

SUBMISSION

Objection to:



- **Draft State Environment Planning Policy (Coastal Management) 2016**
- **Draft Local Planning Direction - Coastal Management**
- **Standard Instrument (Local Environmental Plans) Amendment (Coastal Management) Order 2016**

Coastal Residents incorporated is focussed on the coastal management issues that face the NSW Central Coast. The Association strongly objects to the proposed Stage II Coastal Reforms Legislation announced by Minister Stokes at the Coastal Conference in **November 2016**.

We note the Coastal Conference is a function owned by the Coastal Society and that members of the NSW Coastal Panel are members of the Coastal Society.

The reasons we have for objecting to the reforms are below:

Public Participation and Consultation Has Been Deceptive & Negligent

The NSW State Coalition Government and those other Members of Parliament who passed the Coastal Management Bill in June 2016 should be ashamed of the way the NSW Parliament has introduced these reforms. Public engagement and consultation has been negligible. Just one public information session was provided for the residents of the Central Coast who stand to be most affected by the proposed reforms.

Promised mapping of Coastal Vulnerability Areas that would have “***provided increased opportunity for public involvement and participation in environmental planning and assessment***” has not been provided.

Around 59, 000 properties on the Central Coast are affected by these proposals with at least 14,000 properties being faced with future identification as lands impacted by current and future coastal hazards including coastal flooding of waterway foreshores for the Tuggerah Lakes system and Brisbane Water.

To not provide such critical information as promised mapping is a deceptive and negligent approach to an issue of such consequence for the Central Coast Region.

The Central Coast has been identified as the most impacted region in Australia in terms of projected rising seas that will increase the frequency and intensity of coastal hazards.

But the NSW State Coalition Government has deliberately withheld this information during the exhibition period by not publishing Coastal Vulnerability Mapping for the exhibition period as was promised by Minister Stokes and other members of the State Coalition Government in Parliament.

Offering a so-called consultation period substantially over the holiday period and consulting with local communities through just one short 90 minute information session at Erina, displays contempt for the people of the Central Coast. **See Attachment 1**

The NSW State Governments Has Responsibility to Protect Coastal Communities Against Threats of Rising Seas

This is an important point to consider which is epitomised by the insincerity of a State Coalition Government that is entirely focussed on the Sydney Metropolitan area. To minimise the impact of these reforms on Sydney, the Coastal Use Area will only extend from between 50 metres and up to 200 metres from the edge of coastal waters.

On the Central Coast the distance will be 1,000 metres. Around 59, 000 properties on the Central Coast are affected by these proposals. At least 14,000 properties can be identified as being affected by current and future coastal hazards but the NSW Sate Government has not taken the opportunity presented **“to provide increased opportunity for public involvement and participation in environmental planning and assessment”** which is an object of the NSW Environmental Planning and Assessment Act

The conservation of lagoons specifically identified in this proposed legislation at Pearl Beach, Macmasters Copacabana Beach, Avoca Beach, Terrigal and Wamberal means that adjacent residential areas will be subject to new development controls to protect the catchment for these lagoons, out to a distance of 500 metres. This detail has not been promulgated by the NSW State Government to residents in these areas

Wetlands and Intertidal Zones

The Wetland mapping provided as part of the Draft CM SEPP is inaccurate with the potential to lead to ongoing dispute between residents of existing developed areas and conservation groups. These reforms offer no remedy for these issues.

Our intertidal zones and wetlands are an extremely important part of the Central Coast environment but certainty for existing developed areas located alongside these important environmental assets has not been addressed. It is unreasonable to now suggest as the proposed CM SEPP Wetland Mapping does, that existing residential and other private lands can be identified as wetlands when at present that is not their formal status.

The Draft CM SEPP and these reforms generally, do not support just terms compensation for the acquisition of wetlands currently in private hands.

Having benefitted from the mining and sale of coal for the past 5 years the NSW Sate Coalition Government has backflipped on promises to protect coastal communities on the Central Coast against rising seas and the draconian planning regime that they inherited.

Instead they will allow State Government agencies together with the Central Coast Council, to run riot and cause long term damage to local communities by imposing even greater draconian development constraints that don't stand the test of logic.

Together they have allowed the waste of around \$10million in public funds on phony plans and highly flawed surveys of homes that are subject to coastal flooding or storm surge.

