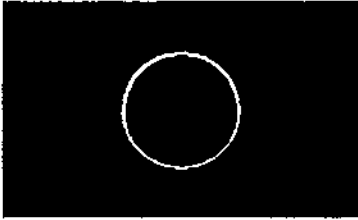


201461834



La Perouse Local Aboriginal Land Council

P.O. Box 365, Matraville NSW 2036

Telephone: (02) 9311 4282

Facsimile: (02) 9661 7423

Mr. Ray Brownlee
General Manager
Randwick City Council
30 Frances Street
RANDWICK NSW 2031

Via Email & Post

Randwick City Council
10 APR 2012
Records Received

Dear Mr Brownlee,

**RE: Submission by the La Perouse Local Aboriginal Land Council in response to the
Randwick City Council's Draft Local Environment Plan 2012**

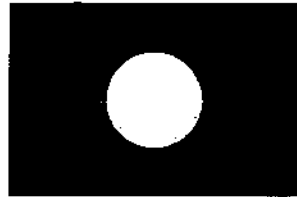
I refer to the above mentioned matter and am pleased to submit the enclosed submission by the La Perouse Local Aboriginal Land Council (LPLALC).

If you would like to discuss this matter further please don't hesitate to contact the LPLALC office on 9311 4282 during business hours or by email cingrey@laperouselalc.com

Yours sincerely,

Chris Ingrey
Chief Executive Officer

Date: 5 April 2012



**LA PEROUSE LOCAL
ABORIGINAL LAND COUNCIL**

**Submission by the La Perouse Local Aboriginal Land
Council in response to the Randwick City Council's Draft
Local Environment Plan 2012**

March 2012

1. La Perouse Local Aboriginal Land Council (LPLALC) thanks Randwick City Council (RCC) for the opportunity to make submissions on the above draft planning instruments.
2. Generally, the draft planning instruments fail to adequately recognise and provide for Aboriginal people's participation in planning decisions, particularly when referenced to international best practice. We would welcome RCC considering implementation of a cost effective process which ensures the first peoples of this area can have appropriate participation in the planning process.
3. More specifically, LPLALC notes the inequity in the treatment of lands owned or claimed by LPLALC and their proposed rezoning, and those of other private landholders in the RCC area. We would welcome RCC adopting a more consistent approach, and where land is, or is likely to be, owned by LPLALC, a private landholder, that the land is zoned residential.
4. Alternatively, that RCC have regard to the policy position of NSW planning in not rezoning land under claim without the express permission of LPLALC.
5. Finally LPLALC is very concerned about the current practice of RCC inviting people on to LPLALC property (*Elaroo Avenue*), for such inherently dangerous pursuits as hang gliding.
6. This is a major liability issue and we request that this practice be immediately stopped. We put RCC on notice that should such a person be injured, LPLALC would refer to the long history of LPLALC requesting the ability to be able to fence off such areas to prevent injury, and RCC's persistent advice that this is not possible for land zoned 6A Public Open Space.
7. In such circumstances where RCC fences the area in a manner consistent with other public reserves, erects signage incorrectly denoting the area as a Public reserve they are inviting people to trespass on to private property, and any subsequent injury is RCC's liability.

Appropriate acknowledgement and recognition of Aboriginal People

8. **Clause 1.3** of the Draft LEP sets out a range of objectives, including protection of the environment, promotion of sustainability, amongst others.
9. LPLALC submits that it is in line with international best practice in planning to acknowledge and provide some recognition to the Aboriginal People's long prior and current relationship to *Country* of the area now within Randwick City Council's area.
10. LPLALC would like to suggest an additional objective:

"To acknowledge, and recognise the Aboriginal People's connection to this area, and to protect, promote and facilitate their participation in planning decisions which impact upon their Country";
11. Cultural Heritage and Aboriginal people's connection to Country is not limited to artefacts, objects or places. It is a necessarily a landscape connection, and

planning decisions have a very real impact upon future generations of Aboriginal people being able to maintain their cultural connection to Country.

12. Many Aboriginal people have been taught from a young age where their ancestor's camps were, the old pathways to other places within their country, and when and how to collect traditional food and medicine. It is their right and obligation to maintain and continue this practice by teaching their children, and their nieces and nephews.
13. Planning decisions which practically prevent, or inhibit these practices impact on the human rights of Aboriginal people.
14. This is a global issue, and there are several international human right instruments directed to addressing this issue, namely DRIP¹ which collates and summarises existing human rights instruments, and the Convention on Biological Diversity.
15. The Convention on Biological Diversity² signed in Rio on 5 June 1992 has been ratified by Australia, and provides relevantly at Article 8(j):
 - a. *"Each Contracting party shall as far as possible, and as appropriate:*
 - b. *.....*
 - c. *(j) Subject to its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices;....."*
16. The Conference of the Parties 7 made a decision (VII/16) adopting the Working Party on Article 8 (j) recommendations for greater involvement of indigenous peoples in all cultural, environmental and social assessments, at all stages of a development process including the scoping stage, known as the Akwe Kon principles³:

"8. As part of the above stages, the following steps may also be considered in carrying out an impact assessment for a development proposed to take place on, or which is likely to impact on, sacred sites and on lands and waters traditionally occupied or used by indigenous and local communities:

.....(d) Establishment of an agreed process for recording the views and concerns of the members of the indigenous or local community whose interests are likely to be impacted by a proposed development;

(e) Establishment of a process whereby local and indigenous communities may have the option to accept or oppose a proposed development that may impact on their community;

¹ Full text at: <http://www.cbd.int/convention/text/>

² Full text at: <http://www.cbd.int/convention/text/>

³ Full text at: <http://www.cbd.int/doc/publications/akwe-brochure-en.pdf>

(f) Identification and provision of sufficient human, financial, technical and legal resources for effective indigenous and local community participation in all phases of impact assessment procedures;....."

17. The existing legislative framework for planning in NSW has been limited in its recognition of these rights, although it has improved with recent decisions of the Land & Environment Court.
18. An important principle of ESD is "intergenerational equity". Aboriginal peoples' (particularly future generations) rights to enjoy their spiritual, cultural and physical relationships with land are now recognised as an important component of intergenerational equity⁴. Understanding and providing an opportunity to deliver this outcome is an important part of RCC implementing Ecologically Sustainable Development.
19. The NSW Government has already recognized that the cultural heritage legislation is not the appropriate part of the legislative framework to recognize and protect Aboriginal Peoples' broader and unique role in respect to natural resources and planning issues.
20. The NSW NRAC undertook a program to develop Aboriginal Natural Resource Agreements⁵ to better engage Aboriginal People in natural resource management decisions. This reflects current best practice in consultation with Aboriginal people in NSW.
21. Accordingly LPLALC invites RCC to amend the objectives of the Draft LEP and enter into a dialogue about how best to ensure Aboriginal people can participate appropriately in their planning decisions.

Open Space on LPLALC land

22. LPLALC land is privately owned land. It is not a public reservation, nor is it a form of conservation tenure. LPLALC, as a statutory body, is required to ensure that it manages its land assets to improve, protect and foster the best interests of all Aboriginal people of its area.
23. LPLALC notes that it owns the following properties, Lots 5225 and 5226 DP 28436 (**Elaroo Avenue**), and Lots 56 – 62 DP 752015 (**Adjacent to Yarra Bay Reserve**) (**LPLALC owned Open Space Property**). RCC proposes to zone these LPLALC owned Property Recreation 1 – Public recreation. None of these areas are reserved, and therefore proposed to be acquired as Public Space – Local lands.

Elaroo Avenue

24. LPLALC refers to RCC comments in the Open Space and Environment Discussion Paper that the Elaroo Avenue properties are surrounded by residential land and is suitable for future use as residential land.

⁴ *Anderson v DG DECC* (2006) 144 LGERA 43; [2006] NSWLEC 12 at paragraph [199]

⁵ http://www.booroongencollege.nsw.edu.au/documents/resource%20kit_web.pdf

25. LPLALC submits that other private property incorrectly zoned Open Space 6A which is adjacent to residential land is proposed to be rezoned Residential (2 Hurley Crescent Matraville), and that a similar approach to their land would be more consistent with the approach of RCC throughout the discussion paper.
26. LPLALC notes that RCC refers to a grant from the NSW Government Planning Acceleration Fund. That planning study will look in more detail at other sites which are less straightforward than Elaroo Avenue which is clearly suitable for residential zoning.
27. LPLALC submits Elaroo Avenue is more appropriately rezoned Residential 3 – Medium Density Residential.
28. LPLALC notes that public access should be maintained to the foreshore reserve areas, and currently the access is through the middle of the lots. LPLALC would welcome RCC discussing a more appropriate pedestrian access path.
29. LPLALC will address their significant concerns about public safety on this property below.

Property adjacent to Yarra Bay Reserve

30. While RCC does not invite the public to trespass on these privately owned lands in a similar manner to the Elaroo Avenue property above, the proposed zoning is similarly inconsistent with that outlined in respect to other privately owned lands.
31. LPLALC notes that these properties are immediately adjacent on two sides to privately owned lands zoned Residential, and should be considered to be rezoned as Residential 3 – Medium Density Residential.
32. It is inappropriate to maintain a Public Recreation zoning over lands that are now privately owned, and more appropriately zoned Residential.
33. It would be very dangerous, and not in the public interest for RCC to invite, or to give an impression that those lands are suited to public recreation in their current condition.
34. LPLALC submits that these lands should be proposed to be rezoned R3 – Medium Density Residential.

Alternative Submissions – Acquisition

35. LPLALC notes that the Open Space reservation of the above properties predates their being transferred into private ownership. It is inappropriate for private lands to be proposed to be zoned RE1 – Public Recreation.
36. Accordingly LPLALC submits that the properties should be either zoned to a more appropriate zoning, or reserved for acquisition.
37. As a private landholder with a primary statutory responsibility to provide benefits to the Aboriginal people of the LPLALC area, LPLALC is not currently in a position to manage LPLALC owned Open Space property for public recreational purposes.

38. LPLALC submits that if RCC wants to use or promote the use of its private property as Public Recreation areas it should acquire the properties by reserving the land for acquisition as Local Open Space.
39. To be very clear, LPLALC does not support, nor does it view the current, or future use of the LPLALC owned Open Space property to be consistent with either public, or private recreational purposes. The future use of those lands is most appropriately R3 – Medium Density Residential.

Elaroo Avenue – Frenchmans Bay Reserve

40. Finally LPLALC wishes to raise a matter of urgency regarding public use of Lots 5225 & 5226 DP 728436 (**Elaroo Ave Property**).
41. The Elaroo Ave Property is LPLALC land, apart from a road excised for Council through the middle of the Property. The Elaroo Ave Property is currently zoned 6A – Public Open Space.
42. Due to legacy contamination issues, RCC rehabilitated the Property, and landscaped it to look much like a Council reserve, including standard fencing and signage stating the Property is Frenchmans Bay Reserve (**Annexure A**).
43. RCC by such actions invite the public on to LPLALC land, without LPLALC permission, and in a manner which raises serious issues of public liability, given hang gliders use the reserve, as do day campers (**Annexure A**).
44. LPLALC notes it has consistently sought to fence their part of the property off to public access as a matter of ensuring people do not injure themselves on LPLALC land, and RCC has consistently refused their consent to such action, advising it was impermissible on an area zoned 6A Public Open Space.
45. As the landowner, LPLALC requests an undertaking from RCC that they will accept all liability for any person injured as a result of their being on LPLALC land on the mistaken understanding it was a public reserve, given RCC's signage and signature fencing such as that used at Yarra Bay reserve.
46. Further, LPLALC requests that RCC remove the signage and enter into urgent negotiations about appropriate public access through these properties, and appropriate fencing of the balance of the Property.

Bunnerong Road Sites, Chifley

47. The Open Space and Environment Discussion Paper notes a range of properties currently owned by a range of government entities.
48. LPLALC has a number of outstanding land claims over a number of these lots in DP 752015 (**Claimed Property**).
49. Lands granted under the *Aboriginal Land Rights Act 1983 (NSW)* are granted as at the date claimed, not at the date granted. For that reason it is the NSW Planning policy

position that lands under claim are not rezoned without the express permission of the Land Council concerned. LPLALC notes that the current zoning is residential.

50. LPLALC notes that the Claimed Property is proposed to form part of a Green Corridor, and in accordance with Practice Note 09- 002 Environment Protection Zones is proposed to be zoned E2 Environment Conservation due to the presence of the Endangered Ecological Community – Eastern Suburbs Banksia Scrub, and the threatened species, *Acacia terminalis* spp *terminalis*.
51. LPLALC does not consent to the proposed rezoning, and notes that where another private property is affected by the proposed rezoning of this Green Corridor, RCC proposes to maintain the residential zoning and work around it.
52. LPLALC requests that RCC adopts a similar approach to lands claimed by LPLALC until such time as they are either granted or refused.
53. Again, within the provisions of the Aboriginal Land Rights Act 1983 (NSW), LPLALC indicates that it is willing to discuss with RCC the reservation of these properties as public Open Space local, and to enter into negotiations about the acquisition of these lands.

Conclusion

54. LPLALC welcomes the opportunity to revisit some longstanding anomalies which have resulted from the granting of land under the Aboriginal Land Rights Act 1983 (NSW). As a private landholder, LPLALC prefers RCC to approach the zoning of their property as they would any other private landholder.
55. It is no longer appropriate to deal with LPLALC land as if it was the land of a government agency or department. LPLALC looks forward to RCC's consideration of the submissions made above in a manner which is more consistent with privately owned lands.
56. Please contact Chris Ingrey on (02) 9311 4282 or cingrey@laperouselalc.com to discuss any of the above matters.

Annexure A



D 01449450



MAROUBRA SEALS

Sports & Community Club Ltd

A.B.N. 91 000 396 663
212 Marine Parade Maroubra Beach
PO Box 340 MAROUBRA NSW 2035
Telephone: (02) 9349 2299 Fax: (02) 9349 5658
Email: seals@maroubraseals.com.au

19 March 2012

The General Manager
Randwick City Council
30 Frances St.
RANDWICK NSW 2031

Dear Sir,

Re : Randwick City's new draft Comprehensive Local Environmental Plan

The Club has viewed the above documents, as provided by Council, and note that the JOHN SHORE PARK, on the corner of Mons Ave and Fenton Ave, has been incorrectly named the John Stone Park.

Would you please ensure that this typographical error is noted in the new Local Environmental Plan.

Yours faithfully,


PETER REID
General Manager

Randwick City Council

20 MAR 2012

RECEIVED

D 0 1460856

AUSPAT INTERNATIONAL NO 2 PTY LTD

ABN 90 105 832 755

SHOP 8, 338 LIVERPOOL ROAD ENFIELD

PO BOX 288, ENFIELD NSW 2136

PH: 02.9744 3333 FAX: 02.9744 3331

EMAIL: GEORGE@URBANAPARTMENTS.COM.AU

Monday 2nd April, 2012

Randwick City Council

The General Manager
Randwick Council,
30 Frances Street,
RANDWICK NSW 2031

- 5 APR 2012

RECEIVED RANDWICK

*Post + Fax 9319-1510
(1 Page)*

Dear Sir,

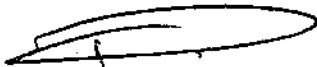
RE: Randwick Draft LEP 2012
Property: 11 Jennifer Street Little Bay NSW - Lot 5250

We thank Council for the preparation and exhibition of the draft Plan which closes today.

The plan is well supported by the many and various consultants & planning reports and the proposed "Medium Density" zoning of the companies property is supported by us. It is in line with previous zonings and suits the local area for development.

We thank you for your assistance and look forward to the further actions in regard to this comprehensive LEP process. We are pleased to be part of this consultative process.

Yours faithfully,
Auspat International No 2 P/L
Per Farah Elias
Director





Daughters of Our Lady of the Sacred Heart

OLSH Provincial House
2 Kensington Road
Kensington NSW 2033
Australia

2 April 2012

The General Manager
Randwick City Council
30 Francis Street
Randwick NSW 2031

Randwick City Council

- 2 APR 2012

Records Received

Attn: Ms Karen Armstrong

Dear Ms Armstrong,

**RANDWICK DRAFT COMPREHENSIVE LOCAL ENVIRONMENTAL PLAN 2012-03-31
PROPOSED DESIGNATION OF PROPERTY AT NO 2 KENSINGTON ROAD, KENSINGTON**

Thank you for correspondence of 21 February 2012 requesting feedback on the proposed new draft Comprehensive Local Environmental Plan for the City of Randwick.

With specific regard to property at No 2 Kensington Road, Kensington, we note that this property is currently shown as designated SP2 (Place of Public Worship) on the exhibition draft of Randwick Local Environmental Plan Land Zoning Map Sheet LZN-002.

You would be aware that, in addition to the educational and other ministries of the Sisters, this site has for many years accommodated the St Joseph's Aged Care Facility. Accordingly, it will be necessary to ensure that this current (and intended long term) use is appropriately reflected within the relevant designation on the final version of the Local Environmental Plan.

