

Culburra Beach Golf Course – Presentation to IPC – 19/7/18

Members of the IPC,

Thank you for your time today to brief you on the proposed golf course at Culburra Beach.

In making this presentation, I assume the members of the Commission are familiar with the Department of Planning and Environment's Assessment Report.

I will provide a very brief overview of the project and then will talk the Commission through the key issues raised by DPE, which they have used to justify their recommendation to refuse the DA.

Before talking about the technical merits of the proposal, I would like to outline to the Commission the background to the decision to create a high-quality golf facility on the subject land. Warren Halloran, through his family companies, has had a long held passion for the township and people of Culburra Beach. WH's father, Henry, created the township of Culburra Beach in the 1920's and since that time the family has been a great benefactor to the town and the wider Shoalhaven by providing land and other donations for significant community facilities. WH, who is now in his early 90's, had a desire to provide an additional community facility in the form of a golf course, which would provide opportunities for leisure, recreation and employment for members of the local community, and would draw others from the wider community to support local businesses in Culburra Beach.

With respect to technical issues, the assessment of this application really comes down to two key issues - the impacts on flora and fauna and the impacts on water quality in Lake Wollumboola. Whilst, these are separate issues at one level, they are also closely related. Generally, all other issues are secondary to these two primary issues.

In light of this, it is my view that the Commission's decision will be based upon the rigorous scientific approach to flora/fauna and water quality that has been presented by us in this DA or it will be based on the unchanging views of government officers irrespective of the evidence placed before them.

The DPE's AR continues to refer to the Planning Proposal that The Halloran Trust is pursuing and recommends deferring development decisions until the Planning Proposal is complete. However, the DA that is before the Commission today requires a decision at this time.

The Site and Lake Wollumboola

Show Figure 1.

The site containing the proposed golf course is approximately 196Ha in area. The golf course occupies approx. 18% of that site being approximately 36Ha, with the balance of the site beyond the golf course being retained for conservation purposes which totals approximately 160Ha.

The site adjoins Lake Wollumboola, which has been identified by NSW Government to be a sensitive waterbody. Whilst it is acknowledged that the majority of the Lake's catchment is bushland, it is worth drawing to the attention of the Commission that approximately 75Ha of the residential area of the township of Culburra Beach containing over 550 dwellings + a primary school drains into Lake Wollumboola without any real stormwater treatment.

Despite this urban development within the Lake's catchment, Lake Wollumboola maintains its high ecological value.

The site itself is characterised by a broad ridge running in a NW/SE direction from Culburra Rd to Long Bow Point on the edge of Lake Wollumboola. The SW side of the ridge drains to Downs Creek whilst the NE side of the ridge drains to Wattle Creek, both SEPP14 wetlands.

The site has been quite heavily disturbed in the past and contains significant cleared areas which have been utilised in the proposal as far as is possible. Where these cleared areas are not fully utilised, it is proposed they are rehabilitated and revegetated. The site now contains significant regrowth. It is heavily vegetated in some areas with vegetation that has been classified by Cumberland Ecology to be in "moderate to good" condition.

The Proposal

The proposal includes:

- An 18-hole "championship" golf course designed by the well-respected James Wilcher from "Golf by Design";
- A golf practice area including a driving range, chipping green and putting green;
- Maintenance facilities;
- Amenities;
- A carpark and access road including a safe intersection with Culburra Rd;
- Water management facilities;
- Landscaping;
- Identification of an area for the provision of a future clubhouse; and
- A significant area of preserved vegetation of 160Ha around the golf course site;

The proposal requires the removal of 32.4Ha of native vegetation, which does include small areas of the threatened ecological communities Swamp Sclerophyll Forest on Coastal Floodplains and Swamp Oak Floodplain Forest.

The proposed use is permissible on the land, and apart from a small track and a bridge across Downs Creek, the proposal avoids all areas of 7(a) Environment Protection "A" (Ecology) Zone. The proposal is setback a minimum of 140m from Lake Wollumboola, which provides an excellent vegetated buffer to the waters of the Lake.

