

STRATEGIC PLANNING

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# Randwick Comprehensive Planning Proposal Gateway Review IPC Panel Meeting

28 January 2022

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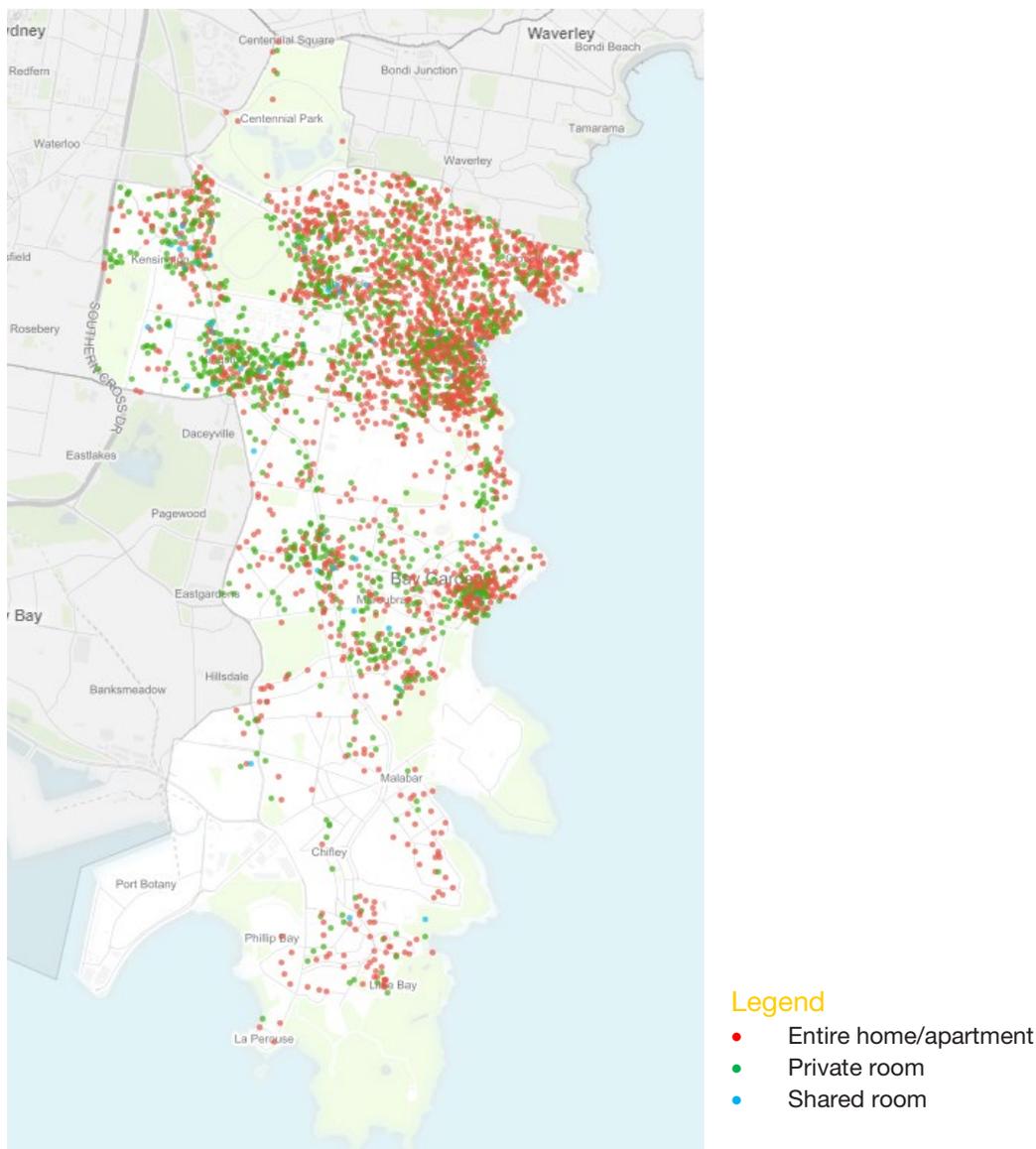
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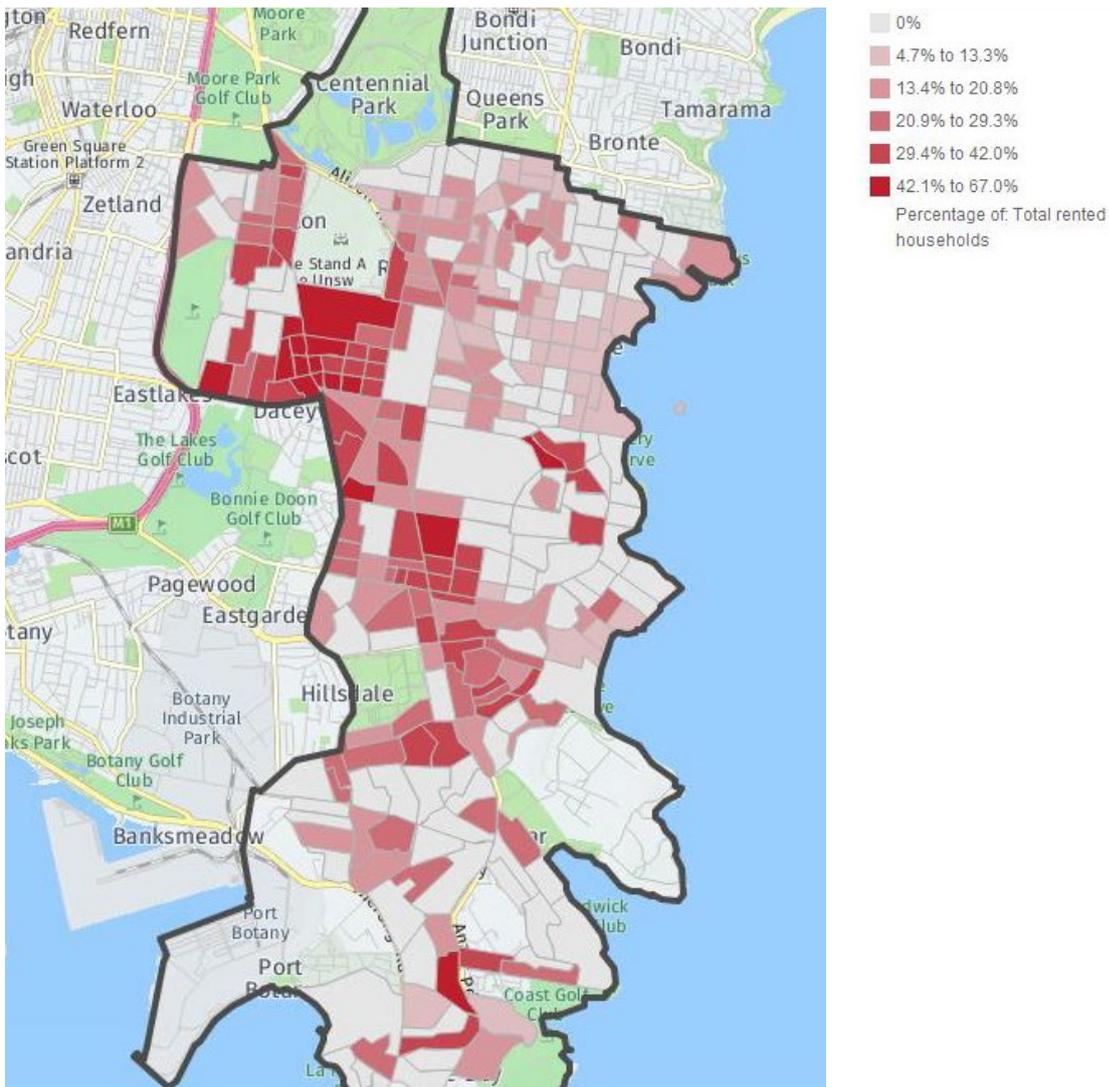
# 1. Short Term Rental Accommodation

