



IRF22/3352

## Plan finalisation report – PP-2021-406

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Shoalhaven LEP 2014 (Map Amendment No. 5) –  
Callala Bay, Wollumboola and Kinghorne

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# Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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# 1 Introduction

## 1.1 Overview

### 1.1.1 Shoalhaven Local Environmental Plan (2014) (draft Map Amendment No. 5)

The Shoalhaven Local Environmental Plan 2014 (draft Map Amendment No. 5) (Shoalhaven LEP 2014) seeks to facilitate delivery of additional housing and to preserve the environmental values of certain land owned by the Halloran Trust in the Callala Bay, Wollumboola and Kinghorne localities.

Specifically, the planning proposal seeks the following outcomes:

- Facilitating the conservation of over 500ha of important environmental lands in the Jervis Bay area, including part of the catchment of Lake Wollumboola, through the application of a C2 Environmental Conservation Zone. This land, as well as the remainder of the 1,082ha Lake Wollumboola Biobank site, is proposed to be transferred into the national parks system;
- Provision of approximately 380 homes on land with a proposed R1 General Residential Zone, adjoining the existing Callala Bay urban area in a location that has been identified by Shoalhaven City Council (SCC) and Department of Planning and Environment (Department) planning strategies for possible urban expansion.
- Provision of a 2ha bushland park, as well as a northern perimeter pedestrian/cycle way connecting the proposed new urban release area to the coast.

### 1.1.2 Site description

**Table 1 Site description**

Site Description	<b>The planning proposal (Attachment A) applies to land in the Callala Bay, Wollumboola and Kinghorne localities.</b>
Type	Area
Council / LGA	Shoalhaven City
LGA	Shoalhaven

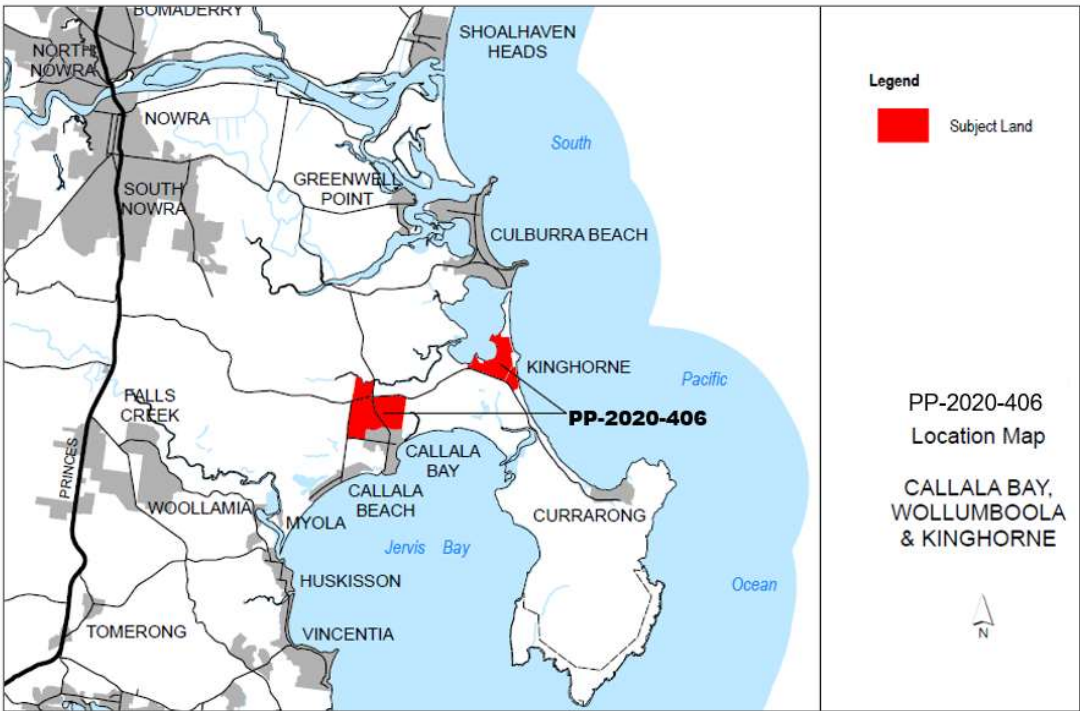


Figure 1 Subject site (Source: Shoalhaven City Council, 2021)

### 1.1.3 Purpose of plan

Shoalhaven LEP 2014 (Map Amendment No.5) seeks to amend Shoalhaven LEP 2014 as follows:

- amend the Land Use Zoning map for certain land identified as ‘Deferred Matter’ to C2 Environmental Conservation, C3 Environmental Management, R1 General Residential, SP2 Infrastructure and RE1 Public Recreation;
- amend the Land Use Zoning map for certain land zoned RU2 Rural Landscape to SP2 Infrastructure, R1 General Residential and C2 Environmental Conservation;
- amend the Minimum Lot Size map to apply a minimum lot size of:
  - 500sqm for land zoned R1 General Residential;
  - 2 hectares for land zoned RE1 Public Recreation;
  - 40 hectares for land zoned C2 Environmental Conservation and C3 Environmental Management;
- amend the Height of Buildings map to apply a maximum building height of 8.5m for land zoned R1 General Residential;
- amend the Urban Release Area map to identify the development area only;
- amend the Clauses map to apply clause 7.20 “Development in the Jervis Bay region” of the Shoalhaven LEP 2014 to land subject to this planning proposal;
- amend the Acid Sulfate Soils map to identify suitable classes applicable to the land subject to this planning proposal;
- amend the Terrestrial Biodiversity map to identify the portion of site comprising of threatened ecological communities;
- amend the Riparian and Watercourses map to identify a portion of the site as comprising of riparian land; and
- amend the Land Application Map to include the land subject to this planning proposal.

The table below outlines the current and proposed controls for the LEP.

**Table 2 Current and proposed controls**

Control	Current	Proposed
Zone	Deferred (1(d) Rural, 7(f3) Environment Protection (Foreshore Protection), 7(a) Environment Protection (Ecology) Shoalhaven LEP 1985)	C2 Environmental Conservation C3 Environmental Management R1 General Residential SP2 Infrastructure RE1 Public Recreation
Height of building	Nil	8.5m
Floor space ratio	Nil	Nil
Minimum lot size	Nil	500m <sup>2</sup> for land zoned R1 General Residential 2ha for land zoned RE1 Public Recreation 40ha for land zoned C2 Environmental Conservation and C3 Environmental Management

Control	Current	Proposed
Number of dwellings	Nil	380 subject to assessment
Number of jobs	N/A	N/A

### 1.1.4 State electorate and local member

The site falls within the South Coast state electorate. Mrs Shelley Hancock MP is the State Member.

The site falls within the Gilmore federal electorate. Ms Fiona Phillips MP is the Federal Member.

To the team's knowledge, neither MP has made any written representations regarding the proposal.

There are no donations or gifts to disclose, and a political donation disclosure is not required.

There have been no meetings or communications with registered lobbyists with respect to this proposal.

## 2 Gateway determination and alterations

The Gateway determination issued on 13/06/2018 (**Attachment B**) determined that the proposal should proceed subject to conditions. All of the Gateway determination conditions have generally been met (refer section 4.1 Detailed Assessment).

The Gateway determination was altered on 18/06/2020 to allow an extended timeframe for completion by 20 June 2021.

Following an assessment of the progress of the planning proposal, the former Minister for Planning and Public Spaces confirmed in December 2021 that the planning proposal is of regional significance and that its finalisation is in the public interest.

To support the acceleration of the planning proposal in progressing to public exhibition and finalisation, the Minister determined the Department would take on responsibility from SCC as the Planning Proposal Authority (PPA) to ensure the planning proposal is finalised in a timely manner.

## 3 Public exhibition and post-exhibition changes

In accordance with the Gateway determination, the proposal was publicly exhibited from 14/04/2022 to 20/06/2022, as required by section 29 of the *Local Government Act 1993*.

An online webinar was held on 5 May 2022 which was attended by 35 people and a community drop-in session was held at the Callala Community Centre on 25 May 2022 which was attended by more than 50 people. Numerous telephone calls and emails were received from the community about the planning proposal.

