

**PROPOSED AMENDMENT TO SCHEDULE 3  
SEPP (MAJOR PROJECTS) 2005**

# SEPP (Major Projects) 2005

## Schedule 3 State Significant Sites – Illawarra Regional Business Park Site

For insertion into Schedule 3 of SEPP (Major Projects) 2005

### Part xx The Illawarra Regional Business Park Site

#### Division 1 - Preliminary

##### 1. Land to which Part applies

This Part applies to the area identified on Map 1 to this Schedule referred to in this Schedule as the Illawarra Regional Business Park Site.

##### 2. Interpretation

This Part adopts the definitions used in the Standard Instrument (Local Environmental Plans) Order 2006 unless it is otherwise defined in this Part.

##### 3. Relationship to other environmental planning instruments

- (1) Unless specifically provided for in this Part, all other environmental planning instruments do not apply to the Illawarra Regional Business Park Site except for this and other State Environmental Planning Policies.
- (2) This Policy amends State Environmental Planning Policy – 14 Coastal Wetlands by inserting after the definition of the map clause 3(k) the following:
  - (l) State Environmental Planning Policy – (Major Projects) 2005, Schedule 3 Illawarra Regional Business Park Site Map 3.

##### 4. Maps

- (1) A reference in this Part to a named map adopted by this Part is a reference to a map by that name:
  - (a) approved by the Minister when the map is adopted; and
  - (b) as amended from time to time by maps declared by environmental planning instruments to amend that map, and approved by the Minister when the instruments are made.
- (2) Any such maps are to be kept and made available for public access in accordance with arrangements approved by the Minister.

The Maps which are part of this schedule are as follows:

Map 1 Illawarra Regional Business Park Site Plan;

Map 2 Illawarra Regional Business Park Zoning Plan;

Map 3 Wetland Boundary Plan;

Map 4 Illawarra Regional Business Park Riparian Buffer;

Map 5 Illawarra Regional Business Park Height of Buildings Plan;

Map 6 Illawarra Regional Business Park Floor Space Ratio Plan;

Map 7 Illawarra Regional Business Park Airport Obstacle Limitation Surface Plan

## Division 2 - Part 3A projects

### 5. Part 3A projects

Development (with a capital investment value of more than \$20 million) on land within the Illawarra Regional Business Park Site but not including development for the purposes of public utility undertakings to which clause 15 applies.

### 6. Consent Authority

Shellharbour Council is the consent authority for all development on the Illawarra Business Park Site that is development to which Part 4 of the Act applies.

### 7. Development to which Division applies

The provisions of this Division apply with respect to development on land within the Illawarra Regional Business Park Site and so apply whether or not the development is a project to which Part 3A of the Act applies.

### 8. Land Use Zones

- (1) For the purposes of this Policy land within the Illawarra Regional Business Park Site is within a zone specified below if the land is shown on the Map marked "Illawarra Regional Business Park Zoning Map" as being within that zone:
  - (a) Zone IN2 – Light Industrial;
  - (b) Zone E2 – Environmental Conservation;
- (1) The consent authority must take into consideration each of the objectives for development in a zone when determining a development application in respect of land within the zone.
- (2) In assessing development under this part, a consent authority must have regard to the principles of ecologically sustainable development (as described by section 6(2) of the *Protection of the Environment Administration Act 1991*) insofar as they are capable of applying to the development.

## **9. Zone IN2 – Light Industrial**

### **(1) Objectives of zone**

- (a) To provide a wide range of light industrial, warehouse and related land uses.
- (b) To encourage employment opportunities.
- (c) To minimise any adverse effect of industry on other land uses.
- (d) To enable other land uses that provides facilities or services to meet the day to day needs of workers in the area.
- (e) To enable retail, business and office uses associated with another use in the zone

### **(2) Permitted without consent**

Nil

### **(3) Permitted with consent**

Airport; animal boarding or training establishment; bulky goods premises (when associated with a light industrial use, depot, warehouse or distribution centre); business premises (when associated with a light industrial use, depot warehouse or distribution centre, where the gross floor area for business premises does not exceed 50% of the overall gross floor area); child care centres; community facility; depot; educational establishment; electricity generating works; environmental facility; environmental protection works; fill: flood mitigation works; freight transport facility; funeral chapel; funeral home; helipad; heliport; hotel accommodation; kiosk; landscape and garden supplies; light industries; liquid fuel depot; medical centre; mortuary; neighbourhood shops; office premises (when associated with a light industrial use, depot, warehouse or distribution centre where the gross floor area for offices does not exceed 50% of the overall gross floor area ); passenger transport facilities; place of public worship; public administration building; restaurant; retail premises(when associated with a light industrial use or warehouse or distribution centre) roads; service station; signage; subdivision; take away food and drink premises; timber and building supplies; transport depot; truck depot; utility installation; vehicle body repair station; vehicle repair station; vehicle showroom; veterinary hospital; warehouse or distribution centre.