Accordingly, we request that the subject property (being Lot 1 DP 562126, Lot 1 DP 923373, Lots 102, 103, 112 & 113 DP 3292 and Lot 1 DP 380326) be designated **SP2 – Place of Public Worship, Educational Establishment and Seniors Housing**, in recognition of its current and long term intended future use.

We look forward to inclusion of this designation in the final version of the plan.

Yours faithfully,

Provincial Leader
Daughters of Our Lady of the Sacred Heart

1 DP240490

4 DP211111
2A

22
69 DP 28209

68 DP 28209
24

67 DP2#209
28

66 DP28209

35
1 DP562126

**ST JOSEPH'S
AGED CARE**

1 DP923373

112 3 DP3292

113 F Dp3292

1033 DP3292

DP380326

12 DP776835

**KENSINGTON
CONVENT 102 3 DP3292**

KENSINGTON ROAD

**OUR LADY OF
THE ROSARY
SCHOOL**

1 DP936804

**church
catholic**

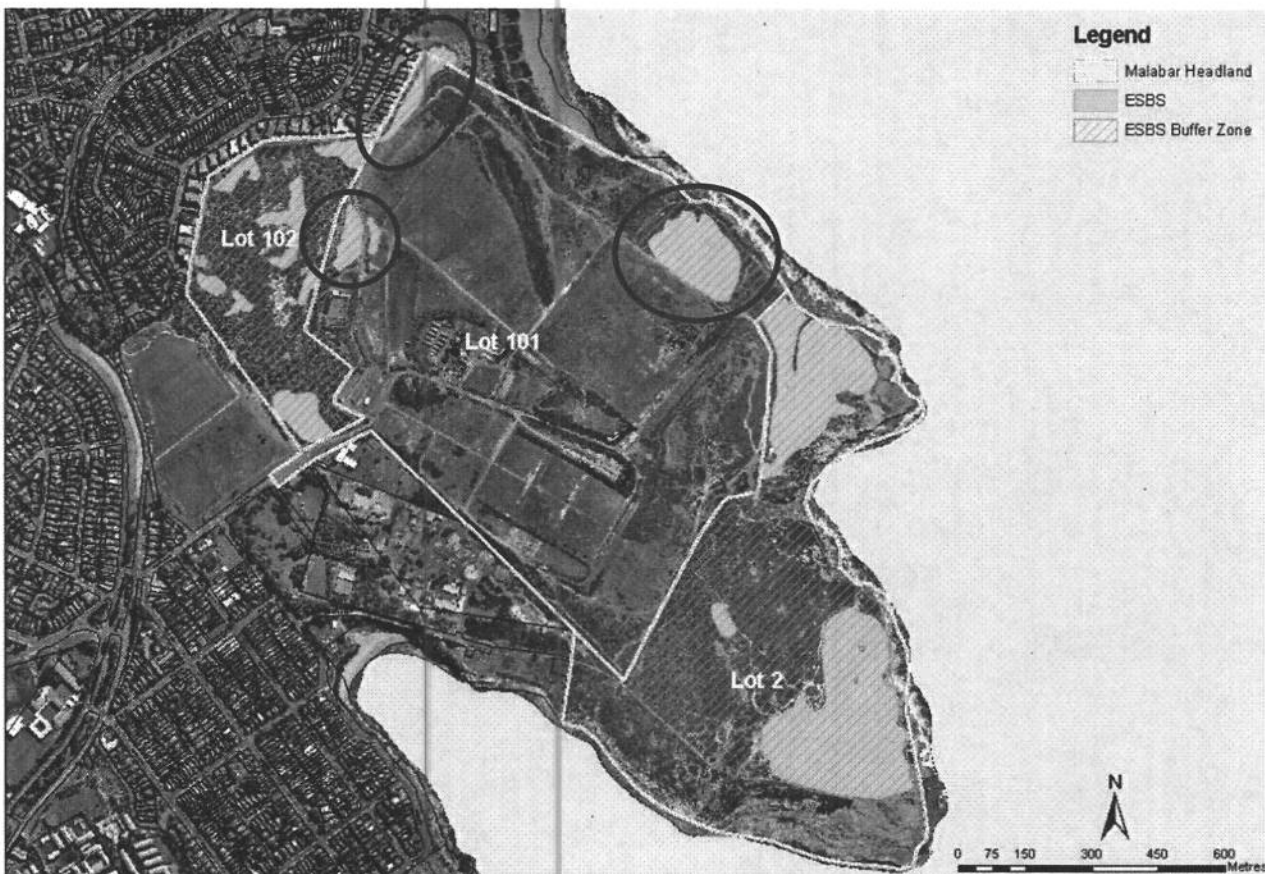
160 14 DP76

4
161 DP7598 6
162 14 DP76

16 DP4761 26 DP4761 SP3494

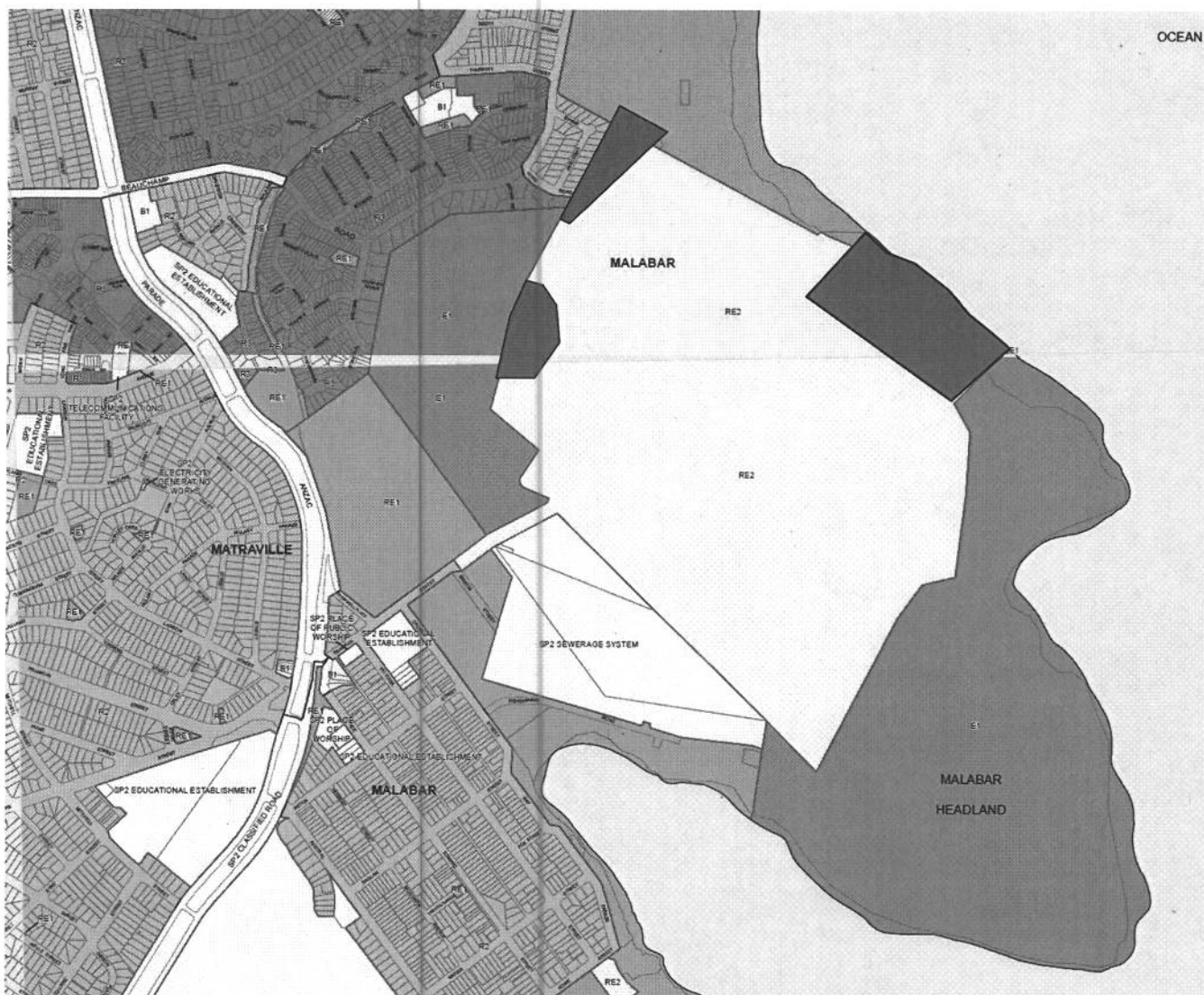
Draft Comprehensive LEP 2012 - Submission from: Friends of Malabar Headland

- We are concerned with recording of bushland areas and the zoning for Malabar Headland only.
- We applaud your recent "spot rezoning" request for the Western Section, now **Lot 102** in DP 1162245, formerly Lot 4 in DP 809094; we note that this request is now with the Minister for Planning NSW, and will be approved. We approve the Draft LEP 2012 zoning proposal of E1, National Park, for Lot 102.
- Referring to your Discussion Paper on Open Space and Environment, the area of the rifle range, **Lot 101**, was proposed to be rezoned to the new category RE1, Public Recreation; but looking at your zoning map, sheets 8 and 9, we now see that the new zoning of Lot 101 is to be RE2, Private Recreation. In the submissions from the landowner, the Department of Finance and Deregulation in Canberra¹, they requested Lot 101 to be zoned SP1, as the lot is unremediated landfill and not yet suitable for public use. In this case, your reasoning that it should be zoned RE2, Private Recreation, until it is remediated, seems reasonable, and we approve.
- We agree that **Lot 2** in DP 809094, the Eastern Section of bush, should be rezoned to the new category, E1, National Park.
- There are, however, three areas (circled in red on map below) of the endangered ecological plant community "Eastern Suburbs Banksia Scrub" (ESBS), and associated buffer zones and wetlands, which are not currently proposed to be included in the new zoning for National Park E1, but left in RE2, Private Recreation: **this is a totally inappropriate zoning which provides no protection for these areas.**



- We believe these three areas should be included in the rezoning of adjacent areas which are to become E1, National Park, or at the very least, E2, Environmental Conservation; **see extracts copied from the Draft LEP 2012 zoning maps on the next page. These three areas are coloured solid blue for clarity.**

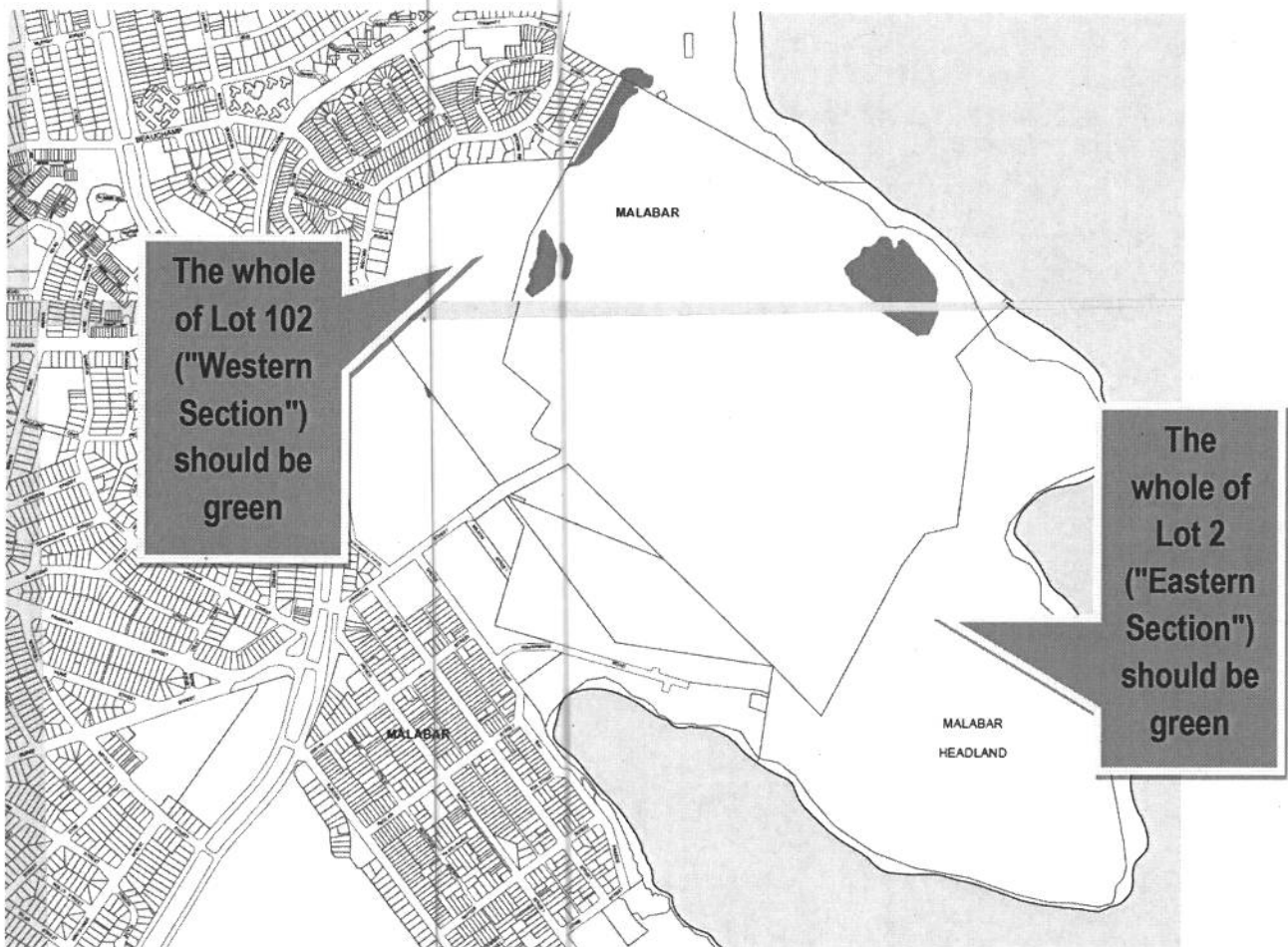
¹ From Council Report Attachments 6.12.11, page 25 - Attachment D: Government Agency Submissions and Council Responses, (also noted as page 185 of 376).



Above: Extracts from your zoning map for the Draft LEP 2012, sheets 8 & 9. We have added ESBS areas (in solid blue) which we think should be included in "E1" National Park zoning, or E2, Environmental Conservation.

- One of our members inquired at one of the Council's information sessions whether or not this could be done, and was told it is possible to do this, *as zoning does not necessarily have to follow lot boundaries*. We note that our previous submission to the "Randwick Open Space and Environmental Discussion Paper" of last year, which was substantially the same as above, has been ignored.
- The bush in the three blue areas is primarily ESBS, also contains other native flora and fauna, and in the case of the largest area, also includes wetlands.
- All three areas are **contiguous with bushland already zoned (or proposed to be zoned) National Park, E1**.
- ESBS is protected as endangered under the provisions of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* and under the NSW *Threatened Species Conservation Act 1995*.
- Most of the area zoned National Park on the map above, together with the solid blue areas, are listed on the Register of the National Heritage Estate, Commonwealth Heritage and State Heritage listings.
- We also note that your draft LEP 2012 map "Terrestrial Biodiversity" shows these areas of ESBS (see extracts from your map on the next page).

- We are very concerned that the Terrestrial Biodiversity map does not show the bulk of the ESBS and associated bush which exists in the whole of Lot 102 (the Western Section) and Lot 2 (the Eastern Section); see map extracts below.



Above: Extract from your map "Terrestrial Biodiversity", sheets 8 & 9.

We strongly support the zonings as stated above, and we believe that the wider community does likewise. Council has already demonstrated its support for the western section's National Park zoning; therefore we feel that Council should further amend its draft LEP 2012 to better reflect the zonings required to protect the precious Eastern Suburbs Banksia Scrub on the Headland.

Yours sincerely,

Peter Ryan (co-Chair of FoMH)
 Peter Fagan (co-Chair of FoMH)
 Claire Bettington (Treasurer of FoMH)

FoMH CONTACTS:

Peter Ryan, co-Chair of FoMH.
 Email: pjrhino99@gmail.com
 Mobile: 0437 393 892

Peter Fagan, co-Chair of FoMH
 Email: fagan.peter@gmail.com
 Mobile: 0416 031 555

Mail: PO Box 6023, MALABAR NSW 2036.
Website: www.malabarheadland.org.au



EMANUEL SCHOOL

15 March 2012

General Manager
Randwick City Council
30 Frances Street
Randwick NSW 2031

Dear Sir/Madam,

Subject: Draft Comprehensive LEP

Thank you for the opportunity to review and comment on the Draft Comprehensive LEP.

We have reviewed the changes proposed in the draft LEP in relation to our property with our consultant and wish to offer the following comments:

- We understand that the proposed zoning generally carries over the current situation.
- We have, together with our consultants, identified an error regarding a height limit indicated for the corner of Stanley and Chepstow Streets which should not appear in the LEP. We would like to bring this to Council's attention and seek rectification in the final LEP.

As well, please refer to the attached document containing comments brought to our attention by our consultant.