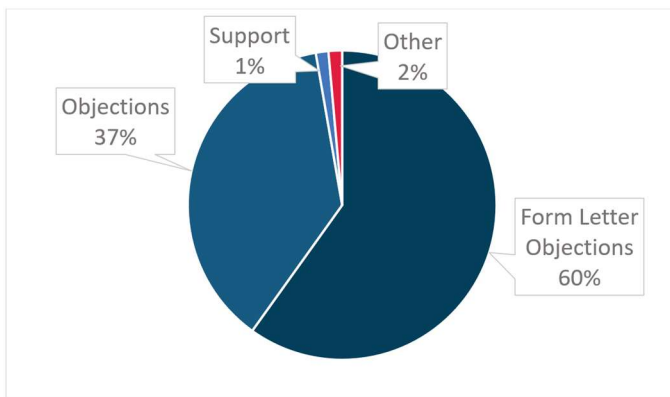
There were 1029 community submissions received during the exhibition period including 1020 from individuals and nine from the following community groups:

- Lake Wollumboola Protection Association
- Huskisson Woollamia Community Voice
- Friends of the Forest
- Our Future Shoalhaven
- Australian Plants Society NSW

- Callala Foreshore Alliance
- Callala area resident members of the liaison and monitoring group
- Callala Environmental Alliance
- BirdLife Shoalhaven

Of the 1029 community submissions received during the exhibition period, 1002 (97%) were objections, fourteen (1%) of submissions supported the proposal. Thirteen (2%) of submissions neither objected nor supported the proposal (**Attachment C – Submissions Report**).

The 1002 submissions that objected to the planning proposal included 623 form letter submissions, many of which included personalised comments. See **Figure 2** below for a breakdown of community submissions.



**Figure 2: Breakdown of community submissions by position (Object / Support / Other)**

Several submissions, which were primarily form letters, were received after the exhibition period closed which objected to the planning proposal.

No public meeting was held following public exhibition.

## 3.1 Submissions during exhibition

### 3.1.1 Submissions supporting the proposal

The following general issues were raised in support of the proposal:

Biodiversity and environment:

- Wildlife will adapt to new habitat.
- Support environment protection measures for Lake Wollumboola
- Environmental impacts will be minimal

Housing supply and affordability:

- The proposal will provide additional housing which is needed in the area as there is a housing shortage.
- The proposal will support housing affordability.
- There needs to be more housing opportunities for first homes buyers who wish to remain in the area.

Infrastructure:

- Increasing housing and population will grow supporting infrastructure such as shopping centres and schools.



### 3.1.2 Submissions objecting to and/or raising issues about the proposal

The following issues and concerns raised in community submissions in order from most times raised were:

- |   |                                     |
|---|-------------------------------------|
| 1. Biodiversity and environmental impacts | 9. Local character                  |
| 2. Housing supply and affordability       | 10. Public transport                |
| 3. Bushfire hazard                        | 11. Local and regional plans        |
| 4. Climate change                         | 12. Health care                     |
| 5. Environmental assessment               | 13. Traffic                         |
| 6. Infrastructure                         | 14. Lot size                        |
| 7. Flood hazard                           | 15. Gentrification                  |
| 8. Holiday homes                          | 16. Independent Planning Commission |

The issues raised in submissions and the Department's response are summarised in Table 3 below.

**Table 3 Summary of Key Issues**

Issue raised	Submissions (%)	Department's response
<p>Biodiversity/environmental impacts:</p> <ul style="list-style-type: none"> <li>The site provides habitat for threatened species such as Greater Glider, Yellow-Bellied Glider, Eastern Pygmy-possum, Powerful Owl, Glossy Black-cockatoo, Gang Gang Cockatoo, Grey-headed Flying-Fox and the Bauer's Midge Orchid.</li> <li>Greater Gliders and Yellow-bellied Gliders have declined in surrounding National Parks in the Shoalhaven area.</li> <li>Greater Gliders and Grey-headed Flying-foxes are listed as threatened under the <i>Environment Protection and Biodiversity Conservation Act 1999</i>.</li> <li>Yellow-bellied Gliders and Eastern Pygmy-possums are listed as threatened under the NSW <i>Biodiversity Conservation Act 2016</i>.</li> <li>Development will increase contaminated runoff into Callala Creek, which is an environmentally sensitive fish breeding area.</li> <li>The land has become a refuge for species which escaped 2019/20 Black Summer bushfires. 40.19ha of unburnt tall coastal forest should be protected for threatened and non-threatened species.</li> </ul>	97%	<ul style="list-style-type: none"> <li>The proposed residential zone contains 38 hectares of bushland, including threatened species habitat. This area is proposed to be compensated via the retirement of like-for-like biodiversity credits under existing legislation to protect over 500 hectares of private bushland directly adjoining the site and at Kinghorne, which includes habitat for the Greater Glider and other threatened species of concern.</li> <li>The Commonwealth Department of Water and Environment provided an approval on 1 June 2021 for the proposal and relevant biodiversity and threatened species, including the Greater Glider and the Bauer's Midge Orchid, under the <i>Environment Protection and Biodiversity Conservation Act 1999</i>.</li> <li>A 2-hectare public bushland park is proposed within the development site to protect a community of Bauer's Midge Orchid. SCC is required to prepare a plan of management for the park under the <i>Local Government Act 1993</i>.</li> <li>An integrated water cycle management plan that supports the planning proposal found there would be a neutral or beneficial impact on water quality of receiving waters. Stormwater will be collected on the site via detention ponds</li> </ul>

Issue raised	Submissions (%)	Department's response
<ul style="list-style-type: none"> <li>• The proposal may contribute to Australia's mammal extinction rate.</li> <li>• Hollow bearing trees contain nesting hollows for species such as Gliders.</li> <li>• Request for the land being rezoned for residential purpose to instead be zoned for National Park.</li> <li>• Movement corridors may not be suitable for species such as Eastern Pygmy-possum.</li> <li>• Household pets such as free-roaming cats and dogs will impact on wildlife.</li> <li>• A Fauna Plan of Management should be implemented.</li> </ul>		<p>and wetlands which will treat and remove any pollutants/nutrients or sediment before flowing to Callala Creek.</p> <ul style="list-style-type: none"> <li>• More than 500ha private land proposed to be rezoned C2 Environmental Conservation Zone is further proposed to be transferred to the national parks system.</li> <li>• The impact of domestic cats and dogs on wildlife is a challenging issue. It is largely the responsibility of pet owners and SCC to ensure pets are not allowed to roam freely in important wildlife habitats.</li> <li>• The transfer of proposed environmental conservation land to the national parks system will enable the land to be actively managed such as weed management, fencing and removal of other pest species.</li> <li>• A Development Control Plan is required to be prepared for the site prior to SCC considering development applications. SCC can consider fauna management measures within the DCP such as staged development, providing a qualified ecologist on site to supervise works and the installation of nest boxes to facilitate relocation of fauna to adjoining habitat.</li> </ul>
<p><b>Housing supply and affordability:</b></p> <ul style="list-style-type: none"> <li>• Staged release of lots over 12 years will not improve housing affordability.</li> <li>• The proposal will not provide affordable housing.</li> <li>• The proposal will raise housing prices in Callala.</li> </ul>	64%	<ul style="list-style-type: none"> <li>• The planning proposal will provide an estimated 380 new houses to increase housing supply in the Callala Bay area on a site which has been strategically identified for many years for potential housing.</li> <li>• Affordable housing is an issue affecting NSW and is something the government is tackling in several ways including its housing package to ensure that suitable housing is available for new home buyers and renters.</li> <li>• The proponent has provided a letter of commitment to explore the provision of a component of affordable housing (approx. 40 homes) on the site to assist with the provisions of affordable housing in the Shoalhaven.</li> <li>• The Department considers it appropriate to further consider affordable housing during the DCP and DA stages.</li> </ul>

Issue raised	Submissions (%)	Department's response
<p><b>Bushfire:</b></p> <ul style="list-style-type: none"> <li>• Development will increase the number of residents exposed to bushfires and make evacuations more difficult.</li> <li>• Rezoning will increase forest fire frontage that needs to be defended by limited volunteers.</li> <li>• RFS will be unable to respond due to isolated location of site.</li> <li>• The area is bushfire prone.</li> </ul>	60%	<ul style="list-style-type: none"> <li>• The NSW Rural Fire Service has been consulted and has not objected to the planning proposal subject to the proponent and SCC continuing to work with it to ensure a suitable community refuge facility is established for the area and adequate emergency evacuation is provided. The Department considers it appropriate to address these matters at the DCP and DA stages.</li> <li>• The planning proposal will facilitate improved bushfire management in the area including the provision of a suitable community refuge facility for the Callala Bay area and improved emergency access. The proponent has undertaken to work with RFS and SCC on this matter. The development site may not be the best location for the refuge for the entire community.</li> </ul>
<p><b>Climate change:</b></p> <ul style="list-style-type: none"> <li>• Forest clearing contradicts NSW goal of halving carbon emissions by 2030.</li> <li>• Mature vegetation is the only effective method to capture carbon.</li> <li>• Ongoing climate change is a threat to species and the site contains habitat which is necessary for their survival.</li> <li>• The proposed land clearing will accelerate climate change impacts.</li> </ul>	58%	<p>The proposed rezoning of over 500ha of privately owned land to an environmental conservation zoning will better protect the bushland. This land is also proposed to be transferred to the national parks system to protect the bushland, and its role in capturing carbon, in perpetuity.</p>

