

Sydney Regional Environmental Plan No 5—(Chatswood Town Centre) (1983 EPI 21)

[1983-21]



New South Wales

Status Information

Currency of version

Repealed version for 26 June 2009 to 30 January 2013 (accessed 29 November 2024 at 2:42)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

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

Notes—

- **Deemed SEPP**

From 1 July 2009 this plan is taken to be a State environmental planning policy (see clause 120 of Schedule 6 to the [Environmental Planning and Assessment Act 1979](#)).

- **Repeal**

The plan was repealed by cl 1.8B of the [Willoughby Local Environmental Plan 2012 \(679\)](#) (LW 21.12.2012) with effect from 31.1.2013.

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 31 January 2013

Sydney Regional Environmental Plan No 5—(Chatswood Town Centre) (1983 EPI 21)



New South Wales

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Sydney Regional Environmental Plan No 5—(Chatswood Town Centre) (1983 EPI 21)



New South Wales

1 Name of plan

This plan may be cited as *Sydney Regional Environmental Plan No 5—(Chatswood Town Centre)*.

2 Land to which plan applies

This plan applies to so much of the region, declared by the order of the Minister published in Gazette No 185 of 11 December 1981 at page 6381, as is shown edged heavy black on the map (as defined in this plan) and is also shown hatched on the map (as defined in *Willoughby Local Environmental Plan 1995*).

3 Aims, objectives etc

- (1) The general aims and objectives of this plan are to facilitate development of land within the Chatswood Town Centre so as to improve employment opportunities and service the needs of the surrounding area, and in particular:
 - (a) to make readily available floor space for retail and commercial and residential purposes while, at the same time, conserving the compactness of the Chatswood Town Centre,
 - (b) to consolidate office development on the western side of the North Shore Railway Line and retail development on the eastern side of the North Shore Railway Line,
 - (c) to encourage the establishment of new and additional recreational, civic and community facilities,
 - (d) to maintain and improve the environmental and aesthetic quality of the Chatswood Town Centre and conserve items of heritage significance,
 - (e) to improve traffic flow through and around the Chatswood Town Centre and ensure pedestrian, as well as vehicular, accessibility,
 - (f) to encourage the use of public transport, and

- (g) to ensure adequate parking provision and, in particular, to provide for off-street parking in addition to Council requirements,
 - (h) to allow high density residential development to occur so as to give effect to urban consolidation objectives, and
 - (i) to encourage additional residential development which may support public transport use, shopping and recreational facilities as well as contribute to the vitality of the Centre, particularly outside normal business hours, and
 - (j) to allow the establishment of new and additional recreational, civic and community facilities to provide a vibrant and stimulating heart for the Chatswood Town Centre.
- (2) The specific aims and objectives of this plan are, with respect to:
- (a) Zone No 2 (c1)—Residential “C1”:
 - to retain existing high density development and where possible to allow further medium to high density development on land so zoned before the appointed day,
 - (a1) Zone No 2 (d)—Residential “D”:
 - to consolidate high rise and/or high density residential flat buildings in selected and accessible locations,
 - (b) Zone No 3 (c1)—Business Retail:
 - (i) to consolidate this zone as the Chatswood Town Centre’s retail core,
 - (ii) to retain retail frontage at ground level within the retail core,
 - (iii) to improve the shopping environment by developing a pedestrian mall along Victoria Avenue,
 - (iv) to permit residential and restricted commercial uses while maintaining the predominant retail character of the zone,
 - (c) Zone No 3 (c2)—Business Commercial:
 - (i) to consolidate this zone as Chatswood’s main office core,
 - (ii) to accommodate service retail users to the extent necessary to cater for local office needs,
 - (iii) to permit high density residential uses,
 - (iv) to realise a better balance between office parking supply and demand,

(d) Zone No 3 (c3)—Business General:

- (i) to encourage the development of a secondary small scale mixed commercial, residential and retail zone,
- (ii) to minimise the visual impact of business development on adjacent residential areas,

(e) Zone No 3 (c4)—Business Automotive:

to retain existing development rights while not encouraging further commercial development west of the Pacific Highway,

(f) Zone No 5 (a)—Special Uses “A”:

to provide for various special uses required within Chatswood Town Centre, including Civic Place, civic and municipal purposes, parking facilities serving the Town Centre, the Bus and Rail Interchange and schools,

(g) Zone No 5 (b)—Special Uses “B”:

to provide for railway purposes and development to increase the use of railway facilities,

(h) Zone No 6 (a)—Open space: Existing Recreation:

to maintain existing open space within the Chatswood Town Centre,

(i) Zone No 9 (a)—Reservation: Proposed Local Roads and Widening:

to improve traffic circulation within the Chatswood Town Centre, and

(j) Zone No 9 (b)—Reservation: Proposed Recreation:

to add to and consolidate the provision of open space within the Chatswood Town Centre.

4 (Repealed)

5 Definitions

- (1) In this plan, except in so far as the context or subject-matter otherwise indicates or requires:

adjoining land means land which abuts other land or is separated from it only by a lane, pathway, driveway or similar thoroughfare.

ancillary use means a use of premises which is incidental and subordinate to the predominant use.

appointed day means the day upon which this plan takes effect.

car parking station means any land (including a building on that land) open to the public and used for the purpose of accommodating vehicles, whether upon payment of a fee or not, but does not include:

- (a) land (including a building on that land) which is used for parking, being parking that is ancillary to other development on or adjoining that land,
- (b) a metered zone, or
- (c) a metered space.

community facility means a building or place owned or controlled by the Council, any other public authority or an organisation established for non-profit community purposes which provides for the physical, social, cultural or intellectual development or welfare of the community.

council means the Council of the Municipality of Willoughby.

ground level means the level of a site as if no development had taken place on it.

height, in relation to a building, means the distance measured vertically from any point on the building (not being a vent, chimney, lift tower or other service installation) to the ground level immediately below that point.

home occupation means a home occupation carried on in a dwelling by the permanent residents of the dwelling which does not involve:

- (a) prostitution, or
- (b) the registration of the building under the *Factories, Shops and Industries Act 1962*, or
- (c) the employment of persons other than those residents, or
- (d) interference with the amenity of the neighbourhood 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
- (e) the display of goods, whether in a window or otherwise, or
- (f) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling to indicate the name and occupation of the resident), or
- (g) the sale of items (whether goods or materials) or the exposure or offer for sale of items, by retail.

hotel means premises, licensed to sell liquor, which provide accommodation consisting of more than 20 rooms or self-contained suites for guests that are rented or

hired on a short-term basis without a residential tenancy agreement within the meaning of the *Residential Tenancies Act 1987*, and may include facilities such as function rooms, restaurants, recreational facilities and ancillary retail uses.

nursing home has the same meaning as in the *Public Health Act 1991*.

recreation area means:

- (a) a children's playground,
- (b) an area used for sporting activities or sporting facilities, or
- (c) an area used to provide facilities for recreational activities which promote the physical, cultural or intellectual welfare of persons within the community, being facilities provided by:
 - (i) the council, or
 - (ii) a body of persons associated together for the purposes of the physical, cultural or intellectual welfare of persons within the community,

but does not include a racecourse or showground.

serviced apartment means a building containing two or more dwellings which are cleaned and serviced on a commercial basis by the owner or manager of the building or the owner's or manager's agent, and which provide short-term accommodation for travellers or tourists, but does not include a hostel.

the map means the map marked "*Sydney Regional Environmental Plan No 5 (Chatswood Town Centre)*", as amended by the maps (or, if any sheets of the maps are specified, by the specified sheets of the maps) marked as follows:

Editorial note—

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

Sydney Regional Environmental Plan No 5 (Chatswood Town Centre) (Amendment No 2)

Sheet 2 of Willoughby Local Environmental Plan No 28

Sheet 1 of Willoughby Local Environmental Plan No 36

Sheet 2 of Willoughby Local Environmental Plan 1995 (Amendment No 65)

Willoughby Local Environmental Plan 2000—(Police Station)—No 1—Sheet 1

Sheet 1 of Willoughby Local Environmental Plan 2000 (Chatswood Town Centre)—No 3

Sheet 2 of *Willoughby Local Environmental Plan 2000 (Chatswood Town Centre)—No 3*

the Willoughby DCP means *Willoughby Development Control Plan*, as adopted by the council on 26 June 2006.

