



New South Wales

# Shellharbour Local Environmental Plan 2000 (Amendment No 11)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (W04/00034/PC)

FRANK SARTOR, M.P.,  
Minister for Planning

## 2006 No 151

Clause 1 Shellharbour Local Environmental Plan 2000 (Amendment No 11)

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### Shellharbour Local Environmental Plan 2000 (Amendment No 11)

under the

Environmental Planning and Assessment Act 1979

#### 1 Name of plan

This plan is *Shellharbour Local Environmental Plan 2000 (Amendment No 11)*.

#### 2 Aims of plan

The aims of this plan are:

- (a) to update heritage provisions in *Shellharbour Local Environmental Plan 2000* so that they are consistent with standard heritage provisions prepared by the Heritage Office and to make other amendments, and
- (b) to omit a heritage item from Schedule 3 to *Shellharbour Local Environmental Plan 2000* as the relevant building has been demolished, and
- (c) to change the description of a heritage item in Schedule 3 to *Shellharbour Local Environmental Plan 2000* to reflect its current state.

#### 3 Land to which plan applies

This plan applies to:

- (a) in respect of the aims set out in clause 2 (a)—all lands within the local government area of Shellharbour City to which *Shellharbour Local Environmental Plan 2000* applies, and
- (b) in respect of the aim set out in clause 2 (b)—Lots 1 and 2, Sec D, DP 11044, 13–15 Reddall Parade, Lake Illawarra, and
- (c) in respect of the aim set out in clause 2 (c)—Lot 7, DP 238804, 25 Addison Street, Shellharbour.

#### 4 Amendment of Shellharbour Local Environmental Plan 2000

*Shellharbour Local Environmental Plan 2000* is amended as set out in Schedule 1.

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## Schedule 1 Amendments

(Clause 4)

### [1] Part 11

Omit the Part. Insert instead:

## Part 11 Heritage Conservation Provisions

### 72 Heritage objectives

The objectives of this plan in relation to heritage are:

- (a) to conserve the environmental heritage of the Shellharbour City local government area, and
- (b) to conserve the heritage significance of existing significant fabric, relics, Aboriginal objects, settings and views associated with the heritage significance of heritage items and heritage conservation areas, and
- (c) to ensure that archaeological sites and places of Aboriginal heritage significance are conserved, and
- (d) to ensure that the heritage conservation areas throughout the Shellharbour City local government area retain their heritage significance.

### 73 Protection of heritage items, heritage conservation areas, relics and Aboriginal objects

- (1) The following development may be carried out only with development consent:
  - (a) demolishing, damaging or moving a heritage item, or a building, work, relic, Aboriginal object, tree or place within a heritage conservation area,
  - (b) altering a heritage item or a building, work, relic or Aboriginal object within a heritage conservation area by making structural changes to its exterior,
  - (c) altering a heritage item or a building, work, relic or Aboriginal object within a heritage conservation area by making non-structural changes to the detail, fabric, finish or appearance of its exterior,
  - (d) altering a heritage item by making structural changes to its interior,
  - (e) moving the whole or a part of a heritage item,

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- (f) erecting a building on, or subdividing, land on which a heritage item is located or which is within a heritage conservation area,
  - (g) disturbing or excavating a place of Aboriginal heritage significance or an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic or an Aboriginal object being discovered, exposed, moved, damaged or destroyed.
- (2) Development consent is not required by this clause if:
- (a) in the opinion of the consent authority:
    - (i) the proposed development is of a minor nature or consists of maintenance of the heritage item or of a building, work, archaeological site, tree or place within a heritage conservation area, and
    - (ii) the proposed development would not adversely affect the significance of the heritage item or heritage conservation area, and
  - (b) the proponent has notified the consent authority in writing of the proposed development and the consent authority has advised the applicant in writing, before any work is carried out, that it is satisfied that the proposed development will comply with this subclause and that development consent is not otherwise required by this plan.
- (3) Development consent is not required by this clause for the following development in a cemetery or burial ground if there will be no disturbance to human remains, relics in the form of grave goods, Aboriginal objects in the form of grave goods or to a place of Aboriginal heritage significance:
- (a) the creation of a new grave or monument,
  - (b) an excavation or disturbance of land for the purpose of carrying out conservation or repair of monuments or grave markers.
- (4) Before granting a consent required by this clause, the consent authority must assess the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.
- (5) The assessment must include consideration of a heritage impact statement that addresses at least the following issues (but is not to be limited to assessment of those issues, if the heritage significance concerned involves other issues). The consent

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authority may also decline to grant such a consent until it has considered a conservation management plan, if it considers the development proposed should be assessed with regard to such a plan.

