

28 February 2023

Department of Planning and Environment
Locked Bag 5022
Parramatta NSW 2124

Dear Department of Planning and Environment,

RE: Explanation of Intended Effect: Special Flood Considerations Clause

As the peak industry body representing the leading participants across all facets of urban development in NSW Urban Development Institute of Australia NSW (UDIA) advocates on behalf of our over 450 member companies, for the creation of Liveable, Affordable and Connected Smart Cities.

UDIA welcomes the opportunity to respond to the Explanation of Intended Effect: Special Flood Considerations Clause. We acknowledge that the EIE is limited to the inclusion of the 'special flood considerations' clause into Local Environmental Plans (LEPs) for those councils which have elected to include it and two additional proposals 1) to include the clause to all LEPs in the state or 2) introduce the clause into the Resilience and Hazards SEPP.

UDIA supports the protection of life and property subject to flood risk, and our members have successfully planned and developed flood resilient communities across NSW under the existing flood-prone land planning system. Consistent with our previous submissions on the special flood clause, flood prone land package and the 2022 NSW Flood Inquiry, we support a risk-based approach to planning for land which is subject to flood risk based on sound evidence and modelling.

This submission responds directly to the proposals outlined within the EIE.

Amend 32 Identified Council LEPs

UDIA accepts that the preparation of a self-repealing State Environmental Planning Policy (SEPP) is the most efficient way of amending all 32 LEPs for those councils which have elected to adopt the clause. This is a widely accepted practice which has been used on multiple occasions to amend multiple LEPs.

Proposals - State-Wide Application of The Clause

Inserting the standard instrument clause 5.22 into all council LEPs is not supported. This would mean that the clause is included in LEPs even in the instance where there is none, or very limited, flood prone land within the Local Government Area. It further adds to an already overly complicated system and lengthy LEP documents. Efforts should be made to streamline LEPs and only include information which is relevant and pertinent to that local government area.

Inserting clause 5.22 into the Resilience and Hazards SEPP is also not supported. Provisions contained within SEPPs are difficult to find and navigate and continue to add to the complexity of the NSW planning system. The existing approach of allowing councils to nominate to include the clause should be maintained with

continued education provided to those councils who elected not to adopt the clause to demonstrate the benefits of a consistent state wide clause over their existing provisions.

Minor Housekeeping Amendments

UDIA NSW raises no objection to the minor housekeeping amendments identified in the EIE. These amendments should be made as part of the self-repealing SEPP alongside the inclusion of the 'special flood consideration' clause within the LEPs of the self-nominated councils.

The planning and management of land subject to flooding remains a focus for UDIA and our members and we welcome further opportunity to work with Government to progress work in this pace and support the implementation of the 2022 NSW Flood Inquiry recommendations.

Thank you for the opportunity to provide a submission to the public exhibition. Should you have any further questions regarding the recommendations contained within this submission, or to arrange a meeting, please contact Michael Murrell, A/General Manager Policy, Research and Corporate Affairs at mmurrell@udiansw.com.au or 0413 221 195.

Kind Regards,

Steve Mann
Chief Executive
UDIA NSW