On Public Exhibition

Draft Plan of Management – Little Park, Shellharbour Reserve & Foreshore, Shellharbour

Exhibition period

From 3 November 2025 to 1 December 2025

How to make a Submission

Submissions must be received in writing and addressed to
The Chief Executive Officer, Dharawal Country,
Locked Bag 155 Shellharbour City Centre, 2529
or sent by email to council@shellharbour.nsw.gov.au

PRIVACY & PERSONAL INFORMATION PROTECTION NOTICE

The personal information contained in your submissions is collected by Shellharbour City Council for the purpose of corresponding with you about your submission. If you make an anonymous submission, Council will be unable to contact you further.

The information is intended for use by Council to assist in its decision making processes. The content of your submission may be summarised and attached to a Council Report and displayed on Councils website, your personal information will not be included. The submission will be stored in Council's electronic records management system. You can apply to Council to access and correct your personal information. Please see Council's Privacy Management Plan available on Council's website or contact Council's Privacy Officer on 4221 6111 for more information.

DRAFT PLAN OF MANAGEMENT

LITTLE PARK, SHELLHARBOUR RESERVE & FORESHORE
CROWN RESERVE R48243 & (part of) R580065

SHELLHARBOUR





Adopted by Council XXXX

LITTLE PARK, SHELLHARBOUR RESERVE & FORESHORE
CROWN RESERVE R48243 & (part of) R580065

SHELLHARBOUR

DRAFT PLAN OF MANAGEMENT

DRAFT

CONTENTS

EXECUTIVE SUMMARY **5**

PART 1: GENERAL INFORMATION **6**

1. INTRODUCTION 6
   - 1.1 Corporate objectives 6
   - 1.2 Review of this Plan 6
   - 1.3 Community consultation 6
2. LAND DESCRIPTION 7
   - 2.1 Land to which this Plan applies 7
   - 2.2 Owner of the land 8
   - 2.3 Categorisation of the reserve 9
   - 2.4 Zoning of the Reserve 10
   - 2.5 Land comprising the habitat of endangered species or threatened species 10
   - 2.6 Land containing significant natural features 11
   - 2.7 Culturally significant land 11
3. DEVELOPMENT AND USE 17
   - 3.1 Overview 17
   - 3.2 Condition of the land and structures on adoption of the Plan 17
   - 3.3 Use of the land and structures as at the date of adoption of the Plan 18
   - 3.4 Permitted use 18
   - 3.5 Further development 18
   - 3.6 Scale and intensity 18
   - 3.7 Leases, Licences and other Estates 19
   - 3.8 Short Term Casual Purposes 19
   - 3.9 Signs 19
   - 3.10 Easements 20
   - 3.11 Alcohol 20
   - 3.12 Management actions 20
   - 3.13 Fees and charges 20
4. ADDITIONAL MATTERS 20
   - 4.1 Definitions 20
   - 4.2 Native Title Assessment 20
   - 4.3 Community Assistance 20

PART 2: DETAILED INFORMATION REGARDING CATEGORIES OF LAND **21**

5. CATEGORY: PARK 21
   - 5.1 Introduction 21
   - 5.2 Key issues 21
   - 5.3 Development and use 22

DRAFT

5.4 Express authorisation of leases, licences and other estates – Park 23
5.5 Management framework for land categorised as Park 24

PART 2: DETAILED INFORMATION REGARDING CATEGORIES OF LAND 26

6. CATEGORY: NATURAL AREA 26
7. CATEGORY: NATURAL AREA - FORESHORE 27
7.1 Introduction 27
7.2 Physical environment 27
7.3 Key issues 27
7.4 Development and use 28
7.5 Management framework for reserves categorised as Natural Area - Foreshore 30

APPENDIX 1: PLAN OF MANAGEMENT LEGISLATIVE FRAMEWORK 33

APPENDIX 2: ABORIGINAL INTERESTS IN CROWN LAND 40

APPENDIX 3: EXISTING LEASES AND LICENCES ON THE SITE 42

DRAFT

EXECUTIVE SUMMARY

This Plan of Management, adopted on XX/XX/XXXX by Shellharbour City Council, applies to Crown reserves R48243 and part of R580065, Addison Street, Shellharbour.

The purpose of this Plan is to provide Council with a framework that enables decisions regarding Little Park, Shellharbour Reserve and foreshore area, to be made in a consistent and equitable basis. The Plan meets all the requirements of the *Crown Land Management Act 2016* (CLM Act) and the *Local Government Act 1993* (LG Act) as amended.

Little Park, Shellharbour Reserve and the foreshore land are owned by the NSW State Government (the Crown) and are managed by Shellharbour City Council as Crown Land Manager, under the CLM Act.

Acknowledgement of Country

Shellharbour City Council acknowledges the Traditional Custodians of Dharawal Country and recognise their continued connection to the land. We pay our respects to Elders past, present and emerging and the contribution they make to the life of this city.

DRAFT

PART 1: GENERAL INFORMATION

1. INTRODUCTION

The *Crown Land Management Act 2016* (CLM Act) commenced on 1 July 2018, introducing legislation to govern the management of Crown land in NSW. Councils will now manage Crown reserves within the local government area as if it were public land under the *Local Government Act 1993* (LG Act). Most of this land is expected to be 'community land' under the LG Act, meaning that Councils will be required to have plans of management in place for the land. Little Park, Shellharbour Reserve and the foreshore land are Crown reserves and classified as community land under the LG Act. Therefore, this Plan of Management (the Plan) has been prepared to comply with the legislation.

1.1 Corporate objectives

The purpose of this Plan is to provide Council with a framework that enables decisions regarding Little Park, Shellharbour Reserve and the foreshore land, to be made in a consistent and equitable basis. The Plan meets all the requirements of the CLM Act and the LG Act, as amended.

Council's vision for this area recognises the long-term use of the site as socially, culturally and physically enhancing the community. The site will be managed and maintained according to the categorisation of Park and Natural Area - Foreshore as detailed in this Plan.

The Plan incorporates the direction statements within the Shellharbour Open Space and Recreation Needs Study and Strategy. These are:

1. Shape open spaces to encourage public recreation and relaxation,
2. Ensure sports grounds and facilities support active participation,
3. Improve access to aquatic facilities and activities,
4. Encourage sustainable enjoyment of the natural environment,
5. Activate open spaces and facilities to broaden public participation,
6. Work in collaboration with stakeholders to achieve our Strategy,
7. Provide effective management, maintenance, and monitoring.

The Plan is also written to reflect each of Council's core values:
Collaboration – Accountability – Integrity – Respect – Sustainability.

Further information about the legislative context of Crown Reserve Plans of Management can be found in Appendix 1 of this document.

1.2 Review of this Plan

Council reviews plans of management every five years, or as required. Reviewing the Plan is the only way to change the land category, nature and use of the land.

1.3 Community consultation

Shellharbour City Council recognises community participation is an integral aspect of planning and is committed to providing opportunities for the community to be involved in the planning system.

DRAFT

This Plan is required to be placed on public exhibition for a period of 28 days in accordance with the LG Act. The public exhibition will provide opportunity for the community to provide feedback via submissions.

2. LAND DESCRIPTION

2.1 Land to which this Plan applies

This Plan applies to Little Park, Shellharbour Reserve and some foreshore land situated on Crown reserves R48243 and part of R580065 (also known as Bassett Park), Wollongong Street, Shellharbour.

The area incorporates a playground, amenities, picnic facilities, access road and parking throughout the site, part of Beverly Whitfield Pool and the foreshore land surrounding the Shellharbour Beachside Holiday Park.

Note: The remainder of Crown reserve R580065 (Shellharbour Beachside Holiday Park) will have a site-specific plan of management.

See Figure 1 below for land to which this Plan applies.



Figure 1 – Land to which this Plan applies.

The reserve information is detailed below in Table 1.

Reserve Number	R48243	Part of R580065
Gazetted Date	23/10/1912	23/11/1892
Reserve Purpose	Public Recreation	Public Recreation
Land parcel/s	Lot 7004 DP 1028837	Lot 7009 DP 1075106 Lot 7304 DP 115909
Area (Ha)	1.2	1.44
LEP zoning	RE1 Public Recreation	RE1 Public Recreation
Assigned category/ categories	Park	Park Natural Area - Foreshore

Table 1 - Information about reserves covered by this plan of management.

