

Planning Proposal

Badgee Lagoon, Sussex Inlet

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Shoalhaven City Council

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- 1. Badgee Lagoon Area Environmental Study Report (includes Map 1 Proposed Zones as Figure 24)
- 2. Checklist for State Environmental Planning Policies and Ministerial Directions
- 3. Report to Council’s Ordinary Meeting dated Tuesday 16th August 2011
- 4. Council resolution dated Tuesday 16th August 2011

2 Introduction

This planning proposal seeks to rezone an area of land adjacent to Badgee Lagoon, Sussex Inlet. The township of Sussex Inlet is approximately 45 kilometres south of Nowra. The land is proposed to be rezoned facilitates additional urban expansion in the form of mixed residential and recreational development. It is also proposed that a significant component of the subject land will be rezoned to an environmental protection zone. See Figure 1 - Location of the subject land.



Figure 1 - Location of the subject land

2.1 Subject Land

The subject land comprises:

- Lots 123, 124 and 125 DP 528699;
- Lot 5 in DP 568283;
- Lots 144 and 145 in DP 755937;
- Lots 156 DP40207;
- Lots 2442 DP 1074478; and
- Lots 51 DP 1033684

The subject land is shown in Figure 2.



Figure 2 - Boundary of the subject land

2.2 Zoning

2.2.1 Current Zoning

Under the Shoalhaven Local Environmental Plan 1985 (SLEP 1985), the subject site currently has multiple zonings, as follows:

- Rural 1(b) (Arterial and Main Road Protection);
- Rural 1(d) (General Rural);
- Rural 1(g) (Flood Liable);
- Residential 2(c) (Living Area);
- Open Space 6(a)(Existing Recreation);
- Environment Protection 7(a) (Ecology); and,
- Environment Protection 7(d2) (Special Scenic).

Further, part of the subject site was “deferred” from SLEP 1985, and is therefore still zoned under the Shoalhaven Interim Development Order No. 1 – (IDO No. 1) which was gazetted in 1964. Under IDO No. 1 the following zones apply to some of the land:

- 1(a) – Non-urban;
- 1(b) – Non-urban; and
- V – Village.

The Draft Shoalhaven Local Environmental Plan 2009 (draft SLEP 2009) was placed on exhibition on 18 July 2011 and will remain on exhibition until 14 October 2011. Under the draft SLEP 2009 the land is proposed to be carried across and zoned General Residential

(R1) with a 500m² minimum lots size, Environmental Conservation (E2) and Rural Landscape (RU2) with a 40 ha minimum lot size being maintained, via the minimum lot size overlay, which reflects the current situation under SLEP 1985.

2.2.2 Proposed Zoning

This planning proposal seeks to eventually amend SLEP 2009 to rezone the subject land to a mix of Environmental Conservation (most likely to be E2) and General Residential (R1).

The R1 zone would apply as a blanket zone across the developable or urban part of the site to enable a Development Control Plan (DCP) to provide further planning provisions to control development within that zone. It is also envisaged that the urban release provisions contained in Part 6 of Council's Draft LEP 2009 would apply to the subject land. This is discussed further in Section 4.2 below.

It is also noted that the inclusion of "additional permitted use" in Schedule 1 of the draft LEP would also be requested to maintain the option for a golf course to be developed on part of the subject area in the future.

2.3 Background

2.3.1 History of the Subject Site/ Investigation Area

History of Use

A review of land title records and aerial photographs of the site indicate that it has remained as undeveloped bushland within private ownership until the present day. A golf course (Sussex Inlet Golf Course) was established in the western portion of the site (Lot 5 DP 568283) from around 1961 onward. Council records further indicate a series of improvements and modifications to the golf course and associated buildings to its present configuration of 11 holes and 18 tees.

Aerial photography from 1987 indicates two cleared/disturbed areas which appear to be within Lot 125 DP528699. The 1:25000 Sussex Inlet Topographic Map shows these areas as being a quarry or gravel pit, though no Council records of this activity were found. (Coffey Geotechnics 2008).

While no historic records have been identified, it is also likely that logging of the area has been undertaken in some form, being a historically important industry in the region.

History of Rezoning Investigations

During the 1990s a draft LEP process commenced to consider urban expansion in this location. This process was placed on hold and never completed due to a state government moratorium on rezoning in the area.

