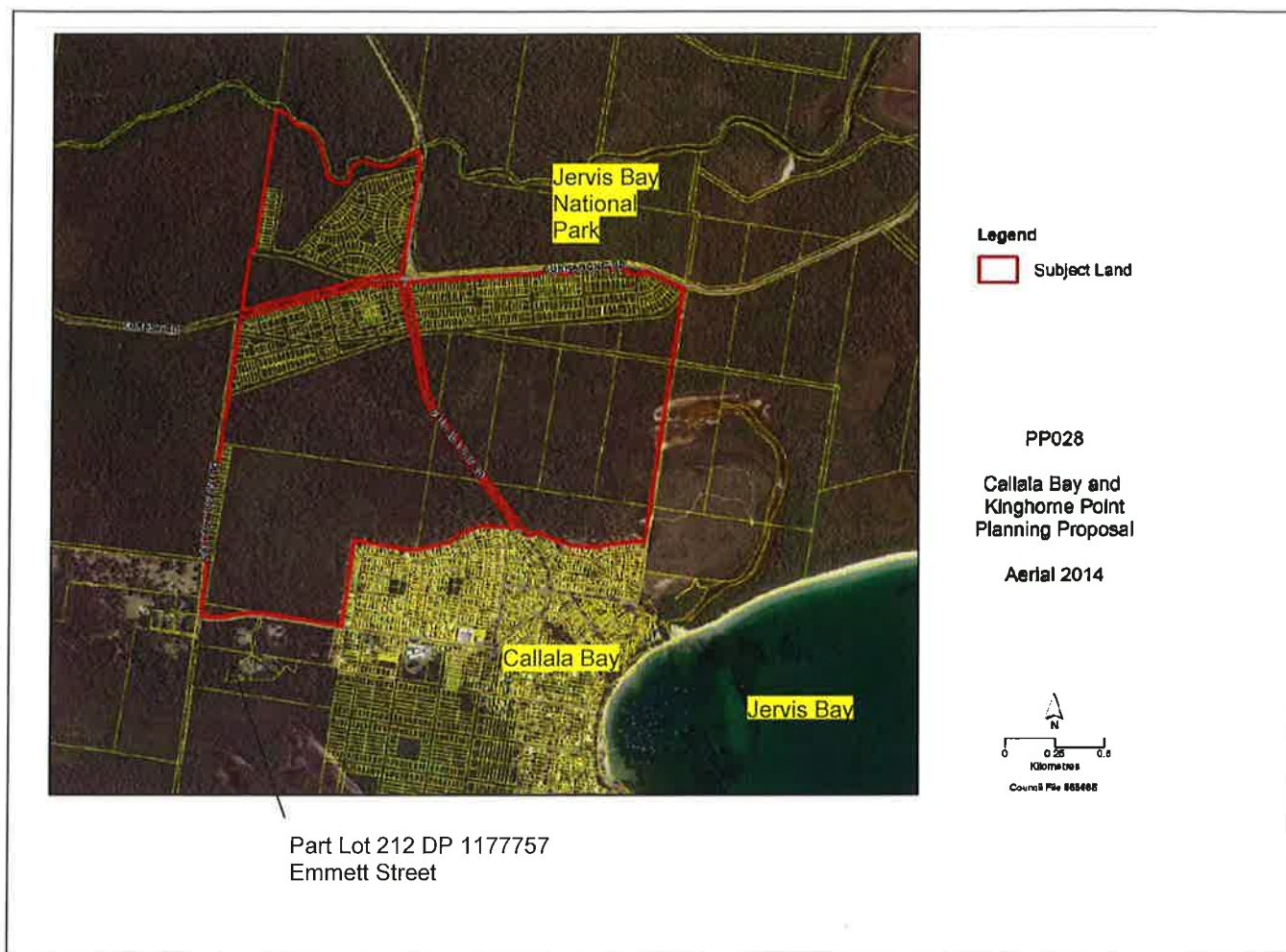


Figure 4: Callala Bay site and surrounding area (Shoalhaven City Council Callala Bay and Kinghorne Point planning proposal February 2018).

Kinghorne Point

The subject land at Currarong is known as Kinghorne Point. The land comprises 199.78ha and is bound by the Pacific Ocean to the east, Lake Wollumboola to the north and west and Currarong Road to the south (Figure 5, next page).



Figure 5: Kinghorne Point site and surrounding land uses (source: Shoalhaven City Council, Callala Bay and Kinghorne Point planning proposal February 2018).

Summary of recommendation

It is recommended that planning proposal no. PP_2018_SHOAL_002_00 proceed as submitted with conditions.

PROPOSAL

Objectives or intended outcomes

The objectives and intended outcomes of the planning proposal for the Callala Bay and Kinghorne Point sites are the same as those for the original planning proposal (no. 2014_SHOAL_004_00) with the addition of four new objectives as follows:

- to resolve the deferral of the subject land by providing a land use zone and related provisions under the Shoalhaven LEP 2014;
- to protect the ecological integrity of Lake Wollumboola, Wowly Creek and Jervis Bay Marine Park and their catchment areas;
- to zone land appropriately and in consideration of strategic directions and key findings of the Sensitive Urban Lands Review, Commission of Inquiry and Coastal Lakes Independent Inquiry; and
- to protect the habitats of native, endangered and threatened flora and fauna species.

