

7.10 Environmental Issues

7.10.1 Sustainability

One of the underlying themes of the Randwick City Plan is sustainability. A city can be defined as becoming more sustainable if it is reducing its resource inputs and waste outputs while simultaneously improving its liveability (health, employment, income, housing, leisure activities, accessibility, public spaces and community).¹¹

At the state policy level environmental performance of residential building proposals (both single and multi-unit housing) is currently assessed through the state wide BASIX rating tool, which covers water, energy use and thermal performance, and overrides local provisions.

As identified throughout this Paper, at the local planning level the Council has pursued a more sustainable City by focusing residential development in and around centres with good access to employment, public transport, facilities and public spaces.

This approach is currently expressed in the RLEP through zoning and density provisions which favour higher density residential development in and around town centres, while ensuring that the character of low density areas is maintained.

Comprehensive LEP Implications

The Standard Instrument does not include specific provisions regarding environmental sustainability. However Council can include an aim on sustainability which provides the overarching guidance for the application of the Comprehensive LEP.

Ecological sustainability is currently included as an overarching aim in RLEP:

(2) (h): "*recognise the importance of ecological sustainability in the planning and development processes*"

This aim is proposed to be included in the Comprehensive LEP.

Comprehensive DCP Implications

The Comprehensive DCP will also provide an opportunity to establish specific design principles and provisions for Environmentally Sustainable Development (ESD) across Randwick City including local environmental performance requirements beyond standard requirements.

It can also encourage sustainable transport (walking, cycling and public transport use) and innovative car use (e.g. car share schemes).

¹¹ Sustainability and Cities, Peter Newman and Jeffrey Kenworthy (Island Press 1999)

Recommendations:

- Include the existing RLEP aim on ecological sustainability in the Comprehensive LEP; and
- Include more specific guidelines and principles in the Comprehensive DCP to promote ecologically sustainable development.

7.10.2 Aircraft Noise

Australian Noise Exposure Forecast (ANEF) is the measure of cumulative aircraft noise levels in areas near airports during a specified period of time. It is based on the forecast of aircraft movement numbers, aircraft types, destinations and a given set of runways at the airport for a particular year.

The Section 117 Ministerial Direction 12 – Development Near Licensed Aerodromes – directs that appropriate noise mitigation measures be incorporated in residential development that is situated on land within the ANEF contours of between 20 and 25.

The green shaded area of Randwick City falls within these contours as depicted by the ANEF contour map (Fig 16).

RLEP *Clause 27 – Aircraft Noise* applies to this land. The purpose of this Clause is to ensure that development for the purposes of residential accommodation and other noise sensitive buildings are not adversely affected by aircraft noise.

Under this Clause, development consent must not be granted to development on land to which this Clause applies unless the Council is satisfied that the proposed development meets interior noise levels requirements of AS 2021¹².

Comprehensive LEP Implications

The Standard Instrument introduces Model Local Provision 7.6 – Development in Areas Subject to Aircraft Noise which effectively mirrors RLEP Clause 27.

Recommendation:

- Include Standard Instrument Model Local Provision 7.6 *Development in Areas Subject to Aircraft Noise* in the Comprehensive LEP.

¹² The Australian Standard AS 2021-2000 – Acoustics – Aircraft Noise Intrusions –Building, Siting and Configuration provides guidance to various authorities associated with environmental planning and building construction as to the location and construction of new buildings and on the acoustic adequacy of existing buildings in areas near airports.

