

# Shellharbour Local Environmental Plan 2000

[2000-230]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**
  - [State Environmental Planning Policy Amendment \(Miscellaneous\) 2019 \(621\)](#) (not commenced — to commence on 15.1.2020)
  - [State Environmental Planning Policy Amendment \(Repeal of Operational SEPPs\) 2019 \(659\)](#) (not commenced — to commence on 1.2.2020)
- **See also**
  - [Planning Legislation Amendment Bill 2019](#)

### Authorisation

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File last modified 20 December 2019

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New South Wales

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# Shellharbour Local Environmental Plan 2000



New South Wales

## Part 1 Preliminary

### 1 Name of plan

This plan is *Shellharbour Local Environmental Plan 2000*.

### 2 Aim of plan

The aim of this plan is to provide a framework for land use management, urban growth and change to achieve the following objectives:

- (a) to ensure that land uses in the local government area of Shellharbour City are compatible with each other and are suitably located,
- (b) to ensure that adequate provision is made to meet the needs of an increasing population,
- (c) to ensure that various areas of land within the local government area of Shellharbour City which are environmentally sensitive, and which enhance the visual amenity of the area, are protected and suitably managed,
- (d) to enable public land, owned or controlled by the Council of the City of Shellharbour under the *Local Government Act 1993*, to be classified or reclassified as operational land,
- (e) to identify and manage items of the environmental and cultural heritage of the local government area,
- (f) to ensure that development addresses pollution concerns and does not result in a decline in water quality.

### 3 Land to which the plan applies

- (1) This plan applies to all land within the local government area of Shellharbour City as shown on the map.
- (2) However, this plan does not apply to land to which *Shellharbour Rural Local Environmental Plan 2004* applies.

#### **4 Relationship to other environmental planning instruments**

- (1) *Shellharbour Local Environmental Plan No 16* is repealed.
- (2) *State Environmental Planning Policy No 4—Development Without Consent* is amended by inserting in alphabetical order of local government area in Schedule 2 (Land excepted from clauses 6–10) the following words:

City of Shellharbour local government area

#### **5 Savings**

A development application or an application for approval of an activity, relating to land to which this plan applies, that was lodged with a consent authority or determining authority, but that was not finally determined before the commencement of this plan is to be determined as if this plan had been exhibited but not been made and *Shellharbour Local Environmental Plan No 16* had not been repealed.

#### **6 Consent authority**

The Council is the consent authority for the purpose of this plan.

#### **7 Adoption of certain Model Provisions**

This plan adopts Part 1 and clauses 5, 8, 10, 11, 12, 14, 24, 27, 29 and 35 of, and Schedule 1 to, the *Environmental Planning and Assessment Model Provisions 1980*.

#### **8 Definitions**

- (1) In this plan, terms defined in Schedule 1 have the same meaning as set out in that Schedule.
- (2) In this plan, a reference to a map is a reference to a map kept at the office of the Council.
- (3) The letters and symbols SPS, RES, SUB STN, CH, FIRE STN, PUBLIC BLDG or TEL. EXCH, where appearing on a map, mean sewage pumping station, water reservoir, electricity sub-station, church, fire station, public building or telephone exchange, respectively.
- (4) In this plan, a reference to a building or place used for a purpose includes a reference to a building or place intended to be used for the purpose.
- (5) The list of contents of this plan is not part of this plan.

#### **9 Zones indicated on the map**

Land is within one of the following zones as set out in Parts 2–10 in the clause headed “General controls for development” for the zone under the heading “Land within the zone”:



- 1 (a)—Rural A Zone
- 1 (c)—Rural C Zone
- 1 (d)—Rural D (Horticultural) Zone
- 2 (a)—Residential A Zone
- 2 (b1)—Residential B1 Zone
- 2 (b2)—Residential B2 Zone
- 2 (e)—Mixed Use Residential E Zone
- 2 (f)—Mixed Use Residential F Zone
- 3 (a)—Mixed Use Commercial Zone
- 3 (d)—Neighbourhood Business Zone
- 4 (a)—Light Industrial Zone
- 4 (a3)—Airport Light Industrial Zone
- 4 (c)—Extractive Industrial Zone
- 4 (f)—Special Industrial Zone
- 5 (a)—Special Uses Zone
- 5 (b)—Special Railway Uses
- 6 (a)—Public Open Space Zone
- 6 (b)—Private Open Space Zone
- 7 (a)—Environmental Protection (Wetlands) Zone
- 7 (d)—Environmental Protection (Scenic) Zone
- 7 (e)—Environmental Protection (Escarpment) Zone
- 7 (f2)—Environmental Protection (Foreshore) Zone
- 7 (g)—Environmental Protection (Living Area 1) Zone
- 7 (h)—Environmental Protection (Living Area 2) Zone
- 8—National Parks and Nature Reserves Zone
- 9 (b)—Arterial Roads Reservation Zone

9 (c)—Local Roads Reservation Zone

9 (d)—Open Space Reservation Zone

## **10 Zone objectives and general controls for development**

- (1) The objectives of each zone are set out in Parts 2–10 in the clause headed “General controls for development” for the zone under the heading “Objectives (or Objective) of the zone”.
- (2) Except as otherwise provided by this plan, for each zone specified in a general controls for development clause, the development that:
  - (a) may be carried out without development consent is indicated in that clause by the words “Allowed without development consent”, or
  - (b) may be carried out only with development consent is indicated in that clause by the words “Allowed only with development consent”, or
  - (c) is prohibited is indicated in that clause by the words “Prohibited in the zone”.
- (3) The objectives of the zone are required to be taken into account by the consent authority before development consent is given to the carrying out of development within that zone.

## **Part 2 Rural Zones Provisions**

### **11 General controls for development—Zone 1 (a) (the Rural A zone)**

- (1) **Land within the zone** Land is within Zone 1 (a) (the Rural A zone) if it is shown coloured cream on the map.
- (2) **Objectives of the zone**
  - (a) To protect the agricultural potential of rural land and to prevent the fragmentation of rural holdings.
  - (b) To prevent premature and sporadic subdivisions and to ensure consolidation of urban areas, thus enhancing the prospect of the economic provision of public services.
  - (c) To prevent, on the fringe of urban areas, the subdivision of land into small lots which would prejudice the proper layout of additional urban areas as a result of natural growth.
- (3) **Allowed without development consent** Exempt development and development for the purpose of:

general agriculture; home-based child care; home businesses; home occupations

(excluding an occupation or industry involving the handling or preparation (or both) of food for sale or the carrying out of skin penetration procedures as defined in the *Public Health Act 1991*).

(4) **Allowed only with development consent** Development not included in subclause (3) or (5).

(5) **Prohibited in the zone** Development for the purpose of:

advertisements not displaying the purpose for which the land is used or directional information; brothels; car repair stations; commercial premises; dual occupancies (other than attached dual occupancies); heavy industries; junk yards; light industries; medium density housing; motor showrooms; professional consulting rooms; recreation facilities; service stations; shops; warehouses.

## 12 General controls for development—Zone 1 (c) (the Rural C zone)

(1) **Land within the zone** Land is within Zone 1 (c) (the Rural C zone) if it is shown coloured pale yellow on the map.

(2) **Objectives of the zone**

(a) To allow rural residential neighbourhoods to be developed, taking advantage of changing demand for housing and the availability of rural land not suited to agricultural, industrial or urban uses.

(b) To maintain the environmental quality and visual amenity of rural areas.

(c) To reduce the demand for subdivision for residential purposes of agricultural land.

(3) **Allowed without development consent** Exempt development and development for the purpose of:

home-based child care; home businesses; home occupations (excluding an occupation or industry involving the handling or preparation (or both) of food for sale or the carrying out of skin penetration procedures as defined in the *Public Health Act 1991*).

(4) **Allowed only with development consent** Development not included in subclause (3) or (5).

(5) **Prohibited in the zone** Development for the purpose of:

advertisements not displaying the purpose for which the land is used; amusement parks; animal boarding, breeding or training establishments; aquaculture; backpackers inns; boarding houses; brothels; bus depots; car repair stations; clubs; commercial premises; community facilities; dual occupancies (other than attached dual occupancies); extractive industries; gas holders; general stores;

generating works; heavy industries; helipads; heliports; hospitals; hotels; institutions; junk yards; light industries; liquid fuel depots; medium density housing; mineral sand mines; mines; motels; motor showrooms; offensive or hazardous industries; passenger terminals; places of assembly; public buildings; racecourses; recreation establishments; recreation facilities; refreshment rooms; road transport terminals; rural industries; sawmills; service stations; shops; showgrounds; stock and sale yards; timber yards; tourist facilities; warehouses.

### **13 General controls for development—Zone 1 (d) (the Rural D (Horticulture) zone)**

- (1) **Land within the zone** Land is within Zone 1 (d) (the Rural D (Horticulture) zone) if it is shown coloured pale yellow and lettered 1 (d) on the map.
- (2) **Objective of the zone** To provide for horticultural activities on agricultural lots of high agricultural potential, if such uses can be accommodated without reducing the quality of water in the locality.
- (3) **Allowed without development consent** Exempt development and development for the purpose of:  

Nil.
- (4) **Allowed only with development consent** Development for the purpose of:  

advertisements displaying the purpose for which the land is used; clearing of land; drainage; filling; general agriculture; intensive horticulture; intensive livestock keeping; roadside stalls; rural industries; turf farms; wetland improvement.
- (5) **Prohibited in the zone** Development not included in subclause (3) or (4).

### **14 Controls for subdivision of land within Zone 1 (a)**

- (1) The Council must not consent to a subdivision of land within Zone 1 (a) unless:
  - (a) each allotment to be created will have an area of not less than 40 hectares or the Council is satisfied that any proposed smaller allotment is not intended to be used for the purpose of agriculture or a dwelling house, but is intended to be used for another lawful purpose, and
  - (b) where any allotment proposed to be created will have a frontage to a main road, the frontage will be not less than 200 metres, and
  - (c) the Council has been informed of the purpose for which each proposed allotment to be created by the subdivision is intended to be used and, where the purpose is agriculture, of the form of agriculture for which the allotment is intended to be used.
- (2) Despite any other provision of this plan, consent for a subdivision of land within Zone

1 (a) in the “Jamberoo Valley Rural Conservation Area” (which is shown on the map) to create an allotment must not be granted unless:

- (a) the consent authority is satisfied that the proposed allotment will not be used for the erection of a dwelling house, and
- (b) a condition of the consent prohibits the erection of a dwelling house on each lot to be created by the subdivision.

(3) The Council must not consent to a subdivision of land within Zone 1 (a) in the “Jamberoo Valley Rural Conservation Area” (which is shown on the map) unless it has considered:

- (a) the relationship of the proposed allotments to adjacent or adjoining allotments and the practicality of consolidating adjacent or adjoining allotments with land to which the application for consent to the subdivision relates, and
- (b) the quality of the land proposed to be subdivided and the potential agricultural productivity of that land if it remains unsubdivided, and
- (c) the likely impact of the subdivision on vegetation, soil resources and stability and water resources (including the quality of water courses, ground water storage and riparian rights), and
- (d) the size, quality and potential agricultural productivity of each proposed allotment, and
- (e) the relationship of each proposed allotment to, and the effect of creating the allotment on, the structure and nature of agricultural industries in the locality, and
- (f) the purpose for which the proposed allotments are intended to be used and the purpose for which, in the opinion of the Council, the allotments are suitable for use, and
- (g) the cumulative effect of similar proposals if consent is granted, and
- (h) the likelihood of the proposed allotments remaining available for agriculture.

#### **15 Controls for building dwelling houses within Zone 1 (a)**

(1) Despite any other provision of this plan, the Council must not consent to the erection of a dwelling house on an allotment in Zone 1 (a) that has an area of less than 40 hectares unless:

- (a) that allotment is a vacant original holding, or
- (b) the allotment has been created in accordance with a subdivision approval (or a consent for a subdivision) on which no condition has been imposed prohibiting the erection of a dwelling house on the subject property.

- (2) Despite any other provision of this plan, the Council must not consent to the erection of more than one dwelling house on an allotment in Zone 1 (a) unless it is satisfied that the dwelling house will be used or occupied by a person engaged by the owner of that land in the pursuit of agriculture on that land or on land adjacent to or adjoining that land.
- (3) Consent must not be granted for a dwelling house on an allotment of land in Zone 1 (a) with an area of less than 40 hectares unless the Council places a condition on the consent requiring that allotment to be consolidated with any adjoining land in the same ownership until either all adjoining properties within the same ownership are consolidated or a minimum area of 40 hectares is achieved.
- (4) Despite any other provision of this plan, the Council may consent to the erection of a dwelling house on land within Zone 1 (a) in the “Jamberoo Valley Rural Conservation Area” (which is shown on the map) only if the property to which the application relates has an area of 40 hectares or more or if the Council is satisfied that the property is a vacant original holding.
- (5) Despite any other provision of this plan, the Council must not consent to the erection of a second dwelling house on land within Zone 1 (a) in the “Jamberoo Valley Rural Conservation Area” (which is shown on the map) where:
  - (a) the property to which the application relates has an area of less than 40 hectares, or
  - (b) the dwelling house will not be ancillary to the agricultural use of the land, or
  - (c) separate ownership of the proposed dwelling house will be achievable without the subdivision of the land, or
  - (d) an additional access to a public road is required from the land as a result of the erection of the dwelling house, or
  - (e) in the opinion of the Council, the proposed dwelling house will interfere with the purpose for which the land concerned is being used.