Following the completion of the Sussex Inlet Settlement Strategy (SISS), Council resolved in September 2007 to prepare a draft Local Environmental Plan (LEP) to rezone various parcels of land in the vicinity of Badgee Lagoon at Sussex Inlet.

Council commenced the draft LEP process to rezone the subject land for proposed residential, tourist and golf course development. Concurrent with the rezoning process, a major project (Part 3A) application was lodged by the proponent with the then NSW Department of Planning.

It was agreed following discussion between Council, the proponent and the Department of Planning and Infrastructure (DoPI), that it would be more resource-effective for the preparation of the rezoning to be based on the Environmental Assessment reports prepared by the proponents consultants for the major project application, subject to these studies being peer reviewed by an independent consultant for technical correctness and adequacy, in part in relation to meeting the Section 62 Consultation (rezoning) requirements.

The proponent commissioned and undertook a series of consultant studies to inform the Environmental Study (ES) which would address the Director General Requirements (DGRs) for the Major Project as well as the planning issues raised during the Section 62 Consultation with government agencies as part of the rezoning process.

An independent consultant was commissioned in September 2009 to undertake the peer review of the Studies and provide recommendations on any additional information needed to adequately prepare an Environmental Study. The Peer Review was completed in February 2010 and as a result the proponent responded to the Peer Review with some additional information as recommended by the consultant. The final set of base studies were received by Council in December 2010.

An independent consultant (Locale Consulting) was engaged to prepare the Environmental Study to inform the draft LEP, assisted by the major project/ Part 3A Environmental Assessment Studies and subsequent additional information from proponent and/ or other studies resulting from the Peer Review.

In August 2011 Council resolved to adopt the Environmental Study as the basis for forwarding a Planning Proposal to the Department of Planning & Infrastructure, with the intent of progressing to public exhibition.

3 Part 1 - Objectives

The objectives of this Planning Proposal are to:

- describe the subject site, the locality in which it is situated, the current zoning and the reason for rezoning the subject land;
- address the 'gateway assessment criteria' under Part 3 of the Environmental Planning & Assessment Act 1979;
- provide justification for the proposed LEP amendment;
- demonstrate that the planning proposal is consistent with broad strategic planning direction for Shoalhaven, in particular the Sussex Inlet Area as identified in the SISS and the South Coast Regional Strategy (SCRS); and,
- outline the proposed zones and associated planning controls that will be applied to the subject land when rezoned.

4 Part 2 – Explanation of Provisions

4.1 Maps

The proposed zoning map (concept only) that forms part of this Planning Proposal is provided in the attached Environmental Study (ES) Figure 24.

4.2 Proposed Zones & Dwelling Yields

The following is a brief summary of the proposed zones, associated provisions, dwelling yields and proposed DCP approach. Further detail is included in the attached ES.

4.2.1 R1 – General Residential

The areas proposed to be zoned R1 General Residential would be consistent with the existing neighbouring urban area and enable future development to provide an appropriate level of compatibility. The R1 General Residential zone would provide the appropriate level of housing flexibility, and may include small scale neighbourhood shops, child care centres and community facilities as well as a variety of residential development types including dwelling houses, residential flat buildings and seniors housing that can be further detailed in a supporting DCP.

It is envisaged that a DCP will be prepared to include the level of detail referenced for Urban Release Areas in Part 6 of Council's Draft LEP 2009. (Refer Map 1 Figure 24 in attached draft ES), as the Urban Release Area provisions would apply to the subject area.

It is also noted that the inclusion of "additional permitted use" in Schedule 1 of the draft LEP would also be requested to maintain the option for a golf course to be developed on part of the subject area in the future.

4.2.2 E2 – Environmental Conservation Area

These areas are subject to ecological constraints and include Endangered Ecological Communities (EEC's) and SEPP14 Wetland areas. These areas are considered to be of high conservation value, and new urban development is prohibited on such lands under the South Coast Regional Strategy. Setbacks or buffers to sensitive areas will also be provided within this zone to ensure edge effect impacts are minimised on these sensitive areas. Buffers of 100m to SEPP 14 wetlands and 50m to EEC's will be incorporated into this zone.