Yours sincerely

David Nathan
Business Manager

Review of Randwick Draft LEP on behalf of the Emanuel School, Randwick

13th March 2012

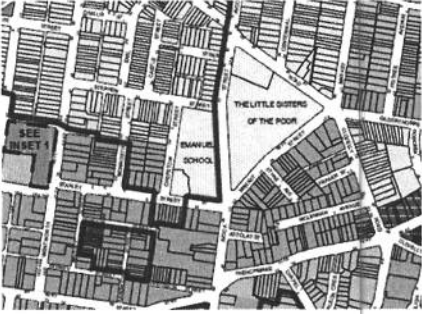
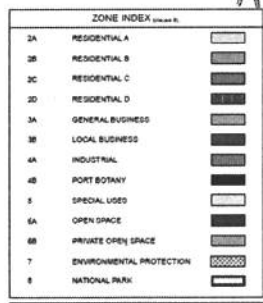
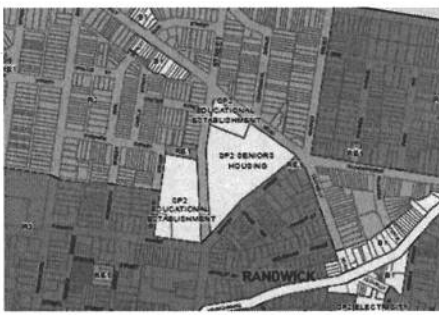
The Draft Randwick LEP 2012 has been prepared in response to reforms in the NSW planning system that require LEPs across the State to adhere to a 'Standard Instrument' LEP template, with common zones, definitions, clauses, and format.

Under the Standard Instrument Template, there are base objectives and zones that are required to be included within a Draft LEP.

The Randwick Draft LEP is broadly a translation of the existing controls in the Council's 1998 LEP into the Standard Instrument format, however it is noted Council have included additional objectives within the SP2 zone across all sites, ensuring that any future development will not adversely affect the amenity of nearby and adjoining development. This is discussed further below.

As you know, the LEP is on exhibition until 2 April 2012. After this time, any submissions made to the Draft LEP will be summarised, and recommendations made to Council.

The summary below seeks to identify the proposed zoning for the site at Emanuel School under the Draft LEP, any modification to zone objectives or development standards that will affect your property, and recommends whether a submission should be made to Council.

Existing LEP	Draft LEP
Zoned: Special Uses: Emanuel School  	Zoned: SP2 Educational Establishment and RE1 Public Recreation   Randwick Local Environmental Plan 2012 a local government instrument Land Zoning Map - Sheet LZN_006 Zone [B1] Neighbourhood Centre [B2] Local Centre [B3] National Parks and Nature Reserves [B4] Environmental Conservation [B5] Light Industrial [B6] General Residential [B7] Low Density Residential [B8] Medium Density Residential [B9] Public Recreation [B10] Private Recreation [B11] Primary Production Small Lots [B12] Special Activities [B13] Infrastructure [B14] SEPP (Major Development) 2008 Cadastre ☐ Base data 2010/2009 © Land and Property Information (LPI) Australia 2009 24/01/2012 ☐ © Randwick City Council

Objectives and permitted uses: (1) The objectives of Zone No 5 are: (a) to accommodate development by public authorities on publicly owned land, and (b) to accommodate development for educational, religious, public transport or similar purposes on both publicly and privately owned land, and (c) to enable associated and ancillary development, and (d) to allow for a range of community uses to be provided to serve the needs of residents, workers and visitors, and (e) to allow for the redevelopment of land no longer required for a special use. (2) Development for the purpose of the following does not require development consent: Bushfire hazard reduction; Public utility undertakings; Recreation; Roads (3) Development for the purpose of the following requires development consent: Animal establishments; Bed and breakfast accommodation; Boarding houses; Car parks; Cemeteries; Child care centres; Clubs; Communication facilities; Community facilities; Dwellings; Dwelling houses; Earthworks; Educational establishments; Health consulting rooms; Helicopter landing sites; Home activities; Hospitals; Markets; Multi-unit housing; Outdoor advertising; Penitentiaries; Places of worship; Plant nurseries; Public transport; Recreation facilities; Restaurants (4) Any development not included in subclause (2) or (3) is prohibited.	Objectives and permitted uses: 1 Objectives of zone • To provide for infrastructure and related uses. • To prevent development that is not compatible with or that may detract from the provision of infrastructure. • To facilitate development that will not adversely affect the amenity of nearby and adjoining development. • To protect and provide for land used for community purposes. 2 Permitted without consent Home occupations; Recreation areas 3 Permitted with consent The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose; Environmental protection works; Flood mitigation works; Roads 4 Prohibited Any development not specified in item 2 or 3 NB. Text in red indicates objectives etc. that have been added by Council, and are in addition to those suggested by the Department of Planning and Infrastructure.
Outcomes of new zoning Zoning remains the same, with the exception of the small park to the north of the site being zoned RE1 recreation – formalising its use as a park. It is noted that there are a number of additional infrastructure related uses permitted under the current zoning than the proposed zoning which allows for the use specified on the zoning map only, being an "Educational Establishment". Of particular note is an additional objective which is included in the new zone that any development <i>"will not adversely affect the amenity of nearby and adjoining development."</i> This objective will result in any development application made in the future being placed under greater	

scrutiny, and more justification for any proposal will need to be provided.

We note that this objective has been included in the SP2 zone objectives in addition to the Department of Planning and Infrastructure mandated objectives for the zone. An audit has also been undertaken by Urbis, determining that all schools in the LGA are also subject to this objective. Including additional objectives within an LEP in the Standard Template is within the rights of Council.

We also note that this additional objective has originated from Clause 37A within the 1998 Randwick LEP: *The Council may grant consent to the development of land within Zone No 5 only if it is satisfied that the proposed development is compatible with the character of the locality and will not adversely affect the amenity of nearby and adjoining development.*

Existing Development Standards

FSR - 0.5:1

Height – Not specified

Draft Development Standards

FSR – Not specified

Height – Not specified, apart from a small portion of the site in the south western corner with a height limit of 9.5 metres.

For further information on height, see below.



Further Detail on Height Controls –

Following thorough research into the background studies and formation of the draft LEP, we could not determine any obvious grounds for a height restriction on the corner lot. As a result, we contacted Council to highlight the issue and have been advised that it has been created as a Geographic Information Systems (GIS) **error, and this will be rectified so that no height restrictions shall apply to the site.** This has been confirmed verbally and in email communication by Council. Copy of the email attached for the Schools records.

While the draft LEP does not impose any height restrictions on the school (similar to the existing LEP) it is noted the School is also subject to a Master Plan which was approved by Council in January 2011. This Master Plan does in fact include required heights for the school, within their map "Proposed built form parameters plan". The heights within this master plan appear to be between 1.5 Storeys to 12 metres around the perimeter of the site.

Generally the approved Master plan would set the expectations of height for the site and any proposals to vary would need to amend the master plan document.

All other provisions such as landscaping, car parking, etc, remain under the relevant DCP's affecting the site.

The proposed development standards contained in the draft LEP are not considered to have any

unreasonable impact on the site.		
Existing Heritage Provisions		Draft Heritage Provisions
The site is located within a conservation area and is listed as a heritage item.		The site is located within a conservation area and is listed as a heritage item. The objectives within the existing LEP and Draft LEP have not changed, and will have no additional impact on the site.
Modifications zoning or development controls in the surrounding area As mentioned above, the Draft LEP is in the most part a direct translation of the existing LEP. In light of this, the majority of the zoning of the surrounding area, and subsequent development controls remain the same. The only modification to controls within close proximity to the site is with regard to the residential area adjacent to the site to the south and west, currently zoned Residential C. While the zoning of this area to R3 Medium Density Residential is a direct translation of the existing zoning, the permitted height is proposed to be increased from 9.5 metres to 12 metres. This is considered a natural progression for residential areas of this nature.		

Summary and Suggested Actions:

The Draft LEP is in the most part a direct translation of the existing LEP, both in relation to the site itself, and the surrounding area.

Of particular note is an additional objective that has been placed on the LEP in relation to the SP2 zone, requiring that any other development on the site will not adversely affect the amenity of nearby and adjoining development.

An audit of 9 other schools within the LGA has confirmed that the SP2 zone has been applied across the LGA, and these schools are also subject to the additional conditions.

An error has been placed on the height map, restricting height on a portion of the site, however Council have confirmed that this is an error and will be rectified by Council. The site will however still be subject to the height restrictions within the Master Plan approved in January 2011.

It is suggested that the School monitor the rectification of the error on the height map to ensure it is modified. Otherwise, it is considered that the Draft LEP is consistent with the standard LEP template, and any modifications to the objectives affecting the site, and provisions affecting surrounding sites, are not unreasonable.

Attachment A – Council Email Confirming Mapping Error

From: Joanna Hole [mailto:Joanna.Hole@randwick.nsw.gov.au]
Sent: Tuesday, 13 March 2012 12:05 PM
To: Ashleigh Ryan
Subject: Randwick draft LEP: Query about height map: Emmanuel School

Dear Ashley,

Following our conversation regarding height mapping applied to a portion of the Emmanuel School, I have checked with our mapping team, and can confirm that this has been done in error, and has already been noted for correction. No maximum heights should apply to the school site.

Thanks for the phone call, and please contact me if you wish to discuss this further.

Regards,

Joanna Hole

Coordinator Strategic Planning

Randwick City Council

T: 02 9399 0842

M: 0401 007 676

Email: joanna.hole@randwick.nsw.gov.au

www.randwick.nsw.gov.au



**OUTDOOR
MEDIA
ASSOCIATION**

Submission on the Draft Randwick Local Environmental Plan 2011

Prepared by
Urban Concepts

in association with
Outdoor Media Association

March 2012

OMA SUBMISSION
TO
RANDWICK COUNCIL

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1. INTRODUCTION

1.1. Background

This submission on the Draft Randwick Local Environmental Plan 2011 has been prepared on behalf of the Outdoor Media Association of Australia (hereafter referred to as the OMA). The submission has been prepared by Urban Concepts on behalf of the OMA.

The OMA supports the introduction of a new comprehensive local environmental plan to guide the development of land within the Randwick Municipality. The introduction of a new plan that adheres to the standard instrument is sound planning practice and will deliver consistency across the state.

The OMA is concerned that there are anomalies in the draft Randwick LEP 2011 as it relates to the provisions of State Environmental Planning Policy No. 64 Advertising and Signage (hereafter referred to as SEPP 64). The purpose of this submission is to bring these anomalies to the attention of Randwick Council prior to the gazettal of the draft instrument. It is noted that the OMA will also forward a copy of this submission to the NSW Department of Planning and Infrastructure for its information and consideration.

The OMA recognises that the outdoor industry has a duty of care to ensure that the development of outdoor assets occurs in a responsible manner and with the highest regard to public safety. For the OMA, a key driver of any new planning system and environmental planning instrument is recognition of the legitimate role that is played by outdoor advertising in today's commercial environment. In this respect, the new Randwick LEP 2011 must enable the outdoor advertising industry to operate in a fair, reasonable and objective manner free of the bias and philosophical judgment that has often clouded local Government planning controls for outdoor advertising. It was this bias that ultimately led to the introduction and gazettal of State Environmental Planning Policy No.64 Advertising and Signage (hereafter referred to as SEPP 64) in March 2001. The policy implications are detailed further in Section 2.2 of this report.

Following its review of the draft Randwick LEP 2011 the key considerations for the OMA are:

- To provide for the inclusion of advertising, advertising structures and signage as mandatory permissible land uses in special infrastructure, business, industrial and mixed use zones.
- To recognise certain types of advertisements and signs as exempt development.
- To introduce greater scope for certain advertisements and signage structures to be assessed and certified as complying development.
- To provide for merit based assessment for development applications requiring consent.

1.2. Introducing the OMA and its members

The OMA is the peak industry body which represents most of Australia's outdoor media display companies and production facilities, and some media display asset owners. An important part of the OMA's activities is to work with Federal, State and Local Governments to ensure that new laws and regulations for outdoor advertising are fair and equitable. The OMA monitors developments in regulations that will affect the industry, oversees policy development and facilitates regulatory committees comprised of experienced industry members.

The OMA supports the reasonable regulation of outdoor advertising and is committed to working with its regulators to ensure that all outdoor advertising signs are located in permissible areas, are well-integrated with the surrounding environment and support local community activities.

The OMA currently represents a number of outdoor media companies specialising in general advertising. These companies include (but are not limited to):

- APN Outdoor
- Adshel
- Bailey Outdoor Advertising
- Bishopp Outdoor Advertising
- Claude Outdoor
- Eye Corp
- GOA
- JC Decaux
- oOh!media
- Outdoor Systems
- Paradise Outdoor Advertising
- Savage Outdoor Advertising
- Tayco Outdoor Advertising
- Railcorp
- RMS

The outdoor media industry is a \$500M industry and holds a 4.5% share of the national advertising budget.

1.3. Why Outdoor Advertising is Important as a Land Use

In today's busy and fast-paced life, outdoor media is perfect for reaching people on the go. Increasingly, people are spending less time at home, and as a result are less exposed to traditional media like TV, radio, newspapers and magazines. By advertising on outdoor media an advertiser can:

- Launch a brand, build and maintain brand awareness cost-effectively
- Create a high impact advertising campaign to reach mass audiences cost-effectively
- Target specific audiences and markets with high frequency – i.e. shoppers, business travellers, teens, store catchment areas, tourist drive market
- Multiply the effect of other media by reinforcing the message over a longer period
- Provide a 'path to purchase', converting brand awareness into consumer purchase behaviour
- Support the business community and provide commercial strength to the state
- Maximise the income stream of property assets which is particularly important when global financial markets negatively impact on the property market
- Provide employment opportunities across a range of skill levels

1.4. What makes good Outdoor Advertising?

1.4.1. Creativity

Outdoor advertising is recognised globally as the most challenging yet rewarding creative advertising tool. At its heart is the ability for good creative to command total attention and cut through all other stimulus that surrounds a person in the outdoor environment.

1.4.2. Media

Outdoor advertising at its best achieves direct communication with consumers;

- where they live, work, play
- where they drive and shop
- where they commute
- where they congregate

With today's marketing strategies being driven by the consumer, who is being exposed to more messages than ever before, outdoor advertising is a proven medium in the mainstream media mix. No other media can match the impact and reach against the investment.

1.4.3. Production

Effective outdoor advertising requires strong, high impact graphics, as a key element. The advent of modern print technology and computer generated production has transformed the outdoor media industry with traditional processes having been either dramatically enhanced or replaced. Advertisers can realise a simple, streamlined process for signs produced to full photographic reproduction quality without major production costs. Production processes available range from screen printing to computer generated large format painting systems, custom made mechanical designs, 3D cut-outs and sign board extensions.

1.4.4. Environmental Sustainability

The OMA and its members invest in the development of environmentally sustainable initiatives for the outdoor media industry. These include the recycling of vinyl skins, the development of biodegradable skins, LED illumination, the incorporation of alternative energy sources such as wind and solar and the reuse and recycling of advertising structures.

1.4.5. Outdoor Medium or the Plant

Quality plant is part of the outdoor media equation. As urban planning issues and environmental considerations play a bigger role in today's society, so too has outdoor media adapted its place in the landscape. OMA members are constantly working to provide the most suitable presentation of its plant for advertisers and the public. Extensive and ongoing investment effort is undertaken to:

- Develop new quality sites including the latest architectural values along with optimum illumination
- Upgrade existing sites to a higher minimum quality standard
- Landscape sites to enhance their role in the local environment
- Regularly maintain sites to uphold appearance

1.5. The Benefits of Outdoor Advertising to the local community

Outdoor advertising is a cost-effective way for organisations and businesses to advertise their products, services and events. It is also widely used by government bodies to advertise community messages such as road safety messages and health awareness campaigns.

In addition to providing affordable advertising to local businesses, the OMA's members also make contributions back to the community each year.

In 2011, the OMA's members donated \$13 million worth of free advertising space to charities and other not-for-profit organisations. Invariably, donations from the outdoor advertising industry enable these organisations to continue their service to the community – by increasing community awareness of their services, recruiting volunteers and soliciting donations from the community.

Specifically in NSW the industry provides and maintains over 7000 items of public infrastructure (such as pedestrian bridges, bus shelters, kiosks, bins and public toilets) to the value of \$90 million. This provides a considerable saving for Local and State Government agencies who would normally need to fund the provision of these assets within our urban centres, and provides an income stream to those agencies through these assets.

1.6. Forms of Outdoor Advertising

The outdoor advertising industry generally adopts standard formats for advertising signs. These standard formats are used internationally by the outdoor advertising companies. The artwork that is generated by creative agencies for the display on these signs is based on these design ratios.

A common misunderstanding that occurs in the drafting of planning policies such as Development Control Plans or guideline documents for advertising signage by Local Government Authorities is the numerical development standards that are applied to advertisements and signage. Frequently, a Council will look to contain the size of structures in terms of its advertising display area with many policies limiting the area of signs to under 5 square metres.

