



New South Wales

City of Shoalhaven Local Environmental Plan 1985 (Amendment No 195)

under the

Environmental Planning and Assessment Act 1979

I, the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration), make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (W94/00155/PC)

DIANE BEAMER, M.P.,

Minister Assisting the Minister for Infrastructure
and Planning (Planning Administration)

2003 No 345

Clause 1 City of Shoalhaven Local Environmental Plan 1985 (Amendment No 195)

City of Shoalhaven Local Environmental Plan 1985 (Amendment No 195)

1 Name of plan

This plan is *City of Shoalhaven Local Environmental Plan 1985 (Amendment No 195)*.

2 Aims of plan

This plan aims:

- (a) to rezone certain land so as to provide for the orderly and efficient residential expansion of the Milton and Ulladulla areas, and
- (b) to provide for a variety of uses to efficiently service that residential expansion, and
- (c) to maintain or improve the water quality of water bodies, including wetlands and water courses, by regulating development near foreshore building lines, and
- (d) to provide for safe and efficient access to commercial areas, and
- (e) to provide for the social, cultural and recreational needs of the community, and
- (f) to protect significant items of Aboriginal heritage, and
- (g) to omit references to Zone No 3 (e) from *City of Shoalhaven Local Environmental Plan 1985*, and
- (h) to provide for the development of certain land for the purpose of tourist facilities, and
- (i) to make minor amendments to *City of Shoalhaven Local Environmental Plan 1985* of a law revision nature.

3 Land to which plan applies

This plan applies to all land to which *City of Shoalhaven Local Environmental Plan 1985* applies. To the extent that this plan rezones land, it applies to the land shown edged heavy black on the map marked "City of Shoalhaven Local Environmental Plan 1985 (Amendment No 195)" deposited in the office of the Council of the City of Shoalhaven.

4 Amendment of City of Shoalhaven Local Environmental Plan 1985

City of Shoalhaven Local Environmental Plan 1985 is amended as set out in Schedule 1.

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Schedule 1 Amendments

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(Clause 4)

[1] Clause 6 Interpretation

Insert in appropriate order in the definition of *the map* in clause 6 (1):

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[2] Clause 6 (1), definition of “1964 holding”

Omit “, 7 (f2)”.

[3] Clause 8 Zones indicated on the map

Omit the matter relating to Zone No 3 (e).

[4] Clause 9 Zone objectives and development control table

Insert “existing or proposed” before “main” wherever occurring in items 1 (a) and 1 (b) of the matter relating to Zone No 1 (b) in the Table to the clause.

[5] Clause 9, Table

Omit “a” from item 1 (c) of the matter relating to Zone No 1 (b).
Insert instead “an existing or proposed”.

[6] Clause 9, Table

Omit the matter relating to Zone No 3 (e).

[7] Clause 9, Table

Omit “or generating works” from item 3 of the matter relating to Zone No 7 (d1).

[8] Clause 11B Subdivision of certain land at Milton

Omit “within the meaning of clause 11,” from clause 11B (4) (a).

[9] Clause 13B

Insert after clause 13A:

13B Subdivision for a public utility undertaking

- (1) This clause applies to land within Zone No 1 (a), 1 (b), 1 (c), 1 (d), 1 (e), 1 (f), 1 (g), 2 (a2), 2 (a3), 7 (a), 7 (c), 7 (d1), 7 (d2), 7 (e), 7 (f1), 7 (f2) or 7 (f3).
- (2) Despite the provisions of Division 1, the Council may consent to the subdivision of land to which this clause applies if the purpose of the subdivision is:
 - (a) to open or widen a public road, or
 - (b) to provide an allotment for a public utility undertaking.
- (3) The residue of land remaining after the creation of an allotment under subclause (2) may be less than 40 hectares.

[10] Clause 14 Dwelling-houses—Zones Nos 1 (a), 1 (b), 1 (d) and 1 (g)

Omit “clause 11 (3)” from clause 14 (2) (g).

Insert instead “clauses 11 (3) and 13B (2)”.

[11] Clause 14 (2) (g)

Omit “either” from clause 14 (2) (g). Insert instead “any”.

[12] Clause 14 (3) (e)

Insert after clause 14 (3) (d):

, or

- (e) is the residue of land remaining after the creation of an allotment under clause 13B (2) and on which a dwelling-house could have been approved by the Council immediately before the subdivision under that subclause.

[13] Clause 15 Dwelling-houses etc—Zone Nos 7 (a), 7 (c), 7 (d1), 7 (e), 7 (f1) and 7 (f3)

Omit “clause 11 (3)” from clause 15 (1) (g).

