



# Floodplain Management Association

Supporting Wise Planning and Development  
www.floods.org.au ABN 67 007 279 179

Chairman: Ian Dinham 0435 946 525

21 May 2015

## Policy Position Statement Floodplain Risk Management in Land Use Planning (NSW)

### Summary

FMA members are concerned that the NSW planning system hinders optimum floodplain risk management (**FRM**) outcomes. Flooding causes the most damage of all natural disasters but is also the most predictable. Planning can therefore be pivotal in managing flood risks associated with the development and redevelopment of urban and rural areas. This Policy sets out recommendations for the preparation of planning strategies and development controls, and in the dissemination of flood related information through the planning system.

### Introduction

The planning system should have regard to best FRM practice. Planning can have significant benefits in minimising and reducing flood risks to property and persons as part of the planning of new areas and the redevelopment of established. The total economic exposure of communities to flooding in Australia is in the order of \$100 billion (Australian Government Attorney-General's Department, 2014 Australian Emergency Handbook Series No.7, pg.13).

There is often uncertainty in the planning process about what FRM issues and outcomes are expected to be addressed, at what stage in the hierarchy of plan making to do this and who should do it.

While overall guidance on FRM is provided at a national level through the Australian Emergency Management Handbook 7: *Managing the Floodplain Best Practice in FRM in Australia* (**AEM Handbook**) and in NSW through the *NSW Floodplain Development Manual* (the **Manual**) better integration of FRM and planning processes is required.

### Purpose of this Policy

To present a concise FMA endorsed position that can be used in advocating best practice about how land use planning should address FRM issues.

### Scope of this Policy

This Policy:

- applies to all planning documents including studies, non-statutory planning strategies, and local, regional and state land use planning controls (**planning policies**);
- provides a position on what FRM issues should be addressed when undertaking planning studies and preparing planning strategies, the content of planning policies and the format of flood risk maps prepared for planning purposes;
- recognises that planning studies and policies inadvertently convey information to the public in regard to the nature and location of flood risks; and
- has been prepared specifically for the NSW context, but is general enough to be adapted to apply nationally.

As the NSW Planning system is under review, multiple terms are used to describe planning studies, strategies and policies to reflect those relevant to the current and possible future planning system.

### **Position Statement**

The FMA considers that the overall approach to addressing FRM in the NSW planning system should be reviewed. This must include the revocation of the Flood Planning Guideline issued by the then Department of Planning on 31 January 2007 (Circular PS 07-003) and a review of all statutes and policies dealing with FRM such as S117 Directions, the Environmental Planning and Assessment Regulation 2000 (regarding S149 Certificates), recommended provisions for standard instruments (principal local environmental plans) and the NSW Coastal Planning Guideline: Adapting to Sea Level Rise issued 8 September 2012. This review should be undertaken in partnership with local government.

The attached table outlines the FMA policy position.

### **FMA Action**

The FMA will:

- liaise with all levels of government to achieve the above policy outcomes;
- encourage its members to promote and make decisions consistent with the above policy outcomes;
- work with government and industry to refine the above policy position; and
- continue to develop training opportunities to assist in improving the FRM knowledge and skills of those professionals who are involved in town planning.

### **Policy Status**

This Policy Statement was prepared by a working group of FMA members comprised of engineers and town planners from local councils and consultants based in NSW. The decision to prepare the Policy was initiated by a resolution adopted at the 2014 Annual General Meeting (AGM) of the FMA and endorsed at the following AGM meeting in 2015.

### **Policy Review**

This Policy Statement is to be reviewed after 12 months and about every 4 years thereafter or where required to reflect changes in planning policies.

