

Shellharbour - Part 2 Deferred lands - 12 properties in Albion Park, Croom, and Dunmore

Proposal Title : **Shellharbour - Part 2 Deferred lands - 12 properties in Albion Park, Croom, and Dunmore**

Proposal Summary : **This proposal:**

- identifies zones and controls for 12 properties that were deferred from the Shellharbour LEP 2013;
- introduces a clause that specifies the maximum number of lots, and location of dwellings, on certain lots in Albion Park containing both E4 Environmental Living and E3 Environmental Management zoned land;
- adds 2 local heritage items to Schedule 5;
- identifies 2 properties as Mineral Resource Transition Area; and
- removes Mineral Resource Transition Area (formerly referred to as Quarry Buffer) hatching from 4 properties.

PP Number : **PP_2013_SHELL_003_00**

Dop File No : **13/10750**

Proposal Details

Date Planning Proposal Received :	26-Jun-2013	LGA covered :	Shellharbour
Region :	Southern	RPA :	Shellharbour City Council
State Electorate :	SHELLHARBOUR	Section of the Act :	55 - Planning Proposal
LEP Type :	Precinct		

Location Details

Street :	Crest Road		
Suburb :	Albion Park	City :	Shellharbour
Land Parcel :	Lot 101 DP 785139		Postcode : 2527
Street :	Pleasant View Close		
Suburb :	Albion Park	City :	Shellharbour
Land Parcel :	Lot 252 DP 1047669		Postcode : 2527
Street :	Access off Crest Road		
Suburb :	Albion Park	City :	Shellharbour
Land Parcel :	Lot 220 DP 1123859		Postcode : 2527
Street :	Esperance Drive		
Suburb :	Albion Park	City :	Shellharbour
Land Parcel :	Lot 153 DP 1089661		Postcode : 2527
Street :	Jamberoo Road		
Suburb :	Albion Park	City :	Shellharbour
Land Parcel :	Lot 4250 DP 1057886; and Lot 22 DP 1004173		Postcode : 2527

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Street :	Ulan Place		
Suburb :	Albion Park	City :	Shellharbour
		Postcode :	2527
Land Parcel :	Lot 4300 DP 1058963		
Street :	James Road		
Suburb :	Croom	City :	Shellharbour
		Postcode :	2527
Land Parcel :	Lot 50 DP 1013688; Lot 301 DP 1092270; and Lot 71 DP 837462		
Street :	7		
Suburb :	Buckleys Road	City :	Croom
		Postcode :	2527
Land Parcel :	Lot 20 DP 1035074		
Street :	21		
Suburb :	Dunmore Road	City :	Dunmore
		Postcode :	2529
Land Parcel :	Lot 102 DP 566417		

DoP Planning Officer Contact Details

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RPA Contact Details

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DoP Project Manager Contact Details

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Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Illawarra Regional Strategy	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	
No. of Lots :	170	No. of Dwellings (where relevant) :	170
Gross Floor Area :	0	No of Jobs Created :	0
The NSW Government Lobbyists Code of Conduct has been complied with :	Yes		
If No, comment :			

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting Notes :

The exhibited Shellharbour LEP 2013 identified zones and planning controls for land that was subject to the Urban Fringe Local Environmental Study (LES). Council received many submissions from landowners in the urban fringe area arguing that the proposed development yields were too low. Following exhibition, Council resolved to defer Urban Fringe land to allow additional consideration of appropriate zones, controls, and development yields.

PP_2013_SHELL_001_00 was issued a Gateway Determination on 27 June 2013 and introduces zones and controls for 105 of the deferred properties deemed to have little or no additional development potential.

This current Planning Proposal proposes zones and controls for another 12 deferred properties, most of which have been identified as having some additional development potential.

The remaining deferred areas are still being investigated and will be subject to a future planning proposal/s.

External Supporting Notes :

Adequacy Assessment**Statement of the objectives - s55(2)(a)**

Is a statement of the objectives provided? **Yes**

Comment :

Council has provided a statement of objectives, however, it does not address all the intended outcomes of the Planning Proposal (PP).