## Does Council have any empirical data to demonstrate the existing impact of STRA on the LGA?

Data obtained from InsideAirbnb for Randwick City LGA in 2019 indicates that there were approximately 3,346 STRA listings within the LGA. Of these listings almost 60% were entire homes or apartments (non-hosted properties). This was following a period of exponential growth in AirBnb listings. In 2015 there were 929 listings across the LGA with an average cost of \$258 per night and by 2018 there were 3,060 listings with an average cost of \$256 per night. Sound data for 2020-2021 has been more difficult to obtain due to Covid, however as economic recovering continues and as local travel remains available, we can expect strong demand for STRA within the Randwick LGA to continue. This will be closely monitored by Council going forward and the new STRA register, and code of conduct will also assist in monitoring and evaluating the amenity impacts of STRA.



**Map 1:** Location of Airbnb listings (Source: Inside Airbnb 2019)



**Map 2:** Areas of rental stress within the Randwick LGA (Source: Informed Decisions 2018)

Regarding the impacts of STRA on housing affordability and the rental market, a number of studies have been undertaken in this area and research exists that suggests that STRAs can potentially impact rental housing affordability as it affects supply.

A Forbes article (12 Feb 2020) found that:

*'While the introduction and expansion of Airbnb into cities around the world carries large potential economic benefits and costs, the costs to renters and local jurisdictions likely exceed the benefits to travellers and property owners.'*

A 2017 article published in the Journal of the American Planning Association found that there is potential for STRAs to remove whole homes from the permanent rental supply and therefore increase pressures on rents. The paper draws on a study that uses rental vacancy rates as an indicator of supply pressures to understand the impact of Airbnb conversion on rental housing affordability. This is an established housing market indicator that measures vacant rental stock available for rent as a proportion of the total rental stock. The equilibrium vacancy rate is defined as the vacancy rate at which there is no upward or downward pressure on rents. If the vacancy rate becomes lower than the equilibrium rate, renters will compete with each other to secure rental property, pushing up rents. If the vacancy rates are higher than the equilibrium rate, there will be downward pressure on rents as landlords reduce rents to ensure their properties do not remain vacant. When rental vacancy rates are lower than or close to the equilibrium rate, even small changes in rental stock can materially affect rents. In 2019 the rental vacancy rate for inner Sydney averaged at, representing a tight rental market (Real-estate Institute of NSW).

A recent 2021 article in the Critical Housing Analysis Publication Trust shows that a reduction in the supply of Airbnbs impacted the rental market through changing vacancy rates causing a subsequent reduction in rents. The article highlights that supporters of STRA platforms state that STRs represent a small fraction of the housing market of major cities and therefore have little impact on rents. However, there is emerging evidence that suggests that STRA have highly localised impacts. The article uses the natural experiment of the pause in tourism caused by the COVID-19 pandemic to highlight the impact of a decrease in STRA listings on rental markets in the case study city of Hobart, Australia. The article found that rental affordability has improved in Hobart's STRA-dense suburbs with the increased vacancies from the underutilised STRA properties. These results provide evidence of the impact of STRA on local housing markets when analysed on a finer scale than the whole-of-city approach.

We recently (November 2021) made contact with Professor Nicole Gurrán from the Henry Halloran Trust at the University of Sydney to discuss the issue of STRA and housing affordability. Professor Gurrán expressed an interest in doing a similar study in Randwick City Council as the one undertaken for Hobart. We have also been in contact with Shelter, NSW's peak advocacy body for affordable housing, to receive support on this matter. At the live Q&A event 'Rentals, Regions and Rising Prices' in December last year Shelter acknowledges the impact of STRA on housing affordability, as when permanent lettings are taken out of the rental housing market into the short term letting market, the impact of that is that lower to moderate income households get displaced from these communities. This forces these households to move away from these areas, despite the ongoing need for key workers in the area. The interest from academia and advocacy groups demonstrates that this is not an issue without merit.

The Randwick LGA is unique in that it contains a high number of key workers servicing the Health and Education Precinct. With the expected growth of jobs within this precinct, the number of key workers requiring affordable accommodation will increase. Data collected by the Australian Housing and Urban Research Institute (AHURI) (University of Sydney) found that 4,500 nurses are living in overcrowded homes in Sydney and between 2011-2016 the number of key workers living in inner-city regions fell, while outer suburbs including Wollongong and Newcastle gained key workers. The AHURI study findings showed governments should reform the housing system to boost the supply of housing for essential workers with a range of tenures.

