

PLANNING PROPOSAL - GREAT LAKES COUNCIL

AMENDMENTS TO THE COASTAL RISK PLANNING MAPS OF GREAT LAKES LOCAL ENVIRONMENTAL PLAN 2014

Endorsed 29/04/2014 for submission to Minister for Planning and Infrastructure



April 2014

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INTRODUCTION

This is a Planning Proposal primarily seeking to identify additional areas of coastal risk in the Great Lakes Local Government Area as identified in the Great Lakes Coastal Hazard Study (2013) (see the aerial imagery in Figures No.1 to 6).

The existing Clause 7.4 Coastal Risk Planning in Great Lakes Local Environmental Plan 2014 is not amended by this planning proposal.



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.

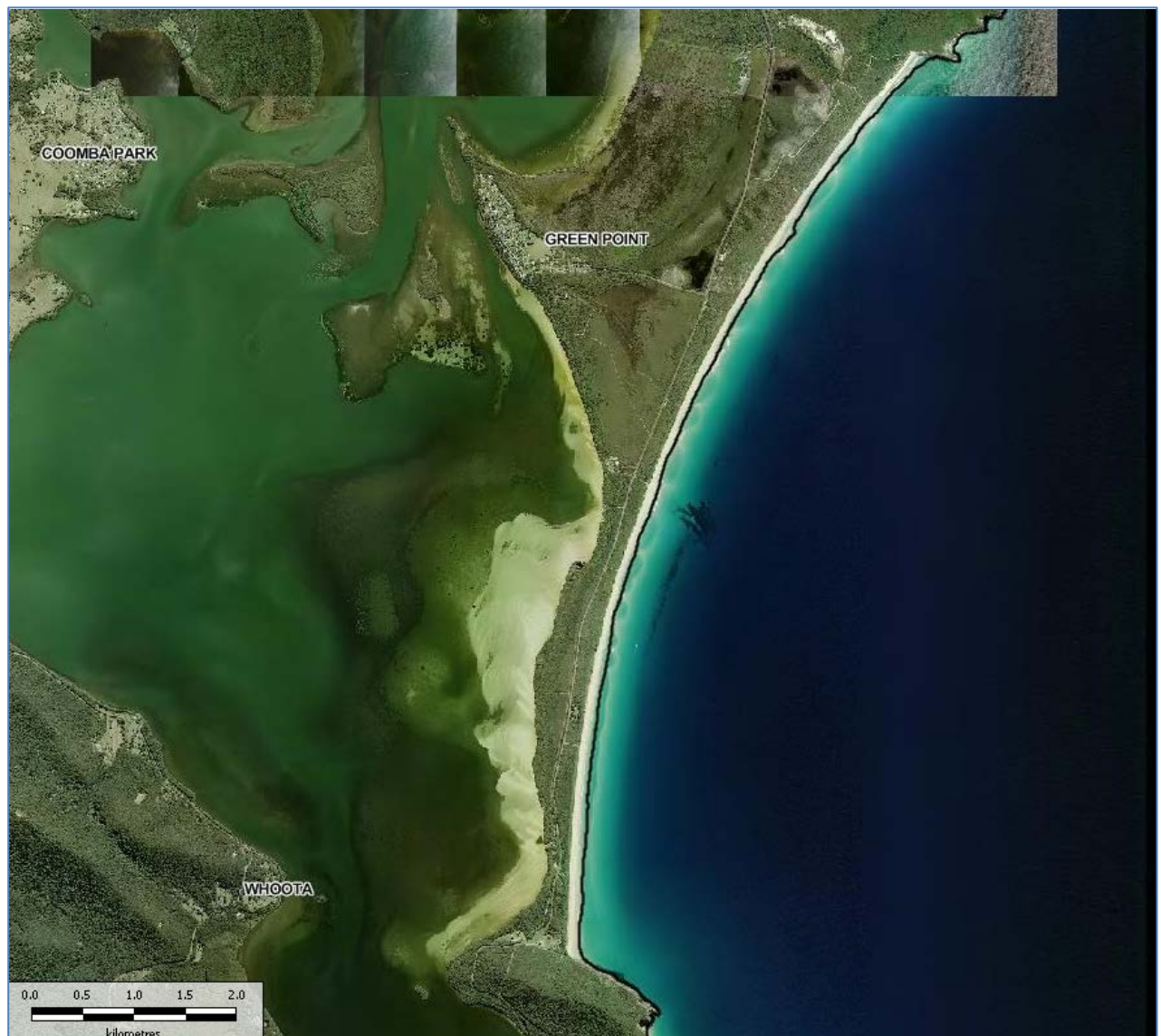


Figure No.3 Aerial Imagery of Tiona illustrating Seven Mile Beach



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

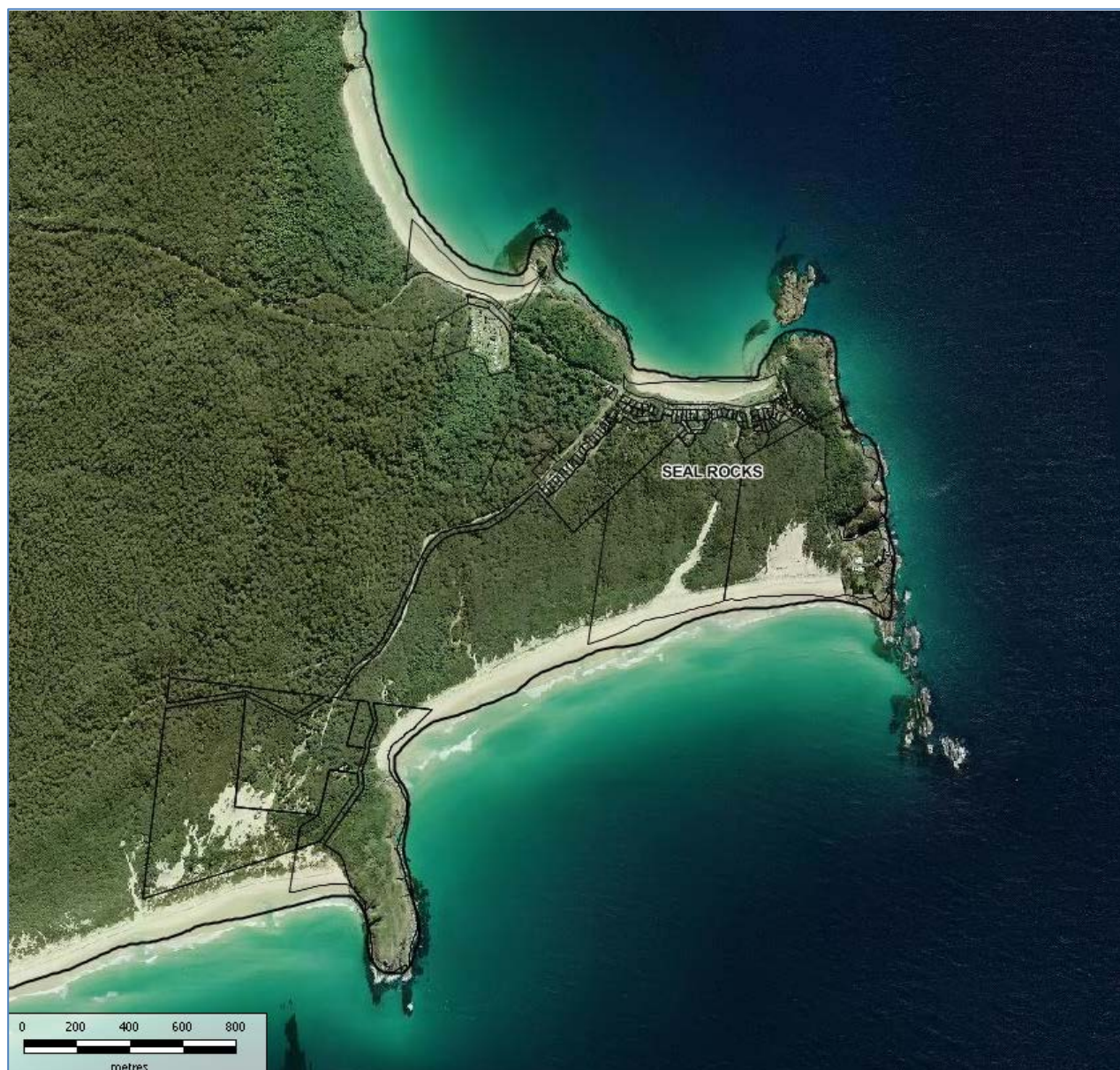


Figure No.6 Aerial Imagery of Seal Rocks illustrating Number One and Boat Beach



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

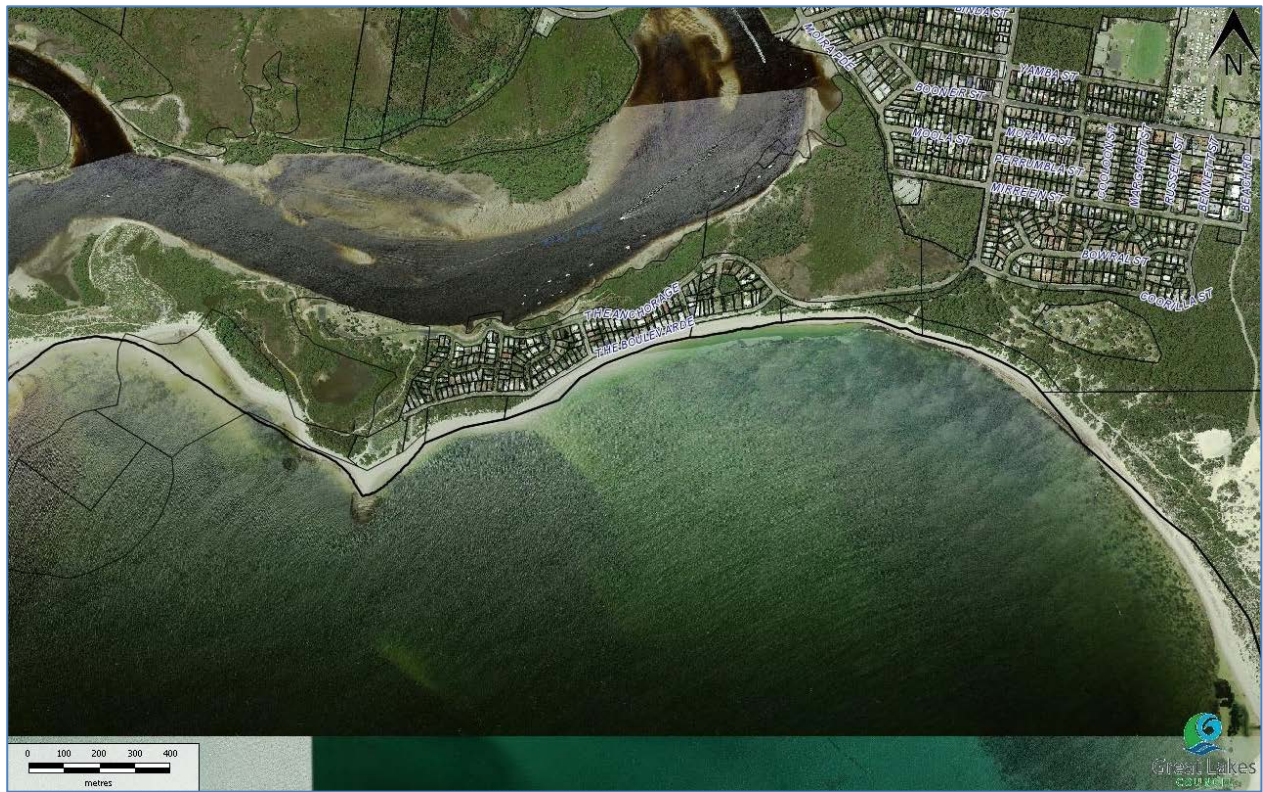


Figure No.8 Aerial Imagery of Winda Woppa illustrating Jimmy's Beach

PART 1 - OBJECTIVES OR INTENDED OUTCOMES

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

The primary objective of the planning proposal is 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.

The existing Clause 7.4 Coastal Risk Planning in Great Lakes Local Environmental Plan 2014 is not amended by this planning proposal.

There may be minor mapping amendments to the existing Coastal Risk Planning Areas in Great Lakes Local Environmental Plan 2014 as a result of works associated with the Great Lakes Coastal Hazard Study (2013) and Coastal Zone Management Plans currently being prepared for these beaches. Any amendments to these areas will be clearly identified in the public exhibition material.

PART 2 - EXPLANATION OF PROVISIONS

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

The planning proposal will amend the Coastal Risk Planning maps in Great Lakes Local Environmental Plan 2014.

Clause 7.4 Coastal Risk Planning in Great Lakes Local Environmental Plan 2014 is not amended by this planning proposal.

PART 3 - JUSTIFICATION

Section A - Need for the planning proposal.

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

The need for the Planning Proposal has arisen following Council's adoption of the Great Lakes Coastal Hazard Study (2013). A copy of the Study is provided on CD as Annexure D to this Planning Proposal.