It is immoral that a NSW State Government can collect \$1.7billion dollars in royalties from coal mining, be a global player in the trade of coal and yet attempt to transfer all projected costs of rising seas onto local communities that will be affected by these threats.

Wamberal Beach North Avoca Beach, Avoca Beach & Pearl Beach

The combined deceptive and negligent behaviour of NSW State Government agencies and the Central Coast Council is no more exemplified than in the totally haphazard approach to coastal management for these important beaches.

In particular, the recent debacle at Wamberal where an environmental, economic and social disaster remains unaddressed after more than seven months of total incompetence and negligent behaviour bordering on maladministration.

These beaches have high economic value for our local tourism. They represent a significant part of our environment and at a social level are the very reason why people come to live or holiday on the Central Coast, including thousands from the North and Northwest of Sydney on weekends and during holiday periods.

It is an absolute disgrace that Wamberal Beach has been allowed to fall into such a state of neglect over the 40 year period between two major storm events while the Northern Beaches of Sydney have had \$millions dollars poured into them.

We note that the Members of Parliament representing those Northern Beaches suburbs include Minister Stokes, Minister Hazard, the immediate past Premier Baird and past Prime Minister Abbot.

Brisbane Water & Tuggerah Lakes Foreshore Suburbs

The foreshores of waterways on the Central Coast include many low lying suburbs affected to varying degrees by storm surge and catchment flooding. The Draft CM SEPP offers no solution to their dilemma. An adaptation plan is urgently required. The Draft CM SEPP 2016 and accompanying documents should not be implemented in the absence of an adaptation plan that provides certainty for the future.

Other Aspects of the Reforms that Are Objected To


- **The proposed reforms are heavily biased against existing settlements in regional areas.** There is no differentiation between existing developed areas and undeveloped land when it comes to mitigating the risk of rising seas. In Sydney the coastal use zone extends between 50 and 200 metres while in regional areas the coastal use zone extends 1,000 metres from tidal waters. There should be no differentiation.
- **Whole suburbs on the Central Coast will be adversely affected** by the proposed reforms and there is no suggestion they will be protected or compensated. Many of the oldest suburbs in Australia located around the foreshores of Brisbane Water will be severely impacted as the proposed reforms are implemented by a diligent council
- **The planning constraints include the use of time limited development consent, temporary use of land and temporary buildings which constitutes planned retreat.** Previously promised by the NSW Coalition as a last resort they are now presented as a priority for vulnerable areas
- **Emergency protection is removed by the reform proposals.** The right of property owners to protect their property is completely removed and replaced with a bureaucratic process entirely at the whim of local government, the Coastal Council and a Joint Regional Planning Panel. Advice is that owners plan ahead but emergency works are to be removed within 90 days or to be constructed as approved permanent works. Pigs will fly!
- **It is possible for mandatory requirements to be changed without the scrutiny of Parliament.** Minister Stokes has allowed the construction of the most complex legislation known that includes provisions for the mandatory requirements embedded in the new Coastal Manual to be changed by the minister without the knowledge or input of Parliament. Councils can disregard the new State Environmental Protection Plan (SEPP) maps indicating the extent of the 4 new coastal management areas by amending their Local Environmental Plan - subject to ministerial approval.

- **The NEW SEPP extends wetlands and littoral forest boundaries and also provides a 500 metre landward boundary around lagoons and lakes.** Properties inside these new boundaries will be subjected to extreme environmental constraints. Residential property located within 500 metres of local coastal lagoons will be subjected to the development controls required for at least 3 and probably all four of the new coastal areas. The SEPP does allow for residential land inside the extended wetlands zone to not be affected but councils can change this by amending their LEP.
- **Dredging of Brisbane Water and Broken Bay will most likely not be approved under the constraints imposed.** The beach in open coastal situations extends out to a depth of 40 metres while in enclosed waters it is to a depth of 10 metres. The environmental constraints on any coastal protection works are very severe.
- **The value of private landholdings will be affected.** It is logical and completely undeniable that land value will be adversely affected. All information regarding projections of current and future hazards, time limited consent, temporary buildings and temporary use of land will be referenced on S149 planning certificates to warn off potential buyers.

Conclusion

These fatally flawed proposed reforms are not what the Central Coast needs to combat the projected risk of climate change and consequential rising seas. Central Coast Communities need certainty for the future. These reforms including the Draft CM SEPP do not provide certainty only more future uncertainty. Instead they will divide local communities and ultimately damage the local economy.

