



# Sea Level Rise Planning Guidelines

Submission of the  
Urban Development Institute of  
Australia NSW

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## INTRODUCTION

The NSW Government released the *Draft Sea Level Rise Policy Statement* (draft Policy) in February 2009 setting out the Government's approach to sea level rise and how it intends to respond to the impacts of sea level rise in the context of land use planning. The draft Policy proposed the introduction of sea level rise planning benchmarks and the development of sea level rise planning guidelines (the guidelines) to support those benchmarks.

This submission has been developed by the UDIA NSW Council, Sustainability Committee and our members for the purpose of informing the Department of Planning in the drafting and development of the guidelines. UDIA NSW contends that the development of the planning guidelines must be based on the following principle objectives:

- To provide investment certainty to development proponents, landowners, homeowners and the broader community.
- To provide certainty to local councils and development proponents on the correct assessment, approval and appeal processes.
- To enable consistency between local councils and avoid fragmented responses or misinterpretation of the guidelines.
- To facilitate a triple bottom line approach to sustainable development.

UDIA NSW has consulted broadly with our membership base, including our Regional Chapters, and has identified the following concerns considered relevant to the development of the guidelines. The basis of these concerns is supported in the context of the principle objectives provided above.

### 1. Implications of sea level rise benchmarks on planning

The implications of sea level rise and the application of sea level rise planning benchmarks to coastal development in NSW remains uncertain. Flood modelling of all coastal areas must be undertaken by the NSW Government to properly assess the impact of any sea level rise benchmark on land directly adjacent to the coast as well as coastal rivers and streams. UDIA NSW submits that the implications on associated development controls upstream of a river mouth must be considered in the context of any flood modelling.

The development industry and broader community require an understanding of the implications of sea level rise policy and related guidelines on current and future land releases. Additionally the implications of the guidelines on new development and redevelopment of existing buildings warrants further clarification.

Flood modelling is necessary to ensure local councils correctly and consistently apply the sea level rise planning benchmarks. UDIA NSW asserts that this would reflect the objective of the current planning reforms to increase planning consistency amongst councils.

To support detailed flood modelling, the NSW Government and local councils must provide comprehensive mapping of sea level rise affected land consistent with any applicable sea level rise planning benchmark. Mapping exists for a range of planning matters which inform local development controls including bushfire, native vegetation, acid sulphate soils, heritage etc.

Mapping of sea level rise affected land in NSW coastal regions is consistent with the breadth of mapping surrounding other natural resource and conservation matters that are applicable to the planning and development process. Sea level rise mapping would support the decision making processes of the development industry, local councils and the broader community. UDIA NSW argues that flood modeling and mapping of sea level rise are fundamental to inform all stakeholders of the implications of sea level rise policy.

## **2. Consideration of Sea Level Rise and Climate Change**

As evident by recent climate change litigation it is necessary for a developer to ‘consider’ climate change and its impacts. The guidelines must clearly specify what onus is on a developer to adequately consider sea level rise in the planning and development process.

Fundamentally, UDIA NSW is of the view that a robust strategic planning framework would sufficiently consider sea level rise implications at the strategic planning scale. This would negate the need to consider this matter at later intervals in the development process thereby avoiding regulatory duplication and streamlining the development approval process.

## **3. Concurrences and Referrals**

The assessment of any development proposal potentially affected by sea level rise policy must be done in the context of the broader planning outcomes of a development proposal. For the purposes of efficiency and reducing delays in the assessment of development proposals, sea level rise assessment responsibilities should be delegated only to a relevant council officer.

UDIA NSW does not support any process that would require a development proposal to be referred to another agency such as the Department of Environment and Climate Change or a Catchment Management Authority for consultation. UDIA NSW similarly does not support the need for any concurrence mechanism to be introduced through statute.

## **4. Transitional Arrangements**

To support the workable implementation of the guidelines, the Department of Planning must consider the need for transitional arrangements. Many local councils have already introduced sea level rise policies and related planning controls. Similarly many local councils do not have an existing sea level rise policy or any associated planning controls.

An assessment of the impacts of introducing state-wide guidelines on the existing local planning framework should be conducted by the NSW Government. Further, transitional arrangements must be provided for existing landowners and developers on sea level rise affected land. This will assist the development industry as well as local councils adapt to new planning guidelines.

## **5. Appeal Process**

The NSW Government has recognised in the draft Policy, that the sea level rise planning benchmark *‘is not intended to be used to preclude development of land projected to be affected by sea level rise.’* Considering the intent of the exhibited sea level rise policy, the guidelines must clearly outline an appropriate appeal mechanism for a proponent to appeal the imposition of a planning benchmark on a specific development or parcel of land.

The relationship between sea level rise planning controls and *SEPP 1 (Development Standards)* must also be clearly outlined in the guidelines. This will provide clarity to industry, councils and the community and assist in avoiding single issue planning.

## **6. Development Potential of Land**

The guidelines must consider the impact projected sea level rise or planning benchmarks will have on the development potential of land indirectly affected by sea level rise. This indirect impact would include the implications sea level rise has on services and access routes below the benchmarks which support developable land that is above the benchmarks.

Further, financial responsibility for mitigation works including the maintenance of access roads and services affected by sea level rise requires consideration. UDIA NSW does not support the

imposition or recovery of mitigation costs on the development industry through an inequitable levy framework or section 94 contributions. Any such costs should be borne by the community as a whole to ensure geographic and intergenerational equity.

The guidelines must also clearly specify the development uses permitted on land affected by projected sea level rise. Considering the draft Policy does not intend to preclude development of land affected by sea level rise, a clear identification of permitted uses would be beneficial to all stakeholders in the development process.

## **7. Mitigation Works**

The development potential of certain land, as well as the protection of existing property, may be contingent on the ability for a proponent to construct mitigation works on either public or private land. The guidelines must provide for and detail a facilitative approvals process for mitigation works to be carried out as necessary to protect property.

Mitigating actual sea level rise impacts or adapting development to sea level rise projections will have implications on the use of building materials. This may have further implications on the Building Code. An understanding of such implications must be considered in the development of the guidelines.

## **Conclusion**

UDIA NSW welcomes the opportunity to provide comment to the Department of Planning and to assist in the development of the planning guidelines. UDIA NSW appreciates the guidelines are still in a preliminary phase of development and broader sea level rise policy is a complex matter yet to be fully considered by the NSW Government.

Considering sea level rise policy and the development of the guidelines are still in their formative stage, UDIA NSW reserves the right to comment on this matter further as sea level rise policy and the development of the planning guidelines progress. UDIA NSW would be pleased to meet with the Department of Planning and elaborate on any of the points raised in this submission.