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Ms SCamroux,  
Coastal and Natural Resources Policy Branch,  
Department of Planning and Infrastructure,  
GPO Box 39  
SYDNEY NSW 2001

Dear Ms Camroux,

### **Draft Planning Circular: Advice on Coastal Hazards**

On behalf of the Housing Industry Association (HIA) I would like to respond to the NSW Government's move to improve the certainty of advice provided by Council's in relation to coastal hazards that affect properties by ensuring that advice is based on credible policies detailing the existence and extent of hazards affecting land.

HIA has expressed concern with the potential consequences of planning policies being formulated by coastal councils affected by sea level rise. These policies have a significant impact on both potential land release areas and existing housing stock.

The decision to remove the requirement for councils to apply state-based benchmarks for sea level rise was a useful step. However, it is still essential that a consistent approach be established at a national or state level as to how coastal vulnerability risks are to quantified and what planning responses are appropriate for councils to take.

HIA is supportive of the intent of the draft planning circular in that it seeks to ensure councils take a consistent approach to the reporting of coastal risks, having regard for sea level rise as a 'future exposure' unless council has verifiable information and has adopted a formal policy based on that information.

In particular, the 3 principles for section 149(5) certificates appear appropriate. If this approach is used in conjunction with the recognition that councils have a level of protection under the Environmental Planning & Assessment Act when acting in "good faith", there may be some improvement in the manner of disclosure relating to sea level rise and climate change.

However, HIA remains concerned that the disclosure of risk on section 149 certificates is only one aspect in councils responding to climate change risks. To be effective the draft planning circular relies on local government establishing credible information to be disclosed in Section 149 Certificates and distinguish between current and future exposure. Although the draft planning circular seeks to explain the difference between the two concepts, councils may, based on past practices, continue to place ambiguous notations on Section 149 Certificates.

Councils are unlikely to voluntarily shift their views that full disclosure, even if unverified, may place council out of reach from any risk of a claim. It may be considered by some councils that dealing with land owners challenging a notation on their land rather than omitting any form of notation is still the most appropriate response.

Furthermore, whilst councils continue to seek their own legal advice on specific wording to include on Section 149 Certificates to ensure they are protected from potential future claims, the circular may have limited affect.

It is considered essential that the removal of a state based benchmark be replaced with an alternative state based approach as soon as practical, to limit the need for councils to take individual approaches. It should be a priority for the Coastal Expert Panel and the establishment of a Climate Change Adaptation Research Hub to become the principal source of policy formation from which councils draw their responses. If left to councils to form their own policies, the draft planning curricular will serve no material purpose other than allowing councils once again dictate controls that will stifle development.

The NSW Government is well aware that any increased burden on the development industry through a myriad of inconsistent responses to climate change, and the potential for coastal hazards, flooding and inundation to have a long term undesirable consequence on the availability of developable land, future residential subdivisions and housing design into the future.

Should you wish to discuss this issue further, please do not hesitate to contact Michael Buckley, Senior Planning Advisor NSW on 9978 3342.

Yours sincerely

**Housing Industry Association**

A handwritten signature in dark ink, appearing to read 'David Bare', written in a cursive style.

**David Bare**  
**Executive Director**