Australian Noise Exposure Forecast

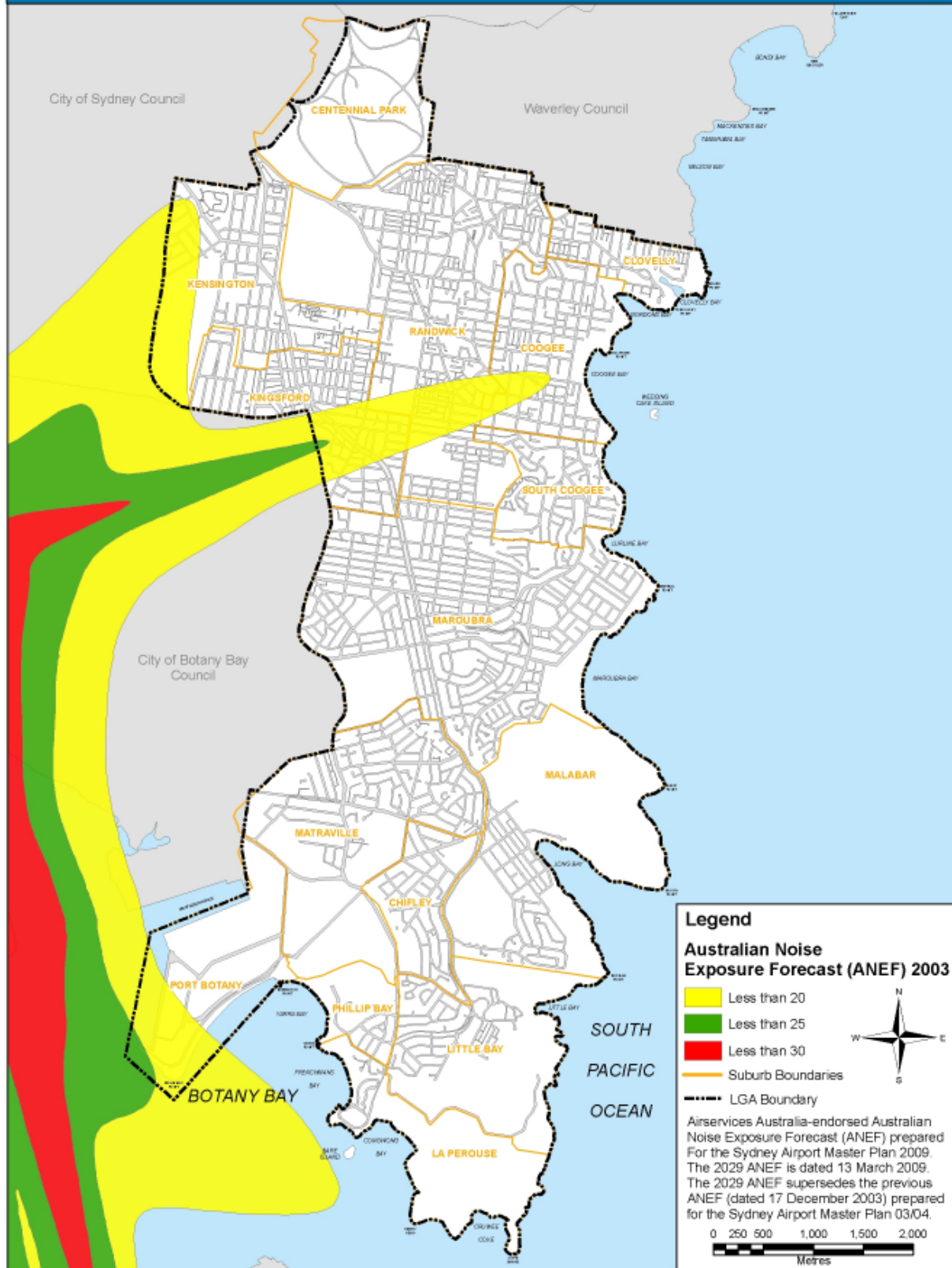


Fig 16: Australian Noise Exposure Forecast
Source: Randwick City Council

7.10.3 Acid Sulphate Soils

Acid Sulphate Soils (ASS) contain iron sulphides that, when exposed to oxygen from drainage or excavation works, produce sulphuric acid. They generally occur in low lying coastal areas less than 5m from the high water mark.

When disturbed the increased acidity can cause significant damage to the environment as well as infrastructure, particularly steel and concrete.

Where possible, ASS should not be disturbed, otherwise they should be managed by neutralising the acid produced, preventing any acid water from leaving the site and using acid resistant construction materials. The NSW Government has produced ASS maps and a manual which requires management plans with DAs in these areas or an assessment confirming that no ASS is present on the site.