Insert instead “clauses 11 (3) and 13B (2)”.

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[14] Clause 15 (1) (g)

Omit “either” from clause 15 (1) (g). Insert instead “any”.

[15] Clause 15B

Insert after clause 15A:

15B Dwelling-houses within Zone No 7 (d2)

Despite any other provision of this plan, a dwelling-house may, with the consent of the Council, be erected on an allotment of land within Zone No 7 (d2) on which another lawfully erected dwelling-house is or has been erected if the first-mentioned dwelling-house is to wholly replace the second-mentioned dwelling-house.

[16] Clause 20B

Insert after clause 20A:

20B Permanent occupation of tourist facilities

- (1) Despite any other provision of this plan, the Council may consent to development of land described in Schedule 14 only for the purpose of:
 - (a) a tourist facility, or
 - (b) a use or activity that is an integral part of a tourist facility.
- (2) Despite any other provision of this plan (including subclause (1)), the Council may grant consent to development of land described in Schedule 14 for the purposes of permanent residential occupation if:
 - (a) the development is part of development referred to in subclause (1), and
 - (b) no more than 25% of units within the development referred to in subclause (1) are to be used for the purposes of permanent residential occupation.
- (3) The Council may grant consent for the purposes of permanent residential occupation of a maximum of one unit under subclause (2), where the development involves less than four units.

[17] Clause 21A

Insert after clause 21:

21A Vegetation linkage

- (1) This clause applies to land bounded by a broken black line on the map and lettered “Vegetation Linkage” but does not apply to land within a Residential 2 zone, a Business 3 zone, an Industrial 4 zone or a Special Uses 5 zone.
- (2) Development of land to which this clause applies must be designed to enhance the retention and augmentation of vegetation native to the area.

[18] Clause 23 Protection of streams

Insert “1 (c),” after “1 (b),” in clause 23 (1).

[19] Clause 27 Development on acid sulfate soils

Omit “June 1995” from clause 27 (1). Insert instead “December 1997”.

[20] Clause 28 Danger of bush fire

Insert after clause 28 (1):

- (1A) In deciding whether to grant consent to any development on land within Zone No 1 (a), 1 (b), 1 (c), 1 (d), 1 (e), 1 (f), 1 (g), 2 (c), 7 (a), 7 (c), 7 (d1), 7 (d2), 7 (e), 7 (f1), 7 (f2) or 7 (f3) that in its opinion is likely to be affected by bush fire, the Council must have regard to the publication *Planning for Bushfire Protection 2001*, published by the NSW Rural Fire Service, and must be satisfied that the requirements of that publication have been met, as far as possible.

[21] Clause 32A

Insert after clause 32:

32A Milton streetscape

- (1) This clause applies to land at Milton, being Lot 5, DP 78484, Lot 1, DP 112309, Lot 2, DP 153993, Lots C and D, DP 160290, Lot 5, DP 160292, Lots 2, 4, 6, 7, 8, 9 and 10, Section B, DP 975074 and Lot 7, DP 556082, Princes Highway.

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- (2) The objective of this clause is to maintain and enhance the heritage character of the streetscape and to ensure that any development is compatible with the heritage significance of the items of the environmental heritage or potential heritage items.
- (3) In deciding whether to grant consent to development of land to which this clause applies, the Council must take into account the adequacy of the measures proposed by the applicant to ensure the proposed development will meet the objectives of this clause.

[22] Clause 33B

Insert after clause 33A:

33B Vehicular access to the Princes Highway (Murramerang Street), Ulladulla

- (1) This clause applies to Portion 213, Parish of Ulladulla, County of St Vincent and Lots 1, 2, 3, 4 and 5, DP 21356, Princes Highway (Murramerang Street), Ulladulla.
- (2) The Council must not consent to the development of land to which this clause applies that involves vehicular access to the Princes Highway unless the Council is satisfied:
 - (a) that, having regard to the nature and scale of the proposed development, likely traffic generation will not be excessive, and
 - (b) that there is no feasible alternative access way for vehicles, and
 - (c) that there will be no significant adverse impact to public safety or the efficiency of the Princes Highway in the area.