The illustrations detailed at Figure 1.1 present the advertising formats that are generally applied by the outdoor industry for freestanding, wall and bridge advertisements. The display area is typically greater than 12 square metres. The classifications commonly used are:

- **Spectacular:** Poster displays over 50 square metres in area (standard dimensions are 18.99 metres x 4.45 metres). These are often located on highways and generally illuminated.
- **Supersite:** Large displays around 42 square metres (often 12.66 metres x 3.35 metres) in size. These signs are generally illuminated and located on major arterial roads and national highways.
- **Billboards:** 24 sheet posters, measure 6x3 metres in size and tend to be located mainly on building walls in commercial and industrial areas, along roads and in railway corridors.
- **Super 8:** generally these are illuminated light box signs and measure 8.2 metres x 2.2 metres, they are often mounted on freestanding pylons, walls and bridges.

In addition to the above formats there are OMA members that specialise in the development of street furniture advertising assets. Advertising displays are often integrated into the shelter structure at a bus stop, kiosk, public toilet or telephone booth. The displays are frequently scrolling units that are illuminated.

Street furniture displays are commonly 1.8 metres x 1.2 metres or 1.5 metres x 1 metre in size and are backlit. They can be freestanding units or integrated into the street furniture structure. Photographs illustrating the various forms of outdoor advertising follow.



A Spectacular structure



A Supersite structure



A Billboard (poster) structure



A Super 8 structure



A street furniture structure – kiosk



A street furniture structure – bus shelter

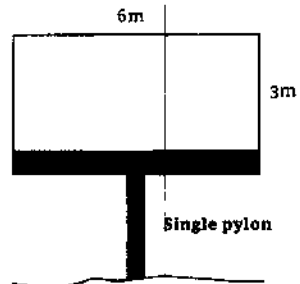


A street furniture structure – public toilet

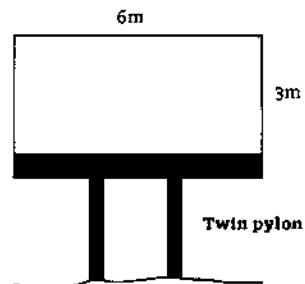
Figure 1.1 Advertising Formats

The outdoor advertising industry uses the following standard sizes of billboards.

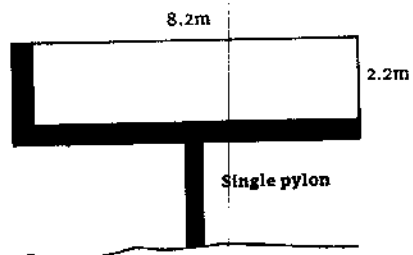
(A) 6 metres x 3 metres (18 square metres)



- 2:1 Artwork ratio



(B) 8.2 metres x 2.2 metres (12.41 square metres)



- 4:1 Artwork ratio
- Landscape version of 6m x 3m size
- Industry term 'Super 8'

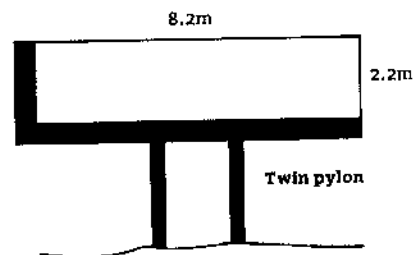
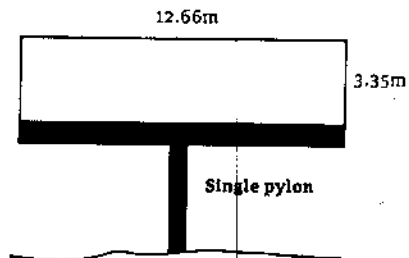
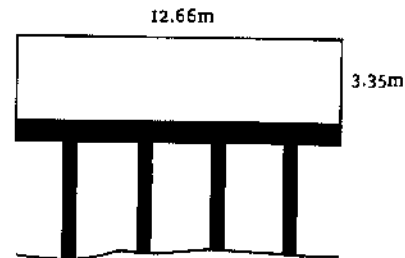


Figure 1.1 Advertising Formats

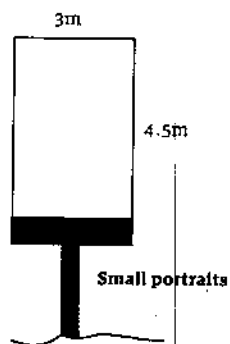
C) 12.66 metres x 3.35 metres (42.41 square metres)



- 4:1 Artwork ratio
- Industry term 'Supersite'

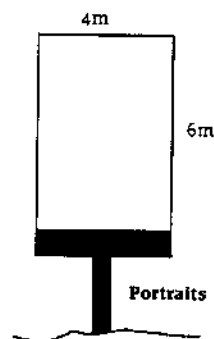


(D) 3 metres x 4.5 metres (13.5 square metres)



- 1:1.5 Artwork ratio
- Industry term 'Portrait'

(E) 4 metres x 6 metres (24 square metres)



- 1:1.5 Artwork ratio
- Industry term 'Portrait'

2. PLANNING FOR OUTDOOR MEDIA ASSETS IN THE RANDWICK LOCAL AREA

2.1. State Environmental Planning Policy No. 64 Advertising and Signage

State Environmental Planning Policy No. 64 is the primary environmental planning instrument relating to outdoor signage and advertising in NSW and was gazetted in March 2001. It applies to advertising and signage proposals whether they are for business signage, building identification signage or third party advertising signage. The SEPP does not apply to advertising or signage that is "exempt development" under another Environmental Planning Instrument. A copy of SEPP 64 and the associated Transport Corridor Outdoor Advertising and Signage Guidelines is detailed in Appendix A of this submission. SEPP 64 was reviewed and amendments gazetted on the 3rd August 2007 to recognise the suitability of road and rail transport corridors for the display of advertising signage. In recognising the suitability of transport corridor land for the display of advertising, the SEPP 64 review resulted in a number of key changes, namely:

- The introduction of provisions for development applications for advertising being progressed by the State Government Agencies that own road and rail assets, namely the NSW Roads and Traffic Authority (now referred to as the NSW Roads and Maritime Services) and NSW RailCorp.
- The introduction of provisions to recognise the NSW Minister for Planning as the consent authority for development applications being progressed by the NSW RMS and NSW RailCorp.
- A road safety concurrence role for the NSW RMS.
- The introduction of a public benefit contribution test for development applications by or on behalf of RMS and RailCorp or on private land requiring the concurrence of the RMS.
- The introduction of Transport Corridor Advertising and Signage Guidelines to supplement the design and development standards contained in the primary instrument.

In 2008, the former NSW Department of Planning (now the NSW Department of Planning and Infrastructure) in conjunction with the OMA and the RMS commenced its third review of SEPP 64 and the associated Transport Corridor Guidelines. The aim of the review was to give more relevance to the state environmental planning instrument by:

- Recognising the advances that are occurring in technology with the introduction of Light Emitting Diodes or LED displays,
- Addressing perceived prejudices in the assessment and approval process for development applications being progressed by private landowners as opposed to those relating to transport corridor land being progressed by the former NSW RTA and RailCorp,
- Providing a framework for the imposition of public benefit provisions by state and local consent authorities,
- Rationalising development standards contained within the SEPP that fail to recognise industry requirements or are superfluous to how the industry operates.

The terms *advertisement* and *signage* are defined under SEPP 64 as follows:

'advertisement means signage to which Part 3 applies and includes any advertising structure for the advertisement.

signage means all signs, notices, devices, representations, and advertisements that advertise or promote any goods, services or events and any structure or vessel that is principally designed for, or that is used for, the display of signage and includes:

- a) building identification signs, and*
 - b) business identification signs, and*
 - c) advertisements to which Part 3 applies,*
- but does not include traffic signs or traffic control facilities.'*

Part 3 of SEPP 64 applies to the majority of signage or advertising undertaken by OMA members as it applies to all signage excluding the following types of advertisements:

- a) business identification signs
- b) building identification signs
- c) signage that, or the display of which, is exempt development under an environmental planning instrument that applies to it
- d) signage on vehicles

SEPP 64 is an important document as its provisions prevail over LEPs to the extent of any inconsistency (cl7). The purpose of this submission on behalf of the OMA is that the Draft Randwick LEP 2011 must adhere to and reflect the policy directives of SEPP 64 to ensure that it maintains its relevance and viability for the outdoor media industry over the next 5-10 years.

The effect of this is as follows:

- a) Signage permissible without consent under another environmental planning instrument may be permissible with consent under SEPP 64
- b) Signage permissible with consent under another environmental planning instrument may be exempt development or prohibited under SEPP 64
- c) Signage prohibited under another environmental planning instrument may be permissible with consent under SEPP 64

It is not the intent of this submission to review SEPP 64 for Council. Our preferred approach is to bring key areas of the State Policy and the associated Guidelines to the attention of the Council to ensure that they are addressed and reflected in the Draft Randwick LEP 2011 and that there are no anomalies between the two environmental planning instruments. A particular concern for the OMA is ensuring that the Draft Burwood LEP 2011 recognises and provides for a merit based assessment of general advertising and signage in all zones that are recognised under SEPP 64 and the associated Transport Corridor Advertising and Signage Guidelines as being suitable locations for the display of outdoor media assets in the form described in Section 1 of this submission. These zones will include:

- Mixed use
- Commercial/business
- Industrial
- Rural
- Transport corridors relating to major roads and tollways, rail, light rail, Ferry terminals, bus interchanges, airports

Through this submission the OMA hopes to ensure that Randwick Council fully understands the implications that the draft plan as exhibited would have on the outdoor media industry and the existing anomalies that it raises with SEPP 64 before the draft plan is finalised. This will ensure that the intent and policy directives that have been established in NSW since the gazettal of SEPP 64 are recognised at a local level.

The OMA would also ask that Council recognise the policy directives and the planning assessment framework established under SEPP 64 Schedule 1 in its adopted development control plans and policies relating to advertising and signage. It is also essential to ensure that these plans recognise the technological changes that are occurring within the outdoor media industry through the application of digital technology. Prohibitions or unsubstantiated restrictions on the use of this technology will have serious repercussions for the outdoor media industry in NSW and will render the industry uncompetitive on both national and international markets. It is noted that Queensland and Victoria are already well ahead of NSW in the application of digital technology for large-scale advertising signage within urban centres at the present time.

2.2. Existing General Advertising Signage within the Randwick Local Government Area

The OMA's records indicate that the following signs are located in the Randwick Local Government Area:

- 3 Billboard signs greater than 25 square metres in area
- 13 billboards less than 25 square metres in area
- 377 bus shelters displaying signage that are operated by Adshel
- 52 phone booths displaying advertising operated by JC Decaux

2.3. Signage Permissibility under the Draft Randwick Local Environmental Plan 2011

2.3.1. Overview

In the preparation of the Draft LEP, Randwick Council has adopted the provisions contained in the Standard Instrument Order 2006. The Standard Instrument prescribes the standard form and content for principal LEPs applying to a Local Government Area. The OMA understands that each Local Government Area will eventually adopt the Standard Instrument and recognises the advantages of continuity of local government planning across NSW.

The Land Use Table in the Standard Instrument specifies for each zone, the types of development that may be carried out with or without development consent, and the types of development that are prohibited.

Direction 5 in the Land Use Table provides a list containing all of the types of development that may be specified in the Land Use Table. That list relevantly includes *advertising structures* and *signage*. The definition of *advertisement*, *advertising structure* and *signage* is as follows:

'advertisement means a sign, notice device or representation in the nature of an advertisement visible from any public place or public reserve or from any navigable water.

advertising structure means a structure used or to be used principally for the display of an advertisement.

signage means any sign, notice, device, representation or advertisement that advertises or promotes any goods, services or events and any structure or vessel that is principally designed for, or that is used for, the display of signage, and includes any of the following:

- a) an advertising structure,*
- b) a building identification sign,*
- c) a business identification sign,*

but does not include a traffic sign or traffic control facilities.'

The permissibility of *advertising structures* and *signage* is not prescribed as a compulsory provision in the Standard Instrument in any zone. Permissibility of *advertising structures* and *signage* may therefore vary in each Local Government Area for which the Standard Instrument is adopted.

2.3.2. Signage and Advertising Permissions across Land Use Zones

Table 2.1 below summarises the land use zones in which 'signage' is a permitted use, with consent under the Draft Randwick LEP 2011. The land use table distinguishes between signage and business and building identification signage across various land use zones.

Table 2.1: Permissibility of signage by land use zone.

ZONE	BUSINESS IDENTIFICATION SIGNS	BUILDING IDENTIFICATION SIGNS	SIGNAGE
RU4	No	No	No
R1	Yes	Yes	No
R2	Yes	Yes	No
R3	Yes	Yes	No
B1	Yes	Yes	Yes
B2	Yes	Yes	Yes
IN2	Yes	Yes	Yes
SP1	No	No	No
SP2	No	No	No
RE1	Yes	Yes	No
RE2	Yes	Yes	No
E1	No	No	No
E2	No	Yes	No

As indicated by Table 2.1 'signage' is prohibited in zone SP2 Infrastructure. The OMA is concerned that this prohibition creates an anomaly with the SEPP 64 provisions as discussed below in Section 2.3.3.

2.3.3. Zoning under the Standard Instrument – Special Infrastructure Zones

It is commonly accepted that the most desirable locations for large format advertising and street furniture are major arterial roads, railways, airports, tollways, light rail and transport interchanges. Currently many major roads and railway lines will be zoned Special uses "Roads" or "Railways" under an LEP. Smaller roads may be unzoned or zoned the same as the adjoining land use. Within the Randwick Local Government Area there are also a number of large institutional uses that are located on major transport corridors which also provide suitable locations for the display of general advertising signage.

Department of Planning Circular PN 10-001 (DOP Circular) provided guidance to Councils on zoning public infrastructure land when adopting the Standard Instrument in local environmental plans. In

most cases, roads and railway lines, if constructed by or on behalf of a public authority, may be constructed without development consent in any zone under State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP).

The DOP Circular provides the following guidance to Councils with respect to the zoning of roads and railways:

- The Standard Instrument does not require LEPs to permit infrastructure in special purpose zones (which include Zone SP1 Special Activities and Zone SP2 Infrastructure) where that infrastructure is already permitted under the Infrastructure SEPP,
- Existing "special use" zones should be rezoned and the appropriate adjacent land zone should generally be used, and
- Currently many LEP roads are unzoned. In future, all land is to be zoned under LEPs, including roads.

In respect of the zoning of roads, the DOP Circular provides that roads should be zoned as outlined below.

- *Classified roads that pass through major retail centres should be zoned using the appropriate business zone for the adjoining land. This provides a planning framework for considering potential development over or below roads and on footpaths.*
- *Freeways, Tollways, Transitways, National Highways and major roads (carrying greater than 40,000 vehicles per day) outside of major centres may be zoned SP2 Infrastructure. Other regional roads may be appropriate for an SP2 zoning such as the Pacific Highway. Councils should consult with the relevant Department of Planning Regional Office.*
- *Outside major centres, roads that carry less than 40,000 vehicles per day should generally be zoned the same as the adjoining land.*
- *All other roads should be zoned in accordance with the adjoining land. This avoids the need for spot rezonings where the roads are closed, or where the alignment of the road changes, which can commonly occur in rural and release areas.*
- *In cases where a road forms a boundary between zones:*
 - *The whole of the road should be zoned the same zone (i.e. the zone boundary should not run down the middle of the road); and*
 - *Where ever possible, the zone applied should be the same as that applied to adjoining land, and which provides for a range of land uses to assist with flexibility in land use planning.*

The zoning of roads and railways in zones SP1 Special Activities and SP2 Infrastructure is significant because there is a compulsory provision in the Standard Instrument which provides that the following is permissible with consent:

The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose.

Legal advice provided to the OMA indicates there is an issue regarding whether signage can be classified as "ordinarily incidental or ancillary to development" for purposes shown on the Land Zoning Map, which is likely to include roads, railways and similar uses. Although the issue is one of fact and degree in the individual circumstances, HWL Ebsworth Lawyers are of the view, that any third party signage would not be classified as "ordinarily ancillary or incidental to" development for the purposes of roads or railways.

Although considered in a different statutory context, the Land and Environment Court case of *Metro Transport Sydney Pty Ltd v City of Sydney Council* [2009] NSWLEC37 is relevant. In Sydney advertising was not development that was incidental to a light rail system. Biscoe J said the following:

'In my opinion, something is incidental to the carrying out of the development of the Monorail if it is reasonably necessary to effectuate that purpose.

Thus, in order to characterise the type of advertising in question as ancillary the applicant must establish that is reasonably necessary to achieve the purposes of development of a light rail system. That involves an issue of degree. Mere common association, with the matter centrally within power is insufficient of itself, to establish a sufficient connection.'

Pursuant to the provisions of Clause 1.9 (1) The Draft Randwick LEP 2011 recognises the provisions of SEPP 64 as it is a State Planning Policy. Accordingly, The OMA requests that Randwick Council review the land use table for Special Activities and Special Infrastructure Zone and make 'signage' a permissible use with consent in the SP1 and SP2 Zone. This will ensure that the Draft Randwick LEP 2011 is relevant and consistent with the 2007 amendments to SEPP 64 and remove the current anomaly that exists with the State Policy.

