

Planning Proposal

Salamander Way, Salamander Bay

Part 1 – Objectives or Intended Outcomes

The intended outcomes of the planning proposal are to:

- rezone Lot 21 DP 1044009 to part urban development and part environmental protection as specified in this report;
- reclassify part of Lot 21 DP 1044009 proposed for urban development from community to operational pursuant to the Local Government Act 1993 to permit the Council as land owner to sell or lease that part of the land subject being rezoned for urban development;
- rezone land adjoining the subject land and located on Salamander Way from 7(f3) Environmental Protection (Urban Conservation) to an urban zone to support the economic and social viability of Salamander Way “Town Centre”;
- remove Clause 52 from Port Stephens Local Environmental Plan 2000 that permits development of 251 dwellings and 600 square metres of commercial or retail floor space on Lot 21 DP 1044009 as the proposed rezoning that is the subject of this planning proposal will make this clause redundant.

Part 2 – Explanation of Provisions

The principle land, Lot 21 DP 1044009 consists of 88.5 hectares. Of that land, 4.4 hectares is currently zoned 7(a) Environmental Protection, 48.8 hectares is zoned 6(c) Special Recreation and 1.4 hectares is zoned 1(a) Rural Agricultural.

The intention is to rezone approximately 15ha of 6(c) Special Recreation land to 2(c) Residential within the 87.32ha site, reclassify this part of Lot 21 from community to operational, rezone 6(c) to 7(a) and to consider the suitability of the 7(f3) land (Lots 50-144, DP751013, Lots 1-13, DP 734433 and Lot 1, DP 810714 Salamander Way, Salamander Bay) for denser forms of urban development. These lots are nearly all developed for single dwellings and some include home businesses and dual occupancy.

A portion of the subject site was mined and dredged for heavy minerals between 1971 and 1977. Since then, the site has been the subject of proposed urban development on a number of occasions over the past 16 years. On each occasion, the proposal has not proceeded due to commercial reasons. In 1990, Port Stephens LEP 1987 was amended to permit residential, commercial and retail development on this site; Port Stephens LEP 2000 carried this clause across as Clause 52.

Despite previous land uses and development intentions, Council did not classify the land as operational when required under the Local Government Act 1993, therefore the land remains Community Land.

It is understood that the 7(f3) Environmental Protection (Urban Conservation) zoned land was created prior to the availability of sewerage infrastructure and the fact that this area is located adjacent to SEPP 14 wetland systems. This has led to the creation of large residential lots and the use of sewage pump out systems. Despite the title of the zone, this land is in effect large lot residential.

The proponent's rezoning submission allows an opportunity to review the appropriateness of retaining the 7(f3) Environmental Protection (Urban Investigation) zone along Salamander Way for the following reasons:

- the majority if not all of lots zoned 7(f3) are now connected to the sewer main running along Salamander Way and therefore on site management of sewage and water quality impacts on SEPP 14 wetlands is no longer an issue;

- Council has determined a number of dual occupancy / two lot subdivision development applications on lots zoned 7(f3) fronting Salamander Way through Clause 62 of the LEP that enables Council to consider such applications. This has led to undesirable built form outcomes and access issues onto Salamander Way.
- As green field land supply decreases on the Tomaree Peninsula, it is expected that land values and development pressures will increase on land that is zoned for low density residential development.
- As Salamander “town centre” grows it is generating economic activities on lands in proximity to the centre in the form of home based businesses being established in residential dwellings in 7(f3) lands along Salamander Way.

Part 3 – Justification

Section A – Need for the planning proposal.

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

Lower Hunter Regional Strategy

The subject site and the locality of Salamander Bay are not identified in the Lower Hunter Regional Strategy 2006 as future urban development land. However, the Strategy provides opportunity for innovative development proposals outside the regional strategy process to be considered. Sustainability Criteria provide the framework for such proposals to be considered. In principle, the proposal as recommended in this report meets the objectives of; infrastructure provision, access, housing diversity, avoidance of risk (from flood, land slip etc), demand on natural resources (water, energy) and quality and equity in services (health, education etc). However, further justification and a more sustainable approach are required to satisfy the ‘improve or maintain’ objective of Environment Protection using vegetation offset mechanisms.

