



Planning Proposal to amend Great Lakes LEP 2014: Coastal Risk Planning Maps

Minor amendments to the exhibited Planning Proposal are proposed in response to public submissions:

- **Amend the wording of Great Lakes Local Environmental Plan 2014 Clause 7.4 Coastal Risk Planning to remove the term "risk"**
- **Repeal of Great Lakes Complying Development Land Map - Sheet LCD_001 in Schedule 5 of the *State Environmental Planning Policy (Exempt & Complying Development Codes) 2008***

MidCoast Council Forster Office reference: SP-PP14

Department of Planning & Environment reference: PP_2014_GLAKE_001_00

March 2017

CONTENTS

INTRODUCTION	3
PART 1 - OBJECTIVES OR INTENDED OUTCOMES	4
PART 2 - EXPLANATION OF PROVISIONS	13
PART 3 - JUSTIFICATION	15
Section A - Need for the planning proposal	15
Section B - Relationship to strategic planning framework	17
Section C - Environmental, social and economic impact	23
Section D - State and Commonwealth interests	25
PART 4 - COMMUNITY CONSULTATION	27
PART 5 - PROJECT TIMELINE	28
CONCLUSION	30
ANNEXURES	31

Version	Purpose of Document	Author	Date
1	For Gateway Determination	AM	April 2014
2	Minor editorial amendments to reflect Gateway Determination issued 27 August 2015	AM	29/04/2014
3	Amendments in response to public and agency submissions received during exhibition	AM	March 2017

INTRODUCTION

The proclamation of 12 May 2016 ratified the merger of the Local Government Areas of Gloucester Shire, Greater Taree and Great Lakes Council into Midcoast Council. Great Lakes Local Environmental Plan (LEP) 2014 still stands as a separate environmental planning instrument.

The Planning Proposal, reference number PP_2014_GLAKE_001_00 sought to identify additional and amended areas of coastal risk in the former Great Lakes Local Government Area.

The amended Planning Proposal has been prepared by the Forster Office of MidCoast Council in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979* and the relevant Department of Planning and Environment (Department) Guidelines, including *A Guide to Preparing Local Environmental Plans* and *A Guide to Preparing Planning Proposals*.

The amended Planning Proposal seeks to:

- identify additional and amended areas of coastal risk in Great Lakes LEP 2014
- amend the wording of Great Lakes LEP 2014 Clause 7.4 Coastal Risk Planning to remove the term "risk"
- repeal of Great Lakes Complying Development Land Map - Sheet LCD_001 in Schedule 5 of the *State Environmental Planning Policy (Exempt & Complying Development Codes) 2008*

This Planning Proposal outlines the intended effect of and justification for the proposed environmental planning instrument amendments.

PART 1 - OBJECTIVES OR INTENDED OUTCOMES

A statement of the objectives or intended outcomes of the proposed local environmental plan

The primary objective of the original planning proposal was to amend the Coastal Risk Planning Maps of Great Lakes LEP 2014 in accordance with the recommendations of the Great Lakes Coastal Hazard Study (2013) adopted by Council on 25 February 2014.

Minor mapping amendments to the existing Coastal Risk Planning Areas in Great Lakes LEP 2014 were also identified as a result of works associated with the Coastal Zone Management Plans prepared for Jimmy's Beach, Bluey's Beach and Boomerang Beach and these areas were clearly identified in the public exhibition material.

In response to public submissions two additional environmental planning instrument amendments are requested:

- amend the wording of Great Lakes LEP 2014 Clause 7.4 Coastal Risk Planning to remove the term "risk"
- repeal Great Lakes Complying Development Land Map - Sheet LCD_001 in Schedule 5 of the *State Environmental Planning Policy (Exempt & Complying Development Codes) 2008*

The adopted coastal hazard studies and all relevant hazard studies and investigations were available as supporting information during the public exhibition period and remain available at www.midcoast.greatlakes.nsw.gov.au/Environment/Environmental-Hazards#coastalmanagement.

Aerial imagery of the affected beaches is provided in Figures No.1 to 8.



Figure No.1 Aerial Imagery of Tuncurry-Darawank illustrating Nine Mile Beach



Figure No.2 Aerial Imagery of Forster illustrating Main Beach and One Mile Beach.

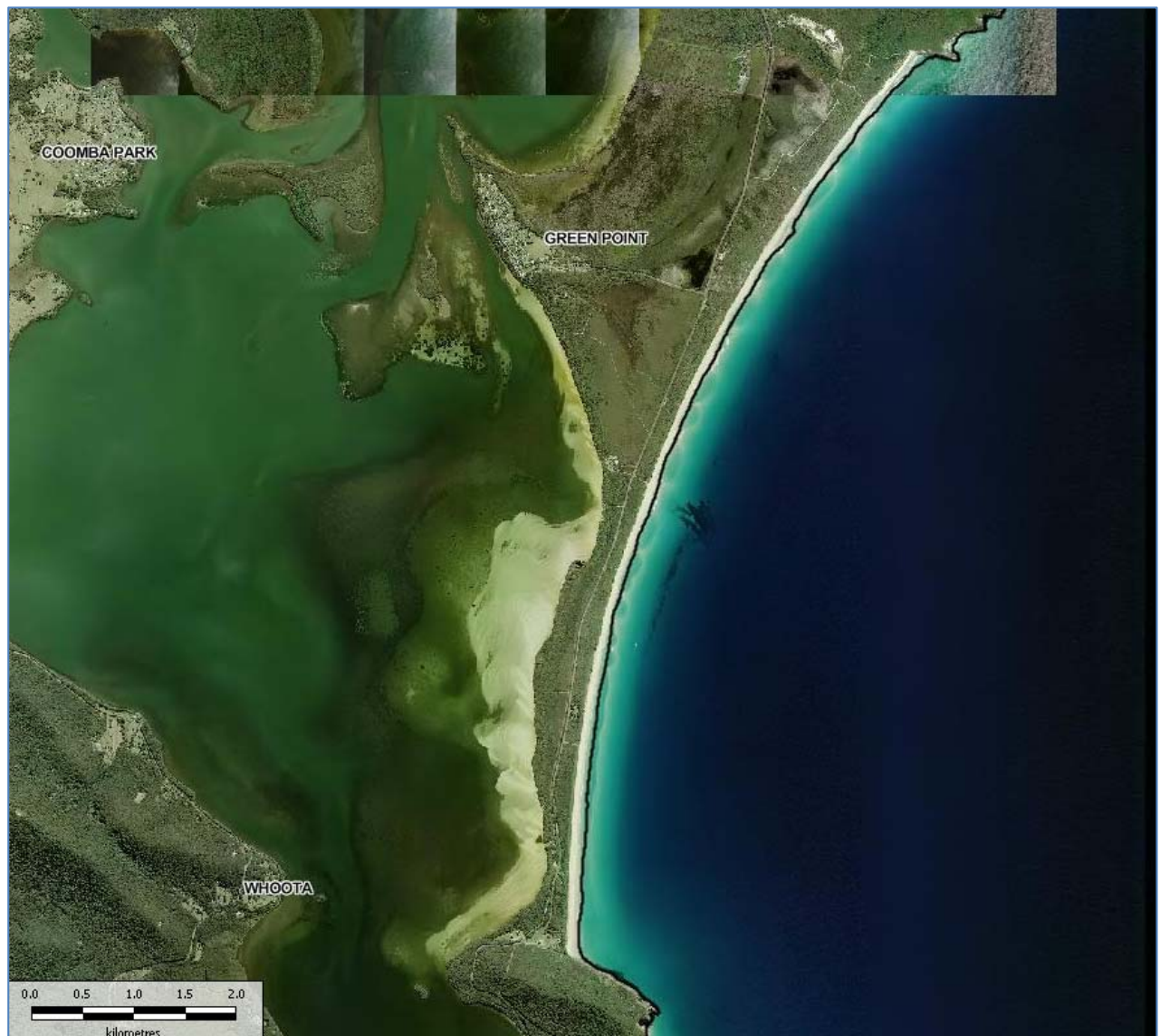


Figure No.3 Aerial Imagery of Tiona illustrating Seven Mile Beach



Figure No.4 Aerial Imagery of Pacific Palms illustrating Elizabeth Beach, Boomerang Beach and Bluey's Beach



Figure No.5 Aerial Imagery of Smiths Lake illustrating Cellito Beach and Sandbar Beach

