

REVISED
Planning Proposal

*Additional Permitted Use and Land Reclassification
on Certain Land within Public Ownership
Lot 1 DP 211127 (No.115 Junction Road)
and Part of Lot 5 DP 218551 (Junction Road), Shellharbour*

Prepared for Shellharbour City Council
(Property and Recreation Department)

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1 Executive Summary

This Planning Proposal addresses the inclusion of an Additional Permitted Use and proposes the Reclassification of certain land from 'Community land' to 'Operational Land' within the ownership of Shellharbour City Council, identified as being a site currently leased by the Shellharbour Surf Life Saving Club and comprises two separate buildings, one utilised as the Surf Life Saving Club and one formerly identified as the 'Seaspray Function Centre' and an existing car parking area to the north of the subject building. The SLS Club currently occupies and leases both buildings located at No.115 Junction Road, Shellharbour, formally described as Lot 1 DP 211127. The car park area is located directly to the north of Lot 1 and is utilised by the Club, as well as being available for the general public and is located on Part of Lot 5 DP 218551 (Shellharbour Road), Shellharbour. The Additional Permitted Use and Land Reclassification will allow for the subject lands to be used as a 'function centre', with the SSLSC intending to use the one of the existing buildings (building to the north) on the site and utilising the car parking area adjoining.

This Planning Proposal has been prepared on behalf of the Property and Recreation Department of Shellharbour City Council, being the landowner of the subject lands affected by this Planning Proposal.

The subject lands have a long history of use by the Shellharbour Branch of the Surf Lifesaving Club of Australia (SLSC) who have held a long term lease over Lot 1, which contains two separate buildings used for club house purposes by the SLSC, since 1962. The terms of the lease relate to the operations of a clubhouse for members of the association. This lease commenced on 1 July 1962 for a term of 99 years at a yearly rental of one Pound. A recent report to Council considered the granting of a new lease conditioned in such a way that Council's risk exposure be properly minimised, and also to reflect the needs of the Surf Life Saving Club. Council has now commenced the process to enter into a new lease agreement for the balance of the 99 year term, being 21 years, with a view to varying the lease to 30 years upon approval from the Minister for Local Government. The contract would be with Shellharbour Surf Life Saving Club Incorporated (Club) at an annual rental of \$1. Further details are provided in the reports to Council which is discussed in this Proposal and is provided as **Appendix 1** in association with the application.

The subject building located on the northern portion of Lot 1 was formerly used by the Surf Life Saving Club for the purposes of the 'Seaspray Function Centre'. However, the development consent specified that the use of the building for functions after 6pm was reliant on this use being conducted for, or on behalf of, surf club members. The Shellharbour Surf Life Saving Club seeks formal approval to use the northern building on the subject site as a 'function centre', without this limitation. 'Function centres' are currently prohibited under Shellharbour LEP 2013. The proposed Additional Permitted Use and Reclassification of Lot 1 and part of Lot 5 containing the car parking area, will enable the land to be lawfully used for this purpose and will enable Council to enter into a long term lease of the buildings. A Planning Proposal was lodged in December 2016 for the Additional Permitted Use only of the northern building, however, subsequent discussions with Shellharbour Council's City Strategy Department has led to the lodgement of this revised Planning Proposal which proposes to include the whole of Lot 1 as well as the adjacent car parking area as part of the proposal, and includes the reclassification of these lands from 'Community to Operational' as described and discussed in this Planning Proposal. This is considered a better planning outcome, given both buildings will continue to be under lease by the SLSC and the parking area can be utilised for the purposes of the proposed function centre.

Should the Planning Proposal be supported, it is intended that the Shellharbour Surf Life Saving Club will then be in a position to lodge a development application (with approval by Shellharbour Council as the landowner) for the purposes of a 'function centre' and with associated formalised car parking to the north.

It is considered that the Proposal is consistent with the original intentions of Shellharbour City Council in relation to the subject site as a whole and will enable the Shellharbour Surf Life Saving Club to operate effectively, legally and safely with respect to access and use of the site. The Proposal will provide a transparent opportunity for community input into the process. The proposed additional permitted use and reclassification of land will have minimal impact on the total amount of available community land provided in this location as discussed in this proposal. Accordingly the progression of this Planning Proposal by Shellharbour City Council's City Strategy Department and Shellharbour City Council is sought.

In addition, there are two existing Plans of Management which apply to the subject 'Community Lands' affected by this Planning Proposal. The PoM for Lot 1 DP 211127 will no longer be required by Council once the land is reclassified (not required for Community Land) and the PoM which covers the whole of Lot 5 DP 218551 will need to be amended to exclude the car parking area. It is suggested that Council consider the joint public exhibition and notification of the amended document in association with the consideration of this Planning Proposal. This document has been prepared in draft format for endorsement by Council and is provided and submitted in association with this Planning Proposal for Council consideration.

The Planning Proposal has been prepared in accordance with the then Department of Planning's 'A Guide to Preparing Planning Proposals' and 'A Guide to Preparing Local Environmental Plans' documents (2016) and provides:

- Part 1 - A statement of the objectives and intended outcomes of the proposed reclassification and additional permitted use of certain lands;
- Part 2 - An explanation of the provisions that are to be included in the proposed local environmental plan;
- Parts 3 and 4 - A justification for those objectives, outcomes and provisions and the process for their implementation;
- Part 5 - Details of the recommended community consultation for the planning proposal to be undertaken by Council, including public exhibition for a minimum period of 28 days in accordance with the requirements of the *Local Government Act 1993* and including the holding of a public hearing;
- Part 6 – Projected anticipated timeline for the Planning Proposal.

This report concludes that the proposed changes to the classification of land and the additional permitted use for the subject lands is considered appropriate and supportable given the Surf Life Saving Club's history of the subject lands and the impact on their future operations and the intended future use of the land.

It is therefore requested that Shellharbour City Council support the Planning Proposal and forward the proposal to the Minister, to obtain a Gateway Determination for the reclassification and additional permitted use of the land to proceed to public exhibition and consideration by the community and Council.

2 Introduction and Background

This section of the Planning Proposal provides an introduction and background statement of the subject site and the Planning Proposal.

2.1 Lands subject to this Planning Proposal

The lands subject to this Planning Proposal are located within the Shellharbour Local Government Area, in the suburb of Shellharbour and are located on the northern side of Shellharbour Village. The site is located on the eastern side of Junction Road near Beach Road and Wollongong Street. The broad location of the subject site in the context of surrounding lands within the suburb of Shellharbour is illustrated in **Figure 1**. The land subject to this Planning Proposal, being Lot 1 DP 211127 (No.115 Junction Road) and Part of Lot 5 DP 218551 (Shellharbour Road), Shellharbour is illustrated in the detailed aerial view in **Figure 2**.



Figure 1 - Aerial view showing subject lands included in this Planning Proposal in relation to the surrounding context and Shellharbour Village (Source: <https://maps.six.nsw.gov.au>)

The lands subject to this Planning Proposal comprise a total area of 6440m² according to the Survey Plan prepared by Shellharbour Council in association with this Planning Proposal (refer to **Appendix 3**). This includes

Lot 1 DP 211127 which contains two buildings currently leased by Shellharbour City Council to the Shellharbour Surf Life Saving Club and has an area of 4047m² and part of Lot 5 DP 218551 which is described as 'Beverley Whitfield Park' totalling 7.44 hectares of land, of which only approximately 2394m² comprising a large car parking area is the portion subject to this Planning Proposal.

A recent search into the history of Lot 5 DP 218551 provided by Shellharbour City Council (refer to **Appendix 4** of this Proposal) indicates that both Lot 1 DP 211127 and Lot 5 DP 218551 formed part of a site within private ownership which was acquired (for a sum) by 'The Council of the Municipality of Shellharbour' by way of Transfer on 29.08.1958 (reference Number H45538 on Certificate of Title Volume 6539 Folio 158). The advice provides that there are no special conditions noted in the Transfer. The historical search indicates the original land holding which includes the lands subject to this proposal (which originally totalled just over 31 acres – approximately 13.7ha) was originally issued to a private landowner as a Crown Grant on 9th January 1821. Former knowledge of this information had not been known by Council, although it was known that the land had been within the ownership of Shellharbour City Council for over 50 years as part of the public reserve. Further details of why Council acquired the land are not known, although it appears to have been purchased for the purposes of public reserve.

The land is classified as 'Community Land' in accordance with the *Local Government Act 1993*, is identified as 'public reserve' and is zoned RE1 Public Recreation pursuant to Shellharbour LEP 2013. The portion of the allotment which is proposed for use as a function centre, subject to this Proposal, is an existing building on the northern portion of the allotment which is currently utilised by the Shellharbour Surf Life Saving Club for clubhouse and other related purposes. Development Consent 207/1989 (as amended) endorsed the use of the existing building on the northern portion of Lot 1 comprising a hall and associated ancillary rooms for the purpose of functions, however after 6pm such functions were restricted to those conducted for, or on behalf of, a surf club member.

The separate building located on the southern portion of Lot 1, is not proposed to be used for the purposes of a function centre by the Surf Club, and is currently used for clubhouse and storage purposes only. Both buildings form part of the terms of Council's lease to the Surf Club. The Shellharbour Surf Life Saving Club also benefits from the large public car parking area located on the northern portion of the subject lands which is located on a separate allotment (being Lot 5 DP 218551) identified as 'Beverley Whitfield Park' and totals 7.44Ha. The portion of Lot 5 which contains the car parking area has been included as part of this Planning Proposal, due to the need to consider car parking as part of the consideration of allowing a 'function centre' on the subject lands, as requested by Council's City Strategy Department.

The total area of land included in this Planning Proposal for reclassification of land and an additional permitted land use totals 6441m² as provided in the Survey Plan prepared by Shellharbour Council (refer to **Appendix 3**) and as illustrated in **Figure 2**, with pictures provided of the site and surrounds in **Figures 3 to 8**.

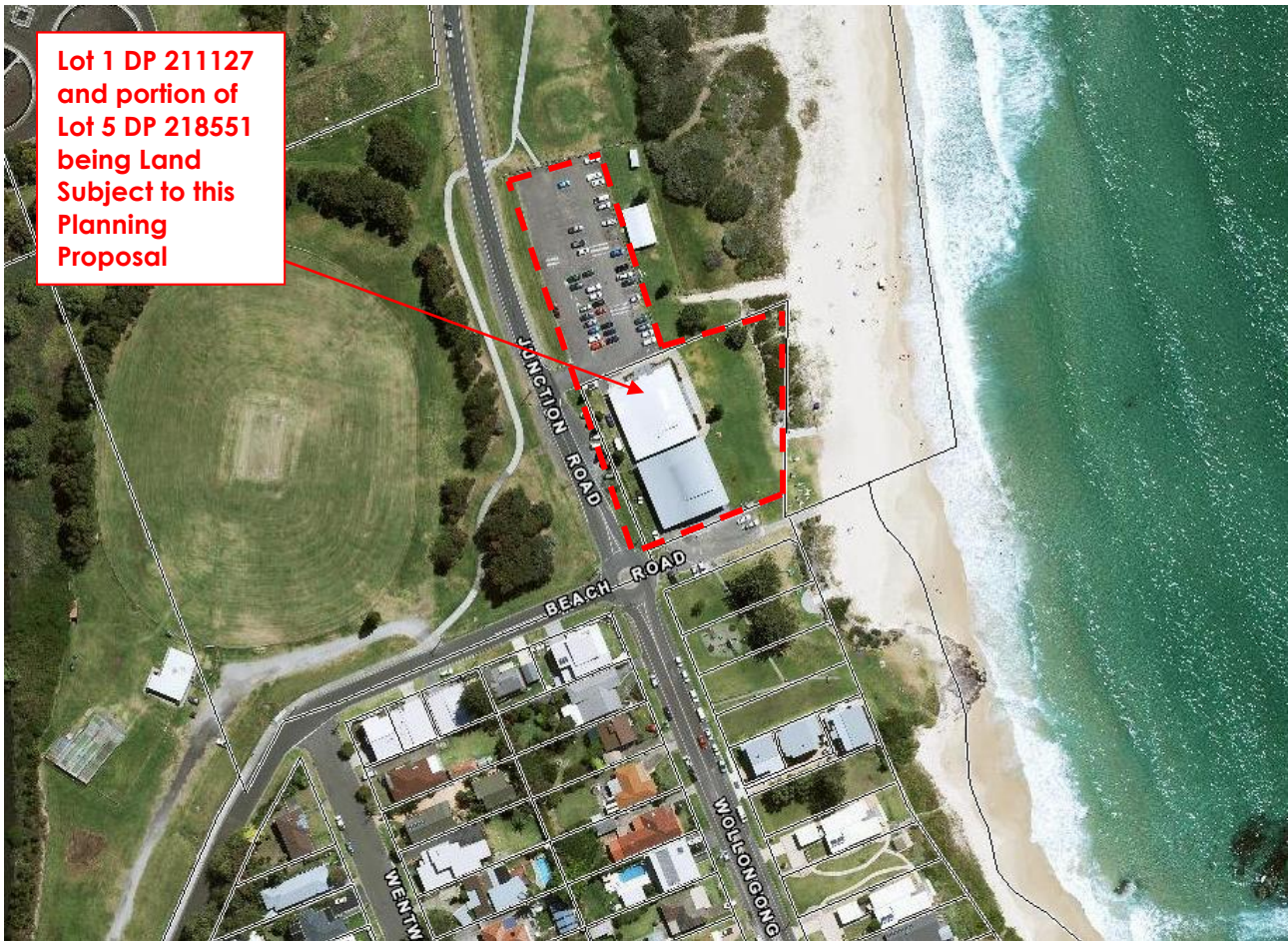


Figure 2 - Aerial view of lands subject forming this Planning Proposal being Lot 1 DP 211127 and part of Lot 5 218551 (Source: <http://maps.six.nsw.gov.au>)



Figure 3 – View looking south of existing building on subject site proposed for 'function centre'



Figure 4 – View inside existing Surf Life Saving Club building on northern building of subject site



Figure 5 – View west from public reserve of existing Shellharbour Surf Life Saving Club premises on the southern portion of the site



Figure 6 – View looking north-east from entrance to the site and car parking area



Figure 7 – View looking west from public reserve area to the existing northern building on subject site proposed for use as a function centre



Figure 8 – View of land excluded from the subject site looking west from subject site to public reserve area of Beverley Whitfield reserve opposite the site which forms part of Lot 5 DP 218551

2.2 Reclassification of Land under Shellharbour LEP 2013

Under the provisions of the Local Government Act 1993 the following definitions are provided for 'Community Land' and 'Operational Land':

'Community Land' means land that is classified as community land under Division 1 of Part 2 of Chapter 6.

'Operational Land' means land that is classified as operational land under Division 1 of Part 2 of Chapter 6.

The Local Government Act 1993 states that all public land must be classified as either "community" or "operational". Classification is made either by a local environmental plan, or may be made by resolution of Council under section 31, 32 or 33, but only when related to Section 94 dedicated land, was acquired after 1 July 1993, or is a resolution to reclassify land from 'operational' to 'community'.

This Proposal provides for the Reclassification of certain land from 'Community' to 'Operational' under Clause 5.2 of Shellharbour LEP 2013, within the provisions of the LGAct 1993. Clause 5.2 of SLEP 2013 provides the following:

5.2 Classification and reclassification of public land

- (1) The objective of this clause is to enable the Council 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 4 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 4 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 4:
- (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 4, to the extent (if any) that it is a public reserve, ceases to be a public reserve when the description of the land is inserted into that Part and 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 4, 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).

Note. In accordance with section 30 (2) of the Local Government Act 1993, the approval of the Governor to subclause (5) applying to the public land concerned is required before the description of the land is inserted in Part 2 of Schedule 4.

The subject allotments within Council ownership subject to this Planning Proposal, being Lot 1 DP 211127 and part of Lot 5 DP and Land Reclassification are currently classified as 'Community Land'. It is noted that the SLEP 2013 definition for a "function centre" would include functions that are not related to a "public recreation purpose" or a "purpose associated with the physical, social, cultural and intellectual welfare of persons" and the proposed land uses as allowed within the definition of a 'function centre' could potentially not align within the requirements of 'community land' under Section 46 of the *Local Government Act*, therefore the land must be reclassified as 'operational land' to enable the long term lease of the land and to ensure the intended further use as a 'function centre' within an existing building can be accommodated on the site. It is Council's intention that the site will continue to remain within the ownership of Shellharbour City Council.

The subject lands are therefore proposed to be reclassified from 'Community' to 'Operational' under this Planning Proposal.

Details of Trusts, Covenants, Reserves etc. for Lot 1 DP 211127

According to a **Land and Property Information Title Search** for Lot 1 DP 211127 provided by Council from the Land Titles Office (and provided as supporting documentation in association with this Planning Proposal), the allotment is burdened by the following:

1. RESERVATIONS AND CONDITIONS IN THE CROWN GRANT (S)
2. APPLICATION AFFECTING LEASE...LEESEE NOW SHELLHARBOUR SURF LIFE SAVING CLUB INC.

Below are the details of the trusts etc. currently applying to **Lot 5 DP 218551** being part of the subject lands.

Details of Trusts, Covenants, Reserves etc. for Lot 5 DP 218551

According to a **Land and Property Information Title Search** for Lot 5 DP 218551 provided by Council from the Land Titles Office (and provided as supporting documentation in association with this Planning Proposal – refer to **Appendix 4**), the allotment is burdened by the following:

1. RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
2. AD704292 EASEMENT FOR SEWERAGE PURPOSES AFFECTING THE PART DESIGNATED (A) IN DP1091230

Both subject allotments are provided with a burden of 'Reservations and Conditions in the Crown Grant', however there are no further details provided on the Title. The title and property searches undertaken on the subject lands indicate that there are no special conditions noted in the Transfer of the land to Council and the information does not appear to actually identify the land as a 'Public Reserve'. The lands have not been within the Crown's ownership since 1821 and were within private ownership until 29 August 1958, as previously outlined in this Proposal document (ie: was not acquired by Council from the Crown).

