

Planning Services

Gateway Determination Report

LGA	Singleton
PPA	Singleton Council
NAME	Amendments to Flood Prone Land provisions
NUMBER	PP_2018_SINGL_002_00
LEP TO BE AMENDED	Singleton Local Environmental Plan 2013
ADDRESS	Various land affected by the Singleton Flood Planning Maps
DESCRIPTION	As above
RECEIVED	31 May 2018
FILE NO.	EF/18/7837
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

INTRODUCTION

Description of planning proposal

It is proposed to amend the Singleton Local Environmental Plan 2013 (SLEP) Flood Planning provisions by:

- removing reference to the Flood planning area and Flood Planning Map [Clause 7.2(2)(a)];
- deleting the Flood Planning Map from the suite of SLEP maps; and
- deleting the definition of Flood Planning Map from the Dictionary.

The planning proposal is included at **Attachment A**.

The planning proposal results from a notice of motion endorsed by Singleton Council at its Council meeting of 19 March 2018.

Site description

The proposal relates to current SLEP Flood Planning Maps in **Attachment B**.

Existing planning controls

Clause 7.2 of SLEP provides:

7.2 Flood planning

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

- (a) *to minimise the flood risk to life and property associated with the use of land,*
- (b) *to allow development on land that is compatible with the land's flood hazard,*
- (c) *to avoid significant adverse impacts on flood behaviour and the environment.*
- (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.*
- (3) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:*
 - (a) *is compatible with the flood hazard of the land, and*
 - (b) *will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
 - (c) *incorporates appropriate measures to manage risk to life from flood, and*
 - (d) *will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
 - (e) *is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*
- (4) *A word or expression used in this clause and clause 7.3 has the same meaning as it has in the Floodplain Development Manual (ISBN 0 7347 5476 0) published by the NSW Government in April 2005, unless it is otherwise defined in this clause.*

The 'flood planning level' is defined in the SLEP as *the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.*

Summary of recommendation

It is recommended that the planning proposal proceed with conditions. The proposal removes inaccuracies in flood mapping yet retains requirements for the consideration of impacts of development of land at or below the flood planning level.

PROPOSAL

Objectives or intended outcomes

The planning proposal clearly outlines its objectives or intended outcomes. The objective is to remove inaccuracies between the Flood Planning Maps and cadastral mapping and to allow flood information to be updated without the need for future changes to the SLEP.

Explanation of provisions

The proposed SLEP amendments are clear and do not require amendment prior to community consultation.

- 1 Amend Part 7, Clause 7.2 as follows:
Omit – Subclause 7.2(2)
Insert – Subclause 7.2(2) This Clause applies to land at and below the flood planning level
- 2 Delete the definition of “Flood Planning Map” contained in the dictionary
- 3 Delete Map Identification Numbers (identified below).

Mapping

The planning proposal clearly identifies the Flood Planning Maps to be removed (see below). No mapping updates are required prior to community consultation.

Flood Planning Map		
FLD_008B	7000_COM_FLD_008B_010_20130430	6 Sep 2013 to date
FLD_010A	7000_COM_FLD_010A_010_20130430	6 Sep 2013 to date
FLD_014A	7000_COM_FLD_014A_020_20130430	6 Sep 2013 to date
FLD_015	7000_COM_FLD_015_080_20130430	6 Sep 2013 to date
FLD_015A	7000_COM_FLD_015A_020_20130430	6 Sep 2013 to date

NEED FOR THE PLANNING PROPOSAL

The planning proposal identifies that during the making of SLEP flood maps the coordinate systems used by the Department and Council differed. This resulted in an inaccurate cadastre base and therefore, inaccuracies in the identification of flood prone land in Singleton.

The planning proposal identifies three options:

- 1 Do nothing. This will result in continued inaccurate flood mapping. This option is not supported.
- 2 Amend the SLEP to provide accurate mapping. This option would resolve the current issue, however future flexibility in flood mapping would not be available.
- 3 Amend the LEP to remove flood mapping, as proposed, removing the need for future LEP amendments as new flood studies are completed.

Option 3 is the preferred means of achieving the objectives of the planning proposal.

