

A) Submissions from government agencies and major land owners (including Sydney Ports and La Perouse Aboriginal Land Council)

Government agencies

TRIM ref	Submitter	Submission	Council Officers' Response
D01637871	Heritage Council of NSW	<p>Council should liaise with the Conservation and Regulation Division of OEH re: Aboriginal heritage provisions.</p> <p>Requirements for photographic archival recording (Part 1.9 <i>Demolition</i>) should be amended to reflect current Heritage Council guidelines.</p>	<p>The Office of Environment and Heritage were also notified. A separate OEH submission did not provide comment on or suggest amendments to Aboriginal heritage provisions. Photographic archival recording requirements have been amended accordingly.</p>
D01663287	Department of Defence	<p>Defence does not support the planning controls/instruments that the Draft DCP is seeking to apply to Defence land, in particular to the Bundock Street and Joongah Street sites in Randwick, which Defence has decided to retain.</p> <p>Defence requests that such controls not be applied to Defence land, and this reflects Defence land not being subject to planning instruments under NSW Legislation. Identifying these land parcels as Defence land clearly distinguishes the planning and management of the land, and helps to mitigate potential misunderstandings with the public's perception for the future use of the land. Inappropriate planning controls, such as those proposed, could influence the public's perceptions of the future Defence use of Randwick Barracks as opposed to those strategic outcomes defined for the base via the Randwick City Council LEP and DCP.</p>	<p>Department of Defence's request to the removal of planning controls contained within the Bundock St DCP on Defence Land zoned SP1 - Defence (including the land rezoned to SP1 - Defence under the new RLEP 2012) is not supported.</p> <p>To clarify, it is appropriate for Council to include DCP requirements on Bundock St to provide guidance to Defence including building envelope and other controls in section E2 Bundock Street, Randwick. These should be retained on this land, should Defence build housing for defence purposes on this land. Moreover, it provides the local residents and community an expectation of what may be expected in terms of any future residential development on this site.</p> <p>Bundock St DCP was the result of an extensive master planning process and developed in consultation with the community. Until there is a clear understanding in Defence's intention for this</p>

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			area, it is recommended that the planning controls within Bundock St DCP should remain for Defence Land zoned SP1 - Defence. Should Defence provide an updated DCP (master plan) controls for their SP1 zoned land for Council consideration, Council will be happy to consider updating and exhibiting these in a future DCP amendment.
D01665363	Land and Housing Corporation	<p>Housing NSW and the Land and Housing Corporation would like to ensure that the proposed planning controls in the DCP will be effective in maintaining, facilitating and improving the development potential of LAHC assets to better meet the affordable housing need of the LGA. Requests that Council include car parking requirements in their DCP that are specific to developments proposed by social housing providers such as LAHC. These parking requirements should take into account the lower car ownership rates of social housing tenants and should be flexible to enable social housing developments, which are located within close proximity of public transport and services, to have a reduced car parking provision.</p> <p>The LAHC support the adoption of adaptive and universal housing controls within the DCP. These controls will support more housing choices for those with disabilities, the elderly and frail.</p> <p>LAHC, in conjunction with Housing NSW, is preparing a master plan for social housing estates in the Randwick LGA.</p> <p>The master plan aims to identify appropriate fine</p>	<p>To clarify, the Affordable Rental Housing SEPP contains parking provisions for residential development carried out by LAHC and residential flat buildings developed by social housing providers or public authorities. It is noted that, if DCP applies, Section B7, clause 3.3 'Exceptions to the Parking Rates' of the draft DCP provides in what circumstances variations to the car parking rates may be sought subject to several factors being considered and addressed, as part of any future development application, to include (amongst other things): type and scale of the development; and on street and public parking in the area as well as proximity and access to public transport. The DCP also notes that a parking and traffic study may be undertaken to identify specific needs of a development and recognises that all DAs should consider sustainable transport opportunities.</p> <p>Support for the adaptive and universal housing controls within the DCP is noted.</p> <p>Noted. The suggested additional submission by LAHC with regards to Coral Sea Park Estate was not received by the Draft DCP report deadline. It should be noted that the Urban Activation Precincts</p>