Comprehensive LEP Implications

The RLEP does not contain any specific ASS controls. Section 117 (2) Direction directs Councils to include consideration of ASS when making LEPs and assessing applications. The Standard Instrument *Model Local Clause – Acid Sulphate Soils* developed by the Department of Planning and Infrastructure for Councils affected by ASS, is suggested to be included in the Comprehensive LEP.

Recommendation:

- Include the Standard Instrument Model Provision – Acid Sulphate Soils in the Comprehensive LEP.

7.10.4 Contamination

A change of land use may trigger SEPP 55 – *Remediation of Land* and the *Council's Land Contamination Policy*. Generally, a preliminary site contamination investigation is required to confirm that a site is suitable for the proposed land use including residential.

RLEP Clause 42B – Contaminated Land requires that land is remediated to a suitable level for any proposed use. This in effect mirrors the requirements of the SEPP.

Comprehensive LEP and DCP Implications

As noted in the Standard Instrument Model Local Provision – Contaminated Land, any LEP provision with regards to contamination and its remediation should be guided by SEPP 55 and the Guidelines and should not repeat SEPP requirements. A contamination clause is thus not proposed in the Comprehensive LEP.

Council's Land Contamination Policy will be reviewed for inclusion of relevant guidance as part of the preparation of the Comprehensive DCP.

Former Incinerator Land, Matraville

The Council Policy *Former Incinerator Land, Matraville* has been developed to identify land which is or may be affected by the former incinerator.

It aims to assist in informing current and future property owners that the subject land may contain elevated levels of lead and other heavy metals which may exceed the national standard for low density residential land use.

The policy outlines a number of potential strategies to minimise soil disturbance and provisions to restrict certain exempt and complying development upon the subject land. It is proposed that the subject policy be reviewed for inclusion of relevant guidance as part of the preparation of the Comprehensive DCP.

Recommendation:

- Review the Former Incinerator Land Policy and incorporate relevant guidance into the Comprehensive DCP.

7.10.5 Flood planning

The Ministerial Section 117 Direction 15 – Flood Prone Land – applies to flood prone land and directs that a draft LEP shall include provisions that are consistent with relevant policies and guidelines.

The NSW Government's *Flood Prone Land Policy and Floodplain Development Manual 2005* (the Manual) allows Council to manage flooding through the adoption of strategic plans outlining the actions to be undertaken to manage existing and future flood problems.

There are 10 major flood catchments within the Randwick LGA for which the floodplain management process needs to be implemented. The Council has a program for flood studies in all these catchments and flood studies are currently underway in Kensington, Maroubra and Coogee Bay catchments to identify flood prone land in these areas.

The NSW Government Unhealthy Building Land Policy (Schedule 1) specifies low lying land declared under the former *Unhealthy Building Land Act 1990*. It applies to Councils which have not adopted or implemented flood risk management plans.

The purpose of the policy is to ensure inclusion of relevant information in any planning certificate for low-lying land and consideration of the suitability of development proposed to be carried out on that land. Where relevant, specific development controls for these properties identified under Schedule 1 will be considered as part of the Comprehensive DCP.

Comprehensive LEP and DCP Implications

The areas subject to flood studies may be identified as a 'flood planning area' on the LEP Flood Planning Map in accordance with the Department's draft *Model Clause – Flood Planning*. The model clause is proposed to be included in the Comprehensive LEP and the Flood Planning Map will be produced and updated as studies are completed.

In addition, specific development controls relating to flooding will be included in the Comprehensive DCP.

Recommendations:

- Include the Standard Instrument Model Clause – Flood Planning in the Comprehensive LEP; and
- Incorporate specific development controls relating to flooding in the Comprehensive DCP.

7.10.6 Stormwater

The management of storm water is a key issue in protecting and enhancing water quality within Randwick City's beaches and waters of Botany Bay. The RLEP does not contain a specific clause to address the issue of storm water management, although provisions are contained in many DCPs.

Comprehensive LEP Implications

The Standard Instrument contains a draft Model Local Provision for storm water management in urban areas. This draft Model Clause provides specific criteria for the assessment of a development application to ensure:

- Consideration of the impacts of urban storm water on the subject land and adjoining properties; and
- The environmental and water quality impacts on native bush land and receiving waters.

