

**COFFS HARBOUR CITY COUNCIL
ORDINARY MEETING
27 NOVEMBER 2014**

RESOLUTION NO. 351

Minutes confirmed at Council meeting: 18 December 2014
To view Report, double-click on Agenda Report link below

Agenda Report

**CP14/42 COASTAL HAZARD PLANNING CONTROLS - POLICY
FRAMEWORK AND PLANNING PROPOSAL**

The purpose of this report is to seek Council's endorsement of the draft Coffs Harbour Coastal Hazard Planning Policy and associated documents (Planning Proposal – PP_2014_Coffs_03, Development Control Plan (DCP) amendments and notations for Council's Section 149 certificates) and to seek approval for them to be exhibited.

351 RESOLVED (Palmer/Degens):

1. That in accordance with Section 160 (2) of the Local Government Act 1993, Council gives public notice of its intention to adopt the Coastal Hazard Planning Policy as shown in Attachment 1, placing it on public exhibition for a period of 42 days (six weeks).
2. That Council endorse and forward the subject Planning Proposal as shown in Attachment 2 of this report to NSW Planning and Environment seeking a "Gateway Determination", and to place the Planning Proposal on public exhibition for a period of 42 days (six weeks) consistent with the Gateway Determination.
3. That Council endorse the amendments to Chapter E2 – Coastal Hazards, being an amended chapter of Coffs Harbour Development Control Plan 2013 as shown in Attachment 3.
4. That Council exhibit the amendments to DCP Chapter E2 – Coastal Hazards for a period of 42 days (six weeks) in accordance with the provisions of the Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulations 2000.
5. That a further report be considered by Council following the outcome of the public exhibition of the Coastal Hazard Planning Policy, Planning Proposal and the amended DCP.
6. That Council endorse the amendments to Council's Section 149(2) and Section 149(5) certificate template as shown in Attachment 4, and that Council include hazard notations for coastal hazard risk, as detailed in the endorsed amendments to Section 149(2) and Section 149(5) certificates once the LEP amendment has been adopted.
7. That Council write to affected landowners informing them of the process and inviting them to attend community based consultation events during the public exhibition.

VOTED FOR

VOTED AGAINST

Cr Degens

nil

Cr Cowling

Cr Innes

Cr Arkan

Cr Townley

Cr Sultana

Cr Palmer

Cr Rhoades

COASTAL HAZARD PLANNING CONTROLS - POLICY FRAMEWORK AND PLANNING PROPOSAL

Purpose:

The purpose of this report is to seek Council's endorsement of the draft Coffs Harbour Coastal Hazard Planning Policy and associated documents (Planning Proposal – PP_2014_Coffs_03, Development Control Plan (DCP) amendments and notations for Council's Section 149 certificates) and to seek approval for them to be exhibited.

Background:

The Coffs Harbour City Local Government Area (LGA) has 79 kilometres of coastline stretching from Pebbly Beach and Red Rock in the north to Bundagen in the south. Coastal hazards, such as coastal erosion, are managed by Council and the State Government under a framework including the *NSW Coastal Policy* (1997), the *Coastal Protection Act* 1979, and the *Coastal Protection Regulation* 2011. Under the current NSW State Government, this framework involves local councils undertaking coastal hazard studies and developing coastal zone management plans which then inform land-use planning, development controls and other coastal activities.

Council has responded to this by developing and adopting a *Coffs Harbour Coastal Processes and Hazards Definition Study 2011* (Definition Study), a *Coffs Harbour Coastal Zone Management Study* (2012) (CZMS) and a *Coffs Harbour Coastal Zone Management Plan* (2013) (CZMP). The CZMP was adopted by Council on the 14 February 2013. These documents provide a basis for the prediction of impacts from coastal hazards, and a range of management strategies to inform the community about how coastal erosion and inundation will be dealt with in their locality. The documents contain a range of prioritised actions, which include the preparation of planning controls that reflect the coastal hazards for different planning timeframes and sea level rise scenarios as defined in the Definition Study.

Council adopted a general *Coastal Hazard Zone Policy* (most recently endorsed in August 2013). The policy provides a broad framework for the consideration of coastal hazards as part of the development assessment process. A Chapter of Coffs Harbour DCP 2013 also broadly deals with coastal hazards and refers to the Definition Study. However, there are currently no assessment criteria outlining how these matters should be considered in a land-use planning context, and no specific requirements under Coffs Harbour Local Environmental Plan (LEP) 2013 for their consideration.