Current Planning Documents*	Comment on Existing and Possible Future Planning Studies, Strategies and Policies	FMA Policy Position
State Level		
<b>S149 Planning Certificates</b>	<p>Direction regarding the form and content of these certificates are provided within the Environmental Planning and Assessment Regulation 2000. There are 2 types of certificates that may be issued (S149(2) and S149(5) certificates). S149(2) certificates are limited to advice as to whether flood related planning controls apply. S149(5) certificates may also provide advice on known flood risks. Only S149(2) certificates are required to be attached to contracts for the sale of property.</p> <p>Planning policies inadvertently provide a source of information on flood risks. The public can wrongly rely on this information as reflective of all known flood risks.</p> <p>A review of overriding legislation, directions, guidelines and practices associated with how the planning system allows for the formulation of flood related development controls, is critical to the reform of these certificates. This dictates what can be included in the certificates.</p>	<ol style="list-style-type: none"> <li>1. The required form and content of these certificates should be reviewed to: <ul style="list-style-type: none"> <li>• Avoid misleading the public who may believe there are no flood risks when the certificate is only advising if flood related planning controls apply.</li> <li>• Work towards the consolidation of S149(2) and S149(5) certificates to ensure that the same more complete information is communicated to all enquirers.</li> <li>• Ensure the public is fully informed of known flood risks or if there is insufficient information to know whether a flood risk exists.</li> </ul> </li> </ol>
<b>Section 117 Directions</b>	These relate to Directions from the Minister of Planning regarding the form and content of local environmental plans.	<ol style="list-style-type: none"> <li>2. These should be either superseded by, or amended to be consistent with the direction provided by the proposed NSW Planning Policy for Natural Hazards.</li> </ol>
<b>State Environmental Planning Policies - SEPPs (NSW Planning Policies)</b>	<p>At present there is no state environmental planning policy that deals with natural hazards, including flooding. The NSW Department of Planning and Environment (DPE) is currently in the process of developing such a policy.</p> <p>Other existing SEPPs such as the Infrastructure SEPP and Exempt and Complying Codes SEPP also embody planning controls that affect development in the floodplain.</p>	<ol style="list-style-type: none"> <li>3. The proposed natural hazards SEPP is an important initiative.</li> <li>4. The Minister for Planning &amp; Environment should support the preparation, and ultimately adopt, a state environmental planning policy that: <ul style="list-style-type: none"> <li>• incorporates direction consistent with that advocated by this FMA policy;</li> <li>• references the Manual and AEM Handbook as relevant to plan making;</li> <li>• requires other SEPPs and subordinate planning policies to adopt FRM terms defined in the Manual;</li> <li>• specifies that matters identified in this policy statement be addressed prior to the preparation of plan that significantly changes development potential in the floodplain;</li> <li>• ensures that planning in NSW addresses flood risks to private and public property, infrastructure and to life;</li> </ul> </li> </ol>

		<ul style="list-style-type: none"> <li>requires consideration of measures to maximise the resilience of the community post flooding; and</li> <li>considers climate change related flood risks.</li> </ul> <ol style="list-style-type: none"> <li>That the DPE be responsible for preparing the policy in consultation with other relevant government agencies in particular the NSW Office of Environment &amp; Heritage, the State Emergency Services, local government, utility authorities, the FMA and the Bureau of Meteorology.</li> <li>Due to the lack of a current state planning policy, this should be prepared as a priority.</li> <li>The current Exempt and Complying Development SEPP should also be revised to correlate the identification of areas of higher flood risk mapped for LEPs (see Policy 12) with areas where exempt and complying development is not allowed.</li> </ol>
<b>Regional Level</b>		
<b>Regional Plans &amp; Strategies (Regional Growth Plan)</b>	<p>Currently exists as non-statutory strategic plans (eg Sydney Metro Strategy).</p> <p>Sets out key policies, targets and structure of future development patterns to guide the making of lower order plans.</p>	<ol style="list-style-type: none"> <li>These documents should: <ul style="list-style-type: none"> <li>Identify the floodplains within the planning region and the key FRM considerations for development (eg evacuation and private and public damages due to significant flood depths).</li> <li>Include a Regional Flood Planning Map that shows the extent of the floodplain(s) defined by the Manual, and associated elements relevant to FRM.</li> <li>Identify regional stakeholders (eg. Councils, Department of Planning, OEH, SES, Insurance Co's, transport infrastructure owners, dam/irrigation authorities, etc).</li> <li>Consider regional evacuation including the location and capacity of evacuation routes and centres.</li> <li>Where flood modelling at the regional level is appropriate, determine suitable development areas having regard to cumulative flood impacts. The cumulative impact of land filling and development should not increase flood levels in existing urban areas.</li> <li>Identify regional FRM mitigation measures that are required to ameliorate the impact of future development (eg augmented capacity to evacuation routes).</li> </ul> </li> </ol>
<b>Subregional</b>		
<b>Subregional Plans &amp; Strategies (Subregional Delivery Plan)</b>	<p>Subregional planning links growth in population and housing to the infrastructure that supports communities, such as schools, health services, transport, and electricity and water projects. It also delivers planning outcomes across local council boundaries and set specific plan making actions (eg where a Council is to amend a Local Environmental</p>	<ol style="list-style-type: none"> <li>These documents should: <ul style="list-style-type: none"> <li>Address the FRM items required for a Regional Growth Plan where not undertaken as part of that plan.</li> <li>Consider FRM principles in the process of determining land use patterns (see 'Managing Flood Risk Through Planning Opportunities' prepared for the Hawkesbury-Nepean Floodplain Management Steering Committee,</li> </ul> </li> </ol>