Lot 1 DP 211127 also contains a Condition relating to the leasing of the site to the Shellharbour Surf Life Saving Club. Council's recent resolutions to confirm the lease agreements with the Surf Club confirm their commitment to extending the lease for continued future use by the Club. Reference is also made to a

position statement document titled "Authorising Surf Life Saving Clubs" - Use of Crown land in NSW" dated January 2016 was prepared by the Department of Primary Industries to provide streamlined access and lease arrangements for the use of community land by Surf Clubs across NSW. According to the document, the Statement provides a "standardised lease template (that) provides secure tenure for our SLSCs by offering a 20 year minimum lease term, which alleviates SLSCs from having to renegotiate short-term leases and licence agreements. This enables our SLSCs to focus on conducting lifesaving activities to meet their core purpose which is to provide a safe beach and aquatic environment throughout NSW..... Where surf clubs wish to conduct activities beyond those that are considered to be essential or ancillary to their surf life saving activities, it may be necessary for additional consideration and special conditions to be included in any lease." It is Council's intention that the lease will continue to operate, therefore it is proposed that this Condition remain on Lot 1 to ensure continuation of Council's agreement with the Shellharbour SLSC.

Lot 5 DP 218551 is also burdened by an easement for sewerage purposes, which is not located on the portion of land subject to this Planning Proposal and may therefore be removed.

It is therefore proposed that all trusts, reserves, covenants, etc. be removed from the lands subject to this Planning Proposal as the lands are proposed to be reclassified to 'Operational' (excluding the remaining portion of Lot 5 which do not form part of this Planning Proposal and will remain as 'Community Land'), apart from the Condition applying to Lot 1 DP 211127 relating to the lease of the land to Shellharbour Surf Life Saving Club Inc.

Schedule 4 Classification and Reclassification of land (Part 1 or 2) of the SLEP will require amendment in order to provide a description of the land proposed to be reclassified as follows:

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

Column 1	Column 2	Column 3
Locality	Description	Any trusts etc not discharged
Shellharbour	Lot 1 DP 211127, No.115 Junction Road as identified as Operational Land on the Land Reclassification (Part Lots) Map (RPL)	Application Affecting Lease – Lessee now Shellharbour Surf Life Saving Club Inc.
Shellharbour	Part of Lot 5 DP 218551, Part of Junction Road as identified as Operational Land on the Land Reclassification (Part Lots) Map (RPL)	NIL

As provided above, all trusts, covenants, reserves etc. are proposed to be discharged from the subject allotments as a result of this Planning Proposal, excluding the Condition applying to Lot 1 DP 211127 relating to the lease of the land to Shellharbour Surf Life Saving Club Inc.

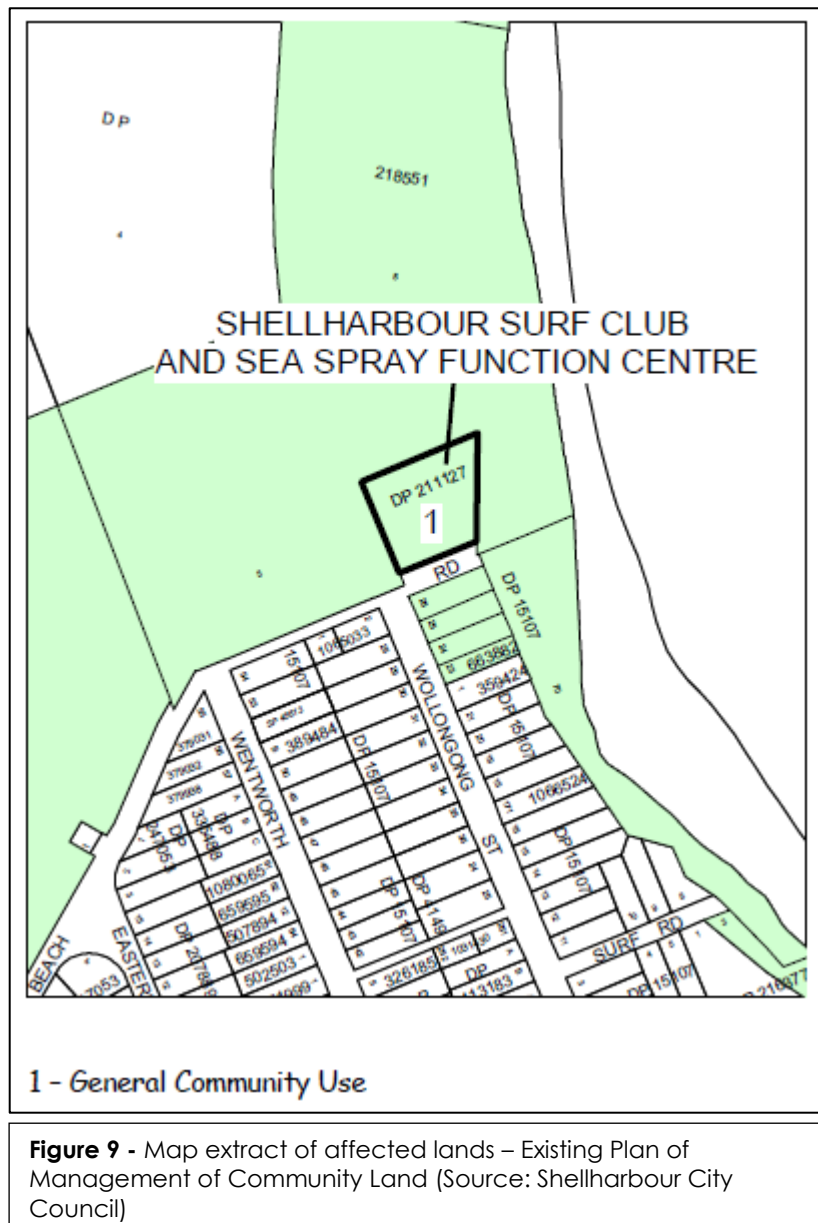
Plans of Management for Community Land

Lot 1 DP 211127 currently has an adopted 'Plan of Management for Community Land' (refer to **Appendix 2** and extract map in **Figure 9**) applying to the land, as required of Council in accordance with the provisions of Section 36 of the *Local Government Act 1993 (as amended)*. The Plan of Management which includes the subject site will need to be repealed as part of this Planning Proposal process. Shellharbour City Council also keeps a 'Land Register' as required under Section 53 of the *Local Government Act 1993* which contains a list of all land vested in Council or under Council's control. This Register is readily available to the public and confirms whether or not a Plan of Management applies to the land. The Register confirms the existence of the following relevant Plan of Management.

PLAN OF MANAGEMENT FOR COMMUNITY LAND under Section 36 Local Government Act 1993 (as amended) ADOPTED BY COUNCIL 22 JUNE 2010

PROPERTY DESCRIPTION: SHELLHARBOUR SURF LIFE SAVING CLUB & SEA SPRAY FUNCTION CENTRE

Lot 1 DP 211127 115 Junction Road, Shellharbour Parcel Number 5821



The Plan of Management provides the following statement in relation to the site:

That Council has determined that in the interest of the community of the Shellharbour Local Government Area that this land be utilised for the purposes of a Surf Life Saving Club and associated facilities. The Council has entered into a long term lease arrangement with the Shellharbour Surf Lifesaving Club for the occupation of this site.

By virtue of this lease agreement, the Shellharbour Surf Lifesaving Club has care control and management of the land, and is responsible for the maintenance of the land.

The Plan identifies the site as being for 'General Community Use' and recognises the current 99 year lease, and also identifies the site as containing the 'Surf Life Saving Clubhouse facilities and function centre.'

Lot 5 DP 218551 currently has an adopted 'Plan of Management for Community Land' (refer to **Appendix 2** and extract map in **Figure 10**) applying to the land, as required of Council in accordance with the provisions of Section 36 of the *Local Government Act 1993 (as amended)*. The Plan of Management which includes the subject site will require amendment as part of this Planning Proposal process. Shellharbour City Council also keeps a 'Land Register' as required under Section 53 of the *Local Government Act 1993* which contains a list of all land vested in Council or under Council's control. This Register is readily available to the public and confirms whether or not a Plan of Management applies to the land. The Register confirms the existence of the following relevant Plan of Management.

PLAN OF MANAGEMENT FOR COMMUNITY LAND under Section 36 Local Government Act 1993 (as amended) ADOPTED BY COUNCIL 22 JUNE 2010

PROPERTY DESCRIPTION: Beverley Whitfield Park and Shellharbour Swamp

Lot 5 DP 218551, Junction Road, Shellharbour Parcel Number 5820

Lot 3 DP 571518, Shellharbour Road, Shellharbour Parcel Number 11327

The Plan of Management provides the following statement in relation to the site:

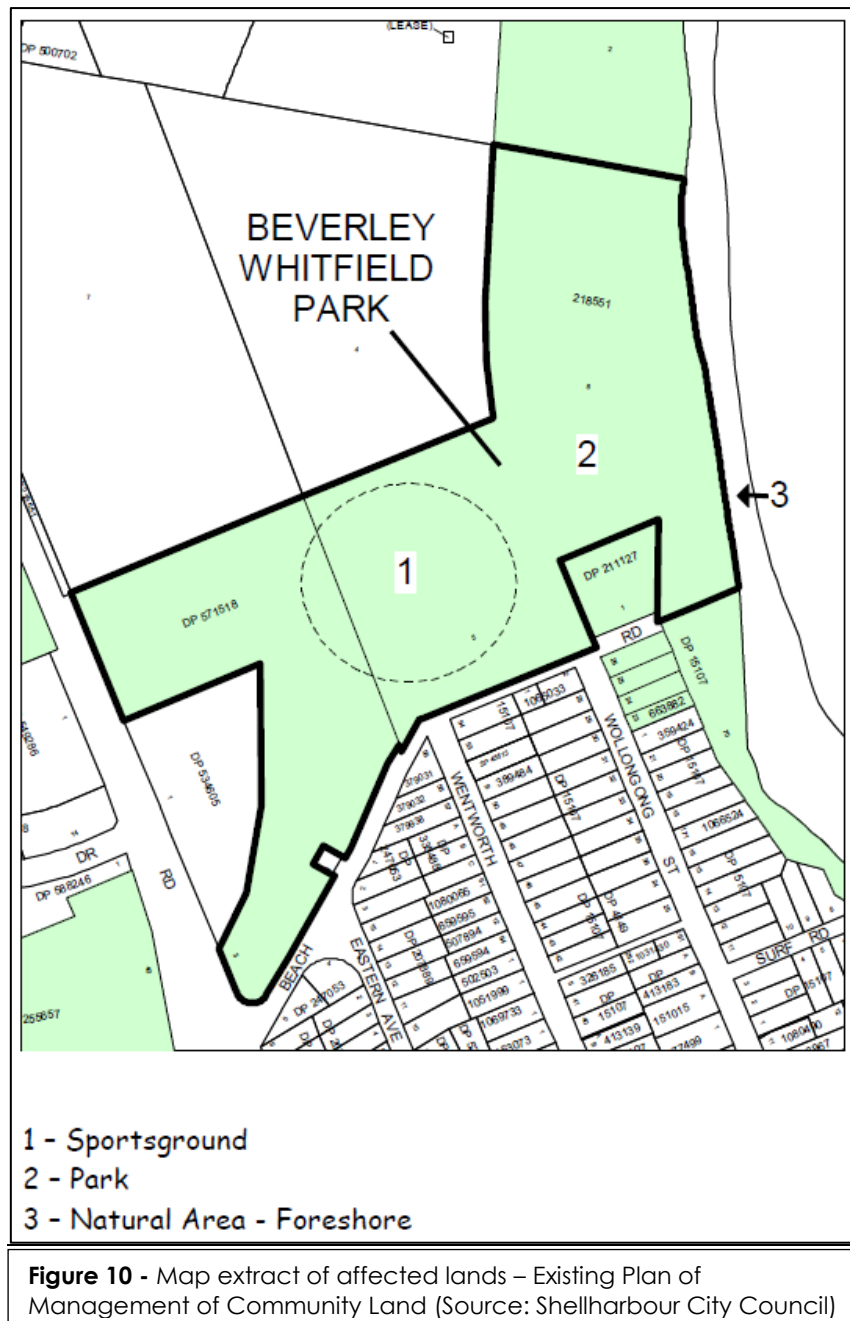
That Council has determined that in the interest of the community of the Shellharbour Local Government Area that:

Sportsgrounds, open areas and appropriate facilities and amenities should be made available for the use of sporting and community groups.

There is a formed but undedicated road which severs lot 5 and is known as Junction Road. It is intended that in the future this road be dedicated as a public road.

The cricket practice nets, change rooms, public toilets and gear shed associated with Beverley Whitfield Oval are situated on Lot 3, DP 571518.

Improvements have been made by way of flood lighting, carparking, turf cricket wicket, landscaping and beach rehabilitation.



The Plan notes the existence of significant biodiversity issues on this property (namely, the presence of “Endangered Ecological Community: Coastal saltmarsh; Sydney Coastal Estuary Swamp Complex, Threatened Fauna species: *Botaurus poiciloptilus* (Australasian Bitten); Potential habitat for *Litoria aurea* (Green and Golden Bell Frog).” This issue is discussed further in Section 3 of this Planning Proposal.

The Plan identifies the portion of land subject to this Planning Proposal as being for ‘Park’ purposes. Council have advised that they intend to register Junction Road as a public road. The proposed reclassification of just the existing car parking area subject to this existing Plan of Management (being Part of Lot 5) will not remove the portion of land along the foreshore are which will remain subject to this Plan of Management.

Previous Relevant Reports Considered by Council

A Council staff report was recently considered at Shellharbour Council's Ordinary Council Meeting on 27 October 2015 titled '10.3.8 Proposed New Lease - Shellharbour Surf Life Saving Club Incorporated, Lot 1 DP 211127 Shellharbour (10607365)' which highlighted the following:

- 99 year lease for Lot 1 DP 211127 from July 1962 to Shellharbour Surf Life Saving Club Incorporated for the operations of a club house for members of the association.
- The subject land is classified as Community Land. Leases of community land cannot be longer than 21 years (including the period of any options to renew) as per S46 (3) of the Local Government Act, 1993. Council seeks to offer a new lease to the Club on the terms of the existing lease for the rental and period. The term will be for 21 years as per the Local Government Act being 2015 to 2036. It is intended to offer a further 21 years being 2036 to 2057 and following this a further four (4) year term to terminate in 2061. This reflects the period of the current lease.

Council resolved (unanimously) at that meeting as per the Report's recommendation as follows:

1. That Council commence the formal process including advertising and exhibition of the proposal to enter into a new lease with Shellharbour Surf Life Saving Club Incorporated for Lot 1 DP 211127, Shellharbour for an initial term of 21 years with a view of varying the lease to 30 years upon Minister Approval.
2. That provided no objections are received, that Council enter into the 21 year lease with Shellharbour Surf Life Saving Club Incorporated at an annual rental of \$1.
3. That Council make an application to the Minister for Local Government to vary the lease term to 30 years as per the Local Government Act 1993.
4. It is intended on the termination of the above lease that Council offer a further lease term of 21 years and on the termination of the lease it is intended that Council offer a further lease of four (4) years.
5. That Council note the annual "in-kind donation" of \$71,489 for the subsidised rental in Council's aggregate record of donations to the community.
6. That the Mayor and General Manager, or his nominated delegate, be authorised to sign any documentation associated with the application to the Minister of Local Government and Lease with Shellharbour Surf Life Saving Club Incorporated, under Council Seal.

Refer to **Appendix 1** which provides copies of relevant reports to Council.

2.3 Land Zoning under Shellharbour LEP 2013

The subject lands including Lot 1 DP 211127 and part of Lot 5 DP 218551 (highlighted in RED in **Figure 11**) are currently wholly within the **RE1 Public Recreation Zone** under Shellharbour Local Environmental Plan (SLEP) 2013. Land to the north and south of the site are also within zone RE1. This land use zone is the standard consistent zone used for similar uses under Principal LEP documents in line with the Standard Instrument. It is noted that the surrounding lands within Council's ownership are also zoned RE1.

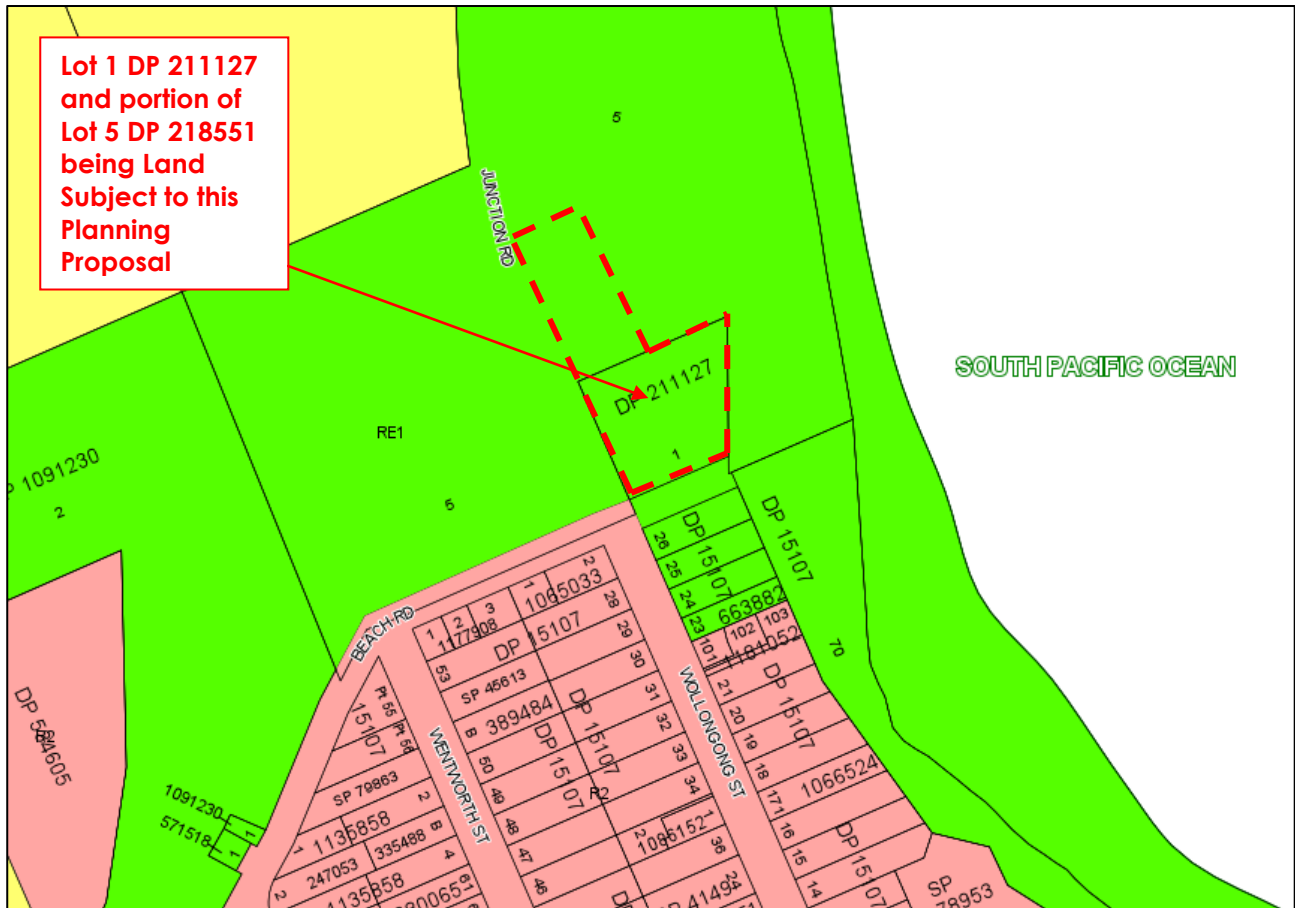


Figure 11 – Extract from Land Zoning Map showing subject lands (Source: www.shellharbour.nsw.gov.au)

Objectives of the RE1 Public Recreation Zone:

The objectives of the RE1 zone are:

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.

