



PO Box 295 Vincentia NSW 2540 | www.birdlifeshoalhaven.org | shoalhaven@birdlife.org.au
BirdLife Shoalhaven is a branch of BirdLife Australia Limited ABN 75 149 124 774

Samantha Vine

Head of Conservation
BirdLife Australia

21 July 2016

Dear Samantha,

REFERENCE: DA15/2262 APPROVED SEAPLANE OPERATION

1. BACKGROUND

1.1 The attention of BirdLife Shoalhaven (BLS) was drawn to a proposal for a seaplane operation in an email from Shoalhaven City Council's Environmental Assessment Officer of May 18 2016. This email proposed as a condition of approval for this DA, that our organization be involved in formal monitoring of the effect and impact on birdlife in the flight areas.

1.2 Although the public exhibition period had closed, Council provided BLS the opportunity to submit a late response to the Development Application. Accordingly, BLS provided a response on the 27 May recommending the following:

- The BirdLife Shoalhaven Committee cannot commit to any active monitoring at this point.
- The BirdLife Shoalhaven Committee cannot support the proposal in its current form.
- Given the considerations outlined below the following specific recommendations are advised:
 - Birdlife Shoalhaven support alternative suitable water alighting areas and flight paths which are not likely to directly impact on the lifecycle requirements of threatened/migratory and protected avian species.
 - Revised assessments of significance be prepared for all species except the Eastern Osprey, taking into consideration all available data and if necessary through additional targeted surveys so that the potential impacts under the proposal can be quantified and assessed.

- An assessment of significance be prepared for the Square-tailed Kite.
- The NSW Office of Environment and Heritage's Director-Generals requirements be sought to inform the preparation of a species impact statement for the Eastern Osprey.
- **The application be referred to the Commonwealth Department of the Environment Minister for consideration as to whether additional assessment is required for matters of national environmental significance under the *Environment Protection and Biodiversity Conservation Act 1999*.**

1.3 On 8 June Council advised BLS that:

- A thorough assessment of the development by Council, the Office of Environment and Heritage (OEH) and National Parks & Wildlife Services (NP & WS) concluded that conditions of consent can be imposed to appropriately mitigate the potential impacts of the development.
- After intensive consultation between the aforementioned parties' conditions of consent have been imposed requiring monitoring and reporting relative to the scope and scale of the development (with a focus on the Greenwell Point and Shoalhaven Heads water alighting areas (WAA's)) and the development of a Shorebird Protection Plan in conjunction with NP&WS prior to commencing operations. Flight paths which provide an appropriate buffer to shorebird habitat have been incorporated into approved plans along with specific information for pilots regarding take-off and landing within the WAAs.
- It is worthy to note that Council has issued an approval to operate for a period of 2 years when measured from the date the use first commences. The approval to operate may be extended for a greater period under Section 96 of the EP & A Act 1979 however an application to extend the timeframe would be required at that point in time and necessitate further assessment.

The application has been approved under Delegated Authority on 8 June 2016. A copy of the Notice of Determination of the Development Application may be viewed at Council's offices or through Council's DA Tracking website — www.shoalhaven.nsw.gov.au

2. RECOMMENDATION

2.1. That the action be referred to the Commonwealth Department of the Environment Minister for consideration as to whether additional assessment is required for matters of national environmental significance under the *Environment Protection and Biodiversity Conservation Act 1999* and assist the proponent avoid and mitigate potentially significant impacts on migratory shorebirds.

3. CONSIDERATIONS

BirdLife Shoalhaven is now seeking collaboration and support from BirdLife Australia in referring the action to the Commonwealth Department of the Environment Minister for consideration as to whether additional assessment and mitigation is required for matters of national environmental significance (MNES) under the *Environment Protection and Biodiversity Conservation Act 1999*.

The action relates to the operation of a seaplane business and fixed wing water alighting areas in the Shoalhaven local Government area. It will involve a maximum of 25 takeoffs/landings per day between the hours of 8 am and 8 pm. Takeoff and landing areas include:

- Shoalhaven River – adjacent to Manildra
- Shoalhaven River – Shoalhaven Heads
- Greenwell Point – Berry’s Canal adjacent to Comerong Island
- St Georges Basin – Island Point

3.1 SIGNIFICANT BIRD CONSIDERATIONS

3.1.1. The above listed areas provide habitats for a number of MNES including listed threatened and migratory shorebirds subject to international conservation treaties. Specifically, during the austral summer the Shoalhaven Heads site is known to support but not limited to the following:

EPBC Act threatened species:

- Eastern Curlew (*Numenius madagascariensis*)
- Curlew Sandpiper (*Calidris ferruginea*)
- Greater Sandplover (*Charadrius leschenaultia*)
- Lesser Sandplover (*Charadrius mongolus*)
- Bar-tailed Godwit (*Limosa lapponica*)
- Great Knot (*Calidris tenuirostris*)
- Red Knot (*Calidris canutus*)