Council has also adopted a *Climate Change Policy* in October 2013. This policy states that Council acknowledges the reality of climate change and that climate change will impact on both the current way of life of the whole Coffs Harbour community and our natural and built environment. Furthermore, it confirms that Council is committed to adapting to the effects of climate change.

Description of Item:

A high priority action in the recently adopted CZMP 2013 is the formulation of updated policy and planning controls to address development in the coastal zone. Coastal hazard areas for different planning horizons and sea level rise scenarios have been defined in Council's Definition Study and CZMP.

Council's current Coastal Policy and planning controls are very simplistic and do not provide adequate guidance for the range of sea level rise scenarios, planning timeframes and hazard areas associated with the coastal zone. A new relevant Coastal Policy is required to inform a revised set of planning controls that will integrate the CZMP and Definition Study recommendations into Council's newly made Coffs Harbour LEP 2013 and Coffs Harbour DCP 2013. Section 149 certificates will also be amended to reflect the revised Policy on this matter.

The overall project is a result of the following actions identified in the CZMP and reported to Council on 14 February 2013:

Action P.6 of the CZMP is to amend the draft LEP 2012 through a planning proposal and Action P.1 is to prepare a coastal hazards chapter in the DCP setting out the requirements for development where coastal erosion or inundation has been identified as a risk for a particular property.

Following adoption of the CZMP, Council will be required to undertake a planning proposal and amend the draft LEP 2012 and draft DCP 2012.

Again, these tasks are an unavoidable outcome of the finalization of the CZMP. It must be highlighted that there is no current resource capacity identified for this future and strategically important body of work.

A grant will be sought to fund the implementation of these 2 actions through the state coastal and estuary program.

Council received State Government (Office of Environment and Heritage) funding (\$10,000) to prepare an updated Coastal Policy and associated planning controls. Council also contributed funding towards the project (\$30,000). Several planning consultancies were approached to provide an expression of interest to progress the project, and Mike Sviki Planning was awarded the contract.

Four documents are attached for Council's consideration, including:

1. Coastal Hazard Planning Policy (the Policy) (refer Attachment 1).
2. Planning Proposal (PP) – PP_2014_Coffs_03 (refer Attachment 2).
3. Amendments to Chapter E2 - Coastal Hazards (refer Attachment 3), of the Coffs Harbour Development Control Plan (DCP) 2013.
4. Amended notations for Council's Section 149(2) and Section 149(5) certificate template (refer Attachment 4).

The resulting coastal management planning controls presented in this report aim to integrate coastal hazards as defined in the Definition Study and CZMP, and align Council's strategic documents with the *NSW Coastal Policy (1997)*. The coastal management planning controls also accord with the Stage 2 Reforms outlined in the NSW Office of Environment and Heritage's Coastal Reform process.

Sustainability Assessment:

- **Environment**

The coastal management planning controls will not adversely impact on threatened species, populations, or ecological communities. The controls will introduce provisions that require assessment of coastal hazard and coastal processes and the management of development that is currently already permitted under Coffs Harbour LEP 2013.

- **Social**

The coastal management planning controls contained herein result from recommendations of the adopted CZMP. The CZMP was publicly exhibited and a series of community consultation events were held to inform the community of the work that had been undertaken. The amended Development Control Plan Chapter advises future applicants and the wider community how different development proposals will be assessed depending on where they are located in relation to the coastal hazard area.

- **Civic Leadership**

In 2009 Council adopted a 20 year *Community Strategic Plan (2030)*. The plan is based on five key themes being: Learning and Prospering, Places for Living, Moving Around, Looking After our Community, and Looking After our Environment.

The coastal management planning controls are generally consistent with the following relevant Objectives:

- LC1.1 Build pride and identity in Coffs Harbour as a community and place.
- LC1.2 Develop community resilience, disaster preparedness and response mechanisms.
- LC1.3 Promote a safe community.
- LE3.2 Enhance protection of our catchments, waterways and marine areas.
- PL 1.2 Provide infrastructure that supports sustainable living and is resilient to climatic events
- PL 1.5 Encourage innovative developments that embrace our climate and local environment

Raising awareness of coastal hazards by amending Coffs Harbour LEP 2013 (supported by a coastal hazards DCP, amended 149 certificate template and other associated documents) will ensure that information is provided to relevant stakeholders to ensure that future coastal development is more resilient to coastal hazards as well as the level of risk that applies to property is better known.