### **(4) Prohibited**

Development other than that defined in (2) or (3)

## **10. Zone E2 - Environmental Conservation**

### **(1) Objectives of zone**

- (a) To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.
- (b) To prevent development that could destroy, damage or otherwise have an adverse effect on those values.

- (2) Permitted without consent

Nil

- (3) Permitted with consent

Environmental protection works; environmental facility; recreation area; roads; wetland

- (4) Prohibited

Development other than that identified in (2) or (3)

## **11. Exempt and Complying Development**

- (1) Development of minimal impact listed as exempt development in Shellharbour Development Control Plan No 9/98 for Exempt Development, as in force on 4 May 2005, is exempt development, despite any other provisions of this Policy.
- (2) Development listed as complying development in Shellharbour Development Control Plan No 11/98 for Complying Development, as in force on 4 May 2005, is complying development if:
  - (a) it is local development of a kind that can be carried out with consent on the land on which it is proposed; and
  - (b) it is not an existing use, as defined in section 106 of the Act.
- (3) Development is exempt or complying development only if it complies with the development standards and other requirements applied to the development by the relevant development control plan referred to in subclause (1) or (2).
  - (a) A complying development certificate issued for any complying development is to be subject to the conditions for the development specified in Shellharbour Development Control Plan No 11/98 for Complying Development, as in force when the certificate is issued.

## **12. Public Utility undertakings excepted**

Development for the purposes of public utility undertakings that is carried out on land within the Illawarra Regional Business Park Site does not require development consent. Note: As a consequence of the removal of the requirement for development consent under Part 4 of the Act, development for the purposes of public utility undertakings is subject to the environmental assessment and approval requirements of Part 5 of the Act or, if it is applicable, Part 3A of the Act.

## **13. Floor Space Ratio**

The floor space ratio of a building on any land identified on the map marked "Illawarra Regional Business Park FSR Plan" is not to exceed the floor space ratio shown for that land on the plan.

#### **14. Height of Buildings**

- (1) The height of a building on any land is not to exceed the maximum height in metres shown for the land on the map marked "Illawarra Regional Business Park Height of Building Plan".
- (2) For the purpose of this clause, height is defined in metres, Australian Height Datum.

#### **15. Development in the vicinity of Illawarra Regional Airport**

Despite any other provision of this plan, consent must not be granted to development on land affected by restrictions as indicated in the plan titled "Airport Height Limitation Plan unless:

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

#### **16. Subdivision – consent requirements**

- (1) Land within the Illawarra Regional Business Park Site may be subdivided with consent.
- (2) Consent is not required for a subdivision for the purpose of any one or more of the following:
  - (a) widening a public road;
  - (b) making an adjustment to a boundary between lots, being an adjustment that does not involve the creation of a greater number of lots;
  - (c) a minor realignment of boundaries that does not create additional lots;
  - (d) a consolidation of lots that does not create additional lots;
  - (e) rectifying an encroachment on a lot;
  - (f) creating a public reserve; and
  - (g) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public conveniences.

#### **17. Suspension of covenants, agreements and instruments**

- (1) For the purpose of enabling development on land within any zone to be carried out in accordance with this Part or with a consent or approval granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.

- (2) Nothing in subclause (1) affects the rights or interests of any public authority under any registered instrument.
- (3) Pursuant to section 28 of the Act, before the making of this clause, the Governor approved of subclauses (1) and (2).

Division 4 Additional provisions for the Illawarra Regional Business Park Site not applying to Part 3A projects.

## **18. Development to which Division applies**

The provisions of this Division do not apply to development on land within the Illawarra Regional Business Park Site that is a project to which Part 3A of the Act applies.

## **19. Notification of advertised development**

Subject to the Act and the regulations, notice of a development application for consent to carry out development on land within the Illawarra Regional Business Park Site is to be given in accordance with the provisions of the Shellharbour City Council Notification Development Control Plan.