*'If not addressed, there is a risk that key workers who provide essential services but who earn low and moderate incomes will be unable to live in Australia's most expensive cities, threatening ongoing capacity to sustain critical urban functions across the public and private sector.'*

#### Article links:

*The Airbnb Effect on Housing and Rent*, Gary Baker, February 2020

<https://www.forbes.com/sites/garybarker/2020/02/21/the-airbnb-effect-on-housing-and-rent/?sh=1e2c13bb2226>

*When Tourists Move In: How Should Urban Planners Respond to Airbnb?* Nicole Gurrán and Peter Phibbs, January 2017, Journal of the American Planning Association,

[www.tandfonline.com/doi/full/10.1080/01944363.2016.1249011](http://www.tandfonline.com/doi/full/10.1080/01944363.2016.1249011)

*Challenging the Discourse around the Impacts of Airbnb through Suburbs Not Cities: Lessons from Australia and COVID-19* Caitlin Buckle and Peter Phibbs, Critical Housing Analysis,

[www.housing-critical.com/home-page-1/challenging-the-discourse-around-the-impacts-of](http://www.housing-critical.com/home-page-1/challenging-the-discourse-around-the-impacts-of)

*Key Workers Pushed Out of Sydney and Melbourne by High Housing Costs*, University of Sydney, May 2021 <https://www.sydney.edu.au/news-opinion/news/2021/05/27/key-workers-pushed-out-of-sydney-and-melbourne-by-high-housing-c.html>

## **Does Council keep a log of complaints that are attributable to STRA?**

Complaints in relation to STRA are recorded on Council's Service Request database. A search of the database indicates that Council receives, on average, 40 written complaints per calendar year (197 over the last 5 year period – 1 Jan 2017 to present) regarding the use of residential premises for the purpose of alleged unauthorised places of share accommodation, unauthorised

tourist accommodation and unauthorised short-term rental accommodation. Generally, the impetus for these complaints to Council is a result of the complainant suffering some type of amenity impact, the most common being disturbances relating to noise and anti-social behaviour.

Note: the introduction of the STRA register and exempt development provisions, going forward, Council will be able to cross reference these complaints to determine whether specific properties are registered and whether they are unauthorised i.e. not complying with the exempt development criteria.

## **Did Council make a submission regarding the 180-day maximum when this amendment to the ARH SEPP (and subsequent Housing SEPP) were exhibited?**

Randwick Council has made a number of submissions to the 180-day maximum, including:

- 21 November 2018 – submission made to Short Term Rental Accommodation planning framework, including changes to the Code SEPP exempt development criteria. Issue raised:
  - Exempt development should be limited to 90 days to strike a balance between property owners rights and ensuring the primary use of premises remains residential (not tourist and visitor accommodation).
  - Referenced impacts of short term rental accommodation on housing supply and increased rents in coastal and inner/eastern areas of Sydney.
  
- 10 September 2019 – submission made to Discussion Paper *Short-Term Rental Accommodation – A new regulatory framework* (August 2019). Issues raised:
  - 180 day proposal does not address or reference impacts of short-term letting on the supply of long term rental accommodation, specifically affordable accommodation.
  - Randwick's high land values, high student numbers, key workers and ageing population makes it difficult to provide affordable housing.
  - Calls for a local levy on on-line short-term rental to be applied to Councils affordable housing scheme
  - Reference that Council would be seeking a reduction in the maximum number of days to 90 to mitigate the housing losses and provide a more balanced approach to housing.

## **Benefits and limitations of the proposed 90 day maximum**

### **Benefits**

Affordable housing – amending the maximum days for non-hosted STRA to 90 days has the potential to reduce stress on the rental housing market in Randwick. The studies noted above have determined that the amount of STRA in an area impacts affordable housing by taking permanent rentals off the market, driving up the cost of the remaining rental market properties. This affects low to moderate households. Decreasing the maximum days to 90 days may deter some property owners from entering the STRA market.

Sound approach to land use planning – a 90 day approach is consistent with the decision in the Land & Environment Court (*Dobrohotoff v Bennic* [2013] NSWLEC 61) that deemed that "Short term holiday rental accommodation" means accommodation for a period of less than three months. The definition of 'short term rental accommodation' pursuant to the Housing SEPP is a *dwelling used by the host to provide accommodation in the dwelling on a commercial basis for a temporary or short-term period*. 'Non-hosted short term rental accommodation' is further defined in the Housing SEPP as *short-term rental accommodation provided where the host does not reside on the premises during the provision of the accommodation*.

By allowing a dwelling to become a non-hosted short term rental for 180 days, or 50% of a calendar year, this removes the ancillary and subservient element of its use for short term rental accommodation. Further, in Randwick LEP 2012, tourist and visitor accommodation in the form of hotels, motels, serviced apartments and backpackers accommodation is not permissible in the R2 Low Density Residential zones. By allowing STRA to be undertaken in these zones when it is no longer ancillary is not a consistent approach to land use planning.

### Limitations

Inconsistency with State-wide approach – the 90 day maximum is inconsistent with the state wide approach. However it is not uncommon for SEPPs to have exceptions to clauses, including excluding certain areas from its application, as it is not always possible for policy to be applied consistently to every LGA in the State or region. Regardless of the 90 days, the 21 day consecutive exclusion will still remain, meaning the instances where STRA are required for longer periods of stay are not counted to the maximum 90 days. This is important for the Collaboration Areas of Randwick Council, where longer term STRA is required to support the hospital and university uses. It is also noted that for hosted STRA where the occupant of the home remains in the dwelling, this is exempt development for 365 days year. Council supports this provision as it doesn't remove entire households from the rental market, provides a source of income for owners and provides ample opportunity to cater for this type of tourist accommodation. The Planning Proposal is not seeking any changes to the hosted exempt development provisions.

### Could Council comment on the issue of the inconsistency this proposed LEP provision will cause with SEPP (Housing) 2021?