There are three beaches 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 Great Lakes Coastal Hazard Study identifies additional beaches on the Great Lakes coastline that are potentially affected by coastal hazard and these are the primary areas of consideration in this planning proposal. The Draft Coastal Risk Planning Area maps are provided in Annexure C to this Planning Proposal.

Great Lakes Council has also commenced preparation of the Coastal Zone Management Plans for Jimmy's Beach, Boomerang Beach and Bluey's Beach.

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 may result in minor mapping amendments to the existing Coastal Risk Planning Areas in Great Lakes Local Environmental Plan 2014.

It can be confirmed at this time that the Bluey's and Boomerang coastal risk planning areas are to be amended to reflect additional geotechnical investigation completed as part of the CZMP program. These amendments will reflect relatively small changes in coastal hazard line locations in South Boomerang Beach and South Bluey's Beach.

The amendments will be clearly identified in the public exhibition material and addressed during the community engagement program for the 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?

Great Lakes Council have 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.

The Mid North Coast Regional Strategy (MNCRS) indicates 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".

Great Lakes Council has 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 are:

- Jimmy's Beach CZMP - end of the 2014 calendar year
- Bluey's & Boomerang Beaches CZMP - 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.

The incorporation of coastal risk maps within the LEP in accordance with the data and information contained within the adopted studies and policies is also 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 be 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 be 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 be 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?**

The planning proposal does not involve the rezoning of land.

Social/economic impacts of reflecting coastal risk within the local environmental plan has not been assessed directly, but is expected to be minimal given 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.

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

Council property information indicates that approximately 120 private properties are identified within the existing Coastal Risk Planning Area maps within Great Lakes LEP 2014. It is estimated that an additional 30 private properties are identified within the amended coastal risk 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.

Social disruption is expected to be minor for at least the next 50 years.

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 exception to this is at Jimmy's Beach Winda Woppa. Should the long-standing beach re-nourishment program cease at Jimmy's Beach, without the installation of a permanent beach protection solution, 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.

The wider community of Great Lakes contributes financially to the maintenance of the beach replenishment program at Jimmy's Beach and may be expected to contribute towards coastal protection measures throughout the Great Lakes in the future.

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?

Advice has not been sought from government agencies at this point. Council will commence consultation with agencies once the Planning Proposal is endorsed by Council and a Gateway Determination has been provided by NSW Planning & Environment.

Given the on-going dialogue with representatives of the regional State Emergency Service and Office of Environment and Heritage, Council expects that these agencies will be notified of the amended coastal risk planning areas. These agencies are already involved with the development of Coastal Zone Management Plans within the Great Lakes.

PART 4 - COMMUNITY CONSULTATION

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

Officers from the Strategic Planning and Design & Investigation sections of Council propose that community consultation for the Draft Planning Proposal should be undertaken in conjunction with on-going community consultation on the Coastal Zone Management Plans for the nominated beaches.

To this end, community consultation has commenced regarding preparation of Coastal Zone Management Plans (CZMP) for Boomerang Beach, Bluey's Beach and Jimmy's Beach and the next round of community consultation may be scheduled to coincide with exhibition of the planning proposal.

Community consultation on the preparation of a Coastal Zone Management Plan (CZMP) for beaches identified in the Great Lakes Coastal Hazard Study (2013) will also be scheduled in conjunction with the exhibition of the planning proposal, if possible.

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 of the Great Lakes Coastal Hazard Study will also be available during exhibition of the Planning Proposal.

Officers are also in the process of reviewing 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.

Should the existing provisions require amendment, expansion or updating a separate report shall be tabled for Council's consideration so that these provisions can also form part of the community consultation process associated with the planning proposal.

The amendments to the coastal risk planning areas in Great Lakes LEP 2014 are considered to represent a minor amendment to the Plan. However, Council's community consultation program is expected to exceed the maximum 28 day exhibition legislative requirement to ensure a high level of engagement with affected land owners.

CONCLUSION

The primary purpose of this planning proposal is to amend the Coastal Risk Maps in Great Lakes Local Environmental Plan 2014 to incorporate additional areas identified as being potentially affected by coastal hazards by 2060, as documented within the Great Lakes Coastal Hazard Study (2013) adopted by Council at the 25 February 2014 Ordinary Council meeting.

The proposal is consistent with the relevant regional and local strategic plans for the site and surrounding areas, namely the Mid-North Coast Regional Strategy (2009).

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.

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.

Department of Planning & Infrastructure – draft Planning Circular

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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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,



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.

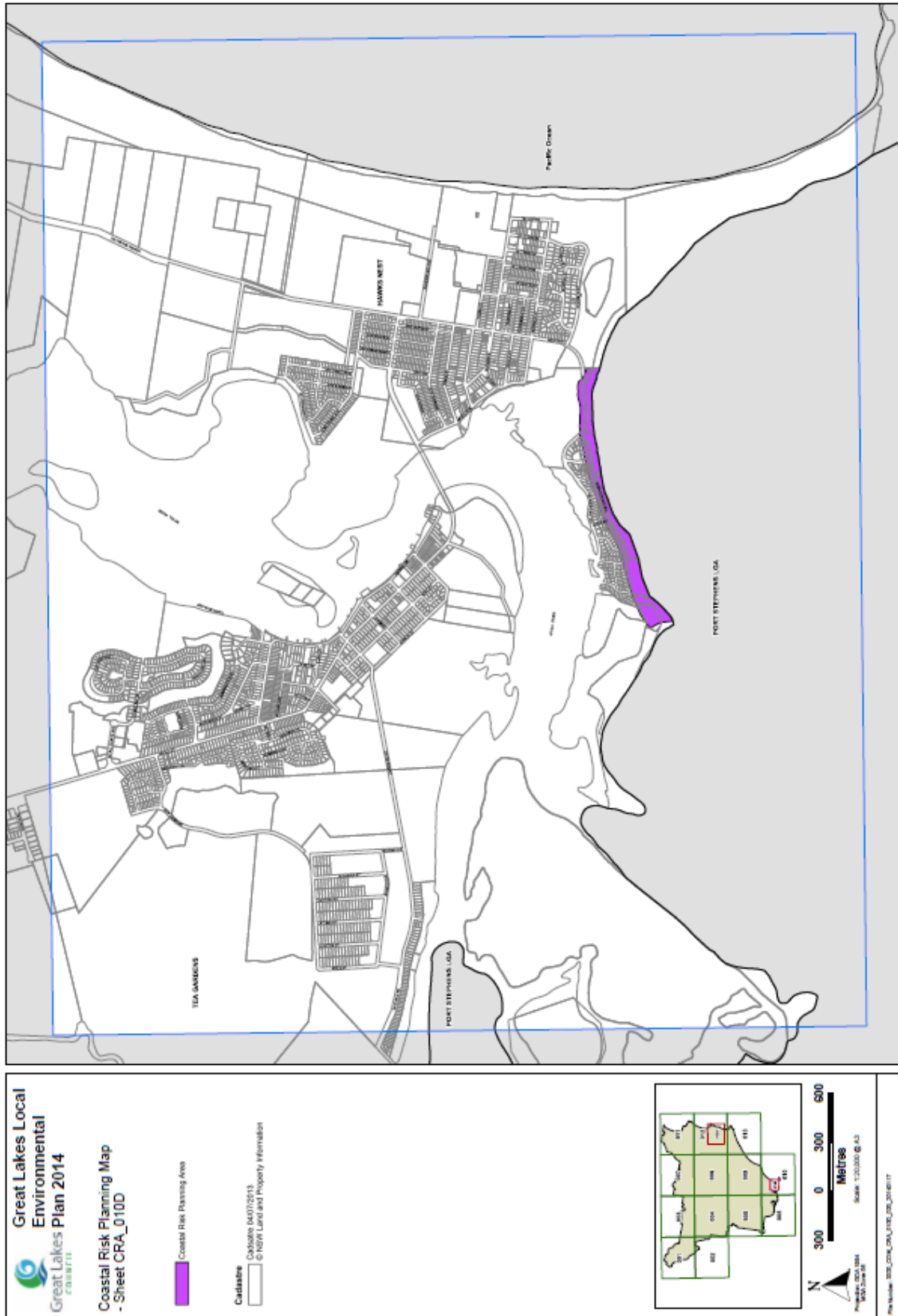
(4) A word or expression used in this clause has the same meaning as it has in the *NSW Coastal Planning Guideline: Adapting to Sea Level Rise* (ISBN 978-1-74263-035-9) published by the NSW Government in August 2010, unless it is otherwise defined in this clause.