#### **16 Controls for the development of certain land within Zone 1 (a)—Jamberoo Valley**

- (1) Despite any other provision of this plan, the Council must not grant consent to an amusement park or a place of assembly on land within Zone 1 (a) in the “Jamberoo Valley Rural Conservation Area” (which is shown on the map).
- (2) Despite any other provision of this plan, the Council must not consent to development on land within Zone 1 (a) in the “Jamberoo Valley Rural Conservation Area” (which is shown on the map) unless it has considered:
  - (a) the effect of the proposed development on agricultural land uses undertaken on land holdings in the vicinity, and

- (b) the quality of the land and the potential agricultural productivity of the land, and
  - (c) the likely impact of the proposed development on vegetation, soil resources and stability and water resources (including the quality of water courses, ground water storage and riparian rights), and
  - (d) the effect of the proposed development on the structure and nature of agricultural industries in the area, and
  - (e) the cumulative effect of similar proposals if consent is granted, and
  - (f) the likelihood of the land remaining available to agriculture, and
  - (g) the impact that the proposed development will have on the scenic quality of the Jamberoo Valley by way of colour, bulk, vegetation removal, road access, visual intrusiveness, reflection and traffic generation, and is satisfied that such measures as will, in its opinion, minimise that impact are proposed to be taken.
- (3) The Council must take the following into consideration when assessing an application for consent to clear any land shown stippled on Sheet 3 of the map marked "*Illawarra Regional Environmental Plan No 2—Jamberoo Valley*" deposited in the office of the Department of Urban Affairs and Planning (being areas of significant vegetation):
- (a) the movement of native fauna,
  - (b) any rare or significant flora or fauna,
  - (c) any rare or significant habitats,
  - (d) the effect of the proposed clearing on adjacent or adjoining land under the control of the National Parks and Wildlife Service,
  - (e) whether there is a reasonable alternative to the removal of that vegetation or the extent of the removal of that vegetation,
  - (f) the visual impact of the proposed development on the scenic quality of the Jamberoo Valley by breaking any unbroken natural tree canopy cover or creating smaller discrete parcels of vegetation from an existing stand.

#### **17 Controls for subdivision within Zone 1 (c)**

- (1) The Council must not consent to the subdivision of land within Zone 1 (c) unless:
- (a) each lot to be created by the subdivision has an area of not less than 0.4 hectares and the average lot size (calculated by dividing the total area of land to be subdivided by the number of lots to be created by the subdivision) is not less than 0.8 hectares, where reticulated water and sewerage services are available, and
  - (b) each lot to be created by the subdivision has an area of not less than 1 hectare,

where reticulated water and sewerage services are not available.

- (2) The Council must not consent to the subdivision of any land within Zone 1 (c) unless it has considered:
  - (a) the land capability (including soil resources, soil stability and capacity for on-site waste disposal) and the natural constraints, and hazards, of the land to be subdivided in relation to the density and design of the allotments proposed to be created, and
  - (b) the desirability of providing a range and mixture of allotment sizes, and
  - (c) the ability to provide urban services to the land.

### **18 Controls for building dwelling houses within Zone 1 (c)**

- (1) A dwelling house may not be erected on land within Zone 1 (c) unless that land is an allotment that complies with clause 17 (1) (a) and (b).
- (2) Despite any other provision of this plan, the Council may consent to the erection of a second dwelling house on an allotment within Zone 1 (c) with an area exceeding two hectares, but only if, in the opinion of the Council:
  - (a) the development will not adversely affect the visual amenity of the area, and
  - (b) the development will not place undue demand on the provision of public services, and
  - (c) the development will not increase ribbon development on any main or arterial road and will not exceed the environmental capacity of the site.

### **19 Controls for subdivision within Zone 1 (d)**

The Council must not consent to the subdivision of land within Zone 1 (d) unless each allotment to be created by the subdivision has an area of not less than 12 hectares, even if the subdivision is by a strata plan or under the [Community Land Development Act 1989](#).

## **Part 3 Residential Zones Provisions**

### **20 General controls for development—Zone 2 (a) (the Residential A zone)**

- (1) **Land within the zone** Land is within Zone 2 (a) (the Residential A zone) if it is shown coloured light pink on the map.
- (2) **Objective of the zone** To provide an environment primarily for detached and semi-detached housing.
- (3) **Allowed without development consent** Exempt development and development for the purpose of:



home-based child care; home businesses; home occupations (excluding an occupation or industry involving the handling or preparation (or both) of food for sale or the carrying out of skin penetration procedures as defined in the *Public Health Act 1991*).

(4) **Allowed only with development consent** Development not included in subclause (3) or (5).

(5) **Prohibited in the zone** Development for the purpose of:

advertisements not displaying the purpose for which the land is used; amusement parks; animal boarding, breeding or training establishments; aquaculture; backpackers inns; brothels; bus depots; car repair stations; clubs; commercial premises; extractive industries; gas holders; general agriculture; general stores; generating works; heavy industries; helipads; heliports; hotels; institutions; intensive horticulture; intensive livestock keeping; junk yards; light industries; liquid fuel depots; mineral sand mines; mines; motels; motor showrooms; offensive or hazardous industries; passenger terminals; places of assembly; plantation forestry; plant nurseries; public buildings; racecourses; recreation establishments; recreation facilities; refreshment rooms; roadside stalls; road transport terminals; rural industries; sawmills; service stations; shops; showgrounds; stock and sale yards; timber yards; tourist facilities; turf farms; veterinary surgeries; warehouses; waste management facilities or works.

## **21 General controls for development—Zone 2 (b1) (the Residential B1 zone)**

(1) **Land within the zone** Land is within Zone 2 (b1) (the Residential B1 zone) if it is shown coloured medium pink on the map.

(2) **Objectives of the zone**

(a) To provide for a range of housing types in locations that are accessible to retail, commercial and public transport facilities.

(b) To encourage the efficient use of aged housing stock upon redevelopment.

(3) **Allowed without development consent** Exempt development and development for the purpose of:

home-based child care; home businesses; home occupations (excluding an occupation or industry involving the handling or preparation (or both) of food for sale or the carrying out of skin penetration procedures as defined in the *Public Health Act 1991*).

(4) **Allowed only with development consent** Development not included in subclause (3) or (5).

(5) **Prohibited in the zone** Development for the purpose of:

advertisements not displaying the purpose for which the land is used; amusement parks; animal boarding, breeding or training establishments; aquaculture; brothels; bus depots; car repair stations; clubs; commercial premises; extractive industries; gas holders; general agriculture; generating works; heavy industries; helipads; heliports; hotels; institutions; intensive horticulture; intensive livestock keeping; junk yards; light industries; liquid fuel depots; mineral sand mines; mines; motels; motor showrooms; offensive or hazardous industries; passenger terminals; places of assembly; plantation forestry; plant nurseries; public buildings; racecourses; recreation establishments; recreation facilities; refreshment rooms; roadside stalls; road transport terminal; rural industries; sawmills; service stations; shops; showgrounds; stock and sale yards; timber yards; tourist facilities; turf farms; veterinary surgeries; warehouses; waste management facilities or works.

## **22 General controls for development—Zone 2 (b2) (the Residential B2 zone)**

- (1) **Land within the zone** Land is within Zone 2 (b2) (the Residential B2 zone) if it is shown coloured dark pink on the map.
- (2) **Objective of the zone** To allow for medium density development in locations that are in the vicinity of retail, commercial and public transport facilities.
- (3) **Allowed without development consent** Exempt development and development for the purpose of:
  - home-based child care; home business; home occupations (excluding an occupation or industry involving the handling or preparation (or both) of food for sale or the carrying out of skin penetration procedures as defined in the [Public Health Act 1991](#)).
- (4) **Allowed only with development consent** Development not included in subclause (3) or (5).
- (5) **Prohibited in the zone** Development for the purpose of:

advertisements not displaying the purpose for which the land is used; amusement parks; animal boarding, breeding or training establishments; aquaculture; brothels; bus depots; car repair stations; clubs; commercial premises; extractive industries; gas holders; general agriculture; generating works; heavy industries; helipads; heliports; hotels; institutions; intensive horticulture; intensive livestock keeping; junk yards; light industries; liquid fuel depots; mineral sand mines; mines; motels; motor showrooms; offensive or hazardous industries; passenger terminals; places of assembly; plantation forestry; plant nurseries; public buildings; racecourses; recreation establishments; recreation facilities; refreshment rooms; roadside stalls; road transport terminals; rural industries; sawmills; service stations; shops; showgrounds; stock and sale yards; timber

yards; tourist facilities; turf farms; veterinary surgeries; warehouses; waste management facilities or works.

### **23 General controls for development—Zone 2 (e) (the Mixed Use Residential E zone)**

(1) **Land within the zone** Land is within Zone 2 (e) (the Mixed Use Residential E zone) if it is shown coloured salmon on the map.

(2) **Objective of the zone** To allow for mixed use residential neighbourhoods to be developed on 'greenfields' sites providing for a range of household preferences and needs compatible with fully developed residential neighbourhoods.

(3) **Allowed without development consent** Exempt development and development for the purpose of:

home-based child care; home businesses; home occupations (excluding an occupation or industry involving the handling or preparation (or both) of food for sale or the carrying out of skin penetration procedures as defined in the [Public Health Act 1991](#)).

(4) **Allowed only with development consent** Development not included in subclause (3) or (5).

(5) **Prohibited in the zone** Development for the purpose of:

advertisements not displaying the purpose for which the land is used; amusement parks; animal boarding, breeding or training establishments; aquaculture; brothels; bus depots; car repair stations; extractive industries; gas holders that are not ancillary to an allowable use or a use granted consent; generating works; heavy industries; helipads; heliports; institutions; intensive horticulture; intensive livestock keeping; junk yards; light industries; liquid fuel depots; mineral sand mines; mines; motor showrooms; offensive or hazardous industries; plantation forestry; racecourses; roadside stalls; road transport terminals; rural industries; sawmills; stock and sale yards; timber yards; turf farms; warehouses; waste management facilities or works.

### **24 General controls for development—Zone 2 (f) (the Mixed Use Residential F zone)**

(1) **Land within the zone** Land is within Zone 2 (f) (the Mixed Use Residential F zone) if it is shown coloured mauve on the map.

(2) **Objectives of the zone**

(a) To allow for mixed use residential neighbourhoods to be developed providing for a range of household preferences and needs.

(b) To enable the development of a regional boat harbour facility and associated commercial and recreational activities.

- (3) **Allowed without development consent** Exempt development and development for the purpose of:

home-based child care; home businesses; home occupations (excluding an occupation or industry involving the handling or preparation (or both) of food for sale or the carrying out of skin penetration procedures as defined in the *Public Health Act 1991*).

- (4) **Allowed only with development consent** Development not included in subclause (3) or (5).

- (5) **Prohibited in the zone** Development for the purpose of:

advertisements not displaying the purpose for which the land is used; amusement parks; animal boarding, breeding or training establishments; aquaculture; brothels; car repair stations; extractive industries; gas holders that are not ancillary to an allowable use or a use granted consent; generating works; heavy industries; heliports; institutions; intensive horticulture; intensive livestock keeping; junk yards; light industries (other than those associated with and including boat manufacture or repair); liquid fuel depots; mineral sand mines; mines; motor showrooms (other than for caravans, boats or trailers); offensive or hazardous industries; plantation forestry; racecourses; roadside stalls; road transport terminals; rural industries; sawmills; stock and sale yards; timber yards; turf farms; warehouses; waste management facilities or works.

## **25 Controls to promote commercial hierarchy within Zones 2 (e) and 2 (f)**

Despite any other provision of this plan, the Council may consent to commercial or retail development (or mixed commercial and retail development) on land within Zone 2 (e) or 2 (f) only if, in the opinion of the Council, it will promote the commercial hierarchy for the Shellharbour City local government area presented in Schedule 4.

## **26 Development within the quarry buffer area in Zone 2 (f)**

- (1) Despite any other provision of this plan, a person shall not develop land in Zone 2 (f) identified as “quarry buffer area” on the map for any purpose other than general agriculture; drainage; light industries and industries associated with and including boat manufacture and repair; open space; recreation areas; roads; shops and commercial premises in accordance with Schedule 4; utility installations (other than gas holders or generating works), and warehouses.

- (2) The Council shall not grant development consent in respect of any development for a purpose specified in subclause (1) unless:

- (a) the development will not be unduly affected in an adverse manner by proximity to the Bass Point Quarry, having regard to the normal course of the quarry’s operations, and

- (b) the applicant for that consent is aware of the nature of the operation of the quarry and its likely impact on the land within the quarry buffer area and has notified the Council in writing of his, hers or its acceptance of that impact, and
- (c) the development will not pose a restriction on the nature of operations within the quarry.

