



**Planning &  
Environment**

***APPLICATION FOR MINISTERIAL CALL-IN  
LONG BOW POINT GOLF COURSE, CULBURRA***



*Lake Wollumboola*

***REPORT TO THE PLANNING ASSESSMENT COMMISSION***

**July 2016**

## **BACKGROUND AND OVERVIEW OF PROPOSAL**

This report represents the Department of Planning and Environment's consideration of a call-in under Section 89C of the *Environmental Planning and Assessment Act 1979* (EP&A Act) for the Minister for Planning (the Minister) to declare the proposed Long Bow Point Golf Course located at Culburra Road, Culburra Beach as State Significant Development (SSD).

### **Background**

Development of the Long Bow Point land has a long and contentious history. The site was the subject of a 1993 Development Application for residential subdivision. In 1996 a Commission of Inquiry was held in relation to that proposal and the suitability of the site for residential subdivision. The development application was subsequently refused by the Minister in June 2000.

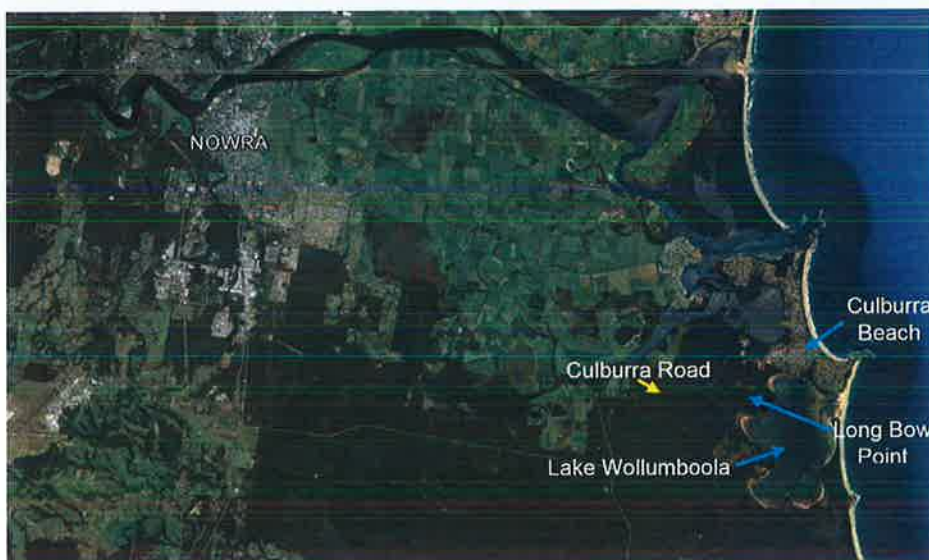
The water quality and biodiversity values of the site and their implications on land use have also been considered as part of a 2002 Coastal Lakes Independent Inquiry, a 2006 South Coast Sensitive Urban Lands Review and the 2013 Scanes Peer Review.

The Long Bow Point Golf Course DA (DA11/1728) was received by Shoalhaven City Council in June 2011. The Development Application proposes an 18 hole golf course (approximate length of 6.4 kilometres) and associated works/facilities (golf practice area, maintenance facility, access/car parking and water management facilities) to be constructed in three stages.

### **The Site and Surrounding development**

The site is located on the southern side of Culburra Road and is approximately 15 km south east of Nowra. Culburra Beach is approximately 2.5 km north east of the site. The site is located immediately north-west of Lake Wollumboola.

The proposed golf course occupies approximately 93 hectares situated along the ridge of Long Bow Point on part of lots 5 & 6 DP 1065111.



**Figure 1: Site location**

Parts of the site are heavily vegetated and other areas towards the centre of the site are cleared. The ridgeline on which the golf course would be located has a north-west/south-east alignment. The site ultimately drains to Lake Wollumboola through a series of water courses.

Part of the site is currently used for cattle grazing. Land surrounding the site is undeveloped and vegetated.

The land subject of the application is shown in the map below.



**Figure 2: Site plan**

### **Strategic Context**

Four independent Government inquiries have established a clear policy that the land in the Lake Wollumboola catchment is considered unsuitable for urban development because of potential negative impacts on Lake Wollumboola.