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		grain planning controls, including height limits and density controls, which would enable the feasible redevelopment of these estates. In consideration of this ongoing work, the LAHC advises that additional comments regarding section 8.1 Coral Sea Park Estate (p54, Draft Randwick Comprehensive DCP – Public Exhibition) will be prepared and sent to Council as soon as possible.	program by the NSW Department of Planning has identified Anzac Pde, South which includes the majority of the LAHC social housing estates as a precinct to investigate increased housing with access to infrastructure
D01660309 D01663956	Office of Environment and Heritage	<p>Insufficient information within the section of the Draft DCP relating to the Prince Henry site for the OEH to provide an adequate review of the potential impacts of the development on the cultural heritage of the site.</p> <p>The Draft DCP states that it should be read in conjunction with a number of supporting documents including the Prince Henry site Conservation Management Plan and Archaeological Management Plan prepared by Godden Mackay Logan. These documents have not been provided to OEH.</p>	<p>To clarify, the Draft DCP controls are essentially a translation of the Prince Henry Site Development Control Plan (2004), for which consultation was undertaken with all relevant government agencies. The cultural heritage of the site was suitably addressed in the Conservation Management Plan and the Archaeological Management Plan, which were key supporting documents in the preparation of the Master Plan, LEP and DCP which informed development of the site. There are now very few sites within the area covered by the DCP which are not developed or with approved developments under construction.</p> <p>Noted the DCP (originally adopted in 2004) referenced these detailed heritage conservation plans in this manner. For clarity in the Comprehensive DCP, this should be reworded to list the various documents as reference documents, rather than documents to be read in conjunction with the DCP. Copies of these documents will be provided to OEH for information.</p>
			<p>Changes to be made to respond to the OEH's submission in general:</p> <p>In relation to DCP Parts B4, B5 and F2, a cross reference will be added to each of the</p>

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		<p>Re: Part B5 – Preservation of Trees and Vegetation Include “National Parks and Wildlife Act 1974” in the note box on Page 3 as a relevant legislation that applicants should refer to for tree works.</p>	<p>sections, noting that the section must be read in conjunction with the other two sections, where relevant.</p> <p>To clarify:</p> <ul style="list-style-type: none"> - Part B4 outlines control relating to various landscape design matters, including requirements for preparing landscape plans. - Part B5 provides guidelines for proper management of trees. - Part F2 specifically addresses impacts of development on vegetation with biodiversity significance. <p>Supported. The note box on Page 3 will be expanded to list all relevant legislation and policies to tree management/works, to guide applicants to fulfil their obligations under the legislative framework. It will be amended to:</p> <p><i>“Note Applicants must refer to other legislation and policies for requirements and controls where relevant, including the National Park and Wildlife Act 1974 (NPW Act), Threatened Species Conservation Act 1995 (TSC Act), Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act), State Environmental Planning Policy (SEPP) 19 Bushland in Urban Areas, SEPP 71 Coastal Protection and Recovery Plans prepared by the NSW Office of Environment and Heritage. For example:</i></p> <p><i>Any proposed tree work involving a threatened</i></p>

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		Note that development consent is only required for tree works to trees listed on the Significant Tree Register. Significant trees should include trees which are a threatened species or a component of an EEC and/or its habitat.	<p><i>species or an endangered population/ecological community or their habitats, are subject to Part 8A of the NPW Act, which requires any such work to be carried out with relevant approvals (e.g. development consent or a licence/certificate issued under the TSC Act).</i></p> <p><i>Under S5A of the Environmental Planning and Assessment Act 1979 (EP&A Act), where a development or activity (under Part 4 or 5 of the Act) is likely to significantly affect threatened species, populations, ecological communities or their habitats, assessment of likely impacts is required, which may also require a species impact statement prepared in accordance with the TSC Act. Refer to F2 of this DCP for controls relating to development in or near areas of biodiversity significance.</i></p> <p><i>SEPP 19 – Bushland in Urban Areas requires development consent for any disturbance of bushland zoned or reserved for public open space purposes. Tree works proposed in 'bushland' therefore could only be carried out with development consent."</i></p> <p>Not supported. The Significant Tree Register lists and recognises trees with historic, cultural and heritage values. It's not suitable to include threatened species or EECs in the Register, especially given that these have already been listed and protected under the TSC Act.</p> <p>It's considered unnecessary to require development consent in the DCP for tree works</p>