The Key Issues

In its assessment of the proposal, DPE has identified three key issues which it has based its recommendation to the Commission upon.

These issues are:

1. Water Quality; and
2. Flora/fauna
3. Statutory and Strategic Planning

I will address each of these issues in turn.

1. Water Quality

It was identified from the very start of the design development for the golf course that water quality impact on Lake Wollumboola and the adjoining SEPP14 wetlands were likely to be the single most important issue for the proposal. At this point in time, this is still my view.

Surface Water

In light of the significance of this issue, Martens have designed best practice WQ facilities for the golf course on the basis the proposed land use is “agriculture” which is a significantly higher pollution load than the proposed golf course resulting in the WQ modelling being significantly conservative.

All areas of the proposed golf course (except for a small area of 1.3Ha) will drain to one of 13 constructed wetlands which will collect and treat surface runoff. Treated stormwater from 12 of the wetlands will be harvested and stored in a central irrigation storage dam. Irrigation of the golf course will be sourced from the storage dam.

A stormwater model was prepared in MUSIC to simulate the proposal. The MUSIC model has been developed to be 100% consistent with the current NSW MUSIC modelling guidelines. In all catchments, the measure of “NorBE” has been met with reductions in all pollutants entering Lake Wollumboola. There is a slight reduction of 41ML/year in surface runoff from the site. This is all outlined in the various Martens WQ reports.

Martens concludes that the proposed golf course will not adversely affect surface water runoff from the site or entering either SEPP14 wetlands or Lake Wollumboola.

Ground Water

A number of groundwater bores have been drilled across the site to allow an analysis of the groundwater issues to be undertaken. Laboratory testing of groundwater samples has also been carried out along with rock coring and packer testing of the rock to determine groundwater permeability.

Groundwater in low lying areas of the site was found at shallow depths of 0.3 to 0.7mbgl. Groundwater was significantly deeper along the ridge top and side slopes.

The regional groundwater table is located within unweathered siltstone rock underlying the site. The siltstone has very low permeability which results in any surface water entering the regional groundwater system at a very low rate. It is therefore concluded that the dominant groundwater route is through shallower unsaturated soil being clay and weathered siltstone.

A groundwater model was prepared in ReCycle to simulate the proposal. The model indicates an increase in site seepage to groundwater of 40ML/year, with corresponding reductions in pollutant (TN/TP) concentrations. These modelled concentrations are lower than the measured groundwater concentrations.

Martens concludes that the proposed golf course will not adversely affect groundwater beneath the site or entering Lake Wollumboola.

Martens also reviewed the 2013 Scanes report and its supporting data which is claimed by Government Agencies to be an excellent example of a document that confirms that Lake Wollumboola is heavily dependent upon ground water flows and anything in the catchment of Lake Wollumboola will cause irreparable damage to the lake.

Martens review of the Radon data concludes:

- There are critical methodological flaws in the original field investigations;
- There has been incorrect and inconsistent data reporting; and
- There has been a lack of analytical assessment of the results.

- The data presented does not support OEH's conclusion regarding the significance of groundwater to the Lake
- The data presented does not support OEH's conclusion that the proposal is likely to influence water quality in the Lake through groundwater.

It is worth pointing out that the final outcome of the Scanes report (and its May 2018 revision received on Tuesday) simply states that Lake Wollumboola may have some groundwater influences (this would be expected) and "any changes to land use that may alter the groundwater cycle have to be carefully considered." This is exactly what Martens has done with its groundwater assessment.

Overall

In summary, the surface and groundwater impacts of the proposal have been modelled in MUSIC and ReCycle to best practice standards. The total volume of water draining from the site to the receiving waterbody is the equivalent of the pre-developed scenario and pollution levels are lower than pre-developed levels, demonstrating that the requirement to meet NorBE has been achieved.

Use of site chemicals during golf course operations e.g. pesticides and herbicides will be carefully controlled through the Golf Course PoM that has been developed for the site and will not lead to pollution of the Lake. Cost of these chemicals are expensive and over-use is not a genuine risk.