The draft Model Provision is proposed to be included in the Comprehensive LEP to promote improved urban storm water management.

Recommendation:

- Include the Standard Instrument draft Model Provision for storm water management in the Comprehensive LEP

7.11 Coastal Environment

Randwick LGA contains 29km of coastline incorporating national park, open space, residential and foreshore areas. Many areas along the coastline are environmentally sensitive and have high scenic values. They are also a major tourist and recreational resource attracting many local and international visitors.

The coastal environment strongly defines the character of the residential areas located near the coastline such as Clovelly, Coogee, and South Coogee, parts of Maroubra, Malabar, Little Bay and La Perouse. Many of these areas face development challenges such as steep topography, less deep soil landscaped areas, increased storm water run off, view sharing and other impacts. Accordingly a key challenge is to manage coastal development so that both coastal and residential amenity is maintained into the future.

A number of provisions in the RLEP and the Standard Instrument relate specifically to the coastal areas. These are discussed as follows.

7.11.1 Foreshore Scenic Protection Area

RLEP identifies visually prominent residential areas along the coastline which are designated as *Foreshore Scenic Protection Areas* under Clause 29 of the RLEP (Fig 17).

Under this Clause, Council may only grant consent to development within the foreshore scenic protection area after it has considered the likely aesthetic impacts of the proposed development on the foreshore.

Comprehensive LEP Implications

Properties located within the scenic foreshore protection area are no longer excluded from the application of the NSW Housing Code. This in effect means that dwelling houses could be constructed within the foreshore scenic protection area as Complying Development without consideration of the impacts on the visual quality of such areas as provided under Clause 29.

The foreshore scenic protection area clause is an integral tool in managing and assessing the visual impact of residential development proposed in sensitive areas along the coastline.

While the Standard Instrument does not contain an equivalent Clause, given the sensitivity of the coastal areas, it is suggested that an equivalent clause to RLEP *Clause 29 – Foreshore Scenic Protection Area* be retained in the Comprehensive LEP. The Department of Planning and Infrastructure have indicated support on this matter.

Recommendation:

- Include an equivalent clause to *RLEP Clause 29 – Foreshore Scenic Protection Area* in the Comprehensive LEP.

7.11.2 Foreshore Building Line

Council's *Dwelling House DCP (Clause 4.9 – Foreshore Development)* complements the RLEP Foreshore Scenic Protection Area provisions and identifies a small number of properties along the foreshore areas that are affected by the foreshore building line (FBL) (fig 17). Under this Clause buildings or structures on affected properties are not permitted to encroach on the FBL.

Comprehensive LEP Implications

The Department of Planning and Infrastructure has prepared an optional Model Provision – *Clause 6.5 – Foreshore Building Line*. The objective of the Clause is to ensure that development does not impact on the natural processes of the foreshore area, nor affect the significance or amenity of an area. A key consideration in this Clause is the probable visual impact of a proposed structure from the foreshore areas.

Given the sensitivity of the foreshore areas, particularly the areas already affected by the foreshore building line, it is proposed that this Clause be incorporated into the Comprehensive LEP.

Recommendation:

- Incorporate *Model Provision Clause 6.5 – Foreshore Building Line* into the Comprehensive LEP.

