

From: [George Curtis](#)
To: [Tahlia Hutchinson](#); [Jane Anderson](#); [Margaret Mason](#)
Cc: [Graham Towers](#); [Chantelle Chow](#)
Subject: 2 & 137 Brisbane Grove Planning Proposals Gateway Review Hearings - Response to Commissioner's questions
Date: Wednesday, 26 March 2025 11:43:08 AM
Attachments: [image001.png](#)
[Considering+flooding+in+land+use+planning+guideline+-+July+2021.pdf](#)
[Appendix 3 Concept Subdivision Layout Plan- current PP-2024-291.pdf](#)
[Proposed subdivision plan- Alfarthing 2 Brisbane Grove Planning Proposal.docx](#)

Hello Jane, Tahlia and Margaret.

Please see the following response to the Commissioner's questions during Monday morning's gateway review hearing:

Question 1. What is the relationship between the Section 9.1 Direction 4.1 Flooding and clause 5.22 Special Flood Considerations clause in the Goulburn Mulwaree LEP 2009?

Answer:

Section 9.1 Direction 4.1 Flooding (20 February 2023 provides a specific link to Clause 5.22 Special Considerations Clause via section 4.1(4) of the Direction which states:

(4) A planning proposal must not contain provisions that apply to areas between the flood planning area and

probable maximum flood to which Special Flood Considerations apply which:

- a. permit development in floodway areas,
- b. permit development that will result in significant flood impacts to other properties,
- c. permit a significant increase in the dwelling density of that land,
- d. permit the development of centre-based childcare facilities, hostels, boarding houses, group homes, hospitals, residential care facilities, respite day care centres and seniors housing in areas where the occupants of the development cannot effectively evacuate,
- e. are likely to affect the safe occupation of and efficient evacuation of the lot, or
- f. are likely to result in a significantly increased requirement for government spending on emergency management services, and flood mitigation and emergency response measures, which can include but not limited to road infrastructure, flood mitigation infrastructure and utilities.

Special Flood Considerations are defined under note (c) in the Direction as follows:

(c) Special flood considerations are outlined in the *Considering Flooding in Land Use Planning Guideline 2021* (Attached) and an optional clause in the *Standard Instrument (Local Environmental Plans) Order 2006*.

The *Considering Flooding in Land Use Planning Guideline 2021* (page 6) states that Special flood considerations:

- are particular flood risk considerations that a consent authority must be satisfied with

before granting consent to certain types of development that have been identified by councils and the state government as having a higher risk to life warranting the consideration of the impacts of rarer flood events on land located outside the Flood Planning Area.

- Apply to land that, in the event of a flood, may cause a particular risk to life and require the evacuation of people or other safety considerations. These Special Flood Considerations include that the development:
 1. will not affect the safe occupation of and efficient evacuation of people in the event of a flood, and
 2. incorporates appropriate measures to manage risk to life from flooding, and
 3. will not adversely affect the environment in the event of a flood.

The Department's assessment of the consistency of the Brisbane Grove Planning Proposals with the Section 9.1 Direction 4.1 therefore included an assessment of the proposed application of the Special Flood Consideration Clause 5.22 contained in the Goulburn LEP 2009 to the sites subject to the planning proposal.

Question 2: Can the Department please provide proposed subdivision plans for the two planning proposal sites?

Answer: Proposed subdivision plans are included in the planning proposals. The proposed subdivision plans are attached.

Don't hesitate to contact me if you require any further information.

Regards

George Curtis
Senior Planner

Local Planning and Council Support – Southern, Western and Macarthur Region
Department of Planning, Housing and Infrastructure

(I work Mon, Wed-Fri)

