



2 March 2014

The Department of Planning and Infrastructure
GPO Box 39,
Sydney NSW 2001

Submission - Coastal hazard notations on Section 149 planning certificates

The Winda Woppa Association Inc. represents some 161 property owners located on the northern side of Port Stephens at Jimmy's Beach. The area is located within the boundaries of Great Lakes Council. Jimmy's Beach (Winda Woppa) is not a coastal beach as such but is classified as an estuarial beach and does experience beach erosion under occasional storm events.

The Winda Woppa Association Inc. agrees in principle with the State Government's Department of Planning and Infrastructure (DPI) coastal hazard notations on Section 149 planning certificates subject to certain conditions.

The first guiding principle is really directed at ensuring that there is no adverse affect on property values by councils issuing certificates suggesting a risk exists if there is no reliable basis for that suggestion.

When councils are developing a policy or planning instrument to manage a coastal hazard, particularly future exposure to a coastal hazard, they must satisfy the following:

- Use evidence which is current, **locally** based data and information - if information is not sufficiently accurate, complete and reliable, the Council should not provide advice in respect of that information under s149(5);
- Use evidence which is current, up to date **locally** based data and information and if the information is accurate, complete and reliable, provide the advice under s149(5)
- Consider up to date and current, **locally** based research and any technical advice from the Climate Change Adaptation Research Hub when it is available.

Compliance with the relevant section 117 Direction – it is noted that there appears to be no Ministerial section 117 direction made in regard to coastal hazards to ensure compliance with an evidence-based approach and consistency in application of coastal hazard certificates along the coast by councils.

- In particular, Councils are currently under an obligation to use the “precautionary principle” in relation to Coastal Policy. This principle is directly contradictory to the proposed modifications to planning certificates and must be specifically removed, both in the directions to Councils in 117 Directions and in any other relevant legislation and regulations.

- Prior to a Council issuing any 149 certificate notification they must clearly distinguish between:
 - i. a current exposure to a known coastal hazard; and
 - ii. a future exposure to a known coastal hazard; and
 - iii. clearly identify the type of hazard, and
 - iv. identify whether the land has a current or future exposure to the hazard, and
 - v. have in place an **evidence based reliable management** plan for the hazard.

To illustrate the potential for confusion in this area, in the case of Jimmy's beach it appears that the Great Lakes Council is confusing the "future" sea level rise debate and the "known" coastal hazard debate. The "known" coastal hazard is erosion from wave, wind (and damaged dune vegetation), whereas the "future" hazards may be the result of sea level change.

There was no note given to purchasers of property along The Boulevard, Winda Woppa, but the current 'hazard' has always been in existence. When enquiries about the erosion were made Council indicated they would continue to protect the road, and therefore the houses were safe.

Recent discussions with Great Lakes Council seem to indicate that in their minds the erosion (which has been occurring for thousands of years) has suddenly become attributable to sea level rise. Then by joining 2 dots, that means sea level rise is now a "known" hazard to Jimmy's Beach. That position is unsustainable.

But the "known" hazard actually is: "Approximately every 10 years, a major storm with strong south-easterly winds, coinciding with a king tide is likely to see waves breaking over the road, particularly if council has neglected to keep the sand dunes replenished to a minimum of 10 metres. (Great Lake Council Jimmy's Beach Emergency Management Plan)

It should be noted that Council has an over-riding obligation to maintain The Boulevard for access to both the beach and to the properties facing The Boulevard. The proposed Policy amendments must not be drafted in such a way that the Great Lakes Council (or any other Council) can avoid that obligation.

On behalf of the property owners of Winda Woppa Peninsula

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