



Planning Proposal – Flood prone land map

**Proposed amendment to Port Stephens Local
Environmental Plan 2013**



PORT STEPHENS
COUNCIL

FILE NUMBERS

Council: PSC2016-00770

Department: To be provided at Gateway Determination.

SUMMARY

Proposed changes: Amend Clause 7.3(2)(a) of *Port Stephens Local Environmental Plan 2013*
Remove Flood Prone Land Map
Amend Clause 7.3
Delete definition of 'Flood Planning Map'

BACKGROUND

The planning proposal seeks to amend the *Port Stephens Local Environmental Plan 2013 (PSLEP 2013)* by removing reference to "Flood Planning Map" in Clause 7.3 Flood Planning, removing the Flood Planning Map from the suite of LEP maps and deleting the definition of 'Flood Planning Map' in the Dictionary.

On 8 March 2016, Council adopted a Floodplain Risk Management Policy and Flood Hazard Maps. The Policy and maps have been prepared in accordance with the State Government's Floodplain Development Manual 2005 and were developed using data from a number of flood studies undertaken throughout the LGA. The maps are under constant review and amendments will be made when new information is available. The Flood Hazard Map more accurately reflects the flood planning level than the current 'Flood Planning Map' contained in the *PSLEP 2013*.

This planning proposal seeks to remove the Flood Planning Map from the LEP to avoid any confusion between the LEP and the adopted Flood Hazard Map. Removing the flood maps from the LEP will ensure reliance on most up to date flood mapping, without the need for a lengthy LEP amendment process every time the Flood Hazard Maps are updated. Council will instead rely on Clause 7.3 (as amended), the Floodplain Risk Management Policy and Flood Hazard Maps. The Flood Hazard Maps are available for viewing by the community on Council's website, ensuring that the most accurate and up to date mapping is readily accessible and used in the assessment of development applications.

Development on land at or below the flood planning level will still need to satisfy the provisions of Clause 7.3 Flood planning of the *PSLEP 2013*.

The Floodplain Risk Management Policy and Flood Hazard Map (LGA wide) are contained in Attachment 1 and Attachment 2 respectively.

PART 1 – Objective of the proposed Local Environmental Plan

The planning proposal seeks to achieve the following amendments to the *Port Stephens Local Environmental Plan 2013*:

- Remove reference to the "Flood Planning Map";
- Delete the Flood Planning Map from the suite of LEP maps; and
- Delete the Definition of Flood Planning Map

PART 2 – Explanation of the provisions to be included in proposed LEP

The objectives of this planning proposal will be achieved by the following amendments to the *Port Stephens Local Environmental Plan 2013*:

a) Amending Clause 7.3(2) from:

- (2) *This clause applies to:*
- (a) *land identified as "Flood Planning Area" on the Flood Planning Map, and*
 - (b) *other land at or below the flood planning level.*

To:

- (2) *This clause applies to land at or below the flood planning level.*

b) Deleting Map Identification Numbers:

- FLD_001 6400_COM_FLD_001_080_20131210
- FLD_002 6400_COM_FLD_002_080_20131210
- FLD_003 6400_COM_FLD_003_080_20131128
- FLD_004 6400_COM_FLD_004_080_20131128
- FLD_005 6400_COM_FLD_005_080_20131128

c) Deleting the definition of ***Flood Planning Map*** contained in the Dictionary.

PART 3 – Justification for the Planning Proposal

SECTION A – Need for the Planning Proposal

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

The planning proposal has been prepared in response to Council's adoption of the Floodplain Risk Management Policy and Flood Hazard Maps. The policy and maps were prepared from the following studies:

- Medowie Drainage and Flood Study (2012)
- Paterson River Flood Study (1997)

- Paterson River Floodplain Risk Management Study and Plan (2001)
- Port Stephens Design Flood Levels – Climate Change Review (2010)
- Williams River Flood Study (2009)
- Williamstown Salt ash Flood Study (2005)
- Williamstown Salt Ash Flood Study Climate Change Review (2012)
- Port Stephens Foreshore (Floodplain) Management Plan (2002)

The Flood Hazard Maps will soon be updated to incorporate the:

- Medowie Floodplain Risk Management Study and Plan (2016); and
- Williamstown Salt Ash Floodplain Risk Management Study and Plan (2016)

The planning proposal to remove the Flood Map ensures that a lengthy LEP amendment process will not be required each time new flooding information is obtained and the Flood Hazard Maps are amended. The Flood Hazard Map will be updated:

- a) following adoption of a flood study/ floodplain risk management plan by council (these are studies commissioned by council and OEH); or
- b) annually to include submissions that have been made by owners/developers to amend the flood hazard due to filling of the land etc.