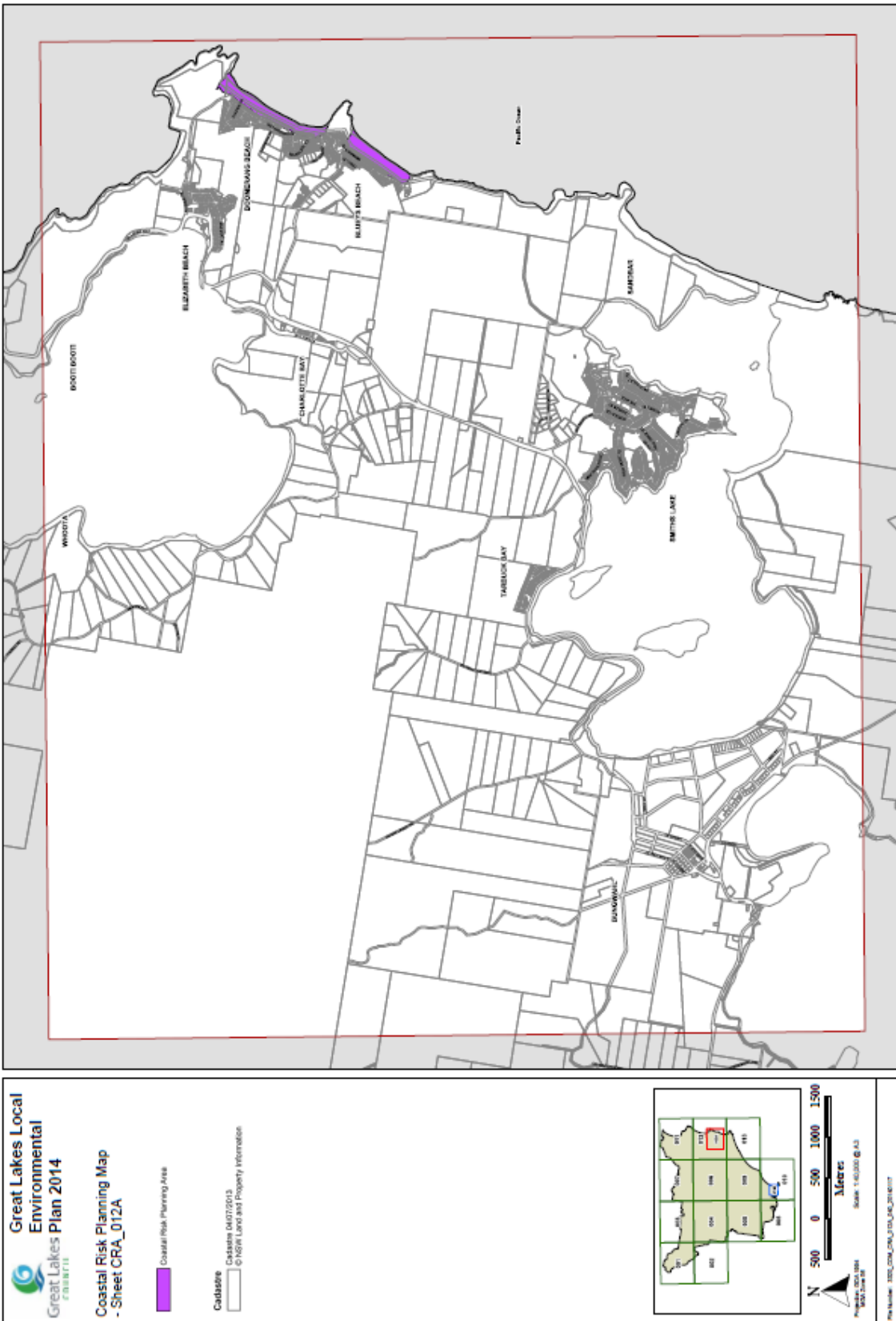
(5) In this clause:

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*.