The conclusions of the WQ study are:

- A precautionary approach to the proposal with respect to WQ impacts has been taken which has seen the introduction of significant WQ measures into the DA;
- The MUSIC model has been assessed against the best practice industry standards and it provides a sound scientific approach to assessing the impacts of the proposal;
- The MUSIC model adopted the most conservative parameters at each step to ensure the final stormwater management solution achieves acceptable receiving environment water quality outcomes.
- Groundwater will not be detrimentally impacted by the proposal as has been demonstrated by the ReCycle model;
- The Radon assessment completed by OEH is fundamentally flawed and cannot be used for any decision making; and
- The proposed golf course will not have a serious or irreversible impact on Lake Wollumboola. In fact, there will be a negligible impact as the NorBE test has been satisfied;

2. Flora/fauna

A flora/fauna assessment was initially carried out by Dominic Fanning who has significant experience on the subject land. The conclusion of Fanning's original assessment undertaken in accordance with s5A of the EP&A Act was that the proposal "was not likely to have a significant effect" on any threatened species or community and that a SIS was not required.

The document was peer reviewed by an ecologist engaged by SCC and the conclusion of this document was that due to the level of uncertainty with the application at that time, an SIS was required.

An SIS was then prepared by Fanning to the requirements of the OEH. During the preparation of the SIS, a significant amount of redesign of the golf course was carried out. Golf by Design was engaged, hollow bearing trees were surveyed and the golf course was

carefully re-shaped with the golf course architect, ecologist and water quality expert working hand in glove through the design process. Significant reductions in the extent of clearing of native vegetation and removal of HBT were obtained.

OEH was not satisfied with the SIS that was prepared by Fanning following this redesign.

The decision was made at that time to obtain the services of Dr David Robertson from Cumberland Ecology to complete a new and independent SIS. Dr Robertson was a member of the Independent Review Panel who carried out the South Coast Sensitive Urban Lands Review for the Minister for Planning in 2006. This panel assessed a number of sites including Culburra and so we were aware that Dr Robertson had experience with the site and would provide a fresh look at the full gambit of flora/fauna issues that were being questioned by OEH.

Substantial additional ecological surveys were carried out to augment those previously carried out by Fanning and the body of work completed for the original application was reviewed by Dr Robertson. A new SIS was prepared, including new vegetation community mapping using the Biometric Vegetation Types as required by OEH.

In documents before the Commission, DPE and OEH keep referring to the site as containing “high quality native vegetation”, however the assessment by Cumberland Ecology classifies the vegetation as “moderate to good”.

After fresh consideration by Dr Robertson, the conclusion was reached that the proposal:

- was designed to avoid impacts on TEC’s, threatened species and Lake Wollumboola;
- would not have a significant impact on any threatened flora and fauna
- a number of mitigation measures would be introduced to control the way the development progressed through the introduction of a Golf Course PoM to control construction and operation of the golf course.

Further, biobanking offsets for the loss of the native vegetation were also proposed as part of the DA.

Dr Robertson is with us today and I will pass over to him today for a few minutes so he can confirm what I have just outlined.

3. Statutory and Strategic Planning

With respect to statutory planning controls, the site is primarily zoned **2(c) Residential** under the Shoalhaven LEP1985 which has as one of its objectives to allow for “facilities to serve the local community”. The proposed development is permissible in the zones that exist on the site.

Further, based on the rigorous scientific approach taken by Martens and Cumberland Ecology, it is our view that we have demonstrated that:

- There is no significant impact on threatened flora and fauna; and
- There is no adverse impact on downstream water quality.

In light of this, we are of the view that we satisfy the necessary tests in SEPP14, SEPP71 and the JBREP1996.

DPE has formed the view that the development:

- “is likely to adversely impact on two listed wetlands”
- “is likely to result in irreversible flow-on impacts on Lake Wollumboola”; and

- “is likely to have serious adverse impacts on the natural environment”.

This view is not based on any scientific evidence that it has provided but on conjecture, hypothesis and assumption, despite the scientific evidence presented.

