

Department of Planning and Environment
resilience.planning@planning.nsw.gov.au

13 February 2023

Ref No: F2004/08420

SUBMISSION: SPECIAL FLOOD CONSIDERATIONS CLAUSE

Introduction

Randwick City Council (Council) welcomes the opportunity to comment on the special flood considerations clause outlined in the Explanation of Intended Effect (EIE), January 2023.

The EIE outlines changes that have been developed to help manage the flood risk between the flood planning area and the probable maximum flood via an optional clause 5.22 'special flood considerations' clause. The clause applies controls to:

- sensitive and hazardous development on land between the flood planning area and the probable maximum flood
- any other land the consent authority considers that, in a flood, may pose a particular risk to life and where people may need to evacuate or there are other safety concerns.

The mechanisms for change outlined in the EIE include:

- Amend LEPs by inserting clause 5.22 of the Standard Instrument via an amending SEPP. Randwick Council self-nominated to participate in the amending SEPP that will update Randwick Local Environmental Plan (RLEP) 2012 to include clause 5.22 Special flood considerations.
- Implement the recommendations of the Independent Flood Inquiry by:
 - Option 1 – inserting clause 5.22 into the Resilience and Hazards SEPP, or
 - Option 2 – inserting the standard instrument clause 5.22 into all council LEPs.

Council provides the following comments on key aspects of the EIE.

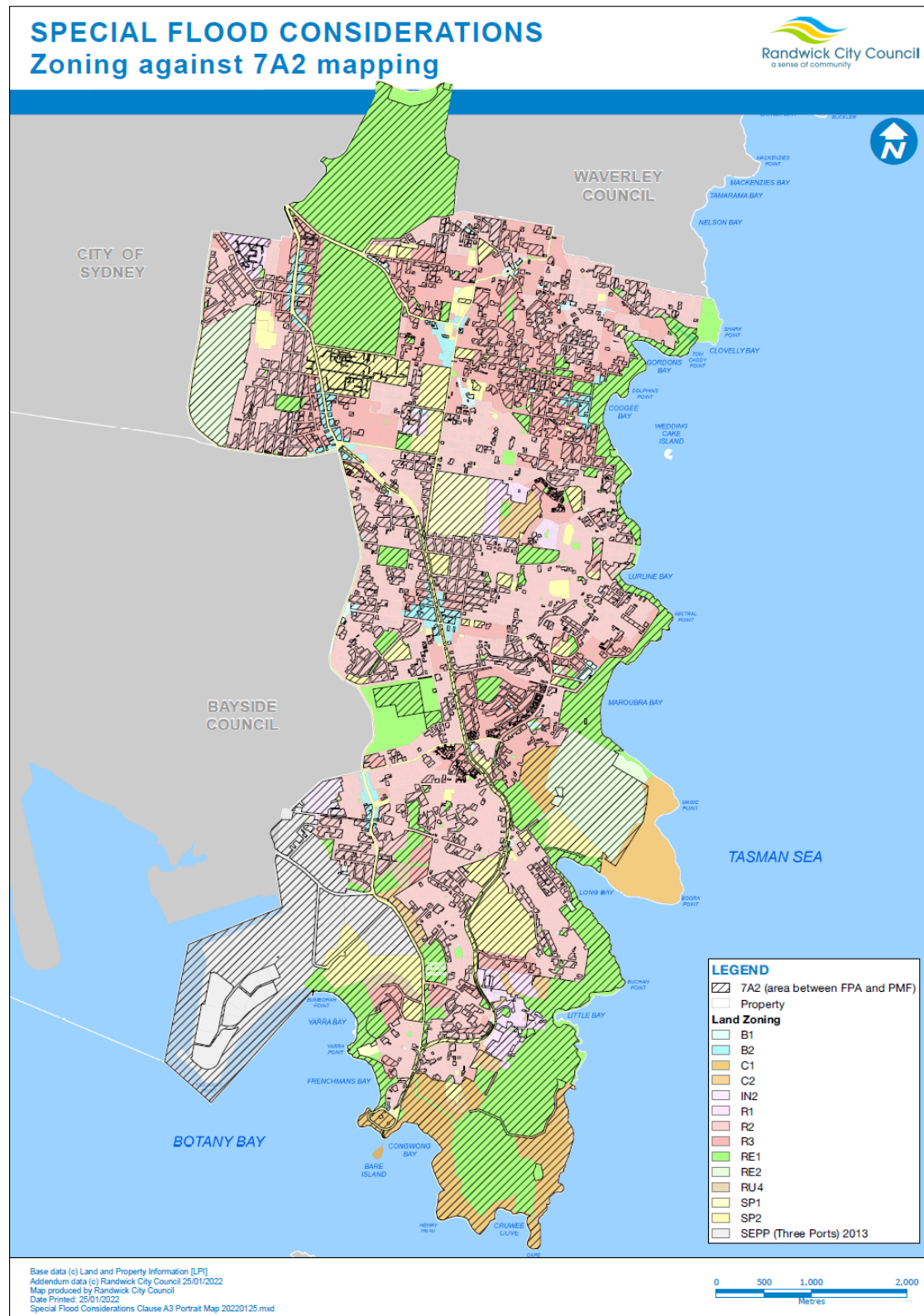
Inclusion of clause 5.22 within Randwick Local Environmental Plan 2012

