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20 January 2017

Our reference: 1315.1192

The Director
Environment & Building Policy
NSW Department of Planning & Environment
GPO Box 39
SYDNEY NSW 2001

Email: coastal@planning.nsw.gov.au

Dear Sir

RE: Submission to Draft Coastal Management State Environmental Planning Policy and Associated Draft Local Planning Direction - Coastal Management (Section 117(2) Direction)

PLANNERS NORTH has been engaged by the owners of land at Bayshore Drive, Byron Bay (as indicated on the map provided at **Attachment A**) to prepare a submission in relation to the provisions of the draft Coastal Management State Environmental Planning Policy (draft Coastal SEPP) and associated draft Local Planning Direction - Coastal Management (Section 117(2) Direction).

We would like to acknowledge the NSW Department of Planning & Environment for extending the timeframe for submissions to the reform package. The following comments are provided for your consideration.

M A P P I N G

COASTAL WETLANDS AND LITTORAL RAINFOREST AREA

Given that the preparation of the draft SEPP has not incorporated a comprehensive review of existing SEPP 14 Coastal Wetlands and SEPP 26 Littoral Rainforest mapping, it is recommended that there be a specific provision to address circumstances where mapping inaccuracies are identified. Since the introduction of SEPP 14 and SEPP 26, there have been numerous occasions where the mapping has been inaccurate, arising from the scale at which initial mapping was undertaken and the methodology applied (i.e. limited ground truthing). This has resulted in areas which are evidently cleared and contain no vegetation being mapped and areas which contain significant vegetation not being included in the mapping.

The provisions of the draft Section 117 Direction enabling the amendment of mapping supported by a study, rely on a Planning Proposal to amend any mapping. It is our view that the SEPP would benefit from a provision which enables any discrepancy in the mapping to be addressed via an identified process. Alternatively, a practice note or the like may be an appropriate mechanism to address these circumstances.

COASTAL VULNERABILITY AREA

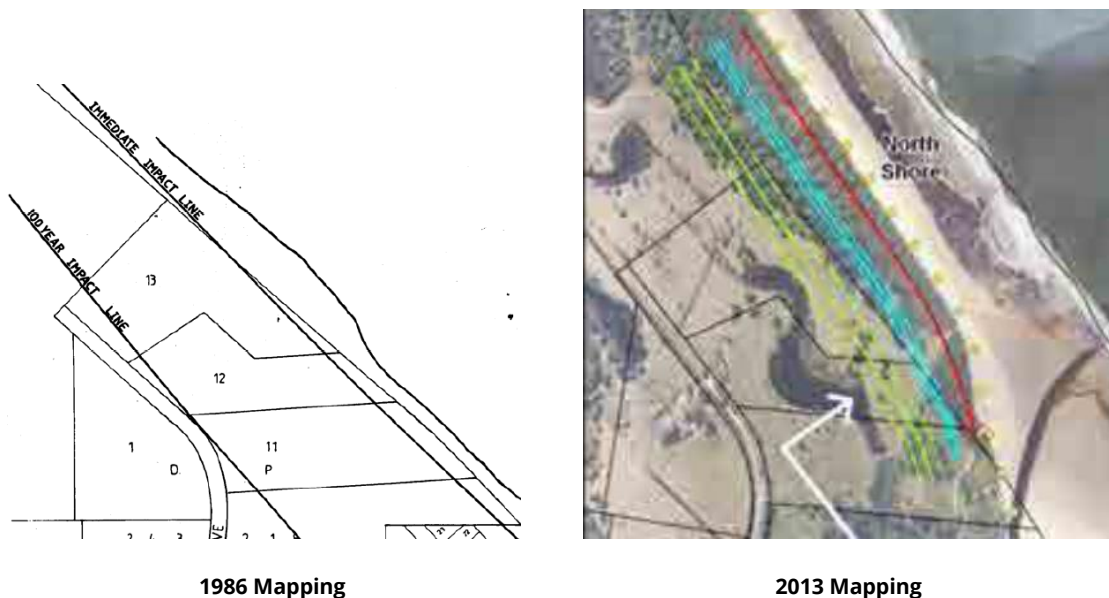
The Coastal Vulnerability Area as it applies to Byron Shire is based on outdated mapping and provides no differentiation between the degree of threat. The mapping is dated 1986 and is contained in Council's Development Control Plan 2010 Chapter 1 Part J. Byron Shire Council has subsequently commissioned

further coastline hazard mapping and it is submitted that this mapping should form the basis for the Coastal Vulnerability Area as it applies to Byron Shire. The mapping identified in Byron Shire Coastline Hazards Assessment Update Final Report, dated September 2013, prepared by BMT WBM Pty Ltd for Byron Shire Council includes mapping reflecting updated modelling.