- (2) Part 2 (except the definition of **home occupation** in clause 4 (1)), clause 8 and Part 6 of the *Environmental Planning and Assessment Model Provisions 1980* are adopted for the purposes of this plan.
- (3) For the purposes of subclause (2), a reference in clause 4 (1) of the *Environmental Planning and Assessment Model Provisions 1980* to a local environmental plan shall be read and construed as if it were a reference to a regional environmental plan.
- (4) For the purposes of this plan, a reference to a map is a reference to a map deposited in the office of the council.

6 Consent authority

The Council is the consent authority for the purposes of this plan, except as provided by the Act.

7 Zone objectives and development control

- (1) The specific objectives of each zone are set out in the development control table for each zone under the heading “Specific Objective” or “Specific Objectives”.
- (2) Except as otherwise provided by this plan, the development control table for each zone specifies the development within each zone that:
 - (a) may be carried out without development consent (including exempt development), or
 - (b) may be carried out only with development consent, or
 - (c) is prohibited.
- (3) Except as otherwise provided by this plan, the Council shall not consent to development on land to which this plan applies unless the Council is of the opinion that the development is consistent with one or more of the aims of this plan and at least one specific objective of the zone within which the development is proposed to be carried out.

7A What is exempt and complying development?

Explanatory note—

In this Plan:

complying development means development that may be carried out with development consent, in the form

of a complying development certificate, obtained from either Council or an Accredited Certifier. Development is only complying development if it is specified as being permissible within subclause (2) (b) of the development control table for the zone or is ancillary to an existing legal use and will be contained wholly within the property. It must also comply with the criteria and development standards specified in Schedule 5 to the Willoughby DCP.

exempt development means development of a minor nature that may be carried out without the need for a complying development certificate or development consent. Development is only exempt development if it is specified as being permissible within subclause (2) (b) of the landuse table for the zone or is ancillary to an existing legal use and will be contained wholly within the property. It must also comply with the criteria and development standards specified in Schedule 4 to the Willoughby DCP.

- (1) Development of minimal environmental impact listed as exempt development in Schedule 4 to the Willoughby DCP, is **exempt development**, despite any other provision of this plan.
- (2) Development listed as complying development in Schedule 5 to the Willoughby DCP, 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 Schedule 4 or 5 to the Willoughby DCP.

7B Explanatory notes

In this plan, the explanatory notes do not form part of the Plan.

7C Residential areas

The following residential zone applies as identified on the map:

Zone 2 (c1) (Residential “C1” Zone)—coloured light scarlet with red edging and lettered “2 (c1)”

Zone 2 (d) (Residential “D” Zone)—coloured light scarlet with red edging and lettered “2 (d)”

Development Control Table

Explanatory note—

In this Plan:

complying development means development that may be carried out with development consent, in the form of a complying development certificate, obtained from either Council or an Accredited Certifier. Development is only complying development if it is specified as being permissible within subclause (2) (b) of the development control table for the zone or is ancillary to an existing legal use and will be contained wholly within the property. It must also comply with the criteria and development standards specified in Schedule 5 to the Willoughby DCP.

7D Zone 2 (c1)—Residential “C1” Zone

(1) **Specific Objective** To retain existing high density development and where possible to allow further medium to high density development on appropriately zoned land.

(2) Development Within the Zone

(a) Within the 2 (c1) Residential Zone, the following development may be carried out **without development consent**:

exempt development

(b) Within the 2 (c1) Residential Zone, the following development may **only** be carried out **with development consent**:

Demolition

Subdivision

Development for the purpose of:

boarding houses

child care centres

drainage

dwelling-houses

educational establishments

home occupations

hospitals

parks and gardens

places of public worship

professional consulting rooms

residential flat buildings

roads

utility installations

(c) Within the 2 (c1) Residential Zone, any other development is prohibited.

7E Zone 2 (d)—Residential “D” Zone

(1) Specific Objectives

- (a) To consolidate high-rise and high density residential flat buildings in selected and accessible locations, and
- (b) To enable the provision of appropriate communal recreation facilities for use by residents.

(2) Development Within the Zone

- (a) Within the 2 (d) Residential Zone, the following development may be carried out **without development consent**:
 - exempt development
- (b) Within the 2 (d) Residential Zone, the following development may only be carried out **with development consent**:

Demolition

Subdivision

Development for the purpose of:

child care centres

drainage

dwelling houses

educational establishments

general stores of 30sqm or less in area

home business

home occupations

parks and gardens

residential flat buildings

roads

units for aged persons

utility installations

- (c) Within the 2 (d) Residential Zone, any other development is prohibited.

7F Business centres

The following business zones apply as identified on the map:

Zone 3 (c1) (Business Retail Zone)—coloured light blue with heavy black edging and lettered 3 (c1)

Zone 3 (c2) (Business Commercial Zone)—coloured light blue with heavy black edging and lettered 3 (c2)

Zone 3 (c3) (Business General Zone)—coloured light blue with heavy black edging and lettered 3 (c3)

Zone 3 (c4) (Business Automotive)—coloured light blue with heavy black edging and lettered 3 (c4)

Development Control Table

Explanatory note—

In this Plan:

complying development means development that may be carried out with development consent, in the form of a complying development certificate, obtained from either Council or an Accredited Certifier. Development is only complying development if it is specified as being permissible within subclause (2) (b) of the development control table for the zone or is ancillary to an existing legal use and will be contained wholly within the property. It must also comply with the criteria and development standards specified in Schedule 5 to the Willoughby DCP.

7G General objectives of business zones

- (a) To enable a diverse range and suitable mix of varying scale and intensity of residential flat buildings, commercial offices, business services, retail shopping and personal services that are appropriate to individual locations, and
- (b) To allow for a range of different types of commercial centres that also service the everyday needs of the local population.

7H Zone 3 (c1)—Business Retail

(1) Specific Objectives

- (a) To consolidate this zone as the Chatswood City Centre's retail core, and
- (b) To retain retail frontage at ground level within the retail core, and
- (c) To improve the shopping environment by developing a pedestrian mall along Victoria Avenue, and
- (d) To permit residential and restricted commercial uses while maintaining the predominant retail character of the zone.

(2) Development Within the Zone

- (a) Within the 3 (c1) Business Retail Zone, the following development may be carried out **without development consent**:

exempt development

(b) Within the 3 (c1) Business Retail Zone, the following development may only be carried out **with development consent**:

Demolition

Subdivision

Development for the purpose of:

advertisements

brothels

child care centres

clubs

commercial premises (other than carparking stations)

drainage

places of public worship

purposes referred to in Schedules 1, 2 or 7

recreation areas

residential flat buildings

roads

shops

taverns

utility installations

(c) Within the 3 (c1) Business Retail Zone, any other development is prohibited.

71 Zone 3 (c2)—Business Commercial

(1) Specific Objectives

(a) To consolidate this zone as Chatswood's main office core, and

(b) To accommodate service retail users to the extent necessary to cater for local office needs, and

(c) To permit residential uses while maintaining the predominant office use character of the zone, and

(d) To realise a better balance between office parking supply and demand.