It is recommended that, if the PP is supported, the Gateway Determination require an amendment to Part 1 - Objectives or intended outcomes of the PP to advise that:

- the proposal will add 2 local items to the Heritage schedule;
- the proposal will update Mineral Resource mapping for 6 properties (2 additions and 4 deletions) to implement work undertaken by NSW Trade and Investment - Mineral Resources and Energy.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment :

The explanation of provisions adequately identifies the LEP changes that will result from the PP. However, the proposed clause that limits development yield on certain lots is generally not supported. The outcome is supported but other mechanisms should be considered including the Lot Size Map and application of lot averaging.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.2 Rural Zones

1.3 Mining, Petroleum Production and Extractive Industries

1.5 Rural Lands

2.1 Environment Protection Zones

3.1 Residential Zones

3.2 Caravan Parks and Manufactured Home Estates

3.4 Integrating Land Use and Transport

4.3 Flood Prone Land

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified? **SEPP (Rural Lands) 2008**

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain : **Section 117 Directions**

Council has identified applicable Section 117 Directions and has noted that there are minor or justified inconsistencies with the following directions:

1.2 Rural Zones

The Planning Proposal rezones approximately 13ha of rural zoned land to R2 Low Density Residential. It also increases the potential density of development on rural zoned land by permitting the subdivision and construction of dwelling houses in some areas.

These parcels adjoin existing residential areas and the rezonings are justified through the Urban Fringe Local Environmental Study (LES).

The Director General can be satisfied that the inconsistency is justified by a study and/or is of minor significance.

1.3 Mining, Petroleum Production and Extractive Industries.

Council has indicated that the proposal may be inconsistent with this Direction, however, this Direction only applies when a Planning Proposal will prohibit mining or extraction or will allow land uses that are potentially incompatible with mining or extraction.

This Proposal does not prohibit or restrict mining or extraction activities and, therefore, the Direction does not apply.

1.5 Rural Lands

This proposal will change the existing minimum lot size for some rural and environmental zoned land. This land adjoins existing residential areas and the proposed lot sizes are justified through the LES.

The Director General can be satisfied that the inconsistency is of minor significance and/or justified by a study.

2.1 Environment Protection Zones

The proposal will affect environmental protection standards by reducing the minimum lot size required for a dwelling on some environmental zoned land. These changes are supported by the LES and are considered to be of minor significance.

The Director General can be satisfied that the inconsistency is justified by a study and/or is of minor significance.

3.1 Residential Zones

The Proposal does rezone a very small area of residential land to E4 Environmental Living to provide a logical and regular zone boundary. The rezoning is justified in the LES. Overall, the Planning Proposal provides a net increase in residential land.

The Director General can be satisfied that the inconsistency is justified by a study and/or

is of minor significance.

3.2 Caravan Parks and Manufactured Home Estates

While Caravan Parks are not permitted on land subject to this Proposal, the Shellharbour LEP does permit Caravan Parks on land within the LGA.

The Director General's approval is not required in relation to this Direction.

3.4 Integrating Land Use and Transport

Council has identified that the Planning Proposal is inconsistent with this Direction as it rezones a small amount of land from rural to residential zone.

To be consistent with this Direction, a Planning Proposal must include provisions that give effect to and are consistent with the aims, objectives and principles of "Improving Transport Choice - Guidelines for Planning and Development", and "The Right Place for Business and Services - Planning Policy".

The changes have been justified by the LES.

The Director General's approval is not required in relation to this Direction.

4.3 Flood Prone Land

Council has indicated that land to be zoned residential is located on a plateau and therefore is unlikely to be flood affected.

The Director General's approval is not required in relation to this Direction.

6.3 Site Specific Provisions

This Direction applies when a proposal will allow a particular development to be carried out.

The proposal includes a clause that will impose specific requirements for the location of dwellings on split zoned land. Dwellings are already permitted on the relevant properties so it could be argued that the Direction does not apply, however, it does set specific requirements for the permitted use.

Council has indicated that it has been unable to identify a satisfactory alternative to achieve the desired outcome (i.e. minimising the environmental and visual impacts of future dwellings on the identified lots).

The outcome is supported and, therefore, it is considered appropriate for the Planning Proposal to proceed to exhibition. Throughout the LEP process, further consideration should be given to alternate methods of achieving the same outcome.

The Director General may be satisfied that any potential inconsistency with this Direction is of minor significance.