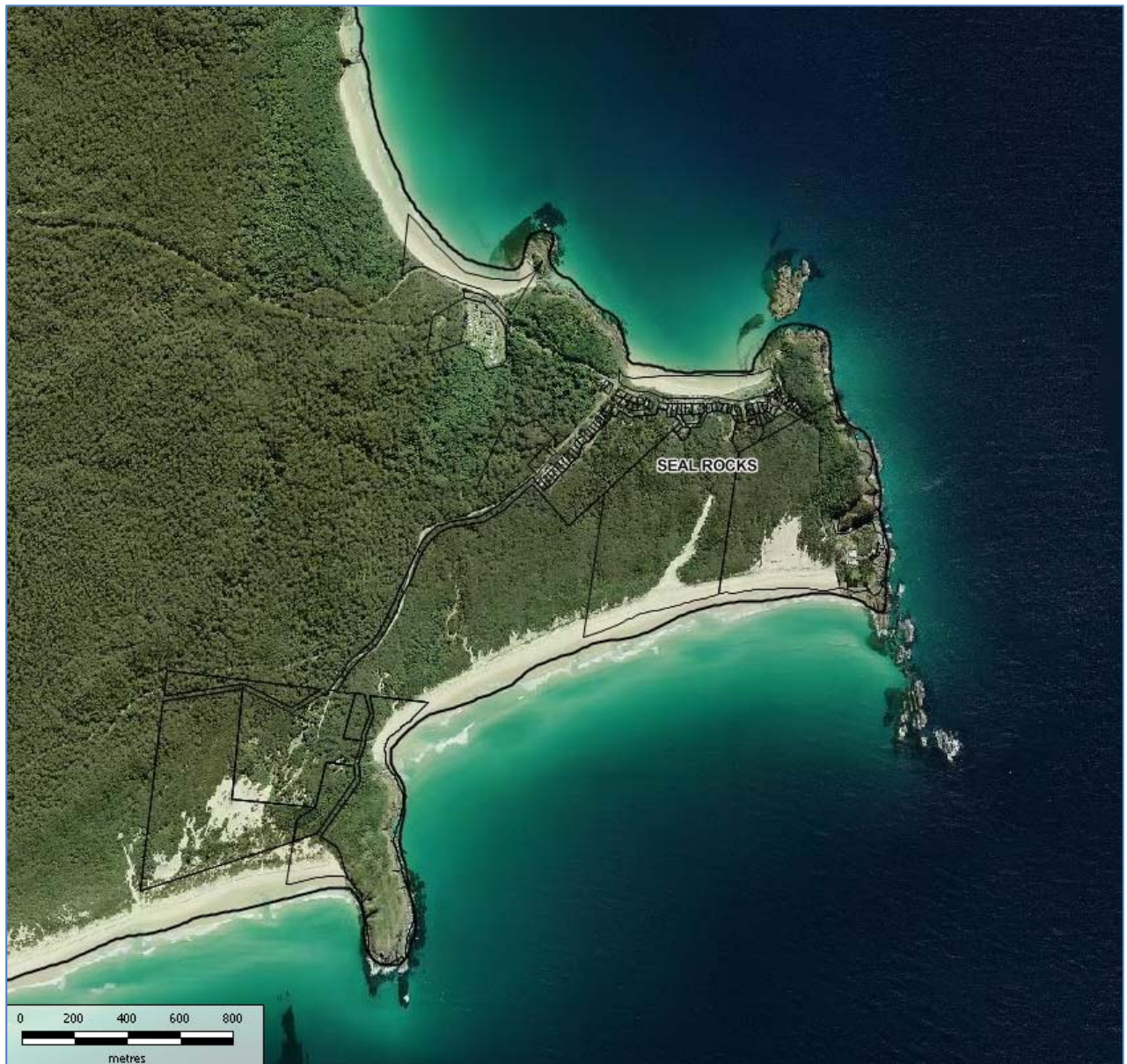


Figure No.6 Aerial Imagery of Seal Rocks illustrating Number One and Boat Beach



Figure No.7 Aerial Imagery of Hawks Nest and Winda Woppa illustrating Bennett's Beach and Jimmy's Beach

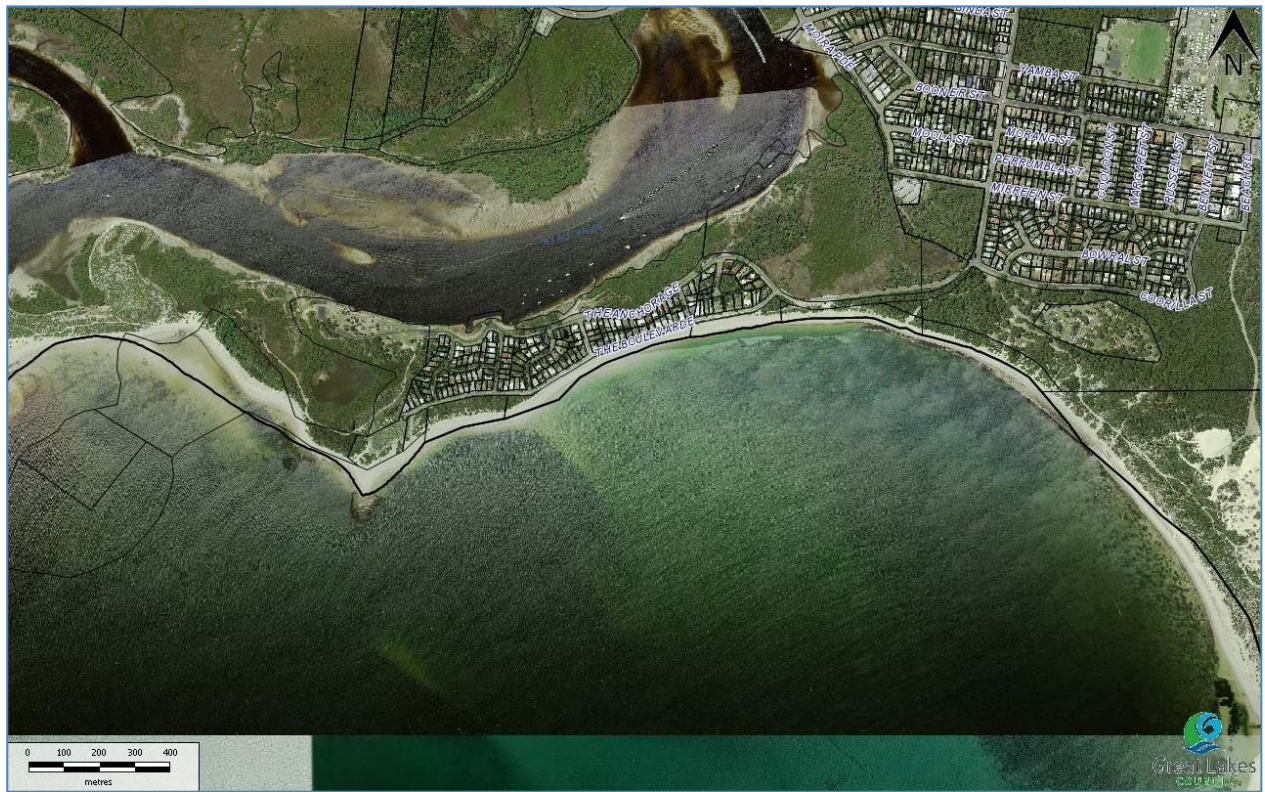


Figure No.8 Aerial Imagery of Winda Woppa illustrating Jimmy's Beach

PART 2 - EXPLANATION OF PROVISIONS

An explanation of the provisions that are to be included in the proposed local environmental plan

The primary objective of the original planning proposal was to amend the Coastal Risk Planning Maps of Great Lakes LEP 2014 in accordance with the recommendations of the Great Lakes Coastal Hazard Study (2013) adopted by Council on 25 February 2014.

Minor mapping amendments to the existing Coastal Risk Planning Areas in Great Lakes Local Environmental Plan 2014 were also identified as a result of works associated with the Coastal Zone Management Plans prepared for Jimmy's Beach, Bluey's Beach and Boomerang Beach and these areas were clearly identified in the public exhibition material.

In response to public submissions two additional environmental planning instrument amendments are requested:

- removal of the term "risk" from Clause 7.4 Coastal Risk Planning in Great Lakes Local Environmental Plan 2014; and
- repeal of Great Lakes Complying Development Land Map - Sheet LCD_001 in Schedule 5 of the State Environmental Planning Policy (Exempt & Complying Development Codes) 2008.

Clause 7.4 Coastal Risk Planning

Council sought to respond to the significant community concerns regarding the language of the environmental planning instrument provisions as they relate to coastal planning, similar to the process already been undertaken within the Great Lakes Development Control Plan (DCP) - Coastal Planning provisions.

Specifically, the current clause in Great Lakes Local Environmental Plan 2014 reinforces unnecessarily, emotive responses to coastal hazards by reiterating throughout the clause, the term "risk". It is therefore commended that the exhibited Planning Proposal be amended to request that the existing LEP clause be amended as follows:

7.4 Coastal ~~risk~~ planning

(1) *The objectives of this clause are as follows:*

- (a) *to avoid significant adverse impacts from coastal hazards,*
- (b) *to ensure uses of land identified within coastal planning areas ~~as coastal risk~~ are compatible with the risks presented by coastal hazards,*
- (c) *to enable the evacuation of land identified within coastal planning areas ~~as coastal risk~~ in an emergency.*

(2) *This clause applies to the land identified as "Coastal ~~Risk~~-Planning area" on the Coastal ~~Risk~~ Planning Map.*

(3) *Development consent must not be granted to development on land to which this clause applies unless the consent authority has considered whether the development:*

- (a) *is likely to be adversely affected by the impacts of coastal hazards, and*
- (b) *is likely to cause detrimental increases in coastal risks to other development or properties, and*
- (c) *is likely to alter coastal processes and the impacts of coastal hazards to the detriment of the environment, and*
- (d) *incorporates appropriate measures to manage risk to life from coastal risks, and*

- (e) avoids or minimises potential adverse effects from the impact of coastal processes and the exposure to coastal hazards, particularly if the development is located seaward of the 2060 hazard line, and
- (f) provides for the relocation, modification or removal of the development to adapt to the impact of coastal processes, coastal hazards and sea level rise planning benchmarks.