2.3.4. Exempt and Complying Development

The provisions of SEPP 64 Clause 33 recognise certain development that is carried out by or on behalf of the RTA or RailCorp as Exempt Development. The type of development that is recognised as exempt includes:

- The removal of existing signage;
- Modifications to existing signage on transport corridor land to meet occupational health and safety requirements and that do not increase the advertising display area of the signage.

We would ask that Council review its exempt signage provisions provided for in the Draft LEP under Schedule 2 to allow for:

- occupational health and safety upgrades to existing and approved advertising signage and structures to be undertaken as exempt development which do not increase the advertising display area of the sign; and
- the removal of existing signage.

We would also ask that Council consider making the display of general advertising signage on street furniture that is to be placed on Council owned or managed land to be exempt development where the signage has a maximum area of 3 square metres.

We would also ask that Council extend its complying development provisions to recognise general advertising structures that are to be erected on wall or bridge structures where such signage complies with the SEPP 64 criteria and the signage being advanced is Super 8 or billboard signage measuring less than 20 square metres in area.

3. OMA RECOMMENDATIONS

RECOMMENDATION 1

Should Randwick Council maintain the use of SP1 and SP2 zoning for major transport corridors, it is the recommendation of the OMA that further to clause 5.3 of the Draft Randwick LEP 2011, that signage be included as a use permissible with consent in the SP1 and SP2 Infrastructure zone. This would enable Council to consider general advertising proposals on a merit based assessment along transport corridors ensuring consistency with the intent of SEPP 64 and the associated Transport Corridor Guidelines.

RECOMMENDATION 2

That the exempt provisions contained in Schedule 2 of the Draft LEP be extended to:

- recognise occupational, health and safety upgrades to existing and approved general advertising structures; and
- the removal of existing signage.

We would also recommend that Council consider the display of general advertising signage on street furniture that is to be placed on Council owned or managed land to be exempt development where the advertisement being displayed has a maximum advertising display area of 3 square metres.

RECOMMENDATION 3

That the complying development provisions contained in Schedule 3 be extended to include the erection of wall and bridge signage promoting general advertising where such signs comply with the criteria contained in SEPP 64 and the signage measures less than 20 square metres in area.

RECOMMENDATION 4

That Randwick Council recognise the provisions set out in SEPP 64 and the associated Transport Corridor Advertising and Signage Guidelines in full in both its environmental planning instruments and Council adopted plans and policies relating to advertising and signage. SEPP 64 is the recognised state wide standard governing outdoor advertising and signage. The implementation of this policy will not only promote the growth of the industry but the economic growth in both the LGA and the State of NSW.

RECOMMENDATION 5

That Randwick Council apply the NSW State LEP practice note 'Zoning for infrastructure in LEPs' to consider rezoning its special use zone to the use of the adjacent land and where these zones relate to business, industrial and mixed use development that they retain 'signage' as a permissible use with consent.

RECOMMENDATION 6

That Randwick Councils reviews its Council adopted plans and policies to ensure that signage proposals incorporating digital or LED technology can be considered on a merit basis.

APPENDIX A

State Environmental Planning Policy No 64— Advertising and Signage

PART 1 – PRELIMINARY

1 *Name of Policy*

This Policy is State Environmental Planning Policy No. 64—Advertising and Signage.

2 *Commencement*

This Policy commences on 16 March 2001.

3 *Aims, objectives etc.*

(1) This Policy aims:

- (a) to ensure that signage (including advertising):
 - (i) is compatible with the desired amenity and visual character of an area, and
 - (ii) provides effective communication in suitable locations, and
 - (iii) is of high quality design and finish, and
- (b) to regulate signage (but not content) under Part 4 of the Act, and
- (c) to provide time-limited consents for the display of certain advertisements, and
- (d) to regulate the display of advertisements in transport corridors, and
- (e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.

(2) This Policy does not regulate the content of signage and does not require consent for a change in the content of signage.

4 *Definitions*

(1) In this Policy:

advertisement means signage to which Part 3 applies and includes any advertising structure for the advertisement.

advertising display area means, subject to subclause (2), the area of an advertisement or advertising structure used for signage, and includes any borders of, or surrounds to, the advertisement or advertising structure, but does not include safety devices, platforms or lighting devices associated with advertisements or advertising structures.

advertising industry means the Outdoor Media Association and includes, in relation to a locality, a body that represents businesses that manage advertising in the locality.

advertising structure means a structure or vessel that is principally designed for, or that is used for, the display of an advertisement.

associated road use land, in relation to a road, means:

- (a) land on which road infrastructure associated with the road is located, or

(b) land that is owned, occupied or managed by the roads authority for the road and that is used for road purposes or associated purposes (such as administration, workshop and maintenance facilities, bus interchanges and roadside landscaping).

building identification sign means a sign that identifies or names a building, and that may include the name of a business or building, the street number of a building, the nature of the business and a logo or other symbol that identifies the business, but that does not include general advertising of products, goods or services.

building wrap advertisement means an advertisement used in association with the covering or wrapping of:

- (a) a building or land, or
 - (b) a building that is under construction, renovation, restoration or demolition,
- but does not include a wall advertisement.

business identification sign means a sign:

- (a) that indicates:
 - (i) the name of the person, and
 - (ii) the business carried on by the person,at the premises or place at which the sign is displayed, and
- (b) that may include the address of the premises or place and a logo or other symbol that identifies the business, but that does not include any advertising relating to a person who does not carry on business at the premises or place.

classified road means a road classified under Part 5 of the Roads Act 1993.

consent authority means the consent authority determined in accordance with clause 12.

display includes the erection of a structure for the purposes of display and the use of land, or a building on land, for the purposes of display.

freestanding advertisement means an advertisement that is displayed on an advertising structure that is mounted on the ground on one or more supports.

Guidelines means the provisions of the publication titled Transport Corridor Outdoor Advertising and Signage Guidelines approved by the Minister for the purposes of this Policy, as in force and as published in the Gazette on the date of publication in the Gazette of State Environmental Planning Policy No 64—Advertising and Signage (Amendment No 2).

Editorial note. For the Transport Corridor Outdoor Advertising and Signage Guidelines see Gazette No 98 of 3.8.2007, p 5413.

Mount Panorama Precinct means the land shown edged heavy black on the map marked "State Environmental Planning Policy No 64—Advertising and Signage (Amendment No 1)" deposited in the principal office of the Department of Planning.

navigable waters has the same meaning as in the Marine Safety Act 1998.

product image means any words, letters, symbols or images that identify a product or corporate body, but does not include any object to which the words, letters, symbols or images are attached or appended.

public art policy means a policy adopted by a consent authority, in a development control plan or otherwise, that establishes forms and locations for art works in the public domain.

RailCorp means Rail Corporation New South Wales constituted under the Transport Administration Act 1988.

railway corridor means the following land:

- (a) land on which railway track and associated railway infrastructure is located (including stations and platforms),
- (b) land that is adjacent to land referred to in paragraph (a) and that is owned, occupied or managed by RailCorp and used for railway purposes or associated purposes (such as administration, workshop and maintenance facilities and bus interchanges),
- (c) land zoned for railway (including railway corridor) purposes under an environmental planning instrument,
- (d) land identified as a railway corridor in an approval of a project by the Minister for Planning under Part 3A of the Act.

road corridor means the following land:

- (a) land comprising a classified road or a road known as the Sydney Harbour Tunnel, the Eastern Distributor, the M2 Motorway, the M4 Motorway, the M5 Motorway, the M7 Motorway, the Cross City Tunnel or the Lane Cove Tunnel, and associated road use land that is adjacent to such a road,
- (b) land zoned for road purposes under an environmental planning instrument,
- (c) land identified as a road corridor in an approval of a project by the Minister for Planning under Part 3A of the Act.

roof or sky advertisement means an advertisement that is displayed on, or erected on or above, the parapet or eaves of a building.

RTA means the Roads and Traffic Authority constituted under the Transport Administration Act 1988.

signage means all signs, notices, devices, representations and advertisements that advertise or promote any goods services or events and any structure or vessel that is principally designed for, or that is used for, the display of signage and includes:

- (a) building identification signs, and
- (b) business identification signs, and
- (c) advertisements to which Part 3 applies,

but does not include traffic signs or traffic control facilities.

special promotional advertisement means an advertisement for an activity or event of a civic or community nature, but does not include a wall advertisement.

the Act means the Environmental Planning and Assessment Act 1979.

transport corridor land means the following land:

- (a) land comprising a railway corridor,
- (b) land comprising a road corridor,
- (c) land zoned industrial under an environmental planning instrument and owned, occupied or managed by the RTA or RailCorp.

(1) wall advertisement means an advertisement that is painted on or fixed flat to the wall of a building, but does not include a special promotional advertisement or building wrap advertisement. Advertising display area of an advertising structure that contains advertising on two or more sides is to be calculated separately for each side and is not the sum of the display areas on all sides.

(2) In this Policy, a reference to a zone, in relation to an environmental planning instrument, is a reference to an area, reserve or zone (within the meaning of the instrument) identified in the instrument by the words or expressions used in this Policy to describe the zone or by like descriptions or by descriptions that incorporate any of those words or expressions.

(3) Notes in this Policy do not form part of it.

5 Area of application of this Policy

(1) This Policy applies to the whole of the State.

(2) Without limiting subclause (1), this Policy applies to all land and structures within the State and all vessels on navigable waters.

(3) Despite subclause (1), this Policy does not apply to the following land:

Land to which State Environmental Planning Policy (Kosciuszko National Park—Alpine Resorts) 2007 applies

Land to which State Environmental Planning Policy (Western Sydney Parklands) 2009 applies

6 Signage to which this Policy applies

(1) This Policy applies to all signage:

(a) that, under another environmental planning instrument that applies to the signage, can be displayed with or without development consent, and

(b) is visible from any public place or public reserve,

except as provided by this Policy.

Note. Public place and public reserve are defined in section 4 (1) of the Act to have the same meanings as in the Local Government Act 1993.

(2) This Policy does not apply to signage that, or the display of which, is exempt development under an environmental planning instrument that applies to it, or that is exempt development under this Policy.

7 Relationship with other environmental planning instruments

In the event of an inconsistency between this Policy and another environmental planning instrument, whether made before or after this Policy, this Policy prevails to the extent of the inconsistency.

Note. This Policy will have the effect of modifying, and having paramountcy over, the provisions of some other environmental planning instruments that permit the display of signage with or without development consent. This is particularly so in the case of large advertisements, being advertisements of the kind referred to in Part 3. This Policy (other than clause 16) will not override a prohibition on the display of signage that is contained in another environmental planning instrument. Because of some provisions, such as clauses 10 and 21, it may add prohibitions on advertising if the advertising is proposed to be displayed in certain circumstances, such as on environmentally sensitive or environmentally significant land or in the form of a roof or sky advertisement.

PART 2 - SIGNAGE GENERALLY

8 *Granting of consent to signage*

A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied:

- (a) that the signage is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and
- (b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 1.

PART 3 - ADVERTISEMENTS

DIVISION 1 GENERAL

9 *Advertisements to which this Part applies*

This Part applies to all signage to which this Policy applies, other than the following:

- (a) business identification signs,
- (b) building identification signs,
- (c) signage that, or the display of which, is exempt development under an environmental planning instrument that applies to it,
- (d) signage on vehicles.

10 *Prohibited advertisements*

(1) Despite the provisions of any other environmental planning instrument, the display of an advertisement is prohibited on land that, under an environmental planning instrument, is within any of the following zones or descriptions:

- environmentally sensitive area
- heritage area (excluding railway stations)
- natural or other conservation area
- open space
- waterway
- residential (but not including a mixed residential and business zone, or similar zones)
- scenic protection area
- national park
- nature reserve

(2) This clause does not apply to the following:

- (a) the Mount Panorama Precinct,
- (b) the display of an advertisement at a public sporting facility situated on land zoned public recreation under an environmental planning instrument, being an advertisement that provides information about the sponsors of the teams or organisations using the sporting facility or about the products of those sponsors.

DIVISION 2 - CONTROL OF ADVERTISEMENTS

11 Requirement for consent

A person must not display an advertisement, except with the consent of the consent authority or except as otherwise provided by this Policy.

12 Consent authority

For the purposes of this Policy, the consent authority is:

- (a) the council of a local government area in the case of an advertisement displayed in the local government area (unless paragraph (c), (d) or (e) applies), or
- (b) the Maritime Authority of NSW in the case of an advertisement displayed on a vessel, or
- (c) the Minister for Planning in the case of an advertisement displayed by or on behalf of RailCorp on a railway corridor, or
- (d) the Minister for Planning in the case of an advertisement displayed by or on behalf of the RTA on:
 - (i) a road that is a freeway or tollway (under the Roads Act 1993) or associated road use land that is adjacent to such a road, or
 - (ii) a bridge constructed by or on behalf of the RTA on any road corridor, or
 - (iii) land that is owned, occupied or managed by the RTA, or
- (e) the Minister for Planning in the case of an advertisement displayed on transport corridor land comprising a road known as the Sydney Harbour Tunnel, the Eastern Distributor, the M2 Motorway, the M4 Motorway, the M5 Motorway, the M7 Motorway, the Cross City Tunnel or the Lane Cove Tunnel, or associated road use land that is adjacent to such a road.

13 Matters for consideration

(1) A consent authority (other than in a case to which subclause (2) applies) must not grant consent to an application to display an advertisement to which this Policy applies unless the advertisement or the advertising structure, as the case requires:

- (a) is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and
- (b) has been assessed by the consent authority in accordance with the assessment criteria in Schedule 1 and the consent authority is satisfied that the proposal is acceptable in terms of its impacts, and
- (c) satisfies any other relevant requirements of this Policy.

(2) If the Minister for Planning is the consent authority or clause 18 or 24 applies to the case, the consent authority must not grant consent to an application to display an advertisement to which this Policy applies unless the advertisement or the advertising structure, as the case requires:

- (a) is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and
- (b) has been assessed by the consent authority in accordance with the assessment criteria in Schedule 1 and in the Guidelines and the consent authority is satisfied that the proposal is acceptable in terms of:
 - (i) design, and
 - (ii) road safety, and
 - (iii) the public benefits to be provided in connection with the display of the advertisement, and

- (c) satisfies any other relevant requirements of this Policy.

(3) In addition, if clause 18 or 24 applies to the case, the consent authority must not grant consent unless arrangements that are consistent with the Guidelines have been entered into for the provision of the public benefits to be provided in connection with the display of the advertisement.

14 Duration of consents

(1) A consent granted under this Part ceases to be in force:

- (a) on the expiration of 15 years after the date on which the consent becomes effective and operates in accordance with section 83 of the Act, or

- (b) if a lesser period is specified by the consent authority, on the expiration of the lesser period.

(2) The consent authority may specify a period of less than 15 years only if:

- (a) before the commencement of this Part, the consent authority had adopted a policy of granting consents in relation to applications to display advertisements for a lesser period and the duration of the consent specified by the consent authority is consistent with that policy, or

- (b) the area in which the advertisement is to be displayed is undergoing change in accordance with an environmental planning instrument that aims to change the nature and character of development and, in the opinion of the consent authority, the proposed advertisement would be inconsistent with that change, or

- (c) the specification of a lesser period is required by another provision of this Policy.

DIVISION 3 - PARTICULAR ADVERTISEMENTS

15 Advertisements on rural or non-urban land

(1) This clause applies to land that, under an environmental planning instrument, is within a rural or non-urban zone and on which an advertisement may be displayed with the consent of the consent authority.

(2) Except in a case to which subclause (3) applies, the consent authority must not grant consent to display an advertisement on land to which this clause applies:

- (a) unless a development control plan is in force that has been prepared on the basis of an advertising design analysis for the relevant area or precinct in consultation with:

- (i) the advertising industry and any body that is representative of local businesses, such as a chamber of commerce, and

- (ii) if the land to which the development control plan relates is within 250 metres of a classified road, the Roads and Traffic Authority,

and the display of the advertisement is consistent with the development control plan,

or

- (b) if no such development control plan is in force, unless:

- (i) the advertisement relates to the land on which the advertisement is to be displayed, or to premises situated on that land or adjacent land, and

- (ii) specifies one or more of the following particulars:

- (A) the purpose for which the land or premises is or are used,

(B) the identification of a person residing or carrying on an occupation or business on the land or premises,

(C) a description of an occupation or business referred to in sub-subparagraph (B),

(D) particulars of the goods or services dealt with or provided on the land or premises, or

(E) (Repealed)

(c) if no such development control plan is in force, unless the advertisement is a notice directing the travelling public to tourist facilities or activities or to places of scientific, historical or scenic interest.

(3) In the case of an application to display an advertisement on transport corridor land when the Minister is the consent authority, the consent authority must not grant consent to display an advertisement on land to which this clause applies unless the consent authority is satisfied that the advertisement is consistent with the Guidelines.