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		Request that a tree permit should be obtained for the removal of any hollow bearing trees.	involving threatened species and endangered ecological communities, which are already regulated by a range of legislation and policies (see above), requiring certain forms of approvals (e.g. consent, certificate, license, etc) and assessment of impacts. Supported. A new dot point will be added to circumstances requiring a tree permit, being "any hollow bearing trees." A side note with links to OEH's website will also be included to provide relevant guidelines on how to identify and protect hollow bearing trees. (Refer to the OEH website http://www.environment.nsw.gov.au/determinations/lossofhollowtreeskt.htm and http://www.environment.nsw.gov.au/resources/pnf/07353hollowtrees.pdf for details)
		Request that the DCP should prescribe criteria for determining "if a tree is not required as habitat for native fauna" – one of the exceptions outlined in the LEP CI 5.9.	Supported. A reference to the information sheet prepared by OEH (http://www.environment.nsw.gov.au/resources/cpp/AssessHabitat.pdf) will be included in the DCP for information on how to identify if a tree is required as habitat for native fauna.
		In relation to "removal of any tree which is a bushfire hazard", note that the picking of threatened species and/or harming their habitat under S118A of the NPW Act requires a valid consent/approval or authorisation under the State Emergency Service or State Emergency and Rescue Management Acts or the Rural Fires Act in relation to emergency fire fighting.	Supported. The last two circumstances listed as exceptions not requiring Council approval will be corrected and reworded to: vi) Anything authorised by or under the <i>State Emergency and Rescue Management Act 1989</i> or <i>State Emergency Service Act 1989</i> in relation to an emergency (within the meaning of that Act) and that was reasonably necessary in order to

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		<p>Request that any application for a permit or a consent to carry out tree works involving threatened species and EEC should include an Assessment of Significance under s.5a of the EP&A Act, which should be undertaken by a qualified ecologist, not an arborist. A link to the Guidelines for the assessment of significance on the OEH website should be included in the DCP.</p> <p>Note that "an arborist does not have the skills to identify threatened species, components of an EEC or their habitat. "Arborist" should be modified to "ecologist".</p>	<p>avoid an actual or imminent threat to life or property; vii) Any emergency fire fighting act or bush fire hazard reduction work within the meaning of the <i>Rural Fires Act 1997</i> that is authorised or required to be carried out under that Act.</p> <p>- S5A of the EP&A Act requires a series of factors be taken into account to determine whether a development or activity (under Part 4 or 5 of the Act) is likely to significantly affect threatened species, populations, EEC or their habitats. The Threatened Species Assessment Guidelines (http://www.environment.nsw.gov.au/threatenedspecies/tsaguide.htm) have been prepared to help proponents with interpreting and applying the factors of assessment. The assessment of significance is the first step in considering potential impacts. When a significant effect is considered likely, a species impact statement is required to be prepared in accordance with Division 2 of Part 6 of the TSC Act.</p> <p>A link to the "Guidelines" on OEH website will be added in the DCP in F2 – 'Development in or near areas of biodiversity significance'.</p> <p>Not supported. The Tree DCP section – B5, doesn't contain any specific controls relating to assessment of impacts on a threatened species or an EEC. These are regulated by other legislation. References to other relevant legislation will be included in this section, as requested by OEH. For tree works requiring development consent under LEP Cl 5.9 and Part B5 of the DCP, such as works</p>

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		<p>Suggest including a reference in Appendix 1 for Assessment of Significance under S.5a of the EP&A Act where threatened species and their habitat are to be impacted by tree or vegetation works.</p> <p>In relation to point xv) of Appendix 1, this point should include whether the tree(s) is/are a threatened species or a component of an EEC.</p> <p>In relation to point vi) of Appendix 3, the conservation status of the tree should also be checked to ensure that it is not a threatened species or a component of an EEC.</p> <p>Re: Part E4 Prince Henry Site, Little Bay</p>	<p>to significant trees or trees as part of a heritage item, an arborist's report is required as part of the application lodgement and a qualified arborist is eligible to prepare the report.</p> <p>Not supported. A reference / note however will be added to section F2, which specifically addresses impacts of development on areas with biodiversity significance. Note also, as listed in Appendix 1, one of the matters to be considered by Council is "whether the tree is affected by the provisions of any other Act, Regulation or SEPP applying to the land". This covers what OEH has recommended.</p> <p>Supported. The sentence will be reworded to "whether a tree or vegetation is or provides habitat of a threatened species or ecological communities listed in Schedule 1 or 2 of the TSC Act". A link to threatened species identification (by region) will also be provided as a side note to make the document more user friendly http://www.environment.nsw.gov.au/threatenedspecies/.</p> <p>Supported. This will be included as suggested. Applicants can refer to the link provided (as above) to check the conservation status of the tree/s or vegetation. Note also that all lands containing ESBS and Acacia terminalis are shown on the LEP Biodiversity Map and few of these areas are on private land.</p> <p>Note that the existing Prince Henry DCP was</p>