(4) A word or expression used in this clause has the same meaning as it has in the NSW Coastal Planning Guideline: Adapting to Sea Level Rise (ISBN 978-1-74263-035-9) published by the NSW Government in August 2010, unless it is otherwise defined in this clause.

(5) In this clause:

2060 hazard line means the landward extent of erosion, recession and stability hazards consistent with the projected 2060 sea level rise of 0.5 metres above the 1990 mean sea level.

coastal hazard has the same meaning as in the Coastal Protection Act 1979.


Great Lakes Complying Development Land Map

The existing Great Lakes Complying Development Land Map - Sheet LCD_001 in Schedule 5 of the *State Environmental Planning Policy (Exempt & Complying Development Codes) 2008*, incorrectly identifies some properties at Boomerang Beach as being affected by coastal hazards.

The properties in question are not located on the beachfront and improved hazard classification studies have identified that these properties are primarily affected by localised flooding rather than coastal hazards. An excerpt from the Great Lakes Complying Development Land Map is shown below, clearly illustrating the properties incorrectly identified as being subject to coastal hazards.



LEGEND

 Complying Local Exclusion

PART 3 - JUSTIFICATION

Section A - Need for the planning proposal.

1 Is the planning proposal a result of any strategic study or report?

The primary objective of the original planning proposal was to amend the Coastal Risk Planning Maps of Great Lakes LEP 2014 in accordance with the recommendations of the Great Lakes Coastal Hazard Study (2013) adopted by Council on 25 February 2014.

Minor mapping amendments to the existing Coastal Risk Planning Areas in Great Lakes LEP 2014 were also identified as a result of works associated with the Coastal Zone Management Plans prepared for Jimmy's Beach, Bluey's Beach and Boomerang Beach and these areas were clearly identified in the public exhibition material.

The all adopted coastal hazard studies and investigations were available as supporting information during the public exhibition period and remain available on the website at www.midcoast.greatlakes.nsw.gov.au/Environment/Environmental-Hazards#coastalmanagement:

- Bluey's and Boomerang Beach Coastal Hazards Definition Study
- Great Lakes Coastal Hazard Study - Report
- Jimmy's Beach Coastal Hazards Study
- Ground Penetrating Radar Study at Bluey's Beach and Boomerang Beach
- Bluey's Beach and Boomerang Beach Hazard Line Revision Study

Three beaches are currently identified as potentially affected by coastal hazard in Great Lakes LEP 2014 - Jimmy's Beach, Boomerang Beach and Bluey's Beach.

The existing clause 7.4 Coastal Risk Planning and Coastal Risk Planning Maps of Great Lakes LEP 2014 are provided in Annexure B to this Planning Proposal.

The Draft Coastal Risk Planning Area maps are provided in Annexure C to this Planning Proposal.

Council' Coastal Zone Management Plan for Jimmy's Beach was certified in September 2016.

The Coastal Zone Management Plan for (all other) Great Lakes Beaches including Boomerang Beach and Bluey's Beach was submitted for certification in September 2016.

Work associated with the Great Lakes Coastal Hazard Study (2013) and Coastal Zone Management Plans (CZMP) for Jimmy's Beach, Boomerang Beach and Bluey's Beach resulted in minor mapping amendments to the existing Coastal Risk Planning Areas in Great Lakes Local Environmental Plan 2014.

The Bluey's and Boomerang coastal planning area amendments reflect additional geotechnical investigation completed as part of the CZMP program. These amendments reflect relatively small changes in coastal hazard line locations in South Boomerang Beach and South Bluey's Beach.

The amendments were clearly identified in the public exhibition material and addressed during the community engagement program for both the coastal risk planning areas in Great Lakes LEP 2014 and the Boomerang and Bluey's Beach CZMP.

2 Is the planning proposal the best means of achieving the objectives or intended outcomes or is there a better way?

The former Great Lakes Council endorsed the provision of coastal hazard information within the local environmental plan and therefore this planning proposal provides the best and most appropriate means of updating the coastal hazard information available to affected land owners and the broader community.

Section B - Relationship to strategic planning framework

3 Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including exhibited draft strategies)?

The LEP amendment maps contained in the Planning Proposal are consistent with Council Policy, NSW Planning & Infrastructure LEP guidelines, Planning Proposal guidelines and S117 Directions.

At the time of preparing the original Planning Proposal, the Mid North Coast Regional Strategy (MNCRS) was in place and stated that where Coastal Zone Management Plans are not yet in place for areas subject to coastal hazards that "Councils consider these issues in any future development in these coastal locations".

The former Great Lakes Council substantially commenced the preparation of Coastal Zone Management Plans (CZMP) for Jimmy's Beach, Bluey's Beach and Boomerang Beach and is in the process of engaging a consultant to undertake a CZMP for beaches identified in the Great Lakes Coastal Hazard Study (2013).

The timeframes for completion of the CZMP projects were:

- Jimmy's Beach - end of the 2014 calendar year
- Bluey's & Boomerang Beaches - end of the 2014 calendar year
- Great Lakes (remainder of the coastline) - end of the 2014-2015 financial year

In accordance with the requirements of the MNCRS Council officers give consideration to coastal hazards in all areas identified by adopted Council studies and policies and provide information to affected land owners on potential development constraints as required.

To this end, Council officers, during the preparation of the original Planning Proposal recognized an opportunity for the Bluey's & Boomerang Beaches CZMP to be incorporated into the Great Lakes CZMP programs and for an Integrated Coastal Management program to be undertaken.

This program resulted in the combined exhibition of the Jimmy's Beach CZMP, Great Lakes Beaches CZMP (which was expanded to incorporate the formerly separate Bluey's and Boomerang Beaches CZMP project), Planning Proposal for Coastal Planning Areas and Draft Development Objectives and Controls for Coastal Planning Areas.

The incorporation of coastal planning area maps within the LEP in accordance with the data and information contained within the adopted studies and policies is considered to be consistent with the requirements of the regional strategy and ensures consistent planning and decision making processes.

4 Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

The Planning Proposal is consistent with the Great Lakes Community Strategic Plan 2010-2030:

Key Direction 1: Embracing and protecting our natural environment

Objective: Protecting the natural environment while addressing the challenges of population growth

Strategy 3: Planning for and minimising the potential impact of climate change

The Planning Proposal is also consistent with the Great Lakes 2030 Delivery Program 2011 - 2015 and Operational Plan 2011 - 2012:

Strategy 3 Planning for and minimising the potential impact of climate change						
Delivery Plan				Operational Plan (2011/12)		
Detail of activities to achieve this Strategy	Timeframe			Detail of activities to be undertaken in next 12 months	Performance indicators	Responsibility
	2012/13	2013/14	2014/15			
1.3.1 Assess the impacts of climate change on the organisation and develop adaptation strategies to address such impacts through the Climate Change Coordination Group	✓	✓	✓	Develop and implement climate change adaptation action plan	Plan developed and adopted	MANEX
1.3.2 Develop Coastal Management Plans to address planning and adaptation to coastal erosion and climate change				Preparation of Coastal Management Plans for the Great Lakes	Undertake coastal management planning	Manager Design and Investigation
	✓	✓	✓	Complete coastal hazard assessments and include coastal hazard mapping into Council's GIS system	Assessments and mapping completed	Manager Design & Investigation, Manager Natural Systems, Manager Information Technology
1.3.3 Identify and implement a long term, sustainable adaptation management strategy for the protection of Jimmys Beach, Winda Woppa	✓	✓	✓	Commence development of a management strategy that is appropriate and sustainable	Strategy development commenced	Manager Parks & Recreation

5 Is the planning proposal consistent with applicable environmental planning policies?

The implementation of the following State Environmental Planning Policies may be affected by the identification of additional coastal risk planning areas in Great Lakes LEP 2014:

- State Environmental Planning Policy No 32—Urban Consolidation (Redevelopment of Urban Land)
- State Environmental Planning Policy No 36—Manufactured Home Estates
- State Environmental Planning Policy (Affordable Rental Housing) 2009
- State Environmental Planning Policy (Exempt and Complying Development Codes) 2008
- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Major Development) 2005
- State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007
- State Environmental Planning Policy (State and Regional Development) 2011

The extent of the impact is expected to be minimal given the relatively small number of private land holdings affected by the planning proposal.