#### **Commission of Inquiry (1996-2000)**

In 1996 the Minister for Urban Affairs and Planning established a Commission of Inquiry into the environmental aspects of a proposed 800 lot subdivision at Long Bow Point, Culburra. Under Section 101 of the *Environmental Planning and Assessment Act 1979*, the Minister became responsible for determining the development application (which was subsequently refused).

The Inquiry was adjourned to enable the preparation of a Fauna Impact Study. The final public hearing session was concluded in January 2000 and the COI report was provided in March 2000.



The major issues considered by the COI were the:

- proposed clearing of significant fauna habitat and related fauna impacts;
- potential water pollution to Lake Wollumboola adjoining the site and related fauna and fauna habitat impacts; and
- cumulative impacts.

The Commissioner's Report recommended refusal of the proposal due to its likely unacceptable environmental impacts, including loss of water quality of Lake Wollumboola and loss of fauna and habitat of conservation value.

The Minister refused the subdivision application in June 2000 for the following reasons:

- the proposal would result in the degradation of the water quality of Lake Wollumboola and significantly affect its habitat, recreation and ecological values;
- the proposal would result in the loss of critical habitat for endangered fauna;
- the proposal would expose people to the odours from the Lake and intensify calls to the State Government and Council to modify the Lake's hydrological regime;
- the proposed subdivision fails to take into account the cumulative impact of the proposed six stage expansion of Culburra; and
- the proposed environmental management measures would not adequately protect the water quality of the Lake, critical habitat and endangered fauna.

The Minister in making his decision also accepted the Commission's recommendation that the land use planning and environmental management controls for the Lake and its catchment be reviewed with the landowners and community.

#### Coastal Lakes Independent Inquiry (2002)

The Independent Inquiry into Coastal Lakes by the Healthy Rivers Commission in 2002 identified and confirmed several fundamental issues that must be faced in efforts to improve the health of coastal lakes. These include matters relating to the capacity of each lake to support human activity, estuarine sensitivities and values, restoration opportunities, management approaches and pressures and threats to the future health of coastal lakes.

The classification of each coastal lake provides guidance for its management. The Inquiry classified each coastal lake according to its natural sensitivity, current condition of the water body and catchment, recognised ecosystem and resource conservation values, and other significant socio-economic factors.

Lake Wollumboola was identified as having the highest classification of *Comprehensive Protection* by the Inquiry. In being identified for *Comprehensive Protection*, Lake Wollumboola was acknowledged as having extreme natural sensitivity, a largely unmodified catchment, a slightly affected lake condition and high conservation value.

The catchment management activities for this classification of lake are intended to deliver restored and preserved natural ecosystem processes and includes limiting new urban development to within existing developed boundaries.

#### South Coast Sensitive Urban Land Review

The NSW Government released the draft South Coast Regional Strategy for public comment in May 2006. In preparing the draft Strategy, a number of areas zoned to allow for urban expansion were found to be environmentally sensitive and in relatively isolated locations and warranted a "priority review by an expert Panel to determine suitability and scale of any release" for urban development.

The Minister for Planning appointed an independent Panel comprising Dr Andrew Refshaug (Chair), Dr David Robertson and Mr Vince Berkhout to investigate and report on the sensitive sites to inform the finalisation of the Strategy.

The land identified under this DA covers portions of the Culburra Urban Expansion area that were reviewed. At the time, the relevant lands were zoned Residential 2(c) (Residential Living Area) under Shoalhaven LEP 1985. By virtue of the land's deferral under the Shoalhaven LEP 2014, this zoning remains current for the review areas.

The review of the Culburra urban expansion area identified ecological values that form significant constraints to urban development. The review concluded that the part of the site within the Lake Wollumboola catchment is entirely unsuitable for urban development – the current DA is within this part of the site.

Through the recently released Illawarra-Shoalhaven Regional Plan, the outcomes and recommendations of the review continue to guide the protection and conservation of the Lake Wollumboola catchment and future land use planning decisions.

#### Scanes Peer Review

The Office of Environment and Heritage (Estuaries and Catchment Science Division) prepared "Environmental Sensitivity of Lake Wollumboola: Input to Considerations of Development Applications for Long Bow Point, Culburra" (Scanes, P; Ferguson, A; Potts, J; 2013) at the request of the Department of Planning and Environment.