- (6) The minimum number of issues that must be addressed by the heritage impact statement are:
- (a) for development that would affect a heritage item:
    - (i) the heritage significance of the item as part of the environmental heritage of the Shellharbour City local government area, and
    - (ii) the impact that the proposed development will have on the heritage significance of the item and its setting, including any landscape or horticultural features, and
    - (iii) the measures proposed to conserve the heritage significance of the item and its setting, and
    - (iv) whether any archaeological site would be adversely affected by the proposed development, and
    - (v) the extent to which the carrying out of the proposed development would affect the form of any historic subdivision, and
  - (b) for development that would be carried out in a heritage conservation area:
    - (i) the heritage significance of the heritage conservation area and the contribution which any building, work, relic, Aboriginal object, tree or place affected by the proposed development makes to this heritage significance, and
    - (ii) the impact that the proposed development would have on the heritage significance of the heritage conservation area, and
    - (iii) the compatibility of the proposed development with nearby original buildings and the character of the heritage conservation area, taking into account the size, form, scale, orientation, setbacks, materials and detailing of the proposed development, and
    - (iv) the measures proposed to conserve the significance of the heritage conservation area and its setting, and
    - (v) whether any landscape or horticultural features would be affected by the proposed development, and

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- (vi) whether any archaeological site would be affected by the proposed development, and
- (vii) the extent to which the carrying out of the proposed development in accordance with the consent would affect any historic subdivision pattern, and
- (viii) the issues raised by any submission received in relation to the proposed development in response to the notification or advertising of the application.

### **74 Development in heritage conservation areas**

- (1) Before granting consent for the erection of a building within a heritage conservation area, the consent authority must be satisfied that the features of the proposed building will be compatible with the heritage significance of the heritage conservation area, having regard to the form of, and materials used in, buildings that contribute to the heritage significance of the heritage conservation area.
- (2) In satisfying itself about those features, the consent authority must have regard to at least the following (but is not to be limited to having regard to those features):
  - (a) the pitch and form of the roof (if any),
  - (b) the style, size, proportion and position of the openings for windows or doors (if any),
  - (c) the colour, texture, style, size and type of finish of the materials to be used on the exterior of the building.

### **75 Notice of certain heritage development applications**

- (1) The demolishing or damaging of a heritage item or a building, work, relic, Aboriginal object, tree or place within a heritage conservation area (and the use of a building or land referred to in clause 76 for a purpose which, but for that clause, would be prohibited by this plan) are identified as advertised development.
- (2) Before granting consent to the demolishing or damaging of a heritage item identified in Schedule 3 as being of State significance, the consent authority must notify the Heritage Council of its intention to do so and take into consideration any comments received from the Heritage Council in response within 28 days after the notice is sent.

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**75A Development affecting places or sites of Aboriginal heritage significance**

Before granting consent for development that is likely to have an impact on a place of Aboriginal heritage significance, or that will be carried out on an archaeological site of an Aboriginal object that has Aboriginal heritage significance, the consent authority must:

- (a) consider the effect on the heritage significance of the place or site and any Aboriginal object known or reasonably likely to be located at the place or site, and
- (b) except where the proposed development is integrated development, notify the local Aboriginal communities (in such way as it thinks appropriate) and the Director-General of the Department of Environment and Conservation of its intention to do so and take into consideration any comments received in response within 28 days after the relevant notice is sent.

**75B Development affecting archaeological sites of relics of non-Aboriginal heritage significance**

(1) Before granting consent for development that will be carried out on an archaeological site of a relic that has non-Aboriginal heritage significance (whether or not it is also the site of an Aboriginal object of Aboriginal heritage significance), the consent authority must:

- (a) consider a heritage impact statement explaining how the proposed development would affect the conservation of the site and any relic or Aboriginal object known or reasonably likely to be located at the site, and
- (b) notify the Heritage Council of its intention to do so and take into consideration any comments received in response within 28 days after the notice is sent.