State Environmental Planning Policy Number 71 – Coastal Protection

The lands affected by coastal hazard are located within the Coastal Zone and the provisions of State Environmental Planning Policy Number 71 (SEPP 71) – Coastal Protection are relevant.

Clause 8 of SEPP 71 specifically identifies matters that must be considered by Council during the preparation of a draft local environmental plan (planning proposal). These matters include:

Clause 8 matters SEPP 71	
(a) the aims of this Policy set out in clause 2,	The provisions of this Planning Proposal are consistent with the aims of SEPP 71.
b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,	Existing foreshore access arrangements are not affected by the provisions of this planning proposal.
(c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,	Existing opportunities for public access are not affected by the provisions of this planning proposal.
(d) the suitability of development given its type, location and design and its relationship with the surrounding area,	The planning proposal identifies areas potentially affected by coastal hazards by 2060 and will allow for appropriate development assessment and decision-making within these areas.
(e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views	The planning proposal identifies areas potentially affected by coastal hazards by 2060 and will allow for appropriate development assessment and decision-making within these areas.

Clause 8 matters SEPP 71	
from a public place to the coastal foreshore,	
(f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,	Existing reserves and scenic qualities of the New South Wales coast are not affected by the provisions of this planning proposal.
(g) measures to conserve animals within the meaning of the (<i>Threatened Species Conservation Act 1995</i>) and plants (within the meaning of that Act), and their habitats,	Terrestrial habitats and Threatened Species are not affected by the provisions of this planning proposal.
(h) measures to conserve fish (within the meaning of Part 7A of the <i>Fisheries Management Act 1994</i>) and marine vegetation (within the meaning of that Part), and their habitats,	Aquatic habitats and marine vegetation are not affected by the provisions of this planning proposal.
(i) existing wildlife corridors and the impact of development on these corridors,	Wildlife corridors are not affected by the provisions of this planning proposal.
(j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,	The planning proposal identifies areas potentially affected by coastal hazards by 2060 and will allow for appropriate development assessment and decision-making within these areas.
(k) measures to reduce the potential for conflict between land-based and water-based coastal activities,	The planning proposal identifies areas potentially affected by coastal hazards by 2060 and will allow for appropriate development assessment and decision-making within these areas.
(l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,	Aboriginal heritage will not affected by the provisions of this planning proposal.
(m) likely impacts of development on the water quality of coastal waterbodies,	Coastal water quality will not affected by the provisions of this planning proposal.
(n) the conservation and preservation of items of heritage, archaeological or historic significance,	Heritage items and areas will not affected by the provisions of this planning proposal.
(o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,	The planning proposal identifies areas potentially affected by coastal hazards by 2060 and will allow for appropriate development assessment and decision-making within these areas.

The Planning Proposal is consistent with the aims of SEPP 71.

7 Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The following Ministerial Directions are applicable to the Planning Proposal:

Ministerial Direction	Objective	Consistent?	Discussion
1.5 Rural Lands	The direction aims to protect rural lands and facilitate their orderly and economic development.	Yes	The planning proposal coastal risk planning provisions will overlay some lands in rural and environmental zones. The planning proposal does not include the rezoning of rural lands to any other zone.
2.1 Environmental Protection Zones	This direction aims to protect and conserve environmentally sensitive areas.	Yes	The planning proposal coastal risk planning provisions will overlay some lands in an environmental zone. The planning proposal does not reduce the existing zone and development protection standards that apply to these lands.
2.2 Coastal Protection	This direction aims to implement the principles of the NSW Coastal Policy.	Yes	The planning proposal identifies areas of potential coastal hazard by 2060 and directly relates to the consideration and implementation of the NSW Coastal Policy 1997, Coastal Design Guidelines 2003, Local Government Act 1993 and NSW Coastal Management Manual 1990.
2.4 Recreation Vehicle Areas	This direction aims to protect sensitive land from adverse impacts from recreation vehicles.	Yes	The planning proposal does not enable land to be developed for the purpose of recreation vehicles.
3.1 Residential Zones	This direction encourages a variety of housing types; efficient use of infrastructure and services; and minimal impact of residential development on the environment and resources.	Yes	The planning proposal coastal risk provisions will overlay some lands within residential zones but does not prohibit this development. The existing LEP and planning proposal coastal risk provisions require additional consideration of the design of future residential development within areas identified as potentially being affected by coastal risk by 2060.
4.1 Acid Sulfate Soils	This direction applies to land that has been identified as having a probability of containing acid sulfate soils.	Yes	While some of the land affected by the planning proposal is identified as having a probability of containing Acid Sulfate Soils, the planning proposal does not remove, alter or affect the consideration of acid sulfate soils provisions.
4.3 Flood Prone Land	This direction applies to land that has been identified as flood prone.	Yes	While some of the land affected by the planning proposal is identified as flood prone, the planning proposal does not remove, alter or affect the consideration of flood planning provisions.

4.4 Planning for Bush fire Protection	This direction applies when a Planning Proposal affects land that is mapped as Bushfire Prone.	Yes	While some of the land affected by the planning proposal is identified as bush fire prone, the planning proposal does not remove, alter or affect the consideration of bush fire protection provisions.
5.1 Implementation of Regional Strategy	This direction requires a planning proposal to be consistent with the Mid North Coast Regional Strategy.	Yes	The planning proposal is consistent with the Mid North Coast Regional Strategy requirements for Council to consider coastal risk in any development matters, particularly in the absence of a Coastal Zone Management Plan.
6.1 Approval and referral Requirements	This direction prevents a Planning Proposal from introducing requirements for concurrence or approval of a Minister or public authority.	Yes	The planning proposal will not introduce any concurrence or approval requirements.
6.2 Reserving Land for Public Purposes	This direction states that a planning proposal shall not create, alter or reduce zonings or reservations of land for public purposes unless it has the approval of the relevant authority and the Director General.	Yes	While some of the land affected by the planning proposal is identified as public or recreational reserves, the planning proposal does not create, alter or reduce existing zonings or reservations of land for public purposes

Section C - Environmental, social and economic impact.

- 8 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

No.

- 9 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

No.

- 10 How has the planning proposal adequately addressed any social and economic effects?**

As documented within the exhibited Planning Proposal, the social/economic impacts of reflecting coastal planning areas within the local environmental plan has not been assessed directly, but is expected to be minimal given the former Great Lakes Council's on-going commitment to providing advice on potential hazards to the community through a variety of documents including studies, S149 notations and Council policies.

Generally, the identification of coastal risk does not have a direct impact upon the wider community of the Great Lakes region. The majority of beaches identified as being potentially affected by coastal hazards are separated from private land holdings by Crown or Council owned assets or reserves, and as such, the Planning Proposal only impacts upon the owners of private property within the coastal planning areas.

Approximately 120 private properties are identified within the existing Coastal Risk Planning Area maps within Great Lakes LEP 2014, according to Council property information. It is estimated that an additional 50 private properties are identified within the amended coastal planning area maps. The impact of hazard identification on land values is unknown.

It is noted that the identification of hazards does not generally result in the prohibition of development on land, but does result in additional development and construction considerations.

The identification of coastal risk does not usually have directly impact upon community access to and enjoyment of the affected beaches or community cohesion, transport or communication.

The only exceptions to this may be at Jimmy's Beach Winda Woppa and Boat Beach Seal Rocks. In these locations an access road, services and infrastructure are located seaward of private properties.

Should these roads, services and infrastructure be severely impacted by coastal hazards in the long-term or in an extreme event, there would be considerable risk to public and private assets. Access and communications may also be disrupted and there would be significant impacts on affected land owners.

During the public exhibition of the Planning Proposal it was noted that the existing Great Lakes Complying Development Land Map - Sheet LCD_001 in Schedule 5 of the *State Environmental Planning Policy (Exempt & Complying Development Codes) 2008*, incorrectly identifies some properties at Boomerang Beach as being affected by coastal hazards.

The properties in question are not located on the beachfront and improved hazard classification studies have identified that these properties are primarily affected by localised flooding rather than coastal hazards.

To remove the unnecessary coastal hazard development restrictions imposed by the *State Environmental Planning Policy (Exempt & Complying Development Codes) 2008* from these properties, the outdated and inaccurate map contained within the Exempt & Complying Development SEPP should be repealed when the Planning proposal amendments to Great Lakes LEP 2014 Coastal Risk Planning clause and maps are made.

Section D - State and Commonwealth interests.

11 Is there adequate public infrastructure for the planning proposal?

Not applicable.

12 What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Consultation was undertaken in accordance with the Gateway Determination and included consultation with the following state agencies: State Emergency Service; NSW Office of Environment & Heritage and the Department of Planning & Environment Natural Hazards Policy unit.

These agencies were also involved with the development of Coastal Zone Management Plans within the former Great Lakes local government area. There were two matters identified in public submissions that required additional consultation with the relevant public agencies:

Mid North Coast Regional Strategy

One concern raised by community members was the ambiguity of the following statement in the Mid North Coast Regional Strategy 2006-2031 (p.34):

"(coastal zone) management plans should form the basis for the consideration of impacts on or from potential new land releases, rezoning or existing development in areas subject to hazards. Where a coastal zone management plan is not yet in place the Regional Strategy requires that councils consider these issues in any future development in these coastal locations. As a general principle new development should be limited in areas that might in the future be subject to coastal hazards, having regards for the higher levels of risks associated with climate change."

