

08/02/2023

Submitted via the Planning Portal

Dear Sir/Madam

### **Explanation of Intended Effect: Special Flood Considerations Clause**

Thank you for the opportunity to comment on the Explanation of Intended Effect (EIE) relating to the special flood considerations clause (the clause).

Please note that this is a staff submission only, as the short comment period did not enable this matter to be reported to Council for endorsement. However, at its Development & Environment Committee Meeting 05 October 2021, Council resolved (MIN21.700) as follows:

*That Council opt-in to adopt the Standard Instrument 'Special Flood Considerations' clause and specify that 'sensitive and hazardous development' to which the clause applies includes the following land uses: correctional centres, early education and care facilities, educational establishments, emergency services facilities, group homes, hospitals, respite day care centres, seniors housing, hazardous industries, hazardous storage establishments.*

We note that the EIE includes Shoalhaven as one of the 32 councils that have 'opted-in' to adopt the clause, and that the clause will be inserted in Shoalhaven Local Environmental Plan 2014 consistent with the above resolution.

The EIE also seeks feedback on whether to apply the clause to all local government areas in NSW by inserting the clause in all NSW council LEPs, or the State Environment Planning Policy (Resilience and Hazards) 2021. We will leave it to the other councils to comment on whether the clause should apply to them. However, the original approach which provided the option to consider the clause, tailor its applicability to the relevant local government area, and report to the elected council for formal approval was appreciated and generally preferable to any sort of one size fits all approach being imposed. If DPE adopts the State-wide approach being considered in the EIE, it is important that Shoalhaven's formal resolution (MIN21.700) be upheld and that the clause only apply to those land uses (sensitive and hazardous development) as previously communicated to DPE. For these reasons, the preferred method for applying the clause is via a council's LEP.

If DPE seeks to apply the clause to all council LEPs, additional consultation with each council may be required. It would be preferable to resolve implementation of the clause

sooner rather than later with regard to the 32 self-nominating councils, as we have already noticed a degree of uncertainty around the status of the clause and the associated ministerial direction.

The proposed housekeeping amendment as it applies to Shoalhaven is supported, although there is a typo in Table 1: the amendment should apply to clause 4.2D(6) not 4.3D(6) of Shoalhaven LEP 2014.

If you need further information about this matter, please contact Richard Carter, City Futures on (02) 4429 3482. Please quote Council's reference 31157E (D23/43097).

Yours faithfully

A handwritten signature in black ink that reads "Gordon Clark." The signature is written in a cursive, slightly slanted style.

**Gordon Clark**  
**Section Manager – Strategic Planning**