EPBC Act migratory species:

- Whimbrel (*Numenius phaeopus*)
- Ruddy turnstone (*Arenaria interpres*)
- Sanderling (*Calidris alba*)
- Red-necked stint (*Calidris ruficollis*)
- Pectoral sandpiper (*Calidris melanotos*)
- Sharp-tailed sandpiper (*Calidris acuminata*)
- Broad-billed sandpiper (*Limicola falcinellus*)
- Golden plover (*Pluvialis fulva*)
- Grey plover (*Pluvialis squatarola*)
- Double-banded plover (*Charadrius bicinctus*)
- Oriental plover (*Charadrius veredus*)

The areas are identified as sites of conservation concern in the recently released BirdLife Australia “Migratory Shorebird Conservation” interactive website. [<http://map.birdlife.org.au/>]. Shoalhaven Heads

in particular is a staging and foraging area for at least the 18 threatened and migratory species listed above and vital to their preparation for migration. It therefore fulfils the criteria for a **Nationally important habitat** for migratory shorebirds as defined under the EPBC Act Policy Statement 3.21 *Industry guidelines for avoiding, assessing and mitigating impacts on EPBC Act listed Migratory Shorebird Species*.

Additional MNES shorebirds periodically forage on the sandflats at Shoalhaven Heads and along the Shoalhaven River as well as within St Georges Basin including areas adjacent to the WAA's. In some years large numbers of overwintering Bar-tailed Godwits depend on these foraging habitats. In 2016 approximately **200-250 Bar-tailed Godwits** commenced overwintering at Shoalhaven Heads until the coastal dynamics were impacted by an east coast low (4-6 June) which precipitated the movement of these birds to Lake Wollumboola at Culburra where they currently remain.

3.1.2 BirdLife Shoalhaven recognizes the Shoalhaven River / Heads /Comerong areas as one of the most important and critical birdlife sites for MNES shorebird species in the Shoalhaven and questions Councils assertion that the action can be appropriately mitigated through prescriptions and development controls such as buffer zones for the following reasons:

- Avian shorebird diversity, abundance and movements are highly variable. Even within seasons there is considerable variability according to a range of local factors such as tides, resource availability, disturbance, estuarine dynamics and so forth. A complex range of regional, national and international factors contribute to further uncertainties.
- The Shoalhaven River is a critically important foraging site for **Eastern Curlew with 89** individuals recorded in March 2016 at Shoalhaven Heads. This species is susceptible to disturbance and depends on mudflats along the river for its life cycle requirements. Disturbance is emerging as a major conservation issue for migratory shorebirds (EPBC Act policy statement 3.21).
- BirdLife Shoalhaven considers there is risk that the action **will disrupt natural behaviors of MNES to the extent that existing habitat could be rendered un-usable**. In our view inadequate surveys have been undertaken to adequately assess current disturbance regimes and therefore analysis for additional expected disturbance under the action has not been considered in the context of cumulative impacts. In our view there is **considerable potential for direct, indirect and cumulative impacts** including short-term disturbance (take flight) and long-term disturbance (relocate) as well as behavioural responses to operations (foraging, movements etc) at the proposed locations. All avian taxa distributed within and adjacent to the areas of seaplane operations, particularly at Shoalhaven Heads and St Georges Basin are to be potentially affected. There is also the potential for incidental and recurring avian strike which in our view has not been adequately assessed by the proponent.
- The BirdLife Shoalhaven committee considers that the **assessments of significance fail to adequately consider and quantify** lifecycle requirements, seasonal and nomadic movements, critical factors of disturbance and direct impacts required to determine significant impact thresholds and inform any finding of significance. Specifically, we are concerned that the action may lead to:
 - A long-term decrease in the size of MNES shorebird populations
 - Reduce the area of occupancy of some species listed in 3.1.1 above through disturbance
 - Adversely affect habitat critical to the survival of one or more MNES species
 - Decrease the availability of habitat to the extent that one or more of the above-listed species is likely to decline
 - Interfere with the recovery of one or more of the species listed above
 - Direct mortality leading to a reduction in shorebird numbers.

3.1.3 Bird counts have been undertaken at these sites over many years and count data are available on the public domain as well as through local custodians and NPWS personnel. BirdLife Shoalhaven would be pleased to assist BirdLife Australia access various data streams if required by the Commonwealth.

If you have any queries, please contact me on 0448 232 918 or jonesmp_@hotmail.com

Yours sincerely,

A handwritten signature in black ink, appearing to read 'M. Jones', with a horizontal line underneath.

Matthew Jones
BirdLife Shoalhaven Committee Member