Issue raised	Submissions (%)	Department's response
<p><b>Biodiversity certification assessment:</b></p> <ul style="list-style-type: none"> <li>Concern about the biodiversity survey data used for the biodiversity certification report being potentially out-dated because it was prepared prior to the 2019/20 bushfire season.</li> <li>Requests that the proponent should update the biodiversity assessment, or an independent assessment is needed.</li> </ul>	56%	<ul style="list-style-type: none"> <li>The proposed biodiversity certification of the site is a separate process to the assessment of the planning proposal and is the responsibility of SCC and the Department of Planning and Environment's Biodiversity and Conservation Division (BCD) to assess.</li> <li>The submission from the Department's BCD states that the biodiversity certification work was completed in accordance with the Biodiversity Certification Assessment Methodology (BCAM) and remains valid despite significant bushfire impacts elsewhere in the region.</li> <li>The BCD has a role in assessing the Biodiversity Certification Assessment Report in conjunction with the Response to Submissions report which is being prepared by SCC following its exhibition. These documents will be considered by BCD before providing the Minister for Environment with any conferral advice about the biodiversity offset scheme.</li> </ul>

Issue raised	Submissions (%)	Department's response
<p><b>Infrastructure:</b></p> <ul style="list-style-type: none"> <li>• The existing local infrastructure is already insufficient and will not be able to support population increase.</li> <li>• The stormwater drainage infrastructure is already at capacity and will not be able to manage additional stormwater runoff.</li> <li>• The sewage infrastructure struggles to manage the current population and during holiday season water in Jervis Bay becomes polluted.</li> <li>• The water infrastructure struggles to manage the current population and during holiday season water runs yellow/brown and is not safe.</li> <li>• The proposed houses will be isolated from infrastructure such as hospitals, schools, jobs and TAFE.</li> <li>• The roads are already in poor condition, particularly Forest Road, Coonemia Road, Currarong Road and Callala Beach Road.</li> <li>• The roads are unsafe, narrow, have poor lighting and no road barriers.</li> <li>• The waste management infrastructure will not be able to handle an increase in household waste.</li> <li>• The communications infrastructure (phone and internet) cannot cope with current population.</li> </ul>	17%	<ul style="list-style-type: none"> <li>• Water, sewer and other infrastructure investigations undertaken in support of the planning proposal indicate that suitable infrastructure is available, or can be upgraded, to support the proposed development.</li> <li>• SCC has not raised concerns in relation to the impact of the development on its local infrastructure.</li> <li>• The Integrated Water Cycle Management Plan that was prepared in support of the planning proposal identifies the proposed development will achieve a neutral or beneficial effect on water quality including that of Callala Creek.</li> <li>• Callala Bay has a local public school and shopping centre which provides most daily items. Higher order services including hospital, and other health facilities, schools, jobs and TAFE are available in Nowra which is approximately 20 minute drive by private vehicle or bus.</li> <li>• A Development Control Plan is required to be prepared for the site by SCC before any development can be approved. The DCP will provide an opportunity to further address the provision of infrastructure.</li> </ul>
<p><b>Flood:</b></p> <ul style="list-style-type: none"> <li>• Development will increase runoff and worsen flooding issues for residents on the site south of Emmett Street.</li> <li>• Development will worsen flooding issues on Callala Beach Rd which is already flood prone.</li> <li>• The area is flood prone.</li> </ul>	10%	<ul style="list-style-type: none"> <li>• The site is not identified as flood prone land.</li> <li>• Stormwater runoff is proposed to be controlled and treated via detention ponds within the proposed development site.</li> </ul>

Issue raised	Submissions (%)	Department's response
<p><b>Holiday homes:</b></p> <ul style="list-style-type: none"> <li>The proposed dwellings will transition to short-term rentals for holiday homes and Airbnb's and will not contribute to supply in the long-term rental market.</li> <li>Holiday homes will be vacant for most of the year and that homes should be prohibited from transitioning to holiday homes.</li> </ul>	3%	<ul style="list-style-type: none"> <li>This is an issue affecting many NSW coastal communities which the government is looking to address in partnership with house owners and local councils.</li> <li>The proponent has provided a letter of commitment to work with SCC to restrict the number of nights able to be used for "Short Term Rental Accommodation" on the site to build a stronger community in the urban release area and the broader township of Callala Bay.</li> <li>Holiday homes provide important economic benefits.</li> </ul>
<p><b>Local character:</b></p> <ul style="list-style-type: none"> <li>Population increase will ruin the village character and quiet aspect of the area.</li> <li>There will be an increase of tourists in the area which will ruin the undeveloped character of the area.</li> <li>The biodiversity and beaches form part of the local character and the proposal will ruin both.</li> <li>Natural beauty of the area is being destroyed.</li> </ul>	3%	<ul style="list-style-type: none"> <li>The planning proposal will support the sustainable growth of Callala Bay, which has been identified for possible urban expansion in local strategic planning documents for many years.</li> <li>The proposal will protect local character by providing a new 2ha bushland park within the proposed urban release area, provide a northern perimeter pedestrian/cycle pathway and retain a 20 metre vegetated corridor/screen along Callala Beach Road.</li> <li>The proposal will also protect over 500 ha of bushland adjoining the site and at Kinghorne via an environmental conservation zoning which is proposed to be transferred to the national parks system.</li> <li>The protection of local character and consideration of suitable urban design controls can be further addressed at the DCP and DA stages.</li> </ul>
<p><b>Public transport:</b></p> <ul style="list-style-type: none"> <li>The community raised concerns there is insufficient public transport in the area and the proposal will increase car dependence.</li> </ul>	2%	<ul style="list-style-type: none"> <li>Public transport services are an issue for many of Shoalhaven's smaller towns and villages including the Callala Bay area.</li> <li>The proposal will potentially support additional bus services to be provided in the Callala Bay area through increased demand.</li> </ul>

Issue raised	Submissions (%)	Department's response
<p><b>Local and regional plans:</b></p> <ul style="list-style-type: none"> <li>• The proposal is inconsistent with the aims of the <i>Shoalhaven Local Environment Plan 2014</i></li> <li>• The proposal is inconsistent with Shoalhaven 2027 – Community Strategic Plan, particularly identified values for “sustainable, liveable environments”.</li> <li>• The proposal is inconsistent with Jervis Bay Settlement Strategy, particularly “Achieving the Vision” and principles of ecological sustainable development outlined in the Strategy.</li> <li>• The proposal is inconsistent with the Illawarra Shoalhaven Regional Plan 2041, particularly Strategy 11.</li> <li>• The proposal is inconsistent with Shoalhaven City Council policy</li> <li>• Proposal contradicts South Coast Regional Growth Strategy 2006-31.</li> </ul>	1%	<p>The planning proposal is consistent with the aims of the Shoalhaven LEP 2014 as well as local and regional strategic plans because it will provide significant environmental, economic and social benefits to the local area including protection of over 500 ha privately owned bushland which is proposed to be transferred to the national parks system. The proposal will also provide new homes, support local businesses and jobs and provide new public open space and recreational opportunities and amenity. The planning proposal is underpinned by a biodiversity offset strategy that will ensure there will be an overall maintenance or improvement in the conservation of biodiversity in the broader Jervis Bay area.</p> <p>The Jervis Bay Settlement Strategy 2003 and Shoalhaven Growth Management Strategy 2014 identify the site for possible urban expansion.</p> <p>It is considered that the proposal is very consistent with strategic planning for Callala Bay.</p>
<p><b>Health care:</b></p> <ul style="list-style-type: none"> <li>• The community raised concerns about the capacity of the local health care system to support the proposal.</li> <li>• Doctors are at capacity and are no longer accepting new patients.</li> <li>• Hospitals are currently overloaded.</li> <li>• Health care system cannot support population increase.</li> </ul>	0.9%	<p>Primary health care is an issue affecting the whole of NSW particularly regional communities. The proposal represents modest growth in relation to the overall population of the Shoalhaven. It is noted that an expansion of Shoalhaven Hospital is proposed.</p>

Issue raised	Submissions (%)	Department's response
<p><b>Traffic:</b></p> <ul style="list-style-type: none"> <li>Traffic is currently an issue and will worsen with population increase.</li> <li>Roads are unable to cope with traffic increase.</li> <li>Increase in traffic with impact intersections, particularly Forest Rd/Callala Bay Rd/Coonemia Rd intersection, Forest Rd/Callala Beach Rd intersection, and Forest Rd/Princes Highway intersection.</li> </ul>	0.7%	<ul style="list-style-type: none"> <li>The traffic assessment prepared in support of the planning proposal identifies that the future residential subdivision is not likely to create any adverse traffic impacts on the surrounding road network.</li> <li>SCC has not raised concern about the capacity of the local road network to accommodate proposed development at Callala Bay.</li> <li>Additional traffic impact assessment prepared by the proponent in response to the submission provided by Transport for NSW indicates that the Forest Road/Princes Highway intersection is currently performing poorly and needs upgrading to ensure it is operating at an acceptable level of safety. The proponent has identified several options to upgrade this intersection including installation of a roundabout. The Department proposes that the detail of the intersection treatment and funding is to be confirmed prior to development approval of the subdivision and subsequently well in advance of development approval and occupation of the lots.</li> </ul>
<p><b>Lot size:</b></p> <p>The community raised concerns about the minimum lot size within the development area and requested that larger minimum lot size controls are imposed.</p>	0.7%	<p>The proposed 500m<sup>2</sup> minimum lot size is considered appropriate for the proposed R1 General Residential area. It is noted that the existing urban area to the east has the same minimum lot size control.</p>
<p><b>Gentrification:</b></p> <p>The community raised concerns that the proposal will contribute to ongoing gentrification, which is displacing locals and will change the demographic of the area.</p>	0.3%	<ul style="list-style-type: none"> <li>Housing affordability is an issue facing many NSW coastal communities and which the government is addressing in several ways including its housing package to ensure that suitable housing is available for new home buyers and renters.</li> <li>The planning proposal will provide additional housing and support local businesses, create new jobs as well as provide new and upgraded infrastructure.</li> </ul>