The Randwick Comprehensive Planning Proposal proposes an exempt development provision under Schedule 2 of the Randwick LEP 2012 to limit non-hosted short term rental accommodation to a maximum of 90 days per calendar year. It is acknowledged that this would be inconsistent with the clause 112(1)(b) of the Housing SEPP that limits rentals exempt development to a maximum of 180 days. As the Housing SEPP overrides the LEP on matters of inconsistency, this inconsistency would need to be resolved via an amendment to the SEPP.

It would be possible to include an additional Clause 112(1)(b) that limits exempt provisions to 90 days in Randwick Council, while still applying the remainder of the SEPP provisions. This would maintain consistency between the LEP and the Housing SEPP.

It is not uncommon for some LGAs to be excluded from certain parts of a SEPP, as it is not always possible for a single planning issue to apply uniformly to all areas of an LGA within the State or a region. For example Clause 1.19(2) specifies land that the Housing Code and Low Rise Housing Diversity Code do not apply, and includes large areas of Mosman Municipal Council, amongst other LGAs.

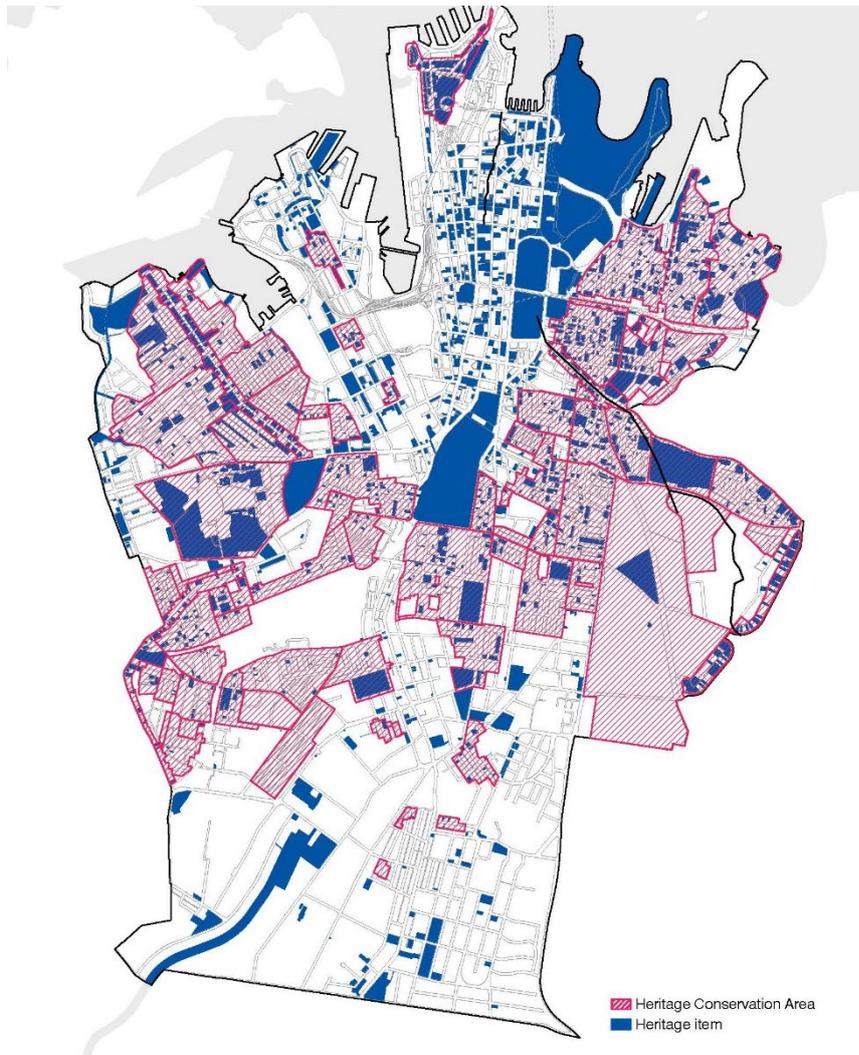
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## 2. Local Character Statements

### Other Councils (e.g. City of Sydney) successfully use locality statements / character statements that are enshrined as DCP controls – can Council comment on this in respect to what is proposed?

The City of Sydney (CoS) includes detailed Locality Statements within Section 2 of the Sydney DCP 2012. The Locality Statements consist of a map with locality boundary, a character statement (2-5 paragraphs) and design Principles. The detail is not dissimilar to the information contained with the three Randwick Draft Local Character Statements, the subject of this condition.

It is acknowledged that CoS successfully uses Locality Statements in the assessment of development applications. However, it is not appropriate to compare the CoS with Randwick City Council. A compelling reason why Locality Statements are successful within CoS is because large portions of the City of Sydney LGA are located within Heritage Conservation Areas and as such, are not subject to the Housing Code and the Low Rise Housing Diversity Code of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. As per Clause 1.19(1)(a) these complying codes are not permitted in land within a heritage conservation areas. A considerable amount of land within the CoS LGA is within a heritage conservation area.

