



Randwick Open Space and Environment Discussion Paper

Submission from Randwick Botany Greens

1. Overview

This submission, responding to the proposals put forward in the Discussion Paper, is informed by Greens NSW *Planning, Building and Infrastructure Policy 2010*. The submission generally follows the framework applied in *Randwick Open Space and Environment Discussion Paper* Executive Summary, Key Recommendations section on pages 6-8 and draws on the Appendices for detail.

It thus includes the following sections:

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2. Comprehensive Local Environment Plan (LEP)
3. LEP zones
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4. Standard Instrument clauses
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The Greens welcome the intention to “maintain or strengthen the recreation and environmental objectives and to ensure uses and development consent requirements are appropriate to these zones.”(p.6) Redressing anomalies in zoning is appropriate however classifications such as private and public are less than clear cut. For example, is land used by a public university to be classified as private or public land?

Support or otherwise for discussion paper proposals will be noted below. Additional proposals will be recommended and a series of omissions will be queried.

Issues of general concern include the restrictive nature of the standard instrument's zones in particular their lack of attention to



- the uniqueness of coastal zones
- planning for the impacts of climate change
- habitat corridors
- environmental sensitivity with a standard of risk that is lower than “endangered”,
- flooding

Further, a number of worrying aspects are noted:

- the absence of the terminology “open space” in these zones,
- the diminution from statutory to advisory status of criteria to assist Council’s decision-making with regard to development proposals for open space
- the inclusion of fishing for commercial purposes in all waterways zones
- the absence of a clear means by which to identify Crown lands in order to ensure that proposals for change of use proceed through appropriate statutory channels and the “separate” review of plans of management
- the role of the Regional Planning Panel whose decisions have preempted this discussion paper (for example at 66 Doncaster, Kensington) calling into question the value of this current consultation process

Additional to the proposals in the discussion paper this response suggests

- use of the Natural Waterways zone to accommodate unique coastal needs
- a category for proposed rezoning which takes into account increasing population densities, allowing for land to be automatically rezoned as open space proportionate to the increase in population approved in DAs
- coastal climate change buffer
- coastal habitat corridor
- land for public schools

2. Comprehensive Local Environment Plan (LEP)

This discussion paper forms a part of a series of six discussion papers implementing the NSW Labor Government’s program to give uniformity to land zoning across NSW.

Greens policy recommends the abolition of the standard instrument LEP that gives rise to the Discussion Paper. It is the view of Greens NSW that local planning instruments should be devised by local councils and that the standard instrument is insufficiently flexible to adapt to varying local conditions. As the standard instrument forms the basis of, and impetus for, the *Randwick Open Space and Environment Discussion Paper*, however, this local Greens group submission complies with the required framework. It is, however, regrettable that the words “Open Space” are no longer to be applied to name open space. The name of the discussion paper is misleading.

3 LEP Zones



The regulation, *Standard Instrument (Local Environmental Plans) Order 2006*, includes two Recreation, two non-built Environment and one non-built Waterway zones:

Recreation Zones: RE1 Public Recreation, RE2 Private Recreation

Environment Protection Zones: E1 National Parks and Nature Reserves, E2 Environmental Conservation

Waterway Zones: W1 Natural Waterways

The Randwick Discussion Paper indicates that the council intends to apply both Recreation Zones, both relevant Environment Zones but shows no application of the Waterway zone.

3.1 Zone concerns

a) RE1 Public Recreation

The LEP clauses propose to include registered clubs as permissible within the public recreation zone, and the assessment criteria currently found in cl. 38 of Randwick's LEP is to be relegated to advisory status only; protections for public open space appear to be vulnerable.

cl. 38 of current LEP:

Randwick LEP Cl. 38

...consent authority 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.
- (2) 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.
- (3) 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.

b) E2 Environmental conservation

The practice note advice to councils that this zone "should generally be applied to land containing endangered ecological communities" is valuable advice but it renders land with a lower risk ecological value - either conserved or regenerated - without the protection of a non-built zone. RE1 or 2 appear to easily allow for development. E2 is the only sanctuary for protection of endangered species and conservation of bio-diversity. As the next category, Zone E3, is of little assistance for conservation purposes the criteria for E2 must be broadened.

Zone E3, Environmental Management has objectives as follows:

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.
- To provide for a limited range of development that does not have an adverse effect on those values.