The report provides a peer review of water quality studies commissioned in 2008 by the major landowner in the Lake Wollumboola catchment in response to the findings of the independent Government Inquiries into Lake Wollumboola (the 1999 Commission of Inquiry, the Healthy Rivers Commission Independent Inquiry into Coastal Lakes and the South Coast Sensitive Urban Lands Review). The report also reviews other relevant literature on the water quality and ecology of the Lake.

The Government Inquiries concluded that development in the Lake catchment is not suitable because of adverse impacts on the Lake hydrology and ecosystem. The landowner is of the view that the Lake catchment can accommodate the golf course without significant impact on water quality or migratory bird habitat, particularly with the use of modern stormwater control and treatment technologies.

The Scanes Peer Review Report refutes the findings of the landowner's water quality assessment of the Lake, identifying concerns with the assessment and the modelling used. The Scanes Report confirms the Lake's extremely high conservation importance as a unique "back-dune lagoon" system of high ecological value. The Report emphasises the extreme sensitivity of the Lake and high susceptibility to catastrophic state change. It recommends that a precautionary approach is adopted as a high priority when assessing development proposals in the Lake Catchment. The report supports the limitation to development within the Lake catchment as recommended by the other Independent Government Inquiries.

#### Illawarra Shoalhaven Regional Plan

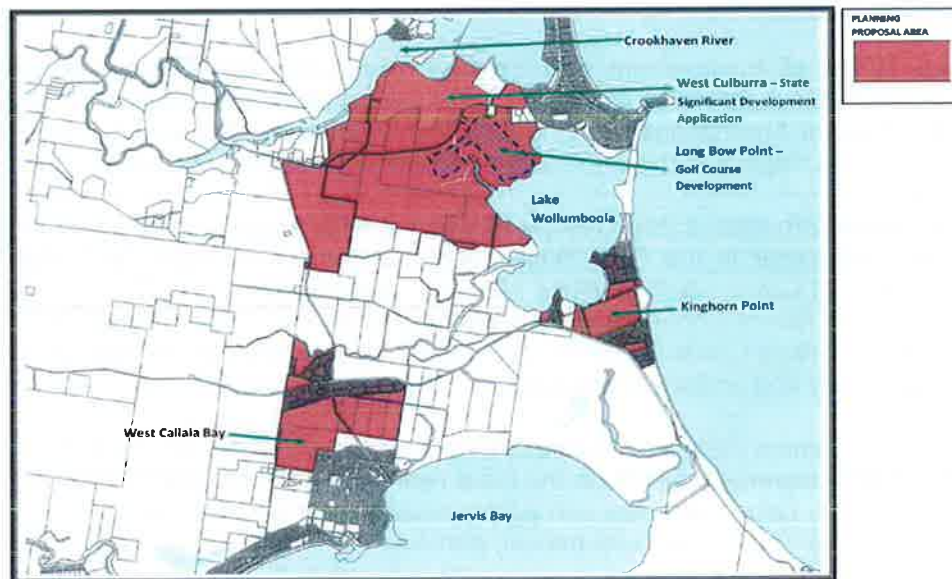
The clear policy established through the four independent inquiries that the land in the Lake Wollumboola catchment is considered unsuitable for urban development is reflected in the recently released *Illawarra Shoalhaven Regional Plan (2015)*. Lake Wollumboola is specifically referenced in the Plan as being an *ecological jewel that must be protected*. The Plan also states that *the lands within the catchment are considered unsuitable for urban development because of potential negative impacts on the lake, which is a sensitive, intermittently closing and opening lake with very high conservation values*.

Systems that are particularly susceptible to the impacts of land use development are identified as sensitive estuaries under the Regional Plan – Lake Wollumboola is identified within this classification. A higher level of management intervention is needed to protect, maintain and/or restore the water quality and ecological condition of these sensitive estuaries.

The Regional Plan commits the Government to protect sensitive estuaries such as Lake Wollumboola from inappropriate development that affects water quality or ecological function.

### Related proposals

There are 3 current proposals relating to the proponent's land – the Long Bow Point Golf Course DA, a planning proposal and a State Significant Development Application (SSD). Further details in relation to the planning proposal and the SSD application and a map showing the lands covered by the proposals are provided below.