STRATEGIC ASSESSMENT

Hunter Regional Plan 2036

The planning proposal is consistent with Goal 2: A biodiversity-rich natural environment and Direction 16 – Increase resilience to hazards and climate change, in particular Action 16.2 Review and constantly update floodplain risk ...

Upper Hunter Strategic Regional Land Use Plan 2012

The planning proposal is not inconsistent with Chapter Nine – Natural Hazards and Climate Change, Action 9.1 Ensure that local environmental plans zone areas subject to natural hazards appropriately to reflect the risks associated with the hazard and the limitations of the land.

Local

Singleton Community Strategic Plan 2017-2027

The planning proposal is not inconsistent with the Pillar 'Our Environment', a strategy of which is to increase the planning and preparedness for natural disasters.

Singleton Land Use Strategy (SLUS) 2008

The SLUS was adopted by Council in April 2008 and endorsed by the Department in June 2008.

The planning proposal is consistent with Section 6.9 of the SLUS - Floodplain development and management by retaining flood management provisions in the LEP for land at or below the flood planning level.

Section 9.1 Ministerial Directions

The following Section 9.1 Ministerial Directions are applicable to the planning proposal.

4. Hazard and Risk: 4.3 Flood Prone Land

The objectives of this direction are:

- (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 planning proposal is consistent with this direction as the proposed clause in SLEP retains reference to the Floodplain Development Manual 2005 and requires consideration of potential flood impacts.

5 Regional Planning: 5.10 Implementation of Regional Plans

The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans. The direction requires that planning proposals must be consistent with a Regional Plan released by the Minister for Planning.

The planning proposal is consistent with the provisions of the Hunter Regional Plan 2036. Goal 2, Direction 16.

No other Ministerial Directions are relevant to the proposal.

State environmental planning policies

Appendix B of the planning proposal requires updating to reflect current SEPPs, however there are no relevant SEPPs applying to the planning proposal.

SITE-SPECIFIC ASSESSMENT

Social

The Council states that the planning proposal would benefit the community as it would ensure the most up to date and accurate information is used during

assessment of development applications on land at or below the flood planning level. This statement is supported.

Environmental

The planning proposal is administrative in nature and will not impact on the natural environment including land use conflict, surface water, groundwater, heritage conservation, bushfire, soils, traffic and transport, visual amenity, air quality or noise.

The planning proposal retains reference to the flood planning level and maintains appropriate assessment provisions related to flood prone land.

Economic

The Council states that the planning proposal provides positive economic benefits as life and property would not be endangered from inappropriate development. This statement is supported.

CONSULTATION

Community

Council proposes a 14 day community consultation timeframe which is considered appropriate.

Agencies

Council proposes to consult with the NSW Office of Environment and Heritage and NSW State Emergency Service. As the proposal relates to flood prone land provisions this consultation is considered appropriate.

TIME FRAME

Council proposes a timeframe for completing the LEP by December 2018. It is considered a 12 month timeframe is appropriate given the minor nature of the proposal and the need to consult with government agencies.

LOCAL PLAN-MAKING AUTHORITY

Council has not requested to be the local plan-making authority, however it is considered that the planning proposal should be delegated to Council to finalise.

CONCLUSION

The planning proposal is supported to proceed with conditions as it has strategic and administrative merit.

RECOMMENDATION

It is recommended that the delegate of the Minister for Planning determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal be amended prior to exhibition to:

- (a) remove references to 's9.2' (Ministerial Directions) and replace with 's9.1';
 - (b) update the table in Appendix B to reflect current State Environmental Planning Policies.
2. The planning proposal should be made available for community consultation for a minimum of 14 days.
 3. Consultation is required with the following public authorities:
 - NSW Office of Environment and Heritage
 - NSW State Emergency Service
 4. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
 5. Given the nature of the planning proposal, Council should be the local plan-making authority to make this plan.



19 June 2018
Katrine O'Flaherty
A/Director Regions, Hunter
Planning Services

Contact Officer: Chris Dwyer
Senior Planning Officer, Hunter
Phone: (02) 4904 2734