Issue raised	Submissions (%)	Department's response
<b>Independent Planning Commission:</b>  The community raised concerns that the proposal should be determined by the Independent Planning Commission.	0.3%	The final assessment of the planning proposal was determined by the Deputy Secretary, Planning and Assessment, of the Department of Planning and Environment. It was not considered necessary for the Minister to delegate this role to the Independent Planning Commission which focusses on State Significant Developments.

### 3.1.3 Other issues raised

The gateway determination required consultation with the Jerrinja Local Aboriginal Land Council and the local aquaculture industry. Submissions received are summarised in table 3.1 below.

**Table 4.1 Summary of submissions from Jerrija LALC and South Coast Mariculture**

Organisation	Issue	Department's response
Jerrinja Local Aboriginal Land Council (JLALC)	<p>The JLALC is not happy with the size of the proposed development and its impacts. The submission identifies the importance of this area to the Jerrinja people. The JLALC raises concerns about the ecological and cultural value of the subject land, especially considering the 2019/2020 bushfires. The submission identifies the land is a crucial wildlife corridor to both JLALC lands and the Jervis Bay National Park and the ecological significance has increased since the Black Summer Bushfires. The submission also refers to the Wallaby drive story in which cultural burns were used and has cultural links and connections through the land relating to Bid Bid Creek to Lake Wollumboola.</p> <p>The following concerns are raised in the submission:</p> <ul style="list-style-type: none"> <li>• How can Jerrinja people be satisfied the proposal will achieve a 'maintain or improve' biodiversity outcome for endangered species and their suitable habitat?</li> <li>• The Department should consider currency of the BCAR in light of the 2019/2020 bushfires that the potential value of the proposed biodiversity certification area as a wildlife refuge.</li> <li>• Mitigation measures must be included as conditions of consent for the</li> </ul>	<ul style="list-style-type: none"> <li>• The Department has engaged extensively with the LALC prior to, during and following exhibition in order to understand and respond to the LALC's concerns.</li> <li>• The Aboriginal Cultural Heritage Assessment prepared in support of the proposal identified there is a low potential that Aboriginal sites or objects will be present on the proposed development site.</li> <li>• The submission from NSW Heritage did not raise any cultural heritage concerns with the proposal, however, recommended further consultation be undertaken with the Aboriginal community prior to and during the DA stage.</li> <li>• The Department's BCD Team has reviewed the Biodiversity Certification Assessment Report, which was prepared in support of the planning proposal and the proposed 517 hectare biodiversity conservation outcome and they consider these are satisfactory and in accordance with legislation and policies.</li> <li>• The credit retirement area, and remainder of the 1,082ha Lake Wollumboola Biobank site, will</li> </ul>

Organisation	Issue	Department's response
	<p>subdivision development application(s) to minimise harm to biodiversity values within the biodiversity certification area.</p> <ul style="list-style-type: none"> <li>The submission indicated an intention to discuss these concerns with Sealark staff directly and to work cooperatively to address impact concerns.</li> </ul> <p>The Department sought further clarification from Jerrinja LALC on the concerns raised. Jerrinja advised on 8 July 2022 that it objects to the planning proposal in its entirety due to the cultural and ecological significance of the subject land and raised the following specific concerns:</p> <ul style="list-style-type: none"> <li>It is unproved and culturally inappropriate to assume that species can be taken out of an ecosystem and relocated.</li> <li>Doesn't consider proposed offsets and method to calculate them are enough.</li> <li>Dedication of land to the Jervis Bay National Park should not be assumed to be in alignment with the views and aspirations of Jerrinja LALC.</li> <li>Concern raised that the Shoalhaven LEP 2014 was developed with "scant regard for cultural values" and that the planning proposal seeks to further erode those values further.</li> <li>Concern raised about the role of Registered Aboriginal Parties in the Aboriginal Cultural Heritage Assessment process.</li> <li>Concern raised that the LALC is under resourced to investigate, respond to and defend its rights in relation to the planning proposal.</li> </ul>	<p>eventually be transferred to the national parks system which will provide opportunities for Traditional Owners to access their traditional lands.</p>
South Coast Mariculture	<p>South Coast Mariculture raises no objections to the planning proposal. Note that their review included consultation with other relevant parties.</p>	<p>South Coast Mariculture's submission is noted.</p>

## 3.2 Advice from agencies

In accordance with the Gateway determination, Council was required to consult with agencies listed below in Table 4 who have provided the following feedback.

Table 5 Advice from public authorities

Agency	Advice raised	Department's response
Shoalhaven City Council	<ul style="list-style-type: none"> <li>• The Department should ensure the proposal will achieve a 'maintain or improve' biodiversity outcome in relation to the Greater Glider, Yellow-bellied Glider and Grey-headed Flying-fox.</li> <li>• The Department should seek independent advice on the accuracy and currency of the BCAR considering the 2019/2020 bushfires and recent sightings of endangered species.</li> <li>• Council staff should be involved in ongoing discussions with RFS, the Department and the proponent to ensure bushfire safety for the development area.</li> <li>• The Department should engage with the Aboriginal Land Councils and other indigenous representatives.</li> </ul>	<p>The submission provided by the Department's BCD advises that biodiversity certification work which supports the planning proposal was completed in accordance with the Biodiversity Certification Assessment Methodology (BCAM) which considers the fauna of concern raised by SCC and remains valid despite significant bushfire impacts elsewhere in the region. The principles of "maintain or improve", and "like-for-like" offsetting are embedded in the relevant legislation and accounted for in the BCAM.</p> <p>The biodiversity certification of the site is a separate process to the assessment of the planning proposal. Public submissions received relating to this matter were forwarded to SCC to review and to provide a report to the Department's BCD to assess and to make a recommendation to the Minister for the Environment whether to bio-certify the site.</p> <p>The Commonwealth Department of Water and Environment has already provided an approval on 1 June 2021 for the relevant biodiversity and threatened species issues, including the Greater Glider, under the <i>Environment Protection and Biodiversity Conservation Act 1999</i>. The approval requires the establishment of a 2.1 ha bushland reserve within the proposed development site to protect a population of threatened Bauer's Midge Orchid as well as a 127 hectare habitat offset for the Greater Glider. The planning proposal is consistent with the Commonwealth biodiversity approval.</p> <p>Shoalhaven City Council has participated in discussions with the Rural Fire Service, the Department of Planning and Environment and the proponent on bushfire issues raised by RFS for the area. The Department has consulted extensively with the Jerrinja LALC concerning the planning proposal prior to, during and following exhibition.</p>

Agency	Advice raised	Department's response
Department of Primary Industries (DPI) Agriculture	DPI Agriculture does not raise any objections to the planning proposal and has no further requirements.	Noted
Department of Primary Industries (DPI) Fisheries	<ul style="list-style-type: none"> <li>• DPI Fisheries is supportive of the planning proposal.</li> <li>• DPI Fisheries commends the conservation of the aquatic habitat and environmental values of Lake Wollumboola through the rezoning of catchment lands to C2 Environmental Conservation zoning and support their inclusion in the National Park.</li> <li>• DPI Fisheries commends the stormwater treatment train that is proposed for the development area and is satisfied that it will result in a neutral or beneficial impact on the receiving environment. They note that this stormwater treatment train must be maintained by Council to ensure ongoing effectiveness.</li> <li>• DPI Fisheries state that best practice erosion and sediment control measures must be implemented during all future works in the development area and recommends consideration be given to staging the development to reduce erosion risk.</li> </ul>	<p>DPI Fisheries support for the proposal is noted.</p> <p>Erosion and sediment control and staging will be considered by SCC during the preparation of a DCP for the site and at DA stage.</p>
NSW Environment Protection Authority (EPA)	<ul style="list-style-type: none"> <li>• EPA provides no comments on the planning proposal.</li> <li>• No activities identified under Schedule 1 of the <i>Protection of the Environment Operations Act 1997</i> are to be carried out on the site and that the planning proposal does not seek to rezone land for industrial use and are therefore of the opinion that there is low risk of land use conflicts.</li> </ul>	The EPA submission is noted

