

DRAFT PLANNING CIRCULAR- Advice on coastal hazards

1. With the current wording and the protection provided to Councils by the EPA Act, Councils will have leeway to place a 149 (5) certificate on a site, or cluster of sites, without carefully considering the full impact on property owners, sale prices or reputation of the area. The draft leaves far too many issues like these, to the Council. Some Councils are very dysfunctional (leading to them being sacked) and internal staff may or may not be in a position to be fully educated on the pros and cons of placing a 149 (5) in a site.
2. There needs to be an easy way for the public to contest the 149(5)s, without having to take legal action.
3. I know first-hand that councils can disagree with many educated members of the public about the interpretation of scientific data and technical reports. This has led to 149 (5)s being placed on all house sites in Chepana St, Lake Cathie, just south of Port Macquarie, Mid-North Coast. In the owners view, and in my view as a member of the PMH Council's Coasts and Estuaries Subcommittee, these 149s should be lifted because there IS 'insufficient evidence' that these sites will become prone to coastal erosion risk by 2100.
4. The word 'sufficiently' will not stand up in court and is too ambiguous. I was told this by a retired Q.C.
5. 149 (5)s should not be applied if there are conflicting reports from experts in that field and the public should have rights to appeal against them in these cases, through advertised council pathways, without expense.
6. The 149 (5) certificate should not be declared if it will apply to a situation that is too far into the future for us to be certain it will occur, or occur in the way presently calculated or modelled eg sea level rise in 2100. (It could be gradual or sudden, or more or less than predicted). There needs to be quantitative guidance on the timeframes. Council's shouldn't HAVE to declare the 149 (5) as soon as they have certainty, if it is not wise to do so. But they should have to declare the situation within a certain timeframe if the hazard starting to impact the site.
7. OR, if the NSW government maintains the IPPC Sea Level Rise predictions, then many thousands of sites will need to have 149(5)s attached immediately. Are Councils and our economy ready for this huge but possibly necessary step?
8. The draft contradicts the 'Precautionary Principle' in the NSW Coastal Policy 1997, which is an overriding document to the draft.

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