## **Part 4 Commercial Zones Provisions**

### **27 General controls for development—Zone 3 (a) (the Mixed Use Commercial zone)**

- (1) **Land within the zone** Land is within Zone 3 (a) (the Mixed Use Commercial zone) if it is shown coloured light blue on the map.
- (2) **Objectives of the zone**
  - (a) To provide for mixed use retail/commercial centres in locations that have developed historically or which are centrally located.
  - (b) To allow for mixed use development incorporating residential and commercial or retail activities.
  - (c) To encourage the development of commercial/retail centres that provide for daily convenience and higher order needs of the surrounding residential areas.
- (3) **Allowed without development consent** Exempt development and development for the purpose of:
  - home-based child care; home businesses; home occupations (excluding an occupation or industry involving the handling or preparation (or both) of food for sale or the carrying out of skin penetration procedures as defined in the *Public Health Act 1991*).
- (4) **Allowed only with development consent** Development not identified in subclause (3) or (5).
- (5) **Prohibited in the zone** Development for the purpose of:
  - animal boarding, breeding or training establishments; aquaculture; brothels; car repair stations; extractive industries; gas holders that are not ancillary to an allowable use or a use granted consent; generating works; heavy industries; helipads; heliports; hospitals; institutions; intensive horticulture; intensive livestock keeping; junk yards; light industries; liquid fuel depots; mineral sand mines; mines; offensive or hazardous industries; plantation forestry; racecourses; road transport terminals; roadside stalls; rural industries; sawmills; stock and sale yards; timber yards; turf farms; waste management facilities or works.

## **28 General controls for development—Zone 3 (d) (the Neighbourhood Business zone)**

(1) **Land within the zone** Land is within Zone 3 (d) (the Neighbourhood Business zone) if it is shown coloured medium blue on the map.

(2) **Objectives of the zone**

(a) To allow for retail and commercial businesses of a scale that is unlikely to prejudice the viability of a higher order commercial centre.

(b) To provide for retail and commercial services that may cater for the daily convenience needs of the local community.

(c) To allow for mixed use development incorporating residential and commercial or retail activities.

(3) **Allowed without development consent** Exempt development and development for the purpose of:

home-based child care; home businesses; home occupations (excluding an occupation or industry involving the handling or preparation (or both) of food for sale or the carrying out of skin penetration procedures as defined in the [Public Health Act 1991](#)).

(4) **Allowed only with development consent** Development not included in subclause (3) or (5).

(5) **Prohibited in the zone** Development for the purpose of:

amusement parks; animal boarding, breeding or training establishments; aquaculture; backpackers inns; brothels; car repair stations; clubs; extractive industries; gas holders that are not ancillary to an allowable use or a use granted consent; general agriculture; generating works; heavy industries; helipads; heliports; hospitals; hotels; institutions; intensive horticulture; intensive livestock keeping; junk yards; light industries; liquid fuel depots; mineral sand mines; mines; motels; motor showrooms; offensive or hazardous industries; plantation forestry; racecourses; road transport terminals; roadside stalls; rural industries; sawmills; stock and sale yards; timber yards; turf farms; warehouses; waste management facilities or works.

## **29 Controls to promote commercial hierarchy**

Despite any other provision of this plan, the Council may consent to commercial or retail development (or mixed commercial and retail development) on land within Zone 3 (a) or 3 (d) only if, in the opinion of the Council, it will promote the commercial hierarchy for the Shellharbour City local government area presented in Schedule 4.

## Part 5 Industrial Zones Provisions

### 30 General controls for development—Zone 4 (a) (the Light Industrial zone)

- (1) **Land within the zone** Land is within Zone 4 (a) (the Light Industrial zone) if it is shown coloured light purple on the map.
- (2) **Objective of the zone** To provide for a wide variety of light industrial uses which are generally compatible with nearby residential neighbourhoods.
- (3) **Allowed without development consent** Exempt development and development for the purpose of:
  - home businesses; home occupations (excluding an occupation or industry involving the handling or preparation (or both) of food for sale or the carrying out of skin penetration procedures as defined in the *Public Health Act 1991*).
- (4) **Allowed only with development consent** Development not included in subclause (3) or (5).
- (5) **Prohibited in the zone** Development for the purpose of:
  - amusement parks; aquaculture; backpackers inns; bed and breakfasts; clubs; commercial premises (other than those used in conjunction with industry and situated on land on which the industry is situated); dual occupancies; dwelling houses (other than those used in conjunction with industry and situated on land on which the industry is situated); extractive industries; gas holders that are not ancillary to an allowable use or a use granted consent; general stores; generating works; heavy industries; helipads; heliports; hospitals; hotels; institutions; intensive horticulture; intensive livestock keeping; junk yards; liquid fuel depots; medium density housing; mineral sand mines; mines; motels; offensive or hazardous industries; places of assembly; plantation forestry; professional consulting rooms; public buildings; recreational establishments; roadside stalls; rural industries; shops (other than light industrial retail outlets and those that serve the daily convenience needs of an industrial area); stock and sale yards; tourist facilities.

### 31 General controls for development—Zone 4 (a3) (the Airport Light Industrial zone)

- (1) **Land within the zone** Land is within Zone 4 (a3) (the Airport Light Industrial zone) if it is shown coloured dark purple and lettered 4 (a3) on the map.
- (2) **Objectives of the zone**
  - (a) To provide for a wide variety of light industrial uses that are generally compatible with nearby residential neighbourhoods.
  - (b) Where appropriate, to encourage the development of industries that are airport-

related and, as a result, to diversify the industrial base of Shellharbour in a manner compatible with use of the adjacent Illawarra Regional Airport.

(3) **Allowed without development consent** Exempt development and development for the purpose of:

home businesses; home occupations (excluding an occupation or industry involving the handling or preparation (or both) of food for sale or the carrying out of skin penetration procedures as defined in the *Public Health Act 1991*).

(4) **Allowed only with development consent** Development not included in item (3) or (5).

(5) **Prohibited in the zone** Development for the purpose of:

amusement parks; aquaculture; animal boarding, breeding or training establishments; child care centres; commercial premises (other than those used in conjunction with an allowable use and situated on land on which the use is situated or those providing a service to an airport or to airport-related uses); dual occupancies; dwelling houses (other than those used in conjunction with an allowable use and situated on land on which the use is situated); extractive industries; gas holders that are not ancillary to an allowable use or a use granted consent; general stores; generating works; heavy industries (other than airport related industries); helipads; heliports; hospitals; institutions; intensive horticulture; intensive livestock keeping; junk yards; medium density housing; mineral sand mines; mines; motor showrooms; offensive or hazardous industries; places of assembly; places of public worship; plantation forestry; professional consulting rooms; racecourses; recreational establishments; roadside stalls; rural industries; sawmills; shops (other than light industrial retail outlets and those that serve the daily convenience needs of an industrial area or airport); stock and sale yards; waste management facilities or works.

### **32 General controls for development—Zone 4 (c) (the Extractive Industrial zone)**

(1) **Land within the zone** Land is within Zone 4 (c) (the Extractive Industrial zone) if it is shown coloured dark purple on the map.

(2) **Objectives of the zone** To identify those areas specifically allocated for extractive purposes.

(3) **Allowed without development consent** Exempt development and development for the purpose of:

Nil.

(4) **Allowed only with development consent** Development for the purpose of:

clearing of land; drainage; extractive industries; filling; general agriculture; intensive horticulture; intensive livestock keeping; mines; turf farms; waste



management facilities or works; wetland improvement.

(5) **Prohibited in the zone** Development not included in subclause (3) or (4).

### **33 General controls for development—Zone 4 (f) (the Special Industrial zone)**

(1) **Land within the zone** Land is within Zone 4 (f) (the Special Industrial zone) if it is shown coloured dark purple and lettered 4 (f) on the map.

(2) **Objective of the zone** To provide a suitable area for those industrial uses which are more appropriately located away from residential areas by reason of the emission of noise, fumes, dust or the like.

(3) **Allowed without development consent** Exempt development and development for the purpose of:

home businesses; home occupations (excluding an occupation or industry involving the handling or preparation (or both) of food for sale or the carrying out of skin penetration procedures as defined in the *Public Health Act 1991*).

(4) **Allowed only with development consent** Development not identified in subclause (3) or (5).

(5) **Prohibited in the zone** Development for the purpose of:

amusement parks; animal boarding, breeding or training establishments; aquaculture; backpackers inns; bed and breakfasts; child care centres; clubs; commercial premises (other than those used in conjunction with industry and situated on land on which the industry is situated); community facilities; dual occupancies; dwelling houses (other than those used in conjunction with industry and situated on land on which the industry is situated); extractive industries; general stores; generating works; helipads; heliports; hospitals; hotels; institutions; intensive horticulture; intensive livestock keeping; medium density housing; mineral sand mines; mines; motels; motor showrooms; places of assembly; places of public worship; plantation forestry; professional consulting rooms; public buildings; racecourses; recreational establishments; refreshment rooms; roadside stalls; rural industries; service stations; shops (other than light industrial retail outlets and those that serve the daily convenience needs of an industrial area); stock and sale yards; tourist facilities; veterinary surgeries.

### **34 Bulky goods retailing within Zones 4 (a) and 4 (a3)**

Despite any other provision of this plan, the Council may consent to development of land within Zone 4 (a) or 4 (a3) for the purpose of retailing of bulky goods but only if it has considered:

(a) the availability of suitable lands in any nearby business centre, and

- (b) the impact of the development on the predominantly industrial nature of Zone 4 (a) or 4 (a3), and
- (c) the effect of the development on the viability of the nearby business centre.

### **35 Controls for certain development of certain land within Zone 4 (a)**

Despite any other provision of this plan, the Council must not consent to development for the purpose of a motor showroom on land within Zone 4 (a), being 13 to 97 Princes Highway; 2-6 and 1-7 Mye Place, or 6 and 8 Creole Road, Albion Park Rail, unless vehicular access to and egress from the land is not only by way of the Princes Highway but is also to and from some other additional point of access and egress.

### **36 Access controls within Zone 4 (a3)**

- (1) The Council must not grant consent for development of land within Zone 4 (a3) unless access to and egress from the site of the development is available otherwise than directly from or to a main or arterial road.
- (2) In granting such a consent, the Council must prohibit direct vehicular access to or egress from the site by a main or arterial road.
- (3) This clause does not apply to Lot 4211, DP 833774, Princes Highway, Albion Park Rail.

### **37 Controls for liquid fuel depots within Zones 4 (a3) and 4 (f)**

- (1) A person must not establish, enlarge or use a liquid fuel depot on land within Zone 4 (a3) or 4 (f) having an above ground storage capacity of 500 kilolitres or more of inflammable liquid without the consent of the Council.
- (2)-(4) (Repealed)

## **Part 6 Special Uses Zones Provisions**

### **38 General controls for development—Zone 5 (a) (the Special Uses zone)**

- (1) **Land within the zone** Land is within Zone 5 (a) (the Special Uses zone) if it is shown coloured dark yellow and lettered with the special use of the land on the map.
- (2) **Objective of the zone** To maintain land for certain community facilities and services.
- (3) **Allowed without development consent** Exempt development and development for the purpose of:
  - home businesses; home occupations (excluding an occupation or industry involving the handling or preparation (or both) of food for sale or the carrying out of skin penetration procedures as defined in the [Public Health Act 1991](#)).
- (4) **Allowed only with development consent** Development for the purpose of:

clearing of land; commercial premises; community facilities; drainage; educational establishments; filling; general agriculture; home occupations where the occupation or industry involves the handling or preparation (or both) of food for sale or the carrying out of skin penetration procedures as defined in the *Public Health Act 1991*; intensive horticulture; passenger terminals; places of assembly; places of public worship; the particular land use indicated by heavy black lettering on the map; turf farms; utility installations (other than gas holders or generating works); wetland improvement.

(5) **Prohibited in the zone** Development not included in subclause (3) or (4).

### **39 General controls for development—Zone 5 (b) (the Special Railway Uses zone)**

(1) **Land within the zone** Land is within Zone 5 (b) (the Special Railway Uses zone) if it is shown coloured dark grey on the map.

(2) **Objective of the zone** To maintain land for railway purposes.

(3) **Allowed without development consent** Exempt development and development for the purpose of:

home businesses; home occupations (excluding an occupation or industry involving the handling or preparation (or both) of food for sale or the carrying out of skin penetration procedures as defined in the *Public Health Act 1991*).

(4) **Allowed only with development consent** Development for the purpose of:

clearing of land; drainage; filling; home occupations where the occupation or industry involves the handling or preparation (or both) of food for sale or the carrying out of skin penetration procedures as defined in the *Public Health Act 1991*; railway uses (other than advertisements except at railway stations); utility installations (other than gas holders or generating works); wetland improvement.

(5) **Prohibited in the zone** Development not included in subclause (3) or (4).

### **40 Interim development within Zone 5 (a)**

In considering whether to grant consent to development of land within Zone 5 (a) for the erection or use of commercial premises, general agriculture, intensive horticulture or passenger terminals, the Council must assess the proposal to ensure that it will not interfere with the use of the land for the purpose identified by lettering on the zoning map.

### **41 Controls to promote commercial hierarchy within Zone 5 (a)**

Despite any other provision of this plan, the Council may consent to commercial or retail development (or mixed commercial and retail development) on land within Zone 5 (a) only if, in the opinion of the Council, it will promote the commercial hierarchy for the

Shellharbour City local government area presented in Schedule 4.