16 Transport corridor land

(1) Despite clause 10 (1) and the provisions of any other environmental planning instrument, the display of an advertisement on transport corridor land is permissible with development consent in the following cases:

(a) the display of an advertisement by or on behalf of RailCorp on a railway corridor,

(b) the display of an advertisement by or on behalf of the RTA on:

(i) a road that is a freeway or tollway (under the Roads Act 1993) or associated road use land that is adjacent to such a road, or

(ii) a bridge constructed by or on behalf of the RTA on any road corridor, or

(iii) land that is owned, occupied or managed by the RTA and that is within 250 metres of a classified road,

(c) the display of an advertisement on transport corridor land comprising a road known as the Sydney Harbour Tunnel, the Eastern Distributor, the M2 Motorway, the M4 Motorway, the M5 Motorway, the M7 Motorway, the Cross City Tunnel or the Lane Cove Tunnel, or associated road use land that is adjacent to such a road.

(2) Before determining an application for consent to the display of an advertisement in such a case, the Minister for Planning may appoint a design review panel to provide advice to the Minister concerning the design quality of the proposed advertisement.

(3) The Minister must not grant consent to the display of an advertisement in such a case unless:

(a) the relevant local council has been notified of the development application in writing and any comments received by the Minister from the local council within 28 days have been considered by the Minister, and

(b) the advice of any design review panel appointed by the Minister has been considered by the Minister, and

(c) the Minister is satisfied that the advertisement is consistent with the Guidelines.

(4) This clause does not apply to the display of an advertisement if:

(a) the Minister determines that display of the advertisement is not compatible with surrounding land use, taking into consideration any relevant provisions of the Guidelines, or

(b) the display of an advertisement on the land concerned is prohibited by a local environmental plan made after the commencement of State Environmental Planning Policy No 64—Advertising and Signage (Amendment No 2).

17 *Advertisements with display area greater than 20 square metres or higher than 8 metres above ground*

(1) This clause applies to an advertisement:

- (a) that has a display area greater than 20 square metres, or
- (b) that is higher than 8 metres above the ground.

(2) The display of an advertisement to which this clause applies is advertised development for the purposes of the Act.

(3) The consent authority must not grant consent to an application to display an advertisement to which this clause applies unless:

- (a) the applicant has provided the consent authority with an impact statement that addresses the assessment criteria in Schedule 1 and the consent authority is satisfied that the proposal is acceptable in terms of its impacts, and
- (b) the application has been advertised in accordance with section 79A of the Act, and
- (c) the consent authority gave a copy of the application to the RTA at the same time as the application was advertised in accordance with section 79A of the Act if the application is an application for the display of an advertisement to which clause 18 applies.

18 *Advertisements greater than 20 square metres and within 250 metres of, and visible from, a classified road*

(1) This clause applies to the display of an advertisement to which clause 17 applies, that is within 250 metres of a classified road any part of which is visible from the classified road.

(2) The consent authority must not grant development consent to the display of an advertisement to which this clause applies without the concurrence of the RTA.

(3) In deciding whether or not concurrence should be granted, the RTA must take into consideration:

- (a) the impact of the display of the advertisement on traffic safety, and
- (b) the Guidelines.
- (c) (Repealed)

(4) If the RTA has not informed the consent authority within 21 days after the copy of the application is given to it under clause 17 (3) (c) (ii) that it has granted, or has declined to grant, its concurrence, the RTA is taken to have granted its concurrence.

(5) Nothing in this clause affects clause 16.

(6) This clause does not apply when the Minister for Planning is the consent authority.

19 *Advertising display area greater than 45 square metres*

The consent authority must not grant consent to the display of an advertisement with an advertising display area greater than 45 square metres unless:

- (a) a development control plan is in force that has been prepared on the basis of an advertising design analysis for the relevant area or precinct, or
- (b) in the case of the display of an advertisement on transport corridor land, the consent authority is satisfied that the advertisement is consistent with the Guidelines.

20 Location of certain names and logos

- (1) The name or logo of the person who owns or leases an advertisement or advertising structure may appear only within the advertising display area.
- (2) If the advertising display area has no border or surrounds, any such name or logo is to be located:
 - (a) within the advertisement, or
 - (b) within a strip below the advertisement that extends for the full width of the advertisement.
- (3) The area of any such name or logo must not be greater than 0.25 square metres.
- (4) The area of any such strip is to be included in calculating the size of the advertising display area.

21 Roof or sky advertisements

- (1) The consent authority may grant consent to a roof or sky advertisement only if:
 - (a) the consent authority is satisfied:
 - (i) that the advertisement replaces one or more existing roof or sky advertisements and that the advertisement improves the visual amenity of the locality in which it is displayed, or
 - (ii) that the advertisement improves the finish and appearance of the building and the streetscape, and
 - (b) the advertisement:
 - (i) is no higher than the highest point of any part of the building that is above the building parapet (including that part of the building (if any) that houses any plant but excluding flag poles, aerials, masts and the like), and
 - (ii) is no wider than any such part, and
 - (c) a development control plan is in force that has been prepared on the basis of an advertising design analysis for the relevant area or precinct and the display of the advertisement is consistent with the development control plan.
- (2) A consent granted under this clause ceases to be in force:
 - (a) on the expiration of 10 years after the date on which the consent becomes effective and operates in accordance with section 83 of the Act, or
 - (b) if a lesser period is specified by the consent authority, on the expiration of the lesser period.
- (3) The consent authority may specify a period of less than 10 years only if:
 - (a) before the commencement of this Part, the consent authority had adopted a policy of granting consents in relation to applications to display advertisements for a lesser period and the duration of the consent specified by the consent authority is consistent with that policy, or

- (b) the area is undergoing change in accordance with an environmental planning instrument that aims to change the nature and character of development and, in the opinion of the consent authority, the proposed roof or sky advertisement would be inconsistent with that change.

22 Wall advertisements

- (1) Only one wall advertisement may be displayed per building elevation.
- (2) The consent authority may grant consent to a wall advertisement only if:
 - (a) the consent authority is satisfied that the advertisement is integrated with the design of the building on which it is to be displayed, and
 - (b) for a building having:
 - (i) an above ground elevation of 200 square metres or more—the advertisement does not exceed 10% of the above ground elevation, and
 - (ii) an above ground elevation of more than 100 square metres but less than 200 square metres—the advertisement does not exceed 20 square metres, and
 - (iii) an above ground elevation of 100 square metres or less—the advertisement does not exceed 20% of the above ground elevation, and
 - (c) the advertisement does not protrude more than 300 millimetres from the wall, unless occupational health and safety standards require a greater protrusion, and
 - (d) the advertisement does not protrude above the parapet or eaves, and
 - (e) the advertisement does not extend over a window or other opening, and
 - (f) the advertisement does not obscure significant architectural elements of the building, and
 - (g) a building identification sign or business identification sign is not displayed on the building elevation.
- (2A) In the case of the display of a wall advertisement on transport corridor land, subclause (2) does not apply and the consent authority may grant consent only if satisfied that the advertisement is consistent with the Guidelines.
- (3) In this clause, building elevation means an elevation of a building as commonly shown on building plans.

23 Freestanding advertisements

- (1) The consent authority may grant consent to the display of a freestanding advertisement only if the advertising structure on which the advertisement is displayed does not protrude above the dominant skyline, including any buildings, structures or tree canopies, when viewed from ground level within a visual catchment of 1 kilometre.
- (2) This clause does not prevent the consent authority, in the case of a freestanding advertisement on land within a rural or non-urban zone, from granting consent to the display of the advertisement under clause 15.

24 Advertisements on bridges

- (1) A person may, with the consent of the consent authority, display an advertisement on a bridge.
- (2) The consent authority may grant consent only if the consent authority is satisfied that the advertisement is consistent with the Guidelines.

(3) (Repealed)

25 Special promotional advertisements

(1) A person may, with the consent of the consent authority, display a special promotional advertisement on land zoned for business, commercial or industrial purposes.

(2) The consent authority may grant consent only if:

(a) a development control plan applies to the land on which the special promotional advertisement is to be displayed that has been made having regard to a public art policy of the consent authority and the display of the advertisement is consistent with the development control plan, and

(b) the display of the advertisement is limited in time to a total of 3 months in any 12-month period, and

(c) any product image or corporate branding does not occupy more than 5% of the advertising display area and accords with the public art policy of the consent authority.

(3) A special promotional advertisement may cover the entire facade or hoarding of a building or site, subject to this clause.

26 Building wrap advertisements

(1) A person may, with the consent of the consent authority, display a building wrap advertisement on land zoned for business, commercial or industrial purposes.

(2) The consent authority may grant consent only if:

(a) a development control plan applies to the land on which the building wrap advertisement is to be displayed that has been made having regard to a public art policy of the consent authority and the display of the advertisement is consistent with the development control plan, and

(b) the display of the advertisement is limited in time to a maximum of 12 months, and

(c) any product image or corporate branding does not occupy more than 5% of the advertising display area and accords with the public art policy of the consent authority.

(2A) In the case of the display of a building wrap advertisement on transport corridor land, subclause (2) does not apply and the consent authority may grant consent only if satisfied that the advertisement is consistent with the Guidelines.

(3) A building wrap advertisement may cover the entire facade or hoarding of a building or site, subject to this clause.

27 Advertisements within navigable waters

(1) An advertisement within any navigable waters is prohibited, except an advertisement on a vessel that is ancillary to the dominant purpose of the vessel.

(2) A person may, with the consent of the consent authority, display an advertisement on a vessel that is ancillary to the dominant purpose of the vessel.

(3) In this clause, vessel means any ship, lighter, barge, boat, raft or craft, and any floating object or apparatus used wholly or in part for the conveyance of persons or things by water, of whatever description and however navigated, and includes amphibious vessels, seaplanes, hydroplanes, hydrofoils, hovercraft, sunken or stranded vessels, and the wreck or remains of any vessel.

28 *Application of provisions of this Division*

If more than one provision of this Division is capable of applying to the display of an advertisement, each such provision applies.

Note. It may be, for example, that clause 19 will apply to the display of an advertisement in addition to clauses 17 and 18, or that clause 23 will apply in addition to clause 17, 18 or 19.

PART 4 - MISCELLANEOUS

29 *Advertising design analysis*

(1) A council, in preparing an advertising design analysis for an area or locality for the purposes of clause 15, 19 or 21, is to include an analysis of the following:

- (a) the existing character of the area or locality, including built forms and landscapes,
- (b) the key positive features of the existing character of the area or locality,
- (c) the desired future character of the area or locality,
- (d) the role of outdoor advertising.

(2) In undertaking an advertising design analysis (not being an advertising design analysis referred to in clause 15 (2) (a)), the council must consult with the advertising industry and local businesses.

30 *(Repealed)*

31 *Consultation with RTA*

In the preparation of a draft local environmental plan under Division 4 of Part 3 of the Act that makes provision for or with respect to signage or advertising to which this Policy applies within 250 metres of a classified road, a council should consult with the Roads and Traffic Authority.

32 *Applications made before the commencement of this Policy*

An application made to a consent authority before the commencement of this Policy for consent to display an advertisement that has not been determined before that commencement is to be determined in accordance with this Policy.

32A Savings for development applications made before SEPP No 64—Advertising and Signage (Amendment No 2)

An application made to a consent authority before the commencement of State Environmental Planning Policy No 64—Advertising and Signage (Amendment No 2) for consent to display an advertisement that has not been determined before that commencement is to be determined as if that Policy had not been made.

33 *Exempt development*

(1) Advertisements on transport corridor land

The following development on transport corridor land is exempt development when carried out by or on behalf of the RTA or RailCorp:

- (a) display of an advertisement in an underground railway station or railway tunnel,
- (b) display of an advertisement at a railway station or bus station if the advertisement is visible primarily from within the railway corridor or bus station,
- (c) removal of existing signage,

(d) modifications to existing signage on transport corridor land carried out to meet occupational health and safety requirements and that do not increase the advertising display area of the signage.

(2) Electoral matter relating to Federal, State or local government elections

The display of any poster that contains electoral matter in relation to an election is exempt development if the poster:

- (a) is no larger than 8,000 square centimetres, and
- (b) is displayed by or on behalf of a candidate at the election or the party (if any) of any such candidate, and
- (c) is displayed in accordance with any requirements of the Act under which the election is held, and
- (d) is displayed only during the relevant period.

(3) In subclause (2):

election means an election held under the Commonwealth Electoral Act 1918 of the Commonwealth, the Parliamentary Electorates and Elections Act 1912 or the Local Government Act 1993.

electoral matter means:

- (a) any matter that is intended or calculated or likely to affect (or is capable of affecting) the result of an election or that is intended or calculated or likely to influence (or is capable of influencing) an elector in relation to the casting of his or her vote at an election, and
- (b) the picture of a candidate at an election, along with the candidate's name and the name of the party (if any) of any such candidate.

relevant period, in relation to an election, means the period comprising the following:

- (a) the period of 5 weeks immediately preceding the day on which the election is held,
- (b) the election day,
- (c) the period of 1 week immediately following the election day.

34 Review of Policy

The Minister must ensure that the provisions of this Policy are reviewed:

- (a) as soon as practicable after the first anniversary of the commencement of State Environmental Planning Policy No 64—Advertising and Signage (Amendment No 2), and
- (b) at least every 5 years thereafter.

SCHEDULE 1 – ASSESSMENT CRITERIA

1. Character of the area

- Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?
- Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?

2. *Special areas*

- Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?

3. *Views and vistas*

- Does the proposal obscure or compromise important views?
- Does the proposal dominate the skyline and reduce the quality of vistas?
- Does the proposal respect the viewing rights of other advertisers?

4. *Streetscape, setting or landscape*

- Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?
- Does the proposal contribute to the visual interest of the streetscape, setting or landscape?
- Does the proposal reduce clutter by rationalising and simplifying existing advertising?
- Does the proposal screen unsightliness?
- Does the proposal protrude above buildings, structures or tree canopies in the area or locality?
- Does the proposal require ongoing vegetation management?

5. *Site and building*

- Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?
- Does the proposal respect important features of the site or building, or both?
- Does the proposal show innovation and imagination in its relationship to the site or building, or both?

6. *Associated devices and logos with advertisements and advertising structures*

- Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?

7. *Illumination*

- Would illumination result in unacceptable glare?
- Would illumination affect safety for pedestrians, vehicles or aircraft?
- Would illumination detract from the amenity of any residence or other form of accommodation?
- Can the intensity of the illumination be adjusted, if necessary?
- Is the illumination subject to a curfew?

8. *Safety*

- Would the proposal reduce the safety for any public road?
- Would the proposal reduce the safety for pedestrians or bicyclists?

- Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?



1. Overview

This submission is informed by Greens NSW *Planning, Building and Infrastructure Policy 2010*.

The development of this draft Local Environment Plan 2012 is the consequence of the former NSW Labor Government's program to give uniformity to land zoning across NSW. As Greens NSW Planning policy recommends the abolition of the standard instrument LEP that gives rise to this draft LEP, it is our general view that this template rezoning process is unnecessary. Greens policy gives preference, rather, to local planning instruments allowing local councils sufficient flexibility for responsiveness to local conditions. It is noted thought that Council is also proposing a number of rezoning changes beyond the intended standardization requirement with the template instrument. RBG has submitted our views in the Discussion Paper consultation process.

The Randwick Botany Greens (RBG) will address these changes in this submission making recommendations for amendments and making suggestions for Council's advocacy to State Government for legislative change in regard to some elements of the LEP that are against the community and environmental interest but are beyond Council's control.

The Greens are not opposed to the principle of urban consolidation as a means to reduce our environmental footprint and to maximise arable land and clean water supplies.

The principle of urban consolidation becomes unsustainable, and potentially harmful however, when social, economic and environmental infrastructure is not considered essential to, and therefore is not integrated into, the framing of planning instruments.

2. Submission Specifics

Part 1 Preliminary. Clause 1.2 Aims of Plan [compulsory]

- RBG applauds the implementation of the new LEP aim 1.2(1)(d) "to promote sustainable transport, public transport use, walking and cycling. RBG recommends actioning this aim more directly within the LEP by allowing light rail and bike infrastructure to be "permitted with consent" in R1, R2, R3, B1, B2, Industrial and Special Purpose zones. This will allow the purchasing of land along roadways by public authorities for public transport improvements.
- RBG suggests that aim (g) be reworded as follows to give greater guidance to how an assessment of ESD issues should be approached.

