

Planning and Environment. MBisson/SCharge
Phone: 4974 2892
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Resilience Planning Team
NSW Department of Planning and Environment

Electronic submission via NSW Planning Portal

Dear Resilience Planning Team

CITY OF NEWCASTLE SUBMISSION – EXPLANATION OF INTENDED EFFECT: SPECIAL FLOOD CONSIDERATIONS CLAUSE

Thank you for the opportunity to provide feedback on the Department of Planning and Environment's (DPE) Explanation of Intended Effect (EIE) about strengthening planning rules relating to new development in areas at potential flood risk. City of Newcastle's (CN) submission provides comments on the proposed special flood considerations ([clause 5.22 of the Standard Instrument—Principal Local Environmental Plan](#)). It follows the key headings in the EIE.

GENERAL

- CN acknowledges the importance of ensuring community safety and resilience during flood events and is long supportive of considering flood risk up to and beyond the 1% annual exceedance probability (AEP) flood. This historically occurred through the implementation of flood management plans and application of development standards up to the probable maximum flood.
- CN notes the challenges (time, resources and cost) of accurately defining and mapping the extent of the 'flood planning area', particularly when seeking to ensure this information becomes publicly accessible.
- CN notes the proposed changes outlined in the EIE, being:
 - Amending 32 councils' LEPs (including the Newcastle LEP 2012) by inserting clause 5.22 of the Standard Instrument—Principal Local Environmental Plan (Standard Instrument);
 - The DPE seek feedback, on the recommendations of the Independent Flood Inquiry, on two options. To insert clause 5.22 into the Resilience and Hazards State Environment Planning Policy (SEPP) or insert the clause 5.22 into all council LEPs;
 - Updating 11 councils' LEPs (not including the Newcastle LEP 2012) with minor housekeeping changes.
- CN recognises the special flood considerations clause is optional under the Standard Instrument with the intent to build resilience in future development and reduce property damage and potential loss of life from severe to extreme flooding.

- CN supports the intent of the changes to make individuals and communities more resilient to floods, improve flood management and response throughout NSW, as well as provide a consistent legislative approach to flooding.

PROPOSED SEPP AMENDMENT

Proposed written instrument amendments – 32 LEPs

- CN supports amending the Newcastle Local Environmental Plan (LEP) 2012 by working with the DPE to include the optional 'special flood considerations clause' through an amending State Environmental Planning Policy (SEPP).
- CN confirms its position of self-nomination to participate in the amending SEPP.

Proposed state-wide application of clause 5.22

- CN recognises the importance of the NSW Independent Flood Inquiry, released in August 2022, and acknowledges Recommendation 21 to "simplify and improve the state planning processes especially when anticipating and recovering from a disaster and ensure that the strategic land use frameworks and related controls permit new developments only in line with the evacuation capacity both individually and cumulatively."
- Should the DPE proceed with state-wide use of clause 5.22, it is CN's preference to insert clause 5.22 into council LEPs via the standard instrument. This allows a logical progression on from LEP clause 5.21–Flood planning. Although flooding is considered relevant to Resilience and Hazards SEPP, currently no flooding component exists in that SEPP. Inserting clause 5.22 into this legislation and separating it from clause 5.21 is the less practical approach. The LEP options provides Councils with a degree of flexibility to select which land uses are sensitive / hazardous (from the defined list) where different types of flood environments exist and hence different types of risks.

Proposed additional housekeeping amendments

- CN is not affected by these amendments and provides no comment.

CN welcome the opportunity to work with the DPE further on the proposed changes and options prior to the adoption of an amending SEPP.

Should you have any further questions regarding this submission, please contact Shane Cahill, Urban Planning Section Manager on 4974 2892 or scahill@ncc.nsw.gov.au .

Yours faithfully



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