It is considered that the additional objectives provided in the planning proposal for the Callala Bay and Kinghorne Point sites are appropriate and meet the requirements of the Department's guide to preparing planning proposals.

Explanation of provisions

The original planning proposal deferred the preparation of a detailed explanation of provisions for the subject sites until after the completion of several studies and investigations and the preparation of an overarching masterplan for the lands. Council has provided a detailed explanation of provisions in the new Callala Bay and Kinghorne Point planning proposal, namely to amend the Shoalhaven LEP 2014 as follows:

Callala Bay site

- zone the site R1 General Residential and E2 Environmental Conservation on the applicable land zoning map (refer Figure 6);
- apply a 500m² minimum lot size to the area proposed to be zoned R1 and a 40ha minimum lot size to the remainder of the site on the applicable lot size map;
- apply an 8.5m maximum building height limit on the applicable height of building map; and
- map the site on the applicable clauses overlay map as being subject to the existing
- clause 7.20 "Development in the Jervis Bay region" in the Shoalhaven LEP 2014.

Refer to Figure 6 proposed zoning map.

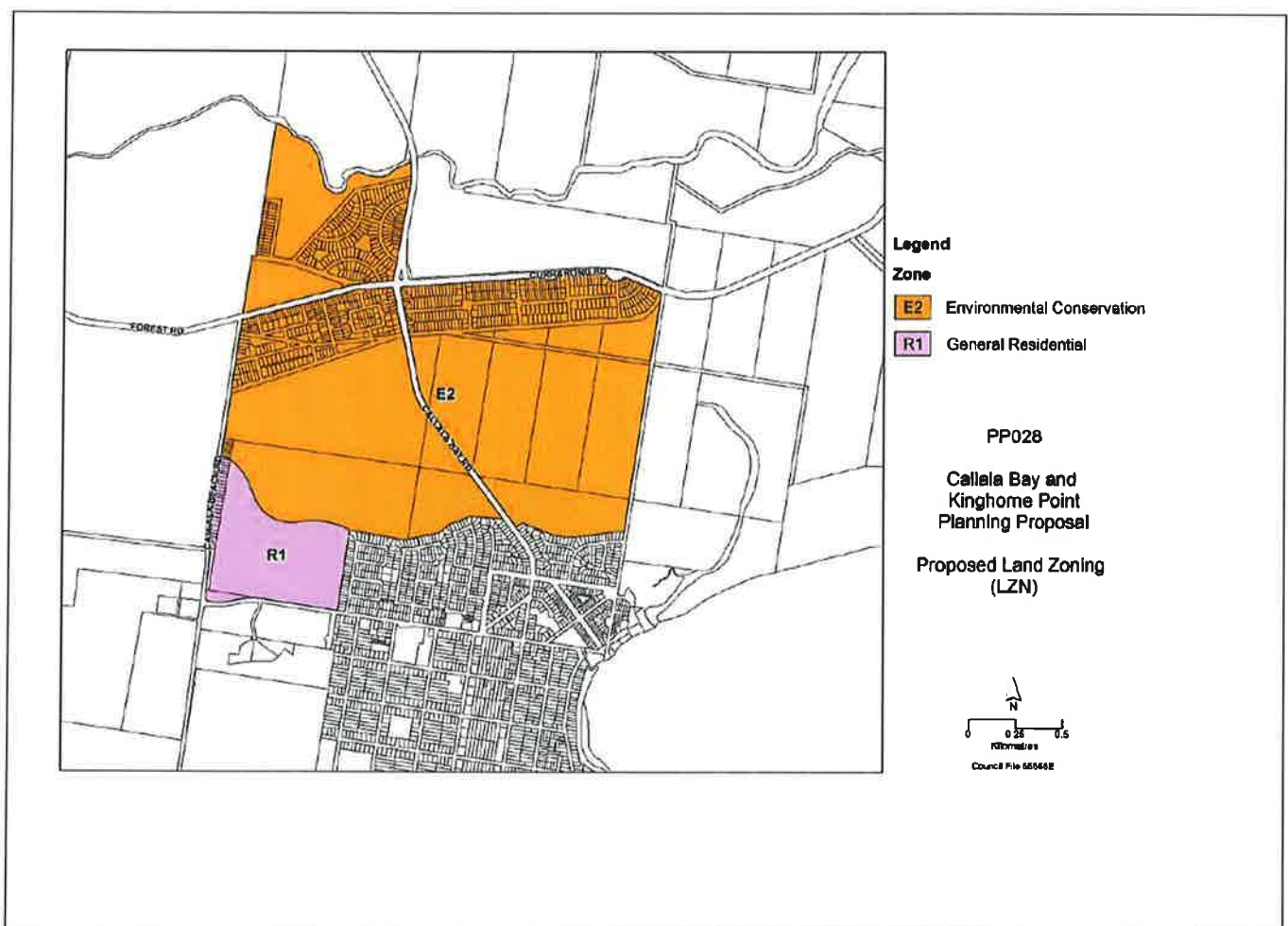


Figure 6 – Proposed zonings – Callala Bay (source: Shoalhaven City Council, Callala Bay and Kinghorne Point planning proposal February 2018).