Len Gibbons President



Hon Rob Stokes MP
Minister for Planning
52 Martin Place,
Sydney NSW

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Dear Minister,

Errors in the Consultation Process for Draft SEPP – Central Coast and elsewhere

I am writing to confirm certain critical errors in the consultation mapping documents for the Central Coast and other areas. This has led to residents and property owners in large numbers on the Central Coast and elsewhere being misled as to whether the proposed reforms affect them.

What type of errors?

By the consultation mapping, it has been represented to tens of thousands of property owners at the Central Coast, Lake Macquarie, Shoalhaven, Mid Coast, Eurobodalla and to a lesser extent in other Local Government Areas (LGA) such as Byron Shire, that their properties are not affected by the proposed reforms.

The consultation mapping which you have published confirms this. However, the mapping of the relevant councils, which applies according to the terms of the draft Coastal Management State Environmental Planning Policy (CM SEPP) 2016, shows clearly that properties are affected.

As a result, residents have been misled and don't understand they are affected by a draconian framework of legislation that enforces planned retreat and will result in the expropriation by government of land affected by current and future coastal hazards.

Those residents have therefore lost an opportunity to be involved in the consultation and public participation process related to the development of a planning instrument – Draft CM SEPP 2016.

Why is this important?

I know, Minister, that you have written in the past in academic journals about the importance of consultation and public participation. The need for public participation is also reflected in the objects of the Environmental Planning and Assessment Act and its substantive provisions. The importance of these types of provisions was recently made clear by the Land & Environment Court in the decision of *Mosman Municipal Council v Minister for Local Government* [2016] NSWLEC 124. In that case, the Land & Environment Court found errors in the consultation process and report which invalidated the process.

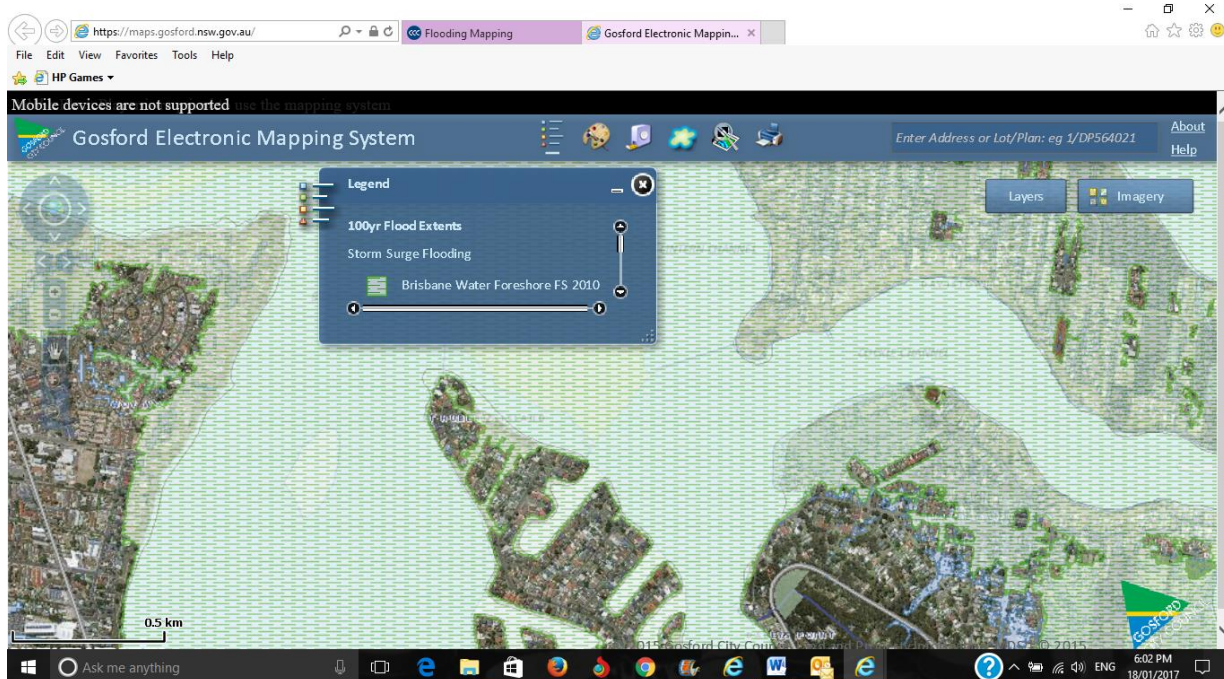
What are the exact errors and who exactly is affected?