The Department of Planning's Practice Note PN 11-002 titled 'Preparing LEPs using the Standard Instrument: standard zones' provides the following statements to describe the intent of each relevant land use zone in the Standard LEP Instrument to assist Councils when preparing their Standard Instrument LEP:

RE1 Public Recreation Zone

This zone is generally intended for a wide range of public recreational areas and activities including local and regional parks and open space. The uses may include 'recreation facilities,'

'community facilities' such as lifesaving clubs, 'environmental facilities', 'environmental protection works' and other uses compatible with the primary use of the land.

Where land is to be reserved for public recreation purposes (e.g. local or regional open space), the land is to be outlined and annotated on the Land Reservation Acquisition Map, and the relevant acquisition authority identified in the table in clause 5.1.

The proposed rezoning of lands included in this Planning Proposal is therefore considered to be consistent with the Department of Planning and Environment's Practice Notes relating to the application of land use zones.

Permissibility of land uses

The proposed application of an additional land use for that portion of Council-owned land is currently within the **RE1 Public Recreation Zone** which permits a range of land uses with development consent, as follows:

Boat launching ramps; Boat sheds; Charter and tourism boating facilities; Community facilities; Environmental facilities; Environmental protection works; Flood mitigation works; Information and education facilities; Kiosks; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Roads; Signage; Water reticulation systems.

It is noted that the zone currently prohibits a number of land uses including *'function centres', 'restaurants', 'food and drink premises' and 'take away food and drink premises'.*

History and Discussion of Shellharbour LEP 2013

Shellharbour Local Environmental Plan 2013 was gazetted on 5 April 2013 and repealed Shellharbour Local Environmental Plan 2000 (SLEP 2000) which applied to the subject land and generally to the urban areas of the Shellharbour Local Government Area. SWLEP 2013 incorporated the standard form and content, land use zones etc. for local environmental plans as required by the Standard Instrument (Local Environmental Plans) Order which was gazetted on 31 March 2006.

The application of the land use zones, specifically the RE1 Public Recreation Zone were revised (from SLEP 2000) to generally reflect the existing 6(a) Public Recreation Zone and to update the land zoning where public reserves more recently dedicated, acquired by Council or identified for public acquisition. It is noted that SLEP 2000 previously permitted with consent in RE1 Zones a *'refreshment room'* which was defined as *"a restaurant, café, tea room, eating house or the like."*

Recommendation

An option for Council would be to include *'function centres'* or other similar uses as being permissible with development consent within the RE1 Public Recreation Zone. However, this has wider implications for all RE1 zoned lands across the LGA.

The alternative option is to rezone the land from RE1 Public Recreation to an alternative land zoning pursuant to Shellharbour LEP 2013 which permits *'function centres'*. However, it is intended that the lease with the Shellharbour Surf Life Saving Club will be extended for a minimum period of 21 years. The Club intends only to use the northern building for the purposes of a *'function centre'* purposes and does not need to be benefitted by other land uses which would be allowed if the site were to be rezoned. The current zoning is therefore considered appropriate for the site.

2.4 Additional Permitted Use under Shellharbour LEP 2013

The subject site, as discussed in relation to Land Zoning in Section 2.3 of this Part, is currently wholly within the RE1 Public Recreation Zone under Shellharbour Local Environmental Plan 2013 and as illustrated in **Figure 11**. The zone does not currently permit 'Function Centres' for which the Shellharbour Surf Life Saving Club are seeking consideration for as part of this Planning Proposal. As discussed previously, the land zoning of RE1 is considered appropriate for the site, given Council intends to retain ownership of the land and does not wish to pursue any additional land uses other than a 'function centre'.

The proposed application of an 'Additional Permitted Use' on the site in accordance with Schedule 1 of the SLEP 2013 (in addition to the proposed reclassification) will allow development for the purposes of a 'function centre' to operate within the existing clubhouse building on the northern portion of the subject lands. The proposed application of a site specific additional land use for the subject lands as part of this Planning Proposal is considered consistent with the intended future use of the site and is appropriate to achieve the objectives for the subject lands.

To provide further explanation, the subject allotment upon which the Additional Permitted Use is proposed is formally described as part of Lot 5 DP 21855. This includes the existing car parking area only and the whole of Lot 1 DP 211127 which includes two separate buildings identified as 'Shellharbour Surf Club', as well as an area of the beach foreshore area presumably to mean high water mark. The total site covers approximately 6441m². However, while the Planning Proposal includes all of Lot 1, both Council (Property Department) and the Surf Life Saving Club intend to only use the northern building (containing a large hall area) for the purposes of a function centre, as the southern building is used for general surf club purposes.

A Survey Plan has been prepared by Shellharbour City Council (refer to **Appendix 3** of this Proposal) which formally identifies the location of the Lot 1 DP 211127 and the portion of Lot 5 DP 218551 subject to this Planning Proposal and proposed for inclusion on the Additional Permitted Uses Map associated with SLEP 2013. It is noted that Shellharbour LEP 2013 already includes a number of split or part allotments under Schedule 1 Additional Permitted Uses. While it is recognised there may be some logistical issues with split allotments, there appears to be no legal impediment as to why a split allotment cannot be proposed as an Additional Permitted Use or as a reclassification of land. Any issues could generally be overcome by providing electronic coordinates and/or measured distances for reference, which have been provided to Council in association with this Planning Proposal.

2.5 Height of Buildings

There is no maximum height of buildings currently applying to the subject allotments zoned RE1 Public Recreation as provided by the *Height of Buildings Map* associated with *Shellharbour Local Environmental Plan 2013*.

Discussion:

Generally, but not in every circumstance, the application of height of building controls are related to the land zoning applying to the land. In this instance, there has been no maximum allowable height of buildings control applied to lands within the RE1 Public Recreation Zone. This Planning Proposal does not propose to

amend the land zoning. Therefore, it is recommended that the development controls, namely the height of buildings in this instance, remain unchanged.

2.6 Floor Space Ratio

There is no maximum floor space ratio currently applying to either of the subject allotments zoned RE1 Public Recreation as provided by the Floor Space Ratio Map associated with Shellharbour LEP 2013.

Discussion:

As with the Height of Buildings, generally, but not in every circumstance, the application of floor space ratio controls is related to the land zoning applying to the land. In this instance, there has been no maximum floor space ratio control applied to lands within the RE1 Public Recreation Zone. This Planning Proposal does not proposed to amend the land zoning, therefore, it is recommended that the development controls, namely the floor space ratio in this instance, remain unchanged.

2.7 Lot Size Minimum

There is no minimum lot size currently applying to the subject allotments zoned RE1 Public Recreation as provided by the Lot Size Map associated with Shellharbour Local Environmental Plan 2013.

Discussion:

Generally, but not in every circumstance, the application of minimum lot size controls are related to the land zoning applying to the land. In this instance, there has been no maximum allowable minimum lot size controls applied to lands within the RE1 Public Recreation Zone. Therefore, it is recommended that the development controls, namely the lot size controls in this instance, remain unchanged.

3 Planning Proposal Legislative Requirements

This section of the Planning Proposal details the legislative planning requirements of the NSW State Government in relation to the lodgement and preparation of Planning Proposals. This section has been prepared based on the provisions of the publication of the NSW Department of Planning and Environment titled 'A guide to preparing planning proposals' dated August 2016 (current version at the time of writing this Proposal).

Part 1 – Objectives or Intended Outcomes

This Part of the Planning Proposal provides a statement of the objectives and intended outcomes of the proposed instrument.

The main objectives and intended outcomes of the Planning Proposal are:

To reclassify certain land within the ownership of Shellharbour City Council from 'Community land' to 'Operational Land' and to allow for an additional permitted land use specific to the site for the purposes of a 'function centre' on certain lands to allow for long term lease of the site and to reflect the future intended land use of the land.

Part 2 – Explanation of Provisions

This Part of the Planning Proposal provides an explanation of the provisions that are to be included in the proposed instrument.

The proposed outcomes or objectives detailed in Part 1 of this Planning Proposal will be achieved by:

Amending **Shellharbour LEP 2013 - Schedule 1 Additional Permitted Uses** to provide for the application of an Additional Permitted Use for Lot 1 DP 211127 and part of Lot 5 DP 218551 for the purposes of a 'Function centre' by inserting as follows:

8 Use of certain land in Zone RE1 Public Recreation

(1) This clause applies to land in Zone RE1 Public Recreation, being land at No.115 Junction Road, Shellharbour, Lot 1, DP 211127, and land at Junction Road, Shellharbour, Part of Lot 5 DP 218551 identified as "8" on the Additional Permitted Uses Map.

(2) Development for the purpose of a function centre is permitted with development consent.

Amending **Shellharbour LEP 2013 - Additional Permitted Uses Map** for the subject lands at Tongarra Road, Albion Park, in accordance with the illustration provided in **Part 4 – Mapping** of this Planning Proposal, which indicates application of an Additional Permitted Use for Lot 1 DP 211127 and part of Lot 5 DP 218551 for the purposes of a 'Function centre'.

Amending **Shellharbour LEP 2013 - Schedule 4 Classification and Reclassification of land** under **Part 2 Land classified, or reclassified, as operational land—interests changed** to provide for the

reclassification of the following land from 'Community' to 'Operational' Land and **all** trusts etc. discharged **except** as indicated below:

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

Column 1	Column 2	Column 3
Locality	Description	Any trusts etc not discharged
Shellharbour	Lot 1 DP 211127, No.115 Junction Road as identified as Operational Land on the Land Reclassification (Part Lots) Map (RPL)	Application Affecting Lease – Lessee now Shellharbour Surf Life Saving Club Inc.
Shellharbour	Part of Lot 5 DP 218551, Part of Junction Road as identified as Operational Land on the Land Reclassification (Part Lots) Map (RPL)	NIL

Amending **Shellharbour LEP 2013 - Land Reclassification Map** for the subject lands at Junction Road, Shellharbour in accordance with the illustration provided in **Part 4 – Mapping** of this Planning Proposal which indicates the subject lands to be reclassified as 'Operational'.

A detailed discussion regarding the Reclassification of Land, Land Zoning, Height of Buildings, Floor Space Ratio and Lot Size which currently apply to the subject lands and which are proposed to change are provided in **Section 2 Introduction** of this Planning Proposal Report.

Part 3 – Justification

This Part of the Planning Proposal provides justification for the objectives and outcomes as detailed in Parts 1 and 2 of this Planning Proposal and identifies the process for their implementation.

Section A – Need for the planning proposal

Q1. Is the planning proposal a result of any strategic study or report?

The Planning Proposal is the result of a recent report considered by Shellharbour City Council to enter a new lease agreement with the current tenants (Shellharbour Surf Life Saving Club) and to allow for consideration of their request to use an existing building and associated car parking for the purposes of a 'function centre'.

Shellharbour City Council Open Space, Recreation and Community Facilities Needs Study Report

This document was prepared by Shellharbour City Council in March 2010 with the assistance of GHD Pty Ltd and is relevant to this Planning Proposal in that it provides the following statement in relation to the status of open space and recreation needs for the suburb of Shellharbour:

Shellharbour

A summary of the population and dwelling projections between 2006 and 2021 is provided in the table below (SGS Economics & Planning 2008).

Table 1 – Population and Dwelling Projections Summary 2006-2021 for the suburb of Shellharbour (extract from Shellharbour Open Space Recreation and Community Facility Needs Study Report)		
	2006	2021
Population	3,406	3,250
Dwellings	1,277	1,372
Source: Shellharbour City Council Open Space, Recreation and Community Facilities Needs Study Report prepared by Shellharbour City Council with GHD, March 2010)		

The Shellharbour population will reduce over the coming 15 years by 156 persons, reflecting slow dwelling growth of just 95 dwellings. The population will slowly age, though the proportion of the 0-19 year old age group will remain constant.

Implications

- Need to ensure that the foreshore and local open spaces cater for the whole population, as well as the significant tourist/sub-regional focus; and
- Existing local parkland may need to be rationalised, ensuring sufficient quality parks that meet local needs, particularly of the changing demographic and aging population.

The provision of parks within Shellharbour is shown in the following table.

Table 2 – Shellharbour Park Provision				
	2006 Demand (Ha)	2008 Supply (Ha)	2021 Demand (Ha)	Over/(Under) Supply (Ha)
Local Parks	1.12	3.94	1.07	2.87
District Parks	1.7	7.88	1.63	6.26
Citywide Parks	1.02	2.56	.98	1.59
Source: Shellharbour City Council Open Space, Recreation and Community Facilities Needs Study Report prepared by Shellharbour City Council with GHD, March 2010)				

These parks are illustrated in the Shellharbour Suburb Map as reproduced in **Figure 12**.



Figure 12 – Extract Map showing provision of parks within Shellharbour and indicating subject site identified as 'Shellharbour Surf Life Saving Club and Sea Spray Function Centre' (Source: Shellharbour City Council Open Space, Recreation and Community Facilities Needs Study Report prepared by Shellharbour City Council with GHD, March 2010)

Spatial Distribution

The spatial distribution in the majority of Shellharbour is very good, with the exception of the area west of Shellharbour Road, which backs onto the citywide park of Blackbutt Reserve but does not contain any local or district parks. In the east of the suburb, the foreshore area provides for both district and local park functions. The remainder of parks in the suburb remains very well distributed, allowing for easy access for residents to the east of Shellharbour Road. Part of Blackbutt Reserve extends into the Shellharbour suburb, providing some citywide park space.

The land subject to this Planning Proposal is identified in the Study as the 'Shellharbour Surf Life Saving Club and Sea Spray Function Centre', which contains the previous function centre, the club and the foreshore area, and appears to also incorporate part of Lot 5 to the north which includes the part of the land subject to this Proposal (as provided in **Figure 12** above (extract from the Shellharbour Suburb Map at Appendix C of that document)). The Beverly Whitfield Park identified as the 'District Park' appears to exclude the lands

subject to the Planning Proposal, although incorporating part of the subject allotment Lot 5 DP 218551, which is defined under the Study as:

District parks are generally of a more substantial size and are well developed to cater for a broad range of recreational opportunities. District parks are to be more sparsely distributed than local parks, with it acceptable for them to be within an 800m or 10 minute walk from most, residential areas. Embellishments are provided to cater for the more complex and varied recreational activities and for multiple user groups and may include a mix of the following:

- ❖ Walk / cycle pathways;
- ❖ High quality landscape improvements;
- ❖ Playgrounds and like opportunities for a range of ages;
- ❖ Combined seating, tables, bins and shade structures / pavilions;
- ❖ Signage;
- ❖ Lighting (where designed for use at night);
- ❖ Barbeques;
- ❖ Toilets;
- ❖ Car parking;
- ❖ Structures and hard-standing areas to provide for informal sporting activities (eg. netball/basketball half court, tennis rebound wall etc) as appropriate to local needs; and
- ❖ Other structures required on a case-by-case basis.

Quality and Useability

Parks in the Shellharbour suburb are in a variety of condition, from very high quality foreshore spaces to poorly embellished and exposed local parks. In areas set back from the foreshore, many local parks are particularly exposed and unembellished, creating unattractive spaces that are unlikely to be well utilised. By contrast, the highly embellished and maintained foreshore reserves attract extensive use which is catered for by extensive picnic and shelter facilities.

Recommendations:

- Investigate options for the provision of a local park within Blackbutt Reserve to service Shellharbour residents to the west of Shellharbour Road; and
- Review the role of existing local parks to improve quality and usability for Shellharbour residents.

Conclusion:

The proposal will not reduce the amount of open space provided in Shellharbour and will continue to provide public facilities and access to open space at the 'District Park' level adjacent to the site. The proposed reclassification and additional permitted use of the existing car parking area will continue to operate for community and public use, maintaining access to the foreshore area and to provide additional parking for the Beverley Whitfield Park. Refer to discussion in relation to car parking provided below in this Section of the Planning Proposal. It is therefore anticipated that the impact of the proposed reclassification and additional permitted use of the subject lands will have minimal impact on the future population of this location.

Shellharbour Development Control Plan 2013 (Version 2 – commenced 6 July 2016)

Also of relevance to this Planning Proposal is the Shellharbour Development Control Plan 2013, in terms of being the most recent document applying development controls to the subject lands. This document will be used to assess any future development application for the proposed use of the subject site as a 'function centre'. Relevant provisions will include but not be limited to, Chapter 6 - Commercial Development, Chapter 13 – Parking, Traffic and Transport and Chapter 29 - Social Impact Assessment. The DCP includes requirements for the Shellharbour Village, but does not specifically provide detailed provisions for the subject lands.

Specifically in relation to car parking, Chapter 13 of the DCP provides the required car parking spaces specifically relating to a '**Reception Function Centre**' as follows:

Whichever is the greater of:

1 space / 4m² customer area (both indoor & outdoor) + 1 space/ staff present on the site at any one time,

or

1 space / 3 seats+ 1 space / staff present on the site at any one time

A meeting was held between TCG Planning, the client (Shellharbour Council Property Department) and Council's City Strategy Department on 10 April 2017 with one specific topic of discussion relating to car parking and the boundaries of the area proposed for the 'Additional Permitted Use' as part of the submitted Planning Proposal. The discussions in relation to car parking for the 'function centre' identified concerns that there was no specific area identified as part of the original lodged Planning Proposal (December 2016) for this purpose. Discussion at the meeting related to how parking arrangements for a function centre may be addressed for the planning proposal and for any DA for a function centre in the future.