2.2 Owner of the land

Little Park, Shellharbour Reserve and the foreshore land are owned by the NSW State Government (the Crown) and are managed by Shellharbour City Council as Crown Land Manager, under the CLM Act. There are restrictions on transfer and management of Crown land under section 2.12 and 3.22 of the CLM Act.

See Figure 2 below showing owners of the land.



Figure 2 – Owners of the land.

2.3 Categorisation of the reserve

Under section 3.23 of the CLM Act, Crown land reserves managed by Council are required to be categorised into one or more of the following categories according to their purpose:

- Park,
- Sportsground,
- General Community Use,
- Area of Cultural significance,
- Natural Area – Bushland,
- Natural Area – Wetland,
- Natural Area – Escarpment,
- Natural Area – Watercourse,
- Natural Area – Foreshore.

In accordance with advice from the Department of Planning, Housing and Infrastructure – Crown Lands and Public Spaces, the guidelines set out in the *Local Government (General) Regulation 2021*, and Practice Note 1: Public Land Management (Department of Local Government Amended 2000) Little Park, Shellharbour Reserve and the foreshore land are categorised as:

- Park
- Natural Area - Foreshore

Council currently manages and will continue to manage the reserve in a way that allows the public to utilise the site as for the purpose which is outlined in the core objectives of Park and Natural Area - Foreshore.

See Figure 3 below for land categories.

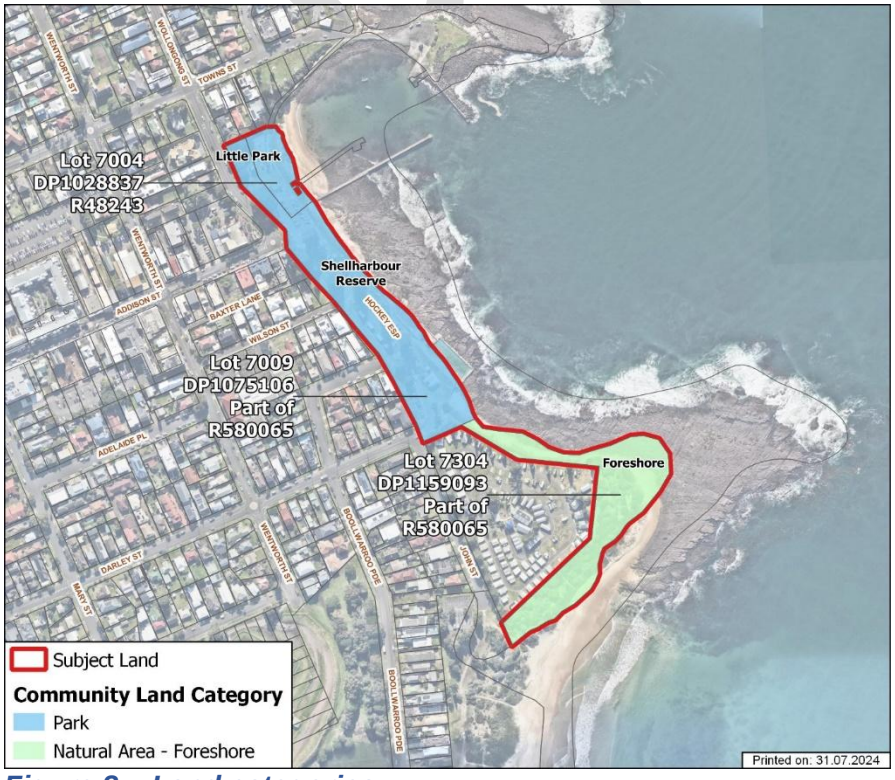


Figure 3 – Land categories.

2.4 Zoning of the Reserve

Little Park, Shellharbour Reserve and the foreshore land is zoned RE1 - Public Recreation under the *Shellharbour Local Environmental Plan 2013* (LEP). The reserve adjoins other lands zoned RE1 – Public Recreation, RE2 – Private Recreation, R2 – Low Density Residential, R3 – Medium Density Residential, B1 – Neighbourhood Centre, and B2 – Local Centre. Land zones are shown in Figure 4 below.



Figure 4 – Land Zones.

The objectives of the RE1 zone in the LEP 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.

Refer to the LEP for permissible uses in the RE1 zone and other attributes present on the site.

2.5 Land comprising the habitat of endangered species or threatened species

There is one known record of the threatened Grey-headed Flying-Fox sited on the reserve. The Flying-Fox would forage on the fruit of the mature fig trees present within the reserve. The adjacent rock platforms provide known foraging and potential roosting habitat for the Sooty Oyster Catcher, an endangered migratory species.

There are no known records or habitat present for threatened flora species.

2.6 Land containing significant natural features

The site has not been identified under Section 36 C of the LG Act, with regards to significant natural features.

2.7 Culturally significant land

Under Section 36D of the LG Act, the reserve has not been identified as an Area of Cultural Significance.

Aboriginal Significance
An AHIMS (Aboriginal Heritage Information Management System) search, identified the presence of one Aboriginal site recorded in or near Shellharbour Reserve and one Aboriginal site recorded in or near the foreshore lot 7304 DP 1159093.

Any works proposed should ensure consistency with Chapter 27 - Aboriginal Heritage, of Shellharbour Development Control Plan (DCP).

Non-Aboriginal Significance

There are a number of heritage items within the subject land that are listed in the LEP under Schedule 5 Environmental Heritage. These are listed and shown in the map below:

- Little Park, rotunda and trees (Item I050)
- Beverley Whitfield Pool (Item no. I126)
- Beachside Tourist Caravan Park and trees (Item no. I125)
- Shellharbour Conservation Area (Item C295)

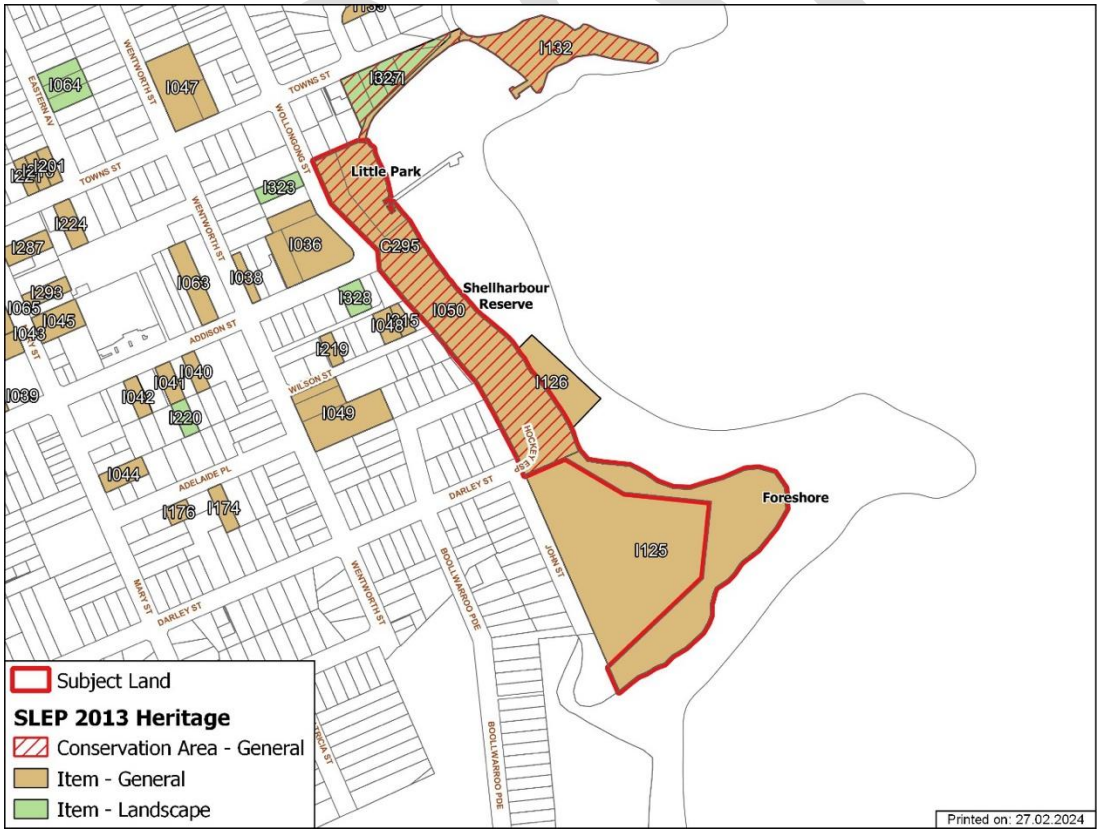


Figure 5 – Environmental Heritage within the subject land.