(2) This clause does not apply if the proposed development:

- (a) does not involve disturbance of below-ground deposits and the consent authority is of the opinion that the heritage significance of any above-ground relics or Aboriginal objects would not be adversely affected by the proposed development, or
- (b) is integrated development.

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### **75C Development in the vicinity of heritage items**

- (1) Before granting consent to development in the vicinity of a heritage item, the consent authority must assess the impact of the proposed development on the heritage significance of the heritage item and of any heritage conservation area within which it is situated.
- (2) This clause extends to development:
  - (a) that may have an impact on the setting of a heritage item, for example, by affecting a significant view to or from the item or by overshadowing, or
  - (b) that may undermine or otherwise cause physical damage to a heritage item, or
  - (c) that will otherwise have any adverse impact on the heritage significance of a heritage item or of any heritage conservation area within which it is situated.
- (3) The consent authority may refuse to grant any such consent unless it has considered a heritage impact statement that will help it assess the impact of the proposed development on the heritage significance, visual curtilage and setting of the heritage item.
- (4) The heritage impact statement should include details of the size, shape and scale of, setbacks for, and the materials to be used in, any proposed buildings or works and details of any modification that would reduce the impact of the proposed development on the heritage significance of the heritage item.

### **76 Conservation incentives**

The consent authority may grant consent to the use, for any purpose, of a building (that is a heritage item or is within a heritage conservation area) or of the land on which such a building is erected, even though the use would otherwise be prohibited by this plan, if it is satisfied that:

- (a) the proposed use would not adversely affect the heritage significance of the item, its setting or the heritage conservation area, and
- (b) the conservation of the heritage item or the heritage conservation area depends on the granting of the consent, and
- (c) the proposed use is in accordance with a conservation management plan which has been endorsed by the consent authority, and



- (d) the granting of consent to the proposed use would ensure that all necessary conservation work identified in the conservation management plan is carried out, and
- (e) the proposed use would not adversely affect the amenity of the surrounding area otherwise than to an insignificant extent.

**[2] Schedule 1 Definitions**

Omit the definitions of *demolishing*, *heritage conservation area*, *heritage item*, *heritage significance*, *maintenance* and *relic* from Schedule 1.

**[3] Schedule 1**

Insert in alphabetical order:

*Aboriginal object* means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises the Shellharbour City local government area, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.

*archaeological site* means the site of one or more relics or Aboriginal objects.

*conservation management plan* means a document prepared in accordance with the requirements of the Heritage Office that establishes the heritage significance of an item, place or heritage conservation area and identifies conservation policies and management mechanisms that are appropriate to enable that significance to be retained.

*demolish* a heritage item, or a building, work, archaeological site, relic, Aboriginal object, tree or place within a heritage conservation area, means wholly or partly destroy, dismantle or deface the heritage item or the building, work, archaeological site, relic, Aboriginal object, tree or place.

*heritage conservation area* means an area of land described in Schedule 2 and shown edged heavy red with diagonal hatching and marked "Heritage Conservation Area" on the map and includes buildings, works, archaeological sites, relics, Aboriginal objects, trees and places situated on or within the land.

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**heritage impact statement** means a document consisting of a statement demonstrating the heritage significance of a heritage item or heritage conservation area, or of a building, work, archaeological site, tree or place within a heritage conservation area, an assessment of the impact that proposed development will have on that significance and proposals for measures to minimise that impact.

**heritage item** means:

- (a) a building, work, relic, Aboriginal object, archaeological site, moveable object, tree or place (which may or may not be situated on or within land that is a heritage conservation area) specified in an inventory of heritage items that is available at the office of the Council and the site of which is described in Schedule 3 and shown by broken red edging and numbered in red on the map, or
- (b) a place specified in an inventory of heritage items available at the office of the Council and described in the inventory as a place of Aboriginal heritage significance.

**heritage significance** means historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value.

**maintenance** means, in relation to a heritage item or a building, work, archaeological site, tree or place within a heritage conservation area, the ongoing protective care of the heritage item, building, work, archaeological site, tree or place. It does not include alterations, such as carrying out extensions or additions, or the introduction of new materials or technology.