This revised Planning Proposal document has therefore extended the area identified for the 'Additional Permitted Use' as was originally proposed in the Planning Proposal as lodged to include the site's main off-street parking area to cater for the proposed additional permitted use as a 'function centre'.

Council City Strategy staff advised that the Planning Proposal would need to address the level of parking required for the function centre, due to the range of land uses currently provided in this location. It was agreed that the Planning Proposal should address the level of parking required for the function centre based on the gross floor area (GFA) of the building, with consideration of the need for additional parking if required for beach users at peak overlapping periods. As part of any future development application, it would therefore need to be demonstrated that sufficient parking arrangements are made for:

- a function centre,
- beach users, and
- club members carrying out activities associated with the club.

The following detailed analysis of potential car parking arrangements for the subject lands is therefore provided.

There are currently 75 parking spaces provided on the car parking area included on the subject lands. Council officers have advised that the gross floor area of the northern building proposed for the use as a 'function centre' is **468m²** and the building to the south which will continue to be utilised for surf lifesaving club purposes is **450m²**. The consent for the previously approved northern additions to the existing surf club

(DA89/2007 as amended) does allow for the holding of functions, subject to functions after 6pm being conducted for, or on behalf of, the surf club members. The current Planning Proposal will allow for the use of the site for the purposes of a function centre (specifically proposed in the northern building), without such limitation. DA89/2007 (as amended) specifies that a minimum of 70 car parking spaces must be provided. It appears as though this may have been based, using the DCP provisions provided above, on the potential 'customer area' being the floor space of the existing main hall area and associated separate bar within the existing northern building, which total approximately 277m². This therefore excludes an existing boat storage shed, men's and women's amenities, kitchen area, and store rooms which currently form part of that northern building. This would equate to the need for a total of approximately 70 car parking spaces (1 space per 4m²), plus an additional 5 spaces for five (5) potential staff on the site. This appears to be a realistic estimation of the potential car parking generation required for a 'function centre'. It is therefore considered that, based on this calculation of floor space and estimated potential employee numbers required for the use of the existing northern building as a function centre, the 75 car parking spaces currently provided on Lot 5 DP 218551 are adequate to cater for a future use as a 'function centre' on the site.

However the existing car parking area is also currently utilised, and will continue to be utilised, by general public beach users and by club members carrying out activities associated with the club and use of the southern building on the site for member activities and operations. The multi-use of the car parking area therefore needs to be considered in detail as part of any future development application for the subject site and use of the car park area. For the purposes of this Planning Proposal, there also needs to be some analysis undertaken in relation to potential car parking needs, despite the absence of a specific development application for the use of the site for the purposes of a 'function centre'. The purpose of a Planning Proposal is not to provide details of a specific development proposal.

The potential scenario that heavy use of the car park area by the general public coinciding with a function on the site could occur is likely at peak periods. The occurrence of heavy beach usage would likely be during the summer months and specifically on weekends. As functions are also more likely to occur on weekends and potentially during the warmer summer months, this would mean multiple use of the car parking area would be required. In addition, the surf club generally operates on weekends, with peak times also being during the summer months, generally on Sunday mornings and the middle of the day. The potential for the car parking area to require multiple users at any given time are likely during these peak times.

This situation would need to be managed as part of any development application for a function centre. A detailed traffic and parking analysis would likely be required by Council as part of any future development application for the use of the site. Potential options to be considered by Council in order to manage any potential scenario whereby the current parking arrangements are not considered adequate, would need to be determined by Council as part of the development assessment process. Such options may include:

- The surf club could ensure that club meetings or specific club functions were not scheduled at the same time as booked functions, which they would manage as part of the use of the northern building, as it would be within their best interests.
- Potentially restrict hours of operation for any future 'function centre'. This may include specifying that the function centre should operate outside of Sunday Club meet periods being in the morning and middle of the day during peak summer times or may restrict hours to only operate in the evenings and mid-week.

- Recognition of potential overflow parking areas along Junction Road directly adjoining the existing buildings, as well as on the southern side of the subject site, which may be utilised by the surf club or the general public at various peak times.
- In the long term, where Council considers that additional car parking may be required, Council has the opportunity to expand the existing car parking area to the north of the lands subject to this Proposal (also within Lot 5). Further, Council could, consider formalisation of additional car parking spaces along Junction Road directly adjoining the existing buildings, as well as on the southern side of the subject site, for surf club or general public use.

In relation to pedestrian access, there will continue to be pedestrian access links through the existing car park area to the beach and foreshore area, as well as along the foreshore to access the southern building on the site used by the surf club. The surf club building on the southern portion of the site is also accessible by pedestrians off Beach Road and Junction Road near the existing roundabout (informal extension of Beach Road to the east).

As outlined above, the current parking and pedestrian arrangements for the purposes of allowing an Additional Permitted Use for the purposes of a 'function centre' on the subject site are considered to have been addressed adequately for the purposes of this Planning Proposal. There will be a need for any future development application to address in detail the parking, access and traffic provisions in SDCP 2013, once more specific details of the number of seats proposed, customer area and staff numbers is determined.

It is therefore considered that the existing and potential future traffic and pedestrian impacts of this Planning Proposal have been adequately addressed as part of this documentation.

Shellharbour City Council Corporate Policy - Disposal of Surplus Land and Buildings

As this Policy relates to Council owned land, it is considered it may be of relevance to the Proposal. This Policy was adopted by Council on 4 February 2014 and outlines a process for the disposal of surplus land and building assets owned by Council. The policy applies to all Council land and buildings which have not already been identified for sale. In undertaking this Planning Proposal process, Shellharbour Council's Property and Recreation Department have advised that Council's current position is that it does not intend to dispose of the subject site or the buildings on the site, therefore, Council is not in breach of this Policy in relation to this Planning Proposal.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The Planning Proposal will achieve the objectives and intended outcomes of the site, will address Council's recent resolutions in relation to the site, and will ensure continued community safety and public liability are addressed. In addition, future car parking needs for any 'function centre' can be accommodated within the subject lands. This process is transparent and follows the legislative requirements of providing for the reclassification of land and for additional permitted land uses on land within public ownership.

The only other option available to Council would be to enter into a lease agreement with Shellharbour Surf Life Saving Club or with another lessee to continue with the current occupation agreement over the portion of the

subject lands within Lot 1. However, the Planning Proposal will address Council's public liability; will allow Council to remain as owner of the land with continued care, operations and management of the portion of the site under the responsibility of the lessee, currently being the Shellharbour Surf Life Saving Club; as well as the continued management and maintenance by Council of the land containing the car park area, and will facilitate Council's continued support for the local community Surf Life Saving Club.

Legal advice obtained by Council in relation to the need to reclassify the subject lands provided that the proposed use of a 'function centre', may potentially allow for uses compatible with the 'community' land classification, such as conferences, sports dinners, social club meetings, community meetings, community support activities and lifestyle workshop classes. These would be considered to be uses which would constitute a use for the 'physical, social, cultural or intellectual development or welfare of the community', as required in accordance with the Local Government Act. However, potential uses which may fall within the definition of a 'function centre' and which the Shellharbour Workers Club (who are currently looking to utilise the building for the purposes of 'functions') could be weddings, engagements, parties and wakes are unlikely to constitute 'community' use for the benefit of the community. Hence, the reclassification of the land from 'Community' to 'Operational' is considered the only means of achieving the objectives and intended outcomes of this Planning Proposal.

Section B – Relationship to strategic planning framework

Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Illawarra-Shoalhaven Regional Plan 2015

The Regional Plan will guide strategic planning over a 20 year period and applies to the Local Government Areas of Kiama, Shellharbour, Shoalhaven and Wollongong, including the subject site. The Plan provides the strategic policy, planning and decision-making framework for growth and development over the next 20 years to 2036. According to the Regional Plan, by 2036, the population of the Illawarra-Shoalhaven is forecast to grow to 463,150, an increase of 60,400 from 2016. The plan includes *'aims to build a resilient community that is capable of adapting to changing social, economic and environmental circumstances as well as embracing innovation and future growth and development....'*

The Vision for the Plan includes enhancing *"the region's centres and public spaces and offer interesting cultural and recreational experiences that will increase the appeal of the region as a place to live, work and invest."*

The proposal will assist in addressing the following related goals contained within the Regional Plan:

GOAL 3 – *A region with communities that are strong, healthy and well-connected;*

GOAL 5 – *A region that protects and enhances the natural environment.*

The proposal is consistent with the overall broader intended outcomes of the Plan and will not impact on the ability of the site to foster the social cohesion and community well-being, healthy living and community interaction goals of the Plan. The Proposal will have minimal impact on availability and quality of public open space and reservation within the Shellharbour Village and broader Shellharbour Local Government Area.

Q4. Is the planning proposal consistent with a council's local strategy or other local strategic plan?

Community Strategic Plan

The proposed reclassification and additional permitted use of the subject land supports the following objectives and strategies of the Community Strategic Plan:

Objective: 4.4 A City that is transparent in its dealings and accountable to its community.

Strategy: 4.4.2 Be an open Council that transacts its business in a transparent manner.

Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

The SEPPs and deemed SEPPs that are specifically relevant to the Planning Proposal and the relationship of the Planning Proposal to those SEPPs is identified below (as at December 2016):

No.	State Environmental Planning Policy	Applicability/Consistency	Comment
1	Development Standards	N/A	Does not apply under SLEP 2013
14	Coastal Wetlands	N/A	Not relevant to the Planning Proposal.
15	Rural Land-Sharing Communities	N/A	Not relevant to the Planning Proposal.
19	Bushland in Urban Areas	N/A	Does not apply to Shellharbour LGA
21	Caravan Parks	N/A	Not relevant to the Planning Proposal.
26	Littoral Rainforests	N/A	No littoral rainforests identified by the policy in the Shellharbour LGA.
29	Western Sydney Recreation Area	N/A	Does not apply to Shellharbour LGA
30	Intensive Agriculture	Applies N/A	Not relevant to the Planning Proposal
32	Urban Consolidation (Redevelopment of Urban Land)	Complies	The subject land is zoned 'Public Recreation' and is identified as 'urban land' therefore the SEPP applies. However, as the proposal does not propose to rezone the land, the proposal is not inconsistent.
33	Hazardous and Offensive Development	Applies N/A	Not relevant to the Planning Proposal
36	Manufactured Home Estates	Applies N/A	Not relevant to the Planning Proposal
39	Spit Island Bird Habitat	N/A	Does not apply to land in Shellharbour LGA
44	Koala Habitat Protection	N/A	
47	Moore Park Showground	N/A	Does not apply to land in Shellharbour LGA
50	Canal Estates	Applies N/A	Not relevant to the Planning Proposal
52	Farm Dams and Other Works in Land and Water Management Plan Areas	N/A	Not relevant to the Planning Proposal.
55	Remediation of Land	Applies Complies	The subject lands have not been identified as being potentially contaminated, according to Council's records.
59	Central Western Sydney Economic and Employment Area	N/A	Does not apply to land in Shellharbour
62	Sustainable Aquaculture	Applies N/A	Not relevant to the Planning Proposal
64	Advertising and Signage	Applies N/A	No advertising proposed – will be assessed at development application stage if applicable.
65	Design Quality of Residential Flat Development	Applies N/A	Residential flat buildings are not permissible in the RE1 zone. Not relevant to the Planning Proposal
70	Affordable Housing (Revised Schemes)	N/A	Not in Greater Metropolitan Region.
71	Coastal Protection	Applies Complies	The subject lands are located within the Coastal Zone, according to the Coastal Zone maps provided online by the Department of Planning and Environment, and in a sensitive coastal location, although Shellharbour LGA is not located within the Greater Metropolitan Region. However, given the nature of the Proposal which provides for an additional permitted land use within an existing building on the site, the proposal is therefore considered to be consistent with this SEPP. See discussion below in relation to the Draft Coastal SEPP.
	SEPP (Affordable Rental Housing) 2009	Applies N/A	The site does not include residential development that is taken to be for the purposes of affordable housing as the development is not located on land owned by the Land and Housing Corporation.
	SEPP (Building Sustainability Index: BASIX) 2004	Applies N/A	Not relevant to the Planning Proposal

No.	State Environmental Planning Policy	Applicability/Consistency	Comment
	SEPP (Exempt and Complying Development Codes) 2008	Applies N/A	Not relevant to the Planning Proposal.
	SEPP (Housing for Seniors or People with a Disability) 2004	Applies N/A	Not relevant to the Planning Proposal.
	SEPP (Infrastructure) 2007	Applies Complies	The site is not located on a classified road, according to the RTA classified roads map for the Greater Sydney area and Classified Roads Schedule (accessed November 2016). The Proposal is by or on behalf of a public authority, although is not for the purposes of Council-related infrastructure or services. The proposal is not inconsistent with the provisions of the SEPP.
	SEPP (Kosciuszko National Park - Alpine Resorts) 2007	N/A	Does not apply to land in Shellharbour LGA
	SEPP Kurnell Peninsula 1989	N/A	Does not apply to land in Shellharbour LGA
	SEPP (Mining, Petroleum Production and Extractive Industries) 2007	N/A	Not relevant to the Planning Proposal.
	State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007	Applies N/A	Not relevant to the Planning Proposal.
	State Environmental Planning Policy (Penrith Lakes Scheme) 1989	N/A	Does not apply to land in Shellharbour LGA
	SEPP (Rural Lands) 2008	Applies N/A	Applies to land in Shellharbour LGA, however is not relevant to the Planning Proposal.
	State Environmental Planning Policy (SEPP 53 Transitional Provisions) 2011	N/A	Does not apply to land in Shellharbour LGA (Ku-ring-gai LGA only)
	State Environmental Planning Policy (State and Regional Development) 2011	Applies N/A	Applies to general public authority activities relating to infrastructure, however, does not include applications by a Council.
	State Significant Precincts) 2005	N/A	Not relevant to the Planning Proposal.
	State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011	N/A	The land is not located within the Sydney drinking water catchment.
	SEPP (Sydney Region Growth Centres) 2006	N/A	Does not apply to land in Shellharbour LGA
	State Environmental Planning Policy (Three Ports) 2013	N/A	Does not apply to land in Shellharbour LGA
	State Environmental Planning Policy (Urban Renewal) 2010	N/A	The land has not been identified as a potential urban renewal precinct
	SEPP (Western Sydney Employment Area) 2009	N/A	Does not apply to land in Shellharbour LGA
	SEPP (Western Sydney Parklands) 2009	N/A	Does not apply to land in Shellharbour LGA

No.	Deemed State Environmental Planning Policy (former Regional Environmental Plan)	Applicability/Consistency	Comment
1	Illawarra Regional Environmental Plan No 1	N/A	Repealed 8 August 2016
2	Illawarra Regional Environmental Plan Jamberoo	N/A	Repealed 8 August 2016.
	Sydney Regional Environmental Plan No 8 (Central Coast Plateau Areas)	N/A	Does not apply to land in Shellharbour LGA
	Sydney Regional Environmental Plan No 9—Extractive Industry (No 2—1995)	N/A	Does not apply to land in Shellharbour LGA
	Sydney Regional Environmental Plan No 16—Walsh Bay	N/A	Does not apply to land in Shellharbour LGA
	Sydney Regional Environmental Plan No 18—Public Transport Corridors	N/A	Does not apply to land in Shellharbour LGA (Fairfield and Parramatta only)
	Sydney Regional Environmental Plan No 19—Rouse Hill Development Area	N/A	Does not apply to land in Shellharbour LGA
	Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River	N/A	Does not apply to land in Shellharbour LGA (not specified LGA and not located in Greater

No.	Deemed State Environmental Planning Policy (former Regional Environmental Plan)	Applicability/Consistency	Comment
	(No 2—1997)		Metropolitan Region)
	Sydney Regional Environmental Plan No 24—Homebush Bay Area	N/A	Does not apply to land in Shellharbour LGA
	Sydney Regional Environmental Plan No 26—City West	N/A	Does not apply to land in Shellharbour LGA
	Sydney Regional Environmental Plan No 30—St Marys	N/A	Does not apply to land in Shellharbour LGA
	Sydney Regional Environmental Plan No 33—Cooks Cove	N/A	Does not apply to land in Shellharbour LGA
	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	N/A	Does not apply to land in Shellharbour LGA

No.	Draft State Environmental Planning Policy	Applicability	Comment
	<p>Coastal Management State Environmental Planning Policy (SEPP)</p> <p>Currently on public exhibition from 11 November 2016 to 27 January 2017.</p> <p>Will integrate and improve current coastal-related SEPPs as follows:</p> <p>SEPP 14 (Coastal Wetlands), SEPP 26 (Littoral Rainforests) and SEPP 71 (Coastal Protection).</p> <p>The SEPP will (according to the Department's website):</p> <ul style="list-style-type: none"> • "Establish a new, strategic land use planning framework for coastal management.... • Support implementation of the management objectives set out in the Coastal Management Act 2016.... • Ensure that future coastal development is appropriate and sensitive to our coastal environment, and that we maintain public access to beaches and foreshore areas... <p>Better equip councils and coastal communities to plan for and effectively respond to coastal challenges such as major storms, coastal erosion and climate change impacts, through more strategic planning around coastal development and emergency management."</p> <p>The SEPP will also amend Clause 3.3 Environmentally sensitive areas excluded of the Standard Instrument, thereby amending Shellharbour LEP.</p> <p>A Draft Local Planning Direction – Coastal Management is also proposed which will apply to land within the coastal zone and will therefore apply to the subject site if the current Coastal Zone Maps remain unchanged.</p> <p>A series of Fact Sheets are available</p>	Applies	<p>The Draft SEPP applies to the City of Shellharbour. The SEPP proposes dividing the NSW Coastal Zone under the Coastal Management Act 2016 into four (4) coastal management areas as follows:</p> <ol style="list-style-type: none"> 1. Coastal wetlands and littoral rainforests; 2. Coastal vulnerability area (includes Coastal Vulnerability Areas and Coastal Hazard Land); 3. Coastal environment area; 4. Coastal use area. <p>The subject lands are located within the Coastal Zone, according to the existing Coastal Zone maps, as discussed previously in this Proposal.</p> <p>A review of the draft maps associated with the Draft SEPP on the Department of Planning and Environment's website indicates that the subject site is not identified on the Coastal Wetlands and Littoral Rainforests Area Map or the Local Government Coastal Hazard Map. Part of Lot 1 is identified on the Coastal Environment Area Map; however, this is only the portion of land to the east of the existing buildings near the foreshore, which is not proposed for any physical changes, given the Proposal relates to a use of an existing building.</p> <p>The subject lands are also wholly located within the Coastal Use Area.</p> <p>The Coastal Environment Area, according to the Fact Sheet provided by the Department, permits development, but "must recognise the important environmental values of the area."</p> <p>The Coastal Use Area is defined as '1km landward of coastal water, estuaries and coastal lakes....the area starts at the seaward local government boundary, typically the low water mark, and extends to the estuary limit.'</p> <p>It is noted this is defined differently within the Sydney Metropolitan region (Northern Beaches to Sutherland Councils) and can be redefined by Council's to account for local conditions supported by appropriate supporting information. Council may therefore consider reviewing these boundaries in relation to the subject site.</p> <p>It is noted that a report was considered by Council on Wednesday 14 December 2016 in relation to a Draft Shellharbour Coastal Zone Management Plan</p>

No.	Draft State Environmental Planning Policy	Applicability	Comment
	in relation to the Draft SEPP.		<p>which applies to the subject site. The minutes of the meeting were not yet available at the time of finalising this Proposal, however the recommendation of the report was: That Council:</p> <ol style="list-style-type: none"> 1. endorse the Draft Shellharbour Coastal Zone Management Plan and place it on public exhibition for a minimum period of 21 days in accordance with the Coastal Protection Act 1979. 2. seek a further report following the exhibition period if any relevant submissions are received, or if there are substantial post public exhibition changes proposed for any other reason, otherwise adopt the draft Shellharbour Coastal Zone Management Plan. 3. adopt the Draft Shellharbour Coastal Zone Management Plan and forward to the Minister for certification if there are no substantial, valid submissions received as a result of the public exhibition or there are no substantial post exhibition changes proposed for any other reasons. <p>Council's City Planning Department will consider this Draft SEPP in their assessment of the Proposal. Given the nature of the Proposal which provides for an additional permitted land use within an existing building on the site, it is considered that the proposal is not inconsistent with the Draft SEPP. See discussion above in relation to the Coastal SEPP 71.</p>

Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The following table identifies the Directions issued by the Minister for Planning to relevant planning authorities under Section 117(2) of the Environmental Planning and Assessment Act 1979. The Directions apply to a planning proposal lodged with the Department of Planning on or after 1 July 2009 or as indicated on the latest Directions (version dated 16 April 2016 as accessed for the purposes of this Planning Proposal on 9 December 2016). As indicated below, the Planning Proposal is consistent with the relevant Section 117 Directions.

