

PLANNING & NATURAL SYSTEMS

ATTACHMENT A

**PLANNING PROPOSAL - COASTAL PLANNING
AREAS IN GREAT LAKES LEP 2014**

ORDINARY MEETING

24 MAY 2017

Annexure: Submissions to Planning Proposal - Coastal Planning Areas

These tables summarise submission matters relating to Planning Proposal Coastal Planning Areas received during the public exhibition of:

- Planning Proposal for Coastal Risk Planning Area map amendments to Great Lakes Local Environmental Plan (LEP) 2014;
- Development Objectives and Controls for Coastal Risk Planning Areas in Great Lakes Development Control Plan (DCP);
- Draft Great Lakes Beaches Coastal Zone Management Plan; and
- Draft Jimmy's Beach Coastal Zone Management Plan.

These documents were on exhibition between 2 April and 15 May 2015 inclusive. No submissions were received that only referenced the Planning Proposal, therefore all submissions were reviewed to identify issues relevant to the Proposal and these are summarised below. These submissions were originally reported and oral presentations heard at the Strategic Committee meeting on 8 September 2015.

| Theme 1: Community Engagement | | |
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| Matter Identified | Response & Recommendation | Actions since September 2015 |
| Thanks for information, meetings and Drop-In Session (3) | Noted | Council officers continue to review and where possible, improve community engagement opportunities and methods. |
| Concerned copies of all reports not distributed to everyone affected (6) | No further action Community advised via media that coastal reports and meeting papers were available in the Forster and Tea Gardens District Offices, the Pacific Palms Library and on Council's web site during exhibition. These documents continue to be available on the Council website. Full distribution of hard copies is cost prohibitive. | All relevant documents continue to be available on the Council website - Planning Proposal page http://midcoast.greatlakes.nsw.gov.au/Develop-or-Build/Discover/Planning-Proposals |
| Exhibition period wasn't long enough. Community engagement has been inadequate. (16) | No further action <i>Council continue its commitment to engage with the community and affected land owners as new information regarding hazards becomes available and during the regular review of studies, management plans and planning instruments.</i> Great Lakes CZMP Option Study was exhibited for a period of almost 9 weeks between November 2014 and January 2015. Two (2) weeks is the minimum requirement. | No additional submissions have been received regarding the Planning Proposal since the September 2015 Council meeting. However, additional actions have been undertaken on other related matters and these are reported within this column of the submission summary tables. In particular, the Coastal Planning DCP provisions were amended and re-exhibited in response to public submissions, providing additional guidance on how development may be designed and located within areas |

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| | <p>The Planning Proposal, DCP and Draft CZMP documents were exhibited for 6 weeks. Twenty-eight (28) days was required by the Department of Planning & Environment.</p> <p>The community engagement undertaken incorporated several community information sessions, media releases, newspaper advertising and direct mail to land owners within and surrounding the identified coastal planning areas. The engagement exceeded the requirements of the NSW Office of Environment & Heritage and the Department of Planning & Environment.</p> <p>All late submissions have also been considered and documented within this submission summary table.</p> | <p>potentially affected by coastal erosion and inundation. The DCP amendments were subsequently adopted in March 2016.</p> |
| <p>Further consultation & effective communication required (1)</p> | <p><i>Council continue its commitment to engage with the community and affected land owners as new information regarding hazards becomes available and during the regular review of studies, management plans and planning instruments.</i></p> <p>Ongoing education and engagement with the community is a recommended action of the CZMP.</p> <p>Individuals that attended community information sessions or made a submission will continue to be advised of opportunities for involvement.</p> <p>New and effective methods of communicating information to affected landholders and the wider community are continually trialled by Council with varied success.</p> <p>All residents are invited to "Have your Say" on current applications and projects via the new Council website at www.greatlakes.nsw.gov.au</p> | <p>No additional submissions have been received regarding the Planning Proposal since the September 2015 Council meeting.</p> <p>However, additional actions have been undertaken on other related matters and these are reported within this column of the submission summary tables.</p> <p>In particular, the Coastal Planning DCP provisions were amended and re-exhibited in response to public submissions, providing additional guidance on how development may be designed and located within areas potentially affected by coastal erosion and inundation.</p> <p>The DCP amendments were subsequently adopted in March 2016.</p> |