Any works proposed should ensure consistency with clause 5.10 Heritage Conservation in Shellharbour LEP 2013 and Chapter 28 - European Heritage, of Shellharbour DCP.

Little Park, Rotunda and Trees



Figure 6 – Rotunda in Little Park.



Figure 7 – Mature Fig Tree in Little Park.



Figure 8 – Norfolk Island Pines in Shellharbour Reserve.

Little Park, Shellharbour Reserve and the foreshore area are of exceptional local significance. The waterfront park, rotunda, mature fig trees and curved row of Norfolk Island Pines has strong historic links with the development of the township and the city, early law enforcement, and the development of tourism.

The fig trees that dominate this park feature in the early photographs of the township. It was to such trees that Constable Smithers, the first police officer in the town, reputedly had to tether his prisoners prior to the first watchhouse being built.

On Arbor Day in 1895, 350 residents including Archibald Campbell (who planted the first tree), Thomas Armstrong (Mayor) & Mrs. J McGill (the oldest female resident), gathered to plant the row of 45 Norfolk Island pines that line the beachfront today.

These plantings are consistent with the Victorian practice of beautifying local areas and the beginning of the promotion of the area as a tourist destination. Situated immediately adjacent to the harbour, Little Park was the site for the early boat store.

This foreshore land was the focus for much of the activity in the early years of the private township, layout in 1851 on land originally granted to D'Arcy Wentworth.

The local Progress Association was granted a site for rock baths on the waterfront, formed in 1895 which also attracted tourists. The seafront was always a favoured relaxing spot, with more and more visitors travelling to the village via the railway, even as its use as a port waned. Since early settlement and into the 21st century, Shellharbour retains its tourism attraction.

The heritage listing for Little Park, Rotunda and Trees is State Heritage Inventory (SHI) number 2380050.

DRAFT

Beverley Whitfield Pool



Figure 9 – Beverley Whitfield Pool.

Beverley Whitfield Pool is a heritage item predominantly on the foreshore adjacent to the reserve, however it does extend partially into Crown reserve 48243. The heritage significance of the pool must be considered as part of any works proposed for the site.

Beverley Whitfield Pool is an Olympic size pool and a children's pool with shade shelters and modern amenities. The pool has high historic, social and aesthetic significance, as the only extant example of a 19th century ocean bath in the Shellharbour area, and the only NSW ocean bath named in honour of an Olympic and Commonwealth swimmer, Beverley Whitfield. Whilst the place has been modified and upgraded, it continues to demonstrate these values.

The heritage listing for Beverley Whitfield Pool is State Heritage Inventory (SHI) number 2380126.

Beachside Tourist Caravan Park and trees

This plan of management does not apply to the caravan park but it does apply to the foreshore land surrounding the caravan park. The State Heritage Inventory notes that the foreshore is part of the heritage item. The physical description of the site says it "*includes the coastal area through to the intertidal zone, which is integral to the visual curtilage surrounding the harbour, that became the birthplace of Shellharbour*." It is State Heritage Inventory (SHI) No. 2380125.



Figure 10 – Foreshore land around the caravan park.



Figure 11 – Informal access from caravan park to foreshore.

Shellharbour Foreshore Heritage Conservation Area

The Shellharbour Foreshore Conservation Area covers Little Park and Shellharbour Reserve as shown in the map below.



Figure 12 – Shellharbour Foreshore Conservation Area.

Shellharbour Foreshore Conservation Area is a unique cultural landscape, with outstanding local heritage significance for Shellharbour and its people. Its special character is derived from historical layers set within a public reserve, in a quaint, and increasingly rare, historic seaside village.

Shellharbour Foreshore Conservation Area includes individual places and spaces, having significance in their own right; Little Park, Grey Park, Cowrie Island Reserve and Beverley Whitfield Pool.

Shellharbour Foreshore Conservation Area represents the evolution and growth, of both Shellharbour Village, and the Shellharbour Local Government Area, and is unparalleled in its ability to tell this story.

Individually and collectively, the natural and manmade landscape elements, view lines and vistas, and relationships with surrounding historic buildings and places, reflects major phases and themes of Shellharbour's evolution.

The foreshore demonstrates initial and successive phases of settlement and land use in the Illawarra. It has strong links with Caroline Chisholm's Shellharbour settlement scheme and the clearing lease system, which saw vast amounts of land in the area opened up for new residents, and consequent population, and economic growth, of the former Peterborough Estate.

Shellharbour Foreshore Conservation Area has strong links with the shipping and dairying industries that helped Shellharbour thrive over generations. The natural harbour adjacent to the foreshore, was first used by cedar getters in the early 1800s, working on WC Wentworth's

cedar estate. Settlers later relied on shipping at the harbour to transport goods to and from the Sydney markets, until the arrival of the railway in 1887.

The foreshore has strong visual and social relationships with places within, and beyond its boundaries, like Signal Hill (The Hill) and Bass Point and represents the growth of tourism and leisure activities like rock pool bathing, fishing and boating, in the seaside village.

The special character of Shellharbour Foreshore is derived from its historic development and associations, and its setting within the historic seaside village of Shellharbour, and the wider cultural landscape of Shellharbour City.

The heritage listing for Shellharbour Foreshore Heritage Conservation Area is SHI-2380295.

3. DEVELOPMENT AND USE

3.1 Overview

Council's Resourcing Strategy ensures sufficient financial and human resources exist to provide services and infrastructure assets expected by the community. The Long-Term Financial Plan, Asset Management Strategy, and Workforce Management Plan contained within the strategy address strategies and actions contained within the Community Strategic Plan. These strategies and actions are then implemented through the Delivery Program and Operational Plan. The Resourcing Strategy ensures Council has an ongoing commitment to the maintenance of this reserve.

3.2 Condition of the land and structures on adoption of the Plan

Council's Asset Management Plan reports on the current state of Council assets. Asset conditions are assessed as part of comprehensive network inspections. These assessments are undertaken in accordance with the Institute of Public Works Engineering Australasia Practice Notes.
At the date of adoption of this plan, assets identified on the site and their current condition include:

- Fitness equipment – excellent condition
- Play equipment with soft fall – excellent condition
- Rotundas/shelters – Good to fair condition
- Park benches – Varying conditions
- Picnic settings – Good to fair condition
- BBQs – Good condition
- Signage – varying conditions
- Lighting – Good to fair condition
- Retaining walls – Fair condition
- Shade sail – Fair condition
- Gate vehicles – Fair condition
- Bike racks – Good to Fair condition
- Fencing – Good to fair condition
- Rubbish bins – Varying conditions
- Plaque – Fair condition
- Memorial Stone – Good condition
- Toilet block – Fair condition
- Olympic and toddler pool – varying conditions
- Pool amenities – Fair condition

DRAFT

- Pool Plant Room – Fair condition
- Carparking – Excellent to good condition
- Shared pathway – Excellent to good condition
- Water refill station – Excellent condition
- Bus shelter – Good condition
- Stormwater pipes/pits – varying condition
- Electrical services – excellent condition
- Public art Mural – not assessed for condition

At the date of adoption of this plan, vegetation on the site was in good condition. The middle third of the site is dominated by mature Norfolk Island Pines and small maintained gardens which are comprised of a mix of exotic species and the native Lomandra longifolia. There is a small stand of three exotic Palm Trees in this area. The north-eastern portion of Crown land is primarily comprised of mown lawn and one small native Coast Teatree. The area directly west of this section contains two significant fig Trees. These are some of the closest known native fig trees to the ocean along the entire Illawarra coast. The southern portion of the site is dominated by typical coastal dune vegetation, including Coast Banksia, Coastal Teatree, Coastal Wattle, Beach Spinifex, Pigface, and more.

3.3 Use of the land and structures as at the date of adoption of the Plan

Little Park and Shellharbour Reserve's current use is for community recreational activities. Facilities provided include extensive landscaping, car parking, barbeques, picnic tables and shelters, playground equipment, amenities, paving, a rotunda and a shared use pathway. The site is used for public recreation and therefore is consistent with the category of Park.

The Foreshore area around the caravan park is a natural area used for public recreation.

See Appendix 3 for current leases and licences on the site.