#### **42 Temporary uses by charities and service clubs within Zone 5 (a)**

- (1) Despite any other provision of this plan, a person may, with the consent of the Council, carry out development on land within Zone 5 (a) for the purpose of temporary activities such as markets, exhibitions and fund raising, but only if:
  - (a) the activity will be carried out by an established non-profit organisation, and
  - (b) the consent will not have the effect of allowing the same site to be used for the those kinds of activities more than 12 times in any one year.
- (2) In considering whether to grant consent to the carrying out of any such development, the Council must take into account:
  - (a) the suitability of the land for the proposed development, and
  - (b) the availability and suitability of alternative sites for the proposed development, and
  - (c) the impact of the proposed development on the land and the neighbourhood, and
  - (d) the desirability of retaining the land for its existing or likely future use.

### **Part 7 Open Space Zones Provisions**

#### **43 General controls for development—Zone 6 (a) (the Public Open Space zone)**

- (1) **Land within the zone** Land is within Zone 6 (a) (the Public Open Space zone) if it is shown coloured light green on the map.
- (2) **Objectives of the zone**
  - (a) To identify areas where recreational opportunities for the general use of the community are provided.
  - (b) To enable development that will enhance the public enjoyment of areas referred to in subclause (2) (a).
- (3) **Allowed without development consent** Exempt development and development for the purpose of:

aids to navigation; bushfire hazard reduction; home-based child care; home businesses; home occupations (excluding an occupation or industry involving the handling or preparation (or both) of food for sale or the carrying out of skin penetration procedures as defined in the [Public Health Act 1991](#)); landscaping.
- (4) **Allowed only with development consent** Development for the purpose of:

advertisements displaying the purpose for which the land is used; clearing of land; community facilities; drainage; dwelling houses; educational establishments; filling; general agriculture; home occupations where the occupation or industry involves the handling or preparation (or both) of food for sale or the carrying out of skin penetration procedures as defined in the *Public Health Act 1991*; intensive horticulture; places of assembly; places of public worship; plantation forestry; racecourses; recreation areas; recreation establishments; recreation facilities; refreshment rooms; shops and commercial premises required in connection with an allowable use; showgrounds; turf farms; utility installations (other than gas holders or generating works); wetland improvement.

(5) **Prohibited in the zone** Development not identified in subclause (3) or (4).

#### **44 General controls for development—Zone 6 (b) (the Private Open Space zone)**

(1) **Land within the zone** Land is within Zone 6 (b) (the Private Open Space zone) if it is shown coloured medium green on the map.

(2) **Objective of the zone** To identify areas where private recreation facilities may be developed.

(3) **Allowed without development consent** Exempt development and development for the purpose of:

aids to navigation; home-based child care; home businesses; home occupations (excluding an occupation or industry involving the handling or preparation (or both) of food for sale or the carrying out of skin penetration procedures as defined in the *Public Health Act 1991*).

(4) **Allowed only with development consent** Development for the purpose of:

advertisements displaying the purpose for which the land is used; backpackers inns; bed and breakfasts; clearing of land; community facilities; drainage; dwelling houses required for use or occupation by persons employed in connection with an allowable use or a use granted consent; educational establishments; filling; general agriculture; home occupations where the occupation or industry involves the handling or preparation (or both) of food for sale or the carrying out of skin penetration procedures as defined in the *Public Health Act 1991*; intensive horticulture; places of assembly; places of public worship; racecourses; recreation areas; recreation establishments; recreation facilities; refreshment rooms; shops and commercial premises required in connection with an allowable use or a use granted consent; turf farms; tourist facilities; utility installations (other than gas holders or generating works); wetland improvement.

(5) **Prohibited in the zone** Development not identified in subclause (3) or (4).

#### **45 Restriction on granting consent for development within Zone 6 (a)**

Despite any other provision of this plan, the Council must not consent to any development on land within Zone 6 (a) unless it has considered:

- (a) the need for the proposed development on that land, and
- (b) the impact of the proposed development on the existing or likely future use of the land, and
- (c) the need to retain the land for its existing or likely future use.

#### **46 Controls for building dwelling houses within Zone 6 (a)**

Despite any other provision of this plan, the Council must not consent to the erection of a dwelling house on land within Zone 6 (a) unless it is satisfied that the dwelling house is to be used for the permanent occupation of a caretaker or manager for the property on which the dwelling house is to be located.

#### **47 Temporary uses by charities and service clubs within Zones 6 (a) and 6 (b)**

- (1) Despite any other provision of this plan, a person may, with the consent of the Council, carry out development on land within Zone 6 (a) or 6 (b) for the purpose of temporary activities such as markets, exhibitions and fund raising, but only if:
  - (a) the activity will be carried out by an established non-profit organisation, and
  - (b) the consent will not have the effect of allowing the same site to be used for the those kinds of activities more than 12 times in any one year.
- (2) In considering whether to grant consent to the carrying out of any such development, the Council must take into account:
  - (a) the desirability (from the Council's view point) of the proposed development on the land, and
  - (b) the suitability of the land for the proposed development, and
  - (c) the availability and suitability of alternative sites for the proposed development, and
  - (d) the impact of the proposed development on the land and the neighbourhood, and
  - (e) the desirability of retaining the land for its existing or likely future use.

### **Part 8 Environmental Protection Zones Provisions**

#### **48 General controls for development—Zone 7 (a) (the Environmental Protection**

**(Wetlands) zone)**

(1) **Land within the zone** Land is within Zone 7 (a) (the Environmental Protection (Wetland) zone) if it is shown coloured rust on the map.

(2) **Objectives of the zone**

(a) To protect and enhance wetland areas which provide important habitats for species of wetland flora and fauna.

(b) To maintain and enhance wetland environments which provide limited recreational and aesthetic opportunities for the public.

(3) **Allowed without development consent** Development for the purpose of:

Nil.

(4) **Allowed only with development consent** Development for the purpose of:

aids to navigation; cycleways; drainage; filling; general agriculture; utility installations (other than gas holders or generating works); wetland improvement.

(5) **Prohibited in the zone** Development not included in subclause (3) or (4).

**49 General controls for development—Zone 7 (d) (the Environmental Protection (Scenic) zone)**

(1) **Land within the zone** Land is within Zone 7 (d) (the Environmental Protection (Scenic) zone) if it is shown coloured light tan on the map.

(2) **Objective of the zone** To protect scenic areas which are generally undeveloped and which provide an important visual backdrop for the urban areas.

(3) **Allowed without development consent** Exempt development and development for the purpose of:

aids to navigation; home-based child care; home businesses; home occupations (excluding an occupation or industry involving the handling or preparation (or both) of food for sale or the carrying out of skin penetration procedures as defined in the *Public Health Act 1991*).

(4) **Allowed only with development consent** Development for the purpose of:

advertisements displaying the purpose for which the land is used; animal boarding, breeding or training establishments; attached dual occupancies; bed and breakfasts; clearing of land; drainage; dwelling houses; filling; general agriculture; home occupations where the occupation or industry involves the handling or preparation (or both) of food for sale or the carrying out of skin penetration procedures as defined in the *Public Health Act 1991*; intensive

horticulture; intensive livestock keeping; plantation forestry; recreation areas; recreation establishments; roadside stalls; rural industries; tourist facilities; turf farms; utility installations (other than gas holders or generating works); veterinary surgeries; wetland improvement.

(5) **Prohibited in the zone** Development not included in subclause (3) or (4).

**50 General controls for development—Zone 7 (e) (the Environmental Protection (Escarpment) zone)**

(1) **Land within the zone** Land is within Zone 7 (e) (the Environmental Protection (Escarpment) zone) if it is shown coloured medium tan on the map.

(2) **Objective of the zone** To protect escarpment areas which are generally undeveloped and which provide an important visual backdrop for urban areas and which support important native flora and fauna habitats.

(3) **Allowed without development consent** Exempt development and development for the purpose of:

home-based child care; home businesses; home occupations (excluding an occupation or industry involving the handling or preparation (or both) of food for sale or the carrying out of skin penetration procedures as defined in the [Public Health Act 1991](#)).

(4) **Allowed only with development consent** Development for the purpose of:

advertisements displaying the purpose for which the land is used; attached dual occupancies; bed and breakfasts; clearing of land; drainage; dwelling houses; filling; general agriculture; home occupations where the occupation or industry involves the handling or preparation (or both) of food for sale or the carrying out of skin penetration procedures as defined in the [Public Health Act 1991](#); intensive horticulture; mines; plantation forestry; recreation areas; recreation establishments; roadside stalls; rural industries; utility installations (other than gas holders or generating works); veterinary surgeries; wetland improvement.

(5) **Prohibited in the zone** Development not included in subclause (3) or (4).

**51 General controls for development—Zone 7 (f2) (the Environmental Protection (Foreshore) zone)**

(1) **Land within the zone** Land is within Zone 7 (f2) (the Environmental Protection (Foreshore) zone) if it is shown coloured dark tan on the map.

(2) **Objective of the zone** To protect prominent foreshore areas which are generally undeveloped and which provide aesthetic and recreational opportunities for the public.



- (3) **Allowed without development consent** Exempt development and development for the purpose of:

aids to navigation; home-based child care; home businesses; home occupations (excluding an occupation or industry involving the handling or preparation (or both) of food for sale or the carrying out of skin penetration procedures as defined in the *Public Health Act 1991*).

- (4) **Allowed only with development consent** Development for the purpose of:

advertisements displaying the purpose for which the land is used; bed and breakfasts; clearing of land; drainage; dwelling houses; filling; general agriculture; home occupations where the occupation or industry involves the handling or preparation (or both) of food for sale or the carrying out of skin penetration procedures as defined in the *Public Health Act 1991*; recreation areas; local roads; tourist facilities; utility installations (other than gas holders or generating works); wetland improvement.

- (5) **Prohibited in the zone** Development not included in subclause (3) or (4).

## **52 General controls for development—Zone 7 (g) (the Environmental Protection (Living Area 1) zone)**

- (1) **Land within the zone** Land is within Zone 7 (g) (the Environmental Protection (Living Area 1) zone) if it is shown coloured medium tan and lettered 7 (g) on the map.

(2) **Objectives of the zone**

- (a) To allow small rural holdings to be created taking advantage of the availability of rural land not generally suited to agriculture, industrial or urban uses.
- (b) To maintain the environmental quality and visual amenity of Shellharbour's rural areas.
- (c) To protect the quality of waters in the locality concerned.
- (d) To preserve the rural backdrop to existing and proposed residential areas.
- (e) To reduce the demand for subdivision for residential purposes of rural land.

- (3) **Allowed without development consent** Exempt development and development for the purpose of:

home-based child care; home businesses; home occupations (excluding an occupation or industry involving the handling or preparation (or both) of food for sale or the carrying out of skin penetration procedures as defined in the *Public Health Act 1991*).

- (4) **Allowed only with development consent** Development for the purpose of:

advertisements displaying the purpose for which the land is used; bed and breakfasts; clearing of land; drainage; dwelling houses; education establishments; filling; general agriculture; home occupations where the occupation or industry involves the handling or preparation (or both) of food for sale or the carrying out of skin penetration procedures as defined in the *Public Health Act 1991*; intensive horticulture; places of public worship; plantation forestry; professional consulting rooms; turf farms; utility installations; veterinary surgeries; wetland improvement.

(5) **Prohibited in the zone** Development not included in subclause (3) or (4).

**53 General controls for development—Zone 7 (h) (the Environmental Protection (Living Area 2) zone)**

(1) **Land within the zone** Land is within Zone 7 (h) (the Environmental Protection (Living Area 2) zone) if it is shown coloured medium tan and lettered 7 (h) on the map.

(2) **Objectives of the zone**

(a) To provide for low density detached dwelling development in localities that cannot support conventional densities by virtue of servicing constraints, the visual prominence of the site, the need to retain important remnant vegetation or any other reason.

(b) To ensure the housing styles are sympathetic to a semi-rural setting and maintain the visual amenity of the locality.

(c) To ensure areas of remnant bushland are preserved.

(3) **Allowed without development consent** Exempt development and development for the purpose of:

home-based child care; home businesses; home occupations (excluding an occupation or industry involving the handling or preparation (or both) of food for sale or the carrying out of skin penetration procedures as defined in the *Public Health Act 1991*).

(4) **Allowed only with development consent** Development for the purpose of:

advertisements displaying the purpose for which the land is used; bed and breakfasts; clearing of land; drainage; dwelling houses; educational establishments; filling; home occupations where the occupation or industry involves the handling or preparation (or both) of food for sale or the carrying out of skin penetration procedures as defined in the *Public Health Act 1991*; professional consulting rooms; turf farms; utility installations; wetland improvement.

(5) **Prohibited in the zone** Development not included in subclause (3) or (4).

**54 Controls for subdivision of land within Zones 7 (a), 7 (d) and 7 (e)**

- (1) The Council must not consent to a subdivision of land within Zone 7 (a), 7 (d) or 7 (e) unless:
  - (a) each allotment to be created will have an area of not less than 40 hectares or the Council is satisfied that any proposed smaller allotment is not intended to be used for the purpose of agriculture or a dwelling house, but is intended to be used for another lawful purpose, and
  - (b) where any allotment proposed to be created will have a frontage to a main road, the frontage will be not less than 200 metres, and
  - (c) the Council has been informed of the purpose for which each proposed allotment to be created by the subdivision is intended to be used and, where the purpose is agriculture, of the form of agriculture for which the allotment is intended to be used.