2.3 Heritage Conservation also applies and the proposal is consistent with this Direction.

RECOMMENDATION

In summary, it is recommended that the Director General can be satisfied that any inconsistencies with the following s117 Directions are justified by a study and/or are of minor significance:

1.2 Rural Zones

1.5 Rural Lands

2.1 Environment Protection Zones

3.1 Residential Zones

6.3 Site Specific Provisions

State Environmental Planning Policies (SEPPs)

The Planning Proposal is not inconsistent with relevant SEPPs.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : Council has provided maps that adequately identify the zones and controls that will apply to the subject properties.

However, Council has advised that, through an oversight, it neglected to apply FSR controls and appropriate height controls to Lot 102 DP 566417 (21) Dunmore Road, Dunmore and has asked that the Gateway Determination include a requirement to apply an FSR of 0.5:1 and a maximum building height of 6 metres to this property before exhibition.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Council has proposed an exhibition period of 28 days. This is considered appropriate given the history and previous level of consultation in preparation of the LES and for the Principal LEP.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment : As noted previously, Part 1 of the Planning Proposal should be amended to refer to the Mineral Resources Transition Area mapping and to the proposed addition of 2 local heritage items.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : The Shellharbour LEP 2013 was notified in April 2013.

Assessment Criteria

Need for planning proposal : A Planning Proposal is necessary to bring the deferred lands into the Shellharbour LEP 2013.

Consistency with strategic planning framework : The Proposal is not inconsistent with the Illawarra Regional Strategy (IRS).

The IRS, at page 22, notes that Council is investigating urban fringe lands at Dunmore and Albion Park to determine appropriate land uses and zonings, taking into account its urban, biodiversity and natural resource values.

The proposal generally implements the outcomes of the Urban Fringe Local Environmental Study. In some cases, development yields have been amended following consideration of submissions, and Councillor site inspections.

Environmental social
economic impacts :

There is an endangered ecological community on Lot 101 DP 785139 Crest Road Albion Park. Council and the landowner are investigating options (such as biobanking) to address potential impacts. Council has recommended that the PP be referred to the Office of Environment and Heritage.

In relation to the remaining 11 properties, the proposal is unlikely to have significant environmental impacts.

For some of the properties, the proposal identifies yields that are significantly less than those requested by landowners. It is likely that some landowners will object to the proposal. These differences are primarily based on perceived visual impacts.

The proposal does not raise issues of State or regional significance and it is considered appropriate that, on this basis, the proposal proceed to exhibition. This will enable landowners, and the wider community, to express their views. All submissions will need to be considered and addressed by the Council.

A Pre Gateway Review has been received in relation to 2 of the 12 subject properties - Lot 4300 DP 1058963 Ulan Place, Albion Park, and Lot 4250 DP 1057886 Jamberoo Road, Albion Park. The review has been lodged on the basis that Council did not indicate its support within 90 days of the proponent submitting a request. The landowner considers that the subdivision potential for the 2 properties is much greater than that identified by the Council in its Planning Proposal. This Pre Gateway Review application will be considered and, depending upon the outcome, it may be appropriate or necessary to update this Planning Proposal to reflect the findings of the Review.

Assessment Process

Proposal type : **Consistent** Community Consultation Period : **28 Days**

Timeframe to make LEP : **12 months** Delegation : **DDG**

Public Authority Consultation - 56(2)(d) : **Office of Environment and Heritage
NSW Department of Primary Industries - Agriculture
Department of Trade and Investment**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