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

The proposed planning proposal provides an opportunity for Council to investigate the zoning of land along Salamander Way, Salamander Bay for a higher residential use that is compatible with current demands for denser residential development following provision of a reticulated water system in the locality.

Is there a community benefit?

The proposal will have a community benefit in the ongoing conservation of approximately 72ha of ecologically significant land. Furthermore, the proposal will result in an increase in housing in the locality which will have associated economic benefits for the township of Salamander Bay.

Section B – Relationship to strategic planning framework.

Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

Lower Hunter Regional Strategy

Although not specifically identified in the Lower Hunter Regional Strategy, the planning proposal is consistent with the objectives of the Lower Hunter Regional Strategy in promoting stronger centres that play a much greater role in providing jobs and housing. Salamander Bay is identified as an existing urban area. The proposal will facilitate greater opportunities for housing to be provided within the existing urban area.

Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plan?

Council's strategic direction for future urban development within the Port Stephens LGA is provided in the *Port Stephens Community Settlement and Infrastructure Strategy* (2007). This Strategy is currently being reviewed and revised however any revisions have yet to be adopted by Council. The Strategy identifies that the supply of residential land on the Tomaree Peninsula is only expected to accommodate housing demand until the year

2006 and that opportunities for spatial expansion of residential and urban areas are limited. With regard to development opportunities on the Tomaree Peninsula and in particular the Salamander Bay area, the Strategy identifies these opportunities as:

- maximising infill development and densities within the Salamander Bay Town Centre, concentrating on a walkable (800 metre radius) catchment;
- continuing to support employment generating activities wherever possible, but also other emerging activities such as home based employment; and
- supporting the establishment of an effective and extremely regular public transport system that provides realistic alternatives to private motor vehicles and the development of designated cycleways, within as well as separate from the existing road network.

Part of the site is identified in the Strategy as being within the existing Salamander Bay Town Centre. Although that part of the site proposed to be rezoned and developed for residential purposes is approximately one kilometre from the Salamander Bay Town Centre it is still considered to be within walking distance (particularly given the relatively flat topography between the site and the centre). The proposal would therefore assist in maximising population densities around this centre.

Is the planning proposal consistent with applicable state environmental planning policies?

SEPP 14 Coastal Wetlands

State Environmental Planning Policy No. 14 – Coastal Wetlands (SEPP 14) aims to ensure that coastal wetlands are preserved and protected in the environmental and economic interests of the State. The policy was designed to protect wetlands in coastal areas of New South Wales. Four wetlands or parts of wetlands are located within the boundaries of the site. These are SEPP No. 14 Wetland 762, 763 and 764 and a fourth identified as Wetland C

in the Tomaree Peninsula Wetlands Study (SWC 1988) which formed following past heavy minerals mining in the area.

The SEPP 14 wetlands are located within that part of the site zoned 7(a) Environment Protection. The 7(a) zoned land does not form part of this rezoning proposal. Buffer areas are proposed to be retained around these wetlands in order to minimise the impacts of any future residential development on site. In addition, the future subdivision and development of part of the site would be required to incorporate best management practices to ensure the SEPP 14 wetlands are not significantly affected by residential development.

SEPP 44 Koala Habitat Protection

The proposal requires the removal of approximately 5.3 hectares of Preferred Koala Habitat. Under Appendix 2, Performance Criteria for Rezoning Requests of the CKPoM, Council needs to be satisfied that a rezoning;

- a) Does not result in development within areas of Preferred Koala Habitat or defined Habitat Buffers;

However, the CKPoM also requires Council to take into consideration the likely impacts of the development made possible by the rezoning including environmental impacts on both the natural and built environment, and social and economic impacts on the locality.