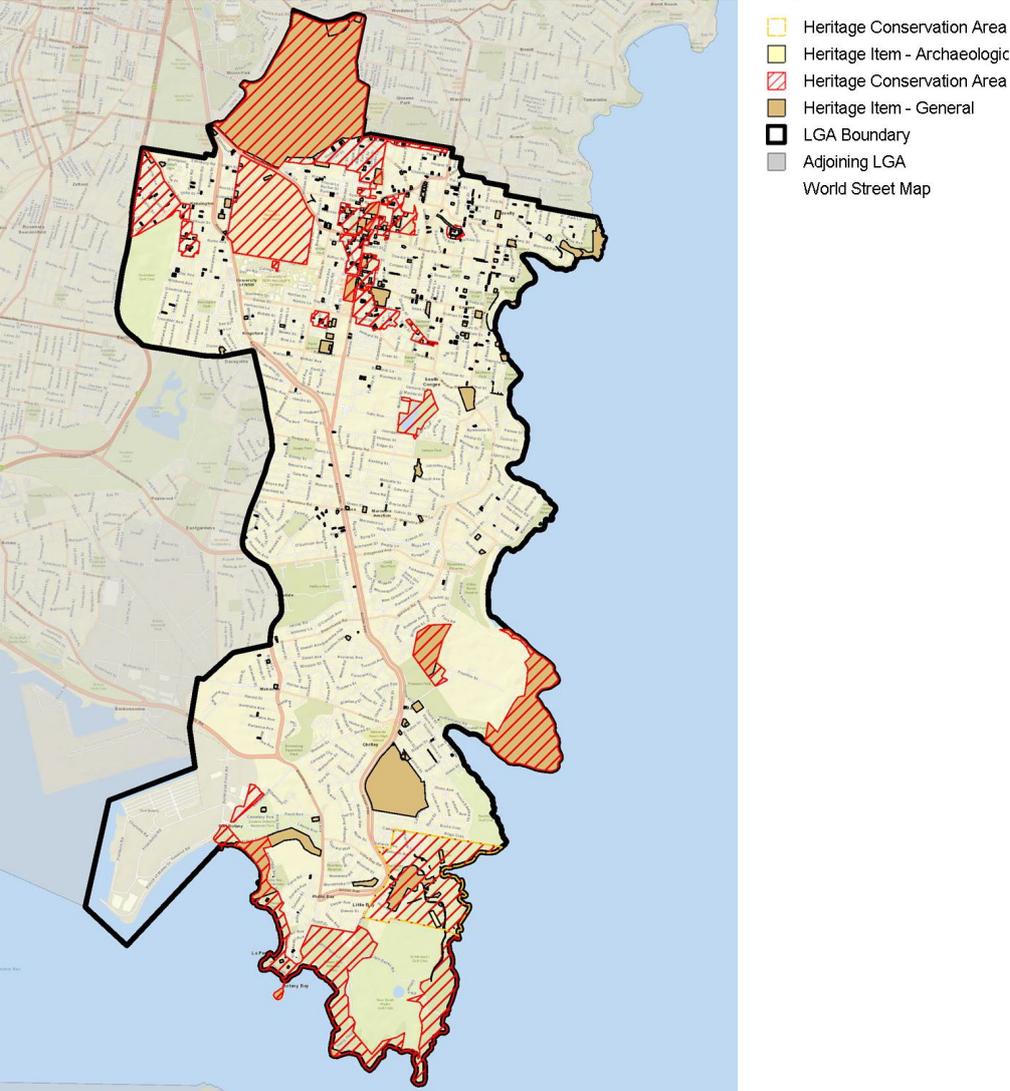


**Map 3:** Location of Heritage Conservation Areas and Heritage Items in the City of Sydney LGA  
(Source: City of Sydney 2019 Capacity Study)

This means that DAs that would ordinarily be assessed and approved as CDCs in other LGAS (including Randwick), are assessed by CoS Planners as part of a more rigorous DA process where Locality Statements are taken into consideration in each assessment report. Applications that are assessed as CDCs are not provided with the same level of scrutiny, and there are no local character provisions in the abovementioned sections of the Code SEPP, leading to a gap in the assessment of local character under CDCs.

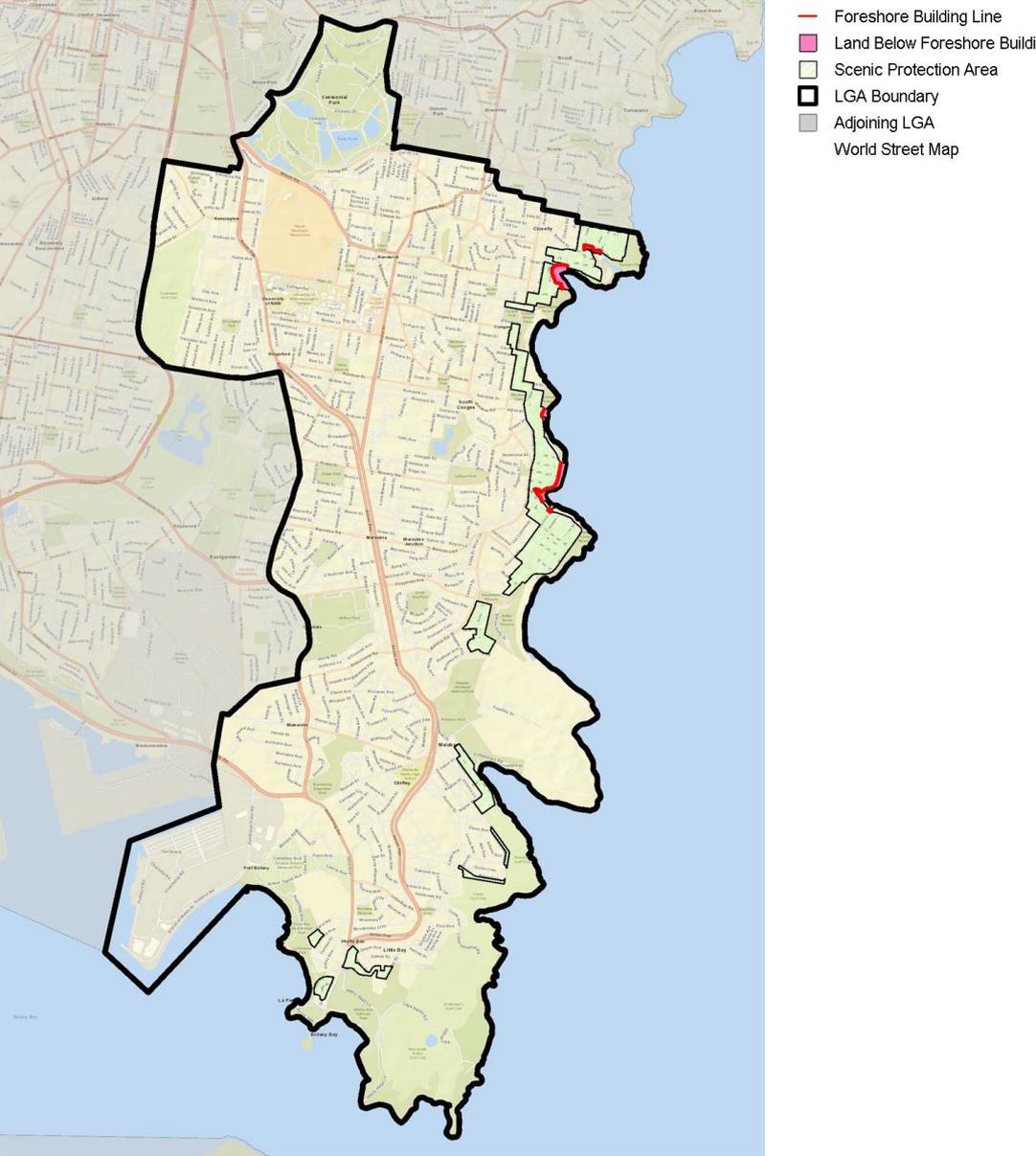
The application of heritage conservation areas in the CoS is another key difference between CoS and Randwick. As noted above, these HCAs not only act as another means of excluding the application of parts of the Code SEPP, but they work in conjunction with the Locality Statements. Due to the nature of the built form within CoS, the Locality Statements are heavily guided by heritage considerations, and of the 98 locality statements in the CoS DCP, 75 of them (77%) refer to built heritage in either the statement or the design principles. Unlike the Locality Statements within the DCP, the HCAs are enshrined with Sydney LEP 2012 via Clause 5.10. This gives consideration of heritage matters stronger weight within the assessment process for DAs, which assists in strengthening the weight of heritage related Locality statements contained within the CoS DCP.