Our main area of concern as discussed at our meeting with you on 10 January 2017, is that the predominant coastal hazards of inundation and flooding in low lying coastal suburbs (coastal flooding) has not been indicated in the Draft CM SEPP 2016 mapping. Potentially, 50,000 or more family dwellings in the NSW coastal zone, together with commercial, industrial and open space properties owned by corporations and local government are affected by these coastal hazards according to various reports (e.g. Climate Change Risks to Australia's Coasts. A First Pass National Assessment. Commonwealth Department of Climate Change 2009).

Attached are Local Government Authority maps for Lake Macquarie, Brisbane Water and Tuggerah Lakes that indicate the extent of such flooding which is generally a combination of flooding by tidal waters and catchment flooding or tidal inundation, thus falling under the criteria of the current coastal management framework of legislation and guidelines as being a coastal hazard.

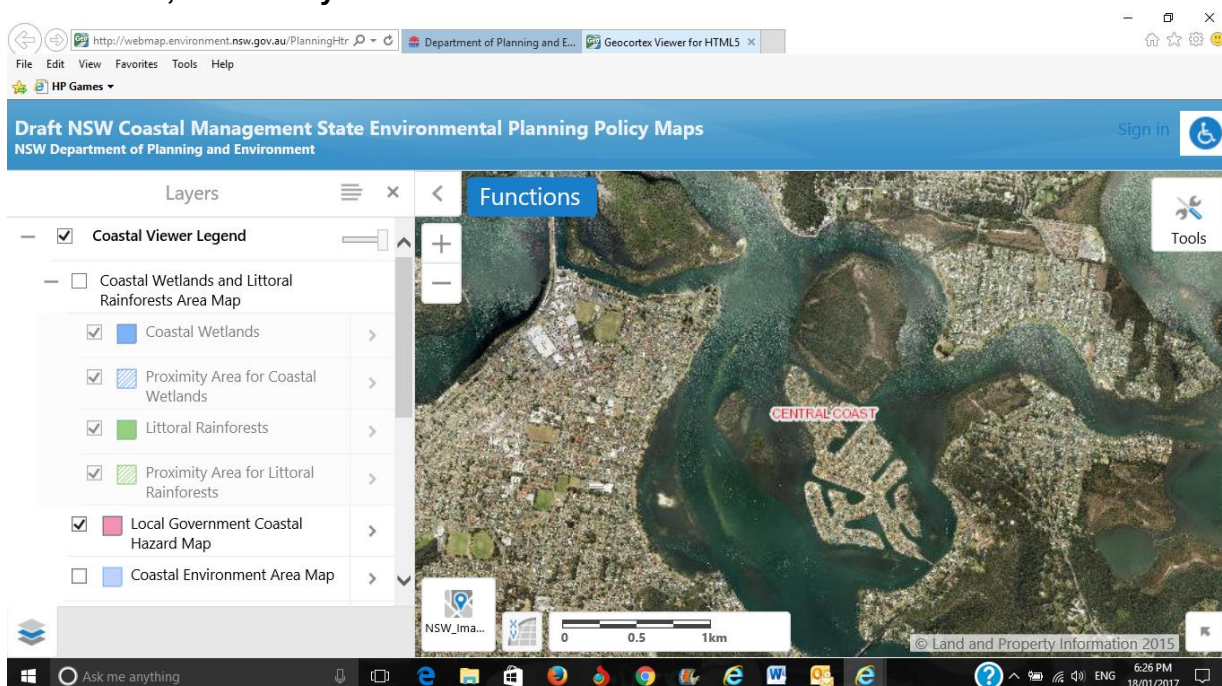
Wrongly, this local government mapping has not been included in the consultation papers you have released. These are obviously highly material omissions!

Screen Shot Indicating Storm Surge Flooding. 1%AEP Woy Woy, Davistown, Empire Bay, St Huberts Island 18 January 2017 Central Coast Council.