Kinghorne Point site

- zone the site E2 Environmental Conservation on the applicable land zoning map;
- apply a 40ha minimum lot size; and
- map the site on the applicable clauses overlay map as being subject to the existing clause 7.20 “Development in the Jervis Bay region” in the Shoalhaven LEP 2014.

Refer to Figure 7 – proposed zoning map.

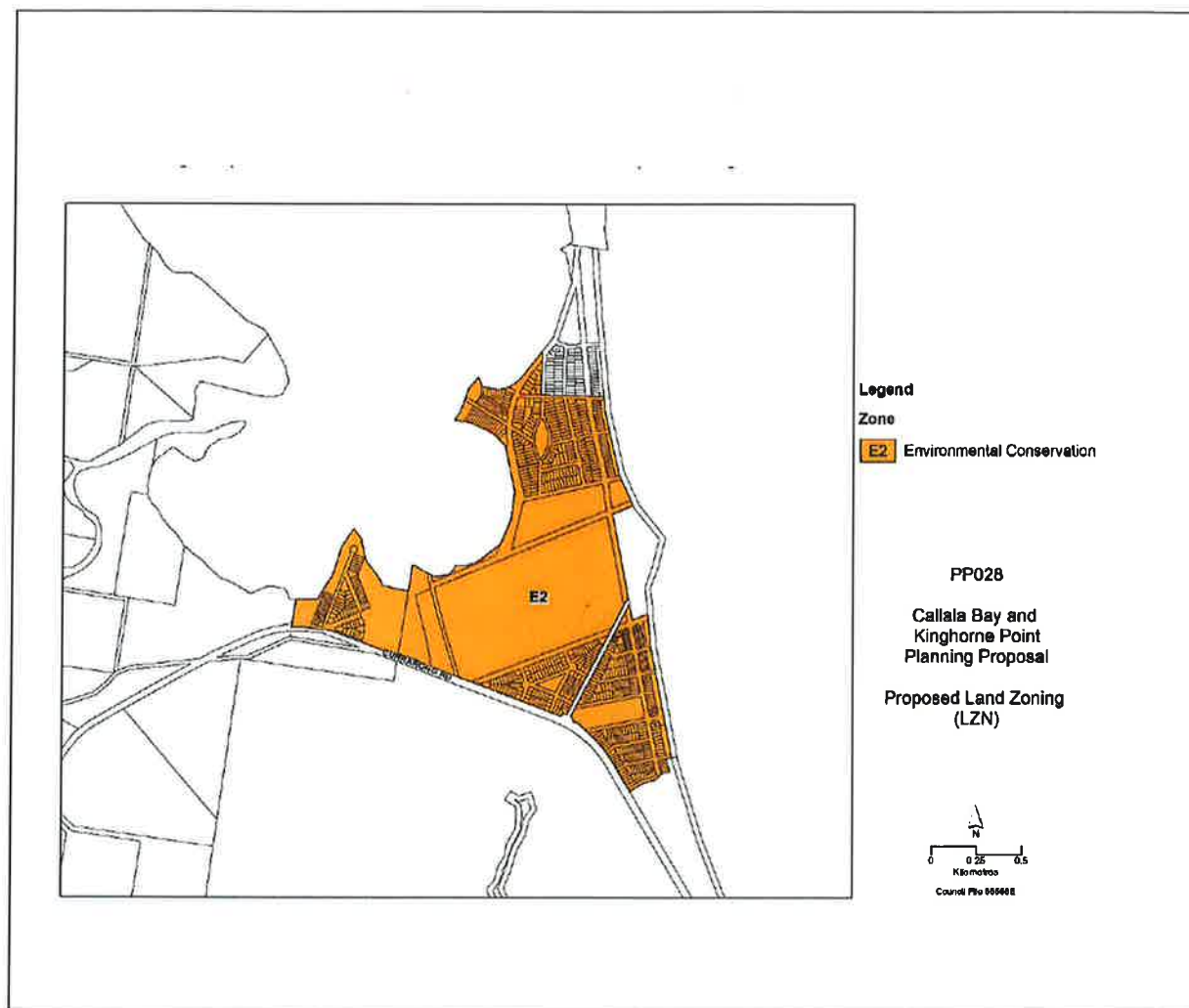


Figure 7 - Proposed zonings – Kinghorne Point (Currarong) (source: Shoalhaven City Council, Callala Bay and Kinghorne Point planning proposal February 2018).

It is considered that the proposed explanation of provisions is appropriate for the following reasons:

- the proposed provisions are generally consistent with the Department-endorsed Jervis Bay Settlement Strategy, which identifies the areas proposed to be zoned for development and environment conservation;
- the proposed provisions are generally consistent with the outcomes of a draft flora and fauna investigation and biodiversity offset strategy, which have been prepared by the applicant in consultation with the Office of Environment and Heritage (OEH) and Council;

- the proposed provisions are compatible with provisions for adjoining urban and environmental land at Callala Bay and Kinghorne Point; and
- the application of clause 7.20 of the Shoalhaven LEP 2014 to the subject land is considered appropriate as the clause currently applies to other land within the Jervis Bay area.

Mapping

The Callala Bay and Kinghorne Point planning proposal includes locality, cadastral, aerial, proposed zoning, lot size and height of building maps. The maps are considered to be adequate for the purposes of public exhibition. Suitable LEP maps will be required to be prepared that meet the Department's technical mapping requirements prior to the finalisation of the planning proposal.