A much smaller proportion of the Randwick LGA is covered by HCAs, and where they are, they are limited cross over between the HCA boundaries and the proposed Local Character Area boundaries. Unlike CoS, our Local Character Statements are less about built form heritage and more about scenic quality. So we are not benefitting from the integrated nature of Clause 5.10, HCAs and the Locality Statements like CoS does.

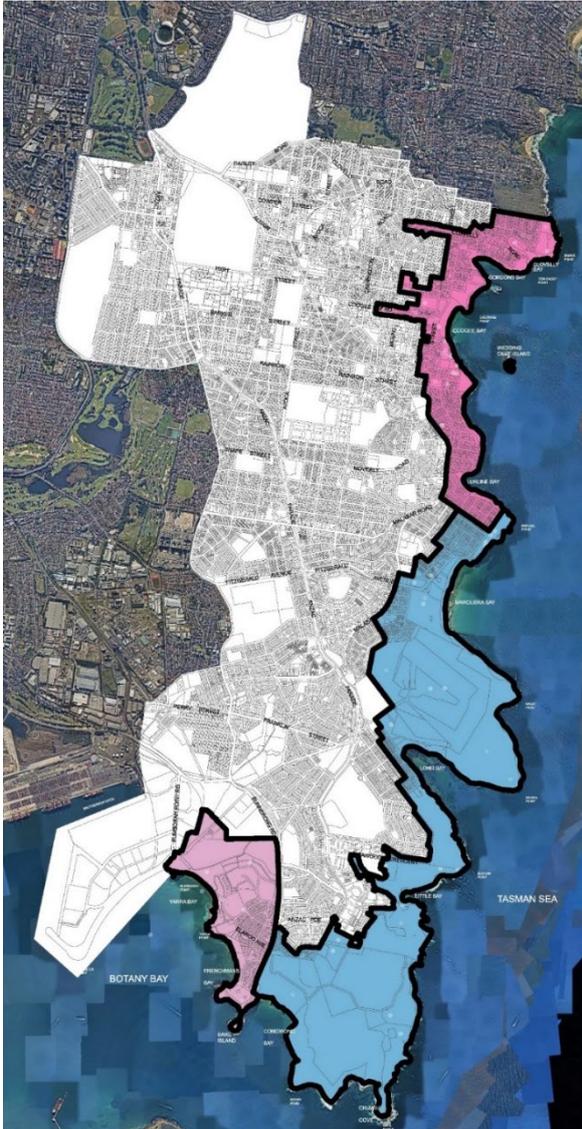


**Map 4:** Location of Heritage Conservation Areas and Heritage Items in the Randwick LGA

At present, the only statutory mechanism to turn off the Code SEPP within our proposed Local Character Areas that are not also HCAs is the Foreshore Building Line. The Housing Code, Housing Alterations Code or the Low Rise Housing Diversity Code don't apply to sites within the Foreshore Building Line, however when viewed on the map, only a very small proportion of land is within the Foreshore Building Line area. The Foreshore Scenic Protection Area covers a larger portion and aligns more with some of our Local Character Area boundaries, in fact approximately 60% of all residential zoned land in the three proposed LCAs is within Council's Foreshore Scenic Protection Area, which demonstrates the scenic qualities and need for merit assessment in the DA process to ensure that views are maintained, and new development is consistent with the coastal character.



**Map 5:** Location of Foreshore Building Line and Foreshore Scenic Protection Area within the Randwick LGA



**Map 6:** Location of proposed Local Character Areas within the Randwick LGA

**There currently appears to be no statutory pathway for inclusion of local character areas in LEPs (i.e. no provision for this provision in the Standard Instrument LEP) – how does Council envisage this proposal to be implemented?**

Councils' preference is that the Department progress its original plan of implementing a *Local Character Provision* for a standardised approach to local character through a proposed local character model clause in the Standard Instrument LEP. The local character provision would allow a council to adopt a map overlay and a local character statement. The LEP map layer and statement would be supported through design principles within the DCP. The Department acknowledges that it was mixed feedback on the Local Character clause resulting from public exhibition that resolved to not integrate local character within the LEP.

A pertinent point here is that Council has followed the Department's published policy approach, commencing work on the local character statements a number of years ago and has now prepared 11 draft statements for all land within the LGA to be placed on public exhibition. These statements were prepared in line with the Department's current advice which enables councils to choose to include local character provisions in the LEP and DCP. Consistent with the Guideline, Council's Local Strategic Planning Statement and Housing Strategy both contain actions to

include local character in the Randwick LEP and DCP and to seek an exclusion from the SEPP (Exempt and Complying) 2008 to ensure protection of sensitive coastal character. The LSPS was endorsed by the Greater Sydney Commission in March 2020.

In preparing our LSPS, the Department asked Councils to look for opportunities to plan and shape the future of the area, locality and places, in collaboration with the community. The Department's direction was based on councils creating their own vision for land use in the local area, the special character and values that are to be preserved and how change will be managed into the future to meet community needs and aspirations. By not providing a statutory pathway for the inclusion of local character statements within the LEP, the Department is contradicting their own direction that local governments take the lead in planning for their existing and future communities.