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Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Cover letter to DoPI PP No 5.pdf	Proposal Covering Letter	Yes
Planning Proposal v1.pdf	Proposal	Yes
Planning Controls Table v2.pdf	Proposal	Yes
Draft Clause lot_DP.pdf	Proposal	Yes
6900_COM_SIM_014_010_20130619.pdf	Map	Yes
6900_COM_SIM_015_010_20130619.pdf	Map	Yes
6900_COM_SIM_019_010_20130619.pdf	Map	Yes
6900_COM_SIM_024_010_20130619.pdf	Map	Yes
6900_COM_SIM_025_010_20130619.pdf	Map	Yes
Council resolution and report 30 April 2013.pdf	Proposal	No
LEP 2000 Sheet 1.pdf	Map	Yes
LEP 2000 Sheet 2.pdf	Map	Yes
RLEP 2004 HCA Sheet 1.pdf	Map	Yes
RLEP 2004 Sheet 1.pdf	Map	Yes
RLEP 2004 Sheet 2.pdf	Map	Yes
6900_COM_ASS_025_010_20130619.pdf	Map	Yes
6900_COM_BIO_014_010_20130619.pdf	Map	Yes
6900_COM_BIO_015_010_20130619.pdf	Map	Yes
6900_COM_BIO_019_010_20130619.pdf	Map	Yes
6900_COM_FSR_014_010_20130619.pdf	Map	Yes
6900_COM_FSR_019_010_20130619.pdf	Map	Yes
6900_COM_HER_024_010_20130619.pdf	Map	Yes
6900_COM_HER_025_010_20130619.pdf	Map	Yes
6900_COM_HOB_014_010_20130619.pdf	Map	Yes
6900_COM_HOB_015_010_20130619.pdf	Map	Yes
6900_COM_HOB_019_010_20130619.pdf	Map	Yes
6900_COM_HOB_024_010_20130619.pdf	Map	Yes
6900_COM_HOB_025_010_20130619.pdf	Map	Yes
6900_COM_LSZ_014_010_20130619.pdf	Map	Yes
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6900_COM_LZN_019_010_20130619.pdf	Map	Yes
6900_COM_LZN_024_010_20130619.pdf	Map	Yes
6900_COM_LZN_025_010_20130619.pdf	Map	Yes
6900_COM_SER_025_010_20130619.pdf	Map	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.2 Rural Zones
- 1.3 Mining, Petroleum Production and Extractive Industries
- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 3.1 Residential Zones
- 3.2 Caravan Parks and Manufactured Home Estates
- 3.4 Integrating Land Use and Transport
- 4.3 Flood Prone Land

Additional Information : **The Deputy Director General, Planning Operations and Regional Delivery, as delegate of**

the Minister for Planning and Infrastructure, determine under section 56(2) of the EP&A Act that an amendment to the Shellharbour Local Environmental Plan 2013 to introduce zones and controls for 12 properties deferred from Shellharbour LEP 2013 (LEP); introduce Mineral Resource Transition Areas and identify 2 items of local heritage significance should proceed subject to the following conditions:

1. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:

- (a) the planning proposal is to be made publicly available for 28 days; and
- (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing local environmental plans (Department of Planning and Infrastructure 2013).

2. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:

- *Office of Environment and Heritage
- *NSW Department of Primary Industries - Agriculture
- *NSW Trade & Investment - Resources and Energy Division

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that it will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

3. No public hearing is required to be held into the matter under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example in response to a submission or if reclassifying land).

4. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

5. Part 1 - Objectives or intended outcomes of the Planning Proposal should be amended to advise that the proposal will add 2 local items to the Heritage schedule, and will update Mineral Resource mapping for 6 properties (2 additions and 4 deletions) to implement work undertaken by NSW Trade and Investment - Mineral Resources and Energy;

6. That an FSR of 0.5:1 and a maximum height of buildings of 6 metres be applied to Lot 102 DP 566417 (21) Dunmore Road, Dunmore consistent with the FSR and height controls of adjoining properties;

7. A copy of the revised planning proposal should be forwarded to the Regional Director of the Southern Region for uploading on the LEP Tracking System;

8. The outcome sought by the proposed 'Maximum number of allotments and dwelling houses for certain split zoned land' clause is supported and it is therefore considered appropriate to exhibit the planning proposal. However, Council is encouraged to consider alternate mechanisms for achieving this desired outcome including use of the Lot Size Map or application of a lot averaging clause.

SECTION 117 DIRECTIONS

8. The Director General can be satisfied that inconsistencies with the following s117 Directions:

- 1.2 Rural Zones
- 1.5 Rural Lands

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2.1 Environmental Protection Zones
3.1 Residential Zones
6.3 Site Specific Provisions

are justified by Council's local environmental study and/or are of minor significance.

9. The Director General can be satisfied that the planning proposal is consistent with all other relevant s117 Directions or that any inconsistencies are only of minor significance.

10. Further referral under these Directions is not required for the Plan while it remains in its current form.

Supporting Reasons : The Planning Proposal will apply Standard Instrument zones and controls to land deferred from the Shellharbour LEP 2013.

Signature:



Printed Name:

MARK PARKER
Local Planning Manager

Date:

26th July 2013