NEED FOR THE PLANNING PROPOSAL

It is considered that a planning proposal is the appropriate way to facilitate the proposed changes to planning controls, and a Gateway determination has previously been issued for this purpose (proposal no. PP_2014_SHOAL_004_00).

Council's proposal to split the Culburra Beach and Callala Bay/Kinghorne Point (Currarong) localities into two separate planning proposals will enable the consideration of rezoning of these sites to occur in a more efficient way. Splitting the planning proposal will enable the water quality investigation of the Lake Wollumboola catchment at the Culburra Beach site to progress without delaying the proposal for Callala Bay and Kinghorne Point. Progressing the matter as two separate planning proposals will also enable Council to consult more effectively with the community on the planning proposals.

STRATEGIC ASSESSMENT

Regional

Illawarra Shoalhaven Regional Plan

The Callala Bay and Kinghorne Point planning proposal states that it is consistent with the Illawarra Shoalhaven Regional Plan, particularly in relation to the following actions.

- 3.4.1 Conserve heritage sites when preparing local planning controls;
- 5.1.1 Avoid, minimise and mitigate the impact of development on significant environmental assets;
- 5.1.3 Protect the region's biodiversity corridors in local planning controls;
- 5.2.1 Apply contemporary risk management to coastal and other hazards;
- 5.4.1 Protect sensitive estuaries and coastal lakes; and
- 5.4.3 Implement a risk-based decision-making framework to manage water quality and waterway health for all coastal lakes and estuaries in the region where development is planned, with priority given to listed sensitive lakes and estuaries.

An assessment of the Callala Bay and Kinghorne Point components of the original planning proposal against the requirements of the draft Illawarra Regional Plan was undertaken as part of the November 2015 Gateway determination. The assessment determined that, except for proposed residential and recreation development on land located within the Lake Wollumboola catchment at Culburra, the planning proposal was generally consistent with the draft regional plan. The 2015 Gateway determination included a condition requiring that land within the Lake Wollumboola catchment is required to be zoned for environment protection to ensure consistency with the draft plan.

Council's view that the planning proposal is consistent with the regional plan is supported. Part of the Callala Bay site and all of the Kinghorne Point site drains to Lake Wollumboola.

The regional plan identifies Lake Wollumboola as an “ecological jewel” that must be protected. It is considered that putting the Callala Bay and Kinghorne Point localities in a separate planning proposal will not impact on the protection of Lake Wollumboola for the following reasons:

- under the new planning proposal, land that drains to the lake is proposed to be zoned E2 Environmental Conservation. An E2 zoning is consistent with the requirements of the regional plan and the 2015 Gateway determination; and
- a stage 2 groundwater investigation is being prepared at Culburra Beach as a requirement of the 2015 Gateway determination. This does not affect the Callala Bay and Kinghorne Point localities, and splitting the proposal will not affect the groundwater investigation at Culburra Beach.

It is considered that the planning proposal is consistent with the following directions and actions of the Illawarra Shoalhaven Regional Plan:

- Direction 2.2 Support housing opportunities close to existing services, jobs and infrastructure in the region’s centres. The proposal will facilitate approximately 700 residential lots at Callala Bay, which has the capacity to accommodate the anticipated increase in demand for services and infrastructure;
- Direction 3.4 and Action 3.4.1 protection of Aboriginal cultural heritage. An Aboriginal cultural heritage study is being prepared as required by the 2015 Gateway determination. Putting the Callala Bay and Kinghorne Point sites into a separate planning proposal will not compromise the protection of identified Aboriginal heritage sites and places in these areas; and
- Direction 5.1, Actions 5.1.1, 5.1.3 and 5.4.1 protection of environmental lands and aquatic areas. The Callala Bay/Kinghorne Point planning proposal proposes that any threatened species, endangered ecological communities, wetlands and aquatic areas will be protected via the application of an E2 Environmental Conservation zone. Any important biodiversity located within the proposed development area at Callala Bay is proposed to be offset via the proposed biocertification of the land.

Local

Jervis Bay Settlement Strategy

The planning proposal states that the proposal is consistent with the actions and outcomes identified in the Department-endorsed Jervis Bay Settlement Strategy.

An assessment of the consistency of the Callala Bay and Kinghorne Point components of the original planning proposal with the strategy was considered as part of the 2015 Gateway determination. The assessment concluded that the planning proposal is generally consistent with the strategy, which identifies the subject sites for development and environmental protection purposes.

There is a minor inconsistency in that the area proposed to be zoned R1 includes a strip of land along Callala Beach Road. This land is identified as a setback to Callala Beach Road in the strategy. Council has advised that the requirement for a setback to Callala Beach Road will be considered as part of investigations for the planning proposal. It is considered that any inconsistency with the strategy is of minor significance.

It is considered that the proposed inclusion of part Lot 212 DP 1177757 Emmett Street at Callala Bay in the planning proposal has merit because:

- it is identified for “possible urban expansion” under the Department-endorsed Jervis Bay Settlement Strategy; and
- it provides a logical zone boundary along Emmett Street.

