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Our ref: PP\_2014\_SHOAL\_004\_00 (14/17485)

Attention: Gordon Clark, Strategy Planning Manager

Dear Mr Pigg

**Planning proposal to amend Shoalhaven Local Environmental Plan 2014**

I am writing in response to Council's request for a Gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* (the Act) for the planning proposal to rezone the Halloran Trust Landholdings at Culburra Beach, Callala Bay and Currarong.

As delegate of the Minister for Planning, I have determined the planning proposal should proceed, subject to variations as set out in the conditions in the attached Gateway determination.

The finalisation of a planning proposal covering the Halloran Trust's lands at Culburra and Callala will be a complex task involving the coordination of multiple parties and authorities. Given the interaction of the planning proposal with a potential biodiversity certification process, as well as substantial dedication of lands to the National Park Estate, I would be pleased to commit the Department to the formation and organisation of a Project Control Group. The Department will contact Council separately on the establishment of the Group.

Due to the high environmental sensitivity of the Lake Wollumboola catchment, particularly Long Bow Point, the Department is unable to support the proposed community recreation zone for this area. Council is to zone Long Bow Point environmental protection dependent on the outcomes of the biodiversity offset strategy.

While the proposed residential investigation area north of Culburra Road is generally supported, the catchment boundaries of Lake Wollumboola, both in terms of groundwater and surface water runoff, need to be defined to ensure there are no impacts on the Lake. Council is required to undertake the studies necessary to define this catchment boundary. The catchment boundary must be taken into consideration when identifying suitable zones for this land. Land within the surface or

groundwater catchment of the Lake should also be zoned for environmental protection unless the water quality management strategy identifies that an alternate zoning can achieve a neutral or beneficial effect on the lake.

I note that the planning proposal dedicates land to the Jervis Bay National Park and other public open space. A suitable mechanism, such as a Voluntary Planning Agreement, will need to be included in the exhibition material for the planning proposal.

I note that the planning proposal is potentially inconsistent with the following section 117 Directions:

- 1.1 Business and Industrial Zones
- 1.2 Rural Zones
- 1.4 Oyster Aquaculture
- 1.5 Rural Lands
- 2.1 Environmental Protection Zones
- 2.2 Coastal Protection
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 4.1 Acid Sulphate Soils
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies
- 6.2 Reserving Land for Public Purposes

Once finalised, Shoalhaven City Council will need to use the studies to justify any inconsistencies with s117 Directions to the satisfaction of the Secretary's delegate.

The amending local environmental plan (the LEP) is to be finalised within **24 months** of the week following the date of the Gateway determination. Council should aim to commence the preparation of the required studies as soon as possible. Council's request for the Department to draft and finalise the LEP should be made 6 weeks prior to the projected publication date.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 54(2)(d) of the Act if the timeframes outlined in this determination are not met.

Should you have any queries in regard to this matter, please contact Mr George Curtis, Senior Planner of the Department's Southern office, on (02) 4224 9465.

Yours sincerely



Marcus Ray

**Deputy Secretary, Planning Services**

Encl: Gateway Determination

16/1/16

Department of Planning & Environment

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## Gateway Determination

*Planning proposal (Department Ref: PP\_2014\_SHOAL\_004\_00): to rezone land in the Culburra Beach, Callala Bay and Currarong localities for the purposes of residential, commercial, industrial, recreation and environmental purposes.*

I, the Deputy Secretary, Planning Services, as delegate of the Minister for Planning, have determined under section 56(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Shoalhaven Local Environmental Plan 2014 to rezone land in the Culburra Beach, Callala Bay and Currarong localities for the purposes of residential, commercial, industrial, recreation and environmental purposes, should proceed subject 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 is 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). Field survey should target likely threatened species and endangered ecological communities on the subject sites.
  - (b) A study that:
    - I. defines the catchment boundaries of the Lake Wollumboola and Crookhaven River catchments based on a hydro-geomorphic study, that considers groundwater issues;
    - II. investigates proposed buffers to coastal/riparian areas in order to preserve the water quality of coastal water bodies, fisheries and aquaculture resources;
    - III. considers the findings and recommendations of the 'Estuarine Management Study: Proposed Mixed Use Subdivision - West Culburra, NSW. Peer Review', dated 7 November 2014 and 'West Culburra Water Cycle Management Review', dated 6 March 2014, undertaken by BMT WBM on behalf of the Department of Planning and Environment,

concerning water quality impacts on the Crookhaven and Lake Wollumboola catchments; and

- IV. includes a water quality management strategy to achieve a neutral or beneficial effect on water quality of coastal water bodies.
- (c) A geotechnical study that assesses, amongst other relevant matters, the potential acid sulphate soil levels on the subject lands identified for development.
  - (d) A Stage 1 Preliminary Contamination Investigation for lands identified for development undertaken in accordance with the 'Managing Land Contamination Planning Guidelines SEPP 55 – Remediation of Land, 1998, Department of Urban Affairs and Planning, Environment Protection Authority'.
  - (e) An Aboriginal Cultural Heritage study to identify items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance. The study is to be undertaken by a qualified person in consultation with local traditional owners including the Jerringa Local Aboriginal Land Council.
  - (f) A flood risk study.
  - (g) A bushfire hazard study.
  - (h) A traffic impact study that considers existing transport facilities (road and public transport) and assesses their adequacy including alternative modes of travel and future transport connections to/from the Princes Highway.
  - (i) A visual impact study.
  - (j) A community impact study.
  - (k) An economic/business impact study that considers:
    - I. the impact of the proposed new neighbourhood centres at Culburra Beach on growth of the existing Culburra Beach centre;
    - II. the impact of the proposal on the growth of other neighbouring settlements, notably Vincentia District Centre and the Nowra Bomaderry Major Regional Centre;
    - III. housing supply and demand at Culburra Beach and Callala Bay; and
    - IV. the potential of suitable alternative sites for a golf course development (outside of the Lake Wollumboola catchment).
  - (l) Infrastructure study (delivery plan).
3. It is noted that 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 of the Jervis Bay National Park or other public open space.