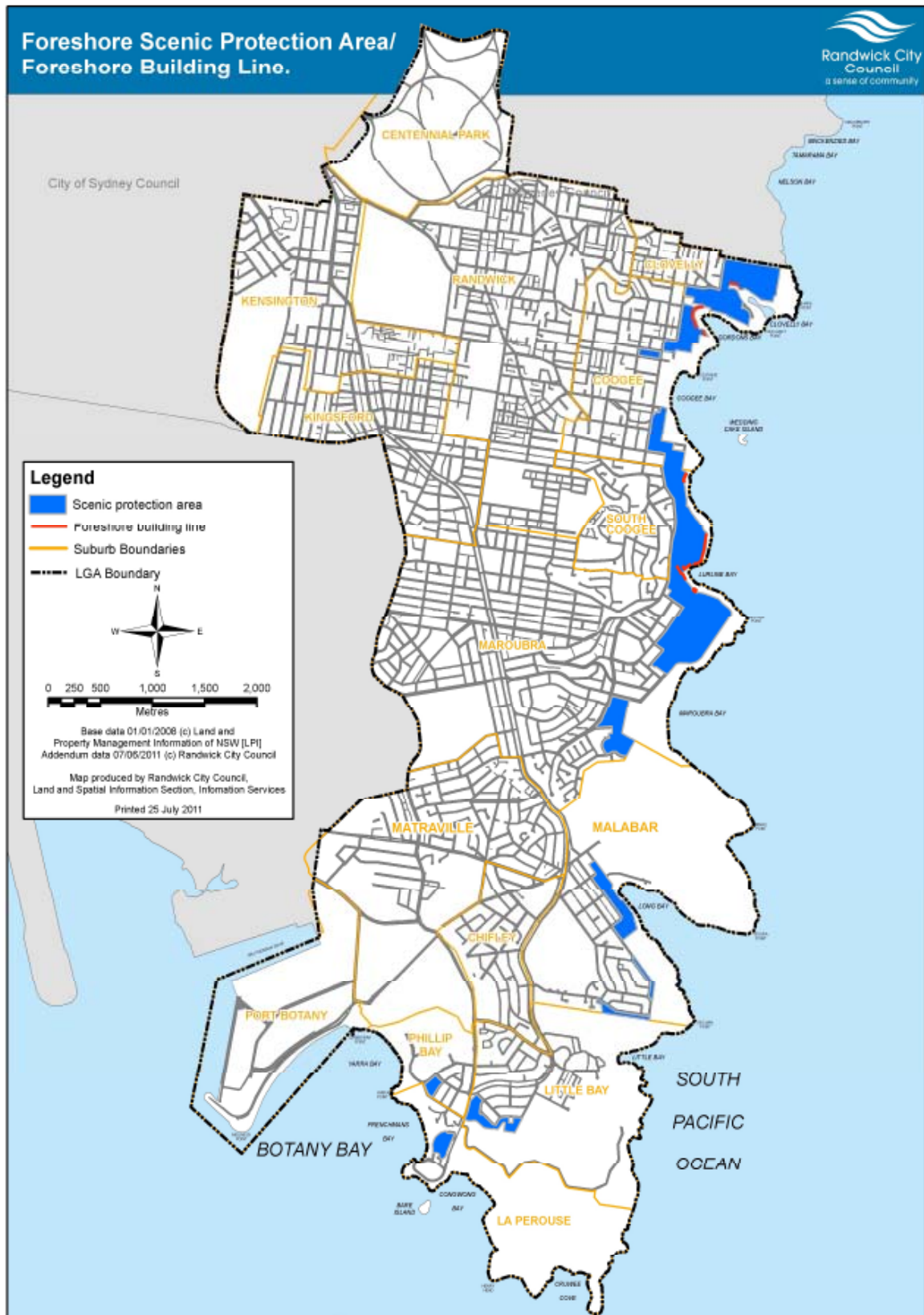


Fig 17: Scenic Foreshore Protection Area and Foreshore Building Line
Source: Randwick City Council

7.11.3 NSW Coastal Policy 1997

The NSW Coastal Policy 1997 requires Councils to consider the impacts of natural coastal processes and hazards and the potential effects of climate change in the planning and management of coastal development.

The Policy demarcates a coastal zone including certain parts of Randwick City that are zoned residential near Clovelly Bay, Gordons Bay, Lurline Bay, Little Bay and Long Bay as shown in fig 18.

Section 117 Direction 2.2 – Coastal Protection – applies to land in the coastal zone and directs that a draft LEP shall include provisions that give effect to and are consistent with relevant coastal policies and guidelines.

Implications

The Standard Instrument includes (compulsory) *Clause 5.5 - Development within the Coastal Zone* for Comprehensive LEPs.

This Clause requires a consent authority to consider the impact of a proposed development on the surrounding natural scenic quality and amenity, conservation of biodiversity and eco systems and the impact of coastal processes and coastal hazards, including sea level rise. It also encourages the protection of public access to the coastal foreshores.