This statement was considered to be ambiguous as to whether or not a planning proposal (Environmental Planning & Assessment Act 1979) identifying areas of coastal hazard should or could progress without a certified coastal zone management plan (Coastal Protection Act 1979).

The former Great Lakes Councillors therefore requested, but did not resolve, to retain the Planning Proposal in draft until such time as the two CZMP documents for Jimmy's Beach Winda Woppa and the other Great Lakes Beaches, were both certified.

Council officers have acted in good faith since this decision was made in March 2016. However, significant changes have occurred in both the state and local planning decision making framework:

- MidCoast Council has replaced the former Great Lakes, Greater Taree and Gloucester Councils, requiring a shift in coastal management priorities;
- The Mid Coast Regional Strategy has been replaced with the Hunter Regional Plan that is silent on the inter-relationship between coastal zone management plans and local planning instruments;
- the Department of Planning & Environment and NSW Office of Environment & Heritage have progressed the NSW Coastal Reforms including:
 - the release of a Draft Coastal Management SEPP that includes 'Coastal Vulnerability Area' mapping consistent with existing Coastal Risk Planning Area mapping in Great Lakes LEP 2014; and
 - a S117 Ministerial Direction that requires Council to enact coastal hazard considerations on land that *"has been identified as land affected by a current or future coastal hazard in a study or assessment undertaken by or on behalf of the relevant planning authority"* [Part 1(b)]; and

- the Minister for Planning and Minister for the Environment portfolios have been reallocated.

Noting that the Planning Proposal and two CZMP documents relied on the same coastal hazard studies which identified beaches potentially affected by coastal hazards; and the mapping data from these studies has already been provided to the Department of Planning & Environment to inform the Coastal Management SEPP; the transition of the Planning Proposal from Council to the state agency, is now considered necessary and appropriate.

In this regard it is also noted that the Gateway Determination has already been the subject of three extensions to accommodate the CZMP community engagement process; the Minister of Planning CZMP certification process requirements; and the two stages of the NSW Coastal Reform program. The current deadline for completion of the Planning Proposal is 17 January 2018.

In discussions with representatives of both the Department of Planning & Environment and the NSW Office of Environment & Heritage, Council officers have sought guidance on how the Planning Proposal should be progressed given the status of the Great Lakes Beaches CZMP, the NSW Coastal Reforms and in particular the Draft State Environmental Planning Policy (SEPP) for Coastal Management.

These discussions have been constructive in that both agencies support completion of the project, but acknowledge that the CZMP timeframe and the implications of the new Coastal Management SEPP are somewhat unknown given the change in Ministerial appointments.

Technical Data

Public submissions also identified several technical matters relating to the coastal hazard identification and ground penetrating radar studies which underpin both the Planning Proposal and the CZMP for Great Lakes Beaches.

These matters, while they are considered to have been resolved by the consultants that undertook these studies and Council's Design & Investigation engineers, will require further consideration and discussion with representatives of the NSW Office of Environment & Heritage and Department of Planning & Environment as the matters progress through these state agencies.

Therefore, while these matters cannot be addressed within the current report or project timeframe, it is anticipated that the majority are expected to be resolved or addressed, through progressive review programs and additional technical advice to be provided by NSW OEH through the new NSW Coastal Reform program.

In this regard it is also noted that, while some matters may not be resolved to the satisfaction of the community at this time, Council's program and process of coastal planning and management has been generally supported by the state agencies.

Council officers also continue to collaborate and consult with these agencies on coastal management issues and the processes required to transition existing coastal planning and management plans to those required by the new Coastal Management Act.

PART 4 - COMMUNITY CONSULTATION

Details of the community consultation that is to be undertaken on the planning proposal.

An Integrated Coastal Management Program was established by officers from the Strategic Planning, Natural Systems and Design & Investigation sections of the former Great Lakes Council and community consultation for the Draft Planning Proposal was undertaken in conjunction with on-going community consultation on the Coastal Zone Management Plans for the former Great Lakes local government areas.

Officers are reviewed related development control plan and policy provisions to ensure that a consistent approach to development assessment can be established within the areas identified as being potentially affected by coastal hazards.

The following documents were placed on public exhibition between Thursday 2 April and Friday 15 May 2015.

- Draft Coastal Zone Management Plan for Jimmy's Beach, Winda Woppa;
- Draft Coastal Zone Management Plan for Great Lakes Beaches;
- Planning Proposal to amend the Great Lakes Local Environmental Plan 2014 Coastal Risk Planning Area maps; and
- Draft Development Objectives and Controls for Coastal Risk Planning Areas in the Great Lakes Development Control Plan (DCP).

Notification of this exhibition was arranged in local newspapers and sent by direct mail to all land owners within the social catchments of each beach identified in the Draft LEP or CZMP documents. Information sessions were held in Forster, Pacific Palms and Hawks Nest.

The purpose of the combined consultation is to ensure that the different purpose and provisions of the CZMP and planning instruments are understood and given appropriate consideration by affected land owners and the broader community. The technical information from all relevant hazard studies was also available during exhibition of the Planning Proposal.

The exhibition material and supporting documentation remain on the Council website at:
<http://midcoast.greatlakes.nsw.gov.au/Develop-or-Build/Discover/Planning-Proposals>
<http://midcoast.greatlakes.nsw.gov.au/Environment/Environmental-Hazards#coastalmanagement>

Significant concerns about the Draft DCP objectives and controls were raised during the public exhibition. At the Strategic Committee meeting on 6 October 2015 Council endorsed the public exhibition of amended DCP objectives and controls for development in coastal planning areas in response to these concerns.

The draft DCP provisions were exhibited from Wednesday 13 October to Friday 20 November 2015 inclusive. The amended document was supported and came into force in March 2016.

Council's community consultation program exceeded the maximum 28 day exhibition legislative requirement and addressed the complex nature of planning and management requirements in areas affected by coastal hazards. The extended and comprehensive community consultation undertaken by a multi-disciplinary team, ensured a high level of engagement with affected land owners.

PART 5 - PROJECT TIMELINE

In accordance with DP&E guidelines the following timeline is provided which includes the tasks deemed necessary for the making of this local environmental plan.

Task	Responsibility	Timeframe	Date
Adoption of amendments to LEP 2014 Coastal Risk Planning Area Maps	Great Lakes Council		April 2014
Planning Proposal Lodged with Dept. Planning & Environment for Gateway Determination	Great Lakes Council		June 2014
Gateway Determination	Minister for Planning and Infrastructure	4 weeks	July 2014
Great Lakes Beaches and Bluey's/Boomerang Beaches Coastal Zone Management Plan projects combined	Great Lakes Council		August - October 2014
Great Lakes Beaches Options Report exhibited	Great Lakes Council	9 weeks 3 information sessions	December 2014 - February 2015
NSW Office of Environment & Heritage & NSW Coastal Panel review of Draft Jimmy's Beach Coastal Zone Management Plan prior to exhibition	Great Lakes Council NSW Office of Environment & Heritage		January 2015
Finalisation of Draft Coastal Zone Management Plans for exhibition with Planning Proposal in accordance with Gateway Determination	Great Lakes Council		February 2015
Great Lakes Councillor Coastal Workshop	Great Lakes Council		March 2015
Draft Coastal Zone Management Plans adopted for exhibition with Planning Proposal	Great Lakes Council		March 2015
Draft Amendments to Development Control Plan adopted for exhibition with Planning Proposal	Great Lakes Council		March 2015
Public exhibition of Amended Planning Proposal, Draft Studies and Draft DCP Provisions	Great Lakes Council	Minimum 28 days (DPE) 6 weeks (GLC) with 5 Information Sessions	March - April 2015
Consultation with Public Authorities in accordance with Gateway Determination	Great Lakes Council	6 weeks	March - April 2015
Adopt Jimmy's Beach Coastal Zone Management Plan	Great Lakes Council	NSW Office of Environment &	June 2015

Task	Responsibility	Timeframe	Date
		Heritage deadline 30 June 2015	
Jimmy's Beach Coastal Zone Management Plan lodged for Certification by Minister for Planning	Great Lakes Council		June 2015
Amended Development Control Plan provisions in response to public submissions, adopted for exhibition	Great Lakes Council		October 2015
Public exhibition of amended Development Control Plan provisions	Great Lakes Council		October - November 2015
NSW Coastal Reforms placed on public exhibition	NSW Office of Environment & Heritage	3 months	November 2015 - February 2016
Great Lakes Beaches Coastal Zone Management Plan lodged for Certification by Minister for Planning	Great Lakes Council		December 2015
Minister feedback on Jimmy's Beach Coastal Zone Management Plan	NSW Coastal Panel & Minister for Planning		February 2016
Amended Development Control Plan provisions adopted and inforce	Great Lakes Council		March 2016
MIDCOAST COUNCIL CREATED - 12 MAY 2016			
Minister feedback on Great Lakes Beaches Coastal Zone Management Plan	NSW Coastal Panel & Minister for Planning		June 2016
Jimmy's Beach Coastal Zone Management Plan Certified	Minister for Planning		September 2016
Amended Great Lakes Coastal Zone Management Plan lodged for Certification by Minister for Planning	MidCoast Council		September 2016
NSW Coastal Reforms - Stage 2 placed on public exhibition	NSW Office of Environment & Heritage	3 months	November 2016 - February 2017
Adopt Amended Planning Proposal	MidCoast Council		May2017
Planning Proposal Lodged with Dept. Planning & Environment to be made	MidCoast Council		May 2017
Making of local environmental plan	Minister for Planning	6 – 8 weeks	July 2017

CONCLUSION

The primary objective of the original planning proposal was to amend the Coastal Risk Planning Maps of Great Lakes LEP 2014 in accordance with the recommendations of the Great Lakes Coastal Hazard Study (2013) adopted by Council on 25 February 2014.