Dwelling houses are, however, permitted with consent in this zone. To protect, manage and



restore open spaces in order to protect bio-diversity and habitat corridors the inclusion of the Draft Model Local Provisions – Biodiversity (terrestrial) in recreation zones (Appendices p. 30) may be the least harmful way forward.

c) Additional proposal: W1 Natural Waterway Zone

This zone could have been applied to attend to the particular requirements of the coast, both reflecting tidal zones and flood risk areas that are related to stormwater channeling, drained lagoons, creeks, run-off, swamps – both horizontal and vertical regardless of the degree of diversion/piping.

Of particular interest to the community and planners in coastal areas would be a coastal waterway zoning which acknowledges the important nexus of sea-level rise and storm water egress and which reflects natural watercourses and tidal zones. Such a zoning would allow for the provision of a buffer zone based on policy and modelling predictions 100 years hence. Part of this Zone might include open space and part built environment and infrastructure.

Disappointing is the required inclusion in this zone of a provision in all natural waterways for commercial fishing. Perhaps this once clause in W1 precludes the otherwise very relevant potential for recognizing unique coastal planning needs in the zoning framework.

3.2 Rezoning to compatible zones (Appendix 1)

a) Zones used as open space but zoned otherwise:

Group 1 Supported.

b) Road reserves and closed roads:

Group 2, Recommend that Melody St, Coogee road closure which was part of the old tram corridor be added to the list and classified as RE1 allowing access by Coogee Public School as playground.

c) Currently zoned open space to be rezoned to reflect land use:

Group 3, ID #2 at p. 9. Rainbow St, Kingsford, Recommend that open space be retained on the site of the current markets for public transport, active transport and town square purposes. Retain as rare “community” land. (See p. 61)

d) Zoned open space but privately owned:

Group 4, ID #63, p. 10 UNSW land adjoining Gordons Bay.

This land owned by a public university need not be zoned as private land.

Retain current split zoning by Part zoning SP2 Infrastructure as suggested by the University (Appendix 5, p.38) and rezone the Eastern portion not as RE2 as proposed but rather as E2. RE2 zoning was proposed by the university “to reflect its ownership and undesirability of development (eg., steep location and Foreshore Building Line restriction)”. A great deal of work has been undertaken to regenerate the bushland surrounding Gordons Bay along the Coastwalk. E2 zoning would



conserve the coastal bushland, swamps and creeks and prevent proposals for development of built form proposed to be permissible within the RE2 zone.

e) Additional proposal: Add a category “Proposed for rezoning as open space”
This category does not appear to be reflected as a “Group” in Appendix 1.

(i) Cuzco St property on the coastal walkway.
Acquisition of this property is supported.

(ii) Recommend rezoning to RE1 the land currently privately used as stables immediately adjacent to Kensington Public School. These stables will be vacated when new stables are built on the racecourse (Part 3A approval under Labor). This land can then be made available to the adjoining school. Population density – and thus school enrolment - is set to grow rapidly in this part of the LGA. When the Regional Panel approved a large development of townhouses no additional land was set aside as school playground.

(iii) The Discussion Paper does not include a category for growing public open space into the future relative to the growth in population. As the population grows and density of living conditions increases, land for public recreational use should be rezoned proportionately and automatically as part of social infrastructure planning.

3.3 Major sites

- a) Malabar Headland E1 and RE1 supported
- b) former UNSW site, Little Bay E2 supported
- c) Chinese Gardens RU4 Primary production supported
To prevent need for additional land use by cemetery, recommend research, into high density (vertical and stacked) burial models used in other countries when burial land is limited.
- d) Bunnerong Rd, Chifley supported
- e) Randwick Racecourse RE1 supported (p.69)
Also include the clause Model local provision - Flood Planning (Appendix 3 p. 34)
- f) Appendix 1, Group 5, ID # 8 at p. 11. 66A Doncaster Ave, Kensington
This rezoning to residential does not reflect land use. Query how it is possible for the Regional Joint Planning Panel to approve a DA for sixty townhouses (p.49) on open space (STA) land that was not zoned residential. This land would have been ideal to return to its former public use as a transport hub, moving people by light rail to and from the racecourse. Such a process begs the question whether Council's statutory LEP zoning framework retains any status once a development proposal reaches a certain dollar value and calls into question the integrity of this discussion paper consultation. The Greens policy would abolish the Regional Planning Panels and



return development decisions to Council.