Section 117 Ministerial Direction	Consistent Y/N/NA	Comments
1. Employment and Resources		
1.1 Business and industrial Zones	N/A	Not relevant to the Planning Proposal.
1.2 Rural Zones	N/A	Not relevant to the Planning Proposal.
1.3 Mining, Petroleum Production and Extractive Industries	N/A	The proposed additional permitted land use does not change the current permissibility of mining under the LEP, therefore this Direction is not applicable.
1.4 Oyster Production	N/A	Not relevant to the Planning Proposal.
1.5 Rural Lands	N/A	Not relevant to the Planning Proposal.
2. Environment and Heritage		
2.1 Environment Protection Zones	Y	This direction applies to all relevant planning authorities. However, the Planning Proposal does not contain an environment protection zone or land otherwise identified for environment protection purposes in SLEP 2013. The Proposal addresses all site constraints and provides that the proposal is

Section 117 Ministerial Direction	Consistent Y/N/NA	Comments
		minor in nature and does not envisage that any site works will be required which will impact on any environmentally sensitive areas and does not propose to reduce the environmental protection standards that currently apply to the land. The proposal therefore complies with this Direction.
2.2 Coastal Protection	N – refer comment	The subject lands are located within the Coastal Zone, according to the Coastal Zone maps provided by the Department of Planning and Environment, and within a Sensitive Coastal location, although Shellharbour LGA is not located within the Greater Metropolitan Region. However, given the nature of the Proposal which provides for an additional permitted land use within an existing building on the site on the subject lands, it is not intended that the proposal will involve any ground works and will utilise the existing building on the site for the proposed land use. The proposal will not restrict public access, amenity, scenic quality or impact on the coastal foreshore area. Any potential impact on the coastal zone would be addressed at development application stage in accordance with clause 5.5 of SLEP 2013. The Proposal is considered to be of minor significance and therefore may be inconsistent with this Direction.
2.3 Heritage Conservation	Y	The subject site will not have any anticipated impacts on any listed item of environmental heritage under SLEP 2013. The site does not contain any items of environmental heritage, and although within the vicinity of a heritage item (refer to discussion in this Part of this Planning Proposal), the proposed reclassification and additional permitted use of the land will not affect any item in the vicinity. The Proposal is not inconsistent with the Direction.
2.4 Recreation Vehicle Area	Y	This direction applies to all relevant planning authorities. However, the Planning Proposal does not propose development for the purposes of recreation vehicles. The proposal therefore complies with this Direction.
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	N/A	This Direction applies to the local government areas of Ballina, Byron, Kyogle, Lismore and Tweed, but does not apply to Shellharbour LGA, and therefore does not apply to the Proposal.
3. Housing, Infrastructure and Urban Development		
3.1 Residential Zones	N/A	Not relevant to this Planning Proposal.
3.2 Caravan Parks and Manufactured Home Estates	Y	This direction applies to all relevant planning authorities. However, the Proposal does not propose development for the purposes of caravan parks and manufactured home estates and does not amend their current permissibility under the LEP provisions. The Proposal is therefore not inconsistent with this Direction.
3.3 Home Occupations	N/A	This direction applies to all relevant planning authorities, however, is not relevant to this Planning Proposal.
3.4 Integrating Land Use and Transport	Y	The direction applies to all relevant planning authorities, when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes. The site is zoned RE1 Public Recreation and therefore does not fall within the specified zones. However, it is noted that the proposal does not create, alter or move any zoning boundaries, nor propose to alter any development provisions contained within the LEP. The subject site currently has access from Junction Road and access to the existing car parking area on Lot 5. Detailed land use access for the site would be addressed as part of any future development application for the site. The Planning Proposal is therefore not considered to be inconsistent with the aims, objectives and principles of the relevant documents and is therefore consistent with this Direction.
3.5 Development Near Licensed Aerodromes	N/A	Not relevant to the Planning Proposal.
3.6 Shooting Ranges	N/A	Not relevant to the Planning Proposal.
4. Housing, Infrastructure and Urban Development		
4.1 Acid Sulphate Soils	N – refer comments	The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.

Section 117 Ministerial Direction	Consistent Y/N/NA	Comments
		<p>The land is identified as containing potential Class 3 Acid Sulphate Soils, therefore this Direction applies. The provisions of clause 7.5 of the SLEP 2013 therefore also apply.</p> <p>However, it is not intended that the proposal will involve any works more than 1 metre below the natural ground surface or works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface and will utilise the existing building on the site for the proposed land use. Any potential impact on acid sulfate soils would be addressed at development application stage in accordance with the LEP and an acid sulfate soils assessment has not been prepared.</p> <p>The Proposal is considered to be of minor significance and therefore may be inconsistent with this Direction.</p>
4.2 Mine Subsidence and Unstable Land	N/A	The land is not located within a mine subsidence district and is not identified as unstable land.
4.3 Flood Prone Land	N – Refer Comments	<p>The subject site is identified as containing flood prone land. However, the Planning Proposal does not propose to create, remove or alter a zone or a provision that affects flood prone land.</p> <p>The Proposal does not permit development in floodway areas or permit development that will result in significant flood impacts to other properties as it applies to the use of the site.</p> <p>Any potential impact on flooding would be addressed at development application stage in accordance with the LEP and a flood assessment has not been prepared.</p> <p>The Proposal is considered to be of minor significance and therefore may be inconsistent with this Direction.</p>
4.4 Planning for Bushfire Protection	N/A	Site does not contain bushfire prone land, according to Council's online mapping.
5. Regional Planning		
5.1 Implementation of Regional Strategies	N/A	<p>This direction applies to land to which the following regional strategies apply:</p> <ul style="list-style-type: none"> (a) Far North Coast Regional Strategy (b) Lower Hunter Regional Strategy (c) South Coast Regional Strategy (excluding land in the Shoalhaven LGA) (d) Sydney–Canberra Corridor Regional Strategy (e) Central Coast Regional Strategy, and (f) Mid North Coast Regional Strategy. <p>These strategies do not apply to the subject site, therefore this Direction does not apply.</p>
5.2 Sydney Drinking Water Catchments	N/A	Not located within the Sydney Drinking Water Catchment
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	N/A	Does not apply to Shellharbour LGA
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	N/A	Does not apply to Shellharbour LGA
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	REVOKED	Revoked
5.6 Sydney to Canberra Corridor	REVOKED Refer to amended Direction 5.1	Revoked
5.7 Central Coast	REVOKED	Revoked
5.8 Second Sydney Airport: Badgerys Creek	N/A	Not relevant to the Planning Proposal.
5.9 North West Rail Link Corridor Strategy	N/A	Not relevant to the Planning Proposal.
5.10 Implementation of Regional Plans	Y	The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans. This direction applies to land to which a Regional Plan has been released by the Minister for Planning. The Illawarra-Shoalhaven Regional Plan was

Section 117 Ministerial Direction	Consistent Y/N/NA	Comments
		released in November 2015 and applies to the subject site. This Direction therefore applies. Refer to Section B- Relationship to strategic planning framework in this Proposal for detailed discussion of the relevant provisions of the Illawarra-Shoalhaven Regional Plan in relation to the subject site and Planning Proposal. The proposed reclassification and additional permitted use is consistent with the provisions of the Regional Plan.
6. Local Plan Making		
6.1 Approval and Referral Requirements	Y	The Planning Proposal is considered to be substantially consistent with this Direction, does not contain any provisions requiring concurrence, consultation or referral of a Minister or public authority and is not inconsistent with the objective to encourage the efficient and appropriate assessment of development.
6.2 Reserving Land for Public Purposes	Y	This Direction applies to all relevant planning authorities. The Planning Proposal does not create, alter or reduce existing zonings or reservations of land for public purposes and is therefore not inconsistent with the Direction.
6.3 Site Specific Provisions	Y	<p>The Planning Proposal will provide an additional permitted use specific to the subject site in addition to the proposed reclassification of the land, therefore this direction is applicable.</p> <p>The Direction provides that: A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either: (a) allow that land use to be carried out in the zone the land is situated on, or (b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or (c) <u>allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.</u></p> <p>The Planning Proposal does not intend to impose any development standards or requirements in addition to those contained within the SLEP 2013.</p> <p>Under this Direction, a planning proposal must not contain or refer to drawings that show details of the development proposal. This Planning Proposal does not show details of a development proposal as this will be determined at development application stage.</p> <p>The Planning Proposal is considered to be consistent with the Direction.</p>
7. Metropolitan Planning		
7.1 Implementation of the Metropolitan Plan for Sydney 2036	N/A	Does not apply to Shellharbour LGA
7.2 Implementation of Greater Macarthur Land Release Investigation	N/A	Does not apply to Shellharbour LGA (Campbelltown City Council and Wollondilly Shire Council only)

Section C – Environmental, social and economic impact

Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The relevant existing Plans of Management applicable to the subject Council-owned allotments are discussed in Section 4 of this Planning Proposal. Lot 1 (which forms part of the subject lands) is not identified as containing any significant biodiversity (habitat/endangered and threatened species). The Plan of Management which includes Lot 5 being part of the subject lands, indicates the existence of significant biodiversity issues relating to lands included in that Plan of Management, as provided previously in this Statement, being *“Endangered Ecological Community: Coastal saltmarsh; Sydney Coastal Estuary Swamp Complex, Threatened Fauna species: Botaurus poiciloptilus (Australasian Bitten); Potential habitat for Litoria aurea (Green and Golden Bell Frog)”*.

However, the lands subject to this Planning Proposal are not identified on the Terrestrial Biodiversity Map under SLEP 2013 as containing any Terrestrial Biodiversity. The reference in the Plan of Management appears to relate to lands further to the west of the subject site to the west of Junction Road which are identified on the Map. The revised Plan of Management will also no longer apply to the subject lands, including the portion of Lot 5 subject to this Planning Proposal. It is therefore anticipated that there will not be any substantive impact on critical habitat or threatened species, populations or habitats as a result of the planning proposal.

Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The subject lands are not identified on Council's mapping as being affected by bushfire (bushfire prone land), or as being contaminated.

The subject land is identified, according to the Coastal Zone Map, as being within the Coastal zone, and within a Sensitive Coastal location, although Shellharbour LGA is not actually located within the Greater Sydney Metropolitan Area. Given the nature of the Planning Proposal which only relates to the use of the site, any potential impact on coastal processes would be addressed at development application stage in accordance with the provisions of the Coastal SEPP.

The subject lands as identified, according to the Acid Sulfate Soils Map provided on Shellharbour Council's website, as containing potential Class 3 Acid Sulfate Soils. It is not intended that the proposal will involve any works more than 1 metre below the natural ground surface or works by which the water table is likely to be lowered more than 1 metre below the natural ground surface and will utilise the existing building on the site for the proposed land use. Any potential impact on acid sulfate soils would be addressed at development application stage in accordance with the LEP and an acid sulfate soils assessment has not been prepared.

The subject site is identified as containing flood prone land. It is noted that Council recently adopted the Elliot Lake – Little Lake Flood Study (October 2016) which applies to the site. However, the Planning Proposal does not propose to create, remove or alter a zone or a provision that affects flood prone land. The Proposal does not permit development in floodway areas or permit development that will result in significant flood impacts to other properties as it applies to the use of the site. Any potential impact on flooding would be addressed at development application stage in accordance with the LEP. This will include consideration of evacuation requirements and also management strategies to address potential damage to equipment within the building.

Given the proposed additional permitted land use is to be located within an existing building, and no earthworks are proposed to be undertaken, it is not anticipated that the proposal will likely cause any other potential environmental effects.

Q9. Has the planning proposal adequately addressed any social and economic effects?

The proposal will have a positive social and economic effect on the operations of the Shellharbour Surf Life Saving Club with continuation of the Club's operations and the recognition of previous operating land uses. The proposal will also allow Council to give effect to a new lease of land to the Shellharbour Surf Life Saving Club, to continue to provide support for this valuable local community asset and service.

The proposed additional permitted land use which is site specific will not impact on other sites within the RE1 Public Recreation Zone or other Council land or buildings, including the existing building directly to the south of the site, which is currently utilised for clubhouse purposes and is not intended to be used for the purposes of a 'function centre', and continued public access will be provided to the car park area and the foreshore area.

Section D – State and Commonwealth interests

Q10. Is there adequate public infrastructure for the planning proposal?

The already constructed two way vehicle access into and from the site, as well as the existing car parking area which services the Shellharbour foreshore area and the existing Shellharbour Surf Life Saving Club buildings, will be utilised for any future use of the site. Therefore the on-ground impacts in terms of public access to the beach and Council public reserve areas will be minimal, if any, and these will remain unaltered and unaffected by the planning proposal. Refer to further discussion provided in relation to car parking in **Section A – Need for the planning proposal** (Q1. *Is the planning proposal a result of any strategic study or report?*). Hence, it is anticipated that there will be minimal impacts on existing public infrastructure as a result of the proposal.

Q11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

The proposed agency consultation will be confirmed with the Gateway determination. Preliminary views of any state or Commonwealth agency in relation to the proposal had not been obtained by the proponent at the time of preparing this Report.

Part 4 – Mapping

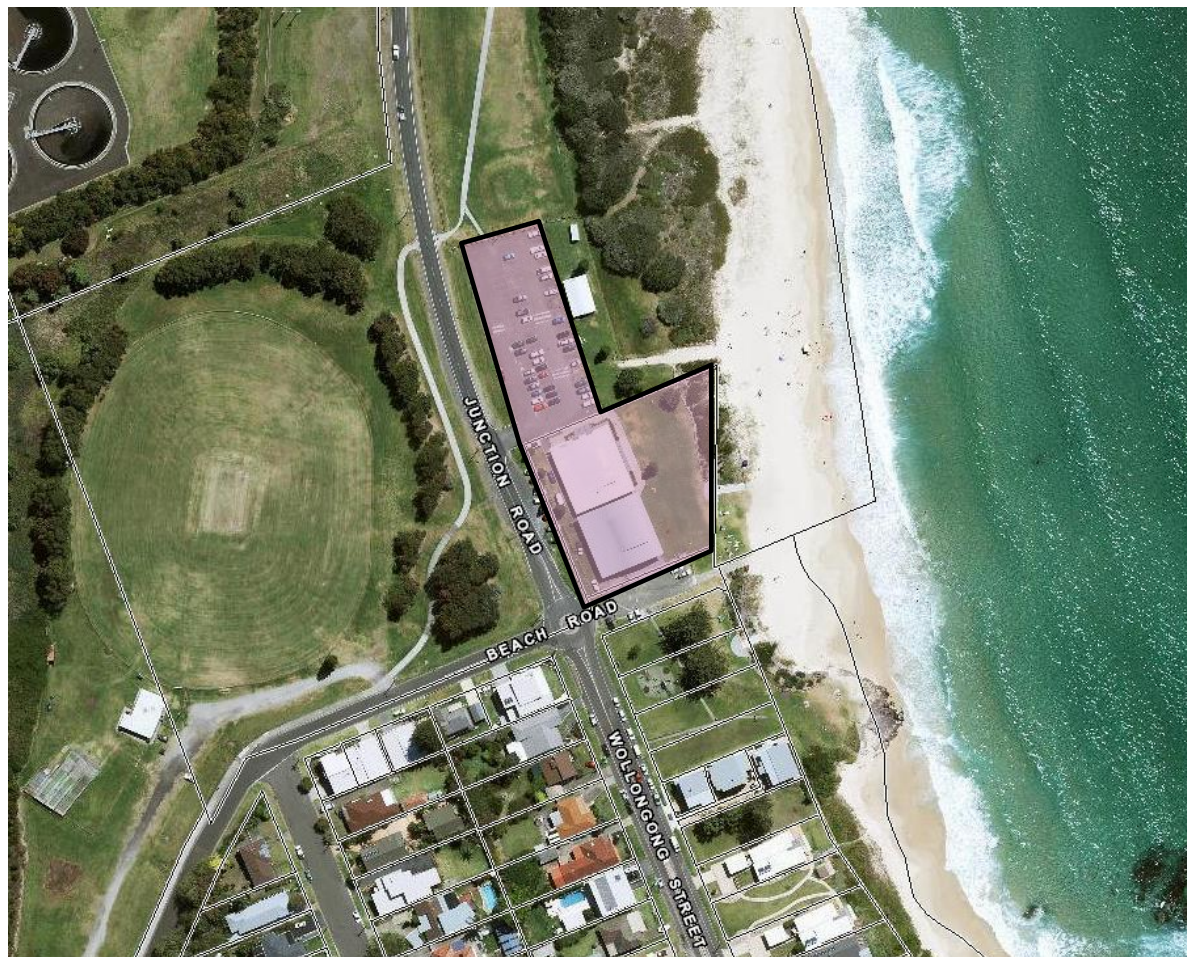
This section of the Planning Proposal provides detail on the maps required as part of the proposed instrument in order to identify the intent of the planning proposal and the area to which it applies.