**55 Controls for building dwelling houses within Zones 7 (d) and 7 (e)**

- (1) Despite any other provision of this plan, the Council must not consent to the erection of a dwelling house on an allotment within Zone 7 (d) or 7 (e) that has an area of less than 40 hectares unless:
  - (a) that allotment is a vacant original holding, or
  - (b) the allotment has been created in accordance with a subdivision approval (or a consent for a subdivision) on which no condition has been imposed prohibiting the erection of a dwelling house on the subject property.
- (2) Despite any other provision of this plan, the Council must not consent to the erection of more than one dwelling house on an allotment within Zone 7 (d) or 7 (e) unless the dwelling house will be used or occupied by a person engaged by the owner of that land in the pursuit of agriculture on that land or on land adjacent to or adjoining that land.
- (3) Consent must not be granted for a dwelling house on an allotment of land in Zone 7 (d) or 7 (e) with an area of less than 40 hectares unless the Council places a condition on the consent requiring that allotment to be consolidated with any adjoining land in the same ownership until either all adjoining properties within the same ownership are consolidated or a minimum area of 40 hectares is achieved.

**56 Controls for the development of certain land within Zone 7 (e)**

- (1) The Council must not consent to development on land within Zone 7 (e) in the “Jamberoo Valley Escarpment Area” shown on the map unless:
  - (a) there is no reasonable alternative site for the proposed development, and

- (b) the proposed development will not have a detrimental impact on the visual quality of the Jamberoo Valley, and
  - (c) any building and its access will be designed and sited so as to be visually unobtrusive from any public place, and
  - (d) the proposed development will not be subject to slip hazard, and
  - (e) adequate landscaping to screen the development will be provided, and
  - (f) it has given consideration to the impact that the proposed development will have on the scenic quality of the Jamberoo Valley by way of colour, bulk, vegetation removal, road access, visual intrusiveness, reflection and traffic generation, and is satisfied that such measures as will, in the Council's opinion, minimise that impact are proposed to be taken.
- (2) The Council must take the following into consideration when assessing an application for consent to clear any land within Zone 7 (e) shown stippled on Sheet 3 of the map marked "*Illawarra Regional Environmental Plan No 2—Jamberoo Valley*" deposited in the office of the Department of Urban Affairs and Planning (being areas of significant vegetation):
- (a) the movement of native fauna,
  - (b) any rare or significant flora or fauna,
  - (c) any rare or significant habitats,
  - (d) the effect of the proposed clearing on adjacent or adjoining lands under the control of the National Parks and Wildlife Service,
  - (e) whether there is a reasonable alternative to the removal of that vegetation or the extent of the removal of that vegetation,
  - (f) the visual impact on the scenic quality of the Jamberoo Valley by breaking any unbroken natural tree canopy cover or creating smaller discrete parcels of vegetation from an existing stand.

#### **57 Controls for subdivision of land within Zone 7 (f2)**

- (1) The Council must not consent to the subdivision of land within Zone 7 (f2) unless:
- (a) each allotment to be created will have an area of not less than 40 hectares or the Council is satisfied that any proposed smaller allotment is not intended to be used for the purpose of agriculture or a dwelling house, but is intended to be used for another lawful purpose, and
  - (b) where any allotment proposed to be created will have a frontage to a main road, the frontage will be not less than 200 metres, and

- (c) the Council has been informed of the purpose for which each proposed allotment to be created by the subdivision is intended to be used and, where the purpose is agriculture, of the form of agriculture for which the allotment is intended to be used.
- (2) The Council must not grant consent to a subdivision of land within Zone 7 (f2) unless it has taken into consideration the following:
- (a) the extent to which the development would affect the scenic qualities of the coastal landscape, headlands, dune systems, and the hinterland, including lagoons, lakes and areas where the original vegetation is still dominant,
  - (b) whether the development would result in the degradation of, or restriction of access to, coastal recreation areas,
  - (c) any plan, code, policy or design adopted by resolution of the Coastal Council of New South Wales for the purpose of protecting coastal lands,
  - (d) the potential impacts of climate change including sea level rise.
- (3) (Repealed)

**58 Restrictions on granting consent within Zone 7 (f2)**

- (1) Despite any other provision of this plan, the Council must not consent to the erection of a dwelling house on land within Zone 7 (f2) unless the dwelling house is to be used for the permanent occupation of a caretaker or manager for the property on which the dwelling house is to be located.
- (2) The matters that the Council must take into consideration in deciding whether to grant consent to development on land within Zone 7 (f2) for the purpose of additions or alterations to an existing building or work, tourist facilities, dams, drainage, dwelling houses, roads or utility installations (other than gas holders or generation works) are:
- (a) the extent to which the development would affect the scenic qualities of the coastal landscape, headlands, dune systems, and the hinterland, including lagoons, lakes and areas where the original vegetation is still dominant, and
  - (b) whether the development would result in the degradation of, or restriction of access to, coastal recreation areas, and
  - (c) any plan, code, policy or design adopted by resolution of the Coastal Council of New South Wales for the purpose of protecting coastal lands, and
  - (d) the potential impacts of climate change including sea level rise.
- (3) (Repealed)

### **59 Acquisition of land within Zone 7 (f2)**

- (1) The owner of land within Zone 7 (f2) may, by notice in writing, require the corporation to acquire the land.
- (2) On receipt of such a notice, the corporation must acquire the land.

### **60 Controls for subdivision of land within Zone 7 (g)**

The Council must not consent to the subdivision of land within Zone 7 (g) unless:

- (a) each allotment to be created (including any proposed lot under the *Strata Schemes (Leasehold Development) Act 1973* or the *Community Land Development Act 1989*) will have an area of not less than 4 hectares, and
- (b) the Council has taken into consideration:
  - (i) the land capability (including soil resources, soil stability and capacity for on-site waste disposal) and the natural constraints, and hazards of the land to be subdivided in relation to the density and design of the allotments proposed to be created, and
  - (ii) the desirability of providing a range and mix of allotment sizes, and
  - (iii) the ability to provide services to the land, and
  - (iv) whether the design of each allotment to be created by the subdivision is satisfactory for the provision of those services.

### **61 Controls for building dwelling houses within Zone 7 (g)**

A person must not erect a dwelling house on an allotment of land within Zone 7 (g) unless that land is an allotment created by a subdivision to which the Council has consented in accordance with this plan.

### **62 Controls for subdivision of land within Zone 7 (h)**

The Council must not consent to the subdivision of land within Zone 7 (h) unless:

- (a) the average size of the allotments to be created (including any proposed lot under the *Strata Schemes (Leasehold Development) Act 1973* or the *Community Land Development Act 1989*) is not less than 1000 square metres, and
- (b) the Council has taken into consideration:
  - (i) the land capability (including soil resources, soil stability and capacity for on-site waste disposal) and the natural constraints, and hazards of the land to be subdivided in relation to the density and design of the allotments proposed to be created, and

- (ii) the desirability of providing a range and mixture of allotment sizes, and
- (iii) the ability to provide services to the land, and
- (iv) whether the design of each allotment to be created by the subdivision is satisfactory for the provision of those services.

### **63 (Repealed)**

## **Part 9 National Parks and Nature Reserves Zone Provisions**

### **64 General controls for development—Zone 8 (the National Parks and Nature Reserves zone)**

- (1) **Land within the zone** Land is within Zone 8 (the National Parks and Nature Reserves zone) if it is shown coloured olive green on the map.
- (2) **Objectives of the zone**
  - (a) To identify land which is reserved or dedicated under the *National Parks and Wildlife Act 1974*.
  - (b) To allow for the appropriate use of that land as provided for in the *National Parks and Wildlife Act 1974*.
- (3) **Allowed without development consent** Development for the purpose of:  
Nil.
- (4) **Allowed only with development consent** Any development authorised by or under the *National Parks and Wildlife Act 1974* or any other development ordinarily incidental or ancillary to any such development.
- (5) **Prohibited in the zone** Development not included in subclause (3) or (4).

## **Part 10 Reservation Zones Provisions**

### **65 General controls for development—Zone 9 (b) (the Arterial Roads Reservation zone)**

- (1) **Land within the zone** Land is within Zone 9 (b) (the Arterial Roads Reservation zone) if it is shown coloured red on the map.
- (2) **Objective of the zone** To provide for the acquisition of land reserved for main or arterial roads.
- (3) **Allowed without development consent** Development for the purpose of:  
main or arterial roads; widening of existing main or arterial roads.
- (4) **Allowed only with development consent** Development for the purpose of:

clearing of land; drainage; extractive industry; filling, mineral sand mines; turf farms; utility installations (other than gas holders and generating works); wetland improvement.

(5) **Prohibited in the zone** Development not included in subclause (3) or (4).

**66 General controls for development—Zone 9 (c) (the Local Roads Reservation zone)**

(1) **Land within the zone** Land is within Zone 9 (c) (the Local Roads Reservation zone) if it is shown coloured light grey on the map.

(2) **Objective of the zone** To permit the development of reserved land where it is not immediately required for local roads.

(3) **Allowed without development consent** Development for the purpose of:

local roads; widening of local existing roads.

(4) **Allowed only with development consent** Development for the purpose of:

clearing of land; drainage; filling; utility installations (other than gas holders and generating works); wetland improvement.

(5) **Prohibited in the zone** Development not included in subclause (3) or (4).

**67 General controls for development—Zone 9 (d) (the Open Space Reservation zone)**

(1) **Land within the zone** Land is within Zone 9 (d) (the Open Space Reservation zone) if it is shown coloured dark green on the map.

(2) **Objective of the zone** To allow the continued use of reserved land until it is required.

(3) **Allowed without development consent** Development for the purpose of:

aids to navigation; bushfire hazard reduction; landscaping.

(4) **Allowed only with development consent** Development for the purpose of:

clearing of land; drainage; filling; general agriculture; intensive horticulture; plantation forestry; recreation areas; showgrounds; utility installations (other than gas holders and generating works); wetland improvement.

(5) **Prohibited in the zone** Development not included in subclause (3) or (4).

**68 Acquisition of land within Zone 9 (b)**

**Note—**

Nothing in this clause is to be construed as requiring a public authority to acquire land—see section 27 (3) of the Act.

(1) The owner of any land within Zone 9 (b) may, by notice in writing, require the Roads



and Traffic Authority (RTA) to acquire the land. On receipt of such a notice, the RTA must acquire the land if:

- (a) the land is vacant, or
  - (b) the land is not vacant but is included in the 5-year works program of the RTA current at the time of the receipt of the notice, or
  - (c) the land is not vacant but the RTA has decided not to give concurrence to an application for consent to the carrying out of development on the land, or
  - (d) the land is not vacant but the RTA is of the opinion that the owner of the land will suffer hardship if the land is not acquired within a reasonable period of time,
- but the RTA is not required to acquire the land if it might reasonably be required to be dedicated for public road.

(2) Despite any other provision of this plan, land within Zone 9 (b) (whether or not it has been acquired) may be developed, with the consent of the Council, for any purpose for which development or compatible development may be carried out on land in an adjoining zone. In granting such a consent, the Council may impose conditions:

- (a) requiring the removal of any building or work for which it has granted consent, or
- (b) requiring the reinstatement of the land or removal of any waste materials or refuse, or
- (c) relating to any requirement requested to be imposed in a condition by the RTA when granting concurrence.

(3) (Repealed)

#### **69 Acquisition of land within Zone 9 (c)**

(1) The owner of land within Zone 9 (c) may, by notice in writing, require the Council to acquire the land. On receipt of such a notice, the Council must acquire the land.

(2) Despite any other provision of this plan, until it is acquired, land within Zone 9 (c) may be developed, with the consent of the Council, for any purpose for which development or compatible development may be carried out on land in an adjoining zone. In granting such a consent, the Council may apply conditions requiring:

- (a) the removal of any building or work for which it has granted consent, and
- (b) the reinstatement of the land or removal of any waste materials or refuse.

#### **70 Temporary uses by charities and service clubs within Zone 9 (d)**

(1) Despite any other provision of this plan, a person may, with the consent of the

Council, carry out development on land within Zone 9 (d) for the purpose of temporary activities such as markets, exhibitions and fund raising, but only if:

- (a) the activity will be carried out by an established non-profit organisation, and
  - (b) the consent will not have the effect of allowing the same site to be used for the those kinds of activities more than 12 times in any one year.
- (2) In considering whether to grant consent to the carrying out of any such development, the Council must take into account:
- (a) the desirability (from the Council's view point) of the proposed development on the land, and
  - (b) the suitability of the land for the proposed development, and
  - (c) the availability and suitability of alternative sites for the proposed development, and
  - (d) the impact of the proposed development on the land and the neighbourhood, and
  - (e) the desirability of retaining the land for its existing or likely future use.

#### **71 Acquisition of land within Zone 9 (d)**

- (1) The owner of land within Zone 9 (d) may, by notice in writing, require the Council to acquire the land. On receipt of such a notice, the Council must acquire the land.
- (2) Despite any other provision of this plan, until it is acquired, land within Zone 9 (d) may be developed, with the consent of the Council, for any purpose for which development or compatible development may be carried out on land in an adjoining zone. In granting such a consent, the Council may apply conditions requiring:
  - (a) the removal of any building or work for which it has granted consent, and
  - (b) the reinstatement of the land or removal of any waste materials or refuse.

## **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,
  - (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.

**Note—**

The website of the Heritage Branch of the Department of Planning has publications that provide guidance on assessing the impact of proposed development on the heritage significance of items (for example, *Statements of Heritage Impact*).