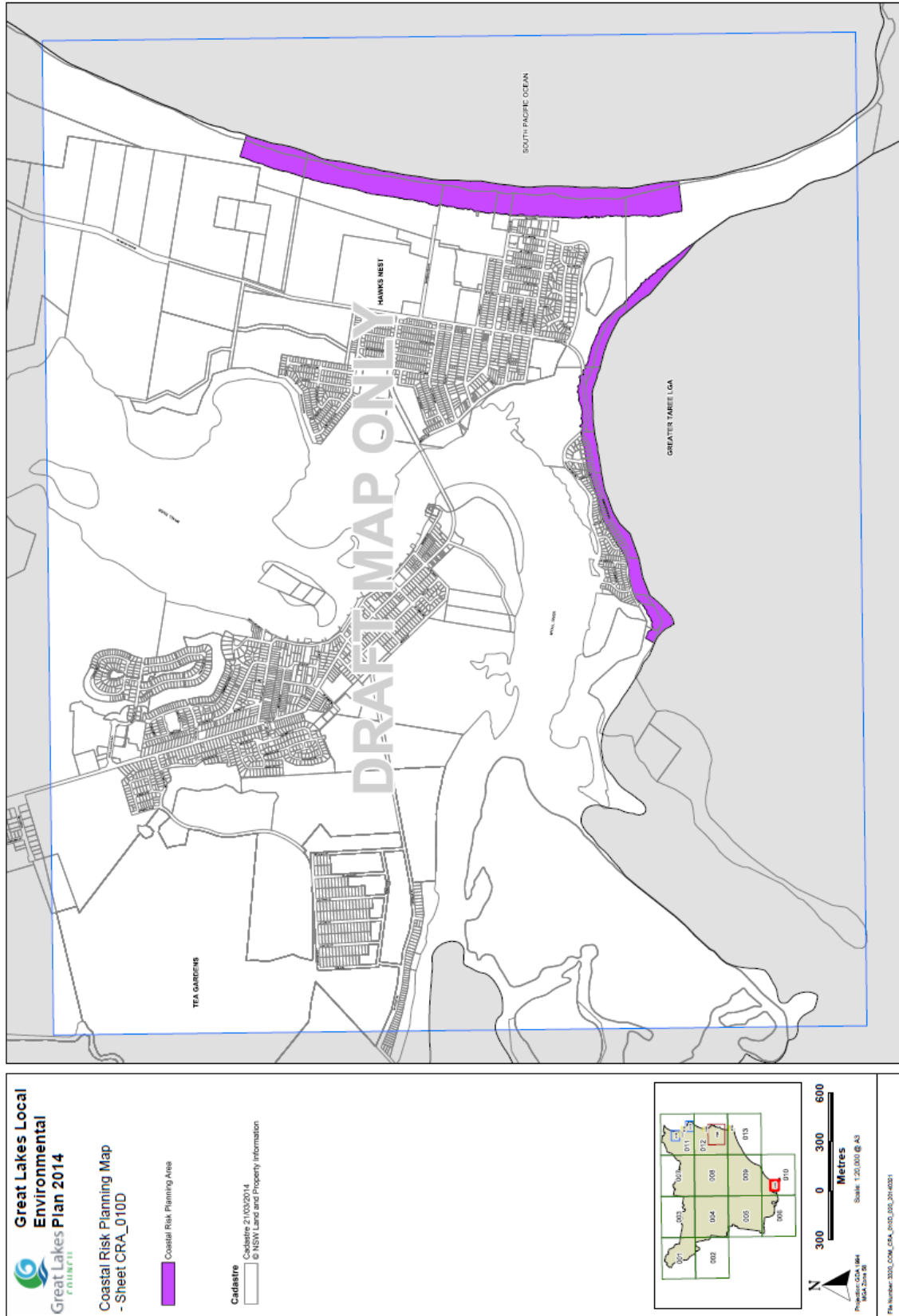
(from NSW Legislation website - Great Lakes Local Environmental Plan 2014, published 4 April 2014)

