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Department Generated Correspondence (Y)

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Our ref: PP_2011_SHOAL_006_00 (10/19320)
Your ref: 36689E (D11/246341)

Mr Russell Pigg
General Manager
Shoalhaven City Council
PO Box 42
NOWRA NSW 2541

Dear Mr Pigg,

Re: Planning Proposal to rezone an area of land adjacent to Badgee Lagoon (SEPP14), Sussex Inlet for urban expansion. It is also proposed that a significant component of the subject land will be rezoned to an environmental protection zone to protect high conservation value vegetation and maintain an important habitat corridor.

I am writing in response to your Council's letter dated 28 September 2011 requesting a Gateway Determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to amend the Shoalhaven Local Environmental Plan LEP 1985 to rezone an area of land adjacent to Badgee Lagoon (SEPP14), Sussex Inlet for urban expansion. It is also proposed that a significant component of the subject land will be rezoned to an environmental protection zone to protect high conservation value vegetation and maintain an important habitat corridor.

As delegate of the Minister for Planning and Infrastructure, I have now determined that the planning proposal should proceed subject to the conditions in the attached Gateway Determination.

The Department supports the intent of the planning proposal and the future proposed urban uses and environmental protection of the subject land. It is noted that further detailed planning and additional studies, particularly in the area of sewage treatment, are still required to inform future layout, zone boundaries and indicative lot yields. Therefore, Council is to undertake additional work and include the following information as part of the public exhibition material:

- A water balance analysis to demonstrate sewage treatment generated from urban development can be accommodated and that adequate water supply infrastructure will be provided.
- The required capacity of the STP and the potential for expansion of effluent disposal and alternative on-site treatment options to accommodate the proposed urban uses of the land. Council is to further consult the Office of Environment and Heritage and Shoalhaven Water to progress the provision of effluent disposal and water supply prior to the commencement of community consultation.
- Identify an appropriate standard for the flood free access road from the existing Badgee area through to Sussex Road Inlet to be used in times of inundation.
- Identify significant watercourses and recommend core riparian zone requirements for waterways through the south-western portion of the site.
- Identify the potential impact on Badgee Lagoon of filling of land within the 1% flood area and in areas within direct run-off.

An amendment to Schedule 1 to include the Sussex Inlet Golf Course as an 'additional permitted use' in the Shoalhaven Principal LEP is not supported. Following completion of the additional studies, particularly in relation to the provision of effluent disposal and the capacity of the STP, Council is to refine the zone boundaries and identify an appropriate zone for the golf course. Subsequently, the planning proposal is to be amended and a copy provided to the Department's regional team.

The Director General's delegate has also agreed that the planning proposal's inconsistencies with S117 Directions 1.2 Rural Zones, 1.5 Rural lands, 2.1 Environment Protection Zones, 2.2 Coastal Protection, 2.3 Heritage Conservation, 3.1 Residential Zones and 3.4 Integrating Land Use and Transport are of minor significance. No further approval is required in relation to these Directions.

In regards to the requirements of SEPP 44 – Koala Habitat Protection, it is noted that the planning proposal and the supporting Environmental Study do not specifically identify or address koala habitat protection. Therefore, Council is to amend the planning proposal to identify the location and protection of koala habitat as per the requirements of SEPP 44 – Koala Habitat Protection.

In regards to the planning proposal's inconsistencies with S117 Direction 4.4 Planning for Bushfire Protection, Council is to consult with the Commissioner of the NSW Rural Fire Service on the adequacy of the Bushfire Protection Assessment prior to undertaking community consultation and prepare further studies if required and take into account any comments made as per the requirements of the Local Planning Direction.

It is noted that a flood risk assessment has been undertaken as part of the Environmental Study and that other flood studies have included the subject site, including consideration of flood levels and filling of land to mitigate flood impact. Given that some filling may be required, Council is to consult the Office of Environment and Heritage and provide additional information and justification prior to the finalisation of the planning proposal to ensure consistency with the requirements of S117 Direction 4.3 Flood Prone Land.