## **20. Preservation of trees or vegetation**

- (1) The objective of this clause is to preserve the amenity of the Illawarra Regional Business Park through the preservation of trees and other vegetation.
- (2) This clause applies to species or kinds of trees or other vegetation that are identified for the purposes of this clause by the Shellharbour City Council Tree Management Order.
- (3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such Tree Management Order applies without the authority conferred by:
  - (a) development consent; or
  - (b) a permit granted by the consent authority.
- (4) The refusal by the consent authority to grant a permit to a person who has duly applied for the grant of the permit is taken for the purposes of the Act to be a refusal by the consent authority to grant consent for the carrying out of the activity for which a permit was sought.
- (5) This clause does not apply to a tree or other vegetation that the consent authority is satisfied is dying or dead and is not required as the habitat of native fauna.
- (6) This clause does not apply to a tree or other vegetation that the consent authority is satisfied is a risk to human life or property.
- (7) This clause does not apply to or in respect of:
  - (a) the clearing of native vegetation that is authorised by a development consent or property vegetation plan under the Native Vegetation Act

- 2003 or that is a routine agricultural management activity within the meaning of that Act carried out on land to which that Act applies; or
- (b) the clearing of vegetation on State protected land (within the meaning of clause 4 of Schedule 3 to the Native Vegetation Act 2003) that is authorised by a development consent under the provisions of the Native Vegetation Conservation Act 1997 as continued in force by that clause; or
- (c) trees or other vegetation within a State forest, or land reserved from sale as a timber or forest reserve under the Forestry Act 1916; or
- (d) action required or authorised to be done by or under the Electricity Supply Act 1995, the Roads Act 1993 or the Surveying Act 2002; or
- (e) plants declared to be noxious weeds under the Noxious Weeds Act 1993.

## **21. Riparian buffers**

- (1) For the purposes of this clause a “riparian buffer” means an area within the Illawarra Regional Business Park site indicated by distinctive marking as “Riparian Buffer” on the Zoning Map.
- (2) Consent must not be granted to development on land within a riparian buffer unless the consent authority is satisfied, that:
  - (a) the development complies with the objectives for riparian buffers and other provisions of this clause; and
  - (b) is necessary for flood protection or for the development of land in the adjoining Zone IN2 – Light Industrial.
- (3) The objectives for riparian buffers are:
  - (a) to protect wetlands or areas of particular habitat significance; and
  - (b) to restrict development so that, as far as practicable, it does not occur within riparian buffers; and
  - (c) to ensure that development is designed, sited and managed so as to minimise its impact on the ecological and hydrological functions of riparian buffers; and
  - (d) to encourage the restoration and maintenance of native vegetation and the ecological processes of land within and adjacent to wetlands or areas of particular habitat significance.
- (4) Development on land within a riparian buffer is to:
  - (a) be designed and sited to maintain connectivity of vegetation and minimise vegetation clearing, soil disturbance and alterations to the rate, volume or quality of surface and ground-water flows; and
  - (b) retain and maintain all existing native vegetation outside the area immediately required for the development; and
  - (c) incorporate measures to regenerate native vegetation for all disturbed areas within the buffer; and



- (d) incorporate appropriate stormwater and erosion control measures to protect the buffer from surface water run-off or other disturbance.
- (5) When considering whether or not there is a practicable alternative to siting development inside a riparian buffer, the consent authority must consider:
  - (a) the design, type and site cover of the proposed development; and
  - (b) the physical characteristics of the land on which the development is proposed to be carried out; and
  - (c) the suitability of the land for the proposed development.

## **22. Community use of educational establishments**

- (1) The objective of this clause is to allow the use of educational establishments, including their site and facilities, for other community purposes.
- (2) An educational establishment (including the site and facilities) may, with consent, be used for any other community purpose, whether or not any such use is a commercial use of the land.
- (3) Nothing in this clause requires consent to carry out development on any land if that development could, but for this clause, be carried out on that land without consent.

## **23. Temporary use of land**

The consent authority may grant consent to the carrying out, on land within the Illawarra Regional Business Park Site, of development (other than designated development) for any purpose for a maximum period of 28 days, whether consecutive or non-consecutive, in any one year.

## **24. Development on land known to be flood liable**

- (1) Before granting consent for development on flood liable land, or on land the consent authority considers to be potentially flood liable, the consent authority must make an assessment of the following:
  - (a) the likely levels, velocity, sedimentation and debris-carrying effects of flooding;
  - (b) the structural sufficiency of any building the subject of the application and its ability to withstand flooding;
  - (c) the effect that the development, if carried out, will or is likely to have on the flow characteristics of floodwaters;
  - (d) whether or not access to the site will be possible during a flood;
  - (e) the likely increased demand for assistance from emergency services during a flood;
  - (f) the cumulative impact of development on flooding within the area; and

- (g) the possible effects on the development of floods in excess of the flood planning level and the significance of the risk to development posed by such floods.
- (2) Before granting consent to the erection of a building or the carrying out of a work on land that is known to the consent authority to be subject to flooding, the consent authority must be satisfied that the proposed development will not:
  - (a) risk the safety of the community or future occupants; or
  - (b) increase the community burden from flooding, including flood damage.
- (3) Conditions may be imposed on such a consent that set floor levels, require filling, structural changes or other measures to mitigate the effects of flooding or otherwise assist in emergency situations.