



Mr Ben Lusher  
Director Systems and Productivity Policy  
Department of Planning and Environment  
Locked Bag 5022  
Parramatta NSW 212

07 December 2023

**Ref No:** F2017/00269

Dear Mr Lusher

## **RE: Exempt and complying Development Frameworks for Cemeteries**

Thank you for the opportunity to comment on the proposed exempt and complying development framework for maintenance and other minor ancillary works within existing cemeteries through amendments to the Transport and Infrastructure SEPP 2021. Randwick has two key cemeteries one of which is owned and managed by Council (known as Randwick Cemetery) and the other, being Botany Cemetery, is located in a sensitive coastal headland location and managed by Crown Lands under a trust arrangement. Council has reviewed the proposed changes and the implications for Randwick's two key cemeteries which are detailed as follows:

### **Heritage Impacts**

Council notes that the proposed framework seeks to protect heritage values by requiring all exempt development to have no more than minimal impact on heritage significance and be in accordance with any existing heritage management documents. In regard to the latter, Council notes that a large proportion of cemeteries in NSW, that have recognised heritage values, do not have a Conservation Management Plan or a Plan of Management managing their operations. As such, protection of heritage items or areas could be compromised if no heritage management document is available to inform and guide exempt and complying proposals in heritage significant cemeteries.

While Council supports the suggestion that a heritage expert should be consulted to ensure the best practice standards are being met under the proposed framework, there is no onus on proponents to inform Council that this has occurred when the proposed exempt or complying developments are undertaken.

### **Sensitive coastal environments**

Many cemeteries in NSW are located on headlands or cliffs in sensitive coastal or inland environments. Development in sensitive coastal environments is currently managed under the coastal provisions contained in the Resilience and Hazards SEPP (formerly Coastal Management SEPP). This SEPP categorises areas of coastal risk, coastal environment or coastal use into different zones each of which have planning provisions associated with development on these areas under this SEPP. It is noted that, while the provisions of this Resilience and Hazards SEPP prevail over the provisions on the Transport and Infrastructure SEPP, the works covered under this proposed exempt and complying framework will no longer require development consent. In effect, the important requirements that currently apply under the Resilience and Hazards (RH)

<p><b>English</b></p> <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>	<p><b>Greek</b></p> <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>	<p><b>Italian</b></p> <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>
<p><b>Croatian</b></p> <p>Ako vam je potrebna pomoć da biste razumjeli ovo pismo, molimo dođite u Općinski uslužni 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>	<p><b>Spanish</b></p> <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>	<p><b>Vietnamese</b></p> <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>
<p><b>Polish</b></p> <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>	<p><b>Indonesian</b></p> <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>	<p><b>Turkish</b></p> <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>
<p><b>Hungarian</b></p> <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 Tolmacs Szolgálatot (TIS) a 131 450 telefonszámon és kérje, hogy kapcsolják a Tanácsházat a 1300 722 542 telefonszámon.</p>	<p><b>Czech</b></p> <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 tluumočnickou službu (TIS) na tel. čísle 131 450 a požádejte je, aby oni zavolali Městský úřad Randwick na tel. čísle 1300 722 542.</p>	<p><b>Arabic</b></p> <p>إذا أردت مُساعدة لفهم هذه الرسالة، نرجوك الحضور إلى مركز خدمة عملاء المجلس وأطلب المساعدة في لغتك، أو يُمكنك الاتصال بخدمة الترجمة الهاتفية (TIS) على هاتف رقم 131 450 وأطلب منهم الاتصال بالمجلس على رقم 1300 722 542.</p>
<p><b>Chinese</b></p> <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>	<p><b>Russian</b></p> <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>	<p><b>Serbian</b></p> <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>

SEPP will become obsolete including the objectives of the Coastal Management Act which are achieved through the provisions of the RH SEPP. In addition, the newly released [NSW Coastal Design Guidelines](#) issued in October 2023, and associated urban design checklist which is applicable to development applications within the coastal zone areas, will no longer be a consideration for these types of works in cemeteries.

The provisions of the RH SEPP currently require consent authorities to consider a wide range of potential impacts on the sensitive coastal environment requiring expert technical input including whether the proposed development is likely to:

- alter coastal processes to the detriment of the environment.
- reduce the public amenity.
- impact coastal environmental values and natural coastal processes
- impact the water quality of the marine estate.
- impact marine vegetation, native vegetation and fauna and their habitats
- cause overshadowing, wind funnelling and the loss of views from public places to foreshores,
- impact the visual amenity and scenic qualities of the coast, including coastal headlands.

None of these will be considered if works are redefined as exempt or complying under the proposed new framework.

### **Scenic Impacts**

Under the Randwick LEP, there are designated lands along the foreshore, often adjacent to public open space areas and beaches, that are protected under scenic protection provisions (Clause 6.7 Foreshore Scenic Protection Area). These provisions aim to achieve the following:

- recognise, protect and enhance the natural, visual and environmental qualities of the scenic areas of the coastline,
- protect significant public views to and from the coast,
- ensure development in these areas is appropriate for the location and does not detract from the scenic qualities of the coast.

As these scenic protection measures only pertain to works requiring development consent, these provisions will not apply to the proposed exempt and complying development in cemeteries. As such, the impacts of the proposed exempt and complying provisions on scenic values of the coast and impacts on view corridors, and on adjacent public recreational land, will no longer be assessed.