3.4 Permitted use

The purpose of Little Park, Shellharbour Reserve and the foreshore land is for public recreation, the assigned categories are Park and Natural Area - Foreshore. The purpose and categories align with the reserve's past and current use and corporate objectives. Refer to the LEP for permissible uses in the RE1 zone and other attributes present on the site.

3.5 Further development

Further development may be considered along with maintenance of existing infrastructure if it is consistent with the categories and purpose for the reserve and relevant legislation such as the LG Act*, Native Title Act 1993,* and the CLM Act.

The general types of uses which may occur on community land categorised as Park and Natural Area - Foreshore, and the forms of development generally associated with those uses, are set out in tables in the relevant category section in this Plan.

3.6 Scale and intensity

Little Park, Shellharbour Reserve and the foreshore land's current use is a range of community recreational activities associated with the playground, picnic facilities and access to the harbour and ocean. The intensity with which this reserve is used is dependent on varying factors such as weather, day of the week and holidays.

The reserve will be used in future for public recreation, with public right of access to all outdoor areas.

3.7 Leases, Licences and other Estates

This Plan expressly authorises leasing, licensing or granting of any other estate over this reserve for any community purpose as determined by Council. Any agreement which may be entered into will be in accordance with relevant section of the LG Act (s. 46 and 47) and in consideration of native title implications for Crown land.

This Plan expressly authorises the issue of leases, licences and other estates over the reserve, provided that:

- The purpose is consistent with the reserve purpose of the land.
- The purpose is consistent with the core objectives for the category of the land.
- The lease, licence or other estate is for a permitted purpose listed in the LG Act or the *Local Government (General) Regulation 2021*.
- The issue of the lease, licence or other estate and the provisions of the lease, licence or other estate for Crown land can be validated by the provisions of the *Native Title Act 1993*.
- Where the land is subject to a claim under the *Aboriginal Land Rights Act 1983* the issue of any lease, licence or other estate will not prevent the land from being transferred in the event the claim is granted.
- The lease, licence or other estate is granted and notified in accordance with the provisions of the LG Act or the *Local Government (General) Regulation 2021*.
- The issue of the lease, licence or other estate will not materially harm the use of the land for any of the purposes for which it was dedicated or reserved.
- Council Crown Land Managers have obtained written advice from a qualified Native Title Manager that any proposed lease or licence arrangements comply with any applicable provisions of the *Native Title Act 1993* for Crown land.

Tables in the relevant category sections of this Plan further identify the purposes for which leases and licences may be issued over the reserve.

3.8 Short Term Casual Purposes

Subject to Council approval, the following short-term casual purposes may be allowed if considered appropriate:

a) the playing of a musical instrument, or singing, for fee or reward,
b) engaging in a trade or business,
c) the playing of a lawful game or sport,
d) the delivery of a public address,
e) commercial photographic sessions,
f) picnics and private celebrations such as weddings and family gatherings,
g) filming sessions.

3.9 Signs

Council uses signs to regulate the activities carried out on community land and to provide educational information. All Council signs erected under Part 9 of the CLM Act, plus reserve name signs and traffic and safety signs, are permissible. Council must approve all other signs, including design before erection. All signs must be sympathetic to their environment in their design, construction and location.

3.10 Easements

Council reserves the right to grant easements as required for utilities and access.

3.11 Alcohol

Council's alcohol-free zones and alcohol prohibited areas can be seen on Council's website. Council can declare the area an alcohol-free zone under Chapter 16, Part 4 - Street Drinking (s.642-648) of the LG Act.

3.12 Management actions

Management actions must be consistent with those outlined in this Plan. Council shall provide (when required) the construction and maintenance of utility services, provision and maintenance of wetlands, floodways, cycle ways, vehicular access ways and the granting of easements.

3.13 Fees and charges

Council fees and charges may apply for specific uses of the reserve, these are outlined in Council's Fees and Charges Schedule. Applications must be lodged with Council for reserve hire.

4. ADDITIONAL MATTERS

4.1 Definitions

The terms used within this Plan are to be understood as they are presented in the LG Act. For terms which require further definition, please see the *Interpretations Act 1987*.

4.2 Native Title Assessment

The CLM Act provides new direction for the management of Crown Land and Council is now responsible for compliance with Native Title legislation for the Crown land that it manages.

Council is required to undertake steps to identify if any activities that they do, or do not allow on Crown land, will have native title implications, what provisions of the *Native Title Act 1993* will validate the activity and what procedures should be taken in relation to a particular activity prior to its commencement.

Council must receive written advice from its Native Title Manager in relation to certain activities and acts it intends to carry out on Crown land.

Where a plan of management covers both Crown and Council owned land, native title assessment and advice for any activity is only required for the Crown land portion of the reserve.

See Appendix 2 for more information regarding Aboriginal Interests in Crown Land.

4.3 Community Assistance

Council will encourage, where appropriate, community assistance in the development of new facilities as well as maintenance of existing facilities through the co-operation and assistance of local groups.

PART 2: DETAILED INFORMATION REGARDING CATEGORIES OF LAND

5. CATEGORY: PARK

5.1 Introduction

Little Park and Shellharbour Reserve are categorised as Park. The categories of Little Park and Shellharbour Reserve are shown in Figure 3 – Land Categories.

The guidelines for categorisation of land as Park are outlined in Part 4, Division 1 of the *Local Government (General) Regulation 2021*. The Regulation states that land should be categorised as Park under section 36(4) of the LG Act if the land:

Is, or is proposed to be, improved by landscaping, gardens or the provision of non-sporting equipment and facilities, for use mainly for passive or active recreational, social, educational and cultural pursuits that do not unduly intrude on the peaceful enjoyment of the land by others.

The reserve contains extensive landscaping, access, car parking, barbeques, picnic tables and shelters, playground equipment, amenities, a rotunda and a shared use pathway and is therefore categorised as Park.

The core objectives for the management of land categorised as Park are:

a) To encourage, promote and facilitate recreational, cultural, social and educational pastimes and activities, and
b) To provide for passive recreational activities or pastimes and for the casual playing of games, and
c) To improve the land in such a way as to promote and facilitate its use to achieve the other core objectives for its management.

5.2 Key issues

The key issues associated with the land categorised as Park within Little Park and Shellharbour Reserve include but are not limited to:

Linkages to Other Land
There is a shared pathway along the foreshore of the harbour linking reserves along the coast and Lake Illawarra. This pathway is an important community facility and should be maintained to an appropriate standard for use.

Type and Distribution of Facilities
Little Park is classified as a passive district park and is considered a destination for both locals and visitors. The all-inclusive play equipment at the park draws additional visitors from within and outside of the area.

Traffic/carparking
During good weather and peak holiday periods there is an influx of visitors to the site, bringing traffic congestion and limited carparking spaces.

Heritage Considerations
There are a number of items of environmental heritage within the subject land that are listed in the LEP. These include Little Park, rotunda and trees, Beverley Whitfield Pool, the foreshore

DRAFT

area adjoining the Beachside Tourist Caravan Park and Shellharbour Conservation Area. Any works proposed should ensure consistency with clause 5.10 Heritage Conservation in Shellharbour LEP 2013 and Chapter 28 – European Heritage, of Shellharbour DCP.

Aboriginal Heritage Considerations
Aboriginal sites have been identified in the area. Any works proposed on the site should ensure consistency with Chapter 27 – Aboriginal Heritage, od Shellharbour DCP.

Coastal Management Program
Councils are required to prepare a Coastal Management Program (CMP) under the Coastal Management Act 2016, as Council's Coastal Zone Management Plan is now expired as of December 2023. This Act is all about the unified management of the coast across NSW aiming to keep our coast ecologically sustainable so the social, cultural and economic wellbeing of NSW is maintained. At the time this Plan of Management was prepared, the CMP was being prepared.

Threatened Fauna
There is one known record for the threatened Grey-headed Flying-fox, which would forage on the fruit of the mature fig trees present within the Reserve. The adjacent rock platforms provide known foraging and potential roosting habitat for the Sooty Oyster Catcher, an endangered migratory species.

5.3 Development and use

The current use of the land categorised as Park within Little Park and Shellharbour Reserve is public recreation such as picnicking and other recreational activities.

Developments and uses on the reserve must be consistent and permissible under the LEP and SEPPs applicable to this site. These activities or developments must also be consistent with the land categorisation.

Council approval may be required prior to any development or improvement made to Community Land.

All major developments and improvements to be funded (solely or partially) by Council will be subject to Council approval.