"1.2(2)(g) To promote the importance of the widely recognised

principles of ecologically sustainable development including the:

- (i) principle of sustainable use;*
- (ii) principle of integration;*
- (iii) precautionary principle;*
- (iv) inter-generational and intra-generational equity;*
- (v) conservation of biological diversity and ecological integrity; and*
- (vi) internalisation of external environmental costs”.*

- RBG recommends that the dictionary in the Draft LEP include definitions for each of these principles based on the explanations given by Land & Environment Court authority, The Hon. Justice Brian J Preston in his speech outlined on the NSW Government's Lawlink site (see [http://www.lawlink.nsw.gov.au/lawlink/lec/ll_lec.nsf/vwFiles/speech_23Nov06_PrestonCJ.pdf/\\$file/speech_23Nov06_PrestonCJ.pdf](http://www.lawlink.nsw.gov.au/lawlink/lec/ll_lec.nsf/vwFiles/speech_23Nov06_PrestonCJ.pdf/$file/speech_23Nov06_PrestonCJ.pdf))
- RBG suggests the addition of the following new aims:
 - 1.2(2)(h) *To increase density only relative to firm State Government and Council commitments to increased provision of infrastructure and to coastal environmental protection.*
 - 1.2(2)(i) *To conserve and highlight continuous indigenous history and custodianship.*
 - 1.2(2)(j) *To reduce non-renewable energy usage and waste.*

Part 2 Permitted and Prohibited Development

2.1 Land use Zones

Proposed Mismatch Rezoning

- The exhibited Residential Discussion Papers proposed that a number of current 2A and 2B residential lots across the LGA were “mismatched”. This meant that their present zonings did not match the height and scale of adjacent buildings which for historical reasons were bulkier than the zones permitted. It has been proposed by Council that development on such have been difficult to constrain to within the limits prescribed by their current zonings because State Environmental Planning Policy 1 (i.e. SEPP1) objections were often successfully lodged by developers pointing out the mismatches. The Draft LEP proposes up-zoning these sites to recognize the reality of the predominant building forms around them. RBG does not support rezoning of mismatched sites until the resulting increased density is matched by the provision of supporting infrastructure such as better public transport, schools and health systems.



Randwick Education and Health Specialised Centre

- RBG supports the rezoning proposals that have flowed from the exhibited Randwick Education and Health Specialised Centre Discussion paper. RBG notes that only a limited number of sites have had height increases up to a maximum of 15 metres in height for the purposes of serving the health industry of this hospital area. RBG supports no residential increases in the area due density constraints and the current lack of public transport.
- RBG supports the rejection of the private rezoning application for an up zoning of the Newmarket Stables site (i.e. the "Inglis site") and supports the retention of the equivalent current residential 2A zoning. RBG supports no further increase in density on the site due to the already high density constraints in the surrounding area and the current lack of public transport.

Clause 6.9 Flood Planning (DoPI Model Clause).

- RBG recommends that further development or redevelopment on currently built on lands that were once natural waterways should now be restricted to designs that accommodate expected flood levels and projected sea level rises in accordance with the recognized ESD precautionary principle.

Clause 2.3 Zone Objective and Land Use Table [compulsory]

- The northern end of Randwick LGA including Coogee, Kensington and Randwick has reached the limit of its infrastructure. Therefore the RBG rejects any proposed increased density for its own sake or for the proposed State Government requirement of 8,500 new dwellings in the LGA.
- Zone RU4 Primary Production Small Lots. Protection of the Phillip Bay (also known as "La Perouse") Chinese Market Gardens as an objective in this zone is supported. It is noted that the current practices are officially recognized as having heritage value and that the produce from the site is used by local grocers, restaurants and Flemington Markets. There are clear ecologically valuable reasons why commercial urban food sources should continue to be provided within the city of Sydney.

Zone R1 General Residential.

1 Objectives of zone

- RBG suggests that a proposed objective from Zones R2 and R3 be also added to zone R1 i.e. "to protect the amenity of residents."
- We suggest the amendment of the fourth objective be amended to read as follows. *"To allow the comprehensive redevelopment of land for primarily residential and open space purposes dependent on financial commitment*



to social and economic infrastructure including schools, transport, health facilities, police and emergency services."

Zone R2 Low Density Residential

1 Objective of zone

- RBG calls for the use of the words "desirable" and "desired" in the fourth bullet point to be clarified. How is desirable to be decided or defined? It is our position that 'desire' should relate directly to the health and wellbeing of the community.

Zone R3 Medium Density Residential

1 Objective of zone

- As for zone R2, RBG calls for the use of the words "desirable" and "desired" in the fourth bullet point to be clarified. How is desirable to be decided or defined?

Zone B2 Neighbourhood Centre

Coogee Town Centre

- The zoning of the Coogee Town Centre to a B2 Local Centre is opposed. We propose Zone B1 Neighbourhood Centre. As RBG understands it, the principle argument put forward for a B2 zoning for Coogee is that of size based on existing FSR analysis that includes existing hospitality buildings such as the Beach Palace, the Coogee View and Crowne Plaza etc. RBG argues that the disproportionate presence of one industry type is not sufficient weight by itself to contradict the view of local residents that the Coogee town centre is essentially one of a B1 neighborhood centre than a B2 local centre. RBG makes the distinction that B1 should serve the day-to-day needs of the local community leaving B2 to serve wider population. The description of B1 describes Coogee apart from the presence of the two major pubs. RBG considers that historically Coogee was never intended as a significant commercial centre. People may come to Coogee to use the two major pubs but not for any other commercial purpose other than those that might be associated with the beach.
- RBG opposes the proposed rezoning of 58-64 Carr Street, Coogee to a commercial zoning. We support retaining the current equivalent residential zoning. Rezoning this section of Carr Street opens up the possibility of a future pub on the southern end of Coogee Beach complementing the often intrusive residential amenity impact of the existing Beach Palace on the northern end of the beach. There has been a long history of complaints from residents concerning the impact of the existing hospitality industry. For example, there has been criticism that noise from the Beach Palace travels easily across the water surface of the bay to reach southern residents. It is to be assumed that the same could happen in a northerly



direction. Amenity impacts such as this and the probability of increased unruly behavior surely would not fit with the proposed new B2 zone objective: *"To minimize the impact of development and protect the amenity of residents in the zone and in the adjoining and nearby residential zones"*.

Kensington Town Centre

- The proposed zoning of the Kensington Town Centre from 3B local business to a new B2 Local Centre zoning is opposed. We propose Zone B1 Neighbourhood Centre to maintain consistency with the current zoning. It is noted that Sheet HOB_001 does not seem to propose the extension of the current town centre boundaries beyond those outlined by the thick black line on the current land use map of LEP 1998. But it does show that a number of residential areas that currently lie within the boundary line of the centre will have their maximum heights increased from 12 metres (under the current 2C zoning) to either 21 or 25 meters. RBG does not consider that the exhibited Business Centres Discussion Paper sufficiently established the necessity to accommodate such an expansion of floor area. There is a recognized traffic congestion bottle neck at this section of Anzac Parade that would seem to rule against an expansion of commercial activity in the Centre. RBG notes that very few height increases have actually been proposed in the nearby Randwick Education and Health Specialised Centre area despite State Government promises of a feasibility study into the possibility of a light rail system along this section of Anzac Parade to UNSW. Thus for consistency, RBG recommends that no increases in either residential or business density be implemented in the town centre under the proposed Draft LEP and that the question be revisited when and if the State Government does indeed provide light rail along Anzac Parade.

Matraville Town Centre

- The zoning of the Matraville Town Centre to a B2 Local Centre is opposed. We propose Zone B1 Neighbourhood Centre. Zone B2 allows for an increase in an array of commercial facilities including tourist and visitor accommodation which will include backpackers. Backpackers may bring some economic advantages but the social cost makes it an unattractive option for Matraville.
- RBG argues the current businesses already operating in Matraville's main street actually fit better into a B1 classification.
- RBG notes the inclusion on Sheet HOB_004 of what appear to be site specific areas (i.e. "Area 2" etc) imposed over the B2 zoning proposed for the Matraville Town Centre. It is not readily apparent what these are intended to signify to the reader of the LEP.



- RBG notes that Sheet HOB-003 shows that a 13 metre overall height limit is to be imposed for most of the Matraville town centre. It is assumed that this is based on the 12.8 metres that the current Matraville Town Centre DCP would permit for a 4 story building. But RBG questions why the 12 metre limit considered for other town centres (i.e. Coogee Town Centre) was not applied to Matraville.

Zone SP2 Infrastructure

1 Objectives of zone

- RBG supports the position taken by Council that the zone should be consistently applied to public school land in order that they indeed remain recognized as protected community infrastructures so they cannot be easily disposed of or abolished. It is our view that as well as public schools, public hospitals, police stations and emergency services (ambulance, fire etc) and surf clubs should all be zoned SP2.
- Conversely, RBG does not support the proposed SP2 Infrastructure (Defence) zoning on the peculiar anomaly of the Commonwealth owned 4R Argyle Crescent site. The land is currently owned by Defence. RBG notes that Defence is recognised as having the Commonwealth discretion to erect residential buildings on the site on the grounds that they require infrastructure for Defence needs. It is expected that the land will then be sold off. An environmental zoning is more appropriate given that it is a small site surrounded on three sides by the proposed E2 zoning of the Randwick Environment Park.

Zone SP2 Infrastructure

2 Permitted with Consent

- It is our view that as well as public schools, public hospitals, police stations and emergency services (ambulance, fire etc) and surf clubs should all be zoned SP2.

Zone RE1 Public Recreation

- It is regrettable that both the proposed Recreation Zones no longer include the words "open space".
- We support the removal of the reference to "clubs" under clause 3.
- We suggest the addition of the existing clause 38 (2) from current LEP 1998 reading as follows.

"38 Development in open space zones

(2) When determining an application for consent to carry out development on land with Zone No 6A or 6B, the Council must consider:



- a) *The need for the proposed development on that land; and*
- b) *Whether the proposed development promotes or is related to the use and enjoyment of open space, and*
- c) *The impact of the proposed development on the existing or likely future use and character of the land, and*
- d) *The need to retain the land for its existing or likely future use.*

(2A) Despite clause 18, the consent authority may grant consent to the development of land within Zone No 6A for purposes (including business premises) permitted by a management plan adopted by the Council and prepared in accordance with the requirements of the Local Government Act 1993 for the land, but only if it is satisfied that the proposed development is, having regard to the requirements of subclause (1), suited to a location in that zone.

(2B) Despite clause 19, the consent authority may grant consent to the development of land within Zone No 6B for the purpose of business premises, but only if it is satisfied that the proposed development is, having regard to the requirements of subclause (1), suited to a location in that zone."

Zone E2 Environmental Conservation

- RBG supports Zone E2's proposed continued coverage of the Randwick Environment Park.
- RBG recommends that Zone E2 be further extended to cover the peculiar anomaly of the 4R Argyle Crescent site which is surrounded on three sides by the Park but which is presently proposed for a SP2 Infrastructure (Defence) zoning. Continuation with an SP2 zoning will allow this potential entrance site to the Park to be lost to residential development by Defence for budgetary reasons.
- RBG also supports the proposed use of Zone E2 as indicated on Sheet LZN_004 for the eastern side of Bunnerong Road, Chifley.

Clause 5.5 Development within the coastal [compulsory if land to which Plan applies includes land in the coastal zone]

- The RBG notes that this clause introduces coast line protection principles from the NSW Coastal Policy including under 5.5(1)(b)(vi) the principle to "protect and preserve rock platforms, beach environments and beach amenity".



- RBG notes that Clause 5.5(1)(b)(iv) aims to “*recognize and accommodate coastal process and climate change*”. Clause 5.5(3) refers to whether development may be permitted within the “*coastal zone*”. The dictionary at the end of the LEP defines “*coastal zone*” as having the “*same meaning as in the Coastal Protection Act 1979*”. This Act refers to the mapping of a coastal zone. RBG recommends the intent of Clause 5.5(3) be made clearer to the reader by indicating in the land usage maps attached to the Draft LEP the relevant areas of land or sea covered by the coastal zone outlined by maps declared under the *Coastal Protection Act 1979*.
- Clause 5.5(3) details whether development consent is to be granted for land in the coastal zone. RBG suggests that an additional sub clause reinforcing the compulsory climate change related objective of 5.5(1)(b)(iv) be added as follows:

“5.5(3)(e) the proposed development will not be at odds with the evolving emergence of new State and/or Federal Government objectives in containing the impact of climate change on the issues of stormwater management, flood management, sea-level rise threats, acid-sulphate soil management, and the maintenance of terrestrial and marine diversity”

Part 3 - Exempt and Complying [compulsory]

- RBG wishes it noted that it supports the repeal of Exempt and Complying provisions under SEPP “Exempt and Complying Development Codes 2008”.

Part 4 - Principal Development Standards

4.1 Minimum subdivision lot size [optional]

- RBG believes a minimum lot-size for multi-unit dwellings subdivision of 325m² should be specified. Small blocks abound in the northern end of the LGA and some too small for the proposed R3 Zone.

4.3 Height of buildings [optional]

- RBG suggests that the words “desired future character” used in 4.3(1)(a) be replaced with the words “history and character”.
- RBG believes that heights should be stepped down on the edges of commercial zones such as B2.
- RBG suggests an added objective concerning the minimization of risk associated with coastal protection due to sea level rise and flood events.

4.4 Floors space ratio [optional]

- RBG suggests that the words “desired future character” used in clause 4.4(1)(a) be replaced with the words “history and character”.
- RBG suggests an added objective concerning the minimization of risk associated with coastal protection due to sea level rise and flood events.
- B1 and B2 Commercial zones. RBG considers that too little guidance has been given in the Discussion Papers on the floor space ratios proposed for the B1 and B2 zones.

Floor space ratio clause 4.4(3)

- There is presently no adopted set of FSR standards in the current LEP for dwelling houses and semis. But a sliding scale (based on lot sizes) currently exists in the accompanying DCP with an upper limit of 0.65:1 for lots under 300m². In 2010 a legal ruling forced a more restrictive FSR of 0.5:1 to be applied to semis creating an inequitable situation. Furthermore, in around 2008 the State Labor Government undermined Council's consent process allowing it to be bypassed by the issuing of complying certificates based on FSR's more generous than Council's own DCP controls. Currently 17% of all approvals bypass the consent process in this way. RBG thus accepts that:
 - 1) It is appropriate that a FSR now be set under the Draft LEP to give certainty to families seeking to extend their existing single dwelling homes or to build new ones; and
 - 2) That this be a sliding scale of FSR limits at least as attractive as those offered by the State Government competing NSW Housing Code in order to attract applicants back to the transparency of the Council's consent process.

2B (i.e. R3) Sites Floor Space Ratio

- The current FSR for multi-unit dwelling in the current 2B sites is 0.65:1. This is generally equivalent to the FSR of the upper limit of the sliding scale for dwelling houses under the current DCP controls. RBG suggests that this relationship be maintained under the Draft LEP i.e. the FSR for the current 2B sites should be kept equal to the upper limit of the sliding scale adopted as the new FSR for dwelling houses and semis.

Maroubra Beach – Response to the LEP

- RBG supports the proposed B1 Neighbourhood centre zone for the Maroubra Beach town centre but not the proposed FSR 2.0:1 indicated on

Sheet FSR_008 for some sites along Mckeon Street and the height options for "Area 4" and "Area 5" as indicated on Sheet HOB_008.

4.3B Height of buildings on land in Maroubra Beach Town Centre

- RBG proposes that the Maroubra Beach Commercial Centre should be maintained under the B1 Neighborhood Centre zone proposed in the draft LEP with a height limit of 12metres. This will be consistent with the proposed height limit for the Coogee Beach town centre. RBG proposes that the building envelope established by the height of the existing seals club be treated as an historical anomaly within the Maroubra Beach Commercial Centre.
- RBG proposes that the Maroubra Beach Commercial Centre should be removed as an exception to the proposed draft LEP heights that are indicated on Sheet HOB_008 and under Clause 4.3B. If and when a DA is submitted for this designated area the design can then be looked at separately on its merits. Having 22metre height limit options available to developers leaves the commercial centre open to abuse with possible SEPP 1 objections taking this height even higher.

Floor Space Ratio in the Maroubra Beach Town Centre

- RBG notes with concern that Sheet FSR_008 does not appear to indicate an actual FSR for those sites bordered by McKeon Street, Fenton Avenue, Marine Parade and Mons Avenue and suggests that one should be.
- RBG notes that the current FSR for the centre is 2.0:1 but considers that consistency with other B1 areas (i.e. Coogee town centre) should be aimed for by applying a 1.5:1 ratio. This would include those sites fronting McKeon Street and which are presently proposed for a FSR of 2.0:1 (as identified on Sheet FSR_008).
- In addition the LEP specifically excludes a business that has been there for approximately 30 years, i.e. the vehicle repair shop on Marine Parade. RBG considers that a site-specific provision to allow the continued use of this site for this purpose should be included in the draft LEP.

4.6 Exceptions to Development Standards

RBG in accordance with the policy of the Greens NSW rejects this clause in the LEP and supports its repeal. This clause relocates the previous State Environmental Planning Policy (SEPP 1) as a compulsory clause within the LEP. Objections made under the terms of this clause will likely result in the continued breach of the LEP development standards. It is the view of the Greens that SEPP 1 (and therefore its incarnation as compulsory Clause 4.6 in the standard LEP) should be abolished. According to Greens policy the



only argument for deviation from agreed standards set in the LEP, and only in exceptional circumstances, must be where the result of the development will be a positive environmental outcome. RBG seeks Council's advocacy to State Parliament for legislative amendment to repeal compulsory clause 4.6.

Part 5

- 5.5 In the interests of long term mitigation of the risks of sea level rise and flood event RBG seeks Council's advocacy to the State Government for legislative amendment that would add to the existing uniform zones a "Coastal Zone" consistent with the parameters of current Coastal Protection and Sea Level Rise legislation and policy provisions. Council may wish to take this action in collaboration with other coastal councils.
- 5.13 Guidelines for eco-tourism facilities should be included in the LEP. These should receive full community consultation.