The maps in this Part illustrate the area to which this Planning Proposal applies and the intent to amend the Additional Permitted Uses Map and to introduce a new Land Reclassification (Part Lots) Map (there is currently no existing map relating to Land Classifications) pursuant to Shellharbour Local Environmental Plan 2013.

Map 1 provides an illustration of an LEP Map to amend the Additional Permitted Uses Map associated with Shellharbour Local Environmental Plan 2013, which will be required once preparation of a Draft LEP Amendment to SLEP 2013 occurs.

Map 2 provides an illustration of an LEP Map to introduce a new Land Reclassification (Part Lots) Map associated with Shellharbour Local Environmental Plan 2013, which will be required once preparation of a Draft LEP Amendment to SLEP 2013 occurs.

Map 1 - Additional Permitted Uses Map



Proposed Additional Permitted Uses Map (APU)

Key:

 Additional Permitted Uses Site
(Refer to Schedule 1)

Prepared By TCG Planning

Base Map Source:
<https://maps.six.nsw.gov.au> Additional Permitted Use
 On Certain Land within Public Ownership
 Lot 1 DP 211127 and Part of Lot 5 DP 218551
 Junction Road, Shellharbour

Prepared for Shellharbour City Council
 (Property and Recreation Department)

June 2017

Map 2 – Land Reclassification (Part Lots) Map



Proposed Land Reclassification (Part Lots) Map (RPL)

Key:

- Land Reclassification (Part Lots)
Operational Land

Prepared By TCG Planning

Base Map Source: <https://maps.six.nsw.gov.au>
 Reclassification of Certain Land within Public
 Ownership
 Lot 1 DP 211127 and Part of Lot 5 DP 218551
 Junction Road, Shellharbour

Prepared for Shellharbour City Council
 (Property and Recreation Department)

June 2017

Part 5 – Community Consultation

This section of the Planning Proposal provides details of the community consultation to be undertaken on the planning proposal.

Public exhibition

The proposed Reclassification of Land and Additional Permitted Use of the subject lands in the form of a Planning Proposal and any relevant documentation (including any associated documents such as the existing Plans of Management, Draft (as amended) Plan of Management for the remaining 'community land' portion of Lot 5 DP 218551 and a Statement of Council's Interest in the land), will likely be placed on public exhibition for a minimum of 28 days, in accordance with the requirements of the *Environmental Planning and Assessment Act* and the *Local Government Act*, as well as the Department of Planning and Environment's 'Guide to preparing local environmental plans' document. This will be determined by the Department at the Gateway Determination.

Public Hearing

A public hearing is required when 'community land' is proposed to be reclassified as 'operational land' under the EP&A Act (section 29 of the *Local Government Act*). To ensure Council and the community have sufficient time to consider relevant matters associated with the proposed change, the public hearing will likely be held towards the end or after the close of the exhibition period in accordance with the EP&A Act (section 29 of the LG Act).

Public hearing provisions are set out in the *Environmental Planning and Assessment Regulation* (clause 14) and public notice of a hearing must be sent or published at least 21 days before the start of the public hearing. The independence of the person chairing the public hearing and requirements relating to the preparation and inspection of reports from the hearing are specified in section 47G of the *Local Government Act*.

Part 6 – Project Timeline

This section of the Planning Proposal provides details on the anticipated timeline for the Planning Proposal.

The anticipated timeframes for various stages during the Planning Proposal will be recommended by Council's City Planning Department, considered by the elected Council and agreed to, then monitored, by the Department of Planning and Environment throughout the process.

4 Conclusion and Recommendation

It is considered that the proposed reclassification and additional permitted use of the subject lands for the purposes of a 'function centre' as detailed in this Planning Proposal, is consistent with the original intentions of Shellharbour City Council in relation to the use of the subject site. This is evident in the history of use of the building for such purposes, and consistent with recent resolutions in relation to the lease of the site to the Shellharbour Surf Life Saving Club. The Proposal will enable the Shellharbour Surf Life Saving Club to pursue the operation of a function centre from the site, subject to development approval.

The proposed changes to *Shellharbour Local Environmental Plan 2013*, specifically to *Schedule 1 Additional Permitted Uses* and *Schedule 4 Classification and reclassification of public land (Part 2)* in relation to the site, reflect Council's intended future use of the land as detailed in this Proposal and will have minimal impact on the total amount of available community land provided in this location.

It is considered that the Planning Proposal is consistent with the vision for this area, is of a relatively minor nature and will provide a transparent opportunity for community input into the proposed use and reclassification of the site. Accordingly, the progression of this Planning Proposal by Shellharbour City Council's City Strategy Department and Shellharbour City Council is sought.

Appendix 1 Report to Council

10.3.8 Proposed New Lease - Shellharbour Surf Club Incorporated, Lot 1 DP 211127 Shellharbour (10607365)

To the General Manager

Directorate: Corporate Policy
Department: Infrastructure Services

Manager: Donna Flanagan – Manager Property and Recreation
Author: Melissa Scozzafava – Team Leader Property

Summary

Currently there is a lease between Shellharbour City Council and Shellharbour Surf Life Saving Club Incorporated (Club) for Lot 1 DP211127 for the operations of a club house for members of the association. This lease commenced 1 July 1962 for a term of 99 years at a yearly rental of One Pound.

On Council's initiation, Council officers have been liaising with Executive and members of the Club regarding a new lease to reflect the current operations. Council officers attended the Special General meeting to discuss the proposed new lease. It is suggested that the Council give consideration to the granting of a new lease conditioned in such a way that Council's risk exposure be properly minimised.

Accordingly, this report seeks Council approval to commence the process to enter into a new lease agreement for the balance of the 99 year term with Shellharbour Surf Life Saving Club Incorporated (Club) at an annual rental of \$1 for Lot 1 DP 211127, Shellharbour. The lease area is shown in attachment 1.

Background

A lease for 99 years was entered into on 1 July 1962 between Shellharbour City Council and executive of the then Shellharbour Surf Club being Douglas Harold Sanders and James O'Neill.

Currently Council is not properly indemnified against a claim that could be brought against it in connection with the unauthorised use of the premises for which the existing Lessee's are unlikely to be insured.

Council's position is that the club simply does not have any right to discuss any rights, whether under a licence agreement or otherwise so as to permit a use of part of the premises for purposes which fall beyond the scope of the lessee's permitted use of the premises under the lease. Accordingly, the operations of the "Function Centre" are not permissible under the terms of the permitted use noted within the existing lease. Development Consent for the "Function Centre" was granted amended DA89/207. This was never reflected in the permitted use within the lease. Council's role as consent authority is entirely distinct from its role as a lessor under a lease.

The applicable clauses of the current lease state:

Clause B - That the Lessee will not assign sublet or attempt to assign or sublet or part with the possession of the demised premises or any part thereof whether by operation of law or otherwise without the prior written consent of the Council which consent may be withheld by the Council in its absolute discretion.

Clause C - That the Lessee will not use the demised premises or any part thereof except for the purpose of the accommodation of the Shellharbour Branch of the Surf Life Saving Association of Australia as a Club House for members of the Association and for changing rooms and dressing and toilet accommodation for the use of members of the public using the adjacent beach for surfing and swimming and for purposes reasonable incidental thereto.

Any change to the permitted use may be subject to application for development consent and assessment under the planning framework prevailing at the time of lodgement and Ministerial approval if a 30 year lease is pursued as detailed below.

Proposed New Lease

Under the existing Lease of the premises, the Club was permitted to remain in occupation of the premises for a term of 99 years terminating on the 30 June 2061, the annual rental being One Pound.

The subject land is classified as Community Land. Leases of community land cannot be longer than 21 years (including the period of any options to renew) as per S46 (3) of the Local Government Act, 1993. However Councils may by way of application to the Minister for Local Government request a term of 30 years. There is no guarantee that this will be granted.

Therefore, Council hereby seeks to offer a new lease to the Club on the terms of the existing lease for the rental and period. The term will be for 21 years as per the Local Government Act being 2015 to 2036. It is intended to offer a further 21 years being 2036 to 2057 and following this a further four (4) year term to terminate in 2061. This reflects the period of the current lease.

In accordance with the Draft Leasing and Licencing of Council Land and Buildings Policy an independent valuation was conducted which assessed the current market annual rental for the premises including the clubhouse and function centre to be \$71,490 plus GST. This equated to \$40,000 for the club house and \$31,490 for the function centre.

As noted within the Draft Policy, a minimum fee may be recommended by Council Officers on a case by case basis. It is acknowledged that the club has been operating and providing voluntary lifesaving services to the local community since 1936 when the Club initially formed. The Club has informed Council Officers of the following:

In 2014/15 the clubs memberships was over 800 including associate and nipper members.

There are 14 active patrols available at Shellharbour North Beach from September to April each year over every Saturday, Sunday and Public Holiday. During last season 261 patrolling members provided a total of 6691.75 volunteer hours to keep the beach safe for locals and visitors. The Club can proudly say "No lives lost on our beach this season".

In excess of 300 Nippers attend the Nippers program which aims to educate children about surf safety and develop skills to become future life savers.

The club maintains a vast inventory of essential lifesaving equipment that enables the Club to fulfil their water safety and patrol obligations. This includes regularly used equipment such as patrol gear, rescue boards and tubes. This equipment must be maintained in a constant state of readiness and accordingly must pass a yearly gear inspection where their function and suitability for purpose is assessed.

Applying a wage rate excluding on-costs of \$28 per hour this is in excess of \$187,000 worth of volunteer labour, excluding gear and equipment.

In addition to these costs, the Club will be responsible to maintain the premises in a good state of repair. This is not dissimilar to other leases whereby Council is responsible to maintain the premises in a structurally sound condition.

The proposed permitted use of the premises states:

For use as a club house for members of the Surf Life Saving Club and activities auxiliary to that use as well as the hiring of premises to members of the Surf Life Saving Club (which for the avoidance of doubt allows the hiring of the Premises or part thereof to members of the Surf Life Saving Club).

The new lease acknowledges that the Club intends to enter into a Management Agreement for the use and operation of part of the building comprising as a Function Centre and gives its in principle approval to such an arrangement subject to the Club providing the Council with the opportunity to review any proposed agreement but where such approval shall not be unreasonably withheld provided that the Council's interest shall be properly protected.

Financial Considerations

As previously noted the proposed annual rental is \$1. As Council is offering an annual subsidy this should be noted as an "in-kind donation" in Council's aggregate record of donations to the community. An "in-kind donation" is a donation that is made for goods or services rather than cash, accordingly this subsidy amount will not be paid out of Council's Donations Policy budget. All subsidies made under the policy are made as "in-kind donations" in the form of the use of the facility for a lesser amount in return for the services that they offer to the community as well as

the maintenance responsibilities that they may undertake on the property, rather than cash from Council's Donations Policy budget.

Council will incur costs affiliated with the advertising of the proposal, lease preparation and registration.

Legal and Policy Considerations

The Plan of Management for the subject land authorises leasing, licensing or granting any other estate over the subject land for any community purpose as determined by Council. It also expressly states "that in the interest of the community of the Shellharbour Local Government Area that this land be utilised for the purposes of a Surf Life Saving Club and associated facilities" and "the Council has entered into a long term lease arrangement with the Shellharbour Surf Life Saving Club for the occupation of this site".

Under the *Local Government Act 1993*, Council is required to advertise the proposal in accordance with Section 47 of this Act. This will allow the community to comment on the proposal within the twenty-eight (28) day advertising period.

If a person makes a submission by way of objection to the proposal, details of all submissions must be included in a report to the Council to enable the proposal to be reconsidered and the proposal must be referred to the Minister for consent to the proposal.

Public and Social Impact

Should the voluntary surf lifesaving services of the Club cease, Council would be required to provide such services to the local community at a significant cost to the Council.

Commencement of the formal process to enter into a lease agreement with Shellharbour Surf Life Saving Club Incorporated will allow the community to comment and provides a timeframe for such comment.

Link to Community Strategic Plan

The proposed lease with Shellharbour Surf Life Saving Club Incorporated supports the following objectives and strategies of the Community Strategic Plan:

Objective: 1.1 Vibrant, safe and inclusive City

Strategy: 1.1.4 Have accessible community and cultural facilities available for current and future community members

Objective: 4.2 Supported by a Council that is responsive, accountable and financially viable

Strategy: 4.2.1 Undertake Council activities within a clear framework of strategic planning, policies, procedures and service standards

Consultations

Internal

Director Corporate Policy

External

Shellharbour Surf Life Saving Club Incorporated

Schmidt-Liermann Lawyers

PJC Property Services – Property Valuers and Consultants

Political Donations Disclosure

Not Applicable

Recommendation

1. That Council commence the formal process including advertising and exhibition of the proposal to enter into a new lease with Shellharbour Surf Life Saving Club Incorporated for Lot 1 DP 211127, Shellharbour for an initial term of 21 years with a view of varying the lease to 30 years upon Minister Approval.
2. That provided no objections are received, that Council enter into the 21 year lease with Shellharbour Surf Life Saving Club Incorporated at an annual rental of \$1.
3. That Council make an application to the Minister for Local Government to vary the lease term to 30 years as per the Local Government Act 1993.
4. It is intended on the termination of the above lease that Council offer a further lease term of 21 years and on the termination of the lease it is intended that Council offer a further lease of four (4) years.
5. That Council note the annual "in-kind donation" of \$71,489 for the subsidised rental in Council's aggregate record of donations to the community.
6. That the Mayor and General Manager, or his nominated delegate, be authorised to sign any documentation associated with the application to the Minister of Local Government and Lease with Shellharbour Surf Life Saving Club Incorporated, under Council Seal.

Approved for Council's consideration: _____

Date of Meeting: 27 October 2015

Attachments

1. Proposed Lease area of Lot 1 DP 211127 shown by black outline

Attachment 1 - Proposed Lease Area of Lot 1 DP 211127 shown by black outline



9. Further that affected land owners be consulted throughout the design process with a view to minimising as much as possible the loss of amenity or inconvenience being caused during the construction phase.

CARRIED UNANIMOUSLY

10.3.8 Proposed New Lease - Shellharbour Surf Club Incorporated, Lot 1 DP 211127 Shellharbour (10607365)

305 RESOLVED: Murray/Rankin

1. That Council commence the formal process including advertising and exhibition of the proposal to enter into a new lease with Shellharbour Surf Life Saving Club Incorporated for Lot 1 DP 211127, Shellharbour for an initial term of 21 years with a view of varying the lease to 30 years upon Minister Approval.
2. That provided no objections are received, that Council enter into the 21 year lease with Shellharbour Surf Life Saving Club Incorporated at an annual rental of \$1.
3. That Council make an application to the Minister for Local Government to vary the lease term to 30 years as per the Local Government Act 1993.
4. It is intended on the termination of the above lease that Council offer a further lease term of 21 years and on the termination of the lease it is intended that Council offer a further lease of four (4) years.
5. That Council note the annual "in-kind donation" of \$71,489 for the subsidised rental in Council's aggregate record of donations to the community.
6. That the Mayor and General Manager, or his nominated delegate, be authorised to sign any documentation associated with the application to the Minister of Local Government and Lease with Shellharbour Surf Life Saving Club Incorporated, under Council Seal.

CARRIED UNANIMOUSLY

306 RESOLVED: Murray/Rankin

That Standing Orders be resumed.

CARRIED UNANIMOUSLY

Appendix 2 Existing Plans of Management



PLAN OF MANAGEMENT FOR COMMUNITY LAND

under Section 36
Local Government Act 1993
(as amended)

AIM:

To ensure our community land is managed and developed sustainably for the long term benefit of the community.

ADOPTED BY COUNCIL 22 JUNE 2010

PROPERTY DESCRIPTION:

LOT: 1 DP: 211127

**SHELLHARBOUR SURF CLUB &
SEA SPRAY FUNCTION CENTRE**

115 Junction Road, SHELLHARBOUR 2529

Parcel Number 5821

COMMUNITY LAND CATEGORY

General Community Use

CORE OBJECTIVES (Local Government Act):

To promote, encourage and provide for the use of the land, and to provide facilities on the land, to meet the current and future needs of the local community and of the wider public:

- a) in relation to public recreation and the physical, cultural, social and intellectual welfare or development of individual members of the public, and
- b) in relation to purposes for which a lease, licence or other estate may be granted in respect of the land (other than the provision of public utilities and works associated with or ancillary to public utilities).

BACKGROUND INFORMATION:

That Council has determined that in the interest of the community of the Shellharbour Local Government Area that this land be utilised for the purposes of a Surf Life Saving Club and associated facilities. The Council has entered into a long term lease arrangement with the Shellharbour Surf Lifesaving Club for the occupation of this site.

By virtue of this lease agreement, the Shellharbour Surf Lifesaving Club has care control and management of the land, and is responsible for the maintenance of the land.

Recreational Value:

Provides necessary facilities to ensure broader community can enjoy a range of aquatic opportunities.

Facilities Provided:

Surf Life Saving Clubhouse facilities and function centre.

Condition of Land & Buildings:

Buildings are in a sound condition.

Environmental Value:

➤ Natural Features

Foreshore area providing Clubhouse and Function Centre

➤ **Biodiversity Issues (Habitat/Endangered and Threatened Species)**

Council's records do not indicate the existence of any significant biodiversity issues on this property.

➤ **Area with Cultural Significance**

This land does not contain an item of heritage significance as listed in Shellharbour LEP 2000 and Shellharbour Rural LEP 2004.