The existing foreshore scenic qualities form an important component of the local character of the eastern suburbs in Randwick City. Accordingly, the objectives and provisions of Clause 6.7 - Foreshore Scenic Protection Area of the Randwick LEP should be key considerations in assessing potential impacts arising from the proposed exempt and complying works in the areas covered by this Clause. For example, the proposed exempt and complying framework will permit solid fencing up to a permissible fence height of 3m in areas adjacent to public recreation zones which will potentially result in intrusive and dominant structures within and on the perimeter of cemeteries and can also disrupt view corridors and passive surveillance of open space areas.

### **Remnant Native vegetation**

Many cemeteries in NSW contain remnant vegetation, several of which are recognised on the [NSW Biodiversity Values Map](#) as areas that are sensitive to development and clearing. Many of these areas have species or ecological communities which are protected under NSW Biodiversity Conservation Act and/or Commonwealth Environmental Protection and Biodiversity Conservation Act, including Eastern Suburbs Banksia Scrub in the coastal areas of Randwick City.

While the Explanation of Intended Effects (EIE) attached to the proposed exempt and complying framework states that the proposal must not include removal or pruning of native vegetation,



development of the proposed exempt or complying works may still impact on protected vegetation or communities through root disturbance, crown pruning, overshadowing, changes to overland water flow, drainage and impacts on nutrient loads. These impacts on native vegetation would normally require a Biodiversity Development Assessment Report to be prepared and submitted with a development application, however under the proposed exempt and complying provisions these impacts will not be considered or assessed. It is noted that the Exempt and Complying Development Codes SEPP requires consideration of the [Biodiversity Values Map](#), which is a threshold tool to identify land with high biodiversity value that are particularly sensitive to impacts from development and clearing.

### **Scale of Development**

The scale of development proposed to be covered under the SEPP provisions include height and scales that are significantly above and beyond those of structures currently typically found in cemeteries in the Randwick LGA.

Under the Randwick LEP, cemeteries are zoned as SP2 Infrastructure. The proposed provisions intend to permit a 50-car carpark as exempt development either in the form of new paved carparking area or alterations to existing paved car parking areas. As exempt development, Council considers the proposed 50 car spaces to be excessive in scale and visually intrusive; and will result in a range of planning and technical considerations being overlooked including flooding, traffic generation, parking, vegetation protection and landscaping. Furthermore, this proposed size and scale of carparking would normally be associated with the development of new cemeteries where increase burials are contemplated thus requiring a development application. Additionally, it is noted that under the existing Exempt and Complying Development Codes SEPP, driveways and associated hard stand areas are required to be *“constructed or installed so that any surface water or runoff is disposed of by a drainage system that is connected to the existing stormwater drainage system”*. Council would suggest that, omitting such a basic consideration for a car park of up to 50 car spaces as exempt development, would not be advisable given the scale of runoff and associated drainage system that would be considered in order to mitigate overflow and flooding impacts on neighbouring *properties*.

### **Complying Development Provisions**

The proposed provision permits a 50-car carpark as exempt development and a 200 square metre 7m high building as complying development for proposed used as a toilet block. While council supports the provision of toilet facilities as exempt development under the proposed framework, the scale of the new buildings provisions is in Council’s opinion excessive. By comparison, Council is currently building a [new amenity block at south Maroubra beach](#) with more accessible toilets for the general public. The design incorporates toilets, showers change room, a baby change room and extra storage areas for the surf lifesaving club with a large proportion of the Maroubra space being taken up by the shower/change room area. These extensive facilities are significantly under 90 square metres. Accordingly, Council recommends that toilet facilities should be significantly reduced from the proposed 200 sqm to under 50 sqm.

The proposed framework will also allow for crypts, vaults, memorials to be complying development with a maximum footprint of 25 square metres and maximum height of 7m. These dimensions are considered excessive when compared to those existing in existing cemeteries in Randwick City and may compromise the heritage values of these cemeteries.

Overall, Council queries whether or not assessment has been made of the feasibility of these proposed dimensions for new buildings, crypts, vaults, memorials in view of the current critical shortage of space within existing cemeteries in Sydney and regional cities. The absence of any assessment would make it difficult to assess the cumulative impacts of these structures overtime.

Local councils have a duty to consider the environmental impact of any development activity under section 5.5 of the EPA Act. This section requires councils to examine and consider, to the fullest extent possible, all matters affecting or likely to affect the environment by reason of that activity. Accordingly, councils have an obligation to be aware of site-specific sensitivities of its cemeteries and would have a vested interest in protecting heritage values, adjacent open space, bushland and sensitive coastal environments. However, where cemeteries are operated by a private entity or trust, awareness or priorities to these environmental considerations may not be fully understood or applied. In this context, the proposed exempt and complying provisions should be designed to a conservative scale of development to ensure the surrounding areas are not negatively impacted upon.

Council understands the DPE's objectives in introducing the proposed exempt and complying framework into the Transport and Infrastructure SEPP for cemeteries. However, some of these provisions are inconsistent with objectives of the Resilience and Hazards SEPP and the development standards of the Exempt and Complying Codes SEPP such that consistency with these instruments should be a priority consideration in the preparation of the proposed exempt and complying framework.

Council is happy to provide the Department with further details on any of the issues raised in this submission. If you have any questions regarding this submission please contact Bronwyn Englaro, Senior Sustainability Officer on 02 9093 6796

Yours sincerely

A handwritten signature in black ink, appearing to read 'Stella Agagiotis', written in a cursive style.

**Stella Agagiotis**

Manager Strategic Planning

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