	Plan to achieve a regional planning outcome).	<p>NSW Government, April 2007).</p> <ul style="list-style-type: none"> <li>Identify responsible authorities and funding sources for the delivery of regional FRM mitigation measures.</li> </ul>
<b>Local</b>		
<b>Local Environmental Plan – LEP (Local Plan)</b>	<p>The 'Standard Instrument—Principal Local Environmental Plan' which is a statutory instrument, does not contain a FRM clause. The Model Local (FRM) Provision, being a recommended but non-mandatory clause for LEPs, generally covers relevant considerations but relies on a definition of a floodplain that is inconsistent with the NSW Floodplain Development Manual (ie up to the PMF).</p> <p>Convention for the preparation of a FRM Map overlay for LEPs encourages the mapping 0.5m above the 100 year floodplain which more often covers an area less than, but sometimes more than the PMF.</p> <p>The adoption of the Manual definition of floodplain is important to ensure consistency between Government policies, to provide a model clause and map for LEPs that allow for all potential FRM considerations to apply and to ensure that all known flood risks are consistently communicated to the public.</p> <p>The application of FRM provisions of an LEP to the whole floodplain can allow for special considerations for vulnerable land uses (eg. hospitals and aged care) and evacuation. However, the permissibility of development should be determined by reference to the LEP land zoning maps having regard to all planning considerations including FRM.</p>	<ol style="list-style-type: none"> <li>The current Model Local (FRM) provision is supported subject to: <ul style="list-style-type: none"> <li>Its adoption of definitions consistent with the Manual in particular the definition of a floodplain.</li> <li>Its application to the whole of the floodplain.</li> <li>Inclusion of climate change considerations.</li> </ul> </li> <li>The permissibility of development should be determined by reference to the LEP land zoning maps having regard to all planning considerations including FRM.</li> <li>Where resources allow, a flood planning map should be incorporated into an LEP, with the following attributes: <ul style="list-style-type: none"> <li>An overlay to land zoning maps.</li> <li>Divide the floodplain into precincts of flood risk for planning purposes (preferably 3) that trigger appropriate planning controls. These maps may show, for example, areas: <ul style="list-style-type: none"> <li>where most development is undesirable because of the existing hazard which is unlikely to be able to be mitigated due to cost or environmental impact. These areas should coincide with those where exempt and complying development is not allowed.</li> <li>where most development would be acceptable subject to flood mitigation measures.</li> <li>where controls apply to only especially vulnerable development except emergency management considerations that apply to all development.</li> </ul> </li> </ul> </li> <li>Include both riverine and major overland flooding and tailor planning controls to the hazards associated with each.</li> <li>The above maps should be used to inform the preparation and review of the LEP land zoning maps.</li> <li>The zoning and development potential of land should be checked to ensure that it would not facilitate development that would be incompatible with the flood hazard or require environmentally unacceptable mitigation measures.</li> <li>The Local FRM provisions should be applied even if a flood planning map is not included in the LEP for the whole or part of the area to which it applies. In this situation guidance should be provided as to what criteria Council will apply to determine whether to apply the LEP clause, preferably as a part of a DCP.</li> <li>Include electronic links between flood related planning controls and mapping to more comprehensive FRM information sources where available.</li> </ol>

<b>Development Control Plan – DCP (Development Guides)</b>	<p>These provide detail controls that supplement higher order planning instruments (normally LEPs).</p>	<ol style="list-style-type: none"> <li>18. Model controls should be prepared to assist Councils in preparing FRM provisions for DCPs.</li> <li>19. These DCP controls should be expressed as performance criteria and acceptable solutions, and cover <ul style="list-style-type: none"> <li>• Floor Levels</li> <li>• Building material &amp; methods</li> <li>• Structural soundness</li> <li>• Impact on others</li> <li>• Parking and access</li> <li>• Evacuation &amp; refuge in place</li> <li>• Environmental management.</li> </ul> </li> <li>20. The DCP should specify situations where further flood investigations should be undertaken, or not, at the development application stage and the specification for those investigations.</li> </ol>
--	---	---

\* (Possible future terminology is shown in brackets)