Section 9.1 Ministerial Directions

An assessment of the consistency of the Callala Bay and Kinghorne Point components of the original planning proposal with section 9.1 Ministerial Directions was considered as part of the 2015 Gateway determination. The Secretary's delegate advised Council in November 2015 that planning proposal PP_2014_SHOAL_004_00 is potentially inconsistent with the following section 9.1 Directions:

- 1.1 Business and Industrial Zones;
- 1.2 Rural Zones;
- 1.4 Oyster Aquaculture;
- 1.5 Rural Lands;
- 2.1 Environment Protection Zones;
- 2.2 Coastal Management;
- 2.3 Heritage Conservation;
- 3.1 Residential Zones;
- 4.1 Acid Sulfate Soils;
- 4.3 Flood Prone Land;
- 4.4 Planning for Bushfire Protection;
- 5.10 Implementation of Regional Plans; and
- 6.2 Reserving Land for Public Purposes.

The Secretary's delegate advised Council that the Gateway studies would need to justify any inconsistency with these Directions.

An update of the assessment of consistency with the section 9.1 Directions with the Callala Bay and Kinghorne Point planning proposal is provided below:

1.1 Business and Industrial Zones

This Direction does not apply to the Callala Bay and Kinghorne Point planning proposal because the proposal does not affect any business or industrial-zoned land or proposal to create any new business or industrial zones.

It is recommended that the Secretary's delegate can be satisfied that this Direction does not apply to the planning proposal.

1.2 Rural Zones

The planning proposal states that the proposal is inconsistent with this Direction because it proposes to rezone rural-zoned land 1(d) (Rural "D" (General Rural) Zone under the Shoalhaven LEP 1985 to R1 General Residential. Council considers that this inconsistency is justified because:

- the land is identified for possible urban expansion of Callala Bay in the Department-endorsed Jervis Bay Settlement Strategy;
- the loss of rural land is minor in the context of the surrounding rural zones; and
- the land adjoins an existing urban centre and is generally unsuitable for agriculture. Substantial agricultural development of the site is likely to result in land use conflict.

It is considered that any inconsistency of the planning proposal with this Direction is justified by the Jervis Bay Settlement Strategy, which identifies most of the proposed area for "possible urban expansion".

It is recommended that the Secretary's delegate can be satisfied that any inconsistency between the planning proposal and this Direction is justified by the Department-endorsed Jervis Bay Settlement Strategy or is of minor significance.

1.5 Rural Lands

The planning proposal states that part of the subject land is rural and that rezoning this land to R1 General Residential will be inconsistent with this Direction. Council considers that any inconsistency is justified by the Department-endorsed Jervis Bay Settlement Strategy, which identifies the subject land.

The planning proposal proposes to rezone rural and environment protection land to E2 Environment Conservation, which triggers this Direction.

It is considered that the planning proposal is consistent with most of the rural planning principles provided under State Environmental Planning Policy (Rural Lands) 2008 for the following reasons:

- the proposal balances the social, economic and environmental interests of the community because it will facilitate growth of Callala Bay on land that is not suitable for rural production because it immediately adjoins the Callala Bay urban area to the west. The proposal will also facilitate the conservation of important environmental land;
- the proposed development area can be connected to the necessary infrastructure and services including roads, water and waste water, electricity and telecommunication; and
- the proposal is generally consistent with the Department-endorsed Jervis Bay Settlement Strategy.

It is recommended that the Secretary's delegate can be satisfied that the planning proposal is consistent with this Direction or that any inconsistency is justified by the Department-endorsed Jervis Bay Settlement Strategy.

2.1 Environment Protection Zones

The planning proposal states that it is consistent with this Direction because:

- a significant portion of the subject land is proposed to be zoned for environmental conservation and dedicated to the National Parks and Wildlife Service as an extension of the Jervis Bay National Park; and
- the subject land is also proposed to be biocertified. A single biodiversity certification is proposed to cover the subject land and the land at Culburra Beach.

It is considered that the planning proposal is inconsistent with this Direction because the area proposed to be zoned R1 General Residential is known to contain threatened species and endangered ecological communities, namely the midge orchid, powerful owl and the Currumbene-Batemans Lowlands Forest Endangered Ecological Community.

The inconsistency with this Direction is, however, justified by the Jervis Bay Settlement Strategy, which identifies the land at Callala Bay as possible urban expansion. The strategy also requires that threatened species and other biodiversity issues need to be resolved during rezoning investigations.

Preparation of a flora and fauna study and a biodiversity offset strategy has commenced in accordance with the 2015 Gateway determination. Council has proposed to biocertify all the Halloran Trust lands in the area. The planning proposal also proposes to dedicate environmental land to the Jervis Bay National Park estate. It is considered that the proposal will have substantial environmental benefits.

It is recommended that:

- the Secretary's delegate can be satisfied that the planning proposal's inconsistency with this Direction is justified by the Jervis Bay Settlement Strategy; and
- Council be required to complete the assessment of flora and fauna and the preparation of a biodiversity offset strategy for the Halloran Trust lands consistent with the 2015 Gateway determination.

2.2 Coastal Management

Direction 2.2 Coastal Management was released in April 2018 and replaced Direction 2.2 Coastal Protection. The planning proposal identifies that the subject land is located in the coastal zone. It states that consistency with this Direction would be determined following the preparation of proposed investigations and studies. It is recommended that Council provide further information to justify consistency with this Direction prior to public exhibition.