It was originally proposed to "offset" the remainder of the site to overcome the loss of preferred koala habitat and significant ecological communities on the site however, the proponent has offered to "offset" a proposed development on 155 Salamander Way, Salamander Bay on the subject land. As such, an alternative "offset" arrangement is being sought.

Should a suitable biodiversity offset package be negotiated, the social and economic benefits of increased population in proximity to Salamander "town centre" and associated community facilities may justify the loss of 5.3 hectares of preferred koala habitat.

SEPP 55 Remediation of Land

SEPP 55 applies to the planning proposal and aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

Coffey Partners International Pty Ltd carried out testing in 1995 to determine whether soils on site were contaminated with radioactive materials as a result of mineral sand mining operations. Following testing it was concluded that the soils on site do not appear to have been contaminated with radioactive materials.

SEPP 71 Coastal Protection

As the proposal requires the subdivision of more than 25 lots within the Coastal Zone, certain prerequisites are required at the development application stage. SEPP (Major Projects) 2005 identifies the development as a 'specified site' and therefore approval of a development application from the Minister for Planning is required. SEPP 71 requires the Minister of Planning to adopt a master plan prior to consent being granted.

These prerequisites are not required at the rezoning stage but it should be noted that they will be required when a development application is lodged.

Is the planning proposal consistent with applicable Ministerial Directions?

Direction 1.2 Rural Zones

The objective of this direction is to protect the agricultural production value of rural land.

The site is not identified as Class 1-3 prime agricultural land and is not used for any agricultural purposes.

It is considered that any inconsistency is justified because of the low value classification of the land for agriculture. The planning proposal is of minor significance in terms of the loss of land zoned for agriculture.

Direction 1.5 Rural Lands

The objectives of this direction are to:

- protect the agricultural production value of rural land,
- facilitate the orderly and economic development of rural lands for rural and related purposes.

The direction requires consistency with the principles of State Environmental Planning Policy (Rural Lands) 2008 as follows:

- the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas:

Like all vacant land, at some time the land may present an opportunity for agricultural production. However, it is not classed as prime agricultural land and has little agricultural potential due to the poor quality soils (high sand content) and other environmental constraints.

- Recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State:

There are currently no agricultural activities occurring on the subject land and there is limited potential for any viable agricultural activities to occur on the land.

- Recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development:

Only a small portion of the site (approximately 15,000m² from a total site area of approximately 88ha) is currently zoned for rural purposes. It is considered that the subject site provides little significance in terms of rural land uses to the State and rural communities.

- In planning for rural lands, to balance the social, economic and environmental interests of the community:

The proposal provides a balanced approach to the site-specific development of the site by encouraging development and population growth in the locality.

- The identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land:

The proposal is constrained to areas of disturbance that have limited and lesser environmental qualities than the surrounding areas. Offset issues associated with the proposal will be explored in greater detail during the rezoning process.

- The provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities.

Salamander Bay is not considered to be located within a rural setting. The subject land is located in close proximity to the Salamander Bay "Town Centre" and will provide appropriate housing opportunities that will contribute to the social and economic welfare of the existing and future community.

- The consideration of impacts on services and infrastructure and appropriate location when providing for rural housing:

The subject land is adequately serviced. The proposal will provide for concentration of services and infrastructure in an established residential area. The additional 7(F3) land along Salamander Way was originally zoned due to sewer servicing constraints however, those constraints no longer exist and these lots are able to connect to a reticulated sewer system.

- Ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General

The site is not identified as Rural and Resource Land in the Lower Hunter Regional Strategy. The Director-General has not endorsed Council's Community Settlement and Infrastructure Strategy.

Direction 2.1 Environmental Protection Zones

The objective of this directive is to protect and conserve environmentally sensitive areas. A draft LEP shall include provisions that facilitate the

protection and conservation of environmentally sensitive areas. A draft LEP shall not reduce the environmental protection standards that apply to the land.