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		<p>Page 8 – 2.5</p> <p>ESBS is an endangered ecological community and should be described as such.</p> <p>Page 10 – 2.6</p> <p>ESBS should be listed as one of the “elements of landscape significance”.</p> <p>Page 15 – 2.9</p> <p>Protected species are listed under the NPW Act, not the TSC Act.</p> <p>The aim of the DCP should be “to protect and manage EECs and their habitat”.</p> <p>Figure 3 – doesn’t accurately show the extent of ESBS remnants at this site. The map should be revised to as shown in the draft recommendation for the identification of Critical Habitat for the ESBS EEC.</p>	<p>translated into this comprehensive DCP without major changes and the site is almost fully developed.</p> <p>Supported. The DCP will be amended as suggested.</p> <p>To clarify, the listed landscape element – 09 Areas of Indigenous Vegetation – covers the ESBS areas, considered suitable for this overview section of the DCP.</p> <p>Noted. A reference to NPW Act will also be added to the clause. The DCP will be amended to “..... under the TSC Act and NPW Act”.</p> <p>Not supported. The existing objectives are considered reasonable and inclusive of this suggestion.</p> <p>Noted. The LEP Biodiversity Map should be referred to for the most accurate indication of lands with biodiversity significance in Randwick City. The LEP map was prepared in accordance with the adopted Recovery Plans. The DCP figures 3 &4 provide advice on the landscape investigations underlying the master planing for the Prince Henry site, for which redevelopment is now well advanced. It is recommended that the DCP map be amended to reference that the latest ESBS mapping is the LEP. Any future finalisation of the OEH’s draft recommendation report for Critical Habitat will be reflected in future LEP and</p>

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		<p>Figure 4 – ESBS should be identified separately on this map because they have a higher landscape heritage value.</p> <p>Figure 6 – overshadowing impacts of 5-storey buildings located to the north of the large ESBS remnant adjacent to Harvey St.</p> <p>Page 34 – Support the objectives for protection and conserving biodiversity in section 4.8; however, there are no controls that specifically address this issue.</p> <p>The native plant species listed in Appendix A include species which are not local to the area or suitable for the site. Recommend that the list be reviewed by Council's bushland management staff.</p> <p>Page 57 – It is unclear what is meant in section 'xiii' regarding landscaping planting not dominating remnant stands of ESBS.</p>	<p>DCP amendments.</p> <p>To clarify, the map shows all elements with landscape significance and rather than no hierarchy or difference in importance between identified elements. Also, all ESBS patches in Randwick City are separately identified on the LEP Biodiversity Map, which offers a high level of protection.</p> <p>To clarify, these buildings to the north are existing heritage buildings. Overshadowing impacts are existing (while also separated from the ESBS by Harvey St). Renovation works are currently being carried out in accordance with the Master Plan (2003) and the subsequent Prince Henry DCP (2004).</p> <p>Support noted. Appropriate selection and location of plant species as part of the landscape design also assists in preserving the remnant native vegetation located nearby. Part F2 should be referred to for specific controls relating to development next to endangered vegetation.</p> <p>Supported. The list notes the limited suitable native species available locally. Nevertheless, the list will be reviewed and updated by Council's bushland officer.</p> <p>Supported. The Control will be reworded to "landscape planting must not impact on the environmental processes of the remnant stands of Eastern Suburbs Banksia Scrub in the Northern Bushland Park".</p>

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		<p>Page 69</p> <p>Support the objective in section 6.3, being "buildings adjacent to the southern bushland must demonstrate no adverse overshadowing impacts on this bushland" and recommend that building heights adjacent to ESBS avoid any overshadowing.</p>	<p>Support noted. Development to the north of this large ESBS remnant is either built or under construction. The FSR and height controls of Lot 65 of DP 270427 (to the east of the ESBS site) have been recently revised to 1.3:1 and uniform 18m as part of the LEP review. As noted in the LEP report (May 2013), the 5 storey building envelope will have no overshadowing impacts on the vegetation.</p>