[23] Clause 34A

Insert after clause 34:

34A Foreshore building lines

- (1) The objectives of this clause are:
 - (a) the preservation and enhancement of the natural features and vegetation of the area near where land meets water, and
 - (b) the restoration of the land below the foreshore building line, so far as practicable, to a natural state, with a minimum intrusion of artificial structures, and
 - (c) the restriction of development below the foreshore building line to development specified in this clause, and
 - (d) the significant reduction in the number of structures below the foreshore building line, particularly on redevelopment of foreshore land, and
 - (e) the conservation and enhancement of waterfront development of heritage value, and
 - (f) the avoidance of pollution of, or adverse ecological effects on, waterways.
- (2) A person must not erect a building or carry out a work on land between a foreshore building line and the tidal water in respect of which the foreshore building line is fixed.
- (3) The Council must not consent to development on an allotment of land having a foreshore building line, unless it is satisfied that:
 - (a) any building or works on the allotment between the foreshore building line and the mean high water mark at the date of commencement of this clause will be removed before, or within a reasonable time after, the development is carried out, or
 - (b) it would be inconsistent with any of the objectives of this clause to require the removal of any building or works on the allotment between the foreshore building line and the mean high water mark.

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- (4) Subclauses (2) and (3) do not apply to:
- (a) single storey boat sheds, or
 - (b) boat launching and slipping facilities, or
 - (c) below-ground swimming pools, or
 - (d) works, including mechanical works, to enable pedestrian access, or
 - (e) landscaping, or
 - (f) barbeque facilities, or
 - (g) jetties, or
 - (h) swimming enclosures.
- (5) To avoid doubt, *State Environmental Planning Policy No 1—Development Standards* applies to subclause (2) in the same way as it applies to a development standard.
- (6) In this clause:
foreshore building line means the line shown on the map by a broken black line on an allotment of land, that is parallel to (and at the distance specified in the map from) the mean high water mark of tidal water as at the date of commencement of this clause, regardless of any reclamation, other works or changes occurring since that date.

[24] Clause 35 Home activity

Omit “3 (e),” from clause 35 (1) (a).

[25] Clause 35A Buffers to extractive industry

Omit “to extractive industry” from the heading.

[26] Clause 35A (1)

Omit “in relation to a quarry”.

[27] Clause 35A (2)

Omit “lead to the sterilisation of the resource that is extracted at the quarry”.

Insert instead:

lead:

- (a) in relation to a quarry—to the sterilisation of the resource that is extracted at the quarry, or
- (b) in relation to any other matter—to an impediment to the particular purpose indicated by scarlet lettering on the map.

[28] Clause 40 Restriction on development in respect of certain road proposals

Omit “a subdivision”. Insert instead “the development”.

[29] Clause 40

Omit “the subdivision”. Insert instead “the proposed development”.

[30] Clauses 40I and 40J

Insert after clause 40H:

40I Development of certain land at Mollymook

- (1) This clause applies to that part of Lot 621, DP 804355, Maisie Williams Drive, Mollymook within Zone No 3 (g).
- (2) Despite clause 9 (3) and the objectives stated in the Table to clause 9 in Item 1 of the matter relating to Zone No 3 (g), the Council must not grant consent to the carrying out of development on land to which this clause applies unless it is satisfied the development is compatible with a higher density residential or tourist facility or both.

40J Development of certain land at Mollymook Beach

- (1) This clause applies to Lot 27, DP 224117, Mitchell Parade, Mollymook Beach.

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- (2) Despite clause 9 (3) and the objectives stated in the Table to clause 9 in Item 1 of the matter relating to Zone No 3 (g), the Council must not grant consent to the carrying out of development on land to which this clause applies unless it is satisfied the development is for a tourist facility.
- (3) Despite subclause (2), in any development consent under this clause the Council may grant consent for up to a maximum of 25% of units within the development for the purpose of permanent residential occupation.

[31] Schedule 8

Insert at the end of the Schedule:

Milton—Matron Porter Drive, Lot 2, DP 1009573—subdivision into a maximum of three lots (comprising two lots each having an area of approximately 1.1 hectares and one lot having an area of approximately 13 hectares) and the erection of one dwelling-house on each of the lots having an area of approximately 1.1 hectares, provided that:

- (a) development consent for the subdivision must not be granted unless the subdivision makes provision for the dedication of the lot of approximately 13 hectares to the Council, at no cost to the Council, as public open space, and
- (b) each dwelling-house and its associated effluent disposal area is located entirely within the lot on which it is created, and
- (c) the area used to create the lots of approximately 1.1 hectares shall generally not project north of an easterly extension of the northern boundary of Lot 1, DP 1009573.

Milton—Garrads Lane, Part Portion 4, Parish of Ulladulla and Lot 4, DP 1015161:

- (a) subdivision of the land into three lots, comprising one lot of approximately 41 hectares, one lot of approximately 6 hectares and one lot of approximately 57 hectares generally in accordance with plan marked with the reference number 11540, dated 20 September 2002, prepared by PW Rygate & West, and

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- (b) development consent for any subdivision referred to in paragraph (a) or (c) must not be granted unless the subdivision makes provision for the dedication of the lot of approximately 41 hectares to the Council, at no cost to the Council, as public open space, and
 - (c) subdivision of the lot of approximately 57 hectares into three lots comprising one lot of approximately 53 hectares and two lots of approximately 2 hectares each, and
 - (d) the erection of one dwelling-house on each lot referred to in paragraph (c), but only if each dwelling-house and its associated effluent disposal area is located entirely within the lot on which it is erected.