Please note: The Marine Infrastructure Delivery Office (MIDO) (Transport for NSW) licence overlaps with the PoM area. Council can still exercise its functions as CLM over the reserve, however any significant development would require consultation with MIDO. MIDO have responsibility for the breakwall structures and harbour.

The general types of uses which may occur on community land categorised as Park, the forms of development which generally associate with those uses, as set out in detail in **Table 2**. The facilities on community land may change over time, reflecting the needs of the community. The following examples in the table does not guarantee approval as this is subject to site suitability and assessment. It is not an exhaustive list.

Purpose/Use	Examples of development to facilitate purpose/uses
• Active and passive recreation including children's play and cycling • Group recreational use, such as picnics and private celebrations • Eating and drinking in a relaxed setting	• Development for the purposes of improving access, amenity and the visual character of the park, e.g. paths, public art, pergolas • Development for the purposes of active

• Publicly accessible ancillary areas, such as toilets • Festivals, parades, markets, fairs, exhibitions and similar events and gatherings • Low intensity commercial activities (e.g. recreational equipment hire) • Filming and photographic projects • Busking • Public address (speeches) • Community gardening NB: Some of the uses listed above require a permit from the council.	recreation such as play equipment, exercise equipment, bike racks, half-court basketball courts, bocce courts • Amenities to facilitate the safe use and enjoyment of the park e.g. picnic tables, BBQs, sheltered seating areas • Kiosk or refreshment areas including external seating • Lighting, seating, toilet facilities, courts, paved areas • Hard and soft landscaped areas • Storage sheds • Car parking and loading areas • Commercial development which is sympathetic to and supports use in the area, e.g. hire of recreation equipment • Community gardens • Heritage and cultural interpretation, e.g. signs • Advertising structures and signage (such as A-frames and banners) that: ➢ relate to approved uses/activities ➢ are discreet and temporary ➢ are approved by the council • Bio-banking and carbon sequestration initiatives • Water saving initiatives such as stormwater harvesting, rain gardens and swales • Energy saving initiatives such as solar lights and solar panels • Locational, directional and regulatory signage

Table 2 - Possible permissible use and development of community land categorised as Park by Council or the Community

5.4 Express authorisation of leases, licences and other estates – Park

This plan of management expressly authorises the issue of leases licences and other estates over the land categorised as Park. **Table 3** provides some possible types of purposes for which tenure may be granted. The following table does not guarantee approval and is not an exhaustive list.

Type of tenure arrangement	Maximum term	Examples of purposes for which tenure may be granted
Lease	As per statutory requirements	• kiosk areas, including seating and tables • management of court or similar facilities

		• hire or sale of recreational equipment
Licence	As per statutory requirements	• outdoor kiosk seating and tables • management of court or similar facilities • hire or sale of recreational equipment
Short-term licence	As per statutory requirements	• the playing of a musical instrument, or singing for fee or reward • engaging in a trade or business, such as community events, festivals, fairs, markets, auctions and similar activities • The playing of a lawful game or sport • The delivery of a public address, public performances • Commercial photographic sessions • Picnics and private celebrations such as weddings and family gatherings • Filming sessions
Other estates		This PoM allows the council to grant 'an estate' over community land for the provision of public utilities and works associated with or ancillary to public utilities and provision of services, or connections for premises adjoining the community land to a facility of the council or public utility provider on the community land in accordance with the LG Act.

Table 3 – Leases, licences and other estates and purposes for which they may be granted for community land categorised as Park

5.5 Management framework for land categorised as Park

The Action Plan (**Table 4**) is prepared in accordance with Section 36 of the LG Act and identifies the:

- Broad management issues,
- Objectives and performance targets of the Plan with respect to the land,
- Means by which Council proposes to achieve the Plan's objectives and performance targets; and
- The manner in which Council proposes to assess its performance with respect to the Plan's objectives and performance targets.

Management Issues	**s.36(3)(b) Objectives and performance targets**	**S. 36(3)(c) Means of achievement of objectives**	**s.36(3)(d) Manner of assessment of performance**
Encourage use of the Reserve	To encourage, promote and facilitate recreational, cultural,	Ensure pedestrians can access the open space unimpeded.	Park is appropriately used by a range of user groups.

	social and educational pastimes and activities.	Effective signage to encourage responsible usage and management.	
Facilities on the Reserve	To provide for passive recreational activities or pastimes and for the casual playing of games.	Maintain seating, shelters, path, and carpark on the reserve. Manage open areas to provide a safe, pleasing, accessible, inclusive and beneficial opportunity for the conducting of active and passive recreation.	Facilities upgraded and maintained as required. No negative reports from park users.
Improvements to the Reserve	To improve the land in such a way as to promote and facilitate its use to achieve the other core objectives for its management.	By generally maintaining the area in a neat, tidy and safe condition. Undertake appropriate maintenance and upgrades to facilities. By mowing the area on a regular basis necessary to achieve a reasonable standard of presentation. By removing refuse and waste material from the area on a regular basis. By maintaining buildings, fences and other structures to keep them clean, tidy, safe and in a presentable condition. Ensure the efficient and conservative use of water, pesticides, herbicides and fertilisers.	Park is well maintained and looked after, rubbish removed. Park is well used by a range of user groups. Inspections are made by appropriate Council staff when required.

Table 4 - Action Plan for land categorised as Park.

DRAFT

PART 2: DETAILED INFORMATION REGARDING CATEGORIES OF LAND

6. CATEGORY: NATURAL AREA

The foreshore land surrounding the Shellharbour Beachside Holiday Park is categorised as Natural Area which is further defined and categorised as Foreshore, shown in Figure 3 – Land Categories.

The guidelines for categorisation of land as Natural Area under clause 102 of the *Local Government (General) Regulation 2021* are if the land:

Whether or not in an undisturbed state, possesses a significant geological feature, geomorphological feature, landform, representative system or other natural feature or attribute that would be sufficient to further categorise the land as bushland, wetland, escarpment, watercourse or foreshore under section 36(5) of the LG Act.

The reserve is the foreshore of the Tasman Sea and is therefore categories as Natural Area.

The core objectives for the management of land categorised as Natural Area are:

a) 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
b) to maintain the land, or that feature or habitat, in its natural state and setting, and
c) to provide for the restoration and regeneration of the land, and
d) to provide for community use of and access to the land in such a manner as will minimise and mitigate any disturbance caused by human intrusion, and
e) 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*.

This section should be read in conjunction with the land's sub-category of Foreshore outlined in this Plan.

DRAFT

7. CATEGORY: NATURAL AREA - FORESHORE

7.1 Introduction

The foreshore land surrounding the Shellharbour Beachside Holiday Park is categorised as Natural Area – Foreshore. This area is shown in Figure 3 - Land Categories. Foreshore is the sub-category to the Natural Area category and covers the same area.

The guidelines for categorisation of land as Foreshore under clause 111 of the *Local Government (General) Regulation 2021* are if the land is situated on the water's edge and forms a transition zone between the aquatic and terrestrial environment.

This part of the reserve is the foreshore of the Tasman Sea and is therefore further categories as Foreshore.

The core objectives for management of community land categorised as Foreshore are:

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

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

7.2 Physical environment

Topography/Hydrology/Soils
The topography of the foreshore area surrounding the caravan park is mostly flat, rising gently to the east before dropping off where the fore-dune meets the beach. The hydrology is tidally and wave influenced and drains to the Pacific Ocean.
The soil on beach is generally loose pale-yellow shelly sand. On foredunes there is loose pale brown siliceous sand. In some sheltered situations where vegetation has not been disturbed, surface soil texture may approach that of loamy sand and have a slight accumulation of organic matter and occasional Calcareous Sands.

Vegetation
Low sparse canopy consisting of Banksia integrifolia and Leptospermum laevigatum with occasional emergent Casuarina glauca. Dense midstory of Acacia longifolia var. sophorae. Understory consists mostly of annual weeds and Asparagus aethiopicus, however foredune vegetation is primarily Spinifex sericeus and Carpobrotus glaucescens. The beach has no vegetation.

Fauna
The dunal vegetation provides nesting and foraging habitats for a number of small to medium bushland birds and small reptiles, as well as a variety of introduced mammal species. The shore and rocky headland may provide foraging and nesting habitat for shorebirds.

7.3 Key issues

The key issues associated with the land categorised as Natural Area within the reserve include but are not limited to:

Protect Biodiversity
Ensure biodiversity is protected and ecosystem function is maintained as well as possible.