(2) Development Within the Zone

(a) Within the 3 (c2) Business Commercial Zone, the following development may be carried out **without development consent**:

exempt development

(b) Within the 3 (c2) Business Commercial Zone, the following development may only be carried out **with development consent**:

Demolition

Subdivision

Development for the purpose of:

advertisements

brothels

child care centres

clubs

commercial premises (other than carparking stations)

drainage

hotels

motels

places of public worship

public buildings

purposes referred to in Schedules 3 or 7

recreation areas

refreshment rooms

residential flat buildings

roads

taverns

utility installations

(c) Within the 3 (c2) Business Commercial Zone, any other development is prohibited.

7J Zone 3 (c3)—Business General Zone

(1) Specific Objectives

- (i) To encourage the development of a secondary small scale mixed commercial, residential and retail zone, and
- (ii) To minimise the visual impact of business development on adjacent residential areas.

(2) Development Within the Zone

- (a) Within the 3 (c3) Business General Zone, the following development may be carried out **without development consent**:

exempt development

- (b) Within the 3 (c3) Business General Zone, the following development may only be carried out **with development consent**:

Demolition

Subdivision

Development for the purpose of:

advertisements

child care centres

clubs

commercial premises

drainage

hospital

hotels

motels

purposes referred to in Schedules 1, 2 or 7

recreation areas

residential flat buildings

roads

shops

taverns

utility installations

(c) Within the 3 (c3) Business General Zone, any other development is prohibited.

7K Zone 3 (c4)—Business Automotive

(1) **Specific Objective** To accommodate motor vehicle premises and small scale office development which are appropriate for a Pacific Highway location.

(2) Development Within the Zone

(a) Within the 3 (c4) Business Automotive Zone, the following development may be carried out **without development consent**:

exempt development

(b) Within the 3 (c4) Business Automotive Zone, the following development may only be carried out **with development consent**:

Demolition

Subdivision

Development for the purpose of:

drainage

recreation areas

roads

sale, repair and service of motor vehicles, watercraft or caravans and fittings, parts and accessories thereto and any purpose associated therewith other than panel beating and spray painting

utility installations

(c) Within the 3 (c4) Business Automotive Zone, any other development is prohibited.

7L Special uses

The following special use zones apply as identified on the map:

Zone 5 (a) (Special Uses “A” Zone)—coloured yellow with black edging and lettered 5 (a)

Zone 5 (b) (Special Uses “B” (Railways) Zone)—coloured purple and lettered 5 (b)

Development Control Table

Explanatory note—

In this Plan:

complying development means development that may be carried out with development consent, in the form of a complying development certificate, obtained from either Council or an Accredited Certifier. Development is only complying development if it is specified as being permissible within subclause (2) (b) of the development control table for the zone or is ancillary to an existing legal use and will be contained wholly within the property. It must also comply with the criteria and development standards specified in Schedule 5 to the Willoughby DCP.

7M Zone 5 (a)—Special Uses “A” Zone

- (1) **Specific Objective** To provide for various special uses required within the Chatswood Town Centre, including additional parking facilities and a Bus/Rail Interchange (with a mixed commercial component).
- (2) **Development Within the Zone**
 - (a) Within the 5 (a) Special Uses Zone, the following development may be carried out **without development consent**:
 - exempt development
 - (b) Within the 5 (a) Special Uses Zone, the following development may only be carried out **with development consent**:
 - Demolition
 - Subdivision
 - Development for the purpose of:
 - purposes specified in black lettering on the map
 - drainage
 - recreation areas
 - roads
 - utility installations
 - (c) Within the 5 (a) Special Uses Zone, any other development is prohibited.

7N Zone 5 (b)—Special Uses “B” (Railways) Zone

- (1) **Specific Objective** To provide for railway purposes.
- (2) **Development Within the Zone**
 - (a) Within the 5 (b) Special Uses “B” (Railways) Zone, the following development may

be carried out **without development consent**:

exempt development

(b) Within the 5 (b) Special Uses (Railways) Zone, the following development may only be carried out **with development consent**:

Demolition

Subdivision

Development for the purpose of:

commercial premises

community facilities

drainage

parking

railways

recreation areas

residential flat buildings

roads

shops

utility installations

(c) Within the 5 (b) Special Uses Railways Zone, any other development is prohibited.

70 Open space

The following open space zone applies as identified on the map:

6 (a) Open Space “A” (Existing Recreation) Zone—coloured dark green and lettered 6 (a)

Development Control Table

Explanatory note—

In this Plan:

complying development means development that may be carried out with development consent, in the form of a complying development certificate, obtained from either Council or an Accredited Certifier. Development is only complying development if it is specified as being permissible within subclause (2) (b) of the development control table for the zone or is ancillary to an existing legal use and will be contained wholly within the property. It must also comply with the criteria and development standards specified in Schedule 5 to the Willoughby DCP.

7P Zone 6 (a)—Open Space “A” (Existing Recreation) Zone

(1) **Specific Objective** To maintain existing open space within the Chatswood Town Centre.

(2) **Development Within the Zone**

(a) Within the 6 (a) Open Space “A” (Existing Recreation) zone, development for the following purposes may be carried out **without development consent**:

exempt development

(b) Within the 6 (a) Open Space “A” (Existing Recreation) Zone, the following development may only be carried out **with development consent**:

Demolition

Subdivision

Development for the purpose of:

child care centres

drainage

recreation areas

(c) Within the 6 (a) Open Space “A” (Existing Recreation) Zone, any other development is prohibited.

7Q Reservations

The following reservations apply as identified on the map:

9 (a) Proposed Local Roads and Widening—coloured grey between firm or broken black lines

9 (b) Proposed recreation—coloured light green and lettered 9 (b)

Development Control Table

Explanatory note—

In this Plan:

complying development means development that may be carried out with development consent, in the form of a complying development certificate, obtained from either Council or an Accredited Certifier. Development is only complying development if it is specified as being permissible within subclause (2) (b) of the development control table for the zone or is ancillary to an existing legal use and will be contained wholly within the property. It must also comply with the criteria and development standards specified in Schedule 5 to the Willoughby DCP.

There is no development within the 9 (a) Proposed Local Roads and Widening Zone and the 9 (b) Proposed Recreation Zone that constitutes “complying” development.

7R Zone 9 (a)—Reservation: Proposed Local Roads and Widening

(1) **Specific Objective** To improve traffic circulation within the Chatswood Centre.

(2) **Development Within the Zone**

(a) Within the 9 (a) Proposed Local Roads and Widening Zone, development for the following purposes may be carried out **without development consent**:

Nil

(b) Within the 9 (a) Proposed Local Roads and Widening Zone, the following development may only be carried out **with development consent**:

Demolition

Subdivision

Development for the purpose of:

recreation areas

roads

utility installations

(c) Within the 9 (a) Proposed Local Roads and Widening Zone, any other development is prohibited.

7S Zone 9 (b)—Reservation: Proposed Recreation

(1) **Specific Objective** To add to and consolidate the provision of open space within the Chatswood Town Centre.

(2) **Development Within the Zone**

(a) Within the 9 (b) Proposed Recreation Zone, development for the following purposes may be carried out **without development consent**:

Nil

(b) Within the 9 (b) Proposed Recreation Zone, the following development may **only be carried out with development consent**:

Demolition

Subdivision

Development for the purpose of:

drainage

recreation areas

(c) Within the 9 (b) Proposed Recreation Zone, any other development is prohibited.

