



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

Our ref: 12/02781
Your ref: S08/01197-1

Attention: Sima Truuvert, Director, City Planning

Dear Mr Brownlee

Draft Randwick Local Environmental Plan 2012 - Certificate to exhibit draft LEP

I am writing in response to your letter dated 8 December 2011 requesting certification of the draft ***Randwick Local Environmental Plan 2012***. I am pleased to advise that I have endorsed the draft LEP for exhibition and have attached the section 65 certificate and a copy of the certified draft Plan.

As an Opinion has not been issued by Parliamentary Counsel that the plan may be legally made, the Department has issued this certificate on the understanding that Council, when exhibiting the draft LEP, makes it clear to the public that the draft LEP may be changed to satisfy legal drafting requirements. Council must also provide a plain English explanation of what the plan seeks to do.

Please note that references to the particular sections of the *Environmental Planning and Assessment Act 1979* ('EP&A Act') in this letter relate to the previous plan making provisions repealed on 1 July 2009.

Council is reminded to place the relevant State Environmental Planning Policies, any Regional Environmental Plans (deemed SEPPs) and section 117 Directions that apply on exhibition with the certified draft LEP.

It has been identified that the draft LEP, as certified, is inconsistent with section 117 Directions 3.1 Residential Zones and 4.3 Flood Prone Land. As the delegate of the Director General, I have determined that the inconsistency with Direction 3.1 is justified on the basis of existing government requirements and agreements and being of minor significance. The inconsistency with the S117 Direction 4.3 is considered justified on the basis of the inclusion of the Standard Instrument provisions for Flood Planning in the draft LEP and Council's strategy for undertaking flood studies which is underway.

Council should place this letter on exhibition to demonstrate that these inconsistencies have been addressed.

Schedule 2 of the section 65 certificate includes a condition requiring an amendment to be made to the draft LEP maps before exhibition takes place.

The amendment has arisen from recent discussions concerning a strip of land between the cadastral boundary of the Botany Bay National Park (high water mark) and Council's local government area boundary (low water mark). Investigations by Council and the Environment Protection Authority have identified that this land lies outside the national park and is currently unzoned. It has been agreed by Council, the Environment Protection Authority and the Department of Primary Industries, (Catchments and Lands) that the most appropriate zoning for this land is E2 Environmental Conservation. This will afford a suitable degree of protection to the land and complements the adjoining E1 National Parks and Nature Reserves zoning.

I am aware that the Heritage branch of the Office of Environment and Heritage has raised issues with the draft plan's inconsistency with the Department's circular PS09-011. This relates to the formatting of Schedule 5 Environmental Heritage in terms of the numbering of items and the manner in which heritage elements are set out for the Prince Henry Hospital site. Council's intention to redress these matters during and post exhibition is acknowledged and supported as technical requirements not affecting the identification or interpretation of heritage items for the purpose of public exhibition.

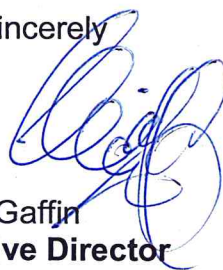
In certifying the draft plan for exhibition, I note that the Chinese market gardens are proposed to be zoned RU4 Primary Production Small Lot, as this reflects the current use of the land and recognises its State heritage listing. However, I am aware that there is a proposal by the Eastern Suburbs Memorial Park Trust (Botany cemetery) to extend the adjoining cemetery use over part of the market garden site. I encourage Council to work closely with the Department, the Eastern Suburbs Memorial Trust, the community and other government agencies to address this issue. If an extension to the Botany cemetery is found to have merit, it should preferably be supported through a separate Planning Proposal.

Council should ensure that any final draft LEP and maps submitted to the Department following community consultation are consistent with the EP&A Act and Regulations. Council should also note that the Department and Parliamentary Counsel may modify some local model clauses and the LEP may need to be amended accordingly. The Department's Regional office can assist Council to review the final plan before submission to the Minister.

I would like to thank Council for progressing the draft LEP in a highly professional and co-operative manner and look forward to your ongoing commitment to finalise this new planning instrument.

Should you have any questions regarding this matter, I have arranged for Richard Roper of the Department's Sydney region East Office to assist you. Mr Roper may be contacted on telephone number (02) 9228 6202 or by e-mail at richard.roper@planning.nsw.gov.au.

Yours sincerely



Neil McGaffin
Executive Director
Planning Operations

16.2.12

Enclosures:
s65 certificate for Randwick LEP 2012
Certified draft Randwick LEP 2012



ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

SECTION 65(2) CERTIFICATE

As delegate of the Director General of the Department of Planning and Infrastructure, I, Neil McGaffin, Executive Director, Planning Operations, under section 65(2) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act') certify that the draft LEP set out in Schedule 1 may be publicly exhibited under section 66 of the EP&A Act subject to the condition that the draft LEP be amended as set out in Schedule 2.

Signed

Neil McGaffin
**Executive Director
Planning Operations**

Dated: 16. February 2012

Schedule 1

Draft Randwick Local Environmental Plan 2012 submitted to the Director General under former section 64 of the EP&A Act on 8 December 2011.

Schedule 2 conditions

Prior to exhibition Randwick City Council is required to:

- (i) amend the maps accompanying the draft *Randwick Local Environmental Plan 2012* in the following manner:
 - (a) to zone the unzoned land identified between the boundary of the Botany Bay National Park (high water mark) and Randwick Council's local government area boundary (low water mark) to Zone E2 Environmental Conservation.