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| <p>Council has not acted in 'good faith' (11)</p> | <p><i>Council to continue its commitment to open and transparent communication of hazards in public and legal documents.</i></p> <p>Council has continually strived to work in 'good faith' through open and transparent disclosure of coastal management information in accordance with all relevant legislative requirements and guideline documents. This has been reflected in advice from the NSW Office of Environment & Heritage, the Department of Planning & Environment and the NSW Coastal Panel.</p> | <p>In this regard, it is noted that at the September 2015 meeting the elected Council requested, but did not resolve to:</p> <ul style="list-style-type: none"> a) not progress the Planning Proposal until such time as the Jimmy's Beach and Great Lakes Beaches Coastal Zone Management Plans were certified; and b) prioritise amendments to the Great Lakes Development Control Plan Coastal Planning provisions <p>as an additional sign of good faith to community members. Council officers have in turn, acted in accordance with these requests as a sign of good faith to both the Council and community. In this regard, the DCP amendments were finalised in March 2016.</p> <p>Significant changes in the state and local planning and decision-making frameworks have resulted in unanticipated delays and changes in coastal management approaches and priorities.</p> <p>It is only the change in these circumstances and the significant delays that have already occurred and are outside of Council's control, that have now prompted Council officers to progress the Planning Proposal.</p> |
| <p>Preparation of CZMPs should precede planning decisions and rely on evidence-based data. These decisions may change over time and therefore any CZMP will need to be flexible to cater for this. (5)</p> | <p><i>Council continue its commitment to engage with the community and affected land owners as new information regarding hazards becomes available and during the regular review of studies, management plans and planning instruments.</i></p> <p>Councils throughout New South Wales are in the process of addressing and co-ordinating available information on coastal risks in accordance with the NSW Office of Environment & Heritage and Department of Planning & Environment requirements.</p> | <p>Council officers have consulted with representatives of both the NSW Office of Environment & Heritage and Department of Planning & Environment and confirmed that the Planning Proposal process should be completed.</p> <p>The Planning Proposal and associated amendments to Great Lakes LEP 2014 will then be considered and assessed by the relevant agencies in accordance with the new coastal management and planning instrument guidelines and requirements under the NSW Coastal Reforms program.</p> |

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| | <p>The creation of management plans and planning instruments is not undertaken until the appropriate evidence-based technical studies have been completed.</p> <p>Areas and assets at high or extreme risk within the nominated planning periods require a response to avoid unnecessary exposure of life and property. Land use planning is regarded as a 'no regrets' action that should be implemented now and refined with future CZMP revisions.</p> | |

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| Theme 2: Land Use Planning | | |
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| <p>Coastal risk area is discriminatory</p> <p>Remove unsubstantiated Boomerang & Blueys hazard lines from the LEP and planning controls, pending proper evidence based research. (10)</p> | <p>No further action</p> <p>Council continues to review and update coastal hazard mapping and identification in response to new data and best practice.</p> <p>Technical studies have been undertaken to identify the range of coastal hazards that may apply to beaches along the Great Lakes coastline.</p> <p>The adopted studies indicate that land on part of Boomerang Beach is at risk of erosion from an extreme ocean storm at the present time.</p> <p>The identification and management of Council to emerging risk is considered to be diligent and reasonable by the Office of Environment & Heritage, the Department of Planning & Environment and the Coastal Panel.</p> | <p>The draft coastal planning area maps for Blueys and Boomerang Beaches have been informed by additional ground penetrating radar investigations in response to these concerns.</p> <p>The data from these studies have also been used to inform the mapping and recommendations of the CZMP for Great Lakes Beaches as they apply to these locations.</p> <p>The CZMP includes recommendations regarding the ongoing need for monitoring and responsiveness to new data and best practice over time.</p> |
| <p>'Planned retreat' or similar would damage values of properties at Boomerang/Blueys (21)</p> | <p>Council continue to consider the impacts of coastal risks now and in the future in order to provide for the reasonable and responsible use and occupation of beachfront land.</p> <p>Council continue its commitment to engage with the community and affected land owners as new information regarding hazards becomes available and during the regular review of studies, management plans and planning instruments.</p> <p>Provisions within Clause 7.4 Coastal Planning regarding the "relocation, modification or removal of the development" are standard provisions from the Standard Principle Instrument LEP.</p> <p>Council is providing additional management and development options within the Coastal Zone Management Plans (CZMP) and Development Control Plan (DCP) which are aimed at facilitating the long term use and occupation of beachfront land - public and</p> | <p>Coastal Planning DCP provisions were amended in response to public submissions, providing additional guidance on how development may be designed and located within areas potentially affected by coastal erosion and inundation.</p> <p>The DCP amendments were subsequently adopted in March 2016.</p> |