8 Residential development in business zones

Notwithstanding clauses 7H, 7I and 7J, a person may, with the consent of the consent authority, carry out development for residential purposes on land within zone No 3 (c1), 3 (c2) or 3 (c3) where any such development is carried out above or behind shops or commercial premises or development of a type specified in Schedule 1.

9 Certain land within Zone No 3 (c1)—restrictions on use

Land within Zone No 3 (c1) bounded by Archer and Havilah Streets and Victoria and Malvern Avenues and cross-hatched over light blue colouring on the map shall not be developed for any purpose other than access to, and parking associated with or ancillary to the use of, the balance of the land within Zone No 3 (c1) and so bounded, for a purpose for which that land was used immediately before the appointed day.

10 Retail trading—restriction in Zone No 3 (c2)

- (1) The council shall not consent to development of land within Zone No 3 (c2) for use as a shop or premises for a purpose referred to in Schedule 3 if the gross floor area of the shop or premises exceeds 150 square metres.
- (2) A person shall not carry out development within Zone No 3 (c2) for a purpose referred to in Schedule 3 if more than 20 per cent of the gross floor area of the development is used for that purpose.
- (3) Clause 7 of *State Environmental Planning Policy No 4—Development Without Consent* does not apply to the development, for a purpose referred to in Schedule 3, of premises within Zone No 3 (c2), which, immediately before the appointed day, were used as commercial premises.
- (4) This clause does not apply to so much of the land bounded by O'Brien, Railway and Help Streets, Chatswood, and by the eastern boundary of the North Shore Railway reservation (shown edged heavy black on Sheet 1 of the map marked "*Willoughby Local Environmental Plan No 76*") as is within Zone No 3 (c2).

11 Floor space ratio

- (1) In this clause, except in so far as the context or subject-matter otherwise indicates or requires:

precinct means an open air space at least 225 square metres in area whether situated at, above or below ground level and open to the public, but does not include:

- (a) an arcade, passageway, thoroughfare or other means of passing from one place to another, or

- (b) land within Zone No 9 (a) and shown proposed to be dedicated as a public road on a plan of subdivision lodged with a development application as referred to in subclause (4).

road has the meaning ascribed to it in the *Local Government Act 1919*.

- (2) The consent authority shall not consent to the erection of a building on land to which this plan applies where the ratio of the gross floor area to the site area exceeds:
 - (a) in the case of a building on land within Zone No 3 (c1) having a site area of less than 8 000 square metres—2.5:1,
 - (b) in the case of a building on land within Zone No 3 (c1) having a site area of 8 000 square metres or more—3:1,
 - (c) in the case of a building on land within Zone No 3 (c2) having a site area of less than 1 500 square metres—2:1,
 - (d) in the case of a building on land within Zone No 3 (c2), not being land bounded by McIntosh Street, O'Brien Street, the Pacific Highway and Railway Street, having a site area of 1 500 square metres or more—4:1 or 2:1 plus 0.1:1 for each 100 square metres by which the site area exceeds 1 500 square metres, whichever is the lesser,
 - (e) in the case of a building on land within Zone No 3 (c2) bounded by McIntosh Street, O'Brien Street, the Pacific Highway and Railway Street, having a site area of 1 500 square metres or more—3.75:1 or 2:1 plus 0.1:1 for each 100 square metres by which the site area exceeds 1 500 metres, whichever is the lesser,
 - (f) in the case of a building on land within Zone No 3 (c3)—1.5:1, except as provided by paragraph (f1),
 - (f1) in the case of a building on so much of the land bounded by Archer Street, Albert Avenue and Bertram Street as is shown as being within Zone No 3 (c3) on Sheet 1 of the map marked "*Willoughby Local Environmental Plan 2000—(Police Station)—No 1*", being parts of Lots 7-10, DP 1535:
 - (i) 1.6:1, if the land shown on that Sheet as being within Zone No 9 (a) is dedicated for road widening without cost to the council, or
 - (ii) 2.5:1, if that land is so dedicated and development of the land shown on that Sheet as being within Zone No 3 (c3) includes the erection of a police station to the satisfaction of the Police Service,
 - (g) in the case of a building on land within Zone No 3 (c4)—0.5:1,
 - (h) in the case of a building (other than a car parking station) on land within Zone No 5 (a) marked in black on the map as "Bus. Pkg."—3.75:1, and

(i), (j) (Repealed)

(3) Where:

- (a) a development application is made for consent to erect a building on land within Zone No 3 (c1), 3 (c2) or 3 (c3), and
- (b) the plans submitted with the application make provision for a precinct,
the consent authority may approve the precinct as suitable for a public precinct for the purposes of this clause.

(4) Where:

- (a) a development application is made for consent to erect a building on land within Zone No 3 (c1), 3 (c2), 3 (c3) or 3 (c4),
- (b) the plans submitted with the application are accompanied by a plan of subdivision bearing a statement of intention to dedicate land shown on the plan as a public road,
- (c) the land in relation to which the statement of intention is made is within Zone No 9 (a), and
- (d) the council proposes to approve the plan of subdivision under Part 12 of the *Local Government Act 1919*,

the council may approve the land so shown on the development application as a proposed public road for the purposes of this clause.

- (5) Where a development application is made for consent to erect a building in respect of which the Minister is the consent authority and that application is accompanied by a copy of a plan of subdivision which has been submitted to the council and which bears a statement of intention to dedicate land within Zone No 9 (a) as a public road, the Minister may approve the land so shown on the development application as a proposed public road for the purposes of this clause.
- (6) Notwithstanding subclause (2), where the consent authority approves a precinct provided for on plans accompanying a development application as a public precinct for the purposes of this clause or as a proposed public road for the purposes of this clause, the consent authority may, in accordance with subclause (7), consent to the erection of a building the ratio of the gross floor area to the site area of which exceeds that specified in subclause (2) in respect of the zone in which the building is proposed to be erected, but shall not consent if the ratio exceeds:
 - (a) in the case of a building on land within Zone No 3 (c1)—3.5:1,
 - (b) in the case of a building on land within Zone No 3 (c2), not being land bounded by

McIntosh Street, O'Brien Street, the Pacific Highway and Railway Street—the ratio of the gross floor area to the site area for that building calculated in accordance with subclause (2) (d) plus 1:1,

(c) in the case of a building on land within Zone No 3 (c2) bounded by McIntosh Street, O'Brien Street, the Pacific Highway and Railway Street—3.75:1 or the ratio of the gross floor area to the site area for that building calculated in accordance with subclause (2) (e) plus 1:1, whichever is the lesser,

(d) in the case of a building on land within Zone No 3 (c3), other than land bounded by Archer Street, Albert Avenue and Bertram Street, being parts of Lots 7-10, DP 1535—2.5:1,

(e) in the case of a building on land within Zone No 3 (c4)—0.75:1.

(7) The consent authority may consent to the erection of a building within a zone referred to in subclause (6) which exceeds the ratio of the gross floor area to the site area specified in subclause (2) only to the extent of:

(a) 2 square metres gross floor area for each 1 square metre approved by it under subclause (3) as a public precinct for the purposes of this clause, or

(b) 4 square metres gross floor area for each 1 square metre approved by it under subclause (4) as a public road for the purposes of this clause.

(8) Where:

(a) a development application is made for consent to the erection of a building on land within Zone No 3 (c1), 3 (c2) or 3 (c3), and

(b) the plans submitted with the application make provision for floor area to be used for one or more of the purposes referred to in Schedule 7,

the consent authority may approve that floor area as a community or recreation area for the purposes of this clause.