Milton—Garrads Lane, Lot 4, DP 771597:

- (a) subdivision of the land into three lots, comprising one lot of approximately 22 hectares, one lot of approximately 16 hectares and one lot of approximately 25 hectares generally in accordance with plan marked with the reference number 11540, dated 20 September 2002, prepared by PW Rygate & West, and
- (b) development consent for any subdivision referred to in paragraph (a) or (c) must not be granted unless the subdivision makes provision for the dedication of the lot of approximately 22 hectares to the Council, at no cost to the Council, as public open space, and
- (c) subdivision of the lot of approximately 25 hectares into two lots comprising one lot of approximately 23 hectares and one lot of approximately 2 hectares, and
- (d) the erection of one dwelling-house on each lot referred to in paragraph (c), but only if each dwelling-house and its associated effluent disposal area is located entirely within the lot on which it is erected.

Milton—Garrads Lane, Lot 9, DP 250361 and Lot 33, DP 794398:

- (a) subdivision of the land into two lots comprising one lot of approximately 19.4 hectares and one lot of approximately 39.6 hectares generally in accordance

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with plan marked with the reference number 11540, dated 20 September 2002, prepared by PW Rygate & West, and

- (b) development consent for any subdivision referred to in paragraph (a) or (c) must not be granted unless the subdivision makes provision for the dedication of the lot of approximately 19.4 hectares to the Council, at no cost to the Council, as public open space, and
- (c) subdivision of the lot of approximately 39.6 hectares into five lots, and
- (d) the erection of one dwelling-house on each lot referred to in paragraph (c), but only if each dwelling-house and its associated effluent disposal area is located entirely within the lot on which it is erected.

[32] Schedule 9

Insert at the end of the Schedule:

Lot 360, DP 723099, Camden Street, Ulladulla, and identified on the map by a distinct edge and marked “Technology Park”—identified land use.

Lots 25 and 26, DP 224117, Mitchell Parade, Mollymook Beach—tourist facility or a use or activity that is an integral part of a tourist facility, provided that the land is consolidated with Lot 27, DP 224117, Mitchell Parade, Mollymook Beach.

Lots 3, 4 and 5, DP 199802, Garrads Lane, Milton—erection of a dwelling-house on each of the allotments created pursuant to Development (Subdivision) Approval Number SF7656 issued to PW Rygate & West of Ulladulla.

That part of Lot 5, DP 1027623, Royal Mantle Drive, Ulladulla, zoned Rural “B” by *City of Shoalhaven Local Environmental Plan (Amendment No 195)*—subdivision into not more than two allotments each having an area of not less than 1 hectare and the erection of a dwelling-house on each allotment, provided that each dwelling-house and its associated effluent disposal area is located entirely within the lot on which it is erected.

Lot 11, DP 812133, Green Street, Ulladulla—dwelling-house.

[33] Schedule 14

Insert after Schedule 13:

Schedule 14 Permanent occupation of tourist facilities

(Clause 20B)

Burrill Lake

Princes Highway—Lot 2, DP 811329, Lot 5, DP 863940, and those parts of Lots 20, 21 and 22, DP 867221 zoned 3 (g) (Business “G” (Development Area)) as at the commencement of *City of Shoalhaven Local Environmental Plan 1985 (Amendment No 195)*.

Mollymook

Golf Avenue—Lot 101, DP 773949, Lots 9 and 10, DP 19057, Lots B and C, DP 22562, Lot 11, DP 507219 and Lot 1, DP 849431.

Ocean Street—Lots 13, 14, 15, 16, 17 and 19, DP 19057, Lot 39, DP 777766 and Lot 2, DP 805250.

Shepherd Street—Lot 22, DP 19057.

Ulladulla

Burrill Street South—Lot 7, DP 790985.

North Street—Lot 384, DP 823202.

Princes Highway—Portions 203, 211, 231, 232, 236, 237, 238, 240, 242, 243, 284, 291, 292, 293, 294, 295 and 296, Parish of Ulladulla, Lots 1 and 2, DP 532971, Lot 1, DP 739007, Lot 385, DP 823217, Lot 1, DP 784732, Lot 18, DP 805460 and Lots 1, 2, 3, 4 and 5, DP 22537.