- (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 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
- (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 be satisfied that any necessary excavation permit required by the *Heritage Act 1977* has been granted.

#### **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) of its intention to do so and take into consideration any comments received in response within 21 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.

### **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.

## **Part 12 Miscellaneous Provisions**

### **77 Subdivision**

- (1) Except as provided by subclause (2), development consent is required for the subdivision of land.
- (2) Development consent is not required for subdivision for any one or more of the following purposes:
  - (a) to excise an allotment that will be used only for the purpose of opening a public road or to widen a public road,
  - (b) to make minor adjustments to common property boundaries,
  - (c) to amalgamate a vacant original holding with one or more other vacant original holdings,
  - (d) to rectify an encroachment on a vacant original holding.

### **78 Suspension of restrictions on land**

- (1) For the purpose of enabling development to be carried out in accordance with this plan or in accordance with a consent granted under the Act, the operation of any covenant, agreement or like instrument imposing restrictions on the development shall not apply to the development.
- (2) Pursuant to section 28 of the Act, before the making of this plan the Governor approved of subclause (1).

### **79 Development on beds of lakes, rivers etc**

A person shall not, without development consent, carry out any development on any land shown uncoloured on the map forming part of the bed of a harbour, bay, lake, river, lagoon, creek or any other natural watercourse.

### **80 Community use of school facilities and sites**

- (1) Where land to which this plan applies is used for the purpose of an educational establishment, the site and facilities of the establishment may, with development consent, be used for the purpose of meeting rooms, public halls, public libraries, entertainment, sport or recreation or for any other community purpose, whether or not any such use is a commercial use of the land.
- (2) Nothing in this clause requires development consent to be granted for the carrying out of development on any land if that development could, but for this clause, be carried out on that land without development consent.



## 81 Classification or reclassification of public land as operational land

- (1) The public land described in Schedule 5 is classified, or reclassified, as operational land for the purposes of the *Local Government Act 1993*.
- (2) In accordance with section 30 of the *Local Government Act 1993*, a parcel of land described in Part 2 of Schedule 5, to the extent (if any) that it is a public reserve, ceases to be a public reserve on the commencement of the relevant amending plan and, by the operation of that plan, is discharged from any trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land, except for:
  - (a1) those (if any) specified for the land in Part 2 of Schedule 5, and
  - (a) any reservations that except land out of a Crown grant relating to the land, and
  - (b) reservations of minerals (within the meaning of the *Crown Lands Act 1989*).
- (3) Before the relevant amending plan that inserted the description of a parcel of land into Part 2 of Schedule 5 was made, the Governor approved of subclause (2) applying to the land.
- (4) In this clause, **the relevant amending plan**, in relation to a parcel of land described in Part 2 of Schedule 5, is the local environmental plan cited at the end of the description of the parcel.
- (4A) Land described in Part 3 of Schedule 5:
  - (a) to the extent (if any) that the land is a public reserve, does not cease to be a public reserve, and
  - (b) continues to be affected by any trusts, estates, interests, dedications, conditions, restrictions or covenants by which it was affected before its classification, or reclassification, as the case requires, as operational land.
- (5) Land described in Part 1 of Schedule 5 is not affected by the amendments made by the *Local Government Amendment (Community Land Management) Act 1998* to section 30 of the *Local Government Act 1993*.

## 82 Exceptions

- (1) Nothing in this plan prevents a person, with development consent, from carrying out development on land referred to in Schedule 6 for a purpose specified in relation to that land in that Schedule, subject to such conditions, if any, as are so specified.
- (2) Subclause (1) does not affect the operation of any provision within this plan that is consistent with the consent to such development.

### **83 Development of Oak Flats interchange site, Pioneer Drive, Oak Flats**

- (1) This clause applies to land within Zone 5 (a) known as the Oak Flats interchange site, being Lot 2, DP 605483 and Lot 71, DP 788843, Pioneer Drive, Oak Flats, and as shown edged with a broken light blue line and lettered "Schedule 5" on Sheet 1 of the map marked "*Shellharbour Local Environmental Plan 2000 (Amendment No 8)*".
- (2) Despite any other provision of this plan, the Council may only consent to development of the land to which this clause applies for one or more of the following purposes:
  - (a) an integrated bus, rail and road interchange facility that may include car parking, commuter drop off and pick up areas, bus stops, taxi ranks, bus and taxi shelters and bus driver facilities,
  - (b) retail and commercial development ancillary to the interchange facility that supports, but does not significantly detract from, the commercial viability of the Oak Flats commercial centre, and includes:
    - (i) land uses that serve the needs of commuters, such as convenience stores, medical and emergency services, child care centres and pre-schools, and
    - (ii) transport or interchange related uses,
  - (c) public buildings.

### **84 Development in the vicinity of Illawarra Regional Airport**

Despite any other provision of this plan, consent must not be granted to development on land affected by restrictions as indicated in the plan titled "*Airport Height Limitation and Noise Exposure Forecast Plan*" dated 17 April 1998 and held in the office of the Council unless:

- (a) the consent authority determines the proposal is acceptable in relation to building height, noise exposure, lighting and bird hazard management, and
- (b) where a proposal does not comply with that plan, the Civil Aviation Safety Authority has been given notice of the proposal and any comments made by it to the consent authority within 28 days of its being notified have been taken into consideration by the consent authority.

### **85 Dunmore Wetland Catchment Protection Area**

- (1) Consent must not be granted to the carrying out of any development on land identified as "Dunmore Wetland Catchment Protection Area" on the map unless the following ecological objectives of [State Environmental Planning Policy No 14—Coastal Wetlands](#) will be given effect in relation to land designated as Wetland No 374b on the map referred to in that policy:
  - (a) utilisation of the wetland habitat by migratory species listed on the JAMBA and

CAMBA international migratory species agreements, being species that are recorded as using the wetland habitat,

(b) utilisation of the wetland habitat by regional wetland species, being species that are recorded as using the wetland habitat,

(c) environmental health of waterways within the Minnamurra River Catchment.

(2) In assessing whether a development proposal will give effect to the ecological objectives referred to in subclause (1), the consent authority must have regard to the following:

(a) protection of defined wetland values,

(b) protection of threatened species habitat,

(c) facilitation of land management activities within the catchment which are consistent with paragraphs (a) and (b).

## **86 Development on land identified on Acid Sulfate Soils Planning Maps**

(deferred matter)

## **87 Exempt and complying development**

(1) Development of minimal impact listed as exempt development in *Shellharbour Development Control Plan No 9/98 for Exempt Development*, as in force on 4 May 2005, is **exempt development**, despite any other provisions of this plan.

(2) Development listed as complying development in *Shellharbour Development Control Plan No 11/98 for Complying Development*, as in force on 4 May 2005, is **complying development** if:

(a) it is local development of a kind that can be carried out with consent on the land on which it is proposed, and

(b) it is not an existing use, as defined in section 106 of the Act.

(3) Development is exempt or complying development only if it complies with the development standards and other requirements applied to the development by the relevant development control plan referred to in subclause (1) or (2).

(4) A complying development certificate issued for any complying development is to be subject to the conditions for the development specified in *Shellharbour Development Control Plan No 11/98 for Complying Development*, as in force when the certificate is issued.

## 88 Brothels and restricted premises

- (1) The Council may only consent to an application for the carrying out of development for the purpose of a brothel or restricted premises if the brothel is not, or the restricted premises are not, located next to or directly opposite the following buildings or places:
- (a) a dwelling house,
  - (b) a child care centre or a building or place providing home-based child care,
  - (c) a primary or secondary school,
  - (d) a place of public worship,
  - (e) a park,
  - (f) a playground,
  - (g) any other buildings or places regularly frequented by persons under 18 years of age.
- (2) In considering an application for development referred to in subclause (1), the Council must consider the proximity of the proposed development to a building or place referred to in subclause (1) (a)–(g) and to the following buildings or places:
- (a) a community facility,
  - (b) a hospital,
  - (c) premises licensed under the [Liquor Act 1982](#).

- (3) In this clause:

**restricted premises** means a building or place at which:

- (a) publications classified Category 1 restricted, Category 2 restricted or RC under the [Classification \(Publications, Films and Computer Games\) Act 1995](#) of the Commonwealth are shown, exhibited, displayed, sold or otherwise rendered accessible or available to the public, or
- (b) a business to which section 578E (Offences relating to advertising or displaying products associated with sexual behaviour) of the [Crimes Act 1900](#) applies is conducted,

but does not include a newsagency or pharmacy.

## 89 Savings and transitional provision

A development application lodged with the Council, but not finally determined, before the

commencement of the *Shellharbour Local Environmental Plan 2000 (Amendment No 7)* is to be determined as if that plan had been exhibited but had not been made.

## Schedule 1 Definitions

(Clause 8)

**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.

**acid sulfate soils** means actual or potential acid sulfate soils as defined in the *Acid Sulfate Soils Assessment and Management Guidelines* and as shown coloured and numbered on Sheets 1 and 2 of the map marked “*Acid Sulfate Soil Planning Map—Albion Park and Kiama*” deposited in the office of the Department, a copy of which is deposited in the office of the Council.

**acid sulfate soils assessment and management guidelines** means the *Acid Sulfate Soils Assessment and Management Guidelines* as published from time to time by the NSW Acid Sulfate Soils Management Advisory Committee and adopted by the Director.

**advertisement** means a display by the use of symbols, messages or other devices for conveying information, instructions, directions or the like, whether or not the display involves the erection of a structure or the carrying out of a work, but does not include an identification sign, a property for sale sign or a road traffic sign or signal or the like.

**airport related industry** means an industry that:

- (a) requires access to an airport, or
- (b) services an industry that requires access to an airport.

**amusement park** means a commercially run area where amusements and mechanical entertainments such as merry-go-rounds and the like are situated.

**animal boarding, breeding or training establishment** means a building or place where cats or dogs are bred, trained, nurtured or accommodated for gain or reward.

**appointed day** means the day on which this plan takes effect.

**aquaculture** means the commercial production, including breeding, hatching, rearing or cultivation of marine, estuarine or fresh water organisms, including aquatic plants or animals (such as fin fish, crustaceans, molluscs or other aquatic vertebrates).

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

**backpackers inn** means a building (other than a motel or bed and breakfast) substantially used for the shared overnight accommodation of travellers, whether or not the building is also used for the provision of meals for those travellers.

**bed and breakfast** means a lawfully erected dwelling house occupied for permanent residential purposes in which a maximum of three rooms are made available by the residents for temporary

holiday accommodation.

**brothel** means premises habitually used for the purposes of prostitution. Premises may constitute a brothel even though used by only one prostitute for the purposes of prostitution.

**bulky goods** means large goods which, in the opinion of the Council, are of such a size, weight or shape as to require a large area for handling, storage or display, but does not include food and grocery items.

**bus depot** means a building or place used for the servicing, repairing and garaging of buses and other vehicles used for the purpose of a bus transport undertaking.

**car repair station** means a building or place used for carrying out repairs to motor vehicles or agricultural machinery, not being:

- (a) vehicle body building,
- (b) panel beating which involves dismantling, or
- (c) spray painting other than of a touching-up character.

**child care centre** means a building or place used for the supervision of or caring for children, and which:

- (a) caters for 6 or more pre-school age children, whether or not those children are related to the owner or operator of the child care centre, and
- (b) may include an educational function, and
- (c) may be operated for gain,

but does not include a building or place providing residential care for those children.

**clearing of land** means any manner of destruction of a tree, shrub or plant on the land, but does not involve the destruction of any tree, shrub or plant:

- (a) that is required or expressly authorised by or in pursuance of the provisions of any Act or statutory instrument or by any statutory authority in pursuance of the provisions of any Act or statutory instrument, or
- (b) where the destruction is necessary in an emergency to prevent the spread of fire or in circumstances where the tree, shrub or plant presents a danger to life or property, or
- (c) where the destruction is necessary to enable the carrying out of a development granted consent.

**club** means premises that require registration under the [Registered Clubs Act 1976](#).

**commercial premises** means a building or place used as an office or for other business or commercial purposes, but does not include a building or place elsewhere specifically defined in this Schedule or a building or place used for a land use elsewhere specifically defined in this Schedule.

**community facility** means a building or place that does not require registration under the [Registered Clubs Act 1976](#) and that is used to provide for the physical, cultural or intellectual development or

welfare of the local community.

**community land** means land classified as community land within the meaning of the *Local Government Act 1993*.

**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.

**Council** means the Council of the City of Shellharbour.

**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.

**Department** has the same meaning as in the Act.

**development** has the same meaning as in the Act.

**Director-General** means the Director-General of the Department.

**drainage of land** means the natural or engineered flow of water from the land into natural or engineered channels or water bodies, or both.

**dual occupancy** means two dwellings (whether attached or detached) on a single allotment of land (or which would be on a single allotment were it not for the fact that the allotment is to be subdivided as part of the development).

**dwelling** means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

**dwelling house** means a building containing one but not more than one dwelling.

**educational establishment** means a building used as a school, college, technical college, university, academy, training facility, lecture hall, gallery, museum, display centre or the like but does not include a building used wholly or principally as an institution or child care centre.

**extractive industry** means:

- (a) the winning of extractive material, or
- (b) an industry or undertaking, not being a mine, which depends for its operations on the winning of extractive material from the land on which it is carried out, and includes any washing, crushing, grinding, milling or separating into different sizes of that extractive material on that land.