(9) Notwithstanding subclause (2) or (6), where the consent authority approves an area within Zone No 3 (c1), 3 (c2) or 3 (c3) on plans accompanying a development application as a community or recreation area for the purposes of this clause, the consent authority may consent to the erection of a building on that area if the ratio of the gross floor area to the site area exceeds, by not more than 1:1, the ratio of the gross floor area to site area otherwise permitted under this clause in respect of that building.

(9A) Subclause (9) does not apply to land bounded by Archer Street, Albert Avenue and Bertram Street, being parts of Lots 7-10, DP 1535.

(10) Notwithstanding subclause (2) or (6), the consent authority may grant consent to the

erection of a building on part of the land bounded by Railway Street, O'Brien Street, Help Street and Cambridge Lane where the ratio of the gross floor area of the building to the site area of that part of the land on which the building is to be erected exceeds the maximum amount allowable under subclause (2) or (6), but only if the ratio of the gross floor area of all buildings erected and proposed to be erected on the land to the whole of the area of the land which is within Zone No 3 (c2) does not exceed the ratio applicable to that land within Zone No 3 (c2) under subclauses (2) and (6).

(11) Subclauses (1)–(10) do not apply to the following land:

- (a) land within Zone 3 (c2) that is bounded by Thomas Street and Albert Avenue (other than 20 and 22 Thomas Street), as shown edged heavy black on Sheet 2 of the map marked "*Willoughby Local Environmental Plan 1995 (Amendment No 65)*", and
- (b) land within Zone 3 (c3) at the corner of Archer Street and Albert Avenue, as shown edged heavy black on Sheet 2 of that map.

(12) The consent authority must not consent to the erection of a building on land referred to:

- (a) in subclause (11) (a), if the ratio of the gross floor area to the site area exceeds 5.5:1, or
- (b) in subclause (11) (b), if the ratio of the gross floor area to the site area exceeds 2.7:1, except:
 - (i) in respect of development for the purposes of a hospital, in which case the ratio of the gross floor area to the site area is not to exceed 4:1, or
 - (ii) in respect of development for the purposes of a nursing home that is attached to, or used in conjunction with, other permissible development on the site (or both), in which case the consent authority is not to have regard to the gross floor area of the nursing home in the calculation of the floor space ratio.

12 Floor space—allocation of user

- (1) Except as provided by subclause (4), a person shall not carry out development on land within Zone No 3 (c1) or that part of Zone No 5 (a) referred to in clause 11 (2) (i) if:
 - (a) in the case of land having an area of less than 8 000 square metres, more than 25 per cent of the gross floor area of the development is used for commercial premises, and
 - (b) in any other case, more than 50 per cent of the gross floor area of the development is used for commercial premises.

(2), (3) (Repealed)

- (4) Subclause (1) does not apply to development on the land shown edged heavy black on the map marked "*Willoughby Local Environmental Plan No 30*" if the development provides, to the satisfaction of the consent authority, public pedestrian access ways across the land.

13 Land within Zones Nos 3 (c1), 3 (c2) and 3 (c3)—floor space ratio for residential flat buildings

- (1) The consent authority may consent to the carrying out of development for the purpose of a residential flat building on land within Zone No 3 (c1), 3 (c2) or 3 (c3) only if the ratio of the gross floor area of dwellings within the residential flat building to the area of its site does not exceed 1:1.
- (2) Despite subclause (1), the consent authority may, subject to clause 15A, consent to the carrying out of development for the purpose of a residential flat building on the land shown edged heavy black on the map marked "*Willoughby Local Environmental Plan 1999 (Chatswood Town Centre)—No 1*" only if the ratio of the gross floor area of the dwellings within the residential flat building to the area of the land does not exceed 3:1.
- (3) This clause does not affect a maximum floor space ratio fixed by clause 11.
- (4) Despite subclause (1), the consent authority may, subject to clause 39, grant consent to the carrying out of development for the purposes of a residential flat building on the land within Zone 3 (c2) (other than 20 and 22 Thomas Street) or within Zone 3 (c3) as shown edged heavy black on Sheet 2 of the map marked "*Willoughby Local Environmental Plan 1995 (Amendment No 65)*", but only if the ratio of the gross floor area of the residential flat building to the area of its site does not exceed 2.5:1 in the case of the land within Zone 3 (c2) or 1.5:1 in the case of land within Zone 3 (c3).

14 Overshadowing

A person shall not erect a building on land abutting the northern side of Victoria Avenue between Orchard Road and Archer Street exceeding 10 metres in height unless that part of the building exceeding that height is placed 1 metre from the boundary of the footpath on the northern side of Victoria Avenue with the land on which the building is erected for each metre by which the building exceeds 10 metres in height.

15 Height

- (1) The consent authority shall not consent to the erection of a building:
 - (a) on land within Zone No 2 (c1)—having a height of more than 28 metres,
 - (b) on land within Zone No 3 (c1) having an area of less than 8 000 square metres—having a height of more than 28 metres,
 - (c) on land within Zone No 3 (c1) having an area of 8 000 square metres or

more—having a height of more than 52 metres,

- (d) on land within Zone No 3 (c2)—having a height of more than 52 metres,
- (e) on land within Zone No 3 (c3)—having a height of more than 17 metres, except as provided by paragraph (e1),
- (e1) on land within Zone No 3 (c3) bounded by Archer Street, Albert Avenue and Bertram Street, being parts of Lots 7-10, DP 1535—having a height of more than that shown for the land on Sheet 2 of the map marked “*Willoughby Local Environmental Plan 2000—(Police Station)—No 1*”, if:
 - (i) the land shown on Sheet 1 of that map as being within Zone No 9 (a) is dedicated for road widening without cost to the council, and
 - (ii) development of the land shown on Sheet 1 of that map as being within Zone No 3 (c3) includes the erection of a police station to the satisfaction of the Police Service.

In this paragraph, **height** has the same meaning as in clause 15B,

- (f) on land within Zone No 3 (c4)—having a height of more than 10.5 metres, or
 - (g) (Repealed)
 - (h) on land within Zone No 5 (a) and marked in black on the map as “Pk. & Redevel.”—having a height of more than 28 metres.
- (2) The council shall not consent to the erection of a building on land bounded by Thomas Street, Albert Avenue, Thomas Lane and the Pacific Highway having a height of more than 28 metres.
 - (3) Despite subclause (1), a person may, with the consent of the consent authority, erect a building having a height of not more than 47 metres on the site consisting of all the land shown edged heavy black on the map marked “*Willoughby Local Environmental Plan No 30*” if the erection of the building, in the opinion of the consent authority, relates to development of the whole of the site.

15A Height restrictions for certain land including North Shore Railway reservation

- (1) In this clause:

height of a building means the distance measured vertically from Australian Height Datum (AHD) to the highest point of the building structure (not including any mast, pole or telecommunications structure, or any like structure, but including any lift tower or other service installation).

height control map means Sheet 2 of the map marked “*Willoughby Local Environmental Plan No 2000—(Chatswood Town Centre)—No 3*”.

- (2) This clause applies to land bounded by O'Brien, Railway and Help Streets and by Cambridge Lane, Chatswood, being the land shown edged heavy black on the height control map.
- (3) A building must not be erected on land to which this clause applies that is within Zone No 2 (d) or 3 (c2) having a height greater than that shown on the height control map for the land.
- (4) Clause 15 does not apply to land to which this clause applies.

15B Height restrictions for certain land in the vicinity of Anderson Street

- (1) In this clause:

height of a building means the distance measured vertically from Australian Height Datum (AHD) to the highest point of the building structure (not being a vent, lift tower, chimney or other service installation).

height control map means the map marked "*Willoughby Local Environmental Plan 1997 (Chatswood Town Centre)*".