- **Economic**

Broader Economic Implications

Under the proposed controls, where a development is proposed in a coastal hazard area, Council will require an increased level of information with the application and would expect that any development in a coastal hazard area incorporate a level of resilience to coastal hazards in its design, layout and function. Council would assess development in proportion to its level of coastal hazard, the likely life of the development and its use.

Some of these factors can increase the cost of development by increasing the information the applicant needs to compile and by impacting on the design and construction of the development. However, these costs reflect the nature of the hazard in that location and are reasonable if development is to be considered by Council in a responsible manner.

In doing so, Council will reduce the burden to future generations of inappropriate development that will generate the pressure for major public expenditure if it is affected by coastal hazards at a future date.

Delivery Program/Operational Plan Implications

Council is the lead agency in the majority of the actions proposed to address identified risks within the CZMP, which include the formulation of planning and development controls as presented in this report.

Risk Analysis:

The evolution of the CZMP 2013 and the Definition Study 2011 has involved extensive community engagement. The documents presented in this report will also be placed on exhibition prior to their final adoption, thus providing further opportunity for community engagement and therefore reducing risks. Further environmental assessments will be undertaken to ensure that additional risk analysis is undertaken prior to Council committing to any further progression of strategic documents.

Consultation:

Consultation has been undertaken during the progression of the current project documents with the following key players in the process:

- **Internal Consultation**

A number of meetings were conducted with Council staff regarding the project, being an Inception Meeting and Review Meeting respectively. These meetings were attended by staff from the Sustainable Planning and Development Assessment branches of Council as well as the Coastal and Environmental Engineering areas.

The documents were also referred to Council's Governance Branch, and Council's lawyer who provided extensive input on the final draft documents.

- **State Agency Consultation**

An Office of Environment and Heritage (OEH) representative with previous involvement with Council's development of the CZMP and other coastal policy documents has been present for all project meetings as outlined above. Comments were also received directly during the initial stages of the project.

The NSW Department of Planning and Environment (P&E) have been consulted, both at the Northern Region Office in Grafton as well as the central office in Sydney, in relation to the development of an appropriate LEP clause. P&E identified standard clauses that had been accepted on the basis of a CZMP having been adopted and incorporated into planning controls by other councils.

These matters have been considered where appropriate to date and will continue to form a basis for consideration as the project continues.

- **Community Consultation**

Significant community consultation was undertaken with affected communities during the preparation of the Definition Study and CZMP by Council and the consultants associated with these studies. Given that the preparation of land-use planning controls is a direct recommendation of this process, additional community consultation during the drafting of the controls was not considered necessary. However, community consultation will be undertaken as part of the public exhibition of the draft planning controls.

The gateway determination for the PP will specify the community consultation that must be undertaken on the PP.

Following endorsement of the draft DCP controls for public exhibition, a community consultation process is envisaged including written notification to affected residents and businesses, conducting of drop-in sessions in a number of affected locations, and preparation of fact-sheets/information brochures to highlight key concepts.

Related Policy and / or Precedents:

The draft documents included in this report are consistent with the following:

- The Mid North Coast Regional Strategy;
- State Environmental Planning Policies;
- The Coffs Harbour 2030 Plan;
- Council's Climate Change Policy (2013); and
- Planning Practice Notes and Guidelines issued by the NSW Department of Planning and Environment.

Statutory Requirements:

The draft planning controls and documents included in this report have been prepared in accordance with the following legislation:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- The Department of Planning Standard Instrument (LEPs) Orders (gazetted March 2006, amended September 2006 and July 2008);
- Relevant State Environmental Planning Policies;
- Coastal Protection Act 1979;
- Coastal Protection Regulations 2011;
- Relevant Section 117 Directions;
- NSW Government Coastal Policy and related documents; and
- Mid North Coast Regional Strategy.

Issues:

- **Risk Based Framework**

The Coastal Hazard Assessment stage used a risk assessment matrix, based on the likelihood and consequence of the hazards, to identify the assets (both natural and man-made) at highest risk, and any mitigating controls already in place. The risks of most concern were those generally associated with coastal erosion and recession hazard because management strategies to address this are limited at present.