Recommendation:

- Include Compulsory Standard Instrument *Clause 5.5 - Development Within the Coastal Zone* in the Comprehensive LEP.

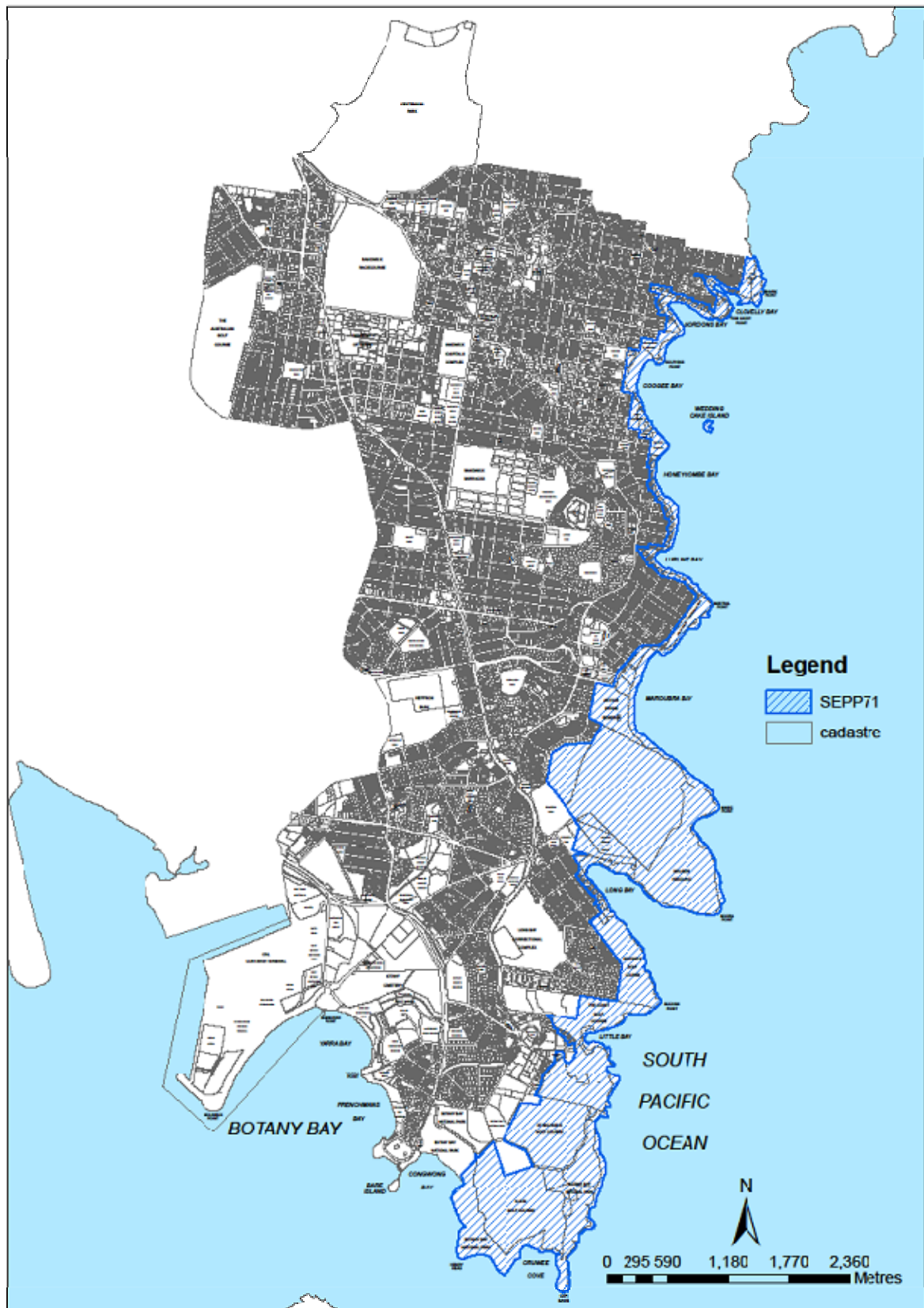


Fig 18: Coastal zone of Randwick City under SEPP 71
Source: Randwick City Council

7.12 Development on Laneways

A number of narrow laneways within Randwick City are identified by a Council Policy (Subdivision Code) for widening with the intent to create opportunities for good quality dwellings and improved residential streetscape amenity.