Agency	Advice raised	Department's response
NSW Rural Fire Service (RFS)	<p>NSW RFS generally raises no objections to the planning proposal subject to the following conditions:</p> <ul style="list-style-type: none"> <li>• Future subdivision of the land must comply with <i>Planning for Bushfire Protection 2019</i>.</li> <li>• The provision of a neighbourhood safer place (NSP) is to be included as 'essential infrastructure requirements' under Part 6 of the <i>Shoalhaven LEP 2014</i>.</li> <li>• Council, DPE and the proponent are to be satisfied that the internal road network will provide safe access for occupants and fire fighters in the event of an emergency. The proposal and any traffic assessment reports are to satisfactorily address evacuation of traffic volumes associated with current and future occupants in an emergency scenario and allow access for emergency vehicles.</li> <li>• Note that the RFS will not support any reduction in the existing bushfire management practices occurring under current arrangements.</li> </ul>	<p>The Department has consulted extensively with the RFS on the issues raised in its submission. The RFS has advised it is satisfied the issues it has raised can be addressed during the DCP preparation and development application stage.</p> <p>The proponent has provided a letter of commitment to continue working with the RFS and SCC to address the matters raised by RFS.</p> <p>A DCP is required to be prepared for the proposed urban release area by SCC, prior to SCC approving any DAs for subdivision of the site. The DCP is required to address bushfire risk and the provision of essential infrastructure such as a neighbourhood safer place.</p>

Agency	Advice raised	Department's response
Transport for NSW (TfNSW)	<ul style="list-style-type: none"> <li>TfNSW requests more information before providing support for this planning proposal.</li> <li>The Traffic Impact Assessment (TIA) is to be updated to include volume counts, SIDRA analyses and future scenario modelling for the Princes Highway/Forest Road and the Princes Highway/Kalandar Street intersections.</li> <li>TfNSW supports development which will reduce car dependency, the opportunity to introduce bus stops (identified in the TIA) should be upgraded to a requirement, and notes that the proposed pedestrian cycleway will need to be designed in accordance with the Cycleway Design Toolbox and should complement the Shoalhaven City Council Bike Plan.</li> <li>TfNSW also notes that concurrence from TfNSW is required for any works within the road reserve of the Princes Highway and that strategic designs, cost estimates and funding mechanisms for such works would need to be prepared.</li> <li>An addendum submission was received on 23 June 2022 which recommended the references to Route 730 in the TIA be corrected to Route 120, identified a potential new bus stop on Callala Beach Road as well as Emmett Street, and noted that population growth is not likely to place demand pressures on existing services.</li> </ul> <p>TfNSW advised by letter dated 25 August 2022, that it does not support the Callala Bay Planning Proposal in its current form due to concerns regarding impacts on traffic volumes and safety at the intersection of Forest Road and the Princes Highway. TfNSW considers that it has not been demonstrated that the planning proposal would not adversely impact the intersection.</p>	<p>The Department has consulted extensively with TfNSW on the issues raised in the submission.</p> <p>Traffic modelling of the intersection of Forest Road and the Princes Highway was undertaken by the proponent. This identified the intersection is currently performing poorly (Level of Service F) and there is a risk of high-speed collisions. The proponent has identified several potential options to upgrade the Forest Road/Princes Highway intersection to improve its performance and safety.</p> <p>The Department acknowledges concerns raised by TfNSW in relation to traffic safety at the Forest Road/Princes Highway intersection. However, the Department proposes that the detail of the intersection treatment and funding arrangements are to be confirmed prior to development application approval and occupation of any lots.</p> <p>To ensure this occurs, clause 6.1 of Shoalhaven LEP 2014 will apply to this site. This clause requires that development consent must not be granted for subdivision of the land unless satisfactory arrangements have been made to contribute to the provision of State public infrastructure (in this case an intersection upgrade) in relation to the land. The proponent is aware of this requirement and has undertaken to work further with TfNSW on the matter.</p> <p>The issues raised by TfNSW concerning the pedestrian cycleway, works within the road reserve of the Princes Highway and Callala Bay bus routes are noted. The Department considers these matters are appropriately addressed at the DCP and DA stages.</p>

Agency	Advice raised	Department's response
Heritage NSW	<ul style="list-style-type: none"><li>• Heritage NSW raises no objections to the planning proposal and supports the proposed conservation objectives.</li><li>• Recommends that Aboriginal community consultation continues for both the conservation and development areas.</li><li>• Future development on the land will require updated Aboriginal cultural heritage assessment and that any future Aboriginal Heritage Impact Permit applications or other referrals to Heritage NSW will be reviewed in accordance with their guidelines.</li></ul>	Noted. Further consultation with the Aboriginal community on the proposed development at Callala Bay will be undertaken by SCC at the DCP and DA stages.

<p>DPE Biodiversity and Conservation Division (BCD) and National Parks and Wildlife Services (NPWS) (combined submission)</p>	<ul style="list-style-type: none"> <li>• BCD notes that the biodiversity certification work completed in accordance with the biodiversity certification assessment methodology (BCAM) remains valid despite significant bushfire impacts elsewhere in the region. Noted that the principles of maintain or improve, and like-for-like offsetting are embedded in the relevant legislation and accounted for in the BCAM.</li> <li>• BCD has a role in ensuring that the BCAM has been applied satisfactorily in the Biodiversity Certification Assessment Report (BCAR) and in considering the Response to Submissions report prepared following its exhibition. These documents will be considered by BCD before providing the Minister for Environment with any conferral advice about the biodiversity offset scheme.</li> <li>• BCD is aware of community concern regarding a perceived lack of assessment for a number of fauna species and reiterates that the BCAM methodology does take into account such fauna and that the BCAR will be reassessed by BCD against this methodology before advice is provided to the Minister of Environment. BCD also notes that the Commonwealth Department of Water and Environment has provided an approval on 1 June 2021 for the relevant biodiversity and threatened species issues under the <i>Environment Protection and Biodiversity Conservation Act 1999</i>.</li> <li>• BCD notes that should the planning proposal and biodiversity certification proceed, there will be further administrative and legal processes involved in the transfer of land to the National Parks system.</li> </ul> <p>BCD and NPWS make the following further comments:</p> <ul style="list-style-type: none"> <li>• The addition of land to the national parks system has not yet been assessed or approved and the transferral would take some time, if approved. Accordingly, the planning proposal wording should be broadened to describe transferral to the national parks system (rather than Jervis Bay National Park) consistent with the wording that will be used in any biodiversity conferral.</li> <li>• Current and proposed tenure, ownership and management responsibilities for the proposed linear reserve and existing APZ need to be confirmed. NPWS will not</li> </ul>	<p>Noted. The biodiversity certification of the site is a separate process to the assessment of the planning proposal. SCC is responsible for the application to biodiversity certify the site. Public submissions received relating to this matter were forwarded to SCC to review and to provide a report to the Department's Biodiversity and Conservation Division for their assessment.</p> <p>Noted</p> <p>Noted</p> <p>Noted</p> <p>Noted</p> <p>This matter will be addressed during the detailed assessment of land proposed to be transferred.</p>
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	<p>accept the transfer of any land required for fire management purposes.</p> <ul style="list-style-type: none"> <li>• The linear reserve will need to serve as a functional asset protection zone (APZ) so that no off-site fire management work will be required and needs to be trafficable to fire fighting vehicles.</li> <li>• Clarification is sought on whether the Crown Road is proposed to be incorporated into the biobank lands.</li> <li>• The planning proposal and BCAR are inconsistent regarding fencing, buffers, signage and access (including boardwalks or footpaths) for the proposed C3 zone. Utilisation of the space by adjacent residents could increase the risk of damage to the retained <i>Bauer's Midge Orchid</i>.</li> <li>• Confirmation will be sought regarding the ownership of the paper subdivision roads within the biobank site prior to any transfer of land.</li> <li>• Clarification is sought on the location of the firetrail referred to on page 10 of the planning proposal. Notes that reference to firetrails outside the planning proposal's subject land is not relevant, according to the Bushfire Hazard Study (page 11) and planning proposal (page 19).</li> <li>• Confirmation of any potential contamination should be provided for the Lake Wollumboola Biobank site and any remediation works undertaken. This may have already been addressed as part of establishing the Biobank site.</li> <li>• Five individual <i>Bauer's Midge Orchid</i> plants are recorded in BioNet – not one. Neither the Planning Proposal nor the BCA report explains whether the additional four individuals are presumed dead or just not observed at the time of the survey. Investigation could be undertaken to translocate these individuals to a location within the biobank site.</li> <li>• BCD/NPWS questions whether the Eastern Pygmy-possum movement corridor discussed on page 25 would be functional or effective.</li> </ul>	<p>To be addressed by SCC, the proponent and RFS during the subsequent DCP and DA stage.</p> <p>This matter will be addressed during the detailed assessment of land proposed to be transferred to the national parks system.</p> <p>These matters will be addressed at the DCP and DA/detailed masterplan stages. A plan of management for the bushland park proposed to be zoned C3 zone is also required to be prepared by SCC under the <i>Local Government Act 1993</i> which can address the protection of the threatened orchids.</p> <p>This matter will be addressed during the detailed assessment of land proposed to be transferred to the national parks system.</p> <p>The fire trail is understood to have been constructed in the 40 metre asset protection zone to Callala Bay village when subdivisions were done back in the late 1980s.</p> <p>This matter will be addressed during the detailed assessment of land proposed to be transferred to the national parks system.</p> <p>These matters are appropriately addressed at the DCP and DA stages.</p> <p>Noted. The BCA report prepared by Ecological Australia also identifies (p.56) that the adjacent Lake Wollumboola BioBank site permanently ensures a link to the vegetation in Jervis Bay National Park, thus facilitating the continued movements of the Eastern Pygmy-possum.</p>
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Agency	Advice raised	Department's response
Department of Planning and Environment (DPE) – Crown Lands	<ul style="list-style-type: none"> <li>DPE – Crown Lands raises no objection to the rezoning of the Crown Roads involved in the proposal.</li> </ul>	Noted
	<ul style="list-style-type: none"> <li>Crown Lands will assess the suitability of the roads for closure and inclusion in the Jervis Bay National Park as part of a separate process to be undertaken by Crown Lands and National Parks directly.</li> </ul>	Noted