Maintain Natural State
Protect the natural state and setting of the foreshore and harbour.

Provide Community Use while minimising disturbance
To provide for community use of and access to the land in such a manner as will minimise and mitigate any disturbance caused by human activity.

Transitional Area
Maintain the foreshore as a transition area between the aquatic and terrestrial environment.

Heritage Considerations
There are a number of items of environmental heritage within the subject land that are listed in the LEP. These include Little Park, rotunda and trees, Beverley Whitfield Pool, the foreshore area adjoining the Beachside Tourist Caravan Park and Shellharbour Conservation Area. Any works proposed should ensure consistency with clause 5.10 Heritage Conservation in Shellharbour LEP 2013 and Chapter 28 – European Heritage, of Shellharbour DCP.

Aboriginal Heritage Considerations
Aboriginal sites have been identified in the area. Any works proposed on the site should ensure consistency with Chapter 27 – Aboriginal Heritage, of Shellharbour DCP.

Coastal Management Program
Councils are required to prepare a Coastal Management Program (CMP) under the *Coastal Management Act 2016*, as Council's Coastal Zone Management Plan has now expired as of 31 December 2023. This Act is all about the unified management of the coast across NSW aiming to keep our coast ecologically sustainable so the social, cultural and economic wellbeing of NSW is maintained. At the time this Plan of Management was prepared, the CMP was being prepared.

7.4 Development and use

The foreshore area is used by the public for recreational purposes including picnicking, and to provide access to areas for swimming, surfing and fishing.

Developments and uses on the reserve must be consistent and permissible under the LEP and SEPPs applicable to this site. These activities or developments must also be consistent with the land categorisation.

Council approval may be required prior to any development or improvement made to Community Land.

All major developments and improvements to be funded (solely or partially) by Council will be subject to Council approval.

The general types of uses which may occur on community land categorised as Natural Area – Foreshore, the forms of development which generally associate with those uses, as set out in detail in **Table 5**. The facilities on community land may change over time, reflecting the needs of the community. The following examples in the table does not guarantee approval as this is subject to site suitability and assessment. It is not an exhaustive list.

Purpose/Use	**Examples of development to facilitate purpose/uses**
• Preservation of the council's natural heritage including the identified	• Visitor facilities: toilets, picnic tables, BBQs, sheltered seating areas, lighting,

endangered ecological communities • Preservation of biological diversity and habitat • Providing a location for formal and informal recreation • Walking and cycling • Environmental and scientific study • Approved bush care projects requiring ecological restoration activities associated with protection of flora and fauna. • Fire hazard reduction	low-impact carparks, refreshment kiosks (but not restaurants) • Low-impact walking trails • Interpretive signage and information kiosks • Water-saving initiatives such as rain gardens, swales and sediment traps • Energy-saving initiatives such as solar lights and solar panels • Bridges, observation platforms • Work sheds or storage sheds required in connection with the maintenance of the land • Bicycle/boat hire or similar • Temporary erection or use of any building or structure necessary to enable a filming project to be carried out • Locational, directional and regulatory signage

Table 5 - Possible permissible use and development of community land categorised as Natural Area – Foreshore by Council or the Community

Express authorisation of leases, licences and other estates - Natural Area – Foreshore
This plan of management expressly authorises the issue of leases licences and other estates over the land categorised as Natural Area – Foreshore. **Table 6** provides some possible types of purposes for which tenure may be granted. The following examples in the table does not guarantee approval as this is subject to site suitability and assessment. It is not an exhaustive list.

Type of tenure arrangement	Maximum term	Examples of purposes for which tenure may be granted
Lease	As per statutory requirements	• walkways, pathways, bridges, causeways • observation platforms, signs • information kiosk • kiosk selling light refreshments (but not restaurants) • bicycle/boat hire or similar • work sheds or storage sheds required in connection with the maintenance of the land • toilets • temporary erection or use of any building or structure necessary to enable a filming project to be carried out
Licence	As per statutory	• walkways, pathways, bridges, causeways

DRAFT

	requirements	• observation platforms, signs • Information kiosk • Kiosk selling light refreshments (but not restaurants) • Bicycle/boat hire or similar • work sheds or storage sheds required in connection with the maintenance of the land • toilets • temporary erection or use of any building or structure necessary to enable a filming project to be carried out
Short-term licence	As per statutory requirements	• the playing of a musical instrument, or singing, for fee or reward • engaging in a trade or business, such as bicycle/boat hire or scientific studies and surveys or similar • the playing of a lawful game or sport • the delivery of a public address • commercial photographic sessions • picnics and private celebrations such as weddings and family gatherings • filming sessions, including the temporary erection or use of any building or structure necessary to enable a filming project to be carried out
Other estates		This PoM allows the council to grant 'an estate' over community land for the provision of public utilities and works associated with or ancillary to public utilities and provision of services, or connections for premises adjoining the community land to a facility of the council or public utility provider on the community land in accordance with the LG Act.

Table 6 – Leases, licences and other estates and purposes for which they may be granted for community land categorised as Natural Area – Foreshore.

7.5 Management framework for reserves categorised as Natural Area - Foreshore

The Action Plan (**Table 7**) is prepared in accordance with Section 36 of the LG Act and identifies the:

- Broad management issues,
- Objectives and performance targets of the Plan with respect to the land,
- Means by which Council proposes to achieve the Plan's objectives and performance targets; and
- The manner in which Council proposes to assess its performance with respect to the Plan's objectives and performance targets.

DRAFT

Management Issues	s.36(3)(b) Objectives and performance targets	S. 36(3)(c) Means of achievement of objectives	s.36(3)(d) Manner of assessment of performance
Biodiversity	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.	Undertake an effective targeted weed control program to ensure survival of key native vegetation.	That inspections are made by appropriate Council staff when required.
Natural State	To maintain the land, or that feature or habitat, in its natural state and setting.	By carrying out foreshore maintenance and restoration work in accordance with Council's available resources. Weed control. Removal of waste.	That inspections are made by appropriate Council staff when required.
Restoration	To provide for the restoration and regeneration of the land.	If needed, consider planting appropriate species.	That inspections are made by appropriate Council staff when required.
Appropriate Community Use	To provide for community use of and access to the land in such a manner as will minimise and mitigate any disturbance caused by human intrusion.	Ensure social impact, safety, access and inclusion are key considerations in the provision of any assets or facilities. Provide appropriate signage to avoid disturbance of the foreshore.	Whether there are complaints from users. That inspections are made by appropriate Council staff when required.
Recovery Plan/Threat abatement Plan	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 *Biodiversity Conservation Act 2016 (previously the Threatened Species Conservation Act 1995)* or the *Fisheries Management Act 1994*.	Undertake land management, restoration and maintenance in accordance with the relevant plans as outlined in legislation, including the *Biodiversity Conservation Act 2016.*	Land management, restoration and maintenance is in accordance with the relevant plans as outlined in the legislation. The plans are kept relevant and reviewed as required.
Transition Area	To maintain the foreshore as a transition area between the aquatic and the terrestrial environment, and to protect and enhance all functions associated with the foreshore's role as a transition area.	By carrying out foreshore maintenance and restoration work in accordance with Council's available resources. Rubbish removal. Weed control.	That inspections are made by appropriate Council staff when required.
Ecologically Sustainable Use	To facilitate the ecologically sustainable use of the foreshore, and to mitigate impact on the foreshore by	Inform the community in good faith, regarding any issues associated with the foreshore in terms of	Community knowledge about foreshore management issues and responding by contributing positively to

DRAFT

	community use.	its key management issues.	outcomes. Monitor any negative or positive change/impacts that may occur on the ecological value of the land categorised as foreshore.
Heritage	To preserve the heritage significance of the site.	Any works should be in accordance with the Burra Charter principles, Heritage Conservation clause within LEP 2013 and Chapter 28 - European Heritage, of Shellharbour DCP.	Refer to any recommendations for heritage conservation for specific applications.

Table 7 - Action Plan for land categorised as Natural Area - Foreshore.

DRAFT

APPENDIX 1: PLAN OF MANAGEMENT LEGISLATIVE FRAMEWORK

The primary legislation that impacts on how community land is managed or used is briefly described below. You can find further information regarding these acts at www.legislation.nsw.gov.au.