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| | private. | |
| Coastal risk area only captures beachfront properties and not lower land behind (10) | <p>Detailed inundation studies to be undertaken for critical areas</p> <p>Ongoing work program outlined within the Draft Delivery and Operational Plans of Council</p> <p>Coastal erosion/recession hazards define the Coastal Risk Planning Area. Inundation risks are only critical in low areas such as Elizabeth Creek and Ampat Place (Blueys).</p> | <p>In certain areas improved mapping data and flood modelling indicates that areas previously identified as being affected by coastal hazards, are in fact, primarily affected by localised flooding and the draft coastal planning area maps reflect this new data.</p> <p>In this regard it is noted that the existing Great Lakes Complying Development Land Map - Sheet LCD_001 in Schedule 5 of the State Environmental Planning Policy (Exempt & Complying Development Codes) 2008, incorrectly identifies some properties at Boomerang Beach as being affected by coastal hazards.</p> <p>The properties in question are not located on the beachfront and improved hazard classification studies have identified that these properties are affected by localised flooding rather than coastal hazards therefore Council officers are requesting the removal of this map from the SEPP.</p> |
| All property at risk and time frames relevant to each risk should be identified as part of a 'zone' on a map as part of the LEP. (12) | <p>Council to continue its commitment to open and transparent communication of hazards in public and legal documents.</p> <p>Identification of the variable nature of coastal risks within the Coastal Hazard Studies is reflected within the Coastal Zone Management Plans.</p> <p>Council is unable to identify this level of detail within the Great Lakes LEP 2014 Coastal Risk Planning Area mapping at this time.</p> <p>Council will however, endeavour to provide additional guidance within the Draft Great Lakes Development Control Plan (DCP) on development requirements in different locations as a result of the variations between exposure to coastal risk.</p> | Coastal Planning DCP provisions were amended in response to public submissions, providing additional guidance on how development may be designed and located within areas potentially affected by coastal erosion and inundation. The DCP amendments were subsequently adopted in March 2016. |

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| National, or at least state level coordination is required to ensure transparent and equitable outcomes (24) | <p><i>Continue to lobby at state federal levels</i></p> <p>A national approach to coastal management, including a common methodology for valuing coastal assets and services, is regarded as essential in effectively targeting investment.</p> | <p>Since preparation of the Planning Proposal the NSW Office of Environment & Heritage and the NSW Department of Planning & Environment have made progress on the NSW Coastal Reforms.</p> <p>Council officers continue to engage with representatives of the relevant state and regional agencies to ensure that recommendations and actions constitute best practice and are based on the best available information.</p> <p>Council officers also continue to engage directly with the Coastal Reform Team on the reform program and the practical implications of the new requirements and recommendations.</p> |
| Erosion/recession and inundation maps within the Options Study vary from Coastal Risk Planning Area Maps in the LEP (2) | <p><i>Future revisions to consider modifying CRA Map basis to development risk zones</i></p> <p>The Options maps and information derive from an incremental risk-based approach in comparison to the Coastal Risk Planning Area which relates specifically to 2060 design conditions.</p> <p>To achieve this, the Coastal Risk Planning Area maps include erosion/recession line <i>plus</i> Zone of Reduced Foundation Capacity behind.</p> | <p>Since preparation of the Planning Proposal the NSW Office of Environment & Heritage and the NSW Department of Planning & Environment have made progress on the NSW Coastal Reforms.</p> <p>Council have been advised to continue with its current coastal planning and management work as the documents and program is well-advanced and has been undertaken in accordance with the existing state requirements.</p> <p>A transitional period will apply to the review and updating of council documents addressing coastal planning and management, including Great Lakes LEP 2014. Future reviews will be undertaken in accordance with the new reform program requirements and recommendations.</p> |
| Covenant condition requiring owner to review coastal stability conditions for continued occupancy and possibly demolish building (2) | <p><i>No further action</i></p> <p>This draft condition was requested by Council in one instance, several years ago and was subsequently modified in consultation with the owner.</p> <p>Despite this, it is noted that Council does have a legal obligation to require the demolition and removal of</p> | No further action. |