Section 117 Direction No. 4.3 – Flood Prone Land remains satisfied as adequate provisions remain in the LEP for consideration for development at or below the flood planning level.

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

An amendment to the *Port Stephens Local Environmental Plan 2013*, via a planning proposal, is the only means of achieving the objectives and intended outcomes.

Is there a community benefit?

The Floodplain Risk Management Policy aims to systematically reduce the impact of flooding and flood liability on individual owners and reduce the private and public losses resulting from floods. It also recognises that flood prone land is a valuable resource to the community, land holders and the economy and these lands should not be sterilised by unnecessarily restricting its development.

The Floodplain Risk Management Policy takes an integrated risk management approach using the best available information that classifies land in terms of flood risk so that decisions take into account flood risk while recognising the social, economic and environmental values of flood prone land.

Ensuring that the *PSLEP 2013* is consistent with the Floodplain Risk Management Policy and the Flood Hazard Maps is beneficial to the community as it takes a risk management approach, consistent with the State Government's Floodplain Risk Management Manual 2005.

SECTION B – Relationship to Strategic Planning Framework

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

Draft Hunter Regional Plan

The draft Hunter Regional Plan aims to monitor and investigate risks from natural hazards to inform future planning and management.

The planning proposal is consistent with this direction as it will ensure the most up-to-date flooding information is accessible to the community and used in planning decisions.

Lower Hunter Regional Strategy

The Lower Hunter Regional Strategy requires Councils to ensure the principles and recommendations in the Management of flood liable land in accordance with section 733 of the *Local Government Act 1993* and floodplain risk management plans prepared in accordance with the NSW Government's Flood Plain Development Manual (2005)

The removal of the flood mapping from the *PSLEP 2013* aims to ensure that the community has access to the most accurate and relevant data regarding flood prone land. Given Council's Flood Hazard Maps are constantly being improved, it is preferred that Council provide flood mapping in a format that can be easily updated, without the need for a lengthy LEP amendment process. This will ensure that people are aware of flooding risks to public and private assets. This approach is consistent with the LHRS.

Adequate provision remains in the LEP to consider development on flood prone land under Clause 7.3 Flood planning.

5. Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plan?

Port Stephens Planning Strategy (PSPS)

The PSPS recognises the large area of land within the LGA that is subject to flooding. The planning proposal ensures community and planners are not relying on outdated maps contained in the LEP.

6. Is the planning proposal consistent with applicable state environmental planning policies?

There are no existing or draft State Environmental Planning Policies that prohibit or restrict amendments outlined in this planning proposal.

7. Is the planning proposal consistent with applicable Ministerial Directions?

An assessment of relevant s.117 Directions against the planning proposal is provided below.

Section 117 Direction No. 4.3 aims to:

- (a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and*
- (b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land*

The Floodplain Risk Management Policy and Flood Hazard Maps, adopted by Council on 8 March 2016, were prepared in accordance with the Floodplain Development Manual 2005.

Adequate provision remains in the LEP to consider development on flood prone land under Clause 7.3 Flood planning.

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?

The planning proposal is consistent with the Floodplain Risk Management Policy, which seeks to prohibit inappropriate development in flood affected areas. This will have positive environmental implications as the effect of development on the flooding behaviour will be considered in the assessment of development applications. Removing the existing Flood Planning Map from the LEP will ensure that the most up-to-date information is used in planning for these areas.

10. Has the planning proposal adequately addressed any social and economic effects?

The planning proposal will ensure that the most accurate flooding information is used in the consideration of development on flood prone land. This will

ensure that the impact of flooding on new development is minimised, which has economic and social benefits to individual property owners, state emergency services and government agencies as life and property are not endangered from inappropriate development.

SECTION D – State and Commonwealth interests

11. Is there adequate public infrastructure for the planning proposal?

Not applicable.