The implications of relying on the old mapping are significant. The provisions of the draft Section 117 Direction prevent a Planning Proposal from providing for the intensification of development on land identified as within the Coastal Vulnerability Area. Some of the Byron Bay Town Centre is identified in the 1986 mapping adopted for the purposes of the draft SEPP as subject to coastal hazard. Council has recently completed a master planning exercise for the Byron Bay Town Centre and recommendations include a review of building height and density provisions. The application of the old mapping would require the preparation of a Planning Proposal accompanied by a study or strategy in order to increase the height limit or density provisions.

It is submitted that the Coastal Vulnerability Area should be mapped on the basis of the current modelling and allow a mechanism to differentiate varying levels of Coastal Risk.

The difference in the area identified as subject to coastal erosion hazard is illustrated in the following map extracts from the 1986 mapping contained in Byron DCP 2010 (on left) and the 2013 mapping (on right).



DRAFT LOCAL PLANNING DIRECTION - COASTAL MANAGEMENT (SECTION 117(2)) OF THE EP&A ACT 1979

A review of the draft Local Planning Direction in accordance with Section 117(2) of the EP&A Act 1979 indicates that the direction could be improved to specifically address the circumstances of coastal areas in Northern New South Wales.

During the preparation of the Standard Instrument Local Environmental Plans, the Department will recall that the proposed environmental zones ("E" zones) were deferred from the new instruments in several North Coast areas affected by the draft Coastal Management SEPP, namely Tweed Shire Council, Byron Shire Council and Ballina Shire Council. The Department of Planning & Environment subsequently released a report relating to North Coast Environmental Zone reforms.

The affected Councils are required to review the application of the environmental zones in accordance with the recommendations of the Department of Planning & Environment and will prepare Planning Proposals to implement the revised "E" Zones.

At present, the areas deferred from Byron Local Environmental Plan 2014 (BLEP14) on the basis that they were proposed to be zoned for environmental purposes include land right along the coast, including the subject site. The Section 117 Direction as presently drafted states that a Planning Proposal must not rezone land which would enable increased development or more intensive land use on land within a Coastal

Vulnerability Area or identified as land affected by a coastal hazard. The application of any zone other than an E zone will provide for an intensification of development on affected land.

Whilst the direction provides for a Planning Proposal to amend the Coastal Vulnerability Area Map, including increasing or decreasing the land within these maps, such a Planning Proposal is to be supported by evidence in a relevant Coastal Management Program that has been certified by the Minister (in circumstances where a Coastal Zone Management Plan under the Coastal Protection Act 1979 does not apply). It is also acknowledged that the draft Section 117 Direction contains consistency provisions which enable an inconsistency where it is justified by a study or strategy prepared in support of the Planning Proposal.

Notwithstanding the consistency provisions, it is noted that, given the unique circumstances relating to the Far North Coast, it would be transparent and appropriate to include provisions which specifically acknowledge the issues associated with the "E" Zone review. These provisions could be in the form of an exception to the requirement for the preparation of a study or strategy or, alternatively, additional consistency provisions to specifically recognise the "E" Zone review process.

The application of the old mapping to identify the Coastal Vulnerability Mapping and the draft Section 117 Direction as presently drafted have the potential to result in significant issues for land owners within Byron Shire. This includes land holdings held by the state government and local Council along the Byron Bay foreshore, as an implication of the layered and restrictive mapping in the Draft SEPP and the provisions of this Section 117.

In conclusion, it is submitted that it is essential that the correct mapping be adopted. It is also considered appropriate that the current draft of the Section 117 Direction be amended to specifically acknowledge and provide for the review of environmental zones presently being undertaken on the Far North Coast.

We thank you for your consideration of this submission and would be happy to discuss it in further detail should you wish.

Yours faithfully,

PLANNERS NORTH



Kate Singleton MPIA CPP

PARTNERSHIP PRINCIPAL

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