**moveable object** means a moveable object that is not a relic or an Aboriginal object.

**place of Aboriginal heritage significance** means:

- (a) a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people. It can (but need not) include items and remnants of the occupation of the land by Aboriginal people, such as burial places, engraving sites, rock art, midden deposits, scarred and sacred trees and sharpening grooves, or
- (b) a natural Aboriginal sacred site or other sacred feature. It includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.

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*relic* means any deposit, object or material evidence (which may consist of human remains) that is more than 50 years old relating to the use or settlement, not being Aboriginal habitation, of the Shellharbour City local government area and that is a fixture or is wholly or partly within the ground.

**[4] Schedule 1, definition of “the map”**

Insert in appropriate order:

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**[5] Schedule 3**

Omit the Schedule. Insert instead:

**Schedule 3 Heritage items**

(Schedule 1)

Item No	Heritage Item	Level of Significance
<b>ALBION PARK</b>		
AP1	“Tulkeroo” Lot 1, DP 910045, 23 Calderwood Road, Albion Park	Local
AP2	Former Presbyterian manse Lot 1, DP 574775, 42 Macquarie Street, Albion Park	Local
AP3	Pioneer cemetery Part Lot 32, DP 111172, Russell Street, Albion Park	Local
AP4	“Rosetta Hill” Lot 1, DP 883020, 55 Fields Drive, Albion Park	Local
AP5	Albion Park School and former school residence Lot 1, DP 782244, Tongarra Road, Albion Park	Local
AP6	Albion Park Anglican and Roman Catholic cemeteries Part of Lot 2, DP 227785, Part of Lot 301, DP 1041577 and Part Lot 37, DP 111172, Tongarra Road, Albion Park	Local

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<b>Item No</b>	<b>Heritage Item</b>	<b>Level of Significance</b>
AP7	“Ravensthorpe”, including grounds and adjoining workers’ cottages Lots 91–93, DP 1069273, 52–56 Tongarra Road, Albion Park	Local
AP8	Albion Park Courthouse Lot 64, DP 781264, 94–96 Tongarra Road, Albion Park	Local
AP9	Former bank building Lot 4, DP 703238, 148 Tongarra Road, Albion Park	Local
AP10	St Andrew’s Presbyterian Church Part Lot 36, DP 111172, 250 Tongarra Road, Albion Park	Local
AP11	All Saints Anglican Church Part of Lot 2, DP 227785, 253 Tongarra Road, Albion Park	Regional
<b>ALBION PARK RAIL</b>		
AR1	Former Albion Park Dairy Co-Op building Part of Lot 2, DP 1055593 and State Rail Authority land fronting Creamery Road, Albion Park Rail	Local
AR2	General Cemetery Lot 7007, DP 1029735, 61 Croome Road, Albion Park Rail	Local
AR3	Albion Park Railway precinct, including the station, forecourts, residence and surroundings Part of Lot 2, DP 1055593, Station Residence Lot 1, DP 1055593 and State Rail Authority property fronting Station Road, Albion Park Rail	State
<b>BASS POINT</b>		
BP1	“Cities Service Boston” wreck monument Lot 3, DP 248002, Bass Point	Local
<b>BLACKBUTT</b>		
BL1	Stand of trees in Wentworth Cottage Park Lot 8222, DP 852573, Pioneer Drive, Blackbutt	Local
<b>CALDERWOOD</b>		
CA1	Marshall Mount Methodist cemetery Lot 1, DP 195342, Calderwood Road, Calderwood	Local

