

20 January 2023

Santina Camroux
Director Resilient Place
Department of Planning and Environment
4 Parramatta Square
Parramatta NSW 2150

Sent via Planning Portal

Dear Ms Camroux

Re: Special Flood Considerations Clause

I refer to your explanation of intended effects (EIE) on a Special Flood Considerations Clause.

Council in 2021 indicated it would not be included in a list of councils opting into *Clause 5.22 Special Flood Considerations*. Due to policy priorities, Council elections and the timing of subsequent Council meetings, there was insufficient time for Council staff to obtain a Council resolution on the matter by the deadline provided.

Regarding the matters the Department is now seeking feedback on, Council has no comment on whether the 32 councils that self-nominated to adopt Clause 5.22 should have their LEPs amended to include the clause. This was a matter for the respective elected councils.

Regarding options to have State-wide application of Clause 5.22, Council believes this would be beneficial and align with the recommendations of the 2022 Flood Inquiry.

The February 2022 flood that impacted Lismore led to significant damage to property, assets and the environment in areas above the flood planning level, including to sensitive development that would be covered under Clause 5.22. As such, Council staff will now recommend to Council that Clause 5.22 be adopted. If this is supported by Council resolution, a Council-led planning proposal will be progressed until such time as the Department informs Council that it will include Clause 5.22 as mandatory in LEPs or as part of the Resilience and Hazards SEPP.

In considering which option to progress, the Department should consider how councils would be best able to determine which land uses are applicable under the Clause, as the EIE is not clear on how this would be facilitated, or indeed whether councils would lose the ability to exclude land uses that must consider Clause 5.22.

The EIE also fails to indicate whether *Clause 5.21 Flood planning* would also be transferred into the Resilience and Hazards SEPP if this option is chosen. The 2022 Flood Inquiry report indicates that the transfer of both Clause 5.21 and Clause 5.22 into the SEPP would aid navigation of the

planning system. This would be undermined by having the two flood considerations in separate environmental planning instruments (EPI).

Without further information on the above matters, Council believes that including Clause 5.22 as a mandatory clause in the Standard Instrument LEP is the most logical option to progress, as it would keep flood planning considerations under one EPI and allow councils to more easily amend the list of included land uses to which the clause applies.

Council supports the proposed housekeeping amendments, particularly in relation to removing flood planning maps that are no longer referenced in Council's LEP.

Should you require any further information, please do not hesitate to contact Cameron Jewell, Senior Strategic Planner, on 02 6625 0476.

Yours faithfully

Andy Parks
Strategic Planning Coordinator