Minor mapping amendments to the existing Coastal Risk Planning Areas in Great Lakes Local Environmental Plan 2014 were also identified as a result of works associated with the Coastal Zone Management Plans prepared for Jimmy's Beach, Bluey's Beach and Boomerang Beach and these areas were clearly identified in the public exhibition material.

In response to public submissions two additional environmental planning instrument amendments are requested:

- amend the wording of Great Lakes LEP 2014 Clause 7.4 Coastal Risk Planning to remove the term "risk"
- repeal of Great Lakes Complying Development Land Map - Sheet LCD_001 in Schedule 5 of the *State Environmental Planning Policy (Exempt & Complying Development Codes) 2008*.

The proposal is consistent with the relevant regional and local strategic plans for the site and surrounding areas. The proposal also remains consistent with the initiatives and requirements of the two principle state agencies, namely the Department of Planning & Environment and the NSW Office of Environment & Heritage.

ANNEXURES

Annex A

Great Lakes Council Reports & Minutes

Ordinary Council Meeting 25 February 2014 Report and Minutes

Subject:

Index: SP-PP-14, Coastal Erosion General
Author: Senior Strategic Land Use Planner - Alexandra Macvean
Investigations Engineer - Geoff Love
Ordinary Meeting: 25 February 2014

SUMMARY OF REPORT:

This report seeks formal adoption by Council of the Great Lakes Coastal Hazards Study including Appendix E - Jimmy's Beach Coastal Hazard Study.

The report also seeks endorsement of an integrated management approach to the preparation, development, community engagement and resolution of the resulting Coastal Zone Management Plan; planning proposal to expand the coastal risk mapping in LEP 2014; and any other relevant matters.

SUMMARY OF RECOMMENDATION:

1. Adopt the Draft Great Lakes Coastal Hazards Study as documented in Attachment A to this report, including Appendix E - Jimmy's Beach Coastal Hazard Study.
2. Endorse the principal of integrated project management between Strategic Land Use Planning and Engineering Services, with regards to natural resource management issues, to support higher levels of coordination and efficiency in the deployment of limited resources.
3. Endorse the following actions:
 - a) Commence preparation of the Great Lakes Coastal Zone Management Plan;
 - b) Commence preparation of a planning proposal to amend Great Lakes Local Environmental 2014 by incorporating additional coastal risk planning areas identified in the Great Lakes Coastal Hazard Study;
 - c) Commence a review of the Great Lakes Development Control Plan provisions relating to the assessment of development within areas identified as coastal risk planning areas within Great Lakes Local Environmental Plan 2014; and
 - d) Review other associated matters relating to the identification, assessment and management of areas of coastal risk.
4. Endorse a process of on-going review of matters relating to coastal hazard management, assessment and adaptation as new information is made available.

FINANCIAL/RESOURCE IMPLICATIONS:

There will be resources required from the Engineering Investigation, Strategic Planning and GIS sections. However, coordinated effort on common or similar tasks should see an improvement in time and cost-effectiveness over past approaches.

POLICY IMPLICATIONS:

Adoption of the Great Lakes Coastal Hazard Study will continue Council's established approach of providing quality, reliable data on natural hazards to the general public in a timely and coordinated fashion.

An integrated approach to the preparation, development, community engagement and resolution of coastal hazard management, assessment and adaptation tools will ensure a comprehensive and consistent treatment of this matter along affected areas of the Great Lakes coastline.

LEGAL IMPLICATIONS:

Council is obliged to consider the most current information for planning decisions and general coastal risk management in order to ensure continued legal protection under Section 733 of the Local Government Act 1993.

Incorporation of the improved coastal hazard information into the local environmental plan demonstrates a corporate commitment to continuing improvement and adaptation as better information comes to hand. By extension, this information also needs to be put before the public at the earliest practicable point in time.

LIST OF ANNEXURES:

- A: Department of Planning and Infrastructure Draft Circular - Coastal Hazard Notations on Section 149 Planning Certificate.
- B: Department of Planning and Infrastructure FAQ - Update of Coastal Hazards and Planning Certificates.

LIST OF ATTACHMENTS:

- A: A copy of the final draft Great Lakes Coastal Hazard Study.

Due to its large size, Attachment A has been circulated electronically to Councillors and Senior Staff only as a paper conservation measure. However, this Attachment is publicly available on Council's Website, copies are available at Council offices and copies are available on request.

BACKGROUND:

The Great Lakes Coastal Hazard Study was completed by the Consultant (SMEC Australia Pty Ltd) in August 2012. Final drafts were placed on public exhibition for eight weeks between 30 January and 13 March 2013. As part of the community engagement program for the draft Study, a site meeting was held for Jimmy's Beach stakeholders on 7 February 2013 and was addressed by Mr Phil Watson of the Office of Environment and Heritage.

The community engagement program also involved significant advertising and gained local and regional media attention. In response, two submissions were received from the Winda Woppa Ratepayer's Association and the Boomerang and Bluey's Beach Group.

These matters have been noted. The matters within the submissions will be addressed further by the Coastal Zone Management Plan (CZMP) and the on-going review and management of information relating to coastal hazard and sea level rise.

REPORT:

It is noted that the Boomerang and Bluey's Beaches CZMP and the Jimmy's Beach CZMP are already underway through separate programs.

In order to progress the Great Lakes Coastal Zone Management Plan (CZMP) which will provide a comprehensive and consistent treatment of coastal hazards along affected areas of the Great Lakes coastline, it is first necessary to adopt the Great Lakes Coastal Hazard Study.

Similarly, to effectively support Council's intention to have equitable consideration of coastal hazards as they apply throughout the Great Lakes, mapping of those areas identified in the Study should be incorporated into the Great Lakes Local Environmental Plan (LEP) in a timely manner.

This course of action is consistent with the presentations and discussions held at the 12 March 2013 Strategic Committee Meeting.

At the meeting representatives of BMT WBM, the Office of the Environment and Heritage and Local Government Legal made presentations to the Council on the scientific basis and legal importance of managing coastal risk through Council's adopted sea level rise benchmarks policy, practice and environmental planning instruments.

Significantly, Council recognised at this meeting and throughout the LEP program:

- a) the need to prioritise and efficiently update coastal risk mapping in the LEP in response to new and improved data and information; and
- b) that the areas of potential coastal risk identified in the Draft Great Lakes Coastal Hazard Study should be incorporated into the LEP as soon as possible following adoption of the study.

Subsequently Council officers are endeavouring to streamline investigation and strategic planning work programs by recognising common and similar activities that need to be undertaken in the coastal and floodplain management processes.

In particular, there is opportunity for streamlining the Coastal Zone Management Plan and planning proposal processes and expanding the community engagement phase to incorporate any other relevant matters relating to assessment and adaptation of areas affected by these hazards.

This approach will allow parallel tasking of activities, where appropriate, so that the financial and staff resources required to progress technical studies through to planning tools and instruments, can be utilised more effectively and the potential for more effective community engagement can be achieved.

With regards to the Great Lakes Coastal Hazard Study the opportunity for collaboration between the two sections has progressed to the stage where the Coastal Zone Management Plan and a planning proposal to extend the coastal risk mapping in the LEP may be undertaken concurrently.

Significantly, the integrated approach being proposed by Council officers is consistent with the provisions outlined within the recent draft circular produced by the Department of Planning and Infrastructure. The draft circular and associated 'frequently asked questions' information sheet are both provided as annexures to this report.

Council officers have already concluded that any future work that incorporates community engagement should be comprehensive and provide relevant information on all aspects of how coastal hazards are managed by Council i.e. the community engagement should cover all relevant information including but not limited to:

- a) Planning Proposal to identify new areas of coastal hazard in the LEP (from the Great Lakes Coastal Hazard Study);
- b) information on the Coastal Zone Management Plan for these areas;
- c) any new/expanded assessment provisions in the development control plan;
- d) S149 notations that might be applied to affected properties; and
- e) development consent conditions that might be applied to affected properties and developments.