Major land owners

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D01672004	La Perouse Local Aboriginal Land Council	<p>Congratulates RCC for this extensive planning document, and acknowledges the recognition to Aboriginal people in the draft DCP.</p> <p>However, the DCP should provide for Aboriginal people's participation in the development process. 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".</p> <p>S3.3 under Public Notification which notes that "additional consultation may be undertaken with Aboriginal Land Council in addition to notification" is discretionary and the content of the consultation is unclear. Further discussion with the Land Council is recommended to ensure appropriate consultation procedure and content.</p>	<p>Positive feedback noted.</p> <p>To clarify, a LEP aim highlights the importance of recognition of the connection of Aboriginal People to the area and protection of Aboriginal culture and heritage of Randwick. The LEP aims set out overarching objectives to guide development and land use activities in the City. Aims of the LEP must be considered when preparing and assessing development proposals. Repetition in the DCP is unnecessary.</p> <p>The existing objective (of the Public Notification section) requires the notification process to broadly and adequately involve all members of the public that may be affected by the proposal and to additionally notify the La Perouse Aboriginal Land Council if any proposal is relevant to the Land</p>

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		<p>Existing planning legislation is limited in recognising the rights of indigenous peoples in the development process, and intergenerational equity. (Quotes included on international human rights instruments directed towards addressing this issue).</p> <p>Hill 60: supports draft DCP proposal that a site specific DCP is prepared for this site, however the large component of open space specified (30%) is onerous, and requested to be revisited.</p>	<p>Council properties or the Aboriginal community.</p> <p>Council officers have met with the La Perouse Aboriginal Land Council and the discussions have suggested that a protocol could be developed between Council and the Aboriginal Land Council, to ensure effective communication and consultation with Aboriginal People on a wide range of matters, e.g. not only planning, but also culture, heritage, events and other interrelated responsibilities and interests of the organisations. It is considered that this will provide a suitable and more broad ranging approach to enhancing consultation with the Land Council.</p> <p>Provision of public open space in master planned sites varies according to different locations, sizes and site characteristics. A review of other large master planned sites in Randwick has showed that the public open space component has varied from 4% to 11%. Accordingly, the public open space requirement for Hill 60 will be adjusted to "minimum 10%" while also noting that this excludes any land identified for public roads/verge, connections/pathways or environmental conservation purposes (e.g. ESBS).</p> <p>Note also 5.3% of the Hill 60 site is already zoned for public recreation despite its private ownership. This zoning mismatch will need to be investigated at the detailed site planning stage.</p>
D01663183	Sydney Ports Corporation	Sydney Ports' submission requests that:	

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		<p>1. A note is included within the draft RDCP that the policy is not applicable to development undertaken on land identified on the State Environmental Planning Policy (Major Development) 2005 (Three Ports) Port Botany Site Land Application Map.</p> <p>2. A provision is included requiring developments proposed within the Vessel Traffic Service (VTS) corridor to consider the impacts the development may have on the safe navigation of vessels in Port Botany and Sydney Harbour. Also requests that Sydney Ports be notified of, and referred any new developments within 10m either side (horizontally or vertically) of the 'line-of-sight' to determine the potential impact of the development on the VTS system during the DA assessment process (map attached to submission identifying corridor).</p> <p>3. A provision be included in the draft RDCP, similar to the current provisions provided in Part F4 of the draft RDCP regarding airport noise, requiring developments (such as residential and sensitive uses e.g. childcare centres, educational facilities, etc) located in close proximity to Port Botany or industrial lands / uses to consider and implement measures to address potential external noise sources from port and industrial operations.</p>	<p>1. Not supported. Under the SEPP (Major Development), consent is not required for certain categories of development on land owned or managed by a public authority (and hence no DA is required). Also, any State significant development application is not required to consider DCP guidance. However, there are categories of development at Port Botany for which a DA is required, with RCC as the consent authority. In these circumstances it is considered appropriate to refer to the DCP and it is recommended that the DCP wording be amended to clearly note its application to the Port.</p> <p>2. Request noted. A note will be added to the Industrial Section in reference to Port Botany, and internal referral processes kept up to date with VTS corridor information to ensure any relevant DAs are referred to Sydney Ports.</p> <p>3. Not supported. Port Botany is not considered comparable to Sydney Airport in relation to surrounding uses needing to address noise impacts – eg: airport has a formal planning process and consultation on its flight corridors and ANEF contours that are referenced in state planning documents and therefore it is relevant to provide guidance on this at the local level. It is noted that Council has requested a noise study of the Port</p>

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			and surrounds, to be undertaken by the Ports and NSW EPA. This study may provide suitable evidence and recommendations that could be considered in a future DCP amendment.