Randwick Council is supportive of measures that will lead to the informed consideration of flooding, provide consistency and certainty for development, and build resistance for flood affected communities. As outlined in Appendix A of the EIE, Randwick City Council is one of the 32 councils recommended to adopt the special flood considerations clause, subject to the exclusion of four land uses from inclusion as sensitive and hazardous development.

Council's existing Flooding Advice and Flood Related Development Controls Policy as well as Floodplain Risk Management Study(s) and Plan(s) (FRMS&P) detail land uses identified as 'critical facilities' within the LGA where flooding related development controls are applicable. Similar to the special flood considerations clause, these types of land uses need to consider safety issues for all floods up to and including the probable maximum flood. Development identified as 'critical facilities' within Council's existing policies and studies include schools, hospitals, nursing homes, retirement villages, aged care facilities, SES headquarters, evacuation centres, major utility facilities and emergency response facilities.

As outlined in Map 1, the area (shown hatched) to which clause 5.22 applies covers a large portion of the Randwick LGA. As a result, Council is seeking to exclude certain uses identified by the Department as 'sensitive or hazardous' within the special flood consideration clause. The land uses Council is seeking exclusion from the sensitive or hazardous list include boarding houses, early education and care facilities, hostels and tourist and visitor accommodation.

Map 1: Land within the Randwick LGA to which clause 5.22 would apply



The rationale behind Council's exclusion of these uses as sensitive and hazardous development is that in most cases, they are multi-level and mixed use developments where the residential flood planning level (1% annual exceedance probability (AEP) with an additional 500mm) is generally satisfactory to address flooding risks. Clause 5.22 still enables these developments to be considered on a case-by-case basis allowing for site specific flood evacuation/safety measures and development conditions to be applied. If concerns involving evacuation strategies arise, a higher flood planning level may be considered, or an applicant may be required to formulate a safe evacuation strategy as part of the development assessment process.

Further, the application of the special flood consideration clause to boarding houses, early education and care facilities, hostels and tourist and visitor accommodation has the potential to create unnecessary or overly onerous conditions for certain types and scales of development. Applying these conditions to the abovementioned development types regardless of size and location may cause issues throughout the development assessment process, especially as clause 5.22 applies to a large portion of the LGA. Additionally, there is potential for the clause to be triggered for minor amendments/alterations, change of uses and retrofitting of existing buildings within the LGA i.e., heritage buildings to comply with more stringent requirements.

The above potential issues could be managed by the application of clause 5.22 to Council's existing listed 'Critical Facilities' within Randwick's Comprehensive Development Control Plan 2013 – Part B rather than the identified sensitive and hazardous uses within the special flood consideration clause. Additionally, the exclusion of boarding houses, early education and care facilities, hostels and tourist and visitor accommodation from the sensitive and hazardous uses definition could prevent an overly stringent and onerous development assessment process.

On 22 February 2022, Council resolved the following:

- a) *adoption of the optional clause 5.22 – Special flood considerations into the Randwick Local Environmental Plan 2012;*
- b) *exclusion of boarding houses, early education and care facilities, hostels and tourist and visitor accommodation from the 'sensitive and hazardous uses' definition within Clause 5.22;*

Considering the above, Council continues to support the inclusion of clause 5.22 within the RLEP via the Standard Instrument and amending SEPP, on the basis that boarding houses, early education and care facilities, hostels and tourist and visitor accommodation are removed from the sensitive and hazardous development list within RLEP 2012. Regarding boarding houses, it is noted that since the adoption of the Housing SEPP in late 2021, the definition of boarding houses has been amended to require this development be affordable housing and managed by the LAHC or a community housing provider. Development for the purpose of student housing would now fall under the definition of 'Co-living housing'.