To achieve laneway widening, the Policy notes that subdivision for a dwelling to the rear of the laneway may be permitted with dedication of the widened area, notwithstanding the minimum lot sizes required in the relevant zone (generally 2A zone).

In many of the laneways the widening has substantially commenced and development is in the transitional phase. The following laneways have been nominated for widening (with the exception of a number of properties):

- Ferguson Street, Maroubra – between Maroubra Road and Beauchamp Road
- Glanfield Street, Maroubra – between Bunnerong Road and Bruce Bennet Place
- Green Street, Maroubra – between Anzac Parade and Cooper Street
- Galvin Street, Maroubra – between Cooper Street and Flower Street
- Mason Street, Maroubra – between Bunnerong Road and Anzac Parade
- Alma Road, Maroubra- between Anzac Parade and Cooper Street
- Melcalfe Street, Maroubra – between Garden Street and Flower Street, with the exception of 217 and 237 Storey Street
- Nevorie Crescent, Maroubra – between Royal Street and Hannan Street
- Majorie Crescent, Maroubra – between Storey Street and Royal Street
- Eastmore Place, Maroubra – between Bunnerong Road and Marjorie Crescent; and
- Bundock Lane, Randwick – between Avoca Street and Canberra Street

Comprehensive LEP Implications

The Council could achieve laneway widening by identifying and reserving these areas for compulsory acquisition in the Comprehensive LEP. However, in line with the existing Policy, it is intended to undertake the widening progressively as development is approved along the laneways, and/or through discussions with residents and/or as Council funding becomes available.

Comprehensive DCP Implications

The Council's Subdivision Code contains a number of requirements for laneway widening including provisions which detail the required laneway and depth frontage requirements for the purposes of laneway widening.

This Code will be reviewed and Council will prepare objectives and performance requirements to facilitate the laneway widening process for inclusion in the Comprehensive DCP. Further detail on affected properties can be found in Council's Subdivision Code.

Recommendation:

- Review the laneway widening requirements in the Randwick Subdivision Code (Policy) to inform the preparation of objectives and key performance guidelines to facilitate laneway widening in the Comprehensive DCP.

7.13 Variations to Development Standards –SEPP 1

As discussed throughout this Paper, State Environmental Planning Policy No. 1 – Development Standards (SEPP 1) provides flexibility for applicants to seek variations to development standards contained in an LEP where it can be demonstrated that compliance with such in the particular circumstances of an individual development is unnecessary or unreasonable.

SEPP No 1 objections seeking variations to the controls are commonly based on unique site constraints, consistency with the surrounding streetscape and/or for alterations and additions to buildings which due to their age already exceed current development standards.

Comprehensive LEP Implications

In the Standard Instrument the concept of SEPP 1 objections will be replaced by a similar mechanism in clause 4.6 Exceptions to Development Standards, which essentially retains the principles of SEPP 1. This Clause is compulsory and will therefore be included in the Comprehensive LEP.

Council's resolution to prepare objectives to clarify the purpose of development standards is unaffected by this change (see Chapter 3). They will still apply to any assessment under clause 4.6.

Recommendation:

- Include compulsory Clause 4.6 – Exemptions to Development Standards in the Comprehensive LEP.

7.14 Subdivision Consent Requirements

RLEP Clause 21-*Subdivision Consent Requirements* highlights a number of scenarios where the subdivision of land may be carried out without requiring Council consent.

These include widening of public roads, minor realignment of zone boundaries, consolidation of lots that does not create additional lots or additional dwellings, rectifying an encroachment on a lot and the like.

Comprehensive LEP Implications

The Standard Instrument includes Clause 2.6 *Subdivision – Consent Requirements*. This Clause is compulsory and will replace RLEP Clause 21.

Recommendation:

- Replace RLEP Clause 21 – Subdivision Consent Requirements with the equivalent Standard Instrument Clause 2.6 *Subdivision – Consent Requirements*.

