

Proposed flood local environmental plan (LEP) clauses

Note: The drafting of these clauses is indicative of the intent of the policy. Preparation of the final clauses will be undertaken by the Parliamentary Counsel following this public consultation process.

Flood Planning Area

(1) The objectives of this clause are:

- a) to minimise the flood risk to life and property associated with the use of the land,
- b) to allow development on land that is compatible with the flood hazard and flood function of that land considering projected changes as a result of climate change,
- c) to maintain the existing flood behaviour and flood function,
- d) to avoid significant adverse impacts including cumulative impacts on flood behaviour and the environment,
- e) to enable safe and appropriate uses of the land, and
- f) to enable safe evacuation from the land.

(2) This clause applies to:

- a) land that is identified as within a Flood Planning Area as defined by Clause 6.

(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 function and the flood hazard of the land,
- b) will not adversely affect flood behaviour resulting in detrimental increases in the flood affectation on other properties, including cumulative impacts,
- c) will not adversely affect the safe and efficient evacuation from the land or impact the capacity of existing evacuation routes for the surrounding area,
- d) will not significantly alter flow distributions and velocities to the detriment of other properties or the environment of the floodplain,
- e) incorporates appropriate measures to manage risk to life from flood,
- f) will not adversely affect the environment or cause erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses,
- g) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding,
- h) will not increase the potential for hazardous material to pollute the environment during flood events, and
- i) is not inconsistent with any relevant floodplain risk management plan adopted by the council.

(4) In addition to the matters referred to in subclause (3), development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that projected changes to flood risk as a result of climate change have been considered in the design of the development, including:

- a) consideration of the intended design life and scale of the development,
- b) evacuation and management of risk to life, and
- c) the potential to modify, relocate or remove the development.

(5) A word or expression used in this clause has the same meaning as it has in the NSW Government's Floodplain Development Manual, unless it is otherwise defined in this clause.

(6) In this clause:

- **Flood Planning Area (FPA)** is the area of land below the flood planning level (FPL) and may also extend to include other areas of land where the majority flood related controls apply.
- **Hazardous Materials** is any item or agent (biological, chemical, radiological, and/or physical) that has the potential to cause harm to humans, animals, or the environment, either by itself or through interaction with other factors.

not government policy

Special Flood Considerations

(1) The objectives of this clause are:

- a) to enable safe occupation and evacuation of the land,
- b) to ensure the land use is compatible with the flood hazard,
- c) to protect the operational capacity of emergency response facilities and critical infrastructure during extreme flood events, and
- d) to avoid detrimental effects on the environment during flood events relating to hazardous materials.

(2) This clause applies to land between the flood planning area and up to the level of the probable maximum flood with specific consideration of the following:

- a) sensitive, vulnerable and critical uses (as defined in subclause 4),
- b) hazardous industry or hazardous material storage establishments, and
- c) any other land uses requiring controls in relation to risk to life considerations.

(3) Development consent must not be granted for development to which this clause applies unless the consent authority is satisfied that the development:

- a) complies with any council flood policies, development control plan and is consistent with any council adopted floodplain risk management plan (developed consistent with the Floodplain Development Manual),
- b) will not affect the safe occupation of and evacuation from the land,
- c) incorporates appropriate measures to manage risk to life from flood, and
- d) will not adversely affect the environment during flood events due to hazardous materials.

(4) Sensitive, vulnerable and critical uses include:

- a) caravan parks,
- b) eco-tourist facilities,
- c) centre-based child care facilities,
- d) early education and care facilities,
- e) correctional centres,
- f) educational establishments,
- g) emergency services facilities,
- h) group homes,
- i) boarding houses,
- j) hostels,
- k) hospitals,
- l) residential care facilities,
- m) respite day care centres,
- n) seniors housing,
- o) tourist and visitor accommodation.

(5) In this clause:

- **Flood Planning Area (FPA)** is the area of land below the flood planning level (FPL) and may also extend to include other areas of land where the majority flood related controls apply.
- **Special Flood Considerations (SFC)** relates to land located between the FPA and up to the probable maximum flood that require specific controls for sensitive, vulnerable and critical uses relating to the management of risk to life and the risk of hazardous materials on the community and the environment.
- **Hazardous Materials** is any item or agent (biological, chemical, radiological, and/or physical), that has the potential to cause harm to humans, animals, or the environment, either by itself or through interaction with other factors.

not government policy

Regional Evacuation Consideration Area

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

- a) to protect the capacity of regional evacuation routes during extreme flood events,
- b) to support vehicular connectivity of development to regional evacuation routes.

(2) This clause applies to:

- a) land identified within a regional evacuation strategy or flood related state emergency sub-plan prepared by the NSW State Emergency Service.

(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) will not exceed the evacuation capacity of the regional evacuation routes.
- b) will provide or has access to rising road access to regional evacuation routes.

(4) In this clause:

- **Regional Evacuation Consideration Area** is the area that is identified in a relevant regional flood evacuation strategy or flood related state emergency sub-plan by NSW State Emergency Service.

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