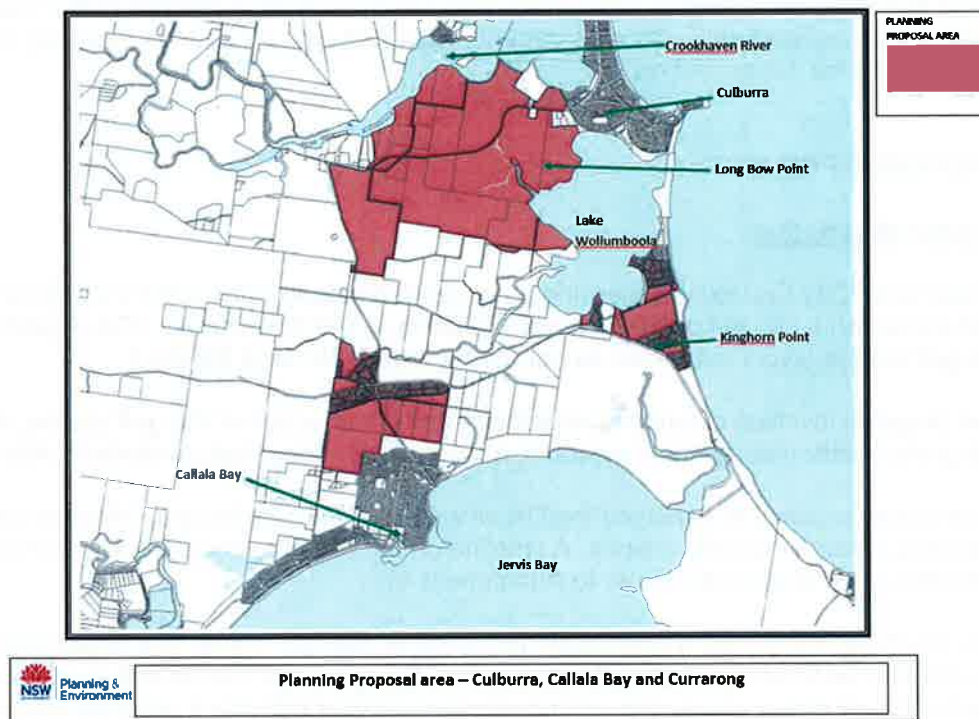


**Figure 3: Areas affected by current proposals**

### Planning Proposal

The land subject to the DA, as well as the proponent's adjoining lands at Culburra, at Callala Bay and at Currarong are deferred matters under the Shoalhaven LEP 2014. A planning proposal has been prepared by Council for these broader lands, seeking to provide suitably balanced development and conservation outcomes.

The planning proposal covers 1,700 ha of land and proposes 6,100 houses (5,400 at Culburra and 700 at Callala Bay) and the potential dedication of 1,121 ha of land to the Jervis Bay National Park. A key issue to be addressed in this strategic process is ensuring that Lake Wollumboola and its catchment are protected. A map of the areas affected by the planning proposal is provided as Figure 3.



**Figure 4: Planning Proposal Area**

The Gateway determination that was issued in November 2015 requires that land in the Lake Wollumboola catchment is zoned for environmental protection dependent on the outcomes of a biodiversity offset and water quality management strategies. A Project Control Group, comprising of Department of Planning and Environment, Office of Environment and Heritage and Shoalhaven City Council staff has been established to assist in progressing the planning proposal. Work has commenced on preparing studies.

The biodiversity offset and water quality management strategies that are currently being prepared along with a masterplan will be used to determine a suitable development footprint outside of the Lake Wollumboola catchment.

#### State Significant Development

The proponent is also pursuing a State Significant Development Application (MP 09\_0088) to develop a 102.23 hectare site for mixed use residential, commercial and industrial development at West Culburra, primarily in the Crookhaven River catchment. The West Culburra SSD Concept Plan application was lodged with the Department in April 2010. The Plan was placed on public exhibition from April to June 2013 and is currently being assessed by the Department.

The Department is currently working with the proponent to resolve a number of outstanding issues with the SSD application, namely demonstrating a neutral or beneficial impact on water quality for water draining to the Crookhaven River estuary, and the determination of a suitable biodiversity offset.