- (2) This clause applies to land bounded by Anderson Street, Help Street, Orchard Road and Endeavour Street, Chatswood, being the land shown edged heavy black on the height control map.
- (3) A building must not be erected on land to which this clause applies that is within Zone No 3 (c1) having a height greater than that shown on the height control map for the land. Heights shown on that map are to be measured in metres.
- (4) Clause 15 does not apply to land to which this clause applies.

15C Height restrictions for Civic Place and other sites

- (1) In this clause:

height has the same meaning as in clause 15B.

height control map means Sheet 3 of the map marked "*Willoughby Local Environmental Plan 1995 (Amendment No 65)*".

- (2) This clause applies to land within Zone 5 (a) (Special Uses "A" Zone)—Civic Place, Zone 3 (c2) (other than 20 and 22 Thomas Street) or Zone 3 (c3) as shown edged heavy black on Sheet 2 of the map marked "*Willoughby Local Environmental Plan 1995 (Amendment No 65)*".
- (3) The consent authority must not consent to the erection of a building on land to which this clause applies if the height of the building exceeds that shown on the height control map for the land.

- (4) Clause 15 does not apply to land to which this clause applies.

16 Placement—from Pacific Highway

- (1) Except as provided by subclauses (2) and (3), a person shall not carry out development on land within Zone No 3 (c2) within 6.5 metres of the boundary of the Pacific Highway and the land.
- (2) A person may erect a building on land within Zone No 3 (c2) to within 5 metres of the boundary of the Pacific Highway and the land if the building is colonnaded.
- (3) A person may erect a subterranean part of a building on land within Zone No 3 (c2) to within 4 metres of the boundary of the Pacific Highway and the land.
- (4) A building is not colonnaded for the purposes of this clause unless:
- (a) the colonnade is at least 4 metres wide,
 - (b) the colonnade is conterminous with the Pacific Highway facade of the building, and
 - (c) the facade rises vertically above the columns.
- (5) A part of a building is not subterranean for the purposes of this clause unless the whole of the cubic content of that part is subterranean.

17 Placement—from Albert Avenue

The council shall not consent to the erection of a building:

- (a) on land within Zone No 3 (c3) between Archer Street and Oscar Street, or
- (b) on land within Zone No 5 (a) between Archer Street and Bertram Street,

abutting the northern boundary of Albert Avenue unless the building is placed at least 3 metres from that boundary and the land between the building and that boundary is landscaped to the satisfaction of the council.

17A Placement—from Archer Street, Albert Avenue and Bertram Street

The council must not consent to the erection of a building or carrying out of a work on land within Zone No 3 (c3) bounded by Archer Street, Albert Avenue and Bertram Street, being parts of Lots 7-10, DP 1535, unless the building or work (whether or not underground) is at least 14 metres from the tree trunk of the *Angophora Costata* located near the southeastern corner of Lot 10, DP 1535.

18 Placement—buildings in Zone No 3 (c4)

- (1) A person shall not erect a building on land within Zone No 3 (c4) unless:

- (a) the building is placed 4 metres or more from the boundary of the Pacific Highway or the boundary of Fullers Road (as the case may be) or from the boundary of both where the land on which the building is erected has frontage to both, or
 - (b) the building is placed not less than 3 metres from any boundary of the land with land within a Residential zone under the *Willoughby Planning Scheme Ordinance*.
- (2) The distance referred to in subclause (1) (b) shall be increased by 1.2 metres for each 3.5 metres by which the height of the building exceeds 3.5 metres.
 - (3) For the purposes of subclause (1) (b), the height of any retaining wall erected or to be erected on the site shall be taken to form part of the height of the building.
 - (4) Nothing in subclause (1) (b) requires a ground floor residential facade less than 3.5 metres high to be placed more than 3 metres from a boundary referred to in subclause (1) (b).
 - (5) In subclause (4), **residential facade** means a facade of a building running parallel or nearly parallel to the boundary of land within a Residential zone under the *Willoughby Planning Scheme Ordinance*.

19 (Repealed)

20 Residential flat buildings—density control

- (1) In this clause:

large dwelling means a dwelling, the gross floor area of which is more than 85 square metres.

medium dwelling means a dwelling, the gross floor area of which is not less than 55 square metres and not more than 85 square metres.

small dwelling means a dwelling, the gross floor area of which is less than 55 square metres.

- (2) The council shall not consent to development for the purpose of a residential flat building on an allotment of land within a zone specified in Column 1 of the Table to this clause unless the site area of the allotment is not less than the sum of the areas calculated by multiplying the number of small, medium and large dwellings contained in the residential flat building by the area specified opposite that zone in respect of those dwellings in Column 2, 3 and 4 of that Table, respectively.

Table

Column 1	Column 2	Column 3	Column 4
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Zone	Minimum area in respect of a small dwelling in a residential flat building (in square metres)	Minimum area in respect of a medium dwelling in a residential flat building (in square metres)	Minimum area in respect of a large dwelling in a residential flat building (in square metres)
2 (c1)	45	60	80

21 Prohibition of advertisements within Zone No 2 (c1)

Advertisements, except those indicating the purpose for which premises are used, are prohibited on land within Zone No 2 (c1).

22 Acquisition and development of certain land

(1) The owner of any land within:

- (a) Zone No 5 (a) marked in black on the map as “Parking”,
- (b) Zone No 9 (a), or
- (c) Zone No 9 (b),

may, by notice in writing, require the council to acquire that land.

(2) On receipt of a notice referred to in subclause (1), the council shall acquire the land to which the notice relates.

(3) Land which is within a zone referred to in subclause (1) may be developed for any purpose, with the consent of the council, until that land is acquired by the council.

23 (Repealed)

24 Development for certain additional purposes

(1) Nothing in this plan prevents a person, with the consent of the consent authority, from carrying out development on land referred to in Schedule 8 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 application, to or in respect of development to which that subclause applies, of such of the provisions of this plan as are not inconsistent with that subclause or with a consent granted by the consent authority in respect of the development.

25 Heritage conservation

In clauses 26–30, except in so far as the context or subject-matter otherwise indicates or requires:

demolition, in relation to a building or work, means the damaging, defacing, destruction, pulling down or removal of that building or work in whole or in part.

environmental heritage means those buildings, works, relics or places of historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance for the State or the land to which this plan applies.

item of the environmental heritage means a building, work, relic, tree or place described in Schedule 5 and shown tinted orange on the map.

relic means any deposit, object or material evidence relating to the settlement, including Aboriginal habitation, prior to 1 January 1900, or such other date as may be determined by the council, of the land to which this plan applies.

renovation, in relation to a building or work, means:

- (a) the making of structural changes to the inside or outside of the building or work, or
- (b) the making of non-structural changes to the fabric or appearance of the outside of the building or work, including changes that involve the repair or the painting, plastering or rendering or other decoration of the outside of the building or work.

26 Items of environmental heritage

- (1) A person shall not, in respect of a building, work, relic or place that is an item of the environmental heritage:
 - (a) demolish or renovate that building, work, relic or place,
 - (b) damage or despoil that building, work, relic or place or any part of that building, work, relic or place,
 - (c) excavate any land for the purpose of exposing or removing that relic, or
 - (d) carry out any development in relation to land on which that building, work, relic or place is situated or the land which comprises that place,except with the consent of the council.
- (2) The council shall not grant a consent referred to in subclause (1) in respect of an item of the environmental heritage unless it has made an assessment of:
 - (a) the significance of the item as an item of the environmental heritage,
 - (b) the effect that development in accordance with the consent would have upon the historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the item and its site,
 - (c) whether any stylistic or horticultural features of the item or its site should be

retained,

- (d) whether the item constitutes a danger to the users or occupiers of that item or to the public,
- (e) the pitch and form of the roof,
- (f) the style, size, proportion and position of the openings for windows and doors,
- (g) whether the colour, texture, style, size and type of finish of the materials to be used on the exterior of the building are similar to the material used in the existing buildings and other buildings in its vicinity,
- (h) whether financial hardship to any person having a financial interest in the item would be caused by a refusal of consent, and
- (i) whether an item would be rendered incapable of reasonable or economic use by a refusal of consent.