It is proposed that the 7(F3) Environment Protection (Urban Conservation) lots adjoining the subject site be considered strategically to permit future closer settlement in view of the proximity of Salamander Town Centre and the ability of this land to be connected to a reticulated sewer system. A small portion (approximately 15ha) of the 6(c) land is proposed to be rezoned for residential purposes with the remainder (73ha) to either retain its conservation zone or be zoned for conservation purposes.

Direction 3.1 Residential Zones

The objectives of this direction are:

- to encourage a variety and choice of housing types to provide for existing and future housing needs,
- to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and
- to minimise the impact of residential development on the environment and resource lands.

A draft LEP shall include provisions that encourage the provision of housing that will:

- broaden the choice of building types and locations available in the housing market, and
- make more efficient use of existing infrastructure and services, and
- reduce the consumption of land for housing and associated urban development on the urban fringe, and
- be of good design.

A draft LEP under this direction shall:

- contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the

council, or other appropriate authority, have been made to service it), and

- not contain provisions which will reduce the permissible residential density of land.

The proposal is consistent with this direction as it will provide for a range of residential housing types with varying lot sizes, to be determined through a structure plan that is to be developed for the proposal. The proposal will be serviced by existing service providers in the locality, thereby consolidating development in a location that has existing, adequate infrastructure.

Direction 3.4 Integrating Land Use and Transport

The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:

- improving access to housing, jobs and services by walking, cycling and public transport, and
- increasing the choice of available transport and reducing dependence on cars, and
- reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and
- supporting the efficient and viable operation of public transport services, and
- providing for the efficient movement of freight.

A draft LEP shall locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:

- *Improving Transport Choice – Guidelines for planning and development* (DUAP 2001), and
- *The Right Place for Business and Services – Planning Policy* (DUAP 2001).

The proposal is located in close proximity to the newly developing Salamander Bay town centre, with access to existing transport options including public transport, cycleways and pedestrian footpaths.

Direction 4.1 Acid Sulphate Soils

The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.

The site and its surrounds are mapped as comprising Class 3 and 4 acid sulphate soils. The area within the site identified for residential zoning is classified as Class 4 acid sulphate soils. Further consideration of this issue will occur throughout the rezoning process.

Direction 4.4 Planning for Bushfire Protection

The objectives of this direction are:

- to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and
- to encourage sound management of bush fire prone areas.

This direction applies as the land is mapped as bushfire prone land. The planning proposal will require referral to the Rural Fire Service for opinion if the LEP Gateway determination allows the proposal to proceed to the next stage of the process.

Direction of 5.1 Implementation of Regional Strategies

The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.

The proposal is consistent with the objectives of the Lower Hunter Regional Strategy in promoting stronger centres that play a much greater role in providing jobs and housing. Salamander Bay is identified as an existing

urban area. As such, the proposal will facilitate greater opportunities for housing to be provided within the existing urban area.

Direction 6.2 Reserving Land for Public Purposes

The objectives of this Direction are:

- to facilitate the provision of public services and facilities by reserving land for public purposes, and
- to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.

A draft LEP shall not create, alter or reduce existing zonings or reservations or of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General). The majority of the proposed developable area is zoned 6(c) Special Recreation Zone. The purpose of this zone is to provide for recreational purposes and to enable public or private operated recreational development in suitable accessible localities. The zone and the community classification of the land make the approval of the Director-General a prerequisite.

Section C – Environmental, Social and Economic Impact

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

Ecological investigations were undertaken over the site with field surveys being conducted between June and July 2008. The aim of these investigations was to identify any potential environmental constraints present across the site.

Data collected during the field surveys revealed that the subject site supported 248 plant species within four plant communities, including one threatened flora species (*Eucalyptus parramatensis subsp. decadens*).