The Department has consulted with the OEH in relation to a suitable mechanism to offset the biodiversity impacts associated with the SSD. The OEH has advised that the offset could be incorporated within the biodiversity certification process for the planning proposal.



Once the offset and water quality issues have been resolved in relation to the SSD project, the Department will finalise its assessment report and forward it to the Planning Assessment Commission for determination.

## PROPOSED PROJECT

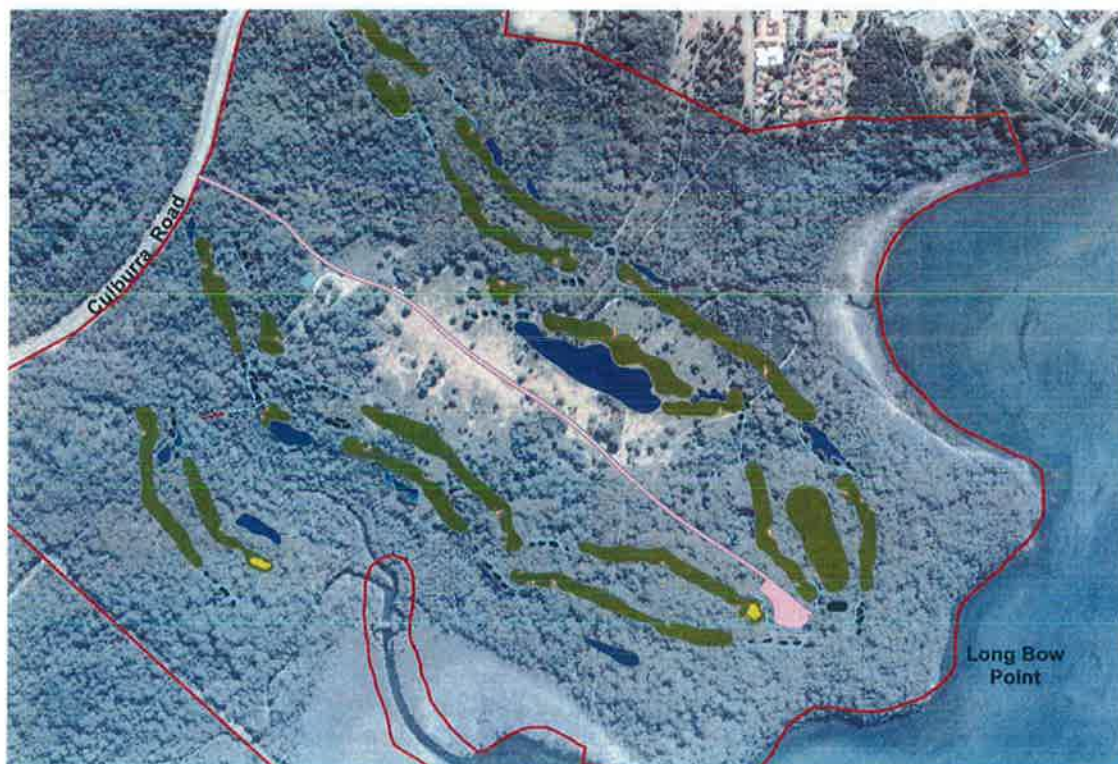
### Project description

Shoalhaven City Council is assessing a development application (DA11/1728) for an 18 hole golf course on a site at Long Bow Point, Culburra, in the Shoalhaven LGA. A plan showing the golf course layout submitted as part of the application is at Figure 3.

The proposal involves clearing of vegetation and construction of the golf course, including integrated water management systems, access, car parking, maintenance facility and toilets.

Council has recently re-exhibited the DA as well as a Species Impact Statement and is currently considering submissions. A timeline on the assessment of the DA to date is provided as an attachment (refer to Attachment A).

The DA does not include a clubhouse, pro-shop or change rooms. The Statement of Environmental Effects indicates that these facilities would be the subject of a separate application at a later stage. The golf course layout plans indicate a potential location for the clubhouse near Lake Wollumboola.



**Figure 5: Golf Course layout**

The agreement of the OEH is required under threatened species legislation if Council consents to the development. The OEH has raised a number of concerns about the adequacy of the SIS and Aboriginal heritage documentation. OEH has recommended that



Council await the planning proposal studies, particularly the biodiversity offset and water quality strategies, prior to making a decision on the DA.