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

Consultation with relevant State and Commonwealth Agencies will be undertaken following a Gateway Determination. It is envisaged that the following agencies will be consulted with:

- Office of Environment and Heritage
- NSW State Emergency Services

Part 4 - Mapping

The planning proposal seeks to delete Map Identification Numbers:

- FLD_001 6400_COM_FLD_001_080_20131210
- FLD_002 6400_COM_FLD_002_080_20131210
- FLD_003 6400_COM_FLD_003_080_20131128
- FLD_004 6400_COM_FLD_004_080_20131128
- FLD_005 6400_COM_FLD_005_080_20131128

Part 5 - Details of Community Consultation

Community consultation will be undertaken in accordance with the gateway determination.

Notice of the public exhibition period will be placed in the local newspaper, The Examiner. The exhibition material will be on display at the following locations during normal business hours:

- Council's Administration Building 116 Adelaide Street, Raymond Terrace
- Raymond Terrace Library, Port Stephens Street, Raymond Terrace
- Tomaree Library, Town Centre Circuit, Salamander Bay

The planning proposal will also be available on Council's website.

Part 6 – Project timeline

The planning proposal is expected to be reported to Council following the completion of the public exhibition period.

The following timetable is proposed:

	May	June	July	Aug	Sept	Oct	Nov	Dec
<i>Gateway Determination</i>								
<i>Agency Consultation</i>								
<i>Public Exhibition</i>								
<i>Consideration of submissions / preparation of council report</i>								
<i>Council Report</i>								
<i>Parliamentary Counsel</i>								
<i>Plan finalised</i>								

ATTACHMENT 1 – Flood Risk Management Policy

FILE NO: PSC2015-01399

TITLE: FLOODPLAIN RISK MANAGEMENT

POLICY OWNER: ASSET SECTION MANAGER

PURPOSE:

Port Stephens Council is committed to managing flooding across the Local Government Area using an integrated risk management approach, in order to:

- 1) Systematically reduce the impact of flooding and flood liability on individual owners and occupiers of flood prone property, hence reduce the losses resulting from floods;
- 2) Recognise that appropriately developed flood prone land is a valuable resource to the community, land holders and the economy and these lands should not be sterilised by unnecessarily restricting its development;
- 3) Consider floodplain risk as early as possible in the planning and development process using the best available flood information;
- 4) Classify land in terms of floodplain risk so that decisions take into account the risk while recognising the social, economic and environmental values of flood prone land;
- 5) Provide the framework to manage floodplain risk through cost-effective measures that address existing, future and continuing risks in a hierarchy of avoidance, minimisation and mitigation as identified in local floodplain risk management studies and plans;
- 6) Remain consistent with the floodplain risk management principles outlined in the State Government's Flood Prone Land Policy and Floodplain Development Manual 2005.
- 7) Facilitate the systematic collection of flood information and floodplain risk data, and the provision of such information in a timely way so that residents can understand the severity of floodplain risk and plan their affairs accordingly; and,
- 8) Promote the integration between Council's floodplain risk management activities and flood-related emergency management undertaken by the State Emergency Service and the Port Stephens Local Emergency Management Committee.

The measurement of success for this policy is the implementation of the integrated risk management approach.

CONTEXT/BACKGROUND:

Port Stephens covers a diverse number of catchments, generally flowing to the Hunter Estuary or the Port Stephens Estuary. The area has a number of creeks, rivers, estuaries, foreshore areas, stormwater channels and drains which are impacted by flooding or coastal inundation, sometimes with little or no warning.

Flooding is a significant issue affecting existing and future development throughout Port Stephens and may involve significant risk, including risks to life and property. While it is not usually cost-effective to entirely eliminate all floodplain risks, the risks can be managed.

Council has been undertaking the necessary flood studies in accordance with the State Government's Floodplain Development Manual 2005. Where the catchments cross local government boundaries, Council has been working in collaboration with neighbouring councils.

The Local Government Act (section 733) provides Council with a general exemption from liability with respect to flood liable land if the necessary studies and works are carried out in accordance with the principles contained in the NSW Floodplain Development Manual 2005.

SCOPE:

While local government in NSW has the primary responsibility for controlling the development within flood-prone land, both the State Government (for example, Crown developments and state significant developments) and the Federal Government (for example, development on Commonwealth land) consider development on the floodplain.

Both local government and the State Government (principally through the State Emergency Service) are responsible for managing floodplain risk.