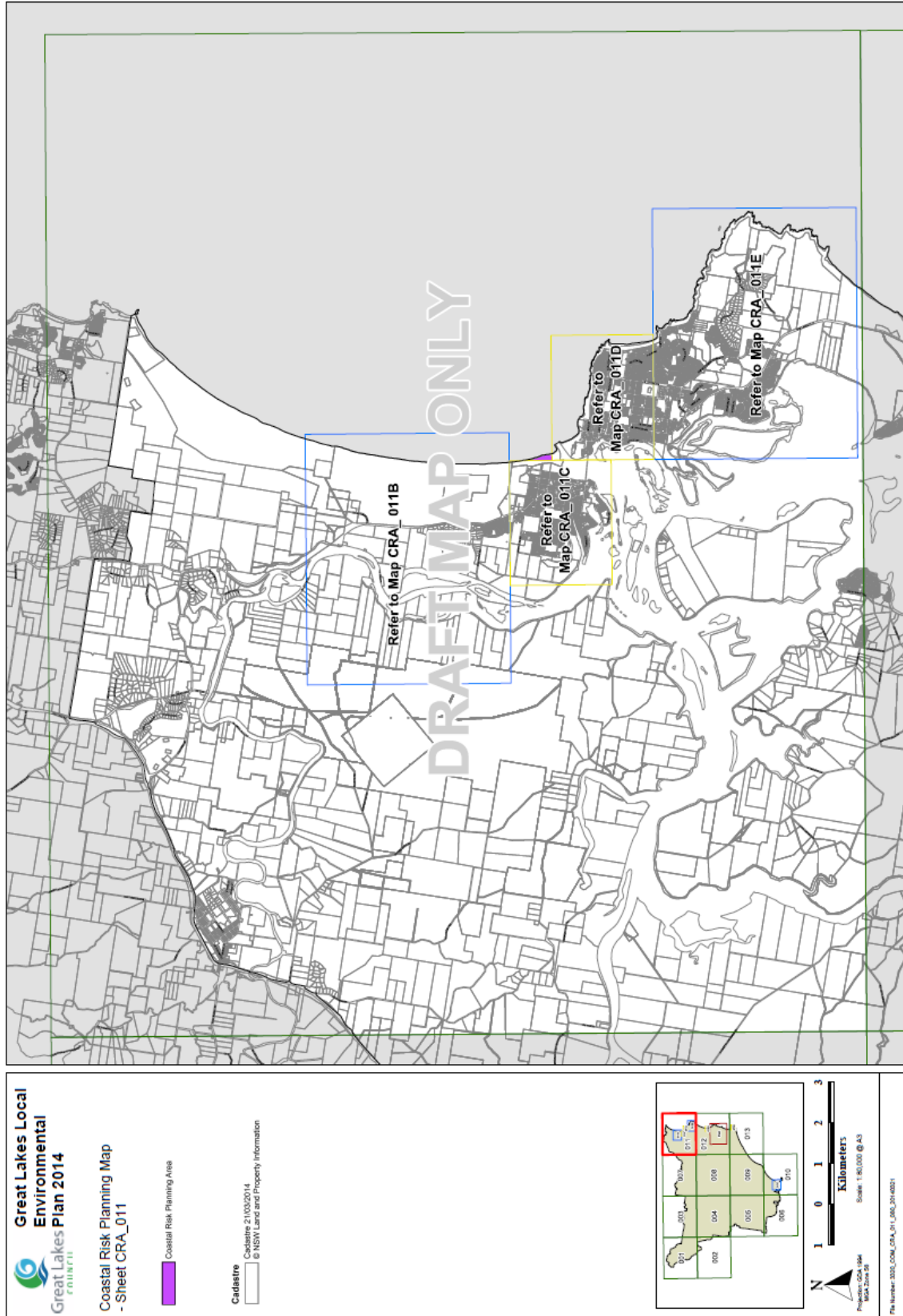


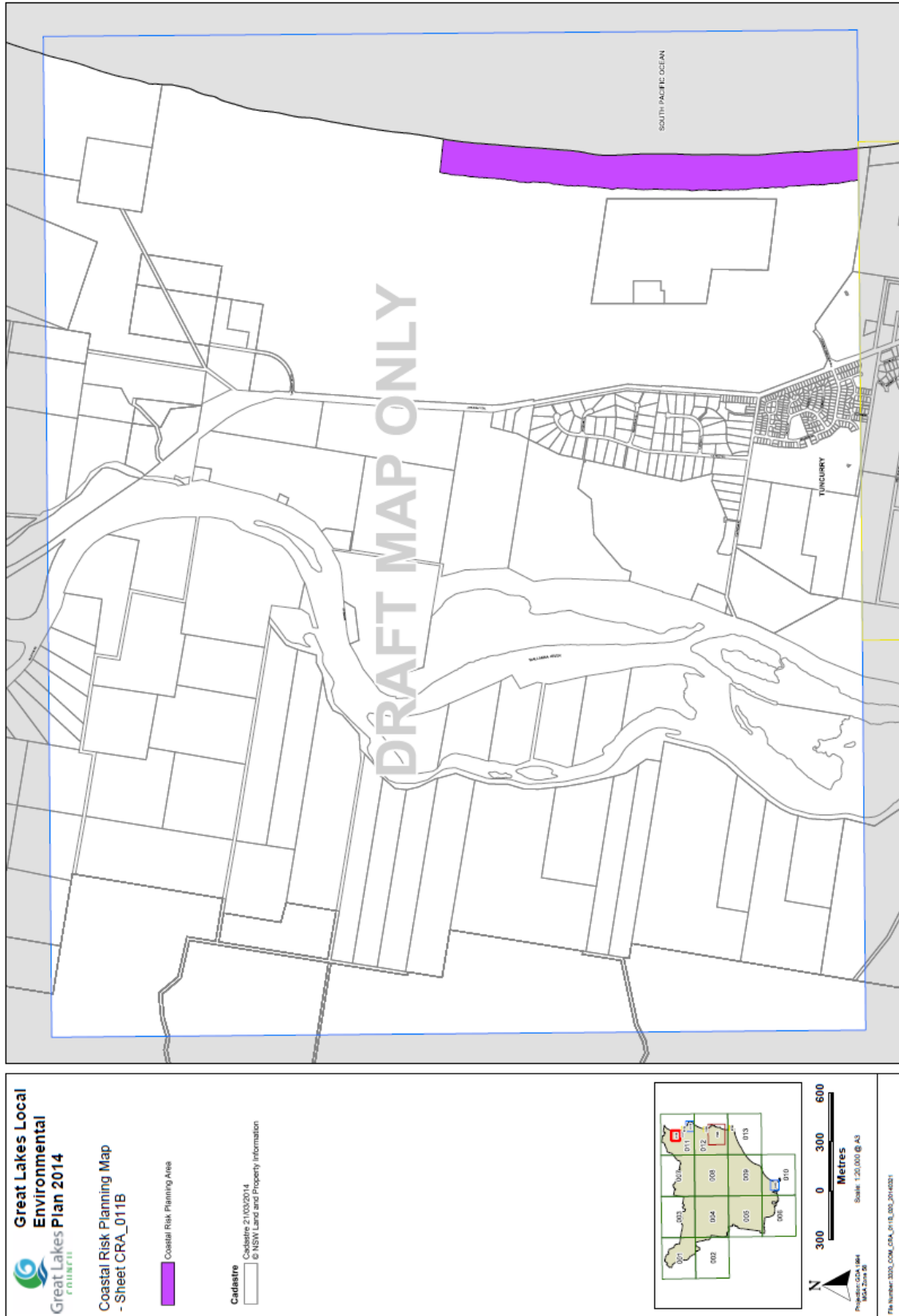


Annex C