The Department also notified the Department of Education and Endeavour Energy about the proposal and received the following comments after exhibition period which are summarised in Table 4.1 below:

**Table 6.1 Advice from additional public authorities**

Agency	Advice Raised	Department's response
Department of Education (late submission)	<ul style="list-style-type: none"> <li>Education raises no objection to the planning proposal.</li> <li>Advises it is likely the number of students projected to be generated by the proposal can be accommodated by surrounding schools.</li> <li>Asked that the draft planning proposal considers how to encourage walkability to the existing school site.</li> <li>Requests that transport planning for the draft planning proposal be guided by the NSW government's Movement and Place Framework (particularly the 'Amenity and Use' and 'Primary Schools' indicators) and its Built Environment Performance indicators which should inform the transport infrastructure for the urban release area.</li> </ul>	Noted. The Department considers the issues raised in the submission are appropriately addressed at the DCP and development application stages.

Agency	Advice Raised	Department's response
Endeavour Energy (late submission)	<ul style="list-style-type: none"> <li>Endeavour Energy raises no objection to the planning proposal.</li> <li>The non-network and network solutions will be considered by Endeavour Energy and developed as the proposal moves forward.</li> <li>To ensure an adequate connection, the applicant will need to engage an Accredited Service Provider to assess the electricity load and the proposed method of supply for the development.</li> <li>An extension and/or augmentation of the existing local network is likely to be required.</li> <li>Any required pad mount substation/s will need to be located within the property (in a suitable and accessible location) and be protected (including any associated cabling) by an easement and associated restrictions benefitting and gifted to Endeavour Energy.</li> <li>The minimum required safety clearances and controls for buildings and structures (whether temporary or permanent) and working near overhead powerlines must be maintained at all times.</li> </ul>	Noted. The Department considers the issues raised in the submission are appropriately addressed at the DCP and development application stages.

The Department considers matters raised in submissions from public authorities have been adequately addressed.

## 3.3 Post-exhibition changes

### 3.3.1 The Department's recommended changes

Following consideration of submissions, the Department does not recommend any changes be made to the exhibited planning proposal.

## 4 Department's assessment

The proposal has been subject to detailed review and assessment through the Department's 2018 Gateway determination (**Attachment B**) and subsequent planning proposal processes. It has also been subject to a high level of public consultation and engagement.

The following reassesses the proposal against relevant Section 9.1 Directions, SEPPs, Regional and District Plans and SCC's Local Strategic Planning Statement. It also reassesses any potential key impacts associated with the proposal.

As outlined in the Gateway determination report (**Attachment C**), the planning proposal being considered by the Department for finalisation:

- Remains consistent with the Illawarra Shoalhaven Regional Plan relating to the site.
- Remains consistent with the SCC's local strategic plans.

- Remains consistent with all relevant Section 9.1 Directions.
- Remains consistent with all relevant SEPPs.

The following tables identify whether the current proposal, which was prepared by the Department to reflect any new and updated strategic plans as well as the outcomes of studies and investigations required by the gateway determination, is consistent with the assessment undertaken at the Gateway determination stage.

**Table 7 Summary of strategic assessment**

	Consistent with Gateway determination report Assessment	
Illawarra Shoalhaven Regional Plan	<input checked="" type="checkbox"/> Yes	Refer to section 4.1
Local Strategic Planning Statement	<input checked="" type="checkbox"/> Yes	Refer to section 4.1
Section 9.1 Ministerial Directions	<input checked="" type="checkbox"/> Yes	Refer to section 4.1
State Environmental Planning Policies (SEPPs)	<input checked="" type="checkbox"/> Yes	Refer to section 4.1

**Table 8 Summary of site-specific assessment**

Site-specific assessment	Consistent with Gateway determination report Assessment	
Social and economic impacts	<input checked="" type="checkbox"/> Yes	Refer to section 4.1
Environmental impacts	<input checked="" type="checkbox"/> Yes	Refer to section 4.1
Infrastructure	<input checked="" type="checkbox"/> Yes	Refer to section 4.1

## 4.1 Detailed assessment

The following section provides details of the Department's assessment of key matters and any recommended revisions to the planning proposal to make it suitable.

### Strategic assessment

#### Illawarra Shoalhaven Regional Plan

The planning proposal remains consistent with the Illawarra Shoalhaven Regional Plan 2041, which was released by the government in May 2021. The planning proposal describes in detail how it meets the themes and objectives of the regional plan including:

- Objective 5: Create a diverse visitor economy.
- Objective 11: Protect Important environmental assets
- Objective 14: Enhance and connect parks, open spaces and bushland with walking and cycling paths.

- Objective 18: Provide housing supply in the right locations
- Objective 28: Create, connected and accessible walking and cycling networks.

The Regional Plan identifies the Jervis Bay-St Georges Basin area as a strategic centre with opportunities for new housing.

The planning proposal meets the above objectives by:

- Facilitating the conservation of over 500ha of important environmental lands in the Jervis Bay area, including part of the catchment of Lake Wollumboola, via applying a C2 Environmental Conservation zoning. This land, as well as the remainder of the 1,082ha Lake Wollumboola Biobank site, is proposed to be transferred to the national parks system which will support nature based tourism;
- Provision of a 2ha bushland park as well as a northern perimeter pedestrian/cycle way connecting the proposed new urban release area to the coast.
- Provision of 380 homes adjoining the existing Callala Bay urban area in a location that has been identified for many years in SCC and Department planning strategies for possible urban expansion.

### Local Strategic Planning Statement

The planning proposal remains consistent with the Shoalhaven Local Strategic Planning Statement (LSPS) which was released by SCC in September 2020. The planning proposal identifies the following LSPS planning priorities relevant to the proposal:

- Planning priority 1 - Providing homes to meet needs and lifestyles.
- Planning priority 3 - Providing jobs closer to home.
- Planning Priority 10 - Protecting the environment
- Planning Priority 11 - Adapting to natural hazards
- Planning Priority 13 - Protecting and enhancing neighbourhoods
- Planning Priority 15 - Scenic and cultural landscapes

The planning proposal is consistent with the above LSPS planning priorities.

The planning proposal remains consistent with other local strategies relevant to the site namely the Jervis Bay Settlement Strategy and the Shoalhaven Growth Management Strategy.

### Section 9.1 Ministerial Directions

The planning proposal identifies that it is consistent with all relevant Section 9.1 Ministerial Directions, except for the following Directions which it identifies as either inconsistent or required to demonstrate consistency:

#### Direction 1.4 Site Specific Provisions

The planning proposal identifies inconsistency with the Direction because it includes a proposed masterplan that shows proposed details of the development proposal.

It is considered that any inconsistency with the Direction is of minor significance because the masterplan provided in the planning proposal is a preliminary concept only that has not been approved by SCC and was included in the proposal to provide an indication of what a future development could look like. It is not a statutory document.

### Direction 3.1 Conservation Zones

The planning proposal states it is inconsistent with the Direction because the area proposed to be zoned R1 General Residential is known to contain threatened species and endangered ecological communities, including the Bauer's Midge Orchid, powerful owl and the Currumbene-Batemans Lowland Forest Endangered Ecological Community.