CONCLUSION:

The Draft Great Lakes Coastal Hazard Study has been publicly exhibited and two submissions were received. The matters within the submissions will be addressed further by the Coastal Zone

Management Plan (CZMP) and the on-going review and management of information relating to coastal hazard and sea level rise.

In a combined effort to make the most from limited resources, staff are looking to an integrated approach in the management of coastal hazards as well as natural resources generally. Council's support is therefore sought in undertaking this approach.

It is also proposed that the next phase of community engagement associated with the preparation and formulation of the Coastal Zone Management Plan be undertaken in association with other related planning information.

It is expected that the dissemination of assessment and adaptation tools required to manage coastal hazards in a comprehensive and co-ordinated manner will both assist Council in engaging with the affected communities and will provide a greater appreciation of the complexity of the management issues by the community.

It is therefore recommended that Council adopt the Draft Great Lakes Coastal Hazard Study and endorse integrated management of coastal hazards and associated assessment and adaptation tools, in order for Council policy and practice to appropriately reflect the information and recommendations contained within the Study.

RECOMMENDATION:

It is recommended that Council:

1. Adopt the Draft Great Lakes Coastal Hazards Study as documented in Attachment A to this report, including Appendix E - Jimmy's Beach Coastal Hazard Study.
2. Endorse the principal of integrated project management between Strategic Land Use Planning and Engineering Services with regards to natural resource management issues, to support higher levels of coordination and efficiency in the deployment of limited resources.
3. Endorse the following actions:
 - a) Commence preparation of the Great Lakes Coastal Zone Management Plan;
 - b) Commence preparation of a planning proposal to amend Great Lakes Local Environmental 2014 by incorporating additional coastal risk planning areas identified in the Great Lakes Coastal Hazard Study;
 - c) Commence a review of the Great Lakes Development Control Plan provisions relating to the assessment of development within areas identified as coastal risk planning areas within Great Lakes Local Environmental Plan 2014; and
 - d) Review other associated matters relating to the identification, assessment and management of areas of coastal risk.
4. Endorse a process of on-going review of matters relating to coastal hazard management, assessment and adaptation as new information is made available.

ANNEXURES:

A: Department of Planning and Infrastructure Draft Circular - Coastal Hazard Notations on Section 149 Planning Certificates.



PLANNING circular

PLANNING SYSTEM

Coastal hazard notations

Circular	Draft for exhibition
Issued	Draft for exhibition
Related	.

Coastal hazard notations on Section 149 planning certificates

The purpose of this draft circular is to provide councils with guidance on section 149 planning certificate notations relating to coastal hazards.

Introduction

The NSW Government has identified a need to improve the way councils disclose coastal hazard information in planning certificates. References to coastal hazards in this circular include coastal erosion, tidal inundation, coastal inundation and coastal flooding.

Section 149 planning certificates

Planning certificates are a means of disclosing information about a given parcel of land. There are two types of planning certificates: section 149(2) planning certificates and section 149(5) planning certificates. The 'sections' refer to sections of the *Environmental Planning and Assessment Act 1979*.

A section 149(2) planning certificate is used to disclose matters relating to the land, including whether the land is affected by a policy that restricts the development of land. Those policies can be based on identified risks (EP&A Regulation 2000, Schedule 4, clause 7), and whether development on the land is subject to flood related development controls (EP&A Regulation, Schedule 4, clause 7A).

A section 149(5) planning certificate does not contain information relating to restrictions on development, however, it does allow a council to advise on other relevant matters affecting land. This can include historical, current or future issues.

Inclusion of a section 149(2) planning certificate in a contract for the sale of land is a mandatory part of the property conveyancing process in NSW. Section 149(5) planning certificates do not form part of the contract for the sale of land.

Section 149(2) and section 149(5) planning certificates may, however, be purchased by anyone, from the relevant council, at any point in time and for any purpose.

Identification of coastal hazards

The NSW coast is dynamic and complex. To understand and plan for coastal hazards, it is necessary to identify two key variables – long term mobility in the shoreline, such as shoreline recession, and the vulnerability of the shoreline to episodic events, such as beach erosion during a severe storm.

Information about the local land characteristics (such as its geomorphology) and the probability and consequence of storms, floods and similar events, can help identify the land and assets at risk. Such land is generally identified relative to the current position of the shoreline. If however the position of the shoreline changes, then the land and assets at risk will also change.

This means that coastal land may have a current exposure to a coastal hazard and/or a future exposure to a coastal hazard.

While these factors are taken into account when planning future land use, care needs to be taken when communicating that information.

In providing information on planning certificates it is important to clearly distinguish between:

- a current exposure to a coastal hazard; and
- a future exposure to a coastal hazard.

In the absence of such a distinction being made, the reader of a planning certificate may incorrectly interpret reference to future exposure as being an exposure that currently affects the land.

‘Current exposure to a coastal hazard’ describes situations where the land is currently at threat from a hazard. The hazard (e.g. coastal erosion) may or may not be present on the land, but the land is nonetheless currently exposed to the likelihood of that hazard expressing itself during a possible event (e.g. a storm). For example, land within an immediate coastal erosion area (based on a design event or a particular historic event) or land within a 1% annual exceedance probability flood area (1 in 100 year flood) would be land with a ‘current exposure to a coastal hazard’.

‘Future exposure to a coastal hazard’ refers to situations where the land’s exposure to the hazard will arise in the future, but the land is not at risk from the hazard today. Examples include land likely to be exposed to coastal erosion, flooding or inundation from projected sea level rise or as the result of long-term shoreline recession.

‘Future exposure to a coastal hazard’ is different to the probability of an event occurring. The probability of an event occurring, such as a 1 in 100 year flood, does not mean that the event will occur 100 years in the future. It means there is a 1% chance of it occurring this year. That is, the flooding event could occur today, next year, or in 50 years. If a property is exposed to the 1 in 100 year flood hazard today, then this is a ‘current exposure to a coastal hazard’. If a property is projected to be exposed to a 1 in 100 year flood hazard if sea levels rise to a certain point in the future, then this is a ‘future exposure to a coastal hazard’.

Section 149(2) planning certificates

Where a relevant policy does affect the land and the policy relates to a coastal hazard, then notations should:

- clearly identify the type of hazard, and
- identify whether the land has a current or future exposure to the hazard.

Current exposure to a coastal hazard

If a relevant policy applies to the land because of a current exposure to a coastal hazard, it is recommended that councils include a notation on the planning certificate in the following form:

‘This land has been identified in the [insert Council Policy] as having a current exposure to [insert type of hazard]. See Council for more information.’

Future exposure to a coastal hazard

If a relevant policy applies to the land because of a future exposure to a coastal hazard, it is recommended that councils include a notation on the planning certificate in the following form:

‘This land has been identified in the [insert Council Policy] as having a projected future

exposure to [insert type of coastal hazard].
See Council for more information.’

Section 149(5) planning certificates

Councils need to take reasonable care, in terms of content and timing, when disclosing information about current and future coastal hazards to the community.

Whilst the following principles are equally relevant to current and future hazards, the discussion focuses on future hazards to enhance clarity and understanding.

There are complexities in coastal processes and inherent limitations in the tools used for future coastal hazard analysis. The result is that the further into the future we seek to predict an outcome, the more uncertainty that is associated with the prediction.

Counter-balancing the need to disclose information as soon as possible is the need to avoid adverse property market and other impacts by the disclosure of information prematurely, or by disclosing information that lacks the necessary rigour and certainty.

This leads to three guiding principles when considering section 149(5) planning certificate contents dealing with land that may have an exposure to future coastal hazards:

- Firstly, if the information is not sufficiently accurate, complete and reliable, as supported by a competent process of assessment, then the information should not be included in a section 149(5) planning certificate.
- Secondly, if the information is considered to be sufficiently reliable then information should be included that alerts the reader to the known information.
- Thirdly, if the information is sufficiently reliable, then the council should adopt a policy or planning instrument that manages development on the land. This would then require disclosure of the policy on the section 149(2) planning certificate.

The section 149(5) planning certificate provides the opportunity for the council to advise of a known hazard during the time between the Council coming into sufficiently reliable knowledge regarding the existence and extent of that hazard and the council having the opportunity to develop and implement a policy or planning instrument to manage that hazard.

Care should be taken because disclosure of matters affecting land via a section 149(5) planning certificate relates to a particular parcel of land, and is intended for parties with a specific interest in that land. Councils should be aware of the indemnity from liability afforded them by the EP&A Act if they provide advice in ‘good faith’.

Councils intending to provide the community with ongoing and general advice about research and

analysis relating to coastal hazards should consider disseminating that information via the council website.

Coastal Hazards Policy Development

In order to facilitate a consistent approach to section 149 certificates for coastal hazards, it is essential for councils when developing a policy or planning instrument to manage a coastal hazard, particularly future exposure to a coastal hazard, to satisfy the following:

1. Use evidence based data and information
2. Consider current research and any technical advice from the Climate Change Adaptation Research Hub
3. Compliance with the relevant section 117 Direction

Note: A section 117 Direction will be issued to ensure compliance with an evidence-based approach and consistency in application of coastal hazard certificates along the coast by councils.