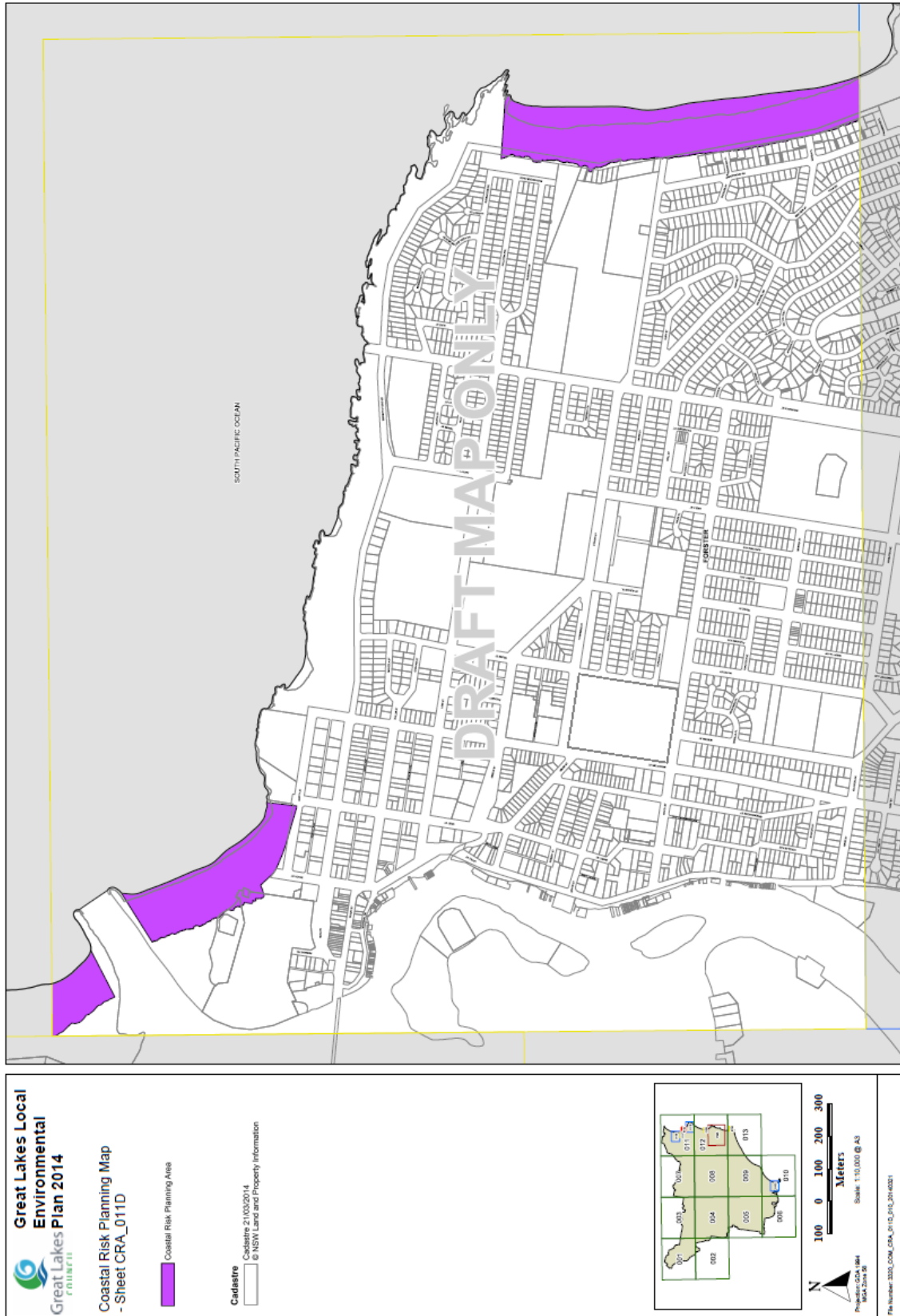
Draft Great Lakes Local Environmental Plan 2014 Coastal Risk Planning Maps