The proponent has advised that it is willing to consider potential dedication of Long Bow Point through an offset strategy using Biodiversity Certification as part of the planning proposal process. The proponent has also advised that there is a strong community expectation that the golf course will be built and that it has made a significant investment in preparing studies to support the development application.

## **STATUTORY CONTEXT**

### **State Significant Development**

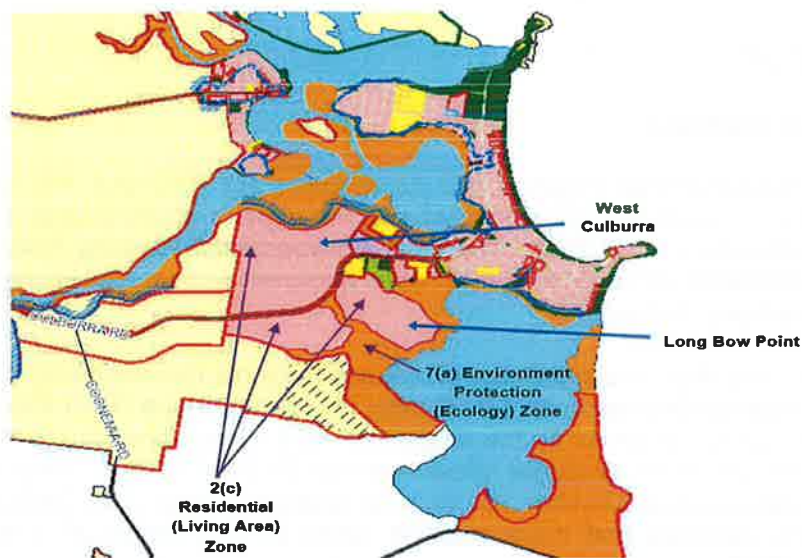
Section 89C of the *Environmental Planning and Assessment Act 1979* (the Act) identifies how SSD is declared. Section 89C(2) of the Act enables a State environmental planning policy to declare development to be SSD. The *State Environmental Planning Policy (State and Regional Development) 2011* (SRD SEPP) has declared certain development of a particular class or description to be SSD.

Under the State Environmental Planning Policy (State and Regional Development) 2011, the proposal would be 'regional development' if its Capital Investment Value (CIV) exceeded a \$10 million threshold (which is saved as the application was lodged prior to the new \$20 million threshold). The CIV of the proposal is estimated at \$9,045,130. It is noted that the proposal does not include a clubhouse, pro-shop or change rooms. The Statement of Environmental Effects indicates that these facilities would be the subject of a separate application at a later stage.

Section 89C(3) of the Act provides that the Minister may, by order published in the Gazette, declare specified development on specified land that is not declared under section 89C(2) to be State significant development, but only if the Minister has obtained and made publicly available advice from the Planning Assessment Commission about the State or regional planning significance of the development. This power to call-in a project operates in addition to the SRD SEPP.

### Environmental Planning Instruments and Permissibility

The site is located within the Shoalhaven LGA. The DA is being assessed by Council under the Shoalhaven LEP 1985, as the site is deferred under the Shoalhaven LEP 2014. The site is zoned mainly 2(c) Residential 'C' (Living Area) zone, with the remainder zoned 7(a) Environmental Protection 'A' (Ecology) zone under Shoalhaven Local Environmental Plan 1985 as shown below.



**Figure 6: Zoning Plan**

The area proposed to be occupied by the golf course has a 2(c) Residential 'C' (Living Area) zoning. Golf courses are permitted with consent in the zone under the Shoalhaven LEP 1985.

### **CONSULTATION**

Council has consulted with the community on two occasions in relation to the DA. The first consultation was from 20 July 2011 until 17 August 2011. An amended application was exhibited from 18 April 2012 until 21 May 2012.

State agencies have also been consulted on the proposal including the Office of Environment and Heritage, Office of Water, Rural Fire Service and Primary Industries.

Should the proposal be declared SSD, consultation will be undertaken with Council, the proponent and relevant State agencies.