DEFINITIONS:

Flood prone land (flood liable land)	Land that is likely to be inundated by the probable maximum flood (PMF is the largest flood that could conceivably occur in a particular catchment) and defines the "floodplain" for that catchment.
Flood Planning Level	The level of the 1% AEP (annual exceedance probability) flood event in the year 2100 plus 0.5 metre freeboard

Floodway area	Land that is a pathway taken by major discharges of floodwaters, the partial obstruction of which would cause a significant redistribution of floodwaters, or a significant increase in flood levels. Floodways are often aligned with natural channels, are usually characterised by deep and relatively fast flowing water, and have major damage potential.
Flood Storage area	Those parts of the floodplain that are important for the temporary storage of flood waters. The loss of storage areas may increase the severity of flood impacts by reducing natural flood attenuation.
Flood Fringe area	The remaining area of flood prone land after the Floodway area and Flood Storage area have been defined.
High Hazard flood area	The area of flood which poses a possible danger to personal safety, where the evacuation of trucks would be difficult, where able-bodied adults would have difficulty wading to safety or where there is a potential for significant damage to buildings.
Low Hazard flood area	The area of flood where, should it be necessary, a truck could evacuate people and their possessions or an able-bodied adult would have little difficulty in wading to safety.

POLICY STATEMENT:

Council will manage the risk of flooding on lands in accordance with State Government's Flood Prone Land Policy and Floodplain Development Manual 2005. This can be summarised as:

- 1) Following the State Government directed process for each catchment, including:
 - a) Formation of a Floodplain Risk Management Committee, including members from council, community and state government agencies;
 - b) Collection of social, economic, flooding, ecological, land use, cultural and emergency management data;
 - c) Undertaking a flood study, in accordance with "Australian Rainfall & Runoff" published by Engineers, Australia, to define floodplain risk throughout the catchment, including hydrologic and hydraulic aspects of floods of varying severity;
 - d) Identifying, assessing and comparing various risk management options through a Floodplain Risk Management Study; and,
 - e) Developing a Floodplain Risk Management Plan outlining the implementation of acceptable flood response and property modification measures, and is formally approved by Council after public exhibition.

- 2) Categorising floodplain risk in terms of the hazard (low hazard and high hazard), the location (floodway area, flood storage area and flood fringe area) and the chance of the flood occurring in any one year (the annual exceedance probability (AEP)), namely:
 - a) Minimal risk flood prone land (above the Flood Planning Level and below the Flood prone land extent)
 - b) Low hazard – flood fringe area
 - c) Low hazard – flood storage area
 - d) Low hazard – floodway area
 - e) High hazard – flood fringe area
 - f) High hazard – flood storage area
 - g) High hazard – floodway area
- 3) Keeping the Flood Hazard Maps up-to-date by incorporating relevant information from Council adopted Flood Studies, Floodplain Risk Management Plans, flood modification measures and approved filling within the floodplain which may change the categorisation of floodplain risk.
- 4) Undertaking a comprehensive benefit-cost analysis of proposed flood modification measures (for example, levees, retarding basins, flood gates) in each catchment using a standard approach and include those measures with a benefit: cost ratio greater than 1 into Council's Strategic Asset Management Plan (where possible Council will seek State and Federal government funding for such measures).
- 5) Considering property modification measures including voluntary purchase or house-raising and Development Control Plan changes based on the floodplain risk categories.
- 6) Utilising a site-specific risk management approach for the finished floor level for non-residential developments, focussed on reducing risk-to-life and risk-to-property, based on the floodplain risk categories and specified in Council's DCP.
- 7) Ensuring that the State Emergency Service and the Port Stephens Local Emergency Management Committee are provided with the most up-to-date flood information so they can include it in their emergency response and recovery planning.
- 8) Ensuring that decisions relating to flood prone land do not have adverse consequences for emergency management or cause adverse impacts on flooding in other locations.
- 9) Ensuring that new Council assets have an appropriate floodplain risk category, so that future generations of residents and ratepayers are not inordinately burdened.
- 10) Developing a system for the timely provision of up-to-date flood information, to facilitate the assessment of development applications, to achieve a merit-based outcome for each floodplain risk category for an individual site.

POLICY RESPONSIBILITIES:

Assets Section Manager has overall responsibility for this Policy.