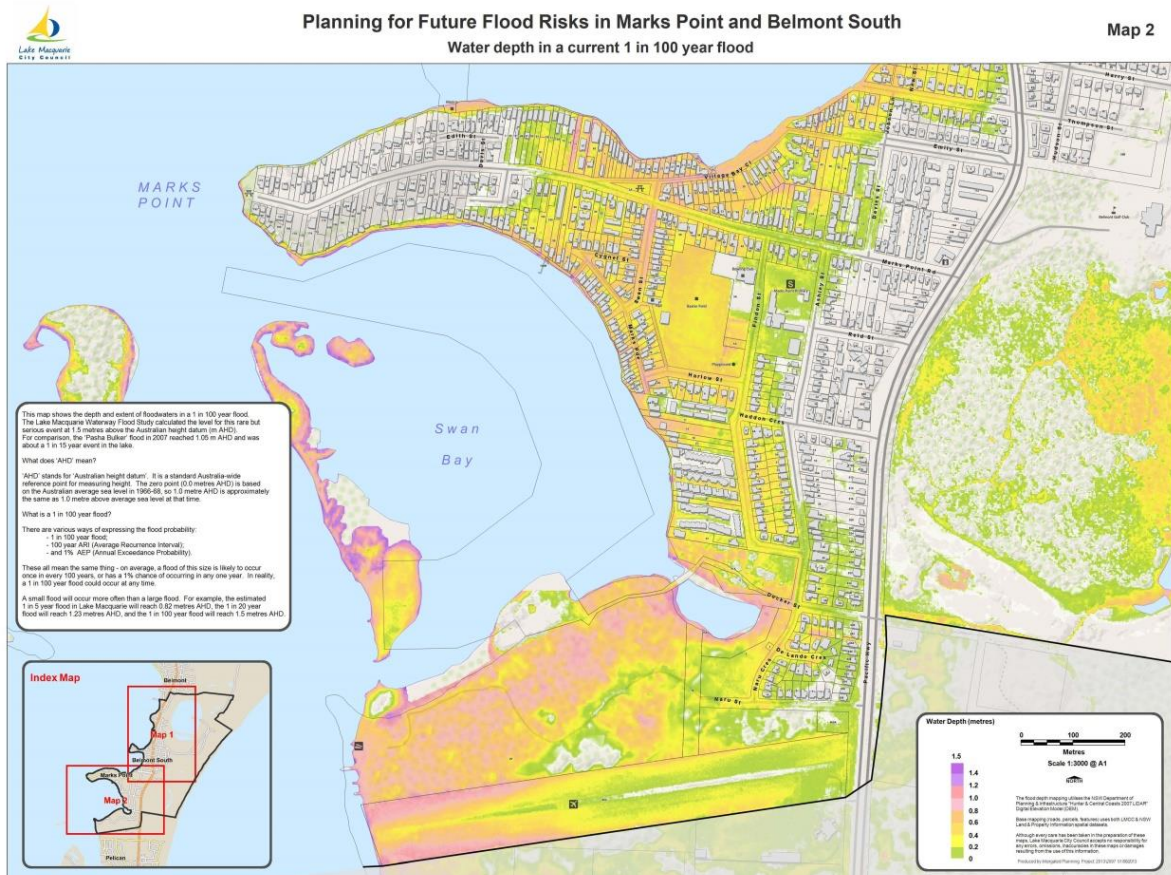
This map indicates the current coastal hazard for storm surge.

Draft SEPP Local Government Hazard Map for Woy Woy, Davistown, Empire Bay and St Huberts Island, 18 January 2017