Local Government Act 1993

Section 35 of the *Local Government Act 1993* (LG Act) provides that community land can only be **used** in accordance with:

- the plan of management applying to that area of community land, and
- any law permitting the use of the land for a specified purpose or otherwise regulating the use of the land, and
- the provisions of Division 2 of Chapter 6 of the Act.

Section 36 of the Act provides that a plan of management for community land must identify the following:

a. the category of the land,
b. the objectives and performance **targets** of the plan with respect to the land,
c. the means by which the council proposes to **achieve** the plan's objectives and performance targets,
d. the manner in which the council proposes **to assess its performance** with respect to the plan's objectives and performance targets,

and may require the prior approval of the council to the carrying out of any specified activity on the land.

A plan of management that applies to just one area of community land:

A. must include a description of:

   (i) the condition of the land, and of any buildings or other improvements on the land, as at the date of adoption of the plan of management, and
   (ii) the use of the land and any such buildings or improvements as at that date, and

B. must:

   (i) specify the purposes for which the land, and any such buildings or improvements, will be permitted to be used, and
   (ii) specify the purposes for which any further development of the land will be permitted, whether under lease or licence or otherwise, and
   (iii) describe the scale and intensity of any such permitted use or development.

Land is to be categorised as one or more of the following:

a. a natural area
b. a sportsground
c. a park
d. an area of cultural significance
e. general community use.

DRAFT

Land that is categorised as a natural area is to be further categorised as one or more of the following:

a. bushland
b. wetland
c. escarpment
d. watercourse
e. foreshore
f. a category prescribed by the regulations.

Additionally, under section 36 of the LG Act, a site-specific PoM must be made for land declared:

- as critical habitat, or directly affected by a threat abatement plan or a recovery plan under threatened species laws (sections 36A(2) and 36B(3))
- by council to contain significant natural features (section 36C(2))
- by council to be of cultural significance (section 36D(2)).

Classification of public land

The LG Act requires classification of public land into either 'community' or 'operational' land (Section 26). The classification is generally made for council-owned public land by the council's Local Environmental Plan (LEP) or in some circumstances by a resolution of the council (Section 27).

Crown reserves managed by council as Crown land manager have been classified as community land upon commencement of the *Crown Land Management Act 2016* (CLM Act). Councils may manage these Crown reserves as operational land if written consent is obtained from the minister administering the CLM Act.

Classification of land has a direct effect on the council's ability to dispose of or alienate land by sale, leasing, licensing or some other means. Under the LG Act, community land must not be sold (except for scheduled purposes), exchanged or otherwise disposed of by the council, and the land must be used and managed in accordance with an adopted PoM. In addition, community land is subject to strict controls relating to leases and licences (sections 45 and 46) of the LG Act.

By comparison, no such restrictions apply to operational land that is owned by councils. For example, operational land can be sold, disposed, exchanged or leased including exclusive use over the land, unencumbered by the requirements which control the use and management of community land. Crown reserves managed by council as operational land may generally be dealt with as other operational land but may not be sold or otherwise disposed of without the written consent of the minister administering the CLM Act.

Operational land would usually include land held as a temporary asset or an investment, land which facilitates the council carrying out its functions or land which may not be open to the general public (for example, a works depot).

The classification or reclassification of council-owned public land will generally be achieved by a Local Environmental Plan (LEP) or by a resolution of council in accordance with sections 31, 32 and 33 of the LG Act. If land is not classified by resolution within a three-month period from acquisition it automatically becomes community land, regardless of whether it satisfies the objectives for community land as outlined in the LG Act.

For Crown land, Council cannot reclassify community land as operational land without consent of the minister administering the CLM Act.

Crown Land Management Act 2016

Crown reserves are land set aside on behalf of the community for a wide range of public purposes, including environmental and heritage protection, recreation and sport, open space, community halls, special events and government services.

Crown land is governed by the CLM Act, which provides a framework for the state government, local councils and members of the community to work together to provide care, control and management of Crown reserves.

Under the CLM Act, as Council Crown land managers, councils manage Crown land as if it were public land under the LG Act. However, it must still be managed in accordance with the purpose of the land and cannot be used for an activity incompatible with its purpose – for example, Crown land assigned the purpose of 'environmental protection' cannot be used in a way that compromises its environmental integrity.

Councils must also manage Crown land in accordance with the objects and principles of Crown land management outlined in the CLM Act. The objects and principles are the key values that guide Crown land management to benefit the community and to ensure that Crown land is managed for sustainable, multiple uses.

Principles of Crown land management

- Environmental protection principles are to be observed in the management and administration of Crown land.
- The natural resources of Crown land (including water, soil, flora, fauna and scenic quality) will be conserved wherever possible.
- Public use and enjoyment of appropriate Crown land are to be encouraged.
- Where appropriate, multiple uses of Crown land should be encouraged.
- Where appropriate, Crown land should be used and managed in such a way that both the land and its resources are sustained.
- Crown land is to be occupied, used, sold, leased, licensed or otherwise dealt with in the best interests of the state of NSW, consistent with the above principles.

Crown land management compliance

In addition to management and use of Crown reserves that is aligned with the reserve purpose(s), there are other influences over council management of Crown reserves. For example, Crown land managers may have conditions attached to any appointment instruments, or councils may have to comply with specific or general Crown land management rules that may be published in the NSW Government Gazette. Councils must also comply with any Crown land regulations that may be made.

Native Title Act 1993

The Commonwealth *Native Title Act 1993* (NT Act) recognises and protects native title rights and interests. The objects of the NT Act are to:

- provide for the recognition and protection of native title
- establish ways in which future dealings affecting native title may proceed and to set standards for those dealings

- establish a mechanism for determining claims to native title
- provide for, or permit, the validation of past acts invalidated because of the existence of native title.

The NT Act may affect use of Crown land, particularly development and granting of tenure. Specifically, the CLM Act makes it mandatory for council to engage or employ a native title manager. This role provides advice to council as to how the council's dealings and activities on Crown land can be valid or not valid in accordance with the NT Act.

Council must obtain the written advice from an accredited native title manager that Council complies with any applicable provisions of the native title legislation when:

a. granting leases, licences, permits, forestry rights, easements or rights of way over the land
b. mortgaging the land or allowing it to be mortgaged
c. imposing, requiring or agreeing to covenants, conditions or other restrictions on use (or removing or releasing, or agreeing to remove or release, covenants, conditions or other restrictions on use) in connection with dealings involving the land
d. approving (or submitting for approval) a plan of management for the land that authorises or permits any of the kinds of dealings referred to in (a), (b) or (c).

Council plans and policies relating to this plan of management

Council has developed plans and policies that are concerned to some extent with the management of community land. These documents have been considered when preparing this PoM.

The following is a list of documents that have a direct association with this PoM:

Shellharbour Local Environmental Plan 2013 (LEP)

Shellharbour Local Environmental Plan 2013 guides planning decisions for the city through zoning and development controls, which provide a framework for the way land can be used.

Shellharbour Local Strategic Planning Statement
The Shellharbour Local Strategic Planning Statement (LSPS) guides the future of land use planning in the City and provides guidance on meeting our changing needs, managing land use planning challenges and will assist us to further develop the local character of Shellharbour now and into the future. The LSPS identifies a land use planning vision, supported by planning priorities and actions which inform Council planning, decisions and with managing the future growth of our City based on economic, social and environmental needs over the next 20 years.

The LSPS Planning Priorities and Actions support the ongoing review and updates to plans of management for Community Land to enable delivery of high quality, well-connected and integrated green spaces.

Shellharbour Open Space and Recreation Needs Study and Strategy 2020
Council's Open Space and Recreation Needs Study and Strategy guides how Council will plan, implement and manage current and future open spaces and sport, recreation and aquatic facilities across the Shellharbour Local Government Area. This study provides a hierarchy of parks which assists with decision making and planning.

Other state and Commonwealth legislation

NSW state legislation

Environmental Planning and Assessment Act 1979

The *Environmental Planning and Assessment Act 1979* (EP&A Act) provides the framework for planning and development across NSW and guides environmental planning instruments which provide a basis for development control.

The EP&A Act ensures that effects on the natural environment, along with social and economic factors, are considered by the council when granting approval for or undertaking works, developments or activities.

This Act is also the enabling legislation for planning policies which may have a direct influence on open space management. On a state-wide level there are State Environmental Planning Policies (SEPPs). On a regional level there are Regional Environmental Plans (REPs). On a local level there are Local Environmental Plans (LEPs) as well as Development Control Plans (DCPs).