7.15 Exempt and Complying Development

The Council has a number of requirements for exempt and complying development contained in the Exempt and Complying Development DCP. Exempt development relates to development of minor environmental impact and therefore does not require development consent through the Development Application process (e.g. garden sheds, rainwater tanks, etc).

Complying development includes minor works, construction, additions and alterations and certain land use changes. It can only be carried out once a Complying Development Certificate has been obtained but does not require development consent through the Development Application process.

Many of the DCP provisions no longer apply following the introduction of the Exempt and Complying Development Codes SEPP which specifies exempt and complying development under that Policy. However there are still a number of DCP complying development provisions (not covered by the SEPP) which are still in force.

Comprehensive LEP Implications

Under Schedules 2 and 3 of the Standard Instrument, councils are able to list additional Exempt and Complying development matters not covered by the Codes SEPP.

The DCP will be reviewed and any provisions not covered by the Codes SEPP will be transferred into the Comprehensive LEP.

Recommendation:

- Review the Exempt and Complying Development DCP for inclusion of relevant provisions (not covered by the Codes SEPP) in the Comprehensive LEP.

7.16 Conversion of Fire Alarms

RLEP Clause 30 – Conversion of Fire Alarms applies to fire alarm systems that are monitored by the NSW Fire Brigades or private providers. It provides that development consent is required to convert a fire alarm system either to or from a private service provider. Such development is considered Complying Development if it consists of minor internal alterations to the building.

Comprehensive LEP Implications

The Standard Instrument introduces an equivalent Clause 5.6 – Conversion of Fire Alarms. This Clause is compulsory and will replace RLEP Clause 30.

Recommendation:

- Replace RLEP Clause 30 – Conversion of Fire Alarms with the Standard Instrument Clause 5.6 – Conversion of Fire Alarms.

7.17 Additional Uses

In some instances, an additional permitted land use to the list of uses permitted in a particular zone may apply for an individual site. The RLEP currently contains a clause which allows for individual sites to have additional permitted land uses (refer to Clause 42 – Development of Land for Certain Additional Purposes).

Many of the sites currently identified for 'additional uses' in Schedule 2 of the RLEP relate to residential zoned land and are summarised as follows in Table 12.

Table 12: Additional Permitted Uses in RLEP

Address	Zone	Additional Permitted Land Use
Nos 158-162 and 164 – 174 Barker Street, 181 Botany Street, 1-7 Jane Street and 8-12, 14-20 and 28-42 Young Street	2A Residential	Development for the purpose of an animal establishment or veterinary establishment, including ancillary or incidental use of the site for exhibition, sale, promotion and reception purposes subsidiary to the primary use of the site.
Lot 2, DP 822283, Wride Street, Maroubra	2B Residential	Only if no more than 100 dwellings are provided.
Nos 211 and 213 Anzac Parade, Kensington	2A Residential	Development for the purpose of a service station and associated car wash facility.
Land between Beach and Flood Streets, Clovelly, being Lots 2A and 19A, Sec 2, DP 5790	2B Residential	Access way
11 Cuthill Street, Randwick	2B Residential	Development for the purposes of hotel accommodation
Land comprising the Kensington Town Centre within Zone 2C	2C Residential	All development permissible within Zone 3B (Local Business zone).
Lot 202, DP 879576 known as Nos 100 – 120 King Street, Randwick	2B and 2C Residential	Development for the purposes of neighbourhood shops on part of the site at the corner of King and Dangar Streets

Comprehensive LEP Implications

The Comprehensive LEP will contain the Standard Instrument Clause 2.5 – Additional Permitted Uses for Particular Land. This Clause is equivalent to the current RLEP Clause 42. The above listed sites are recommended to be included in the equivalent LEP Clause and listed in Schedule 1 of the Comprehensive LEP where still relevant (some of these uses will become permissible in the new Standard Instrument zones - e.g. neighbourhood shops).

Recommendation:

- Transfer the additional permitted uses relating to residential zoned land listed in Schedule 2 of the RLEP into the Comprehensive LEP, where applicable.