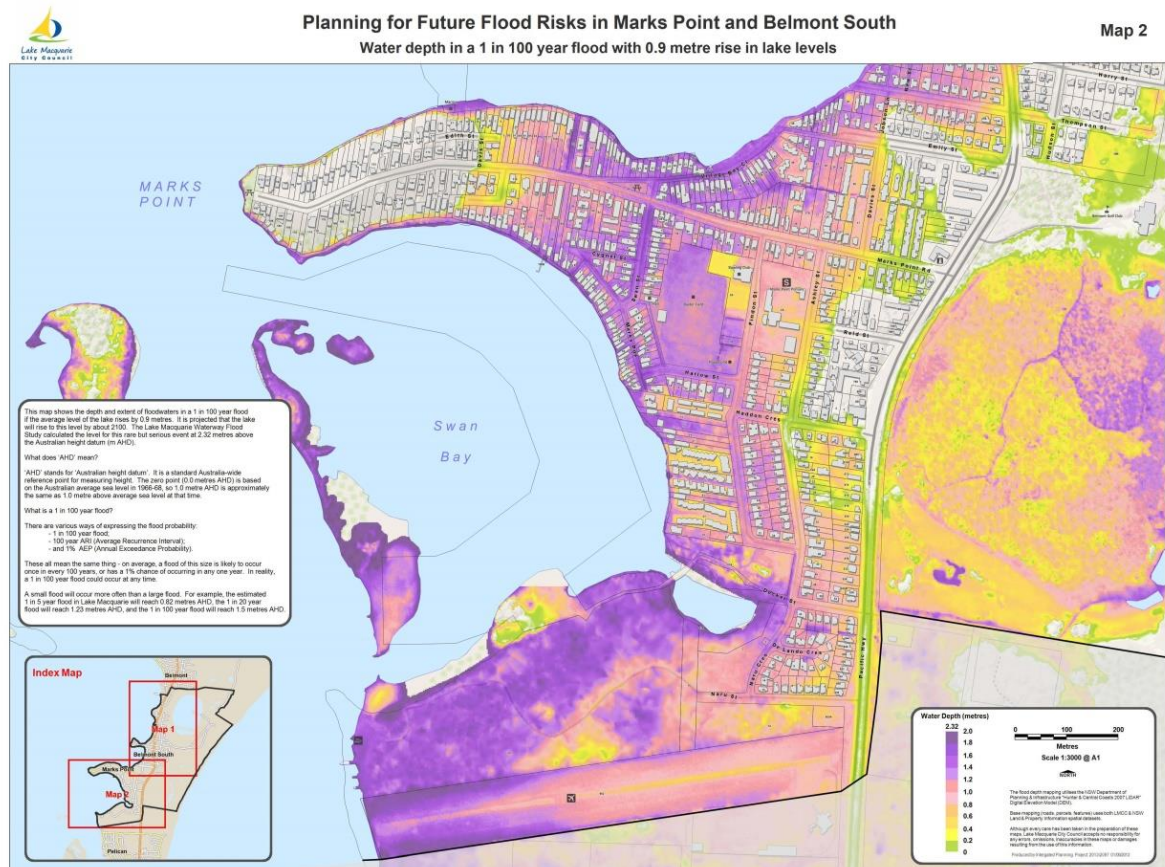


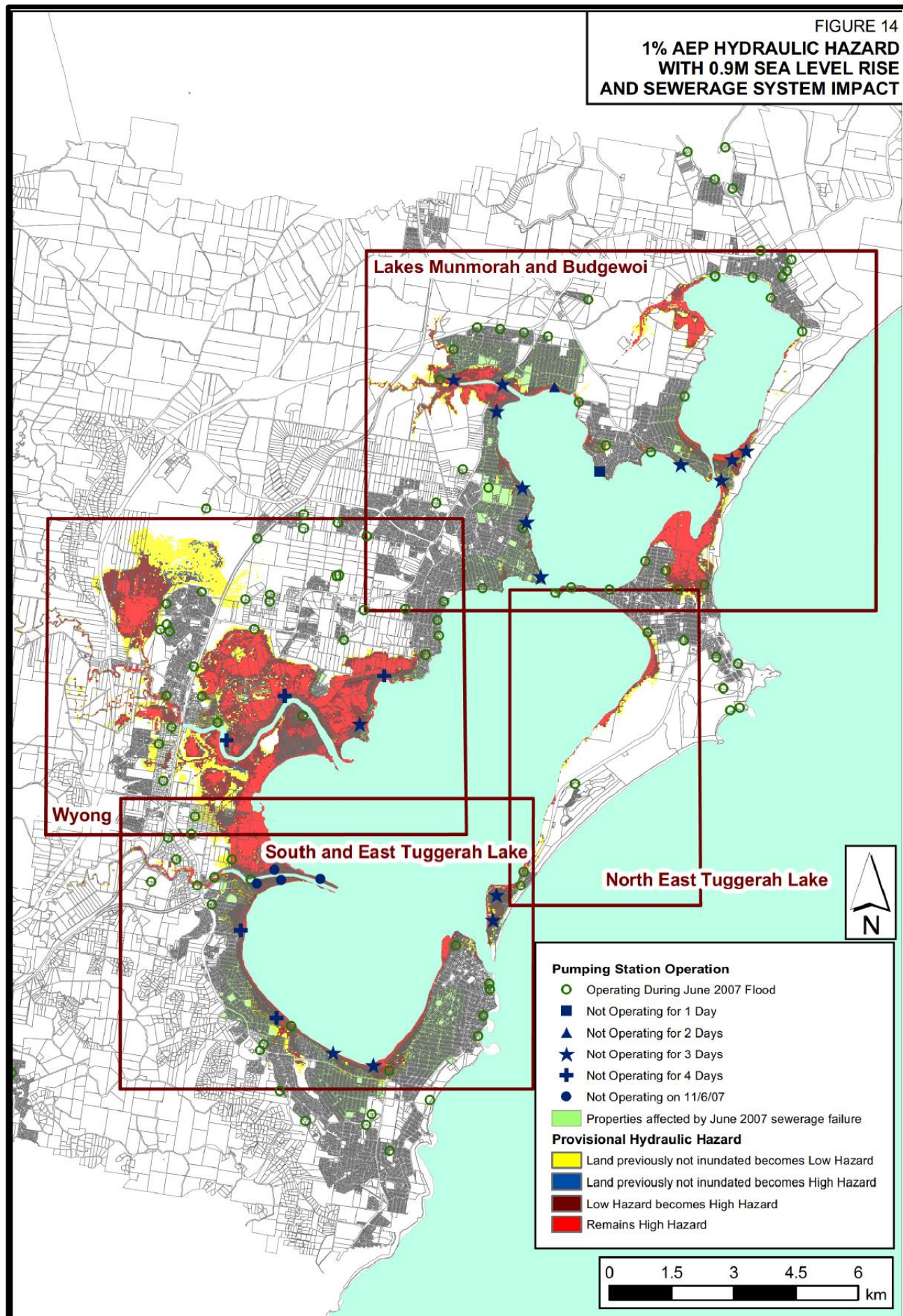
The Draft CM SEPP 2016 Map does not indicate the current coastal hazard of storm surge flooding with Local Government Coastal Hazard Map viewer switched on.

Lake Macquarie City Council coastal hazard mapping for future coastal hazards 18 January 2017