3.1 Residential Zones

The Callala Bay and Kinghorne Point planning proposal does not propose to affect any existing residential zones. The planning proposal proposes to rezone rural land to a residential zone, which is consistent with this Direction.

It is recommended that the Secretary's delegate can be satisfied that the planning proposal is consistent with this Direction.

4.1 Acid Sulfate Soils

Council has advised that the proposed development site at Callala Bay has a low likelihood of containing acid sulfate soil. It has requested that the requirement for a geotechnical study that considers acid sulfate soil, which is a requirement of the 2015 Gateway determination, is not relevant for the Callala Bay site.

A condition requiring the preparation of a geotechnical study was included in the 2015 Gateway determination based on Council's advice that Halloran Trust land at the Culburra Beach site is identified on the acid sulfate soils risk map. Given Council's advice that Callala Bay is unlikely to contain acid sulfate soil or have any other geotechnical issues that cannot be addressed at the development application stage, it is considered that Council's request not to require a study for this area has merit.

It is recommended that the Secretary's delegate can be satisfied that this Direction does not apply to the planning proposal.

4.3 Flood Prone Land

The planning proposal states that the proposed R1 zone area is not flood-prone and hence Council considers that a flood risk assessment is unnecessary.

The 2015 Gateway determination requires the preparation of a flood risk study for the Halloran Trust lands. This was based on Council's advice that some of the Halloran Trust land may be flood-prone, notably at the Culburra Beach site. It is considered that, based on Council's advice, the requirement to undertake a flood risk assessment for the Callala Bay land is unnecessary and should not be included as a condition of Gateway determination.

It is recommended that the Secretary's delegate can be satisfied that this Direction does not apply to the planning proposal.

5.10 Implementation of Regional Plans

As noted previously, the Callala Bay and Kinghorne Point planning proposal states that it is consistent with the Illawarra Shoalhaven Regional Plan and this Direction. Council's view that the planning proposal is consistent with the regional plan and this Direction is supported for the reasons previously discussed.

It is recommended that the Secretary's delegate can be satisfied that the planning proposal is consistent with the regional plan and this Direction.

State environmental planning policies (SEPPs)

An assessment of the consistency of the Callala Bay and Kinghorne Point components of the original planning proposal against relevant SEPPs was considered as part of the 2015 Gateway determination. An update is provided on the following relevant SEPPs in relation to the Callala Bay and Kinghorne Point planning proposal:

SEPP Coastal Management 2018

This SEPP came into force in April 2018. It replaces SEPP 14 Coastal Wetlands, SEPP 26 Littoral Rainforests and SEPP 71 Coastal Protection. The SEPP applies to the planning proposal because it will affect land that is defined under the SEPP as containing coastal wetlands, sensitive coastal lakes (Lake Wollumboola), coastal environment area and coastal use area.

The planning proposal states that part of the subject site is hydraulically connected to Lake Wollumboola and Wowly Creek Gully wetlands, which drains to Jervis Bay Marine Park. The land subject to the planning proposal that drains to these water bodies is proposed to be zoned for environmental conservation.

It is considered that the planning proposal is consistent with this SEPP because identified coastal environment areas including coastal wetlands, Lake Wollumboola and their catchments are proposed to be protected via the application of an E2 Environmental Conservation zone.

SEPP No 55 – Remediation of Land

The planning proposal states that residential uses are proposed and so an assessment of contamination and remediation of the land needs to be considered. The 2015 Gateway determination requires a Stage 1 Contamination Assessment to be undertaken for the area proposed to be developed.

The land proposed to be developed has the potential to be contaminated. It is recommended that a Stage 1 Contamination Assessment of the proposed R1-zoned land be required as a condition of the Gateway determination for the Callala Bay/Kinghorne Point planning proposal.

It is recommended that:

- the Secretary's delegate can be satisfied that the planning proposal is consistent with this SEPP; and
- a Stage 1 Contamination Assessment of the proposed R1-zoned land be required as a condition of the Gateway determination.

SITE-SPECIFIC ASSESSMENT

The environmental, social and economic impacts of the planning proposal were assessed as part of the 2015 Gateway determination. The following update is provided, particularly in relation to splitting the Callala Bay and Kinghorne Point localities into a separate planning proposal.

Environmental

It is considered that splitting the Callala Bay and Kinghorne Point localities into a separate planning proposal will have positive environmental outcomes. Council has commenced stage 2 of a groundwater investigation of the Lake Wollumboola catchment for the Culburra Beach site. Council has been advised that this work will take two years to complete. Splitting the subject sites into separate planning proposals will enable this investigation to proceed without delaying the Callala Bay and Kinghorne Point proposal. It will allow

protection of important environmental and cultural heritage areas at Kinghorne Point and Wowly Creek Gully (which drains to Jervis Bay Marine Park) via the application of a proposed E2 Environmental Conservation zone in a shorter time frame.

It is considered that the Callala Bay and Kinghorne Point planning proposal will not impact on the strategic threatened biodiversity assessment work being undertaken by the landowner in consultation with OEH and Council. Council has proposed that the subject land, as well as the Halloran Trust land at Culburra Beach, is biodiversity certified, with a significant offset (approximately 1121ha) to be dedicated to National Parks and Wildlife Service as an extension of the Jervis Bay National Park.