Aboriginal Land Rights Act 1983

The *Aboriginal Land Rights Act 1983* (ALR Act) is important legislation that recognises the rights of Aboriginal peoples in NSW. It recognises the need of Aboriginal peoples for land and acknowledges that land for Aboriginal people in the past was progressively reduced without compensation. Crown land meeting certain criteria may be granted to an Aboriginal Land Council. This Act may affect dealings with Crown land that is potentially claimable.

National Parks and Wildlife Act 1974

Statutory responsibilities on the council arising from this Act specifically relate to the protection of sites of pre- and post-European contact archaeological significance. This Act may affect community land categorised as cultural significance, natural area or park.

Biodiversity Conservation Act 2016

Note: This Act repealed several pieces of legislation including the *Native Vegetation Act 2003*, *Threatened Species Conservation Act 1995*, the *Nature Conservation Trust Act 2001*, and the animal and plant provisions of the *National Parks and Wildlife Act 1974*.

This Act covers conservation of threatened species, populations and ecological communities, the protection of native flora and fauna. This Act primarily relates to community land categorised as natural area. However, other categories may also be affected.

The *Threatened Species Conservation Act 1995* has been repealed and superseded by the *Biodiversity Conservation Act 2016*. However, references to the former legislation remain in the LG Act and are therefore retained in this guideline.

DPIE's Energy, Environment and Science division advises that recovery plans and threat abatement plans made under the *Threatened Species Conservation Act 1995* were repealed on the commencement of the *Biodiversity Conservation Act* in 2017. These plans have not been preserved by any savings and transitional arrangement under the Biodiversity Conservation Act or LG Act, meaning pre-existing plans have no legal effect.

For this reason, requirements relating to recovery plans and threat abatement plans for local councils preparing plans of management under section 36B of the LG Act are now redundant. Councils will be advised if future amendments are made to the LG Act to enable these mechanisms.

Certain weeds are also declared noxious under this Act, which prescribes categories to which the weeds are assigned, and these control categories identify the course of action which needs to be carried out on the weeds. A weed may be declared noxious in part or all of the state.

Fisheries Management Act 1994

The *Fisheries Management Act 1994* (FM Act) includes provisions for the management of state fisheries, including the conservation of fish habitats, threatened species, populations and ecological communities of fish and marine vegetation and management of the riparian zone, waterways and threatened marine/freshwater aquatic species. This relates to community land categorised as natural area (foreshore, watercourse or wetland).

Where an area of community land is declared to be critical habitat, or if that area is affected by a recovery plan or threat abatement plan under Part 7A of the FM Act, a site-specific plan of management will need to be undertaken.

Rural Fires Act 1997

This Act contains provisions for bushfire risk management and the establishment of a Bushfire Management Committee. It also includes direction on development in bushfire prone lands.

Water Management Act 2000

This Act is based on the concept of ecologically sustainable development, and its objective is to provide for the sustainable and integrated management of the water sources of the state for the benefit of both present and future generations. The Act recognises:

- the fundamental health of our rivers and groundwater systems and associated wetlands, floodplains, estuaries has to be protected
- the management of water must be integrated with other natural resources such as vegetation, native fauna, soils and land
- to be properly effective, water management must be a shared responsibility between the government and the community
- water management decisions must involve consideration of environmental, social, economic, cultural and heritage aspects
- social and economic benefits to the state will result from the sustainable and efficient use of water.

Heritage Act 1977

This Act contains provisions for the conservation of items of heritage and may relate to community land categorised as cultural significance or natural area.

Crown land 2031: State Strategic Plan for Crown land

The State Strategic Plan for Crown land sets the vision, priorities and overarching strategy for the management of Crown land and outlines timeframes and outcomes.

DRAFT

Commonwealth legislation

Environmental Protection and Biodiversity Conservation Management Act 1999

This Act enables the Australian Government to join with the states and territories in providing a national scheme of environment and heritage protection and biodiversity conservation. It incorporates threatened species on a national level and with relevance to Matters of National Environmental Significance.

Telecommunications Act 1997

This Act provides for telecommunication facilities being permitted on community land without authorisation in a PoM.

State Environmental Planning Policies

State Environmental Planning Policy (Transport and Infrastructure) 2021

This planning policy lists development allowed with consent or without consent on community land.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

State Environmental Planning Policy (Resilience and Hazards) 2021

Other relevant legislation, policies and plans

Biosecurity Act 2015
Coastal Crown Land Guidelines
Coastal Management Act 2016
Companion Animals Act 1998
Council plans, strategies, policies, procedures and guidelines, generally as amended
Disability Discrimination Act 1992
Local Land Services Act 2013
Pesticides Act 1999
Protection of the Environment Operations Act 1997
Protection of the Environment Operations (Noise Control) Regulation 2008
Public Works Act 1912 (as amended)
Retail Leases Act 1994
Rural Fire Regulation 2022
Shellharbour Development Control Plan
Shellharbour Asset Management Plan
Shellharbour Coastal Dunes Plan of Management
Soil Conservation Act 1938
National Local Government Biodiversity Strategy
NSW Biodiversity Strategy

The list above is not exhaustive. Depending on the nature of the land subject to a plan of management, there may be other relevant legislation, policies and procedures that need to be considered. Further advice on this can be sought by contacting Council.

DRAFT

APPENDIX 2: ABORIGINAL INTERESTS IN CROWN LAND

Crown land has significant spiritual, social, cultural and economic importance to the Aboriginal peoples of NSW. The CLM Act recognises and supports Aboriginal rights, interests and involvement in Crown land.

The management of Crown land can be impacted by the *Native Title Act 1993* (Cth) and the *Aboriginal Land Rights Act 1983* (NSW).

Native Title

Native title describes the rights and interests that Aboriginal and Torres Strait Islander people have in land and waters according to their traditional law and customs. Native title is governed by the Commonwealth *Native Title Act 1993* (NT Act).

Native title does not transfer the land to the native title holder, but recognises the right to land and water, by providing access to the land and if applicable, compensation for any loss, diminution, impairment or other effect of the act on their native title rights and interests.

All Crown land in NSW can be subject to a native title claim under the NT Act. A native title claim does not generally affect Crown land where native title has been extinguished or it is considered excluded land.

When preparing a PoM, Council is required to employ or engage a qualified native title manager to provide advice and validate acts (developments and tenures) over the reserve, in line with the NT Act. The most effective way to validate acts under the NT Act is to ensure all activities align with the reserve purpose.

If native title rights are found to exist on Crown land, council Crown land managers may be liable to pay compensation for acts that impact on native title rights and interests. This compensation liability arises for local councils whether or not the act was validated under the NT Act.

For further information about native title and the future acts framework see the Crown lands website.

Native Title Claim of the South Coast People

The Yuin group of Aboriginal peoples along the south coast of NSW lodged a native title claim with the Federal Court on 3 August 2017. The South Coast people's claim covers 16,808 sq. km, extending south from Sydney to Eden, along the south coast of NSW and west towards Braidwood and also extends three nautical miles into the ocean. Shellharbour LGA is one of six councils within this area.

The claim does not affect freehold land but does extend to national parks, state forests, Crown land and council-managed Crown land and reserves. The claim includes the exclusive or non-exclusive right to access, to remain in and use the land and waters for any purpose, to take resources and to maintain and protect places and objects of significance.

Aboriginal Land Rights

The *Aboriginal Land Rights Act 1983* (ALR Act) seeks to compensate Aboriginal peoples for past dispossession, dislocation and removal of land in NSW (who may or may not also be native title holders).

Aboriginal land claims may be placed on any Crown land in NSW. The Department of Planning, Housing and Infrastructure is responsible for investigating claims as defined in the ALR Act. If a claim is established, the land is transferred to the Aboriginal Land Council as freehold land.

At the time of preparing this plan of management, Crown reserves within Shellharbour LGA are affected by an undetermined Aboriginal land claim (claim number 42453, lodged 15/12/2016). Council has considered the claim in development of this plan of management.

DRAFT

APPENDIX 3: EXISTING LEASES AND LICENCES ON THE SITE

Group/organisation	Location	Type of Tenure	Term
Stand-Up Paddle Boarding Shellharbour	Lot 7009 DP1075106 Shellharbour Village Harbour, Shellharbour	Licence	Expires 26/10/2025

(Current as at the date of adoption of the Plan)

DRAFT