**extractive material** means sand, gravel, clay, soil, rock, stone or similar substance, but does not include turf or any sand, soil or other substance remaining attached to turf after the extraction of turf is carried out.

**filling** means the placement of fill independently of other development for which consent has been granted on an area:

- (a) within 40 metres of a water course, or
- (b) to a depth greater than 1 metre above existing ground level and over an area exceeding 100 square metres on land within Zone 1 (a), or
- (c) to a depth greater than 200mm above existing ground level on land within any zone other than Zone 1 (a), or
- (d) where natural drainage to an adjacent property will be affected.

**gas holder** means a container designed to hold more than 500 litres of liquid petroleum gas.

**general agriculture** means the keeping of livestock, where the stocking rate is not above that of the demonstrated carrying capacity of the land, and rain fed cropping, where fertiliser and irrigation may be applied from time to time. It may consist of or include grazing of beef or dairy cattle, deer farming or cereal cropping. It also includes pasture improvement and the like, and the erection and use of ancillary buildings, but does not include a land use elsewhere specifically defined in this Schedule.

**general store** means a shop used for the sale by retail of general merchandise. It may include the facilities of a post office, dry cleaning agency, financial agency or the like.

**generating works** means a building or place used for the purpose of making or generating gas, electricity or other forms of energy.

**health care professional** means a person who renders professional health services to members of the public, and includes a podiatrist, a chiropodist, a chiropractor, a physiotherapist and an optometrist.

**heavy industry** means an industry, not being an extractive, light, offensive, hazardous or rural industry.

**helipad** means an area or place not open to public use which is authorised by the Commonwealth Department of Transport and which is set apart for the taking off and landing of helicopters.

**heliport** means an area or place open to public use which is licensed by the Commonwealth Department of Transport for use by helicopters and includes terminal buildings and facilities for the parking, servicing and repair of helicopters.

**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.

**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.

**home-based child care** means a child minding service, within the meaning of the *Children (Care and Protection) Act 1987*, carried on in a dwelling erected with development consent, being a service that is either:

- (a) a home-based child care service, within the meaning of the *Home-based Child Care Services Regulation 1989*, carried on in accordance with that Regulation, or
- (b) a care giving service, within the meaning of the *Family Day Care Services Regulation 1989*, carried on in accordance with that Regulation.

**home business** means a business carried on from the allotment that is the site of a lawfully erected dwelling house, where:

- (a) the majority of the business is carried on away from the dwelling house, with the dwelling house and its outbuildings and curtilage being used primarily as a base or office, and
- (b) the business will not:
  - (i) interfere with the amenity of the neighbourhood by reason of traffic generation, noise or otherwise, or
  - (ii) involve the exposure to view from any adjacent premises or from any public place of any goods associated with the business or any unsightly matter, or
  - (iii) involve the parking of heavy vehicles either on or adjacent to the property, or
  - (iv) involve the employment of persons other than the permanent residents of the dwelling house at the base or office, and
- (c) the dwelling house continues to be used for permanent residential occupation by the person carrying out the business.

**home occupation** means an occupation or industry carried on from the allotment that is the site of a lawfully erected dwelling, where:

- (a) the dominant use of the allotment remains that for which the land is zoned, and
- (b) two car parking spaces will be provided on the allotment, at least one of which is behind the building line, and
- (c) the floor space of the building or the area used for the occupation or industry does not exceed 50 square metres and is located within the curtilage of the dwelling, and

- (d) the occupation or industry does not:
- (i) interfere with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise, or
  - (ii) involve exposure to view from any adjacent premises or from any public place of any unsightly matter or any goods, or
  - (iii) require the provision of any essential service main of a greater capacity than that available in the locality, or
  - (iv) involve the exhibition of any notice, advertisement or sign other than a single notice to indicate the name, occupation and contact number of the resident, or
  - (v) employ more than one person who is not a permanent resident of the dwelling, or
  - (vi) involve the sale of items (whether goods or materials) or the exposure or offer for sale of items, by retail.

**hospital** means a building or place used for the purpose of providing professional health care services (such as preventative or convalescent care, diagnosis, medical or surgical treatment, care for people with developmental disabilities, psychiatric care or counselling and services provided by health care professionals) to people admitted as in-patients (whether or not out-patients are also cared for or treated there) and includes a shop, refreshment rooms, accommodation, research or educational facilities or a dispensary used in conjunction with that use.

**hotel** means premises to which a hotelier's licence granted under the [Liquor Act 1982](#) relates.

**industry** means:

- (a) any manufacturing process within the meaning of the [Factories, Shops and Industries Act 1962](#), or
- (b) the breaking up or dismantling of any goods or any article for trade or sale or gain or as ancillary to any business.

**institution** means a penal or reformatory establishment.

**intensive horticulture** means a building or place used for the growing of plants, including vegetables, flowers, vines, fruit and the like, where application of water and fertiliser is significantly over and above that naturally occurring, but not produce grown for the consumption or enjoyment of the owner or occupier of the land.

**intensive livestock keeping** means a building or place used to hold livestock for the purpose of breeding and/or nurturing by a feeding method other than natural grazing and includes:

- (a) poultry farms, or
- (b) fish farms, or
- (c) horse training and boarding establishments, and
- (d) piggeries,

and the like, but does not include a building or place elsewhere specifically defined in this Schedule or used for the keeping of livestock for personal consumption or enjoyment by the owner or occupier of the land.

**Jamberoo Valley Escarpment Area** means the land shown hatched and labelled “Jamberoo Valley Escarpment Area” on the map.

**Jamberoo Valley Rural Conservation Area** means the area of land shown hatched and labelled ‘Jamberoo Valley Rural Conservation Area’ on the map.

**junk yard** means land used for the collection, storage, dismantling or sale of scrap metals, vehicles or machinery or parts of vehicles or machinery.

**light industrial retail outlet** means a shop the use of which is ancillary to the principal use of the land on which it is located and:

- (a) which is used in conjunction with a light industry or warehouse on land within Zone 4 (a), 4 (a3) or 4 (f), and
- (b) which is situated on the land on which the light industry or warehouse is located, and
- (c) in which are sold only goods that have been assembled, manufactured or stored on the land on which the shop is situated;

**light industry** means an industry, not being an extractive, rural, heavy, offensive or hazardous industry, in which the processes carried on, the transportation involved or the machinery or materials used do not interfere with the amenity of nearby residential neighbourhoods by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise.

**liquid fuel depot** means a depot or place used for the bulk storage for wholesale distribution of petrol, oil, petroleum or other inflammable liquid.

**main or arterial road** means a main road, state highway, freeway or tollway within the meaning of the [Roads Act 1993](#).

**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.

**medium density housing** means a building or group of buildings containing 3 or more dwellings located on a single parcel of land.

**mine** means any place, open cut, shaft, tunnel, pit, drive, level or other excavation, drift, gutter, lead, vein, lode or reef on which, in which or by which any operation is carried on for or in connection with obtaining any metal or mineral by any method and any place on which any product of the mine is stacked, stored, crushed or otherwise treated, but does not include a quarry.

**mineral sand mine** means a mine used for or in connection with obtaining ilmenite, monazite, rutile, zircon or similar minerals.

**Minister** means the Minister responsible for the administration of the Act.

**motel** means a building or buildings (other than a hotel, backpackers inn or bed and breakfast) substantially used for the overnight accommodation of travellers and the vehicles used by them, whether or not the building or buildings are also used in the provision of meals to those travellers or the general public.

**motor showroom** means a building or place used for the display or sale of motor vehicles, caravans, boats or trailers, whether or not motor vehicle accessories, caravan accessories, boat accessories or trailer accessories are also sold or displayed there.

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

**offensive or hazardous industry** means an industry which by reason of the processes involved or the method of manufacture or the nature of the materials used or produced, requires isolation from other buildings.

**operational land** means land classified as operational land within the meaning of the [Local Government Act 1993](#).

**passenger terminal** means a building or place used for the assembly and dispersal of passengers travelling by a passenger transport carrier.

**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.

**place of assembly** means a public hall, theatre, cinema, music hall, concert hall, dance hall, open-air theatre, drive-in theatre, music bowl or any other building of a like character used as such and whether used for the purpose of gain or not, but does not include a place of public worship, an institution or an educational establishment.

**place of public worship** means a building or place used primarily for the purpose of religious worship by a congregation or religious group, whether or not the building or place is also used for counselling, religious training or social events related to the functioning of the building.

**plantation forestry** includes the use of a cleared site for the purpose of arboriculture, silviculture, forest protection, the cutting, dressing and preparation, otherwise than in a sawmill, of wood and other forest products and the establishment of roads required for the removal of wood and forest products and for forest protection.

**plant nursery** means a building or space used for the growing and wholesale or retail selling of plants whether or not ancillary products are sold there.

**professional consulting rooms** means a room or a number of rooms forming either the whole of or part of, attached to or within the curtilage of, a dwelling house and used by not more than three legally qualified medical practitioners or by not more than three dentists, or by not more than three health care professionals, who practise there the profession of medicine, dentistry or health care respectively and, if more than one, practice in partnership, and who employ not more than three employees in connection with that practice.

**public building** means a building used as offices or for administrative or other like purposes by the Crown, a statutory body, a Council or an organisation established for public purposes.

**public utility undertaking** means any of the following undertakings carried on or permitted or suffered to be carried on by authority of any Government Department or under the authority of or in pursuance of any Commonwealth or State Act:

- (a) railway, road transport, water transport, air transport, wharf or river undertakings,
- (b) undertakings for the supply of water, hydraulic power, electricity or gas or the provision of sewerage or drainage services,

and a reference to a person carrying on a public utility undertaking includes a reference to a Council, County Council, Government Department, corporation, firm or authority carrying on the undertaking.

**quarry buffer area** means the area of land shown hatched and labelled "Quarry Buffer Area" on the map.

**racecourse** means a place used for the organised racing of animals or vehicles and includes ancillary buildings and facilities.

**recreation area** means:

- (a) a children's playground, or
- (b) an area used for sporting activities or sporting facilities, or
- (c) an area used to provide facilities for or ancillary to recreational activities that promote the physical, cultural or intellectual welfare of persons within the community,

but does not include a racecourse or a showground.

**recreation establishment** means health farms, religious retreat houses, youth camps and the like but does not include a building or place elsewhere specifically defined in this Schedule or a building or place used for a land use elsewhere specifically defined in this Schedule.

**recreation facility** means a building or place used for indoor recreation, a billiard saloon, table tennis centre, squash court, swimming pool, gymnasium, health studio, bowling alley, fun parlour or any other building of a like character used for recreation, whether used for the purpose of gain or not, but does not include a place of assembly.

**refreshment room** means a restaurant, café, tea room, eating house or the like.

**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.

**roadside stall** means a building or place not exceeding 20 square metres in floor space or area respectively where only primary products produced on the property on which the building or place is situated are exposed or offered for sale or sold by retail.

**road transport terminal** means a building or place used mainly for the bulk handling of goods for transport, and includes facilities for the loading and unloading of vehicles used to transport those goods and for the parking, servicing and repair of those vehicles.

**rural industry** means handling, treating, processing or packing of primary products and includes the servicing in a workshop of plant or equipment used for rural purposes in the locality.

**sawmill** means a mill handling, cutting, and processing timber from logs or baulks.

**service station** means a building or place used for the fuelling of motor vehicles involving the sale by retail of petrol, oil and other petroleum products whether or not the building or place is also used for any one or more of the following:

- (a) the sale by retail of spare parts and accessories for motor vehicles,
- (b) washing and greasing of motor vehicles,
- (c) installation of accessories,
- (d) repairing and servicing of motor vehicles involving the use of hand tools (other than repairing and servicing which involves top overhaul of motors, body building, panel beating or spray painting, or suspension, transmission or chassis restoration).

**shop** means a building or place used for selling, exposing or offering for sale by retail, goods, merchandise or materials, but does not include a building or place elsewhere specifically defined in this Schedule.

**showground** means an area used to present organised cultural events to the public and may include both indoor and outdoor facilities for exhibitions and festivities.

**stock and sale yard** means a building or place used for offering animals for sale and includes a public cattle market.

**subdivision** has the same meaning as in the Act.

**the Act** means the [Environmental Planning and Assessment Act 1979](#).

**the map** means the maps marked "*Shellharbour Local Environmental Plan 2000*", as amended by the maps (or specified sheets of maps) marked as follows:

**Editorial note—**

The amending maps are not necessarily listed in the order of gazettal or publication on the NSW legislation website. Information about the order of gazettal or publication can be determined by referring to the Historical notes at the end of the plan.

*Shellharbour Local Environmental Plan 2000—Amendment No 2*

*Shellharbour Local Environmental Plan 2000 (Amendment No 6).*

*Shellharbour Local Environmental Plan 2000—Amendment No 7*

*Shellharbour Local Environmental Plan 2000 (Amendment No 8)—Sheet 2*

*Shellharbour Local Environmental Plan 2000 (Amendment No 10)*

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

*Shellharbour Local Environmental Plan 2000 (Amendment No 12)*

*Shellharbour Local Environmental Plan 2000 (Amendment No 14)*

*Shellharbour Local Environmental Plan 2000 (Amendment No 15)—Sheet 1*

**timber yard** means a place or building used for the storage, treatment and sale of timber products.

**tourist facility** means an establishment providing holiday accommodation or recreational facilities, or both, on a short term use basis, and may include:

- (a) a hotel, motel, bed and breakfast accommodation, backpackers inn, serviced apartments, holiday cabins, a caravan park, camping ground, houseboat, and any associated swimming pool, golf course, tennis court and marina,
- (b) a restaurant, and
- (c) a souvenir shop, arts and craft gallery and exhibition centre.