It is noted that the draft Shoalhaven Principal LEP is well advanced and has recently finished public exhibition. It is noted that the planning proposal seeks to amend Council's draft Comprehensive Plan. If the planning proposal proceeds ahead of the Principal LEP, it may amend the Shoalhaven LEP 1985. To ensure the community are clearly informed, Council is to amend the planning proposal to explain the relationship of the proposal to Council's draft Comprehensive LEP and the existing Shoalhaven LEP 1985, and also provide a description of the proposed zones as if it was to amend Council's existing Plan.

Council should ensure the maps associated with the planning proposal have been prepared in accordance with the Department's Standard Technical Requirements for LEP maps should the proposal amend the draft Comprehensive LEP.

The amending Local Environmental Plan (LEP) is to be finalised within 18 months of the week following the date of the Gateway Determination. Council's request for the Department to draft and finalise the LEP should be made six (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 s54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, please contact George Curtis of the Regional Office of the Department on 02 4224 9465.

Yours sincerely,



23/11/11

Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal

Gateway Determination

Planning Proposal (Department Ref: PP_2011_SHOAL_006_00): to rezone an area of land adjacent to Badgee Lagoon (SEPP14), Sussex Inlet for urban expansion. It is also proposed that a significant component of the subject land will be rezoned to an environmental protection zone to protect high conservation value vegetation and maintain an important habitat corridor.

I, the Deputy Director General, Plan Making & Urban Renewal as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Shoalhaven Local Environmental Plan LEP 1985 to rezone an area of land adjacent to Badgee Lagoon (SEPP14), Sussex Inlet for urban expansion as well as the zoning of a significant component of the subject land to an environmental protection zone to protect high conservation value vegetation and maintain an important habitat corridor, should proceed subject to the following conditions:

1. Council is to undertake additional work and include the following information as part of the public exhibition material:
 - A water balance analysis to demonstrate sewage treatment generated from urban development can be accommodated and that adequate water supply infrastructure will be provided.
 - The required capacity of the STP and the potential for expansion of effluent disposal and alternative on-site treatment options to accommodate the proposed urban uses of the land.
 - Identify an appropriate standard for the access road from the existing Badgee area through to Sussex Road Inlet to be used in times of inundation.
 - Identify significant watercourses and recommend core riparian zone requirements for waterways through the south-western portion of the site.
 - Identify the potential impact on Badgee Lagoon of filling of land within the 1% flood area and in areas within direct run-off.
2. An amendment to Schedule 1 to include the Sussex Inlet Golf Course as an 'additional permitted use' in the Shoalhaven Principal LEP is not supported. Following completion of the additional studies, particularly in relation to the provision of effluent disposal and the capacity of the STP, Council is refine the zone boundaries and identify an appropriate zone for the golf course. Subsequently, the planning proposal is to be amended and a copy provided to the Department's regional team.
3. Council is to amend the planning proposal to identify the location and protection of koala habitat as per the requirements of SEPP 44 – Koala Habitat Protection.
4. Council is to consult with the Commissioner of the NSW Rural Fire Service prior to undertaking community consultation and prepare further bushfire protection studies if required as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection.
5. Given that some filling may be required, Council is to consult the Office of Environment and Heritage and provide additional information and justification prior to the finalisation of the planning proposal to ensure consistency with the requirements of S117 Direction 4.3 Flood Prone Land.
6. Council is not to commence community consultation until the further studies as required by Condition 1 of this determination have been completed and copies provided to the Department's regional team.

7. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
- (a) the planning proposal must be made publicly available for **28 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 4.5 of *A Guide to Preparing LEPs (Department of Planning 2009)*.
8. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
- Office of Environment and Heritage
 - Shoalhaven Water
- 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.
9. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A 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. The timeframe for completing the LEP is to be **18 months** from the week following the date of the Gateway determination.

Dated

23rd

day of

November

2011.



Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal
Delegate of the Minister for Planning and
Infrastructure