4.3 Dwelling Yield

An approximate potential dwelling yield for the subject area once rezoned ranges between 620 to 844 dwellings.

4.4 Biodiversity Issues

Section 5 of the ES discusses the natural environmental attributes of the site and how these attributes impact on the future land use proposed for the site. The ES deals with the following specific environmental issues:

- Climate

- Landscape and Visual Character
- Slope, Stability and Geotechnical Conditions
- Soils (including Acid Sulfate Soils)
- Drainage and Ground Water
- Flooding
- Flora and Fauna
- Habitat Values
- Wildlife Corridors
- Other High Conservation Value Lands
- Old Growth Forests
- Wetlands and Aquatic Habitats
- Bushfire

4.5 Effluent Disposal and Water Supply

The ES identifies that the current Sussex Inlet Sewage Scheme does not extend to the subject site and a possible key limiting factor on the rezoning and eventual release of the land is the capacity of the Sewerage Treatment Plant (STP) and the potential for expansion of the STP and effluent disposal. Thus, an alternative on-site treatment option will be required to accommodate all of the land proposed to be rezoned. Further, no water supply network currently exists on the site and the water supply infrastructure that is proposed to be installed by Shoalhaven Water to service the area may be inadequate.

As such the Urban Release Area provisions will be significant as those provisions control, to a certain degree, this issue.

4.6 Flood Free Access

Based on the site's susceptibility to flood events, the ES identifies there will be need for a flood free access road from the existing Badgee Area through to Sussex Inlet Road. This is discussed further in Part 5.3.2 below. The Urban Release Area provisions will be also, to a certain degree, address this issue.

5 Part 3 - Justification

5.1 Need for the planning proposal (Section A)

5.1.1 Is the planning proposal a result of any strategic study or report?

At the regional level the planning proposal is consistent with the South Coast Regional Strategy (SCRS 2007), (see *section 6*). The SCRS endorses the SISS.

At the local level, this planning proposal reflects and is the outcome of a specific action in the SISS relating to this urban investigation area.

At a more site specific level, the Planning Proposal takes into account constraints and opportunities identified in the supporting ES.

5.1.2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The SISS identifies the Badgee Lagoon Investigation Area as an opportunity for future residential development. This Planning Proposal realises and is the best means of

facilitating further residential development in the Sussex Inlet Area as outlined in the SISS and SCRS. There is no other strategic approach identified in a strategic study or report to achieve urban release in Sussex Inlet.

5.1.3 Is there a net community benefit?

A Net Community Benefit Test has not been undertaken for this draft Planning Proposal and is not considered necessary as the equivalent has been prepared as part of the SISS and the ES. Further, this proposal is being prepared to ensure the continuation of a rezoning process that originally commenced in 2007, prior to the introduction of the new rezoning process.

The SISS included a community engagement component and the following are the community benefits detailed in the SISS, specifically in relation to the subject site:

- A long term increase in population for Sussex Inlet with associated benefits in terms of increased viability for local services and facilities as well as the provision of new facilities;
- Sufficient land to provide for an extension of the existing golf course; and
- Provision of a flood free road access from the existing residential area to the north of Badgee Lagoon through to Sussex Inlet Road

The Planning Proposal will result in a positive community benefit with subsequent residential development leading to increased housing choice and amenities involving a mix of residential, open space and environmental protection zones. In addition, there is ongoing support within the Sussex Inlet community for this rezoning investigation to progress.

5.2 Relationship to strategic planning framework (Section B)

The planning proposal is consistent with the following Local, Regional and State Strategic Framework.

5.2.1 Local Strategic Planning Framework

At the local level, Council has developed a number of policies and strategies relevant to the site and Sussex Inlet. These include:

- Sussex Inlet Settlement Strategy (2007);
- Shoalhaven Housing Strategy; and
- A place for Aging: Social Impacts of an Aging Population in the Shoalhaven

Key issues and comments from these documents recognise the potential for parts of the site to be developed as an extension of the Sussex Inlet township. Recognising the need for a small mixed-use centre as a focal point for the new area.

These documents also recognise that increased densities should be concentrated in areas where services and daily needs are available. This potential can be fulfilled within a mixed use centre precinct as part of the overall future development.