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Item No	Heritage Item	Level of Significance
<b>CROOM</b>		
CR1	“The Hill” Part Lot 5, DP 3709, Dunsters Lane, Croom	State
CR2	“Kurrawong” Lot 100, DP 717430, 4 James Road, Croom	Local
CR3	Avenue of Norfolk Island Pine trees Princes Highway, Croom, extending 800 metres south and 1100 metres north of the symbol on the map	Local
<b>DUNMORE</b>		
DU1	“Dunmore House” Lot 1, DP 1051476, Princes Highway, Dunmore	Regional
DU2	Shellharbour Railway precinct at Dunmore, including the station, forecourts, residence and surroundings Lot 1, DP 859763 and State Rail Authority land fronting Shellharbour Road, Dunmore	State
DU3	Former Minnamurra School, including residence and grounds Lot 1, DP 745632, 40 Swamp Road, Dunmore	Regional
DU4	“Glengowrie” and fig trees Lots 12, 13 and 14, DP 1017763, Swamp Road, Dunmore	Local
DU5	Tree (in contorted form) on former “Peterborough Estate” Lot 1, DP 133603, 53 Browns Road, Dunmore	Local
<b>MACQUARIE PASS</b>		
MP1	“Nurrewin” Lot 68, DP 751263, Illawarra Highway, Macquarie Pass National Park	Regional
<b>SHELL COVE</b>		
SC1	“Killarney” Lot 10, DP 882238, 7–21 Buckley’s Road, Shell Cove	Local
<b>SHELLHARBOUR</b>		
SH1	Boer War memorial in Caroline Chisholm Park Lot 9, DP 11740, 14 Addison Street, Shellharbour	Local

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<b>Item No</b>	<b>Heritage Item</b>	<b>Level of Significance</b>
SH2	Anchor from "Rangoon" Lot 1, DP 560228, 2 Addison Street, Shellharbour	Local
SH3	Ocean Beach Hotel (former Shellharbour Hotel), including trees Lot 1, DP 560228, 2 Addison Street, Shellharbour	Local
SH4	Former corner store Lot 1, DP 745795, 10 Addison Street, Shellharbour	Local
SH5	Bakery ovens, bricks and facades of former bakery (moveable objects) Lot 7, DP 238804, 25 Addison Street, Shellharbour	Local
SH6	"Windradeen" Lot 5, DP 238804, 29 Addison Street, Shellharbour	Local
SH7	Former Shellharbour Council Chambers Lot 76, DP 751290, 32A Addison Street, Shellharbour	Local
SH8	Former Allen's store Lot 2, DP 238804, 35 Addison Street, Shellharbour	Local
SH9	Russell East Park (including Moreton Bay Fig tree and Olive tree) Lots 5 and 6, DP 24223 and Lot 5, DP 24031, 10 Eastern Avenue, Shellharbour	Local
SH10	Moreton Bay Fig tree Part Lot 1, DP 80960 and Lots 1-9, DP 18262, Mary Street, Shellharbour	Local
SH11	Uniting Church Lot 1, DP 784317, 49 Mary Street, Shellharbour	Regional
SH12	"Woodbine"—former Police Station Lot 1, DP 449871, 20 Mary Street, Shellharbour	Regional
SH13	Garden trees Lot 22, DP 11740, 36 Mary Street, Shellharbour	Local
SH14	Shellharbour General Cemetery Lots 2 and 3, DP 529282, Shellharbour Road, Shellharbour	Local
SH15	St Pauls Anglican Church Lot 1, DP 503805, 12 Towns Street, Shellharbour	Local

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<b>Item No</b>	<b>Heritage Item</b>	<b>Level of Significance</b>
SH16	Norfolk Island Pine tree Lot 40, DP 15107, 54 Wentworth Street, Shellharbour	Local
SH17	Stella Maris Roman Catholic Church Lot 10, DP 1037745, Part Lot 10, Sec 2, 16–18 Wentworth Street, Shellharbour and part of Lot 9, DP 1037745, 7–9 Wilson Street, Shellharbour	Local
SH18	“The Beaches” Lot 100, DP 801475, 4 Wilson Street, Shellharbour	Local
SH19	Little Park and Norfolk Island Pine trees Part Plan Ms 408 Sy and Lot 7004, DP 1028837, Wollongong Street, Shellharbour	Regional
<b>TULLIMBAR</b>		
TU1	Ruins of former Tullimbar School and Headmaster’s residence Lot 1, DP 905581, 38 Tullimbar Lane, Tullimbar	Local
TU2	“Toongla” Lot 82, DP 634605, Tullimbar Lane, Tullimbar	State
<b>YELLOW ROCK</b>		
YR1	“Wiangara” and coach house Lots 32 and 33, DP 751274, Yellow Rock Road, Yellow Rock	Local

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