**turf farm** means a place where the cultivation and extraction of turf is carried out.

**utility installation** means a building or work used by a public utility undertaking, but does not include a building designed wholly or principally as administrative or business premises or as a showroom.

**vacant original holding** means a parcel of land, whether comprising one or any combination of contiguous lots or portions, held in one ownership as at 31 May 1974 and on which no dwelling house is erected.

**veterinary surgery** means a building or place used for the treatment of the diseases and injuries of animals, and includes a building or place used for the purpose of an animal hospital.

**warehouse** means a building or place used for the storage of goods, merchandise or materials.

**waste** means:

- (a) any substance (whether solid, liquid, or gaseous) that is discharged, emitted or deposited in the environment in such volume, constituency or manner as to cause an alteration in the environment, or
- (b) any discarded, rejected, unwanted, surplus or abandoned substance, or
- (c) any otherwise discarded, rejected, unwanted, surplus, or abandoned substance intended for sale or for recycling, reprocessing, recovery or purification by separate operation from that which produced the substance, or

(d) any substance prescribed to be waste for the purposes of the *Waste Minimisation and Management Act 1995* by the regulations made under that Act.

A substance is not precluded from being waste merely because it can be reprocessed, re-used or recycled.

**waste management facilities or works** means any premises used for the storage, treatment, reprocessing, recycling, sorting or the disposal of waste.

**wetland improvement** means the creation, enhancement, regeneration or maintenance of wetlands and any related or ancillary development, whether the wetland is natural or artificial and whether or not the wetland forms part of an integrated drainage system.

## Schedule 2 Heritage conservation areas

(Schedule 1)

### BASS POINT

- 1 Bass Point Reserve  
Lot 3, DP 248002, Bass Point

### BLACKBUTT

- 2 Blackbutt Forest  
Lot 3, DP 259967, Shellharbour Road, Blackbutt

### MACQUARIE PASS

- 3 Macquarie Pass National Park  
Illawarra Highway, Macquarie Pass

### SHELLHARBOUR

- 4 Waterfront, Harbour and Breakwater  
Foreshore below Wollongong Street, Shellharbour

## 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
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

**ALBION PARK RAIL**

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

**BASS POINT**

BP1	“Cities Service Boston” wreck monument Lot 3, DP 248002, Bass Point	Local
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**BLACKBUTT**

BL1	Stand of trees in Wentworth Cottage Park Lot 8222, DP 852573, Pioneer Drive, Blackbutt	Local
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**CALDERWOOD**

CA1	Marshall Mount Methodist cemetery Lot 1, DP 195342, Calderwood Road, Calderwood	Local
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**CROOM**

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

**DUNMORE**

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

**MACQUARIE PASS**

MP1	“Nurrewin” Lot 68, DP 751263, Illawarra Highway, Macquarie Pass National Park	Regional
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**SHELL COVE**

SC1	“Killarney” Lot 10, DP 882238, 7-21 Buckley’s Road, Shell Cove	Local
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**SHELLHARBOUR**

SH1	Boer War memorial in Caroline Chisholm Park Lot 9, DP 11740, 14 Addison Street, Shellharbour	Local
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
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

**TULLIMBAR**

TU1	Ruins of former Tullimbar School and Headmaster’s residence Lot 1, DP 905581, 38 Tullimbar Lane, Tullimbar	Local
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TU2 "Toongla"  
Lot 82, DP 634605, Tullimbar Lane, Tullimbar State

**YELLOW ROCK**

YR1 "Wiangara" and coach house  
Lots 32 and 33, DP 751274, Yellow Rock Road, Yellow Rock Local

**Schedule 4 Commercial hierarchy for Shellharbour City local government area**

(Clauses 25, 29, 41)

The following commercial hierarchy applies to all commercial/retail development within the local government area of Shellharbour City, with the exception of development for the purpose of bulky goods retailing or light industrial retail outlets:

- 1 Category of Development:** Sub-regional Centre

**Anticipated Size:** unlimited

**Location:** Land contained in the Shellharbour City Centre Area comprising Lots 230 and 231, DP 869094; Lot 1, DP 856215; Lots 1011, 1012 and 1013, DP 700657; Lots 4000 and 4001, DP 809913; Lot 3000, DP 739087, and part of Lot 3219, DP 800230, whether or not these lands are subsequently subdivided.
- 2 Category of Development:** District Centre

**Anticipated Size:** up to 10,000m<sup>2</sup>

**Location:** Land contained within the General Business zone in the vicinity of Tongarra Road, Terry Street and Russell Street, Albion Park.  
Land contained within the General Business zone in the vicinity of Shellharbour Road, Veronica Street and Woolworths Avenue and George Street, Shellharbour Road and Beverly Avenue, Warilla.  
The combined land contained within the General Business zone in the vicinity of Addison Street, Mary Street and Wentworth Street, Shellharbour and the Mixed Use Residential F zone, Shell Cove.
- 3 Category of Development:** Local Centre

**Anticipated Size:** up to 4,000m<sup>2</sup>

**Location:** Land contained within the General Business zone in the vicinity of Princes Highway, Creamery Road and Kaylaur Crescent, Albion Park Rail.  
Land contained within the General Business zone in the vicinity of Central Avenue, Oak Flats
- 4 Category of Development:** Neighbourhood Centre

<b>Anticipated Size:</b>	up to 1,500m <sup>2</sup>
<b>Location:</b>	May be located to serve the local convenience needs of a surrounding residential area where a higher order centre is not within a reasonably accessible distance. A service radius in the order of 500 metres is considered reasonable as the catchment area for a neighbourhood centre.
<b>5 Category of Development:</b>	Local Shop/Local General Store
<b>Anticipated Size:</b>	A single shop of approximately 50m <sup>2</sup> -200m <sup>2</sup>
<b>Location:</b>	May be supported where Council is satisfied that there is a demand for the facility and that it is not likely to interfere with the functioning of the commercial hierarchy as outlined above in this Schedule.

## **Schedule 5 Classification or reclassification of public land as operational land**

(Clause 81)

### **Part 1 Land classified, or reclassified, under original section 30 of Local Government Act 1993**

Lot 202, DP 848203, corner of Shellharbour and Wattle Roads, Shellharbour.

Part of Lot 201, DP 848203, corner of Shellharbour and Wattle Roads, Shellharbour, as shown edged with a broken heavy line and labelled "Schedules 5 and 6" on the map.

Part of Lot 1, DP 588826, Benaud Crescent, Warilla as shown edged with a broken heavy line and labelled 'schedule 5' on the map.

Part of Lot 2, DP 248002, Boolwarroo Parade, Lot 1, DP 584291, Addison Street and part of Lot 2, DP 584291, Shellharbour Road, Shellharbour as shown edged with a broken heavy line and labelled 'schedule 5' on the map.

### **Part 2 Land classified, or reclassified, under amended section 30 of Local Government Act 1993—interests changed**

Lot 2, DP 605483, Pioneer Drive, Oak Flats, as shown edged with a broken light blue line and lettered "Schedule 5" on Sheet 1 of the map marked "*Shellharbour Local Environmental Plan 2000 (Amendment No 8)*"—Easement for watermain (S226024) as noted on Certificate of Title Folio Identifier 2/605483.

Lot 71, DP 788843, Pioneer Drive, Oak Flats, as shown edged with a broken light blue line and lettered "Schedule 5" on Sheet 1 of the map marked "*Shellharbour Local Environmental Plan 2000 (Amendment No 8)*".

Part of Lot 3, DP 259967, Captain Cook Drive, Blackbutt Reserve, Blackbutt, as shown edged with a

broken light blue line and lettered "Schedule 5" on Sheet 3 of the map marked "*Shellharbour Local Environmental Plan 2000 (Amendment No 8)*".

Lot 2, DP 109304 and Lot 82, DP 729172, Pioneer Drive, Shellharbour, as shown edged with a broken light blue line and lettered "Schedule 5" on Sheet 1 of the map marked "*Shellharbour Local Environmental Plan 2000 (Amendment No 15)*".

### **Part 3 Land classified, or reclassified, under amended section 30 of Local Government Act 1993—no interests changed**

Lot 101 and part of Lot 100, DP 801536, Industrial Road, Oak Flats, as shown edged with a heavy black broken line and lettered "Schedule 5" on the map marked "*Shellharbour Local Environmental Plan 2000 (Amendment No 9)*".

### **Schedule 6 Exceptions**

(Clause 82)

Lot 3, DP 786522, Princes Highway, Albion Park Rail—service station.

Lot 1, DP 222288, Terry Street, Albion Park—motel.

Lot 1, DP 745632, Swamp Road, Dunmore—inhabitation of the former "Peterborough" School Building as dwelling.

Part of Lot 2, DP 248002, Boolwarroo Parade, Shellharbour—boat harbour entrance works.

Lots 1, 2 and 3, DP 627527, Tongarra Road, Albion Park Rail—funeral parlour.

Part of Lot 2, DP 808989, Terry Street, Albion Park as shown edged with a broken heavy line and labelled 'schedule 6' on the map—community uses.

Lots 196–200, DP 222963 and Lot 204, DP 224196, Madigan Boulevard, Mount Warrigal—medical services which are ancillary to a hospital, and which are of a type, size and scale compatible with generally residential areas.

Lots 28–32, DP 23454 and Lots 24–27, DP 23988, Shellharbour Road, Warilla—professional offices which includes the offices of accountants, solicitors, architects or plan drawers, insurance brokers, real estate agents or surveyors.

Lot 56, DP 739857, Illawarra Highway, Albion Park—place of public worship and place of assembly.

Part Lot 1, DP 70380, Tongarra Road, Albion Park Rail—landscape supplies depot.

Lot 202, DP 848203, corner of Shellharbour and Wattle Roads, Shellharbour—an integrated development which may include a service station, convenience store and car wash facility.

Lot 4211, DP 833774, Princes Highway, Albion Park Rail—motel.

Lot 1, DP 534605, Shellharbour Road, Shellharbour—technology centre related to the computer industry.

Lot 13, DP 658385, Croome Lane, Albion Park Rail—earthmoving equipment depot.

Lot 18, DP 804242, Lot 5, DP 244040, Lot 2, DP 607267, Lots 101 and 102, DP 244073 and Lots 50, 51 and 52, DP 565091, Miall Way, Albion Park Rail—motor showrooms.

Lot 1, DP 833735, Shellharbour Road, Warilla—refreshment rooms.

Lot A, DP 434117, 31 Reddall Parade, Lake Illawarra—refreshment rooms.

Part of Lot 1202, DP 864021, Shellharbour Road, Dunmore as shown edged with a broken heavy line and labelled 'schedule 6' on the map—industry which does not interfere with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, waste water, waste products, grit or oil, or otherwise.

So much of Lot 202, DP 859498, Terry Street, Albion Park, as is zoned either Rural "A" or Rural "B"—a total of 14 dwelling allotments at least 13 of which are to be connected to a sewerage service.

Lot 230, DP 869094, Cygnet Avenue, Blackbutt—a single stand-alone supermarket, two take-away food restaurants and a single service station.

Lot 1, DP 998390, Terry Street, Albion Park—one dwelling house.

Lot 2707, DP 847729, Huon Crescent, Albion Park—a total of 4 allotments with no more than one dwelling house on each allotment.

Lot 21, DP 111195, Terry Street, Yellow Rock—a total of 3 allotments with no more than one dwelling house on each allotment.

So much of Lot 1, DP 851151, Terry Street, Albion Park as is zoned Rural "A"—one allotment with no more than one dwelling house on the allotment.

Lot 1, DP 779617, Cooby Road, Yellow Rock—a total of 17 allotments with no more than one dwelling house on each allotment.

Lot 2627, DP 832456, Cooby Road, Yellow Rock—a total of 3 allotments with no more than one dwelling house on each allotment.

So much of Lot 1, DP 792437, Yellow Rock Road, Yellow Rock as is zoned Rural "A"—a total of 7 allotments with no more than one dwelling house on each allotment.

Part of Lot 201, DP 848203, corner of Shellharbour and Wattle Roads, Shellharbour, as shown edged with a broken heavy line and labelled "Schedules 5 and 6" on the map—fire station, place of public worship.

Lot 1, DP 799421, 162 Tongarra Road, Albion Park—car parking for the use of the Albion Park RSL Memorial Club.

Croom Regional Sporting Complex, being Lot 2 DP 605565, Lot 3 DP 549511 and Lot 1 DP 216772, Croom Road, Croom:

- (a) expositions—being events that bring together suppliers of a broad range of product lines and services that relate to a common theme for the primary purpose of exhibiting and explaining the

products and services, but where sales may also form a part of the event, and

- (b) trade fairs—being events that bring together a range of products or services that relate to an industry group for the purpose of demonstrating the range of products and services available to traders within that industry group.

Lots 8 and 9, DP 244040, Miall Way, Albion Park Rail—motor showrooms.