➤ **Area with Aboriginal Significance**

The extent of Aboriginal significance of this area is yet to be determined.

Management Objectives:

To provide a suitable site for use by the Surf Lifesaving Clubs to enable them to participate in surf rescue, and other surf club related activities.

To enhance beach safety by the provision of such a site.

Strategies to Achieve Management Objectives:

By providing an area of land for a surf club building in the close vicinity of the beach.

Assessment of Effectiveness of Management Strategies:

That the Surf Lifesaving Clubs have occupation of a suitable site for the carrying out of their activities.

Strategic Development:

There are no current plans to change the use profile of this property.

Permitted Uses:

This plan of management authorises, leasing licensing or granting any other estate over this park for any community purpose as determined by Council. Any agreement which may be entered will be in accordance with Section 45, 46, 46A, 47, 47AA & 48 of the Local Government Act 1993.

Fees will be charged for such use of the park, as determined by Council or alternative as identified in Council's Fees and Charges. Agreements or approvals for use of the park will be in writing, subject to any conditions determined and may be granted for activities including: -

➤ **Short Term Casual Purposes**

- Busking & Entertainment
- Food Vending
- Sale of Alcohol
- Community and Private Events
- Filming
- Agistment of Livestock
- Use of buildings
- Temporary occupation for construction on adjoining land

➤ **Granting of Estates**

Council may grant estates in the land in accordance with the requirements of the Local Government Act 1993, for a period of up to five (5) years for the purpose of:-

- Lease of any building on the land for a community purposes

Council may grant estates in the land for in excess of five (5) years in accordance with the Local Government Act 1993, for the purpose of:

- Estates in the land for the provision of public utilities and works associated with or ancillary to public utilities in accordance with Section 46 (a) & 46 (a1).
- Estates in the land for any period in excess of five (5) years shall only be granted in accordance with the requirements of Section 47.
- Lease of any building on the land for a community purpose

An agreement for use of this park for any purpose listed above will be subject to the approval of Council, any legal requirements as determined by Council and will include the requirement for adequate public liability insurance cover.

Granting of an estate for utility installation to any party shall be subject to valuation and purchase of that estate and shall include meeting all costs associated with the granting of the estate, restoration of the park following works and all other conditions imposed by Council.

Lease / Licence Agreements:

Lessee: Shellharbour Surf Life Saving Club

Lease Term: 99 years

Lease Expiry: 1/7/2061



PLAN OF MANAGEMENT FOR COMMUNITY LAND

under Section 36
Local Government Act 1993
(as amended)

AIM:

To ensure our community land is managed and developed sustainably for the long term benefit of the community.

ADOPTED BY COUNCIL 22 JUNE 2010

PROPERTY DESCRIPTION:

BEVERLEY WHITFIELD PARK

LOT: 5 DP: 218551
Junction Road, SHELLHARBOUR 2529
Parcel Number 5820

SHELLHARBOUR SWAMP

LOT: 3 DP: 571518
Shellharbour Road, SHELLHARBOUR 2529
Parcel Number 11327

COMMUNITY LAND CATEGORY

Sportsground
Park
Natural Area - Foreshore

CORE OBJECTIVES (Local Government Act):

To encourage, promote and facilitate recreational pursuits in the community involving organised and informal sporting activities and games, and

To ensure that such activities are managed having regard to any adverse impact on nearby residences.

To encourage, promote and facilitate recreational, cultural, social and educational pastimes and activities, and

To provide for passive recreational activities or pastimes and for the casual playing of games, and

To improve the land in such a way as to promote and facilitate its use to achieve the other core objectives for its management.

To conserve biodiversity and maintain ecosystem function in respect of the land, or the feature or habitat in respect of which the land is categorised as a natural area, and

To maintain the land, or that feature or habitat, in its natural state and setting, and

To provide for the restoration and regeneration of the land, and

To provide for community use of and access in such a manner as will minimise and mitigate any disturbance caused by human intrusion, and

To assist in and facilitate the implementation of any provisions restricting the use and management of the land that are set out in a recovery plan or threat abatement plan prepared under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*.

To maintain the foreshore as a transition area between the aquatic and terrestrial environment, and to protect and enhance all functions associated with the foreshore's role as a transition area, and

To facilitate the ecologically sustainable use of the foreshore, and to mitigate impact on the foreshore by community use.

BACKGROUND INFORMATION:

That Council has determined that in the interest of the community of the Shellharbour Local Government Area that:

Sportsgrounds, open areas and appropriate facilities and amenities should be made available for the use of sporting and community groups.

There is a formed but undedicated road which severs lot 5 and is known as Junction Road. It is intended that in the future this road be dedicated as a public road. The cricket practice nets, change rooms, public toilets and gear shed associated with Beverley Whitfield Oval are situated on Lot 3, DP 571518.

Improvements have been made by way of flood lighting, carparking, turf cricket wicket, landscaping and beach rehabilitation.

Recreational Value:

The area contains both active and passive open space created for the enjoyment of the Shellharbour community.

Facilities Provided:

Improvements have been made by way of flood lighting, carparking, turf cricket wicket, landscaping, beach rehabilitation, cricket practice nets, change rooms, public toilets and gear shed associated with Beverley Whitfield Oval. A shared cycle/pathway runs along foreshore.

Condition of Land & Buildings:

Buildings are in a sound condition.

Environmental Value:

➤ Natural Features

Includes dunal system of the Shellharbour north beach, lifeguard tower, Seas Sprays Function Centre and amenities associated with the beach.

➤ Biodiversity Issues (Habitat/Endangered and Threatened Species)

Council's records indicate the existence of significant biodiversity issues on this property.

Endangered Ecological Community: Coastal saltmarsh; Sydney Coastal Estuary Swamp Complex, Threatened Fauna species: *Botaurus poiciloptilus* (Australasian Bitten)

Potential habitat for *Litoria aurea* (Green and Golden Bell Frog)

➤ Area with Cultural Significance

This land does not contain an item of heritage significance as listed in Shellharbour LEP 2000 and Shellharbour Rural LEP 2004.

➤ Area with Aboriginal Significance

The extent of Aboriginal significance of this area is yet to be determined.

Management Objectives:

The objectives and performance targets of the plan with respect to the land/s will be as follows:

To provide for and enhance the recreational needs of the community.

To maintain the existing landscaped areas to a presentable standard.

To provide a beach for recreational enjoyment that is free of dogs.

For sportsfield, to maintain the land to a Class "A" recreation area standard.

For park, to maintain the land to a Class "C" recreation area standard.

To encourage sporting clubs and organisations to actively participate in the maintenance of the facilities they use.

To attract visitation from outside Council's area in order to assist in encouraging the economic development of the Shellharbour LGA.

To maintain the board and chained walkway in a sound and safe condition.

To ensure that the beach area is only used by authorised vehicles in accordance with Council's current policy.

Strategies to Achieve Management Objectives:

The means by which the Council proposes to achieve the plans objectives and performance targets will be:

By mowing the area on a regular basis necessary to achieve a reasonable standard of presentation.

By providing garbage bins for the use of visitors.

By removing refuse and waste material from the area on a regular basis.

By generally maintaining the area in a neat, tidy and safe condition.

By chemical treatment of grass adjacent to fences, trees and horizontal logs in landscaping to facilitate mowing where appropriate.

By ensuring that all reports of unauthorised vehicles on the beach are promptly investigated.

By maintaining buildings, fencing and other structures to keep them clean, tidy, safe and in a presentable condition.

By ensuring that board and chained walkways are maintained in a sound and safe condition

Assessment of Effectiveness of Management Strategies:

The manner in which the council proposes to assess its performance with respect to the plans objectives and performance targets will be:

To check whether the sportsfield:

Once developed the grassed areas are maintained to the standard of:

Class "A" Recreation Area.

Whether the grassed area is maintained to the standard of a Class "A" Reserve which is by mowing at intervals at 7-10 days during summer and 14-21 days during winter ensuring the grassed areas are in a visually pleasing state.

To check whether:

Once developed the grassed areas are maintained to the standard of:

Class "C" Recreation Area.

Whether the grassed area is maintained to the standard of a Class "C" Reserve which is by mowing at intervals at 3-4 weeks during summer and 6-8 weeks during winter ensuring the grassed areas are in a visually pleasing state.

Whether the buildings, fences, and other structures on the land are maintained in a sound and presentable condition.

Whether garbage bins are provided and whether refuse and waste material are removed regularly.

That routine inspections are made by appropriate Council staff.

Whether there are complaints from users.

To check whether regular maintenance is carried out on the chain and board walkways.

That all reports of vehicles on the beach have been investigated and appropriate action taken.

To check whether beaches are free of dogs and that reports are investigated and appropriate action taken.

Strategic Development:

There are no current plans to change the use profile of this property.

Permitted Uses:

This plan of management authorises, leasing licensing or granting any other estate over this park for any community purpose as determined by Council. Any agreement which may be entered will be in accordance with Section 45, 46, 46A, 47, 47AA & 48 of the Local Government Act 1993.

Fees will be charged for such use of the park, as determined by Council or alternative as identified in Council's Fees and Charges. Agreements or approvals for use of the park will be in writing, subject to any conditions determined and may be granted for activities including: -

➤ Short Term Casual Purposes

- Busking & Entertainment
- Food Vending
- Sale of Alcohol
- Community and Private Events
- Filming
- Agistment of Livestock
- Use of buildings
- Temporary occupation for construction on adjoining land

➤ Granting of Estates

Council may grant estates in the land in accordance with the requirements of the Local Government Act 1993, for a period of up to five (5) years for the purpose of:-

- Lease of any building on the land for a community purposes

Council may grant estates in the land for in excess of five (5) years in accordance with the Local Government Act 1993, for the purpose of:

- Estates in the land for the provision of public utilities and works associated with or ancillary to public utilities in accordance with Section 46 (a) & 46 (a1).
- Estates in the land for any period in excess of five (5) years shall only be granted in accordance with the requirements of Section 47.
- Lease of any building on the land for a community purpose

An agreement for use of this park for any purpose listed above will be subject to the approval of Council, any legal requirements as determined by Council and will include the requirement for adequate public liability insurance cover.

Shellharbour City Council
Plan of Management for Community Land under Section 36 LGA (as amended)

Granting of an estate for utility installation to any party shall be subject to valuation and purchase of that estate and shall include meeting all costs associated with the granting of the estate, restoration of the park following works and all other conditions imposed by Council.

Lease / Licence Agreements:

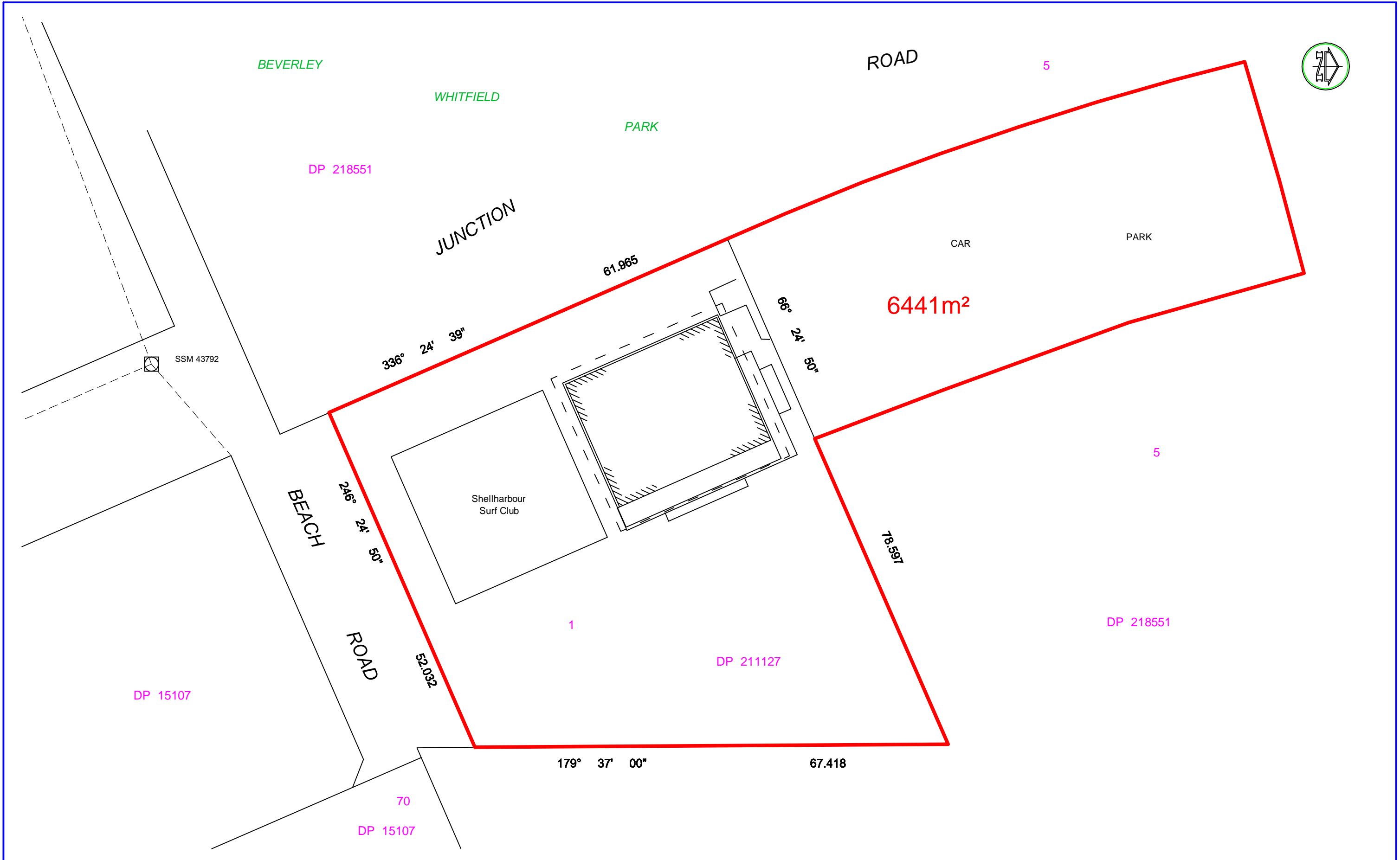
Sule College

Term: 5 years

Expiry: 22 February 2014

FileName g:\auth\documents\PR\FROM5000\5820\0001MANP001.doc

Appendix 3 Survey Plan



<div>SCALES</div> <div>1:250 @ A1</div> <div>1:500 @ A3</div>		<div>LIST OF REVISIONS</div> <table><thead><tr><th>REV.</th><th>DATE</th><th>OFFICER</th></tr></thead><tbody><tr><td>.....</td><td>.....</td><td>.....</td></tr><tr><td>.....</td><td>.....</td><td>.....</td></tr><tr><td>.....</td><td>.....</td><td>.....</td></tr><tr><td>.....</td><td>.....</td><td>.....</td></tr><tr><td>.....</td><td>.....</td><td>.....</td></tr><tr><td>.....</td><td>.....</td><td>.....</td></tr><tr><td>.....</td><td>.....</td><td>.....</td></tr><tr><td>.....</td><td>.....</td><td>.....</td></tr><tr><td>.....</td><td>.....</td><td>.....</td></tr></tbody></table>		REV.	DATE	OFFICER	<div>AMENDMENT DETAILS</div>		<div>APPROVED - Manager of Engineering Services</div> <div>DATE:</div>		<div>LOCATIONS</div> <div>Services shown are those known to exist at date of design. Prior to commencement of excavation contact the relevant gas, electricity, water and telecommunications service providers, including the RMS, for most recent service locations and precautions that may be necessary</div>		<div>SERVICES</div> <div>LEGEND</div> <div>Gas: — G —</div> <div>Electricity: — E —</div> <div>Water: — W —</div> <div>Sewer: — S —</div> <div>TelComm Local Cable: — T —</div> <div>TelComm Major or Optic Fibre: — MOF —</div>		<div><div>ADMINISTRATION CENTRE: LAMERTON HOUSE, LAMERTON CRESCENT PO BOX 155, SHELLHARBOUR CITY CENTRE NSW 2529 PH: (02) 4221 6111 FAX: (02) 4221 6016 DX 26402 SHELLHARBOUR CITY CENTRE</div></div>		<div>PLAN DETAILS</div> <div>SURVEY FOR PLANNING PROPOSAL</div> <div>JUNCTION ROAD</div> <div>SHELLHARBOUR</div>				<div>FILE:</div>		<div>REVISION</div>	
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Appendix 4 Land Title Information

Search Report

LPI

Sydney

Re: - Council Ownership of Lot 5 D.P. 218551

The Land subject of your enquiry was acquired by The Council of the Municipality of Shellharbour by way of Transfer Number H45538 on 29.08.1958 on Certificate of Title Volume 6539 Folio 158.

There are no special conditions noted in the Transfer



Yours Sincerely
James McDonnell
11 May 2017

Vol. 4456 Fol. 97

[CERTIFICATE OF TITLE.]



REGISTER BOOK.

Vol. _____ Fol. _____

CANCELLED R —

subject nevertheless to the reservations and conditions, if any, contained in the Grant hereinafter referred to, and also subject to such encumbrances, liens, and interests as are notified herein, in That piece of land situated

in the Municipality of Shellharbour

Parish of Terragong, and County of Camden

containing Thirty one acres one rood twenty two and one quarter perches or thereabouts as shown in the plan hereon and therein edged red being Lot B in plan annexed to the said Instrument of Transfer No. F676962 and being part of 1650 acres (Portion 20 of Parish) originally granted to D'Arcy Westworth by Crown Grant dated the 9th day of January 1821.

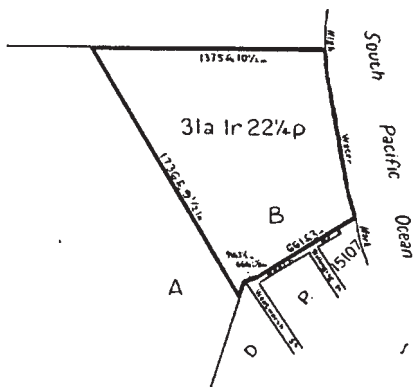
In witness whereof I have hereunto signed my name and affixed my Seal, this Twenty ninth day of July , 19 52

Signed in the presence of

Ed. McKern

J. H. Ell

Registrar-General



Scale 600 feet to one inch

EDUCATION REFERRED TO

No. 747293. MORTGAGE dated 29th June 1957
from the said Henry Wilfred Barnett to Catherine
Beatrice Ann Stewart of Kield,
Spinaker.