Part 6

- 6.6 The Terrestrial biodiversity clause is welcomed. The extent to which this will cover protection of tidal zone marine biodiversity is queried.
- 6.9 RBG is concerned that this LEP is drafted prior to the conclusion of flood studies. It is our view that no zone changes should occur in the areas subject to flood studies; ie., the LEP should not be finalized nor given statutory authority until the flood studies are complete in Coogee, Kensington and Maroubra and made public.

Additional points:

The Foreshore Scenic Protection Area should be extended to cover commercial zones as well as residential to ensure consistency in the foreshore aesthetic.

Places of Aboriginal Heritage significance are few. Collaborative work with the Local Aboriginal Land Council may assist Council to increase its list of sites and to enhance the knowledge of the general community as well as visitors about the indigenous history of this place.

2 April 2012

General Manager,
Randwick City Council,
30 Frances Street,
Randwick NSW 2031

Dear Sir/Madam,

Randwick Draft Local Environmental Plan 2012 – Little Bay Cove

1 Introduction

This submission has been prepared on behalf of Charter Hall in response to the public exhibition of the Randwick Draft Comprehensive Local Environmental Plan 2012 (Draft LEP).

Charter Hall supports Council's preparation of a new draft LEP. However the focus of this submission is to ensure the new Draft LEP doesn't place unnecessary constraints on long term development and management of the land at Little Bay Cove, which may take considerable time to fully develop.

We request that:

- The current 0.5:1 FSR standard be retained across the entire site (and at a minimum rectify the inaccuracies, in particular the large FSR discrepancy at super lot 9 and the GFS shortfalls on 5 other super lots);
- The site is left uncoloured on the Maximum Building Height Map (and at a minimum the ambiguity surrounding ground levels definitions is addressed); and
- The central corridor is zoned as R1 General residential

2 Overview

On 23 December 2010 the NSW Land and Environment court approved:

- Concept Proposal for the entire "Little Bay Cove" site (1408 Anzac Parade Little Bay, Lot 10 and 11 DP 1127716). The concept proposal is also known as, "The Little Bay Stage 1 Plan", and
- "Stage 1 Works", comprising:
 - Demolition of existing structures on the site and removal of certain trees;
 - Bulk earth infrastructure works (including remediation, regrading, road construction and landscaping);
 - Installation of utility services and stormwater management; and

- Subdivision of the subject land into the 28 single residential lots, 10 super lots and open space areas.

The Little Bay Stage 1 Plan forms part of the Stage 1 development consent which includes an approved built form envelope, including GFA, building heights and design principles. Figure 1 below sets out the general layout of the 'super' and individual lots within the Stage 1 Plan.

The approved Stage 1 works have commenced on the site and consent has been sought and received for the first stages of residential construction on the western half of the site on super lots 3, 4, 5 and 11.



FIGURE 1 –FIGURE 8 OF THE LITTLE BAY STAGE 1 PLAN

3 Floor Space Ratio

The draft FSR controls change from a blanket 0.5:1 across the site under the 1998 LEP to block by block control as set out in the Draft LEP FSR Map, an extract of which is included at **Figure 2** below.



FIGURE 2 – DRAFT LEP FSR MAP EXTRACT

3.1 INACCURACY OF FSR AND GFA

The Draft LEP appears to convert the distribution of GFA approved under the Stage 1 Plan into FSR controls for each lot. However six of the 10 super lots will be permitted less GFA under the Draft LEP than that which was approved under the Stage 1 Plan.

Overall the Draft LEP permits 570.8smq less GFA on the combined super lots than that under the already approved Stage 1 Consent. The Stage 1 Consent approves GFA, so draft LEP control suggesting less are misleading and inappropriate.

Super lot 9 is the most affected with a GFA deficit of approximately 533sqm. The Draft LEP sets a FSR of 0.8 for this super lot, while the GFA approved under the Stage 1 Plan translates to a FSR of 0.87. The Council should, at a minimum, address this large discrepancy.

For the super lots that are permitted less GFA under the Draft LEP a development could comply with the Stage 1 Consent but breach the Draft LEP controls. In this case an application under Clause 4.6 'Exceptions to development standards' (previously, and similar to, a SEPP 1 objection) would be required to request that the standard be varied.

It is inappropriate that, if the Draft LEP is going to assign individual super lot FSR controls, it does not accurately reflect the approved GFA and requires a Clause 4.6 application for six out of the 10 super lots.

It is evident that an accurate conversion of the GFA distribution approved under the Stage 1 Plan into FSR controls is actually not possible given the specifics of the Stage 1 Plan. As such it is appropriate that the site wide 0.5:1 FSR control remains. This is discussed further in Section 3.2 below.

3.2 APPROPRIATENESS OF APPLYING A BLOCK BY BLOCK FSR

The Stage 1 Plan is not a statutory control document. It is an approval. While the development of the super lots needs to be 'generally in accordance' with the Stage 1 Plan; development outside of what was approved is not prohibited but requires separate consent. In the case of FSR, the Stage 1 Plan included a range of GFA's for each lot and super lot with an overall FSR of 0.5:1, which is in line with the current 1998 LEP.

By placing the specific block by block controls within the Draft LEP, the controls become statutory, which makes them much less flexible and all but negates any alternative development of Little Bay Cove.

The progress of the Little Bay Cove site, particularly the eastern portion, is not so advanced as to make the application of the Stage 1 Plan a certainty. The Stage 1 Plan sets out just one acceptable way of developing the site in terms of the location and distribution of built form and density reflecting best planning practice and market demand. However, by the time the final stages are developed, which may not be for numerous years, this thinking may have changed.

The block by block application of FSR controls does not allow for any flexibility for change over time, is unnecessarily prescriptive and potentially compromises the future development of the site.

Section 7.7 of the Residential Discussion Paper is supporting document of the Draft LEP and discusses the 2D (Comprehensive Redevelopment) zones in Randwick. This zone covers Prince Henry and Bundock Street, but this does not apply to Little Bay Cove. This section goes on to state that the heights and FSRs of sites with master plans and site specific DCPs should be translated into the Draft LEP.

It's important to note that Little Bay Cove does not have a master plan or site specific DCP (As Prince Henry and Bundock Street) but a Stage 1 Consent that approved certain infrastructure and remediation works as well as a range of built form envelopes. While the Stage 1 Consent is often referred to as the 'Master Plan' it technically is not. A consent is not a matter for consideration until it is commenced. While the stage 1 works have been commenced work on the majority of the super lots has not.

The logic of translating heights and FSR's to individual lots approved under the Stage 1 Plan Little Bay Cove is premature and should not be included in the Draft LEP at this stage.

3.2.1 MASTER PLANNED SITE EXAMPLES OF FSR APPLICATION

There have been some instances of FSR controls being applied to similarly master planned sites on a specific block by block basis in other metropolitan Sydney Local Government Area draft LEPs such as:

- Victoria Park Zetland (City Of Sydney); and
- Lachlan Square Moore Park/Waterloo (City of Sydney).

However these sites are significantly progressed with the majority of development completed and or commenced. In particular, road and public domain works are fully constructed and dedicated.

At Little Bay Cove, with the roads and public domain not yet constructed and the delivery of the total project likely to span over many years, the later stages may need to evolve to reflect the changing market and best planning and design practice.

Several similarly master planned sites have been given a 'blanket' FSR, which recognises and allows a level of flexibility needed on sites where development is not significantly progressed or where development is likely to be delivered in stages, over many years. Such sites include:

- Central Park (City of Sydney);
- Harold Park (City of Sydney); and
- Breakfast Point (Canada Bay).

We believe a similar approach is warranted at Little Bay Cove.

4 Maximum Building Height

There is currently no maximum building height control applicable to Little Bay Cove under the 1998 LEP. However a range of building heights have been approved under the Stage 1 Consent. The Draft LEP sets a block by block provision of building heights as set out in the Draft LEP Maximum Building Height Map, an extract of which is include at Figure 3 below.



FIGURE 3 –DRAFT LEP MAXIMUM BUILDING HEIGHT MAP EXTRACT

The buildings heights correspond to the Stage 1 Consent approved heights. However the redevelopment of the Little Bay Cove site includes significant site remediation and regrading, and new ground levels will be created. The height of buildings approved in the Stage 1 Consent are calculated from Remediated Ground Level (RGL). The Draft LEP definition of building height specifically refers to the height being calculated from 'existing ground level'. Existing ground level is defined as.

ground level (existing) means the existing level of a site at any point.

It is important to note that a definition for 'ground level (finished)' more accurately describes RGL:

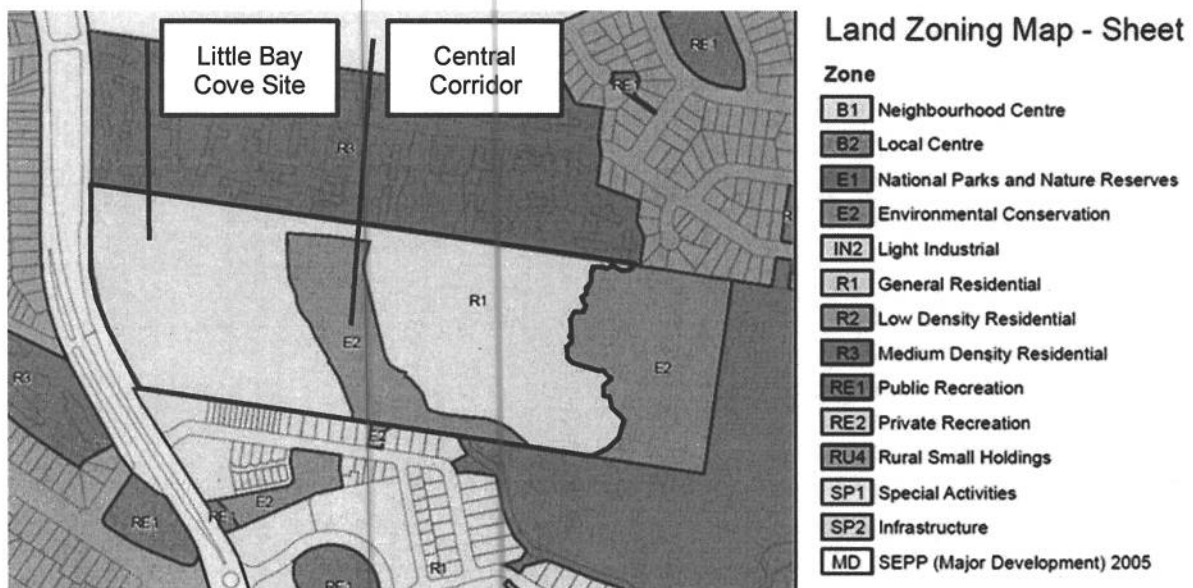
ground level (finished) means, for any point on a site, the ground surface after completion of any earthworks (excluding any excavation for a basement, footings or the like) for which consent has been granted or that is exempt development.

These definitions create a level of ambiguity as to how to calculate the height of buildings on the site. Technically the RGL is not 'existing' and this may cause the Stage 1 building heights to be above the Draft LEP height control where the sites ground level has been lowered.

As with the FSR controls as discussed above, this control also removes any flexibility for the later stages of the project. As above it is not considered appropriate or necessary to introduce this degree of prescription at this early stage of the development process.

5 Existing and Proposed Zoning

The zoning of Little Bay Cove is 'Zone 5 Special Uses' under the current *Randwick Local Environmental Plan 1998 (Consolidation)* (the 1998 LEP). Under the draft LEP the site will be zoned 'R1 General Residential; for the majority of the site, and E2 Environmental Conservation for the 'central corridor' as shown in Figure 2 below. The R1 general residential zoning is acknowledged as an appropriate clarification of the land which is now recognised as primarily suitable for residential use.



5.1 E2 ENVIRONMENTAL CONSERVATION ZONE

Given the known archaeological and culturally (indigenous) important miocene and ochre outcrops within this central corridor, the E2 Environmental Conservation zone seems an appropriate zoning. However, while the location of miocene and ochre deposits has been surveyed and buffer zones agreed upon, until the works are complete on the site the exact extent of this area remains unknown.

In addition to this the miocene and ochre outcrops are currently protected by both the National Parks and Wildlife Act 1974 as well as the via a conservation agreement as required by Condition 11 of the Stage 1 Consent. This conservation agreement will incorporate management principles for the protection and active management of these significant areas.

Under the Stage 1 Plan the central corridor contributes to site area and thereby contributes to the allowable FSR and GFA on the site. This contribution to the site area is appropriate given the central corridors areas contribution to the open space and amenity to the Little Bay Cove site. This contribution to the development of the site has ensured the ongoing and long term management of this significant area.

Under the E2 zoning, residential uses are prohibited. While there may be no intention or potential to develop the central corridor given its significance and protection, there are potential implications on the Little Bay Cove site development potential in terms of the calculation of site area and subsequent FSR allowances.

When calculating FSR, the site area cannot include *'land on which the proposed development is prohibited'*. This control is generally the same under both the 1998 LEP and the Draft LEP.

While the miocene and ochre outcrops are protected, development of the land for any particular use is not currently expressly prohibited under any Environmental Planning Instrument.

Under the current 1998 LEP zoning, residential uses are not prohibited on the central corridor.

Under the Draft LEP zoning, residential development would be prohibited on the central corridor. If the site receives a blanket FSR (as discussed in Section 3.2 above) or if the proposed development of the land changes in the future, the ability to include this land in the calculation of site area would be lost.

Given the miocene and ochre outcrops are already protected, the E2 zoning offers no real additional protection, but does raise potential issues for the future development of the site in terms of its contribution to site area and FSR. As with the FSR and height controls we submit that it is premature to lock in such precise detail at this early stage of development at the site.

An alternative at this stage would be to zone the land R1 General Residential. The miocene and ochre outcrops would remain protected and would continue to appropriately contribute to the Little Bay Cove site area, thereby ensuring its ongoing management. Once the final built outcome is completed, the as built central corridor could be rezoned if deemed necessary.

6 Comments and Recommended Amendments to Draft LEP 2012

The Stage 1 Plan is not a statutory control document, but a consent. The progress of the Little Bay Cove site, particularly the eastern portion, is not so advanced as to make the application of the Stage 1 Plan a certainty. The translation of the detailed Stage 1 Plan FSR and Height controls into statutory instruments is premature and inappropriate, and does not allow for any flexibility in the future development of the site. As such it is requested that:

- The current 0.5:1 FSR standard be retained across the entire site (and at a minimum rectify the inaccuracies, in particular the large FSR discrepancy at super lot 9 and the GFS shortfalls on 5 other super lots);
- The site is left uncoloured on the Maximum Building Height Map (and at a minimum the ambiguity surrounding ground levels definitions is addressed); and
- The central corridor is zoned as R1 General residential

7 Conclusion

Charter Hall thanks Council for the opportunity to submit this letter in response to the public exhibition. If you would like to discuss any aspect of this submission in greater detail or have any questions, please call me on 02 8233 9900.

Yours sincerely,



A handwritten signature in black ink, appearing to read 'Erin Murphy', is positioned above the printed name.

Erin Murphy
Consultant
Urban Planning

Victoria Gavan

From: Mary Morrisroe [MMorrisroe@hunthunt.com.au]
Sent: Friday, 30 March 2012 5:31 PM
To: LEPreview
Subject: Submissions

Hello,

I refer to my previous email and note that our client occupies the land previously known as Lot 1 Deposited Plan 809094 but now is known as Folio Identifier 101/1162245.

Kind regards,

Mary Morrisroe
Lawyer

hunt & hunt
Lawyers

Gateway, 1 Macquarie Place, Sydney NSW 2000
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2 April 2012

General Manager,
Randwick City Council,
30 Frances Street,
Randwick NSW 2031

Our ref: JGH/MCM
Matter no: 9547516

By email: LEPreview@randwick.nsw.gov.au

Dear Sir

**New South Wales Rifle Association - Anzac Rifle Range, Malabar; Submission on Draft
Randwick Local Environmental Plan 2012**

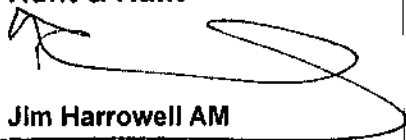
We refer to Council's Draft Local Environmental Plan 2012 and provide this letter by way of submission on behalf of our client, New South Wales Rifle Association Inc.

Our client has operated a rifle range on Lot 1 Deposited Plan 809094, Malabar lawfully for over 40 years and leases the land from the Commonwealth Government. We note that the land upon which our client's rifle range is located will be zoned E1 National Parks and Nature Reserve under which uses authorised under the *National Parks and Wildlife Act 1974* are permitted without consent, with nil uses permitted with consent.

We put you on notice that any attempt to restrict the operation of our client's lawful use of the rifle range will be resisted by dint of the fact that our client has existing use rights under the provisions of the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulations 2000*.

If you have any questions, or require further information, please do not hesitate to contact me.

Yours faithfully
Hunt & Hunt



Jim Harrowell AM
Partner

Contact:
Mary Morrisroe
D +61 2 9391 3173
E mmorrisroe@hunthunt.com.au

117894146_MSH