27 Advertising of applications to demolish

Where an application is made for consent to demolish an item of the environmental heritage, the provisions of sections 84, 85, 86, 87 (1) and 90 of the Act shall apply to and in respect of that development in the same way as those provisions apply to and in respect of designated development.

28 Development in the vicinity of an item of the environmental heritage

The consent authority shall not consent to the carrying out of development in the vicinity of an item of the environmental heritage unless it has made an assessment of the effect which the carrying out of that development would have on the historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the item of the environmental heritage and its site.

29 Development incentive

The council, when considering an application to erect a building on an allotment of land upon which there is erected a building which is an item of the environmental heritage, may exclude from its calculations of the gross floor area of the buildings erected on the allotment the gross floor area of the item of the environmental heritage:

- (a) for the purposes of determining the floor space ratio, and
- (b) for the purposes of determining the number of parking spaces to be provided on the site,

if, but only if, in the opinion of the council, that action would achieve the purpose of conservation and enhancement of the item of the environmental heritage.

30 Additional land uses

An item of the environmental heritage may, with the approval of the council, be used for any purpose referred to in Schedule 6, in addition, to any other purpose permitted by this plan.

31 (Repealed)

32 Restricted vehicular access from Albert Avenue

- (1) Except as provided by subclause (2), the consent authority shall not consent to a development application which provides for general vehicular access from Albert Avenue to parking areas where, in the opinion of the consent authority, vehicular access is available from another street.
- (2) The consent authority may consent to a development application which provides for vehicular access from Albert Avenue for service vehicles only.

33 Consultation—certain development

- (1) This clause applies to an application for consent to carry out development:
 - (a) for the purpose of a hotel, motel or licensed club on land having frontage to the Pacific Highway, Archer Street or Victoria Avenue, each of Archer Street,
 - (b) for a purpose specified in Schedule 9, or
 - (c) for the purpose of a bus/rail interchange on land within Zone No 5 (a) marked in black on the map as “Bus/Rail Interchange”.
- (2) Upon receipt of an application to which this clause applies, the consent authority shall forthwith forward particulars of the application to:
 - (a) in the case of an application referred to in subclause (1) (a) and (b)—the Traffic Authority, and
 - (b) in the case of an application referred to in subclause (1) (c)—the Traffic Authority and the Urban Transit Authority.
- (3) The consent authority shall not determine an application to which this clause applies before the expiration of 21 days from the date on which the application was forwarded to the Traffic Authority or the Urban Transit Authority, as the case may be.

34 Provision of car parking

- (1) This clause applies to land within Zone 3 (c2) (other than 20 and 22 Thomas Street), as shown edged heavy black on Sheet 2 of the map marked “*Willoughby Local Environmental Plan 1995 (Amendment No 65)*”.
- (2) The consent authority must not consent to development on land to which this clause

applies unless the consent authority is satisfied that a car parking station will be provided on or under the land, comprising not less than 200 car parking spaces in addition to any car parking required by the consent authority to serve the needs of any development on the land.

34A Provision of enclosure structure for North Shore Railway

- (1) This clause applies to land bounded by O'Brien, Railway and Help Streets and by Cambridge Lane, Chatswood, being the land shown edged heavy black on Sheet 1 of the map marked "*Willoughby Local Environmental Plan No 76*".
- (2) If the State Rail Authority has notified the consent authority that it requires a railway enclosure structure over the North Shore railway line on land to which this clause applies, the consent authority must not consent to development for the purpose of commercial premises or residential flat buildings on that land unless the development incorporates such an enclosure structure to the satisfaction of the State Rail Authority.
- (3) (Repealed)

35 Development in Zone No 6 (a) or 9 (b)

The council shall not consent to the carrying out of development on land within Zone No 6 (a) or 9 (b), being land owned or controlled by the council, unless consideration has been given to:

- (a) the need for the proposed development on that land,
- (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.

36 Development of certain land fronting Railway Street

Nothing in this plan prevents a person, with the consent of the council, from carrying out development on the land shown edged heavy black on Sheet 1 of the map marked "*Willoughby Local Environmental Plan No 28*" for the purposes of a car parking station.

36A Amusement centres

- (1) In this clause:

amusement centre means a building or place containing one or more pool tables or three or more amusement devices used or intended to be used by the public for the playing of pool, billiards and like games, or for the playing of amusement devices, whether or not the building or place is also used for some other purpose. Notwithstanding this clause registered clubs, hotels, or taverns are not deemed to be amusement centres.

amusement device means a machine or device, whether manually, mechanically or electronically powered, operated by one or more players for the purpose of amusement or recreation, whether requiring the insertion of a coin or not, which is capable of being manipulated or controlled by players.

- (2) Development for the purpose of an amusement centre is prohibited on land to which this plan applies if the centre, being located at ground level, would have direct access to a street, lane, pedestrian mall or other public place.
- (3) A person may, with the consent of Council, carry out development for the purposes of an amusement centre on the following land if the amusement centre is situated within a retail centre, entertainment complex or other complex which provides management, supervision and security to the amusement centre:

Land known as No 61A-65 Albert Avenue and No 27 Victor Street, Chatswood, Lot 1 in DP 840008, as shown edged heavy black on the map marked "*Willoughby Local Environmental Plan No 79*".

36B Brothels

- (1) In this clause, **brothel** means premises used habitually for the purposes of prostitution, that is, the engaging in a sexual activity by persons for payment. Premises may constitute a brothel even though used by only one prostitute for the purposes of prostitution.
- (2) When assessing an application for consent to the use of premises for the purpose of a brothel, the Council must consider the following:
 - (a) the distance between the premises and any place of worship, school, community facility, hospital or medical centre or any place in the vicinity of the premises regularly frequented by children for any reason,
 - (b) whether the operation of the brothel could cause a disturbance in the neighbourhood, taking into account the location of any other brothels operating in the neighbourhood,
 - (c) whether sufficient off-street parking will be provided,
 - (d) whether the brothel will be accessed by a separate entrance,
 - (e) whether the operation of the brothel would interfere with the amenity of the neighbourhood because of its size, operating hours, traffic generation, lighting or noise or the number of its employees and clients,
 - (f) whether the operations of the brothel will utilise circulation areas common to any other use of the premises.
- (3) Development for the purpose of a brothel is prohibited on land to which this plan

applies if the brothel is located at ground level within a business zone.

- (4) Development for the purpose of a brothel is prohibited on land to which this plan applies in any part of premises within a business zone if that part is used for residential purposes.
- (5) Development for the purpose of a brothel is prohibited on land to which this plan applies if the premises on which the development is to be carried out are less than 100 metres from any other premises to which consent has been granted to the use of the premises for the purpose of a brothel.
- (6) The distance between premises referred to in subclause (5) is to be measured as the shortest distance between the premises that the development is to be carried out on and the premises to which consent has been granted to the use of the premises for the purpose of a brothel.

37 Suspension of covenants etc

- (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 in relation to development carried out in accordance with this plan, any agreement, covenant or instrument imposing restrictions as to the erection or use of buildings for certain purposes or as to the use of land for certain purposes, to the extent necessary to serve that purpose, shall not apply to the development.
- (2) Pursuant to section 28 of the Act, before the making of this clause the Governor approved of subclause (1).