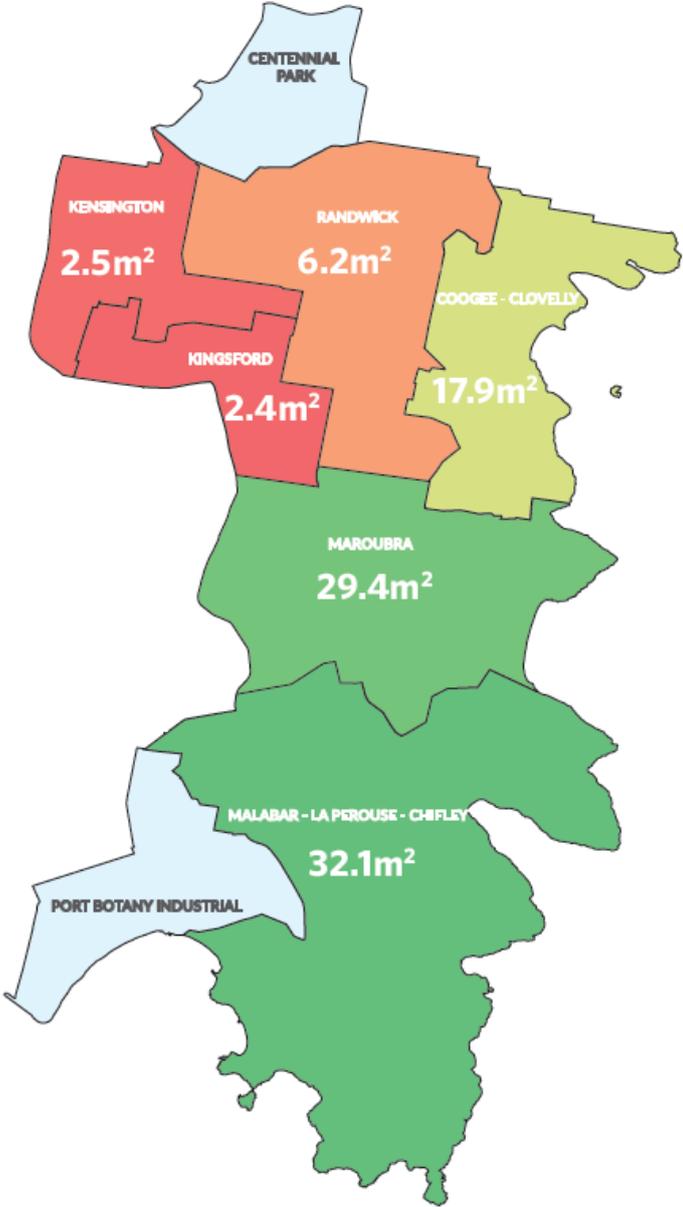
In the absence of the Department introducing the Local Character clause within the Standard Instrument to apply across the State, Council would seek a local provision under Part 6 of Randwick LEP for the three proposed local character areas. This approach is considered justified given the unique circumstances of the coastal zone and the importance of protecting its scenic qualities. Whilst this would not necessarily result in an exclusion from the Housing Code and Low Rise Diversity Code, it would provide additional rigour to the assessment of development applications submitted within the coastal area. Regardless, Council will continue to advocate for a new land exemption under Clause 1.19 *Land on which complying development may not be carried out*.

It is noted that the Department is exploring new approaches allowing council, developers and communities to consider their local area when designing new buildings and suburbs in a more holistic way. This is reflected in the design principles of the Design and Place State Environmental Planning Policy with culture, character and heritage continuing to be an important design consideration. However, the Design and Place SEPP does not apply to the Exempt and Complying Development Code and it is unclear as to how the Design and Place SEPP applies to low density development such as dwelling houses and dual occupancies.

### 3. Rezoning of 1903R Botany Road

**Does Council have any short or medium term plans for the Council owned RE1 zoned land which adjoins this site?**

No. The RE1 land adjacent to the site is not included in any short to medium term capital works programs. The Randwick City Open Space and Recreation Needs Study (December 2020) found that the Malabar, La Perouse and Chifley zone which covers the subject site is well placed to cater for existing and future populations with approximately 32.1m<sup>2</sup> of Council owned and managed open space per person based on population projections to 2031. The Study does identify areas of Randwick LGA where public open space is deficient for existing and future populations, in particular the northern portions of the LGA where housing growth is planned. As such Council will be focusing on provision of open space in areas forecast to decline, in line with expected housing growth.



**Map 7:** Council owned/managed open space m<sup>2</sup> per person based on population projections to 2031 (Source: Open Space and Recreation Needs Study, 2020)

### **Has Council had previous success where privately owned RE2 zoned land has successfully provided for the open space needs of the public?**

Sites that are zoned RE2 Private Recreation or other zoned (not RE1 Public Recreation) that are available to the public in the Randwick LGA.

- Eastcourts Tennis Kingsford (1 Court Avenue, Kingsford) – this privately operated tennis centre provides an important recreational facility for the community, and is located on R2 Low Density residential land.
- Randwick Bowling Club (2-4 The Avenue, Randwick) – The Randwick Bowling Club offers use of bowling greens to members and visitors as well as a restaurant and function centre. Privately operated bowling clubs provide for the recreational and open space needs of the public by providing access to a sport that has physical, social and mental health benefits as well as access to connectedness and support.
- Randwick Club House (1 Howe Street, Malabar) – Randwick Club House services with the publicly accessible Randwick Golf Club and includes golf club activities as well as a restaurant and function centre.

### **Why has Council not proceeded with the acquisition of this land for public open space?**

The site is included within the Planning Proposal as it was requested to be rezoned RE2 Private Recreation by the landowner. Recent discussions (October 2021) with the land owner revealed they are currently investigating potential uses for the site, including an aquatic centre or child care centre.

The site is identified on the LEP map under Clause 5.1 Relevant Acquisition Authority. The objective of this clause is to identify, for the purposes of an owner-initiated acquisition of land, the public authority that will be the relevant authority to acquire land. The clause does not force the relevant authority to acquire the land.