Generally, the areas identified as being at risk of inundation correspond with the areas identified under flood management planning. A range of assets were identified to be at risk, including natural assets like beaches, as well as man-made assets such as surf clubs and private property. The number of private residential and commercial etc properties at risk of coastal erosion and recession based on the range of timeframes include the following:

- **Properties within the Immediate Hazard Zone** - 68 Residential properties, four Caravan Parks, eight strata developments, three commercial buildings and two Surf clubs
- **Properties within the 2050 Hazard Zone** - 116 Residential properties, three Caravan Parks, 15 strata developments, two commercial buildings and one Surf club.
- **Properties within the 2100 Hazard Zone** - 154 Residential properties, four Caravan Parks, 37 strata developments, 17 commercial buildings.

- **Properties within Special Areas** - 30 Residential properties, one Caravan Park and two Commercial buildings.

Of these properties, there are currently no urban greenfield sites that fall within these areas, and only a few substantially sized potential urban infill sites (e.g. Anuuka at Diggers Beach and Nautilus at Sapphire Beach).

- **Category Naming Protocol Within Amended DCP Chapter**

The definition and mapping of coastal hazards in the Definition Study adopts a 'probability of occurrence' or 'likelihood' of hazard extent. Following the Australian Standard for Risk Management (AS/NZS ISO 31000:2009), the likelihood scale of 'almost certain', 'likely', 'possible', 'unlikely' and 'rare' was adopted (although only 'almost certain', 'unlikely' and 'rare' have been mapped). Risk assessment is now the prescribed framework for assessing and evaluating coastal hazards and their associated risk by the NSW Government (DECCW, 2009a, 2009b, 2009c) whereby risks are determined giving consideration to both 'likelihood' and 'consequence' of occurrence.

These categories have also been used within this Council report. In the course of the preparation of the DCP amendments it was considered that there was the potential for this particular terminology to be misunderstood in the process of interpretation. In order to lessen the likelihood of such a misunderstanding it was decided to refer to these categories within the DCP amendments in the following manner:

Coastal hazard zone category:

- Immediate (Unlikely line - Yellow)
- 2050 (Unlikely line - Yellow)
- 2100 (Unlikely line - Yellow)

Revised category:

- Immediate Hazard Line
- 2050 Hazard Line
- 2100 Hazard Line

- **Format of Coffs Harbour Development Control Plan 2013**

The Coffs Harbour DCP 2013 is currently being comprehensively reviewed to ensure consistency with the Coffs Harbour LEP 2013. The DCP will also be re-structured to allow Council to deliver the Plan in an electronic format, including the ability for customers to view and interrogate the DCP controls. The Draft Coffs Harbour Coastal Hazards chapter of the DCP has been formatted to fit with the structure of the revised DCP.

Implementation Date / Priority:

As the Coastal Hazard Planning Policy is an overarching document, the policy can be implemented immediately following resolution of any issues arising during the public exhibition period.

The timeframe for a PP is established in the EP&A Act. The timeframe is triggered once the matter is forwarded to the NSW Department of Planning and Environment by Council (i.e. after Council endorsement).

The DCP amendments will contain the majority of the detailed controls, and are recommended to be publically exhibited following endorsement by Council through this report along with the PP document and new Policy (all documents would be exhibited once a

Gateway Determination has been made by NSW Planning and Environment). This is to allow a thorough public consultation process to be undertaken, including community drop-in sessions, and subsequent analysis of submissions. To maximise the effectiveness of community consultation, it is recommended to undertake any such consultation following Christmas School holidays.

Following resolution of any issues arising during the public exhibition period, the amended DCP chapter and the Policy will not take effect until the LEP amendment has been finalised through the PP process.

The amended notations for Council's Section 149(2) and Section 149(5) certificate template will also come into effect once the LEP amendment has been finalised through the PP process.

Recommendation:

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Attachment:

- ATT1 Coastal Hazard Planning Policy**
- ATT2 Planning Proposal to identify a Coastal Hazard Planning Area**
- ATT2 Appendix A Coastal Hazard Planning Map**
- ATT2 Appendix B Existing Land Use Zones under LEP 2013**
- ATT3 Coastal Hazard DCP - Component E2**
- ATT4 Coastal Hazard Section 149 Notations**