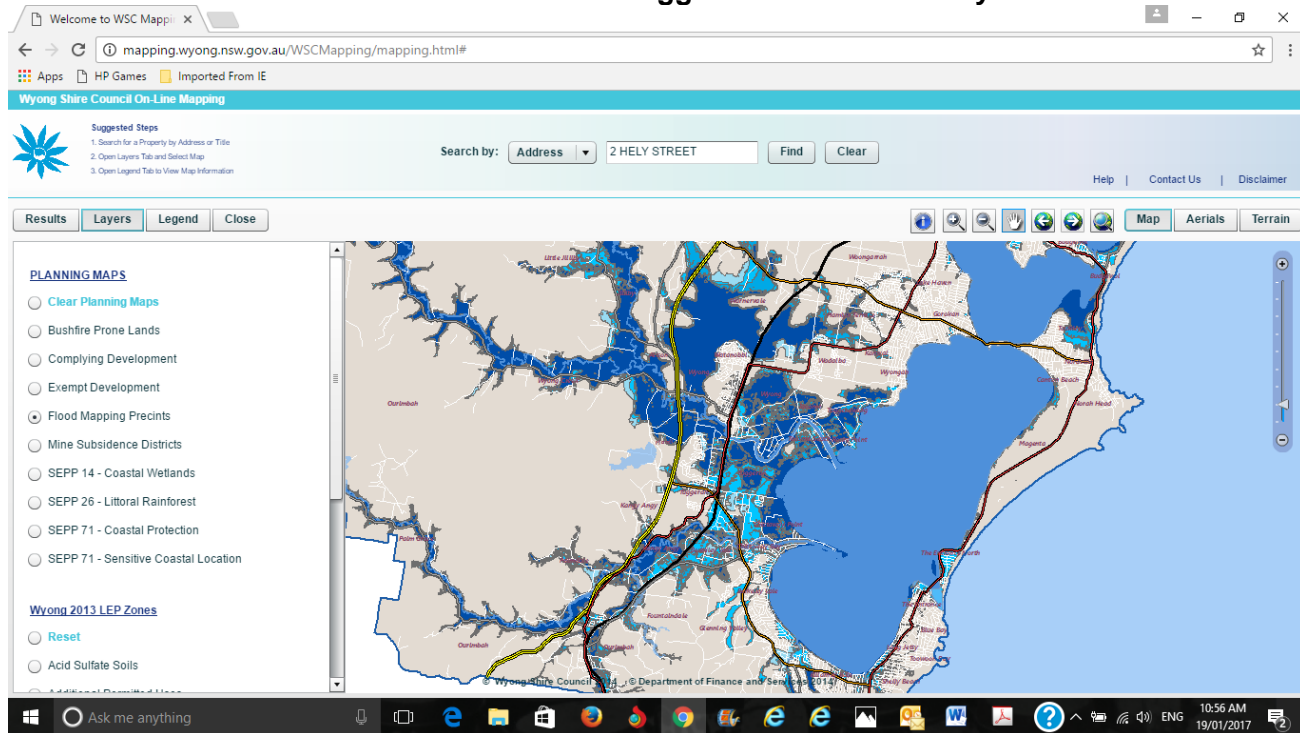


Lake Macquarie City Council coastal hazard mapping for future coastal hazards 18 January 2017





Combined 1% catchment and tidal flood for Tuggerah Lake 18 January 2017 Central Coast Council.



Of the 59,000 Central Coast properties affected by the Draft CM SEPPP 2016, it is estimated that at least 14,000 of those properties on the Central Coast together with another 9,000 properties in the Lake Macquarie LGA, a total of 23,000 properties, are affected by the current and future coastal hazards of tidal inundation and combined catchment and storm surge flooding. It is a case of negligence or incompetence that the NSW State Government has failed to include this readily available information with the Draft CM SEPP 2016 mapping of coastal hazards.

Is State Government aware of the existence of missing local government hazard mapping – missing from the Draft CM SEPP 2016?

The NSW Office of Environment and Heritage (OEH) has been a key stakeholder in the development of local government CZMPs and Floodplain Risk Management Plans by having representatives on council committees that developed those plans and the associated comprehensive mapping of coastal hazards.

The NSW OEH has been virtually the sole provider of the funding used to develop these coastal management plans with council contributions generally being in kind by providing resources that are sunk costs within the council. These sunk costs have included council staff and facilities for committee meetings. Without the substantial grants of funds for such projects there would be no mapping and no plans.

In a letter from OEH to Gosford Council in 2012, it was stated:

Since the 2000-2007 financial year, Gosford City Council has received over \$6.5 million in financial assistance under the Coastal Estuary and Floodplain Management Programs. These funds are spread over 38 separate grants and range between \$5,000 and \$700,000. According to our records, only 14 of these grants have been finalised and acquitted.

MONICA COLLINS Director North Branch Regional Operations, 6/10/14 to Paul Anderson CEO Gosford City Council, OEH Reference MD 14/6435 Contact Peter Evans 4904 2594

It is either disingenuous or due to a lack of capability that the NSW State Government now suggests that the flawed content and omissions of the Local Government Hazard Mapping is entirely the responsibility of local government.

Our association does not accept this repeated claim by the NSW State Government.

What should happen now?

Evidently, the consultation process is flawed in material and misleading ways. Residents have been misled. I am also conscious that you and other MPs in Parliament and your department have all promised that the Act would not come into force until there has been full consultation and public participation with all the mapping available for all residents to view.

We are also very concerned that a large part of the exhibition period has occurred during a traditional period of holidays for most Australians.

I call upon you to honour those promises.

I ask that:

- 1 implementation of the coastal zone management Act and associated reforms be delayed until all mapping associated with the Draft CM SEPP is completed to a standard acceptable for consultation and public participation in this important planning process;
- 2 that accurate mapping be prepared and put on exhibition for comment particularly for all coastal hazards well documented with maps and council adopted Planning Instruments
- 3 all other mapping should be carefully checked with a particular emphasis on littoral forest and wetland mapping.

To me, this is obviously the fair way forward and in accordance with the requirements of Act and previous promises made by you and the Coalition.

If these commitments are not honoured, it will force the community associations to alert residents themselves and consider legal action. It is obviously in everyone's interest if this can be avoided.

I am happy to meet with you if it would help you for me to expand upon these mapping errors in more detail.

Yours sincerely,



Patrick Aiken
Secretary Coastal Residents
Regional Coordinator, NSW Coastal Alliance