5.2.2 Regional Strategic Planning Framework

At the regional level, a number of policies and strategies relevant to the site include:

- South Coast Regional Strategy
- South Coast Settlement Planning Guidelines
- South Coast Sensitive Urban Lands Review

➤ South Coast Regional Conservation Plan (2010)

The South Coast Regional Strategy (SCRS) provides the key regional level guidance applying to the site. Other strategies and plans have also been prepared in support of the SCRS, including the South Coast Sensitive Urban Lands Review, which is directly relevant to the site.

Key issues and comments from these documents identify high conservation value lands to be protected from development under appropriate conservation zones. Several of these areas are present and have been mapped on the subject site. Concurrently, opportunities for areas for development, in the north-east have been identified under appropriate conservation zones. These areas were recommended for development at a density that exceeds traditional development in the locality.

5.2.3 State Strategic Planning Framework

A number of State level policies and strategies exist that are relevant to the site. These include:

- NSW Sea Level Rise Policy and Guidance;
- NSW Coastal Policy
- Coastal Design Guidelines

Key issues and comments from these documents are as follows:

The NSW Government's Sea Level Rise Policy provides from planning benchmarks of an increase above 1990 mean sea levels of 40cm by 2050 and 90cm by 2100. These benchmarks are to be recognised on the site through flood modelling and hazard risk management.

The coordinated protection of high value coastal areas, with higher density residential development occurring in close proximity to coastal town centres to improve accessibility and activation of urban areas should be provided.

There is also a need to consider the character of new urban areas, while ensuring that new areas do not result in the degradation of the economic viability of existing town centres. This is an issue that the supporting DCP can assist with.

5.2.4 State Environmental Planning Policies

Relevant State Environmental Planning Policies (SEPP) considered in the preparation of the Planning Proposal include:

- SEPP 14 – Coastal Wetlands
- SEPP 71 – Coastal Protection
- SEPP 44 – Koala Habitat
- SEPP 55 – Remediation of Land
- Illawarra Regional Environmental Plan No. 1 (deemed SEPP)
- Rural Lands SEPP

Existing policies identify restrictions on large areas of the land with respect to subdivision and development potential. Other areas are identified for development on portions of the

land that are clearly not possible due to conservation requirements (for example SEPP 14 Wetlands). These areas require rezoning to enable a balanced form of development consistent with the capability of the land.

5.2.5 Ministerial Directions (s.117 directions)

Attachment 2 identifies the Section 117 directions relevant to this Planning Proposal and how they have been considered in the supporting ES.

5.3 Environmental, Social & Economic Impact (Section C)

5.3.1 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or habitats that will be adversely affected as a result of the proposal?

Section 5 *Natural Environment* of the ES includes a detailed assessment of critical habitat or threatened species, populations or ecological communities, and habitats, within the site. The proposed zone boundaries (shown on Map 1 (concept only) Figure 24 in the draft ES) respond to those detailed assessments by protecting areas of threatened biodiversity via environmental zonings. This will minimise the adverse impacts on threatened biodiversity via zoning, with further possible adverse affects that relate to future development being considered via other policy, including a DCP.

5.3.2 Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

A number of ecological constraints exist on and around the site. In accordance with the SCRS areas of High Conservation Value (HCV) are proposed to be protected through appropriate zoning and protection measures. In addition to direct protection of HCV areas, indirect protection through buffering is also proposed (to be included in the environmental protection zone), including 50m buffers to EEC's and 100m buffers to SEPP 14 wetlands.

Given the coastal location and low lying nature of parts of the site, hazard implications associated with flooding, sea level rise and climate change have to be considered for the long-term safety of future community. Further, based on the site's susceptibility to flood events, there will be need for a flood free access road from the existing Badgee Area through to Sussex Inlet Road. This is consistent with the SISS.

The site is also vulnerable to bushfire. Key design requirements will be necessary to enable compliance with the *Planning for Bushfire Protection* standards during DCP preparation, detailed design and subsequent subdivision approval process.

The visual character of the area is largely dominated by natural bushland backdrops within the urban setting. Maintaining this character within the development area will help provide a consistency between the newer and older parts of Sussex Inlet.

As stated in Section 4.5 above effluent disposal and water supply require further study to enable the proposed rezoning to progress and subsequent to this water quality and catchment planning and amelioration of any such impacts will be considered as the planning process continues.