## DEPARTMENT'S CONSIDERATION OF THE PROPOSAL

### General issues relating to State or Regional Planning Significance

When determining the State or regional planning significance of a development proposal, the Minister has requested the Planning Assessment Commission to consider six general issues. The Department has considered the proposal in relation to these issues. This consideration is provided below:

**1. Whether the proposal is of regional or State importance because it is in an identified strategic location, or is critical in advancing the nominated strategic direction or achieving a nominated strategic outcome, contained in a relevant State policy, plan or strategy, or regional or sub-regional strategy;**

#### Illawarra Shoalhaven Regional Plan

Four independent Government inquiries have established that the Lake is of State significance and set a clear policy direction that land in the Lake Wollumboola catchment is considered unsuitable for urban development because of potential negative impacts on the Lake.

The protection of Lake Wollumboola and its catchment is specifically identified in the Illawarra Shoalhaven Regional Plan. The Lake is identified in the Regional Plan as having very high conservation value and as a Sensitive Estuary which is to be protected from inappropriate development that affects water quality or ecological function. The Plan recognises that the Lake has very high conservation values. Under the Plan, land in the Lake Wollumboola catchment is considered unsuitable for urban development because of potential negative impacts on the Lake.

The Regional Plan commits the Government to protect sensitive estuaries such as Lake Wollumboola from inappropriate development that affects water quality or ecological function.

The proposal is strategically inconsistent with the Regional Plan as the proposed Golf Course represents a type of urban development within the catchment of the Lake, and has potential for negative impacts on the Lake.

#### SEPP (State and Regional Development) 2011

The SEPP (State and Regional Development) 2011 (SEPP) contains threshold criteria for 'regional development'. The \$9,045,130 capital investment value (CIV) of the development is close to the \$10 million threshold (which is saved as the application was lodged prior to the new \$20 million threshold) under the SEPP for regional development.

The Statement of Environmental Effects indicates that the clubhouse (proposed to be located near Lake Wollumboola) will be pursued via a separate development application. If this separate component of the development were taken into account the CIV of the proposal would increase and may result in it exceeding the threshold for regional development under the SEPP.

There could also be additional environmental effects from the clubhouse that would need to be considered and mitigated.



**2. Whether the proposal delivers major public benefits such as large-scale essential transport, utility infrastructure, or social services to the community;**

The applicant has advised that the proposal will have the following public benefits. It will:

- make the site accessible to the general public;
- broaden the range of recreational opportunities in the area; and
- provide an additional tourist attraction.

It is agreed that the proposal would have community benefits as described above. However, these benefits are considered to be of a local nature. There is no large-scale essential transport, utility infrastructure, or social services provided to the community from the proposal. As such the proposal will not deliver State or regional benefits.

**3. Whether the proposal is likely to have significant environmental, social or economic impacts or benefits, be of a significant hazardous or environmentally-polluting nature, or is located in or in close proximity to areas or locations that have State or regional environmental, archaeological or cultural heritage significance;**

The site is in close proximity to Lake Wollumboola which is considered to be of State environmental significance.

The Lake is a wetland of National and international significance for migratory birds. The birds are protected under the Japan-Australia Migratory Bird Agreement (JAMBA) and the China–Australia Migratory Bird Agreement (CAMBA) international treaties. The treaties are the responsibility of the Commonwealth Department of the Environment.

Independent Government inquiries have recognised the high environmental significance of Lake Wollumboola. The 1996-2000 Commission of Inquiry identified the lake as one of only a few NSW coastal lakes warranting the highest level of protection from pollution or impacts. It set a goal of “no net increase in pollution” for the lake.

The Healthy Rivers Commission Coastal Lakes Independent Inquiry (2002) identifies Lake Wollumboola as having the highest classification of *Comprehensive Protection* used by the Inquiry. The primary outcome from this classification is that all natural ecosystem processes are restored and preserved and that urban development is limited to existing boundaries. In response to the findings of the Inquiry, the bed of Lake Wollumboola and part of its dunal sand barrier were gazetted in November 2002 as part of the Jervis Bay National Park.

A peer review report prepared by OEH entitled “Environmental Sensitivity of Lake Wollumboola” (Scanes, Ferguson and Potts, 2013) concluded that “the demonstrated ecological significance of the lake, the relative rarity of its biotype and its sensitivity to catastrophic state change justify the current limitations to development within the lake catchment.”

A clear policy has been established through the Inquiries that land in the Lake Wollumboola catchment is unsuitable for urban development because of potential negative impacts on the lake.

