

APPENDIX B: CONSIDERATION OF ENVIRONMENTAL PLANNING INSTRUMENTS

State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP) and State Environmental Planning Policy (Major Projects) 2005 (Major Projects SEPP)

The concept plan application was lodged under Part 3A of the EP&A Act. It was considered a major project under the now repealed Major Projects SEPP as it involves subdivision for residential purposes into more than 100 lots. Following the repeal of Part 3A of the EP&A Act, the concept proposal was transitioned to State Significant Development under Clause 6 of Schedule 6A. The concept proposal has been assessed in accordance with the requirements of Part 4 of the EP&A Act. The Minister for Planning is the consent authority for the concept proposal.

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)

The ISEPP aims to facilitate the effective delivery of infrastructure across the State by identifying matters for assessment and providing for consultation with relevant public authorities. The ISEPP identifies traffic generating developments, including subdivision of land into 200 or more allotments where the subdivision includes the opening of a public road. The concept proposal constitutes traffic generating development, consequently it was referred to RMS for comment and consideration of accessibility and traffic impacts.

RMS did not object to the application but requested further design and assessment information for the proposed entrance roundabout. The Department notes RMS' final position that the required design information was not provided prior to determination of the application. As the traffic and access issues remain unresolved, the Department is unable to definitively state that the proposal is consistent with the aims of the ISEPP.

State Environmental Planning Policy No. 14 – Coastal Wetlands (SEPP 14)

SEPP 14 aims to ensure coastal wetlands are preserved and protected in the environmental and economic interests of NSW. A SEPP 14 wetland is located immediately adjacent the site boundary in the Crookhaven River estuary. The Applicant's EA provided a map of the wetland based on field survey compared with the maps included in SEPP 14, see **Figure 15**. The Applicant's EA concluded the concept proposal would not impact on the SEPP 14 wetland. The Department's consideration of potential impacts on the wetland is provided in **Section 6.2**.

State Environmental Planning Policy No. 62 – Sustainable Aquaculture (SEPP 62)

One of the key aims of SEPP 62 is to encourage sustainable oyster aquaculture to protect and enhance the resource into the future. SEPP 62 requires a consent authority to consider whether a development may have an adverse effect on oyster aquaculture and priority oyster aquaculture areas and requires consultation with the Department of Primary Industries. SEPP 62 states that consent may be refused if the development will have an adverse effect on any oyster aquaculture development and priority oyster aquaculture areas, or if measures proposed to avoid or minimise adverse effects are not satisfactory. SEPP 62 also requires a consent authority to consider the NSW Oyster Industry Sustainable Aquaculture Strategy. The Department's consideration of the potential impacts on oyster aquaculture and priority oyster aquaculture areas is provided in **Section 6.2**.

State Environmental Planning Policy No. 71 – Coastal Protection (SEPP 71)

SEPP 71 applies to the site as it is within the coastal zone. SEPP 71 aims to protect and manage the NSW coast through improving public access, protecting Aboriginal cultural heritage, protecting visual amenity and coastal habitats and managing the scale, bulk and height of development along the coast. The Department considers the concept proposal is inconsistent with the aims of SEPP 71 and other matters for consideration in SEPP 71. The concept proposal would remove 91.65 ha of high quality native vegetation and is likely to result in irreversible, flow-on impacts on Lake Wollumboola, which has been identified as having high ecological significance for the State of NSW.

Coastal Protection Act 1979

The *Coastal Protection Act 1979* aims to protect the coastal environment of NSW for the benefit of present and future generations. In particular, the Act aims to protect and restore ecosystems, biological diversity and water quality whilst balancing utilisation of the coastal region to benefit urban communities. The Act prescribes the requirements for the preparation of coastal zone management plans for each region. Shoalhaven City Council prepared a Coastal Zone Management Plan (CZMP) for the Shoalhaven Coastline in 2012. The CZMP is in draft form and has not been certified by the Minister for the Environment, therefore it does not strictly apply to the concept proposal.

The *Coastal Protection Act 1979* will be repealed by the *Coastal Management Act 2016*, once it is enacted, which is expected in mid 2018.

Coastal Management Act 2016 and Draft State Environmental Planning Policy (Coastal Management) 2016

The *Coastal Management Act 2016* aims to manage the coastal environment of NSW in a manner consistent with the principles of ecologically sustainable development for the social, cultural and economic well-being of the people of NSW.

The Act will repeal the *Coastal Protection Act 1979* and the SEPP will replace SEPP 14, SEPP 26 and SEPP 71. The savings provisions in the draft SEPP note it does not apply to DAs lodged prior to commencement of the SEPP. Whilst the draft SEPP does not apply to the concept proposal, it reflects the future strategic direction for the management of coastal land within NSW. Lake Wollumboola is identified in the draft SEPP as a sensitive coastal lake and within a coastal environment area. The draft SEPP includes development controls for land within a 'coastal environment area', stating that development must not cause adverse impacts on the biophysical, hydrological and ecological environment, including water quality, native vegetation and fauna and Aboriginal cultural heritage. The Act will also amend Section 4.15 of the EP&A Act to remove the requirement for a consent authority to consider Coastal Zone Management Plans.

Jervis Bay Regional Environmental Plan 1996 (JBREP)

The JBREP was repealed in 2016 but was in force at the time the application was lodged. The aims of the JBREP are to protect the natural and cultural values of Jervis Bay and allow proposals that contribute to the natural and cultural values of the area. Part of the development (Stage 1 residential and the sporting oval) is located within land identified in the JBREP for new urban releases. The JBREP details requirements for new proposals to evaluate including catchment protection, landscape quality, cultural heritage and habitat protection. The Department has evaluated these components in its assessment of the application, throughout **Section 6** and concludes the development is not consistent with the aims of the JBREP.

Shoalhaven Local Environmental Plan 1985 (SLEP)

The SLEP aims to provide for orderly and timely development of land, to enhance community well-being now and for future generations and work towards an ecologically sustainable future through a proper balance of development and conservation.

SLEP 1985 has now been superseded by SLEP 2014, however the site is listed as 'deferred matter' under SLEP 2014, therefore SLEP 1985 still applies. The site is zoned residential under SLEP 1985. Council is currently considering a Planning Proposal for the Halloran landholdings, including the West Culburra site, to provide a balance of urban development and conservation outcomes.

The Department has consulted with Shoalhaven City Council throughout the assessment process and considered the relevant provisions of SLEP 1985 and those matters raised by Council in its assessment of the concept proposal.

The Department notes the proposal is permissible with consent under SLEP 1985, and is consistent with the objectives of the residential zoning. However the concept proposal is not consistent with the broader aims of SLEP 1985 as it does not provide an appropriate balance of development and conservation.