Three of these vegetation communities constitute Endangered Ecological Communities listed under the NSW *Threatened Species Conservation Act 1995*, namely *Swamp sclerophyll forest on coastal floodplains of the NSW North Coast, Sydney Basin and South East Corner bioregions* and *Freshwater wetlands on coastal floodplains of the NSW North Coast, Sydney Basin and South East Corner bioregions*.

Ninety trees within the subject site supported 236 habitat hollows. Two preferred Koala feed tree species listed in the Port Stephens Comprehensive Koala Plan of Management (CKPoM) (*Eucalyptus robusta* and *E. parramatensis*) were present on the subject site. A total of 68 species of fauna were recorded during field surveys of the subject site, including 6 threatened species (Wallum Froglet, Squirrel Glider, Koala, Grey-headed Flying-fox, Large-footed Myotis and the Little Bentwing-bat) which are listed as Vulnerable under the NSW *Threatened Species Conservation Act 1995*.

Based on the environmental constraints identified at the subject site a possible development footprint has been put forth. The proposed developable land area was derived by overlaying the significant environmental constraints over an image of the subject site and adding a standard 50m buffer zone from these constraints as appropriate. Additionally, other potential future land uses have been suggested and management strategies for the site have been recommended. Several management strategies could be introduced at the subject site to help maintain and improve the existing environmental conditions. These include maintaining and improving identified fauna corridors; establishing paths for general recreation in areas of environmental protection to eliminate illegal and damaging paths caused by pedestrians; weed management and the installation of signage to make residents aware of potential environmental issues.

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

Stormwater and water quality impacts in general have the potential to impact on the adjoining wetlands. This issue needs to be addressed in detail through the next stage of the planning proposal process.

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

The proposal is unlikely to result in any significant negative social and economic effects. The increase of housing opportunities in the locality and subsequent increase in residential density will have a positive economic impact in the locality in supporting economic development of the Salamander Bay town centre. The Salamander Bay area is adequately serviced by a range of medical practitioners, banking institutions, education providers, day care facilities, a library and community centre, both passive and active recreation facilities and emergency services.

Section D – State and Commonwealth interests.

Is there adequate public infrastructure for the planning proposal?

The subject land has the potential to be serviced by existing infrastructure. Further consultation with service providers is to occur to ensure the provision of services without impacting on the provision existing infrastructure.

What are the views of the State and Commonwealth public authorities consulted in accordance with the gateway determination?

The following authorities were consulted regarding the preparation of the DLEP;

- Hunter Catchment Management Authority
- Hunter Water Corporation
- Roads and Traffic Authority
- NSW Rural Fire Service
- NSW Department of Primary Industries – Agriculture
- NSW Department of Primary Industries – Fisheries

- Department of Environment, Conservation and Climate Change
- Department of Planning
- Department of Defence
- Department of Education and Training
- Department of Primary Industries – Minerals Division
- Energy Australia
- Enerserve
- State Emergency Service
- Chamber of Commerce
- Environmental Health NSW – Public Health Unit
- NSW Public Works
- Hunter Waterways Authority

Submissions were received from the Hunter Catchment Authority, Department of Environment, Climate Change and the Department of Planning. Issues raised relate to the subject site not being identified in the Lower Hunter Regional Strategy and loss of native vegetation. These issues are addressed by the Ecological Investigations and the Urban Design Structure Plan (not available at the time of s62 consultation).

The government agencies proposed to be further consulted include:

- Department of Environment, Conservation, Climate Change and Water
- Rural Fire Service
- Hunter Water Corporation
- Energy Australia
- Roads and Traffic Authority

Part 4 – Community Consultation

The planning proposal may result in a substantial increase in the amount of residential land available for development in Salamander Bay. An exhibition period of at least 28 days should occur. Notice of the planning proposal and

all relevant documentation will be placed in the local newspaper, on the Council website and in writing to adjoining landowners.