If clause 5.22 is adopted into RLEP 2012, Council will review the existing Randwick Development Control Plan and Floodplain policies to ensure consistency with land use definitions as well as update and amend controls in line with the new adopted clause.

Proposed state-wide application of clause 5.22

In response to recommendation 21 of the 2022 NSW Independent Flood Inquiry, the EIE is seeking feedback on two options for the state-wide application of the special flood considerations clause. Two options are proposed:

- Option one – inserting clause 5.22 into the Resilience and Hazards SEPP, or
- Option two – inserting the standard instrument clause 5.22 into all council LEPs.

As Randwick Council has requested specific land uses be removed from the sensitive and hazardous development list, it is Council's preference that the clause be included within RLEP as this option provides Council with a tailored clause that suits the specific needs of the LGA. Inclusion

within the RLEP may also make the clause more visible to property owners and developers who are less familiar with the hierarchy of planning legislation.

If options exist to tailor the clause within the SEPP to reflect the removal of the abovementioned land uses, Council would not object to the SEPP option. However, as no details have been provided on how the clause might be included into the Resilience and Hazards SEPP, this is not Council's preferred approach.

It is noted that flood related development controls will still appear on 10.7 Planning Certificates, regardless if the clause is located in RLEP or the Resilience and Hazards SEPP.

As a general comment, the blanket inclusion of the clause, either via the SEPP or by inserting clause 5.22 into all council LEPs has the potential to create unnecessary or overly onerous conditions for certain types and scales of development. While Randwick Council supports the recommendations of the NSW Independent Flood Inquiry, concerns are raised over the one-size fits all approach to dealing with flooding across NSW, regardless of whether LGAs are located regionally or in metropolitan centres. The blanket inclusion of the clause may also have resource implications for Council's that have not already undertaken flood studies or are not appropriately resourced to manage the added level of assessment that the clause may trigger. Councils who have not opted into the clause should be consulted with individually to ensure they understand the implications of the clause on the assessment of flood affected development.

Randwick City Council appreciates the opportunity to comment on the EIE. Should you have any questions or queries regarding Randwick City Council's submission, please contact Natasha Ridler on 9093 6961 or natasha.ridler@randwick.nsw.gov.au.