Entered — — — 8th July. 1957

REGISTRAR GENERAL

D/und
H/45537

Te

MORTGAGE No. G747293 has been discharged.
Ser. H45537 Entered 26th September 19 58

Janatson

The Council of the Municipality of Shellharbour is

H45538 29th August, 58

Entered 26th September 58

Lawton

That part of the land above described as is comprised in
Beach Road in D.P. 211127 is now public road.
Entered: 24th May, 1962.

Registrar General.

Life-size of drawing - 1/2 lot 142

DUE 14

T

the whole (the room)

Deposited

142

211.127

9197

849

Jonathan





MEMORANDUM OF TRANSFER
(REAL PROPERTY ACT, 1900.)



I, HARRY WILFRED PORRITT of Shellhar-
Builder

Bour, 16/9/58

(Trusts must not be disclosed in the transfer.)

Typing or handwriting in this instrument should not extend into any margin. Handwriting should be clear and legible and in permanent black non-copying ink.

a. If a less estate, strike out "in fee simple" and interline the required alteration.

b. State in full the name of the person who furnished the consideration money.

c. Show in BLOCK LETTERS the full name, postal address and description of the persons selling, and if more than one, whether they hold as joint tenants or tenants in common.

d. The description may refer to parcels shown in Town or Parish Maps issued by the Department of Lands or shown in plans filed in the Office of the Registrar-General. Where these records are inadequate for the purpose, a suitable plan may be endorsed hereon, or furnished as an annexure signed by the parties and their signatures witnessed.

Where the consent of the local Council to a subdivision is required the certificate and plan mentioned in the Local Government Act, 1919, should accompany the transfer.

e. A very short note will suffice.

f. Execution in New South Wales may be proved if this instrument is signed or acknowledged before the Registrar-General, or Deputy Registrar-General, or a Notary Public, a J.P., or Commissioner for Affidavits to whom the Transferor to whom the Transferor is known, otherwise the attesting witness should appear before one of the above functionaries who having questioned the witness should sign the certificate on the back of this form.

As to instruments executed elsewhere, see Section 107 of the Real Property Act 1900-1956, Section 188 of the Conveyancing Act, 1919-1954 and Section 83A of the Evidence Act 1898-1954.

g. Repeat attestation if necessary.

If the Transferor or Transferee signs by a mark, the attestation must state "that the instrument was read over and explained to him, and that he appeared fully to understand the same."

being registered as the proprietor of an estate in fee simple* in the land hereinafter described, subject, however, to such encumbrances, liens and interests as are notified hereunder, in consideration of **TWO THOUSAND FIVE HUNDRED POUNDS**

(£2,500.--) (the receipt whereof is hereby acknowledged) paid to me by

THE COUNCIL OF THE MUNICIPALITY OF SHELLHARBOUR, Council Chambers, Albion Park

do hereby transfer to

THE COUNCIL OF THE MUNICIPALITY OF SHELLHARBOUR, Council Chambers, Albion Park
(herein called transferee)*

ALL such my Estate and Interest in ALL the land mentioned in the schedule following:—

County	Parish	Reference to Title			Description of Land (if part only) (d)
		Whole or Part	Vol.	Fol.	
CAMDEN	TERRAGONG	WHOLE	6539	158	

ENCUMBRANCES, &c., REFERRED TO.*

N I L

Signed at **Hama** the **twenty ninth** day of **August** 19**58**.

Signed in my presence by the transferor
HARRY WILFRED PORRITT
WHO IS PERSONALLY KNOWN TO ME

HWPorr
Transferor.*

Signed

THE COMMON SEAL of the COUNCIL OF THE MUNICIPALITY OF SHELLHARBOUR
was hereunto affixed on the
day of 1958 pursuant
to a resolution of the Council
duly passed on the day
of 1958:

† Accepted, and I hereby certify this Transfer to be correct for the purposes of the Real Property Act.

M. Lamerton (NEA LAMERTON)
MAYOR
Town Clerk. Transferee(s).

* If signed by virtue of any power of attorney, the original power must be registered in the Miscellaneous Register, and produced with each dealing, and the memorandum of non-revocation on back of form signed by the attorney before a witness.

† N.B.—Section 117 requires that the above Certificate be signed by each Transferee or his Solicitor or Conveyancer, and renders any person falsely or negligently certifying liable to a penalty of £50, also to damages recoverable by parties injured. Acceptance by the Solicitor or Conveyancer (who must sign his own name, and not that of his firm) is permitted only when the signature of the Transferee cannot be obtained without difficulty, and when the instrument does not impose a liability on the party taking under it. When the instrument contains some special covenant by the Transferee or is subject to a mortgage, encumbrance or lease, the Transferee must accept personally.

No alterations should be made by erasure. The words rejected should be scored through with the pen, and those substituted written over them, the alteration being verified by signature or initials in the margin, or noticed in the attestation.

THIS SPACE TO BE LEFT FREE FROM NOTATION

NOT TO BE ALTERED BY ERASURE—See Foot Note.

H 45538

LODGED BY P. J. BILLERWELL & CO.

LAW STATIONERS

25 CASTLE REAGH STREET

SYDNEY X 31 BY 5262

PARTIAL DISCHARGE OF MORTGAGE.
(N.B.—Before execution read marginal note.)

I, _____ mortgagee under Mortgage No. _____
release and discharge the land comprised in the within transfer from such mortgage and all claims thereunder but without prejudice to my rights and remedies as regards the balance of the land comprised in such mortgage.

This discharge is appropriate to a transfer of part of the land in the Mortgage. The mortgagee should execute a formal discharge where the land transferred is the whole of or the residue of the land in the Certificate of Title or Crown Grant or is the whole of the land in the mortgage.

Dated at _____ this _____ day of _____ 19 ____
Signed in my presence by _____

who is personally known to me.

Mortgagee

MEMORANDUM AS TO NON-REVOCATION OF POWER OF ATTORNEY.
(To be signed at the time of executing the within instrument.)

Memorandum whereby the undersigned states that he has no notice of the revocation of the Power of Attorney registered No. _____ Miscellaneous Register under the authority of which he has just executed the within transfer.

Signed at _____ the _____ day of _____ 19 ____
Signed in the presence of— _____

Strike out unnecessary words. Add any other matter necessary to show that the power is effective.

CERTIFICATE OF J.P., &c., TAKING DECLARATION OF ATTESTING WITNESS

Appeared before me at _____, the _____ day of _____, one thousand _____
nine hundred and _____ the attesting witness to this instrument
and declared that he personally knew _____ the person
signing the same, and whose signature thereto he has attested; and that the name purporting to be such
signature of the said _____ is _____ own handwriting, and
that he was of sound mind and freely and voluntarily signed the same.

To be signed by Registrar-General, Deputy Registrar-General, a Notary Public, J.P., Commissioner for Affidavits, or other functionary before whom the attesting witness appears. Not required if the instrument itself be signed or acknowledged before one of these parties.

INDEXED	MEMORANDUM OF TRANSFER
Checked by	Particulars entered in Register Book.
Passed (in S.D.B.) by	Volume 6539 Folio 158
Signed by	the 26th day of September 1958 at 35 minutes past 4 o'clock in the afternoon.
	Registrar-General

DOCUMENTS LODGED HEREWITH
To be filled in by person lodging dealing.

1	4	Received Docs. Nos.
2	5	
3	6	
		Receiving Clerk.

PROGRESS RECORD

	Initials	Date
Sent to Survey Branch		
Received from Records		
Draft written		
Draft examined		
Diagram prepared		
Diagram examined		
Draft forwarded		
Supt. of Engrossers		
Cancellation Clerk		
VOL.	FOL.	

FEES:

The Fees, which are payable on lodgment, are as follows—

- £2 where the memorandum of transfer is accompanied by the relevant Certificate of Title or Crown Grants, otherwise £2 6s. 0d. Where such instrument is to be endorsed on more than one folium of the register, an additional charge of 5s. is made for every Certificate of Title or Crown Grant after the first.
 - A supplementary charge of 10s. is made in each of the following—
 - where a restrictive covenant is imposed; or
 - a new easement is created; or
 - a partial discharge of mortgage is endorsed on the transfer.
 - Where a new Certificate of Title must issue the scale charges are—
 - £2 for every Certificate of Title not exceeding 15 folios and without diagram;
 - £3 10s. 0d. for every Certificate of Title not exceeding 15 folios with one simple diagram;
 - as approved where more than one simple diagram, or an extensive diagram will appear.
- Where the engrossing exceeds 15 folios, an amount of 5s. per folium, extra fee is payable.

LEAVE THESE SPACES FOR DEPARTMENTAL USE

M
NEW SOUTH WALES
(For Grant and title reference
prior to first edition see
Deposited Plan.)

CERTIFICATE OF TITLE
PROPERTY ACT, 1900, as amended.



09197009

Vol. **9197** Fol. **9**
CANCELLED

1st Edition issued 11-6-1962.

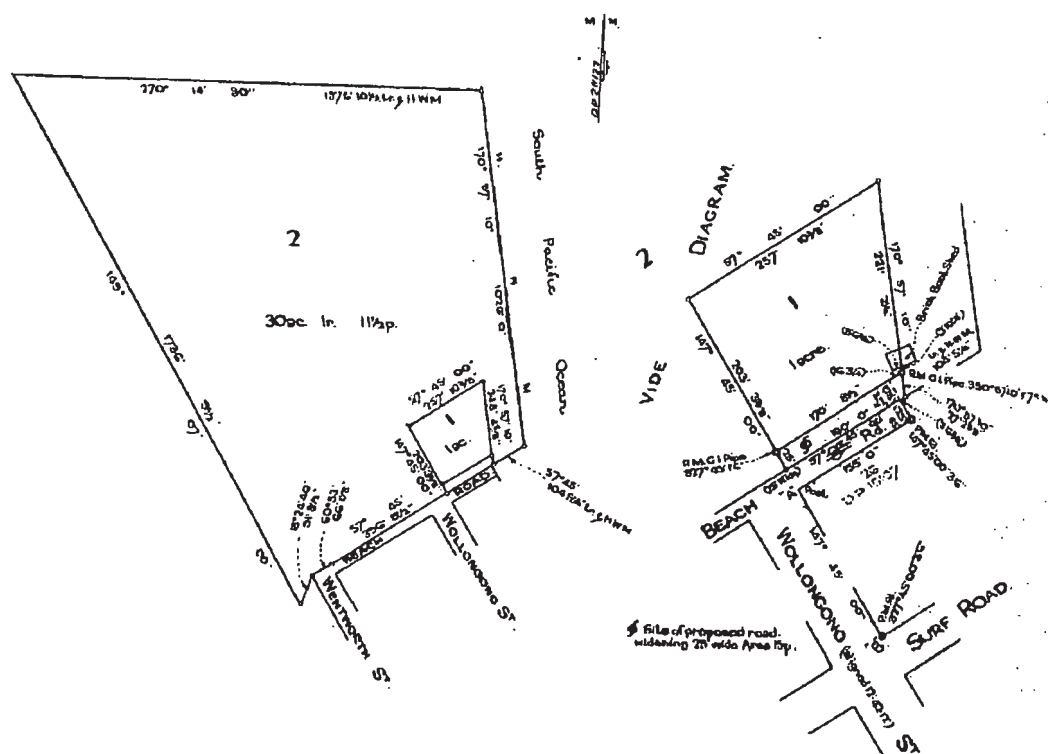
I certify that the person described in the First Schedule is the registered proprietor of the undermentioned estate in the land within described subject nevertheless to such exceptions encumbrances and interests as are shown in the Second Schedule.

Witness *P. Brown*

Jawatson
Registrar-General.



PLAN SHOWING LOCATION OF LAND



ESTATE AND LAND REFERRED TO.

Estate in Fee Simple in Lot 2 in Deposited Plan 211127 at Shellharbour in the Municipality of Shellharbour Parish of Terragong and County of Camden.

FIRST SCHEDULE (Continued overleaf)

THE COUNCIL OF THE MUNICIPALITY OF SHELLHARBOUR.

Jawatson
Registrar General.

SECOND SCHEDULE (Continued overleaf)


1. Reservations and conditions, if any, contained in the Crown Grant(s) referred to in the said Deposited Plan.

Jawatson
Registrar General.

PERSONS ARE CAUTIONED AGAINST ALTERING OR ADDING TO THIS CERTIFICATE OR ANY NOTIFICATION HEREON

WARNING: THIS DOCUMENT MUST NOT BE REMOVED FROM THE LAND TITLES OFFICE.

70919 162 BY 1600 V. C. N. BLIGHT. GOVERNMENT PRINTS

REGISTERED PROPRIETOR		INSTRUMENT		ENTERED	Signature of Registrar-General
NATURE	NUMBER	DATE			
<p>This deed is cancelled as to <u>none</u></p> <p>Below Certificates of Title have issued on <u>30-7-1919</u></p> <p>for lots in <u>DEPOTTEO</u> Plan No. <u>218 551</u> as follows:-</p> <p>Lot <u>4-5</u> Vol. <u>1108</u> Fol. <u>17-18</u> respectively.</p> <p><i>Jawalaon</i> REGISTRAR GENERAL</p> 					

DP218551
C.N.I.
DP55082
L333281 TA
vorig. kaart
n/k
Bey
102-255-1

[illegible]

NOTE: ENTRIES RULED THROUGH AND AUTHENTICATED BY THE SEAL OF THE REGISTRAR-GENERAL ARE CANCELLED

NEW SOUTH WALES

CERTIFICATE OF TITLE
PROPERTY ACT, 1900, as amended.



11108

Application No. 5627

Prior Title Volume 9197 Folio 9

Vol. **11108** Fol. **18**

ID Edition issued 30-7-1969.



CANCELLED

I certify that the person described in the First Schedule is the registered proprietor of the undermentioned estate in the land within described subject nevertheless to such exceptions encumbrances and interests as are shown in the Second Schedule.

Witness

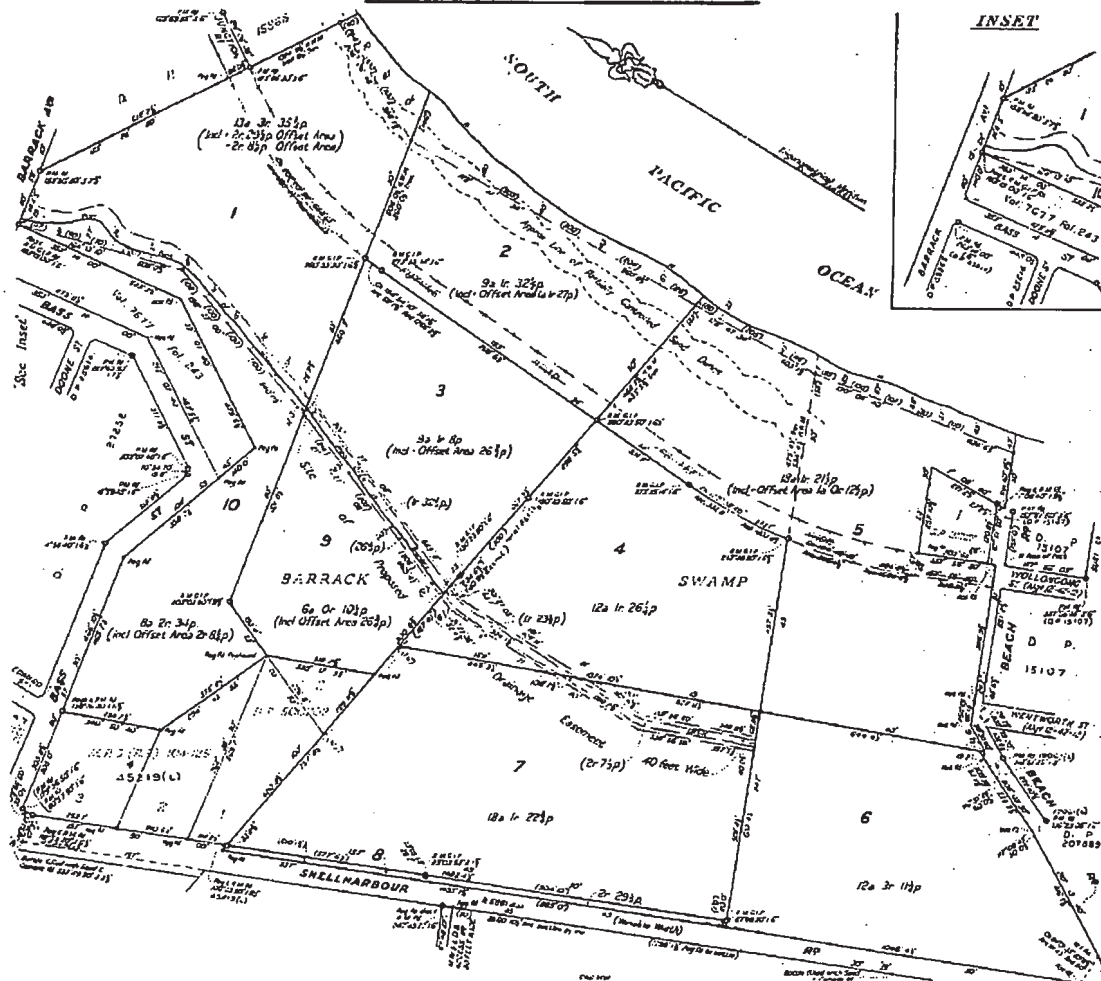
L. Balliner

SEE AUTO FOLIO

Registrar General.



PLAN SHOWING LOCATION OF LAND



ESTATE AND LAND REFERRED TO

Estate in Fee Simple in Lot 5 in Deposited Plan 218551 at Shellharbour in the Municipality of Shellharbour Parish of Terragong and County of Camden.

FIRST SCHEDULE

THE COUNCIL OF THE MUNICIPALITY OF SHELLHARBOUR.

SECOND SCHEDULE

1. Reservations and conditions, if any, contained in the Crown Grant above referred to.

Jawatson
Registrar General

WARNING: THIS DOCUMENT MUST NOT BE REMOVED FROM THE LAND TITLES OFFICE

PERSONS ARE CAUTIONED AGAINST ALTERING OR ADDING TO THIS CERTIFICATE OR ANY NOTIFICATION HEREON

12203

1

Req:R661087 /Doc:CF 11108-018 CF /Rev:16-Feb-2011 /Sts:OK, SC /Pg:ALL /Prt:11-May-2017 12:58 /Seq:2 of 2
Ref:PSH-GROILY-Council /Src:H