The OEH has suggested to Council that a precautionary approach to assessing development near the lake is critical to avoid irreversible impacts on its ecology. It has identified the potential for a golf course to have significant impacts on the water quality of the lake, including fertiliser and pesticide transfer to the lake via groundwater.

In relation to cultural heritage significance, Jervis Bay and the immediate hinterland, particularly around Hare Bay, Lake Wollumboola and Currambene Creek have high

Aboriginal social value as identified in "Jervis Bay National Park and Woollamia Nature Reserve Plan of Management" (NSW National Parks and Wildlife Service, February 2011).

The proposed golf course occupies approximately 93 hectares and has a length of 6.4 km. It has the potential for significant environmental impacts due to the sensitivity of the receiving waterbody and is located in an area identified as having high Aboriginal social value.

**4. Whether the proposal is of significant economic benefit to a region, the State or the national economy, such as those with high levels of financial investment and continuing or long-term employment generation;**

The applicant has advised that the proposal will have the following economic benefits:

- Provide an additional tourist attraction; and
- Provide employment opportunities for the local community in both the construction and long term management/maintenance of the golf course.

The proposal will have economic benefits, but these are expected to be of local significance, and not of regional, State or national significance.

**5. whether the proposal is geographically broad in scale, including whether it crosses over multiple council and other jurisdiction boundaries, or impacts a wide area beyond one local government area; and**

The proposal is restricted to a single site and is not geographically broad in scale. It does not cross over multiple council boundaries.

However, it is noted that the site is included as part of the broader planning proposal area.

**6. whether the proposal is complex, unique or multi-faceted and requires specialist expertise or State coordinated assessment, including where councils require or request State assistance.**

The proponent has two other significant proposals in the Culburra area which relate to this matter.

A planning proposal covers 1,700 ha of land and proposes 6,100 houses (5,400 at Culburra and 700 at Callala Bay) and the potential dedication of 1,121 ha of land to the Jervis Bay National Park. The planning proposal covers the areas affected by the other two proposals. A key issue to be addressed in this strategic process is ensuring that Lake Wollumboola and its catchment are protected.

The proponent is also pursuing a State Significant Development Application (MP 09\_0088) to develop a 102.23 hectare site for mixed use residential, commercial and industrial development at West Culburra.

The planning proposal covers the areas affected by the other two proposals.

Given the environmental sensitivities of the site and the complexity and multi-faceted nature of the planning processes currently under consideration in the area (golf course DA, SSD and planning proposal), it is considered that there would be benefit from a State coordinated assessment of the DA. This would allow the Department to assess the two development proposals and for better co-ordination with State agencies.

## **CONCLUSION**

The strategic significance of Lake Wollumboola and Long Bow Point for environmental protection has been established by four independent Inquiries. The catchment of the lake (including Long Bow Point) is considered unsuitable for urban development. This policy position is reflected in the Illawarra Shoalhaven Regional Plan.

The proposed golf course has the potential for adverse impacts on the water quality and biodiversity of the State significant Lake Wollumboola. There are complexities related to the concurrent planning processes currently underway in the area. These issues would benefit from a State level assessment.

As the issues identified above (in particular issues 1, 3 and 6) are relevant to the proposal, it is considered that there is merit in the PAC providing advice on the State or regional planning significance of the development.

Based on the above, the Department considers the proposal meets the criteria for SSD.

**Attachment A:**



## TIMELINE FOR ASSESSMENT OF LONG BOW POINT GOLF COURSE DA

| <b>Date</b>                 | <b>Action</b>  |
|-----------------------------|--|
| 30 June 2011                | Application received by Shoalhaven City Council  |
| 20 July to 17 August 2011   | Application placed on public exhibition  |
| 25 July 2011                | Application referred to agencies for comment   |
| 18 April 2012 to 3 May 2012 | Application placed on public exhibition  |
| 20 April 2012               | Application referred to agencies for comment   |
| 8 October 2012              | Director General of OEH issues requirements for preparation of a Species Impact Statement to Council |
| May 2014                    | Species Impact Statement prepared  |
| 4 May 2016                  | Application referred to agencies for comment   |
| 4 May – 8 June 2016         | Application, including SIS, placed on public exhibition  |