Senior Flooding & Drainage Engineer is responsible for the implementation of the engineering aspects of this Policy, including management of the Floodplain Risk Management process.

Strategy and Environment Section Manager is responsible for the implementation of the strategic planning aspects of this Policy, including consideration of floodplain risk as early as possible in the planning process and the provision of the most up-to-date flood information through the issuing of Section 149 certificates.

Development Assessment and Compliance Section Manager is responsible for the implementation of the development assessment aspects of this Policy, including a merit-based consideration of the floodplain risk categories for an individual site, focussed on reducing risk-to-life and risk-to-property.

Communications Section Manager is responsible for the implementation of the communications aspects of this Policy, including assisting in the coordination of community engagement through the Floodplain Risk Management process.

Facilities and Services Group Manager is responsible for the integration between Council's floodplain risk management activities and flood-related emergency management undertaken by the State Emergency Service and the Port Stephens Local Emergency Management Committee.

RELATED DOCUMENTS:

- 1) Local Government Act 1993
- 2) Environmental Planning and Assessment Act 1979
- 3) Water Management Act 2000
- 4) Hunter Water Act 1991
- 5) State Emergency and Rescue Management Act 1989
- 6) The State Government's Flood Prone Land Policy 2005
- 7) The State Government's Floodplain Development Manual 2005
- 8) Port Stephens Local Environment Plan 2013
- 9) Port Stephens Development Control Plan 2014
- 10) Port Stephens Community Strategic Plan 2015-2025

CONTROLLED DOCUMENT INFORMATION:

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TRIM container No	PSC2015-01399	TRIM record No	
Audience	Councillors, staff and community		
Process owner	Manager, Assets Section		
Author	John Maretich		
Review timeframe	4 years	Next review date	27 October 2019
Adoption date	8/3/16		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1	16 Dec 2008	Trevor Allen	Areas affected by flooding and/or inundation.	384
2.1	27 Oct 2015	John Maretich	Draft Floodplain Risk Management Policy for Public Exhibition	323
2.2	8 March 2016	John Maretich	Floodplain Risk Management Policy	054

Flood Hazard Categories

-  Minimal Risk Flood Prone Land
-  Flood Planning Level
-  Low Hazard Flood Fringe area
-  Low Hazard Flood Storage area
-  Low Hazard Floodway area
-  High Hazard Flood Fringe area
-  High Hazard Flood Storage area
-  High Hazard Floodway area
-  Flood Prone Land subject to further investigation

Cadastral

-  Cadastral 12/02/2016 © Land and Property Information (LPI)

NOTES

"High hazard" flood area is the area of flood which poses a possible danger to personal safety, where the evacuation of trucks would be difficult, where able-bodied adults would have difficulty wading to safety or where there is a potential for significant damage to buildings. (refer Flood Manual Appendix L)

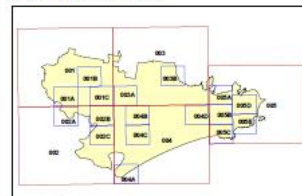
"Low hazard" flood area is the area of flood where, should it be necessary, a truck could evacuate people and their possessions or an able-bodied adult would have little difficulty in wading to safety. (refer Flood Manual Appendix L)

"Floodway area" refers to the land that is a pathway taken by major discharges of floodwaters, the obstruction or partial obstruction of which would cause a significant redistribution of floodwaters, or a significant increase in flood levels. Floodway areas are often aligned with natural channels, are usually characterised by deep and relatively fast flowing water, and have major damage potential. (refer Flood Manual Section 4)

"Flood storage area" refers to those parts of the floodplain that are important for the temporary storage of flood waters. The loss of flood storage areas can increase the severity of flood impacts by reducing natural flood attenuation. (refer Flood Manual Section 4)

"Flood fringe area" refers to the remaining area of flood prone land after the Floodway area and Flood storage area have been defined. (refer Flood Manual Section 4)

"Flood Prone Land subject to further investigation" refers to the area of land susceptible to flooding where a comprehensive technical investigation of flood behaviour (to define the variation over time of flood levels, extent, velocity, flood hazard and the Flood Planning Level up to and including the probable maximum flood) has not yet been carried out. (refer Flood Manual Appendix F)



CGDA 1984
MGA 2011 56

Scale: 1:175000 A3