The planning proposal states the inconsistency with the Direction is justified by the Jervis Bay Settlement Strategy (JBSS) which identifies the subject land for possible urban expansion. The planning proposal is also supported by a biodiversity offset strategy and biodiversity certification assessment report which identifies that impacts can be compensated via the retirement of like-for-like biodiversity credits under existing legislation to protect over 500 hectares of private bushland directly adjoining the site and at Kinghorne, which includes habitat for the Greater Glider and other threatened species of concern.

The planning proposal also seeks to apply a C2 Environmental Conservation Zone to land at Kinghorne within the catchment of Lake Wollumboola which is consistent with a long-standing government policy to protect the catchment of the Lake and to transfer this land to the national parks reserve system.

The Biodiversity and Conservation Division of the Department of Planning and Environment has reviewed the biodiversity offset strategy and biodiversity certification report and they have advised it considers these documents to be satisfactory.

It is considered that the planning proposal's inconsistency with the Direction is justified under the terms of the Direction for the reasons provided in the planning proposal and the advice provided by the Department's Biodiversity and Conservation Division.

### Direction 4.3 Planning for Bushfire Protection

The planning proposal identified several matters that were raised during pre-exhibition consultation with the Rural Fire Service that needed to be resolved to demonstrate the requirements of the Direction had been met, namely:

- Provision of a Community Bush fire refuge or at a minimum, a neighbourhood safer place for Callala Bay township, including the management, funding, operation and accessibility of this space, consistent with Planning for Bushfire Protection 2019.
- The purpose, delivery and management of the land to be rezoned RE1 Public Recreation (north of the existing and future subdivision) must be outlined to demonstrate a commitment to delivery. The transport function and purpose of this land during an emergency must also be clearly stated.
- Potential strategic opportunities for bushfire mitigation measures to be addressed prior to the preparation of a DA are to be explored further i.e through a site-based bushfire attack level (BAL) rating for the whole development area; and
- The specific matters relating to bushfire to be addressed in the site specific DCP are to be clearly outlined consistent with clause 6.3 of the Shoalhaven LEP 2014.

The RFS reiterated these issues in its submission on the planning proposal during the exhibition period (see section 3.2). The Department has discussed the RFS issues with RFS, the proponent and SCC.

It is considered the planning proposal is consistent with the Direction. The Department considers the matters raised by RFS can be appropriately addressed at the DCP and DA stage. A DCP is required to be prepared for the proposed urban release area by SCC, prior to SCC approving any DAs for subdivision of the site. The DCP is required to address bushfire risk and provision of essential infrastructure such as a neighbourhood safer place. The proponent has provided a letter

of commitment to continue working with the RFS and SCC to address these matters at the DCP and DA stages.

#### Direction 4.5 Acid Sulfate Soils

The planning proposal identifies that it is inconsistent with the Direction because it proposes to zone a site R1 General Residential which is mapped as Class 5 acid sulfate soil and an acid sulphate soil study was not prepared to support the planning proposal.

The planning proposal states that any inconsistency with the Direction is of minor significance because there are:

- Suitable provisions in the Shoalhaven LEP 2014 that can manage the adverse environmental impacts associated with acid sulfate soils.
- Development to the east of the site has been built to a comparable use and scale.
- The additional assessment of acid sulfate soils will be completed in further detail as part of any future DA.

The inconsistency with the Direction is considered of minor significance for the reasons provided in the planning proposal. Class 5 is the lowest level risk acid sulfate soil which is able to be appropriately managed at the DA stage through the preparation and approval by SCC of a suitable soil and water management plan. The submissions from SCC, NSW EPA, DPE Environment and Conservation Division or DPI Fisheries did not raise any concerns about potential acid sulfate soil issues.

#### Direction 5.2 Reserving Land for Public Purposes

The planning proposal identifies the Direction requires the approval of the Secretary or his delegate of the Department of Planning and Environment to create new zonings or reservations of land for public purposes.

The proposal to apply an RE1 Public Recreation zoning to an existing 40 metre wide partially cleared linear corridor of land on the northern side of Callala Bay township to link with the coast has merit and should be supported as it will provide connected and accessible walking, cycling and other recreational opportunities. The linear reserve will also provide an asset protection zone between the Callala Bay urban area and bushland and will provide access for emergency services vehicles, but not general vehicle traffic, to assist with emergency response during bushfire and other incidents.

SCC, which is proposed to manage the reserve, has not raised any objection or issues with the proposal.

#### Direction 9.1 Rural Zones

The planning proposal states it is inconsistent with the Direction because the proposal seeks to rezone 38 hectares of rural zoned land for residential purposes. The planning proposal, however, states that the inconsistency with the Direction is justified by the Jervis Bay Settlement Strategy which identifies the site as a possible urban expansion area.

It is considered any inconsistency with the Direction is justified under the terms of the Direction for the reasons provided in the planning proposal. The submission provided by the Department of Regional NSW (DPI - Agriculture) did not raise any objection concerning the proposed rezoning of the site.



## Direction 9.2 Rural Lands

The planning proposal identifies it is potentially inconsistent with the Direction but states the inconsistency is likely to be of minor significance because:

- it balances the social, economic and environmental interests of the community because it will facilitate the growth of Callala Bay on land that is not suitable for rural production because it immediately adjoins the Callala Bay area to the west;
- it will facilitate the conservation of important environmentally sensitive land;
- the proposed development area can be connected to the necessary infrastructure and services including roads, water and waste water, electricity and telecommunications; and
- the planning proposal is generally consistent with the JBSS.

It is considered any inconsistency with the Direction is of minor significance for the reasons provided in the planning proposal. The submission provided by DPI- Agriculture did not raise any objection concerning the proposed rezoning of the site or loss of rural land.

The planning proposal is considered to be consistent with relevant Ministerial Directions or justifiably inconsistent in the terms of the Directions.

## **State Environmental Planning Policies**

The 2018 gateway determination provided an assessment of the consistency of the planning proposal with relevant SEPPs. The exhibited planning proposal also considers consistency with relevant SEPPs but does not identify any inconsistencies.

It is considered the planning proposal remains consistent with relevant SEPPs for the reasons provided in the planning proposal.

## **Site-specific assessment**

The 2018 gateway determination assessed the site-specific merits of the proposal. This was also considered in the exhibited planning proposal. The site is suitable for the intended purposes.

## **Environmental impacts**

### Threatened species and biodiversity

Most submissions (97%) that objected to the planning proposal raised concern about environmental impact, particularly impact on habitat of threatened and endangered species including Bauer's Midge Orchid, eastern pygmy possum and the greater glider.

Although the proposed rezoning of 38ha of land to an R1 General Residential zone will result in clearing of vegetation and impact this habitat, the Department considers the proposal has strong overall environmental benefits which significantly outweigh negative impacts. This is because the impact of clearing of the biodiversity habitat has been assessed as part of the exhibited Biodiversity Certification Assessment Report (which has been prepared in accordance with the transitional arrangements provided under the *Threatened Species Conservation Act*). Those impacts have been found to be adequately compensated via the retirement of like-for-like biodiversity credits to protect over 500 hectares of private bushland directly adjoining the site and at Kinghorne, which includes habitat for the Greater Glider and other threatened species of concern.

The land proposed to be zoned C2 Environmental Conservation, as well as the entire Lake Woollumboola BioBank Site, is proposed to be transferred to the national park system. The protection of land in the catchment of Lake Woollumboola, which is a coastal Lake of very high



conservation significance is a long-standing government policy and its transfer to the national parks system will provide a high level of protection.

The BCD is responsible for assessing the biocertification application in consideration of a report on public submissions which is required to be prepared by SCC. The BCD has advised that the Biodiversity Assessment Certification report is satisfactory. The NSW Minister for the Environment is responsible for determining whether to approve the biocertification of the land.

The proposed development has also been assessed by the Commonwealth Department of Agriculture, Water and the Environment under the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999*. The Commonwealth provided conditional approval to the proposed development on 1 June 2021, which considered nationally listed threatened species including the Greater Glider and Bauer's Midge Orchid. The approval requires establishment of a 2ha bushland reserve within the development site to protect a community of the orchids as well as a minimum 127.44 ha of Greater Glider and Spot-tailed Quoll habitat to be secured at the Lake Wollumboola BioBank site. The planning proposal is consistent with the Commonwealth approval.

### Water quality

The impact of the planning proposal on water quality of receiving waters, including Callala Creek and the Jervis Bay Marine Park, was a key issue that was required to be investigated under the conditions of the 2018 gateway determination.

The Integrated Water Cycle Management Plan (IWCMP) that was prepared in support of the planning proposal identifies that, subject to implementation of water management strategies including the use of wetlands and stormwater detention basins and other water sensitive urban design strategies, the proposed residential development can be managed to ensure there is a neutral or beneficial impact on coastal water bodies.

The draft IWCMP was reviewed by SCC who did not raise any objections or concerns. The submissions from the NSW EPA, DPI - Fisheries and NSW Mariculture did not raise any objections or concerns about water quality impacts. The DPI (Fisheries) submission noted that this stormwater treatment train will require ongoing maintenance by SCC to ensure its ongoing effectiveness.