4. Following the 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. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
  - (a) the planning proposal must be made publicly available for **60 days**; and
  - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of 'A guide to preparing local environmental plans (Planning and Infrastructure, 2013)'.
6. The required studies as well as any Voluntary Planning Agreement are to be included with the exhibition materials.
7. Consultation is required with the following public authorities under section 56(2)(d) of the Act:
  - NSW Rural Fire Service (prior to undertaking community consultation under Section 117 Direction 4.4 Planning for Bushfire Protection)
  - Roads and Maritime Service
  - Office of Environment and Heritage
  - National Parks and Wildlife Service
  - Department of Primary Industries (under Section 117 Direction 1.4 Oyster Aquaculture)
  - Environment Protection Authority

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.
8. Specific consultation is required with the following organisations:
  - Jerringa Local Aboriginal Land Council (representing traditional owners)
  - Crookhaven River Oyster Growers
9. No public hearing is required to be held into the matter under section 56(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).
10. 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.

11. The timeframe for completing the LEP is to be **24 months** from the week following the date of the Gateway determination.

Dated *16th* day of *November* 2015.



**Marcus Ray**  
**Deputy Secretary**  
**Planning Services**  
**Delegate of the Minister for Planning**

## **REVISED DRAFT (13 January 2016)**

### **Project Control Group - Rezoning of Halloran Trust Landholdings at Culburra, Callala Bay and Currarong - Terms of Reference**

#### **Background**

Shoalhaven City Council has prepared a planning proposal to rezone 1681.5 hectares of land at Culburra Beach, Callala Bay and Currarong for residential, commercial, industrial, recreation and environmental purposes. A Gateway determination was provided to Shoalhaven City Council on 16 November 2015 to enable the planning proposal to proceed subject to a number of conditions, namely to undertake a number of environmental and other studies.

The finalisation of the planning proposal is likely to be a complex task involving the coordination of multiple parties and authorities, a potential biocertification process as well as substantial dedication of lands to the National Parks Estate. There are also two development proposals affecting the land that are relevant to the planning proposal, namely a State Significant Development application located at West Culburra, which is being assessed by the Department of Planning and Environment and a Golf Course development application at Long Bow Point, in the Lake Wollumboola catchment, which is being assessed by Shoalhaven City Council. The Office of Environment and Heritage (OEH) will also have a concurrence role in the consideration of this development application if Shoalhaven City Council decides to approve it in any form due to the likely significant impact on threatened species which has required the preparation of a Species Impact Statement.

Given this complexity, the Department has proposed the establishment of a Project Control Group (PCG) to assist in the coordination of the planning proposal process.

The purpose of this document is to identify the purpose, membership, responsibilities and meeting procedures of the Project Control Group (PCG).

#### **Purpose:**

The purpose of the PCG is to support the coordination of stakeholders, provide strategic direction and leadership and to provide guidance on the planning proposal process and other parallel planning processes for the Halloran Trust land at Culburra, Callala Bay and Currarong.

The PCG will not carry out the statutory functions of the Planning Proposal process. It will focus on achieving planning outcomes and resolving barriers to progression of the proposal. The decisions and outcomes of the PCG will in no way limit the ability of members to undertake their statutory roles and functions.

#### **Term**

This Terms of Reference is effective from adoption by the PCG and continues until the finalisation of the planning proposal.

#### **Membership**

The PCG membership will comprise:

- Department of Planning and Environment - General Manager, Southern Region, Planning Services, and relevant staff

- Shoalhaven City Council - Director Planning and Development Services, or in his absence, Manager Strategic Planning
- Office of Environment and Heritage, Director - South Branch, Regional Operations Group, and relevant staff

Other agencies and parties, namely the Roads and Maritime Service, the Department of Primary Industries (Fisheries), National Parks and Wildlife Service, Rural Fire Service, Environment Protection Authority, NSW Office of Water, the proponent and community groups may also be invited to attend information/consultation sessions, on an as needs basis, to provide updates on the planning proposal process and to provide opportunities for feedback.

### **Roles and Responsibilities**

The PCG will:

1. Support the coordination of stakeholders involved in the planning proposal process and where the process intersects with other parallel planning processes.
2. Review/agree on the draft scope of works prepared by the Relevant Planning Authority prior to issuing project briefs to consultants where relevant.
3. Collaborate and share information. This includes discussion on interpretation of the Gateway determination and its conditions and review of the various studies and the Masterplan required under the Gateway determination.
4. Evaluate issues, risks, problems and conflicts associated with the planning proposal process.
5. Propose options and solutions for resolving issues that arise for consideration by the relevant authority.
6. Provide clarity on communication and messaging.
7. Review and support progress of the planning proposal.

### **Meetings**

- Meetings will be chaired by the Department of Planning and Environment - General Manager, Southern Region, Planning Services.
- Secretariat services will be provided by the Department of Planning and Environment.
- Meetings will be held on a 3-4 monthly basis (or as needed) at Shoalhaven City Council or the Department of Planning and Environment Wollongong office.

### **Amendment, Modification or Variation**

This Terms of Reference may be amended, varied or modified in writing after consultation and agreement by PCG members.

**General Manager  
Southern Region  
Planning Services  
Department of Planning  
and Environment**

**Director Planning and  
Development Services  
Shoalhaven City Council**

**Director, South Branch  
Regional Operations Group  
Office of Environment and  
Heritage**