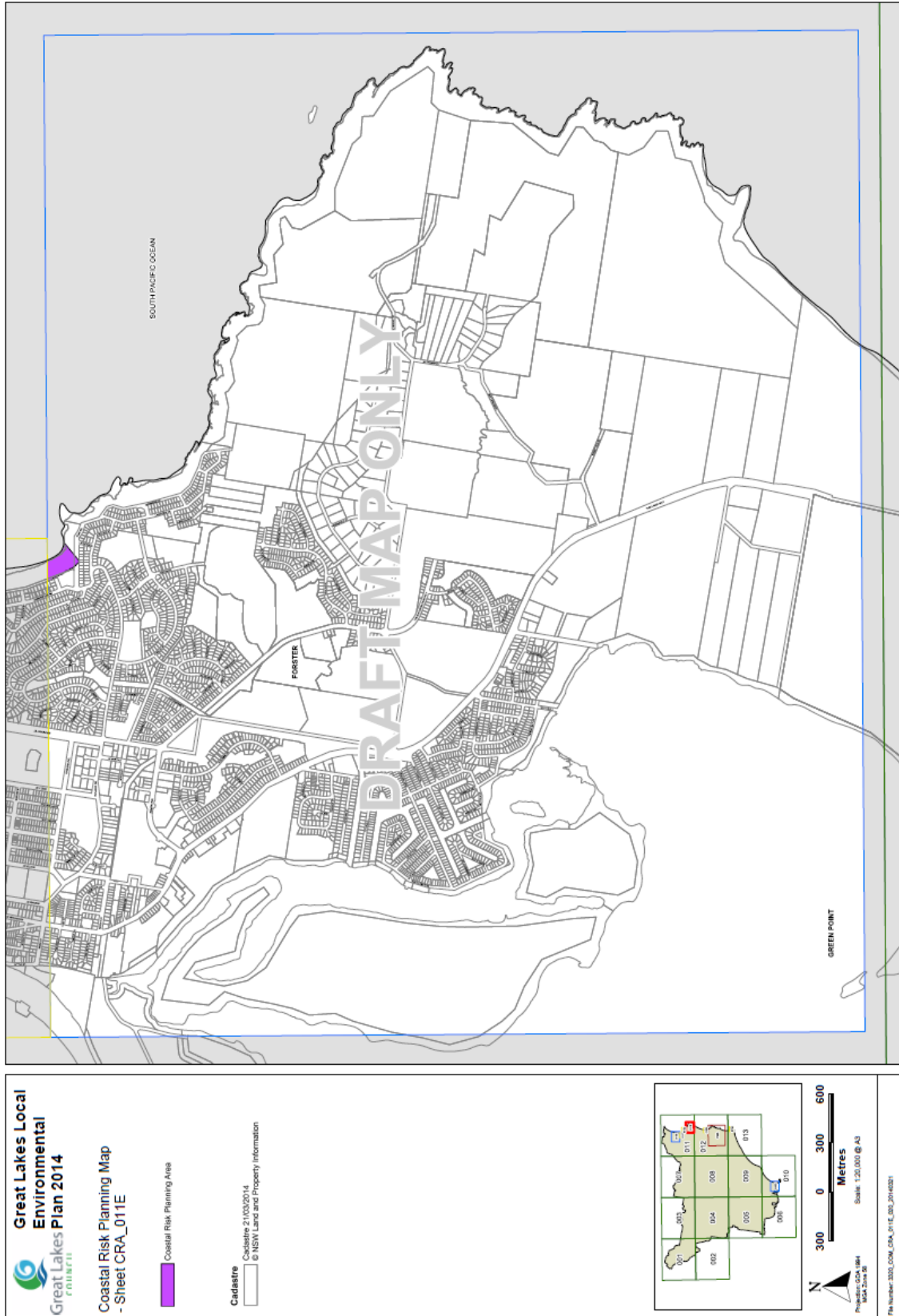


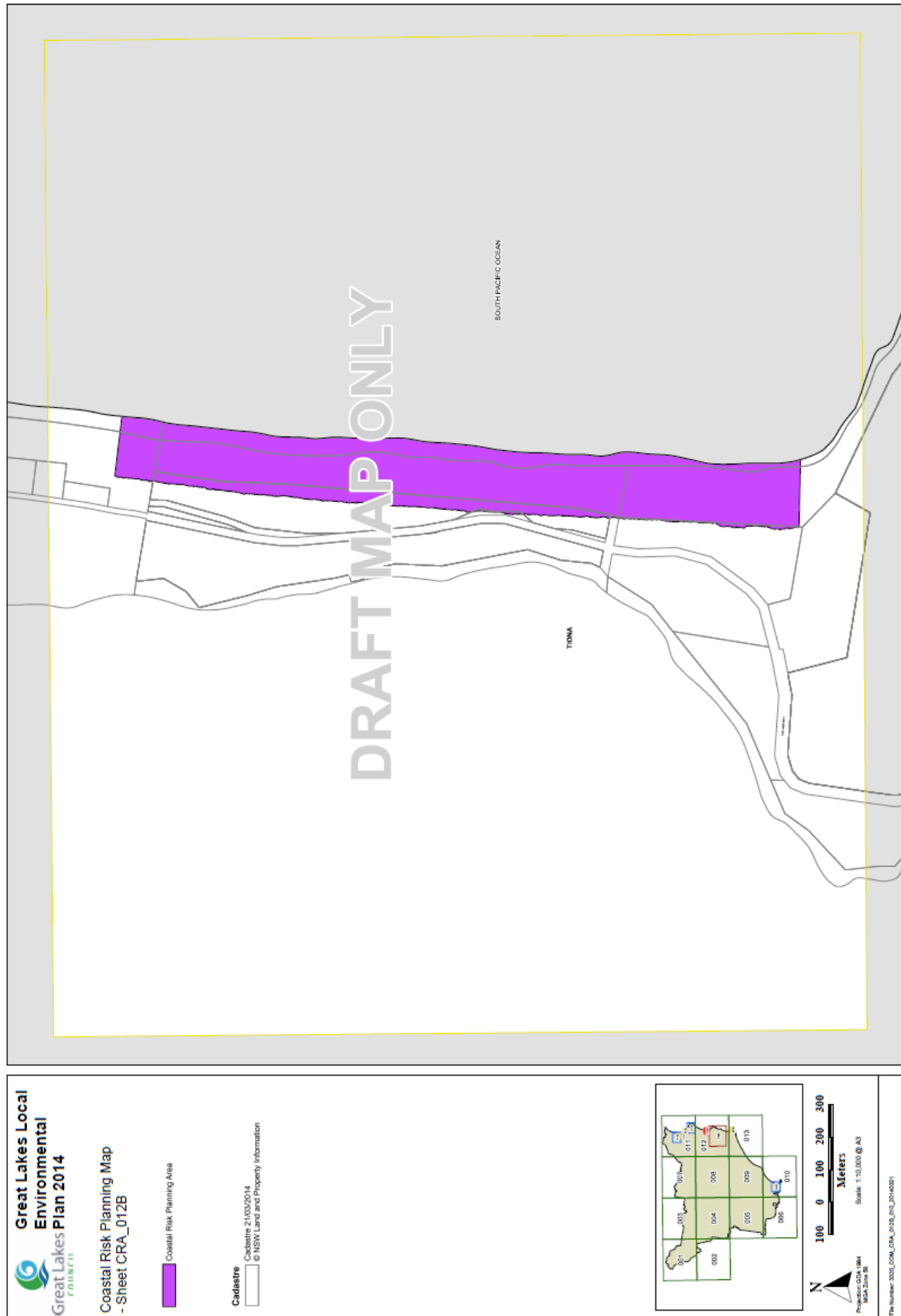


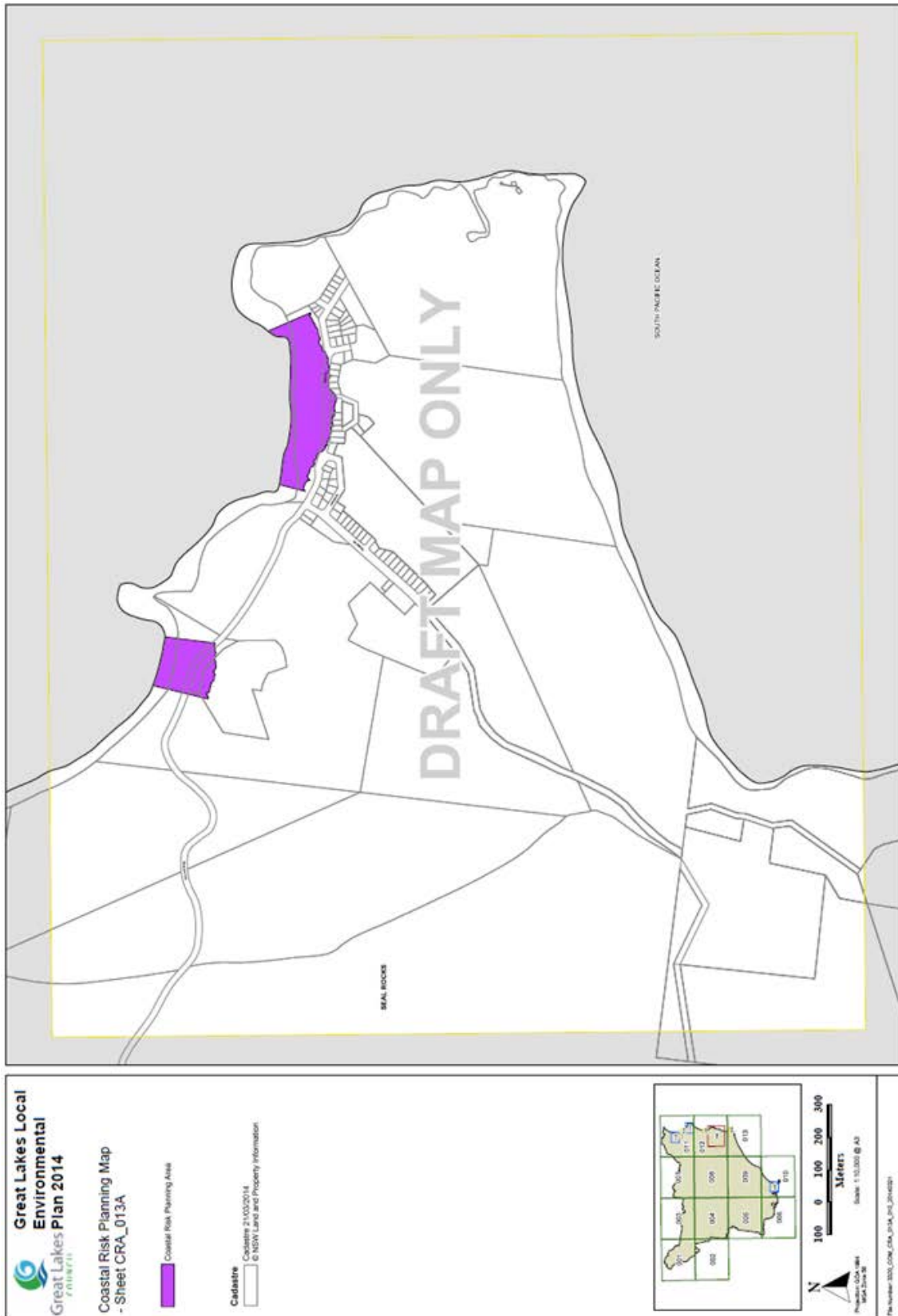












Annex D

Great Lakes Coastal Hazard Study (2013)

Provided on CD due to file size.