38 Savings and transitional provisions

Schedule 10 has effect.

39 Classification and reclassification of public land

- (1) The object of this clause is to enable the council, by means of this Plan, to classify or reclassify public land as “operational land” or “community land” in accordance with Part 2 of Chapter 6 of the *Local Government Act 1993*.

Note—

Under the *Local Government Act 1993*, “public land” is generally land vested in or under the control of a council (other than roads, Crown reserves and commons). The classification or reclassification of public land may also be made by a resolution of the Council under section 31, 32 or 33 of the *Local Government Act 1993*. Section 30 of that Act enables this Plan to discharge trusts on which public reserves are held if the land is reclassified under this Plan as operational land.

- (2) The public land described in Part 1 or Part 2 of Schedule 11 is classified, or reclassified, as operational land for the purposes of the *Local Government Act 1993*.
- (3) The public land described in Part 3 of Schedule 11 is classified, or reclassified, as

community land for the purposes of the *Local Government Act 1993*.

- (4) The public land described in Part 1 of Schedule 11:
 - (a) does not cease to be a public reserve to the extent (if any) that it is a public reserve, and
 - (b) continues to be affected by any trusts, estates, interests, dedications, conditions, restrictions or covenants that affected the land before its classification, or reclassification, as operational land.
- (5) The public land described in Part 2 of Schedule 11, to the extent (if any) that it is a public reserve ceases to be a public reserve on the commencement of the relevant classification Plan and, by the operation of that Plan, is discharged from all trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land, except:
 - (a) those (if any) specified for the land in Column 3 of Part 2 of Schedule 11, and
 - (b) any reservations that except land out of the Crown grant relating to the land, and
 - (c) reservations of minerals (within the meaning of the *Crown Lands Act 1989*).
- (6) In this clause, the **relevant classification Plan**, in relation to land described in Part 2 of Schedule 11, means this Plan or, if the description of the land is inserted into that Part by another environmental planning instrument, that instrument.
- (7) Before the relevant classification Plan inserted a description of land into Part 2 of Schedule 11, the Governor approved of subclause (5) applying to the land.

Schedule 1

(Clauses 7 and 8)

Bakery
Beauty salons
Boot and shoe repairing
Dressmaking
Dry cleaning and dyeing agencies
Hairdressing salons
Home industries
Maintenance and repair of electrical appliances and fittings
Photographic studios
Refreshment rooms
Self-service coin-operated laundries
Tailoring

Schedule 2

(Clause 7)

Places of assembly
Professional consulting rooms
Public buildings

Schedule 3

(Clauses 7, 8 and 10)

Bakery
Chemist's shop
Confectionery shop and milk bar
Delicatessen
Fish and chip shop
Fruit and vegetable shop
Grocery and health food shop
Newsagent's shop
Stationery shop (books and newspapers)
Sandwich shop
Take-away food (other than drive-in)
Tobacconist

Schedule 4

(Clause 23)

- 1 Open space acquisition and associated road drainage works
- 2 The embellishment of open space including closed roads
- 3 The construction and improvement of roads
- 4 The provision of parking facilities
- 5 Community, civic and recreational facilities
- 6 Traffic management facilities

Schedule 5

(Clause 25)

Former Fire Station, 767 Pacific Highway
Funeral Chapel, 783 Pacific Highway
Hotel Chatswood, corner Victoria Avenue and Orchard Road
Our Lady of Dolours Catholic Church and Rectory, Archer Street

Second Church of Christ Scientist Buildings, cnr Albert Avenue and Victor Street

House, 64 Albert Avenue

The *Angophora Costata* tree located on Lot 10, DP 1535, near the northwestern corner of Bertram Street and Albert Avenue, Chatswood, as shown tinted orange on Sheet 3 of the map marked “Willoughby Local Environmental Plan 2000—(Police Station)—No 1”.

Schedule 6

(Clause 30)

Art galleries
Museums
Photographic studios
Professional chambers

Schedule 7

(Clauses 7 and 11)

Arts and crafts facilities and hobby centres
Art galleries and museums
Child care facilities
Cinemas
Facilities for musical organizations
Fitness centres
Gymnasiums and other related sports facilities
Meeting rooms and other multi-purpose halls for use or hire
Multi-purpose youth centres including drop-in centres
Offices for health and welfare workers and self-help groups
Public conveniences
Public information and resource centres
Public swimming pools
Skating rinks
Squash courts
Tennis courts
Theatres, performances and exhibition spaces
Youth centres (such as voluntary coffee lounges)

Schedule 8 Development for certain additional purposes

(Clauses 11, 24 and 34)

1 Day Street, Chatswood—service station.

Land within Zone No 5 (a)—Special Uses—Bus/Rail Interchange—car parking, club premises, commercial premises, community facilities, convention centres, hotel/motel, public buildings, refreshment rooms, residential flats, shops and theatres.

Land within Zone No 5 (a)—Special Uses—Municipal Purpose—Housing for Aged or Disabled Persons.

Land bounded by McIntosh Street, Railway Street, Day Street and Pacific Highway, Chatswood—car parking station.

Land shown edged heavy black on the map marked “*Willoughby Local Environmental Plan No 30*”—club, being a building used by persons associated or by a body incorporated for social, literary, political, sporting, athletic, or other lawful purposes whether of the same or a different kind and whether or not the whole or part of such building is the premises of a club registered under the [Registered Clubs Act 1976](#).

Land within Zone 5 (a) (Special Uses “A” Zone)—Civic Place, as shown edged heavy black on Sheet 2 of the map marked “*Willoughby Local Environmental Plan 1995 (Amendment No 65)*”—advertisements, advertising structures, car parking stations, commercial premises, community facilities, drainage, educational establishments, hotels, library, purposes referred to in Schedules 1, 2 or 7, recreation areas, roads, serviced apartments, shops, taverns, utility installations.

Land shown edged heavy black on Sheet 1 of the map marked “*Willoughby Local Environmental Plan 2000—(Police Station)—No 1*”—police station, courthouse, subdivision.

Schedule 9

(Clause 33)

Automotive business

Commercial or retail development having a gross floor area of more than 5 000 square metres

Transport terminal

Schedule 10 Savings and transitional provisions

(Clause 38)

1 Savings relating to Willoughby Local Environmental Plan 1999 (Chatswood Town Centre)—No 1

- (1) The provisions of this plan as in force immediately before the commencement of *Willoughby Local Environmental Plan 1999 (Chatswood Town Centre)—No 1* continue to apply to a development application if:
 - (a) the application was made before 1 June 1999 but not finally determined before the commencement of that plan, and
 - (b) the development that is the subject of the application is prohibited by other provisions of this plan but could, with development consent, have been carried out in accordance with this plan as in force immediately before that commencement.
- (2) Despite subclause (1), the provisions of this plan as in force immediately before the commencement of *Willoughby Local Environmental Plan 1999 (Chatswood Town Centre)—No 1* apply to a development application made before 31 December 1999 by or for Chatswood RSL Club Limited covering land owned by that Club in Victoria Avenue west of the railway line.

Schedule 11 Classification and reclassification of public land

(Clause 39)

Part 1 Land classified, or reclassified, as operational land—no interests changed

Part 2 Land classified, or reclassified, as operational land—interests changed

Column 1	Column 2	Column 3
Locality	Description	Any trusts etc not discharged
	land within Zone 5 (a) (Special Uses "A" Zone)—Civic Place shown edged heavy black on Sheet 3 of the map marked " <i>Willoughby Local Environmental Plan 1995 (Amendment No 65)</i> "	

Part 3 Land classified, or reclassified, as community land

Column 1	Column 2
Locality	Description