### Bushfire issues

Bushfire management was an issue of concern raised in submissions including from the NSW RFS. As discussed previously in relation to Ministerial Direction 4.3 Planning for Bushfire Protection, the Department has worked with the RFS, the proponent and SCC to address bushfire concerns particularly regarding the provision of a community refuge centre or neighbourhood safer place for the Callala Bay area and the provision of adequate emergency access and egress.

The RFS has indicated that it supports the planning proposal subject to suitable mechanisms being put in place to ensure these matters are adequately addressed. The Department considers these matters can be satisfactorily addressed at the DCP and DA stages. The proponent has provided a letter of commitment to continue to work with the RFS and SCC to address these matters post finalisation of the planning proposal.

### **Social and economic impacts**

The planning proposal identifies it will provide positive social and economic outcomes by facilitating additional housing opportunities, including up to 380 new homes, supporting the local economy and providing new job opportunities.

### Aboriginal cultural heritage issues

The Aboriginal Cultural Heritage Assessment (Biosis September 2020) and archaeological assessments that were prepared for the proposed R1 Zone area did not identify any Aboriginal or archaeological sites or areas of archaeological potential in the study area. The assessment did not identify any historical values and no cultural information was supplied by the Registered Aboriginal Parties.

The submission from the Jerrinja LALC on the planning proposal raised concerns the planning proposal would impact on environmental and cultural values in the area. The submission refers to the “Wallaby Drive Story” in which cultural burns were used and cultural links and connections through the land relating to Bid Bid Creek to Lake Wollumboola.

It is noted most of the land likely to be subject to the Wallaby Drive Story will be protected under the proposed C2 Environmental Conservation Zone which, along with the remainder of the Lake Wollumboola Biobank Site, is proposed to be transferred to the national park system. This may provide opportunities for Traditional Owners to access their Traditional lands for cultural purposes.

The submission provided by Heritage NSW did not object to the planning proposal and they are supportive of the conservation objectives of the proposal. Heritage NSW, however, recommended that Aboriginal community consultation continues for both the conservation and development areas. They also identified that future development on the land will require updated Aboriginal cultural heritage assessment and that any future Aboriginal Heritage Impact Permit applications or other referrals to Heritage NSW will be reviewed in accordance with their guidelines.

SCC has established a close working relationship with the Jerrinja LALC and other Traditional Owners and is committed to continue to engage and consult with the Aboriginal community during the DCP and DA stages of the proposed development. The Department’s BCD and National Parks and Wildlife Service are also committed to continue to work with Jerrinja LALC and Traditional owners during the assessment and transfer of conservation lands to the national parks system.

### Housing supply and affordability

Housing supply and affordability was an issue of concern raised in public submissions, particularly whether the housing product would be affordable or available for locals if housing was used primarily as holiday homes or as air b’n’bs.

The concerns raised about housing supply and affordability affects many areas of NSW and is being addressed by the government in several ways including in its Housing Package. The proponent has responded to the community’s concerns on the matter by providing a letter of commitment to the Department to provide approximately 40 affordable houses within the Callala Bay urban release area which it will endeavour to provide early in the development program. The proponent has also provided a commitment to work with SCC and the Department to cap the number of nights that dwellings in the urban release area can be used for short-term rental accommodation.

### Infrastructure

The capacity of existing local infrastructure, namely water and stormwater, as well as sewer infrastructure, local roads, waste management and telecommunications (phone and internet) to support population growth was an issue of concern raised in community submissions.

The Infrastructure Assessment that was prepared in support of the planning proposal identifies that the proposal will result in an increase in loads to various items of infrastructure including water, sewer and electricity networks along with various items of community infrastructure. Upgrades and

extensions to infrastructure will be able to accommodate the proposed development as discussed below:

#### Water and waste-water

The Infrastructure Assessment that was prepared in support of the planning proposal indicates that there is sufficient water supply available in the Large Coonemia Reservoir to connect to the proposed development.

The site is not currently serviced with sewerage infrastructure however, the site is identified by SCC's Development Servicing Plan for future investigation for connection to sewer reticulation.

The Integrated Water Cycle Management Plan prepared by the proponent identifies that a stormwater drainage network will need to be constructed for the proposed development. This will include water quality and water quantity treatment devices to ensure there is a neutral or beneficial impact on the water quality of receiving waters.

#### Roads and traffic issues

The Traffic Impact Assessment that was prepared by the proponent concludes the proposed development is not likely to create any adverse traffic impacts on the surrounding road network.

Further traffic assessment of the Forest Road intersection with the Princes Highway in response to a submission provided by Transport for NSW identified that the intersection is currently performing poorly and that the additional demand generated by the development of the site will cause an unacceptable risk to safety at this intersection.

The proponent has identified several potential intersection upgrade options to eliminate the risk of high speed, high severity crashes to be implemented prior to proposed development including a roundabout similar to other intersections in the area. The Department considers suitable mechanisms can be implemented to facilitate the required intersection upgrades post finalisation of the planning proposal. In particular, the urban release area provisions in the LEP require satisfactory arrangements to be made for state infrastructure prior to development occurring.

#### Electricity

The Infrastructure Assessment prepared by the proponent identifies that the site is not currently serviced with electricity infrastructure to support future residential development, however, electricity infrastructure is available within proximity of site and is able to be extended to the site. This is supported by the submission on the planning proposal provided by Endeavour Energy.

#### Telecommunications

The Callala Bay area has phone and internet access. The proponent has advised it intends to consult with a suitable telecommunications provider regarding the provision of the necessary infrastructure to service the new development area.

The Department is satisfied new and upgraded infrastructure can be provided to service the new development area.

### **2018 Gateway determination**

The Department is satisfied the requirements of the 2018 gateway determination have been met namely:

- Land that is located in the Lake Wollumboola catchment is proposed to be zoned C2 Environmental Conservation due to its recognised extremely high environmental sensitivity (gateway condition 1)
- The preparation of the required environmental and infrastructure investigations (condition 2).
- A letter of commitment to enter into a suitable mechanism to dedicate land to the national parks reserve system has been provided by the proponent (condition 3).
- The planning proposal provides detailed explanations of provisions, including proposed zoning maps and other controls (condition 4).
- The exhibited planning proposal reflects the outcomes of the investigations and studies required to be prepared under the gateway determination (condition 5).
- The studies and investigations and the proponent's letter of commitment to enter into a VPA with SCC were included in the exhibition of the planning proposal (condition 6).
- The planning proposal was exhibited for 60 days and in accordance with the Department of Planning's notice of requirements for public exhibition of planning proposals (condition 7).
- Consultation with identified agencies was undertaken (conditions 8 and 9)
- Consultation was undertaken with the Jerrinja Local Aboriginal Land Council and with local oyster/aquaculture growers (condition 11).

The gateway determination, as amended, required the LEP to be completed by 20 June 2021. This timeframe was not met to allow sufficient time for extensive consultation and resolution of issues.

## 5 Post-assessment consultation

The Department consulted with the following stakeholders after the assessment.

**Table 9 Consultation following the Department's assessment**

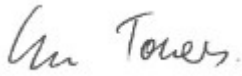
Stakeholder	Consultation	The Department is satisfied with the draft LEP
Mapping	Nineteen maps have been prepared by the Department's ePlanning team and meet the technical requirements ( <b>Attachment Maps</b> ).	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Shoalhaven City Council	SCC was consulted on the draft maps and instrument.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Map-only LEP	On 23/08/2022, the Department's legal drafting team provided a final map-only LEP <b>Attachment LEP</b> .	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details

## 6 Recommendation

It is recommended that:

- the delegate of the Secretary:

1. agree that any inconsistencies with Directions 1.4 Site Specific Provisions Direction, 3.1 Conservation Zones, 4.4 Acid Sulphate Soils, 9.1 Rural Zones and 9.2 Rural Lands are justified by the terms of the Directions; and
  2. approve the proposed creation of new RE1 Public Recreation zoning under Direction 5.2 Reserving Land for Public Purposes.
- the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because:
    - The draft LEP has strategic merit being consistent with the Jervis Bay Settlement Strategy 2003, Shoalhaven Growth Management Strategy, Shoalhaven Local Strategic Planning Statement and the Illawarra Shoalhaven Regional Plan.
    - It is consistent with the Gateway Determination.
    - it is considered that the benefits of the planning proposal, which includes the provision of approximately 380 new homes as well as the protection of over 500ha of bushland which will eventually be transferred to the national parks system, outweigh any negative impacts.



28/09/2022

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28/09/2022

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Director, Southern Region

Assessment officer

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## Attachments

Attachment	Document
A	Planning Proposal

Attachment	Document
B	Gateway determination
C	Alteration of the Gateway determination
D	Submissions report
E	Gateway determination report
LEP	Draft LEP
Maps	LEP maps
Council	Council letter
Proponent	Proponent letter
TfNSW	TfNSW letter