5.3.3 How has the planning proposal adequately addressed any social and economic effects?

The following are a number of the key issues and comments in relation to the Social and Economic aspects of this planning proposal as identified in the supporting ES:

In response to the aging and growing population of the Sussex Inlet Area, the requirement for a variety of housing types and affordability levels, moving away from traditional low density detached housing types in appropriate locations is recommended.

Whilst not undermining the existing town centre viability, the new development area should add to the capacity of employment, health and aged care services in the area.

Provide community facilities over and above a centralised neighbourhood precinct, including consideration of a small community centre and child care opportunities.

Contributions towards off-site active recreation should be incorporated with integrated passive parks to be located within the various areas of the site.

The remaining development footprint should be integrated in to the existing urban areas, providing current and future residents and businesses the opportunity to build a cohesive and well serviced community.

5.4 State & Commonwealth Interests (Section D)

5.4.1 Adequacy of Infrastructure

Provision of the Built Environment is addressed in Section 6 of the supporting ES, particularly Sewer, Water, Electricity, Telecommunications, Gas, Waste Disposal, Roads and Access, Public Transport and Walking and Cycling. The Urban Release Area provisions will assist in addressing the key infrastructure issues below.

Key issues and comments that have been identified in regards to infrastructure are as follows:

➤ Sewerage Treatment

A full water balance analysis will need to be undertaken to demonstrate that proposed open space or recreation areas can adequately accommodate required holding ponds and irrigation areas that would be required for all on-site treatment of rezoned areas.

➤ Other Servicing Infrastructure

Electrical, waste disposal and telecommunications can be feasibly provided to the site without detailed investigations at the current time. Such detailed investigations and demonstrated capacity to service the development would however be required.

➤ Regional Infrastructure

The DoPI has advised through previous Section 54 response that “*given the size of the release area, a clause relating to provision of regional infrastructure should be included in the Draft LEP. The Department’s Regional Team will be able to provide Council with an appropriate clause*” Council will liaise with the DoPI to ensure that this request is acted upon, possibly via the inclusion of the subject site in Part 6 Urban Release Areas, of Draft LEP 2009 or a future amendment to that LEP.

➤ Reducing Reliance on Private Vehicles

Providing a mix of uses, reducing reliance on vehicles to access basic services and improving access through the site via cycle, pedestrian and public transport are important elements to be considered as the proposal advances.

5.4.2 State and Commonwealth public authorities consultation

Council carried out consultation with relevant agencies under Section 62 of the Environmental Planning & Assessment Act (1979).

The proposal is generally consistent with Section 62 consultations. Where inconsistencies occur, the intent of the consultation has been achieved through alternative or improved methods.

A summary of the agencies consulted and their comments are provided under Section 8.1.1 of the ES. No additional consultation requirements were identified by the Department of Planning (as they were known at the time) in response to Council's Section 54 notification, and further state/ federal agency consultation will occur as per the planning proposal/ gateway plan making system.

6 Part 4 - Community Consultation

6.1 Community consultation

To date consultation has been undertaken via a:

- Planning Focus Meeting in 2007 involving representatives from State Agencies, Council and the proponents specialist consultants and;
- Public Meeting conducted by the proponent in 2009 with representatives from local businesses, community organisations, Council and Councillors

Details of these meetings are summarised in Sections 8.2 and 8.3 of the ES.

Should the Planning Proposal proceed Council would conduct (as a minimum) community consultation as per the required exhibition process for both the draft LEP and future draft DCP. Additional public consultation is also proposed by the proponent.

Further, additional statutory consultation is proposed to be undertaken by Council including Section 34A consultation, and additional consultation with the DoPI prior to finalisation of the draft LEP.

6.2 Public Exhibition

The planning proposal along with the ES will be publicly exhibited for a minimum of 28 days in accordance with the *Environmental Planning and Assessment Regulation 2000*, the DoPI's community consultation requirements and Council's public consultation policy. The exhibition would be advertised in the local media and on Council's website. At least one information drop-in session will be held for the local community.

Attachments

Badgee Lagoon Area Environmental Study Report (includes Map 1 Proposed Zones as Figure 24)

Checklist for State Environmental Planning Policies and Ministerial Directions

Council report dated Tuesday 16th August 2011

Council resolution dated Tuesday 16th August 2011