Sincerely,



Stella Agagiotis

Manager Strategic Planning

stella.agagiotis@randwick.nsw.gov.au

<h2>English</h2> <p>If you need help to understand this letter, please come to Council's Customer Service Centre and ask for assistance in your language or you can contact the Telephone Interpreter Service (TIS) on 131 450 and ask them to contact Council on 1300 722 542.</p>	<h2>Greek</h2> <p>Αν χρειάζεστε βοήθεια για να καταλάβετε αυτή την επιστολή, παρακαλείστε να έρθετε στο Κέντρο Εξυπηρέτησης Πελατών της Δημαρχίας (Council Customer Service Centre) και να ζητήσετε βοήθεια στη γλώσσα σας ή τηλεφωνήστε στην Τηλεφωνική Υπηρεσία Διερμηνέων (Telephone Interpreter Service — TIS) τηλ. 131 450 και να ζητήσετε να επικοινωνήσουν με τη Δημαρχία τηλ. 1300 722 542.</p>	<h2>Italian</h2> <p>Se avete bisogno di aiuto per capire il contenuto di questa lettera, recatevi presso il Customer Service Centre del Municipio dove potrete chiedere di essere assistiti nella vostra lingua; oppure mettetevi in contatto con il Servizio Telefonico Interpreti (TIS) al 131 450 e chiedete loro di mettersi in contatto col Municipio al 1300 722 542.</p>
<h2>Croatian</h2> <p>Ako vam je potrebna pomoć da biste razumjeli ovo pismo, molimo dođite u Općinski služni centar za klijente (Council's Customer Service Centre) i zatražite pomoć na svom jeziku, ili možete nazvati Telefonsku službu tumača (TIS) na 131 450 i zamoliti njih da nazovu Općinu na 1300 722 542.</p>	<h2>Spanish</h2> <p>A la persona que necesite ayuda para entender esta carta se le ruega venir al Centro de Servicios para Clientes [Customer Service Centre] de la Municipalidad y pedir asistencia en su propio idioma, o bien ponerse en contacto con el Servicio Telefónico de Intérpretes [“TIS”], número 131 450, para pedir que le comuniquen con la Municipalidad, cuyo teléfono es 1300 722 542.</p>	<h2>Vietnamese</h2> <p>Nếu quý vị không hiểu lá thư này và cần sự giúp đỡ, mời quý vị đến Trung Tâm Dịch Vụ Hướng Dẫn Khách Hàng của Hội Đồng Thành Phố (Council's Customer Service Centre) để có người nói ngôn ngữ của quý vị giúp hay quý vị có thể liên lạc Dịch Vụ Thông Dịch qua Điện Thoại (TIS) ở số 131 450 và yêu cầu họ liên lạc với Hội Đồng Thành Phố (Council) ở số 1300 722 542.</p>
<h2>Polish</h2> <p>Jeśli potrzebujesz pomocy w zrozumieniu treści tego pisma, przyjdź do punktu obsługi klientów (Customer Service Centre) przy Radzie Miejskiej i poproś o pomoc w języku polskim, albo zadzwoń do Telefonicznego Biura Tłumaczy (Telephone Interpreter Service — TIS) pod numer 131 450 i poproś o skontaktowanie się z Radą Miejską (Council) pod numerem 1300 722 542.</p>	<h2>Indonesian</h2> <p>Jika Anda memerlukan bantuan untuk memahami surat ini, silakan datang ke Pusat Pelayanan Pelanggan (Customer Service Centre) Pemerintah Kotamadya (Council) dan mintalah untuk bantuan dalam bahasa Anda, atau Anda dapat menghubungi Jasa Juru Bahasa Telepon (Telephone Interpreter Service - TIS) pada nomor 131 450 dan meminta supaya mereka menghubungi Pemerintah Kotamadya pada nomor 1300 722 542.</p>	<h2>Turkish</h2> <p>Bu mektubu anlamak için yardima ihtiyaciniz varsa, lütfen Belediye'nin Müşteri Hizmetleri Merkezi'ne gelip kendi dilinizde yardım isteyiniz veya 131 450'den Telefonla Tercüme Servisi'ni (TIS) arayarak onlardan 1300 722 542 numaradan Belediye ile ilişkiye geçmelerini isteyiniz.</p>
<h2>Hungarian</h2> <p>Amennyiben a levél tartalmát nem érti és segítségre van szüksége, kérjük látogassa meg a Tanácsház Ügyfél Szolgálatát (Customer Service Centre), ahol magyar nyelven kaphat felvilágosítást, vagy hívja a Telefon Tolmás Szolgálatot (TIS) a 131 450 telefonszámon és kérje, hogy kapcsolják a Tanácsházat a 1300 722 542 telefonszámon.</p>	<h2>Czech</h2> <p>Jestliže potřebujete pomoc při porozumění tohoto dopisu, navštivte prosím naše Středisko služeb pro veřejnost (Council's Customer Service Centre) a požádejte o poskytnutí pomoci ve vaší řeči anebo zavolejte Telefonní tlumočnickou službu (TIS) na tel. číslo 131 450 a požádejte je, aby oni zavolali Městský úřad Randwick na tel. číslo 1300 722 542.</p>	<h2>Arabic</h2> <p>إذا أردت مُساعدة لفهم هذه الرسالة، نرجوك الحضور إلى مركز خدمة عملاء المجلس واطلب المُساعدة في لغتك، أو يُمكنك الاتصال بخدمة الترجمة الهاتفية (TIS) على هاتف رقم 131 450 واطلب منهم الاتصال بالمجلس على رقم 1300 722 542.</p>
<h2>Chinese</h2> <p>如果你需要人幫助你了解這封信的內容，請來市政會顧客服務中心要求翻譯服務，或者與電話傳譯服務（TIS）聯繫，號碼是131 450。請他們幫助你打電話給市政會，號碼是1300 722 542。</p>	<h2>Russian</h2> <p>Если Вам требуется помощь, чтобы разобраться в этом письме, то, пожалуйста, обратитесь в Муниципальный Центр Обслуживания Клиентов и попросите оказать Вам помощь на Вашем языке или же Вы можете позвонить в Телефонную Службу Переводчиков (TIS) по номеру 131 450 и попросить их связаться с Муниципалитетом по номеру 1300 722 542.</p>	<h2>Serbian</h2> <p>Ako vam treba pomoć da razumete ovo pismo, molimo vas da dođete do Centra za usluge mušterijama pri Opštini (Customer Service Centre) i zamolite ih da vam pomognu na vašem jeziku, ili možete nazvati Telefonsku prevodilačku službu (TIS) na 131 450 i zamolite ih da vas povežu sa Opštinom na 1300 722 542.</p>