Council has not proceeded with the acquisition as the site is not intended or currently used for public recreation. The site is vacant and the adjoining RE1 Council owned land is not included in any short to medium term capital works programs.

As noted, the Randwick City Open Space and Recreation Needs Study and Strategy shows that Malabar, La Perouse and Chifley zone is well placed to cater for existing and future populations via existing Council owned and managed open space. Council will be focusing funding on areas of Randwick LGA, primarily in the north, where public open space is deficient for existing and future populations. As such Council will be focusing on provision of open space in areas forecast to decline, in line with expected housing growth.

As there is not a strong justification for the need to acquire the land for public purposes, Council is unable to purchase the site.

### **There appears to be little difference in the range of permissible uses in the RE1 and RE2 zones, to the point where similar development may occur on the land irrespective of the zoning. If this is the case, are there specific characteristics of the site which warrant that the zoning be changed?**

Site access is a specific characteristic of the site that is relevant to the use of the site as publicly accessible land.

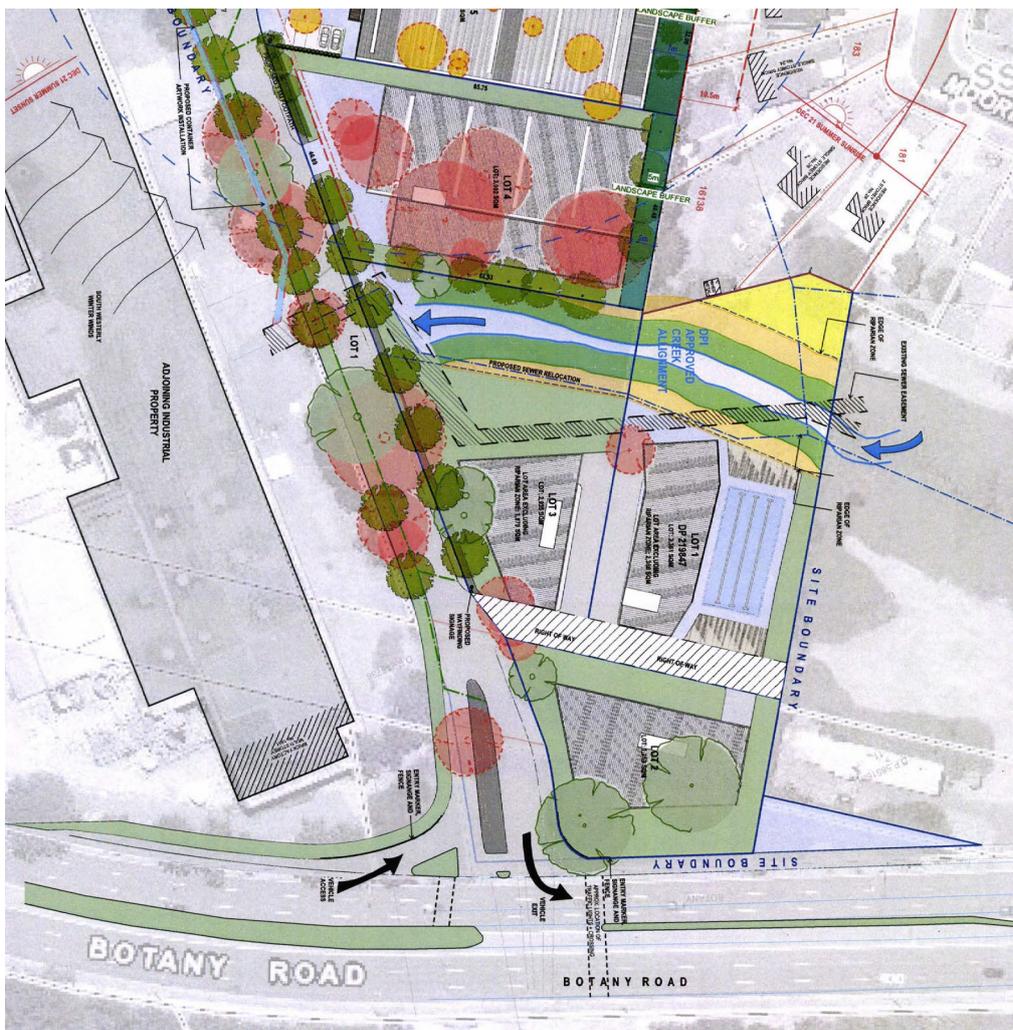
Current site access arrangements do not readily support the use of the site as publicly accessible open space. The site has no formal road access and sits adjacent to an established industrial precinct and road reserve. Pedestrian access is provided to the northern portion of the Council owned public open space immediately to the east of the site via Moorina Avenue. This access is via a drainage reserve and is not formalised. The site at 1903R Botany Road is fenced on all

boundaries, with no pedestrian access available from Botany Road or the neighbouring Council owned site. The site has never been publicly accessible due to its private ownership and constrained site access in the form of high perimeter fencing.

In May 2017 the Land and Environment Court approved the subdivision of the industrial land immediately to the west of the site, which is under the same ownership as the subject site. Approval was granted for subdivision, site remediation and landscape works, and includes provision for a right of way to the subject site via a newly created internal road approved as part of the subdivision DA. Without this privately provided site access, the site is not readily accessible to the public.

The site currently acts as a buffer between the industrial land to the west and residential land located along Moorina Avenue. This buffer is maintained under the Land and Environment Court approval noted above, which requires a riparian corridor along Bunnerong Creek to be approved by the Department of Primary Industries. Under the NSW *Water Management Act 2000*, setbacks (riparian zones) are required on waterfront land, up to 40m from the waterway bank to form a transition zone between the terrestrial environment and the water course. This riparian zone would ensure that that site will continue to act as an appropriate buffer between uses.

Under the RE1 zone, the range of permissible land uses include Recreation facilities (indoor outdoor and major), child care centres, restaurants and cafes and community facilities. These uses are also permissible under the RE2 zone. As such, the rezoning to RE2 allows for the site to be developed as a recreation facility that is open to the public, as currently intended by the landowner.



**Map 7:** Indicative development plan showing site access (approved), riparian corridor and potential future uses (Source: Bennett Murada Architects, 2018)