g) Additional proposal: Coastal Corridor E2

Recommend an additional major site: being a habitat corridor and sea-level rise risk zone including the coastal walkway from Gordons Bay to La Perouse. By rezoning a strip of land, reflective of *SEPP 71 Coastal Protection*, of perhaps 10-15m in width from the high water mark; land that is vulnerable according to 2100 sea level rise planning benchmarks (*Sea Level Rise Policy and Coastal Risk Management Guide 2009*) classified as E2 (other than the components already/to be classified as E1 National Park), a protected area would be provided both for marine and terrestrial wildlife to flourish in swamps, rock ledges, beaches, mangroves and heath as well as ensuring a sea-level rise buffer. This would require a reduction in the land size of all coastal golf courses, removing this strip from golfers' access. An additional benefit will be increasing the safety of walkers. (See p. 52)

Add clauses Appendix 3: Draft model local provision -Biodiversity (terrestrial) (p. 30) and Appendix 3: Coastal Risk Planning (p. 31) and Draft Model Local Provision - Flood Planning (p.34)

4) Standard Instrument Clauses

4.1 RE1 Public Recreation

Permitted without consent: Local proposals (in red) supported

Permitted with consent: Not supported: helipads, recreation facilities indoor, registered clubs. Unnecessary noise levels and built forms are unwarranted for a public open space.

4.2 RE2 Private Recreation Permitted without consent: Local proposals (in red) supported

Permitted with consent: unnecessary built forms are unwarranted for a public open space. There is no capacity for a limit on the proportion of built form that can be approved in private open space. This confirms the earlier concern that the standard instrument can have the effect of reducing open space.

4.3 E2 Environmental conservation

Objectives: local proposals (in red) supported

Permitted without consent: supported

Permitted with consent: should specify that any facilities are not intended as built form.

4.4 E1 National Parks Zone: supported

5) Proposed additional local clauses

Additional local clauses assist to provide relevance and protections to zones that have not been devised with the unique nature of the coast in mind. These are most



valuable, especially Biodiversity (Terrestrial), Coastal Risk Planning, Flood Planning, Riparian land and waterways and Stormwater Management (Urban Zones).

6) LEP Maps

The proposal to produce maps is supported. Recommend: add to this list Natural Waterways (whether or not they are otherwise channeled) and eco-sensitive sites (rather than simply ecologically endangered sites).

7) Comprehensive DCP

DCPs are required for open space including criteria to be considered in the event of a proposal for development or change of use being lodged with Council for example, the equivalent of the current clause 38 of the current LEP mentioned above. There is insufficient information provided in the Discussion Paper on which to comment.

8) Additional considerations

The following open space matters were not adequately addressed in the Discussion Paper:

8.1 Crown Lands and Plans of Management

A thorough discussion of Council's role as trustee of Crown Reserves and the statutory processes involved in changing use, including community consultation, is absent from the Discussion Paper. This matter has been cause for consternation in the community and should not be omitted from this document. Each zone should include a clause that explicitly requires activation of the *Crown Lands Act* when a proposal for change of use of Crown land is received by Council. The intimation at p.24 of a separate review process underway for plans of management undermines the effectiveness of, and community confidence in, this "open space" consultation process. The two should have been combined. Brief mention of the *Recreation Needs Study 2008* is inadequate to assess the intended implications of this study on Plans of Management and open space zonings.

8.2 Status of LEP v DCP clauses

It was not made clear in the Discussion Paper that the LEP is a statutory document ie., law, while the DCP is advisory rather than statutory. It is of concern that p.58 "Development in Open Space Zones" of the current LEP will not retain statutory status and become merely advisory. See 3.1 (a) above.

Conclusion

While Randwick-Botany Greens would prefer the Standard Instrument LEP requirement of local councils was abolished, we value the opportunity to contribute to

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this consultation process. The main concern arising is the absence of a zone that takes into account the critically important nature of our coastal environment and the impact of climate change. Tacking local clauses on to standard zones is entirely inadequate. A number of proposals have been included in this response to address this problem including the use of the Natural waterways zone albeit the unnecessarily compromised statutory inclusion of commercial fishing rights. Additionally this response makes suggestions about planning for public open space based on a proportional response to the density of development approvals. This paper also questions the integrity of the current consultation process when it is possible for the Regional Joint Planning Panel to approve large scale housing on an open space that has not been zoned for this use. A number of important factors in local open space management were inadequately addressed in the discussion paper including the “separate” review of Plans of Management and the loss of important criteria for assessing developments proposed for open space. Shortage of open space for some local public schools with growing enrolments must also be addressed.