

## 7.3 Flood planning

### General information

Councils are first encouraged to identify flood planning areas through their strategic work and to zone appropriately, wherever possible. Care should therefore be taken in determining the permissible development on land that may be subject to flooding to ensure that appropriate uses are included and that relevant types of development require consent under the applicable zones.

Councils are then encouraged to apply this model clause in flood planning areas, particularly where flooding matters cannot be fully addressed by limiting land uses e.g. in areas where an existing zone and existing land uses include residential accommodation.

Councils in coastal areas may wish to refer to 'projected sea level rise' instead of 'climate change' in subclause (1)(b).

Councils' attention is also drawn to the section 117 Direction 4.3 Flood Prone Land.

In applying the clause, councils should provide a map of the flood planning area. This will assist councils in demonstrating their consideration of s 149(2) certificate matters.

Further details of requirements behind the clause should be provided in councils' DCPs. This may include, for example, evacuation route maps, setbacks for buildings and types of construction. An LEP Practice Note to provide further guidance on the use of this clause is being prepared.

#### (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, taking into account projected changes as a result of climate change,
- (c) to avoid significant adverse impacts on flood behaviour and the environment.

#### (2) This clause applies to:

- (a) land that is shown as "Flood planning area" on the Flood Planning Map, and
- (b) other land at or below the flood planning level.

##### **Drafting direction**

Councils know of some areas that flood and those areas are mapped as the "flood planning area", but there are other areas where accurate mapping is not possible. Consequently, the wording of this subclause captures the land that can be accurately mapped and the land that cannot. Such unmapped land includes the "flood planning area" (as defined in the Floodplain Development Manual) up to 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.

#### Drafting direction

The following subclauses apply to council areas that include coastal land:

(4) Subclause (5) applies to:

(a) land shown as “projected 2100 flood planning area” and “projected 2050 flood planning area” on the Flood Planning Map; and to

(b) other land below the projected 2100 flood planning level and the projected 2050 flood planning level as a consequence of projected sea level rise.

(5) When determining development to which this subclause applies, council must take into consideration any relevant matters outlined in **subclause 3(a) – (e)**, depending on the context of the following:

(a) the proximity of the development to the current flood planning area; and

(b) the intended design life of the development; and

(c) the scale of the development; and

(d) the sensitivity of the development in relation to managing the risk to life from any flood, and

(e) the potential to relocate, modify or remove the development.

#### Drafting direction

Subclauses (4) & (5) shall only be used once council has identified the ‘projected 2100 flood planning area’ and ‘projected 2050 flood planning area’ as outlined in the to be finalised draft Flood Risk Management Guide 2009, which will update the sea level rise information in the NSW Floodplain Development Manual 2005

The definition of **projected sea level rise** shall only be included in subclauses (6) once council has identified the ‘projected 2100 flood planning area’ as outlined in the to be finalised draft Flood Risk Management Guide 2009, which will update the sea level rise information in the NSW Floodplain Development Manual 2005

6. A word or expression used in this clause has the same meaning as it has in the NSW Government’s *Floodplain Development Manual* published in 2005, unless it is otherwise defined in this clause.

7. In this clause:

**flood planning area** means the land shown as “Flood planning area” on the Flood Planning Map

**flood planning level** means the level of a 1:100 ARI (average recurrent interval) flood event plus [XX] metres freeboard.

**Flood Planning Map** means the [Name] Local Environment Plan 2010 Flood Planning Map.

**projected sea level rise** means the 2050 and 2100 sea level rise planning benchmarks as specified in the NSW Government’s *Sea Level Rise Policy Statement 2009*.