In Section 4.9 of the EA (page 15), DPE advises that “The applicant has been unable to demonstrate with certainty there is no threat of serious or irreversible damage.” The Commissions attention is drawn to ***Telstra Corporation Limited v Hornsby Shire Council [2006] NSWLEC 133*** where the “precautionary principle” is carefully explained by Preston Chief Judge. It is noted that the judgement confirms that “A zero risk precautionary standard is inappropriate” s158 but this appears to be what OEH and DPE require.

Further, neither OEH or DPE have done any scientific assessment of the proposal to demonstrate that there will be a serious or irreversible impact on the environment. Again from ***Telstra Corporation Limited v Hornsby Shire Council [2006] NSWLEC 133*** it states “The threat of environmental damage must be adequately sustained by scientific evidence.” S134. This has not occurred but is still used as the primary reason for refusing the application.

To the contrary, we have demonstrated through the use of two highly respected experts in their fields, that the environmental impacts are acceptable.

With respect to the strategic planning documents that DPE relies on, I make a number of observations:

- a) Many of the strategic planning documents mentioned are not EPI’s and have no legal weight and should not be taken into account in any s4.15 assessment;
- b) The findings of the Col from 2000, which DPE relies heavily on, were prepared for an 837-lot residential subdivision which involved the clearing of 125Ha of vegetation – the findings of this report have very little relevance, if any, to the current golf course proposal;
- c) Whilst it is accepted that the Illawarra-Shoalhaven Regional Plan specifically states that “lands within the catchment are considered unsuitable for urban development because of potential negative impacts on the Lake”, it is our strong contention that a golf course is not truly “urban” in nature and that the impacts of the proposed golf course have been carefully considered and there will be no negative impacts upon Lake Wollumboola or any significant impact on any threatened flora/fauna.

Public Interest

With respect to the public interest test, the entire purpose of the proposal is to provide a high-class facility to be used by members of the local and broader community. There is negligible private benefit gained by the provision of the facility.

As there is no net loss of biodiversity through the securing off offset credits, and there is no impact on Lake Wollumboola, the public interest test is well and truly satisfied.

Other Issues

It is noted that DPE also lists a number of additional matters that it claims adds additional weight. One of these issues is Aboriginal Heritage. I table a letter from DPE dated 1/8/17 which was prepared after the project was declared SSD. The letter asks for additional information on WQ and FF. I also table my email in response querying that DPE did not want additional AH work to be done. DPE advised in response that they did not need any additional informational on AH. It is unsatisfactory that DPE would then use that lack of AH information as a reason for refusal. It would appear that DPE had decided back in August last year that it was going to be refuse the DA, before it had even concluded its assessment.

An economic study of the proposal has not been completed. It is quite obvious that Culburra Beach is lacking in high quality community facilities. Discussions with members of the local community during the proposals design and assessment phase have showed great enthusiasm for the project. It is estimated that the golf course will generate 25-30 jobs during its construction and grow-in phase over a period of 18 months and 8 full time jobs during its operational phase.

DPE advises that there are 4 other golf courses within 16km of Culburra Beach. This information does not present a realistic assessment of the proximity of Culburra Beach township to other golf courses. From Culburra Beach CBD, by road:

Shoalhaven Heads is 38km away (39 minutes);

Nowra is 23km away (24 minutes)

Worrigeer Links is 17km (14 minutes)

Callala Bay is 14km (12 minutes).

It is accepted that three of these golf courses are within reasonable commuting distance of Culburra Beach township.

Conclusion

It is our strong contention, that the key issues for this proposal being water quality and flora/fauna have been adequately addressed in the application and the **unfounded fear** of “serious and irreversible” impacts on Lake Wollumboola which are constantly espoused by OEH and DPE cannot form a genuine reason for refusing this application.

In light of the above, I now trust the Independent Planning Commission will use its independence to make an appropriate decision on the Golf Course DA.

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Allen Price and Scarratts Pty Ltd
Matt Philpott – Director - 19/7/18