Biocertification will provide the opportunity to identify suitable development areas and biodiversity offsets for all the Halloran Trust lands in a strategic and holistic way in accordance with the OEH biodiversity conservation assessment methodology. A project control group, which was established in 2015 as part of the Gateway determination, will continue to provide strategic oversight and coordination for the planning proposal processes.

Social and economic

Council considers that splitting the Callala Bay and Kinghorne Point localities into a separate planning proposal will have positive social and economic benefits. It will enable the Callala Bay and Kinghorne Point proposal to progress while groundwater investigations are undertaken for the Culburra Beach site. It will enable Council to better target consultation with the community.

It is considered that the Callala Bay/Kinghorne Point proposal will provide positive social and economic outcomes by facilitating additional housing opportunities (approximately 700 new dwellings), supporting the local economy and providing new job opportunities.

The 2015 Gateway determination requires the preparation of an infrastructure study (delivery plan) and an investigation of community infrastructure and services. Council has requested that the latter two studies are combined in relation to investigations for the Callala Bay and Kinghorne Point planning proposal.

It is recommended that an infrastructure study (delivery plan) that considers the need for additional community infrastructure and services be required as a condition of the Gateway determination.

The 2015 Gateway determination requires the preparation of a visual impact study for the proposed residential-zoned land at Callala Bay. Council has requested that this study not be required as a condition of the Gateway determination because Callala Bay is relatively flat, is 1.4km from the coast and low-density development is proposed.

It is considered that Council's request has merit. It is recommended that a requirement to prepare a visual impact study for the proposed residential-zoned land at Callala Bay is not included as a condition of the Gateway determination.

CONSULTATION

Community

The planning proposal states that the proposal would be exhibited for a minimum of 60 days, which is consistent with the 2015 Gateway determination.

The planning proposal would be advertised in the local newspaper and on Council's website. Council has established a dedicated page on its website for the Halloran Trust planning proposal to facilitate community engagement on the proposal. The planning proposal would also be made available at Council's administration building in Nowra. Council has been consulting and will continue to consult with the Jerringa Local Aboriginal Land Council in accordance with the 2015 Gateway determination.

It is considered that Council's proposed 60-day exhibition period is appropriate given the high level of community interest in the proposal and the large number of studies, including a potential voluntary planning agreement for the dedication of land, which would be included in the exhibition materials.

The 2015 Gateway determination requires Council to consult with the Jerringa Local Aboriginal Land Council and local oyster growers. Jervis Bay Marine Park also contains oyster/aquaculture growers. It is recommended that these requirements be included as conditions of the new Gateway determination.

It is recommended that:

- a 60-day exhibition period be required for PP_2018_SHOAL_002_00; and
- the Jerringa Local Aboriginal Land Council and local oyster/aquaculture growers are consulted during the exhibition of PP_2018_SHOAL_002_00.

Agencies

PP_2018_SHOAL_002_00 identifies that the following government agencies and utilities will be consulted in relation to the planning proposal:

- Office of Environment and Heritage;
- Rural Fire Service;
- National Parks and Wildlife Service;
- Roads and Maritime Services;
- Department of Primary Industries – Fisheries;
- Shoalhaven Water; and
- Endeavour Energy.

It is considered that the agency consultation proposed by Council is appropriate and is consistent with the 2015 Gateway determination.

TIME FRAME

Planning proposal PP_2018_SHOAL_002_00 indicates a 21-month time frame to finalise and notify the plan (October 2019). It is considered that a more realistic time frame to complete the proposed studies (namely flora and fauna/biodiversity offset strategy, water quality, contamination assessment, bushfire, Aboriginal cultural heritage and traffic) and to finalise the plan is 24 months.

It is recommended that a 24-month time frame is provided for PP_2018_SHOAL_002_00 to finalise and notify the plan.

LOCAL PLAN-MAKING AUTHORITY

Council has not sought authorisation to be the local plan-making authority for the planning proposal. Development proposals relating to the area have been complex given concerns about the impact on the environmentally sensitive Lake Wollumboola. Issuing delegation may undermine the role of the project control group to provide strategic oversight and coordination of the planning proposal processes.

It is recommended that Council not be issued authorisation to be the local plan-making authority.

CONCLUSION

Planning proposal PP_2018_SHOAL_002_00 is supported to proceed with conditions for the following reasons:

- the two-year stage 2 groundwater investigation, which has recently commenced for the Culburra Beach site, does not relate to the Callala Bay and Kinghorne Point sites. It is reasonable to progress the matters as two separate planning proposals as this would avoid delaying the proposal to provide new residential land and protection of environmental land in the Callala Bay and Kinghorne Point areas;
- the planning proposal is consistent with the original planning proposal, which received a Gateway determination in 2015. It is also consistent with the Illawarra Shoalhaven Regional Plan and the Jervis Bay Settlement Strategy;
- a project control group, which was established in 2015 following the Gateway determination, will continue to provide strategic oversight and coordination for the planning proposal process for the Halloran Trust landholdings; and
- progressing the sites as separate proposals will not impact on the proposal to biocertify the land.

RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Directions 1.2 Rural Zones, 1.3 Rural Lands and 2.1 Environment Protection Zones are justified by the terms of the Directions; and
2. agree to require Council to provide further information to demonstrate that the planning proposal has met the requirements of section 9.1 Directions 1.4 Oyster Aquaculture, 2.2 Coastal Management, 2.3 Heritage Conservation, 4.4 Planning for Bushfire Protection and 6.2 Reserving Land for Public Purposes prior to public exhibition.

It is recommended that the delegate of the Minister for Planning determine that the planning proposal PP_2018_SHOAL_002_00 should proceed subject to the following conditions:

1. The land that is located in the Lake Wollumboola catchment is to be zoned for environmental protection dependent on the outcomes of the biodiversity offset strategy and water quality studies. This condition is imposed in recognition of the extremely high environmental sensitivity of the lake.
2. The following studies are to be prepared for the subject sites prior to exhibition of the planning proposal:
 - a) a flora and fauna assessment and biodiversity offset strategy are to be prepared by an accredited biobanking assessor for the development and offset sites in consultation with OEH. The offset strategy and field survey must be prepared to comply with the BioBanking Assessment Methodology or Biodiversity Certification Assessment Methodology (BCAM). The field survey should target likely threatened species and endangered ecological communities on the subject sites;
 - b) a water quality management strategy to achieve a neutral or beneficial effect on water quality of coastal water bodies;
 - c) 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";
 - d) 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;

- e) a bushfire hazard study;
 - f) a 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; and
 - g) infrastructure study (delivery plan), including the need for additional community infrastructure and services.
3. The planning proposal includes a proposal to dedicate land to the Jervis Bay National Park and to other public open space. A suitable mechanism, such as a voluntary planning agreement, is to be prepared for any proposed dedication of lands to the state of NSW for extension to the Jervis Bay National Park or other public open space.
4. The planning proposal must be made publicly available for **60 days**.
5. The required studies and any voluntary planning agreement are to be included with the exhibition materials.
6. Consultation is required with the following public authorities:
- NSW Rural Fire Service (prior to undertaking community consultation);
 - Roads and Maritime Services;
 - Office of Environment and Heritage;
 - National Parks and Wildlife Service;
 - Department of Primary Industries (prior to undertaking community consultation); and
 - Environment Protection Authority
7. Consultation is required with the Jerringa Local Aboriginal Land Council (representing traditional owners) and local oyster/aquaculture growers.
8. Council is not to commence exhibition until the studies and further assessment have been completed and this information has been submitted to the Department for consideration.
9. The time frame for completing the LEP is to be **24 months** from the week following the date of the Gateway determination.



Graham Towers
Team Leader, Southern Region



23 May 2018

Sarah Lees
Director Regions, Southern
Planning Services

Contact Officer: George Curtis
Senior Planner, Southern Region Phone: 42249465

Gateway Determination

Planning proposal (Department Ref: PP_2018_SHOAL_002_00): to rezone land in the Callala Bay and Kinghorne Point localities for the purposes of residential and environmental purposes.

I, the Acting Deputy Secretary, Planning Services at the Department of Planning and Environment, as delegate of the Minister for Planning, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Shoalhaven Local Environmental Plan 2014 as described above should proceed subject to 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 assessment and biodiversity offset strategy are to be prepared by an accredited biobanking assessor for the development and offset sites in consultation with the Office of Environment and Heritage. The offset strategy and field survey must be prepared to comply with the BioBanking Assessment Methodology (BBAM) or Biodiversity Certification Assessment Methodology (BCAM). The field survey should target likely threatened species and endangered ecological communities on the subject sites.
 - b. A study that includes a water quality management strategy to achieve a neutral or beneficial effect on water quality of coastal water bodies.
 - c. 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.
 - d. A bushfire hazard study.
 - e. 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".

- f. A traffic impact study to consider 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.
 - g. An infrastructure study (delivery plan), including the need for additional community infrastructure and services.
3. The planning proposal includes a proposal to dedicate land to the Jervis Bay National Park. A suitable mechanism, such as a voluntary planning agreement, is to be prepared for any proposed dedication of lands to the state of NSW for extension of the Jervis Bay National Park or other public open space.
4. Following completion of the required studies, the masterplan and planning proposal are to be revised to include detailed explanations of provisions, including proposed zoning maps and other development controls.
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 required studies and any voluntary planning agreement are to be included with the exhibition materials.
7. Public exhibition is required under sections 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
 - a. the planning proposal must be made publicly available for **60 days**; and
 - b. the planning proposal authority must comply with the notice of 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* (Department of Planning and Environment 2016).
8. Consultation is required with the following public authorities under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:
 - Rural Fire Service;
 - Roads and Maritime Services;
 - Office of Environment and Heritage;
 - National Parks and Wildlife Service;
 - Department of Primary Industries; and
 - Environment Protection Authority.
9. Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

10. Consultation is required with the following organisations:

- Jerringa Local Aboriginal Land Council (representing traditional owners); and
- local oyster/aquaculture growers.

11. A public hearing is not required to be held into the matter under section 3.34(2)(e) of the 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).

12. The time frame for completing the LEP is to be **24 months** from the week following the date of the Gateway determination.

Dated 13th day of June 2018.



David Gainsford
Acting Deputy Secretary
Planning Services
Department of Planning and Environment

Delegate of the Minister for Planning