Further Information

Relevant legislation is available online at <http://www.legislation.nsw.gov.au>

For further information please contact the Department of Planning & Infrastructure's information centre on 1300 305 695.

Department of Planning & Infrastructure circulars are available from <http://www.planning.nsw.gov.au/circulars>

Authorised by:

Sam Haddad
Director-General

Important note: This circular does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this circular.

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The need for detailed information

Councils are encouraged to ensure there is clear and full information available to the public and landowners about the nature of coastal hazards referred to in planning certificates. This may include information about the extent of exposure to that hazard and the time period within which that hazard is projected or modelled to arise. This information may be contained in policies, plans or maps or the council website.

Legal Advice

It is suggested that councils seek their own legal advice on the specific wording to be included on section 149(2) and section 149(5) planning certificates.

B: Department of Planning and Infrastructure FAQ - Update on Coastal Hazards and Planning Certificates.



WHAT CHANGES ARE BEING PROPOSED TO HOW PROPERTY BUYERS ARE ADVISED OF COASTAL HAZARDS?

- The NSW Government is proposing to issue clear advice to councils on how they should report on coastal hazards such as erosion and flooding when issuing Section 149 certificates, which are needed when a property is sold.
- The community and councils are being consulted until Monday 3 March on a draft Planning Circular that advises councils of the need to make a clear distinction between current and future hazards on the certificates.

WHAT ARE SECTION 149 CERTIFICATES?

- Section 149 certificates are issued by councils and detail a variety of issues including current and future hazards to the property and restrictions on development.
- There are two types of Section 149 certificates:
 - Section 149(2) certificates which are compulsory and list restrictions on development due to current or future hazards.
 - Section 149(5) certificates which are optional and include information on other issues affecting property. Restrictions on development cannot be listed on these certificates.

WHY IS THERE A NEED FOR THIS CHANGE?

- There has been a lack of clarity between current and future hazards listed on Section 149 certificates issued by councils.
- Some councils have been including long-term hazards - based on sea level rise forecasts up to 100 years from now - on these certificates.
- Such future hazards can be very different in nature to current hazards and can require different management controls.
- The proposed clear distinction between current and future hazards will help ensure property buyers get accurate, complete and reliable information.
- It will also ensure property buyers don't mistakenly believe the property is already impacted by future projected hazards.

HOW IS "CURRENT EXPOSURE TO A COASTAL HAZARD" DEFINED?

- This is where the land is currently threatened by a hazard or there is a likelihood that the hazard will occur during a probable event such as a storm.
- Examples include land in an immediate coastal erosion area or land where there is a 1 in 100 year flood probability.



HOW IS "FUTURE EXPOSURE TO A COASTAL HAZARD" DEFINED?

- This is where a hazard may arise in the future but the land is not at risk from the hazard now.
- Examples include land likely to be exposed to receding shorelines, flooding or inundation due to projected sea level rise or erosion.

WHY IS THE GOVERNMENT NO LONGER RECOMMENDING SEA LEVEL RISE BENCHMARKS FOR COUNCILS?

- In 2012, the Government removed the need for councils to apply across-the-board benchmarks for future sea level rise after the NSW Chief Scientist and Engineer, Professor Mary O'Kane, reviewed the adequacy of the science behind them.
- The report noted sea levels have risen over the past 100 years but projections vary widely for future sea level rise, particularly for the latter part of the 21st century.
- It found NSW has the expertise – in government, academic and research institutions and the private sector – to adapt and interpret global models and develop more precise local models specific to various NSW coastal locations.

HOW IS THE GOVERNMENT HELPING COUNCILS DECIDE ON WHAT SEA LEVEL RISE PROJECTIONS TO ADOPT?

- The NSW Office of Environment and Heritage is providing councils with detailed information and helping them interpret observed historical sea levels and future sea level projections.
- The Government's Coastal Expert Panel is developing practical advice to help councils in their assessments including the complex issues of probability and change which councils need to examine when considering the science surrounding coastal hazards.
- The Government has also invested in a Climate Change Adaptation Research Hub, which includes a Coastal Processes and Responses node. This node's role is to provide the best and most up-to-date scientific information on a range of coastal issues, helping councils and their communities manage and adapt to future hazards.

WHAT SHOULD COUNCILS DO IF THEY HAVE NOT YET FORMALLY ADOPTED SEA LEVEL RISE PROJECTIONS?

- Councils may need to make interim or transitional arrangements until projections are formally adopted by the council.
- Options may include preparing interim projections or delaying coastal flood or coastal hazard studies until the council's projections are adopted.
- Councils can access expert advice and technical guidance to help them provide sufficiently accurate,

January 2014 | Page 2



complete and reliable information on Section 149 certificates.

HOW CAN PEOPLE MAKE A SUBMISSION ON THE PROPOSED CIRCULAR?

- The draft Planning Circular can be viewed at:
 - The NSW Department of Planning and Infrastructure's website www.planning.nsw.gov.au/proposals
 - The department's Information Centre at 23-33 Bridge St, Sydney.
- Submissions can be made until Monday 3 March.
 - Online at www.planning.nsw.gov.au/proposals
 - By mail to Ms Santina Camroux, Coastal and Natural Resources Policy branch, NSW Department of Planning and Infrastructure, GPO Box 39 Sydney NSW 2001.
- Submissions will be made public in line with the department's objective to promote an open and transparent planning system. If you do not want your name published, please state this clearly at the top of your submission.
- Before making a submission, please read our privacy policy at www.planning.nsw.gov.au/privacy

MORE INFORMATION

- Visit the website: www.planning.nsw.gov.au/proposals
- Call 1300 305 695
- Email: information@planning.nsw.gov.au

Subject:

Index: SP-PP-14, Coastal Erosion General
Author: Senior Strategic Land Use Planner - Alexandra Macvean
Investigations Engineer - Geoff Love
Ordinary Meeting: 25 February 2014

RESOLUTION

(Moved L Gill/Seconded K Hutchinson)

That Council:

1. Adopt the Draft Great Lakes Coastal Hazards Study as documented in Attachment A to this report, including Appendix E - Jimmy's Beach Coastal Hazard Study.
2. Endorse the principal of integrated project management between Strategic Land Use Planning and Engineering Services with regards to natural resource management issues, to support higher levels of coordination and efficiency in the deployment of limited resources.
3. Endorse the following actions:
 - a) Prepare the Great Lakes Coastal Zone Management Plan;
 - b) Prepare a planning proposal to amend Great Lakes Local Environmental 2014 by incorporating additional coastal risk planning areas identified in the Great Lakes Coastal Hazard Study;
 - c) Review the Great Lakes Development Control Plan provisions relating to the assessment of development within areas identified as coastal risk planning areas within Great Lakes Local Environmental Plan 2014; and
 - d) Review other associated matters relating to the identification, assessment and management of areas of coastal risk.
4. Endorse a process of on-going review of matters relating to coastal hazard management, assessment and adaptation as new information is made available.

Annex B

Great Lakes LEP 2014 Clause and Maps

Great Lakes Local Environmental Plan 2014

Clause 7.4 Coastal risk planning

(1) The objectives of this clause are as follows:

- (a) to avoid significant adverse impacts from coastal hazards,
- (b) to ensure uses of land identified as coastal risk are compatible with the risks presented by coastal hazards,
- (c) to enable the evacuation of land identified as coastal risk in an emergency.

(2) This clause applies to the land identified as “Coastal Risk Planning area” on the Coastal Risk Planning Map.

(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority has considered whether the development:

- (a) is likely to be adversely affected by the impacts of coastal hazards, and
- (b) is likely to cause detrimental increases in coastal risks to other development or properties, and
- (c) is likely to alter coastal processes and the impacts of coastal hazards to the detriment of the environment, and
- (d) incorporates appropriate measures to manage risk to life from coastal risks, and
- (e) avoids or minimises potential adverse effects from the impact of coastal processes and the exposure to coastal hazards, particularly if the development is located seaward of the 2060 hazard line, and
- (f) provides for the relocation, modification or removal of the development to adapt to the impact of coastal processes, coastal hazards and sea level rise planning benchmarks.

(4) A word or expression used in this clause has the same meaning as it has in the *NSW Coastal Planning Guideline: Adapting to Sea Level Rise* (ISBN 978-1-74263-035-9) published by the NSW Government in August 2010, unless it is otherwise defined in this clause.

(5) In this clause:

2060 hazard line means the landward extent of erosion, recession and stability hazards consistent with the projected 2060 sea level rise of 0.5 metres above the 1990 mean sea level.

coastal hazard has the same meaning as in the *Coastal Protection Act 1979*.

(from NSW Legislation website - Great Lakes Local Environmental Plan 2014, published 4 April 2014)

Annex C

Draft Great Lakes Local Environmental Plan 2014 Coastal Risk Planning Maps