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| | unsafe structures under the <i>Local Government Act 1993</i> . This obligation applies irrespective of whether the structure has been damaged by coastal risks, floods or other reasons. | |
| GLC previously introduced development conditions requiring setbacks from ocean front boundaries and enhanced foundations for new structures. Future planning and building controls adopted by Council need to balance reasonable permissible development, public interest and balanced future projections. (2) | <i>Continue to develop and refine DCP provisions</i> Council is continuing to explore all options for management of coastal risks on private property. The Coastal Risk Planning Area provisions in the amended development control plan will aim to clarify foundation engineering requirements on land within a coastal risk planning area. | Coastal Planning DCP provisions were amended in response to public submissions, providing additional guidance on how development may be designed and located within areas potentially affected by coastal erosion and inundation. The DCP amendments were subsequently adopted in March 2016. |
| Current suspension of all development approval on Eastern side of Newman Avenue (1) | <i>No further action</i> There has been no such suspension. However, development applications are conditioned to address the risk of foundation failure under projected erosion and recession effects. | Coastal Planning DCP provisions were amended in response to public submissions, providing additional guidance on how development may be designed and located within areas potentially affected by coastal erosion and inundation. The DCP amendments were subsequently adopted in March 2016. |
| Variables and assumptions render CRA mapping highly uncertain – lack of consideration of vegetation and underlying rock (2) | <i>Additional geotechnical work to investigate subsurface conditions is recommended in specific areas by the Coastal Zone Management Plan.</i> The coastal risk planning area mapping is based on a joint probability of continued recession combined with an extreme ocean storm at the end of the recession. These areas also take the zone of reduced foundation capacity | Since preparation of the Planning Proposal the NSW Office of Environment & Heritage and the NSW Department of Planning & Environment have made progress on the NSW Coastal Reforms. Council have been advised to continue with its current coastal planning and management work as the documents and program is well-advanced and has been |

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| | <p>into account.</p> <p>In subsequent reviews OEH and Council will seek advice on improving the representation of joint probability. Vegetation is (conservatively) disregarded as it only has a marginal benefit during the peak of an ocean storm. Value of vegetation lies in its ability to trap and retain sand as a reserve for future storms.</p> | <p>undertaken in accordance with the existing state requirements.</p> <p>A transitional period will apply to the review and updating of council documents addressing coastal planning and management, including Great Lakes LEP 2014. Future reviews will be undertaken in accordance with the new reform program requirements and recommendations.</p> |
| <p>Why use 2060 planning horizon? (1)</p> | <p>Review benchmark year adjustment</p> <p>Great Lakes Council utilises a rolling 50 year timeframe for planning purposes, hence the use of 2060. This will be revised regularly to re-capture the full 50 years. The 2100 benchmark is not referred to within the planning instruments due to increased levels of uncertainty with longer term projections.</p> | <p>Since preparation of the Planning Proposal the NSW Office of Environment & Heritage and the NSW Department of Planning & Environment have made progress on the Coastal Reforms.</p> <p>Council have been advised to continue with its current coastal planning and management work as the documents and program is well-advanced and has been undertaken in accordance with the existing state requirements.</p> <p>A transitional period will apply to the review and updating of council documents addressing coastal planning and management, including Great Lakes LEP 2014. Future reviews will be undertaken in accordance with the new reform program requirements and recommendations.</p> |
| <p>The Gateway requires State and Commonwealth public authorities to be consulted but no advice has been sought. (1)</p> | <p>No further action</p> <p>Public agency consultation is undertaken concurrently with public exhibition in accordance with the Environmental Planning & Assessment Act 1979. Public agency comments are included in the submission tables.</p> | <p>Council officers continue to engage with representatives of the relevant state and regional agencies to ensure that recommendations and actions constitute best practice and are based on the best available information.</p> |
| <p>Believe that hazard line and existing 'restriction' will sterilize some land, prevent future expansion and</p> | <p>No further action</p> <p>Great Lakes LEP 2014 Clause 7.18 Residential accommodation at Winda Woppa transitioned a development restriction from Great Lakes LEP 1996 and</p> | <p>Coastal Planning DCP provisions were amended in response to public submissions, providing additional guidance on how development may be designed and located within areas potentially affected by coastal</p> |

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| development and prevent further development at Winda Woppa in isolation to other areas. (2) | is not amended by the Planning Proposal. | erosion and inundation. The DCP amendments were subsequently adopted in March 2016. |
| Older existing houses within the Coastal Risk Planning Area cannot be refurbished. (2) | <i>Continue to develop and refine DCP provisions</i> Provision for renovations and minor additions were made within the DCP, including additional information on what refurbishment and improvements may be undertaken under the Exempt & Complying Development SEPP. The Coastal Risk Planning Area provisions in the amended development control plan will aim to clarify requirements on land within a coastal risk planning area, particularly in response to the range of risks that may apply to certain areas. | Coastal Planning DCP provisions were amended in response to public submissions and subsequently adopted in March 2016. |
| Crown Lands is to be consulted in relation to zoning, development and on-ground works issues where the works are on or adjacent to Crown land. (1) | <i>Continue to develop and refine DCP provisions in consultation with relevant public agencies</i> | Coastal Planning DCP provisions were amended in response to public submissions and subsequently adopted in March 2016. |