I live and work on Dharawal country III

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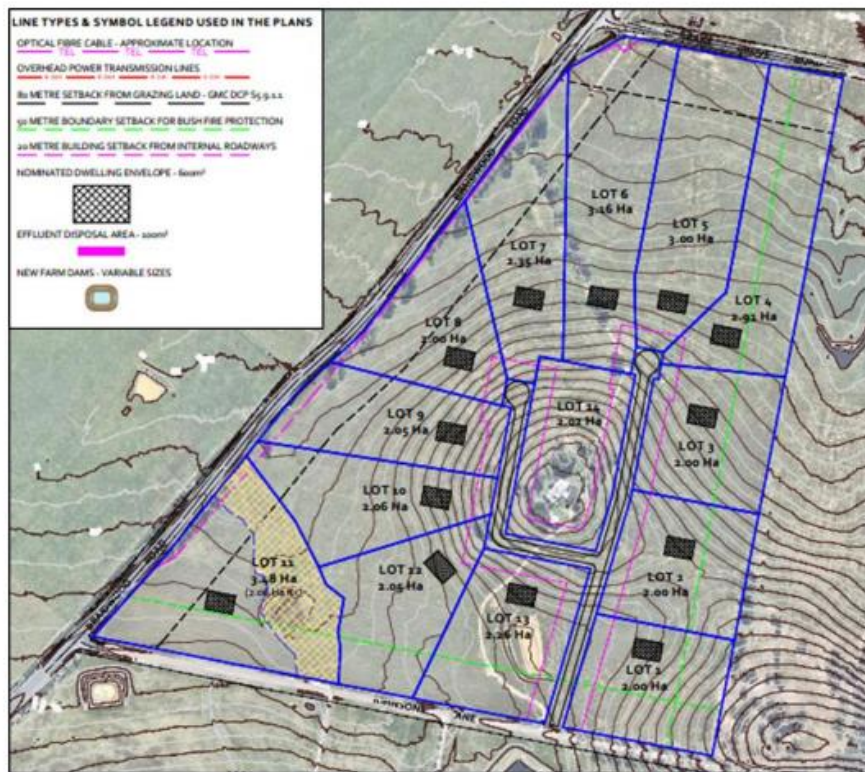
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Our Vision: Together, we create thriving environments, communities and economies.

The Department of Planning, Housing and Infrastructure acknowledges that it stands on Aboriginal land. We acknowledge the traditional custodians of the land and we show our respect for elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

Figure 3: Concept Subdivision Plan



Source: “Alfarthing” 2 Brisbane Grove Road Planning Proposal, Goulburn Mulwaree Council, 2024



LINE TYPES & SYMBOL LEGEND USED IN THE PLANS

MANEWS OF THE PROBABE EMAXIMUM 1:000 EXTENTS

DCP SETBACK / AND/OR PROPOSED VARIATION

20M SETBACK FROM INTERNAL BOUNDARIES

20M SETBACK FROM INTERNAL BOUNDARIES

DRAINAGE LINES - ARROWS SHOW DIRECTION OF FLOW

40M SETBACK FROM DAMAGE LINE

RY ZONED LANDS INCLUDED WITHIN A REZONING PROPOSAL

THE PEACH COLOURED DIAGONAL HATCHING THROUGH THE CENTRE OF THE SITE AND IN THE NORTHEAST CORNER REPRESENTS 'C2' ZONED LANDS AND IS EQUAL TO THE 'FLOOD PLANNING AREA'.

ALL OTHER LAND WITHIN THE PROPOSED LOTS TO BE ZONED 'R5'.

DRAWING REFERENCE

NO.	DATE	DESCRIPTION
1	20/02/2024	COUNCIL SUBMISSION

DRAWING REFERENCE		PROJECT TITLE	
LAND REZONING PROPOSAL		CONCEPTUAL SUBDIVISION AND LOT PLAN	
TITLE PARTICULARS		DRAWING DATE	
LOTS 2 to 6 DP622457, LOTS 10 to 19, 39, 43 to 45 & 54 DP976708, LOT 2 DP1279715 & part LOT 2 DP1180093		Feb. 2024	
STREET ADDRESSES		REFERENCE NUMBER	
137 BRISBANE GROVE ROAD BRISBANE GROVE, NSW, 2580		00504221	
DRAWING NUMBER		SHEET NUMBER	
1:1,000		1 OF 1	
DRAWING SCALE		DRAWN BY	
PJ		PJ	
SHEET SIZE		DATE OF ISSUE	
A1		00504221-02A	

DRAWING REFERENCE

0 10 20 30 40 50 METRES

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Considering flooding in land use planning

Guideline

July 2021





Acknowledgement of country

The Department of Planning, Industry and Environment acknowledges the traditional custodians of the land and pays respect to Elders past, present and future.

We recognise Australian Aboriginal and Torres Strait Islander peoples' unique cultural and spiritual relationships to place and their rich contribution to society.

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Find out more:

www.dpie.nsw.gov.au

Considering flooding in land use planning – Guideline

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Pathways artwork by Nikita Ridgeway

Cover image: River Road, Emu Plains flooding, March 2021.
— Infrastructure NSW | Adam Hollingworth



Windsor, looking east March 2021.— Infrastructure NSW | Top Notch Video

Introduction

This guideline provides advice to councils on flood-related land use planning and the areas where flood-related development controls should apply.

This guideline helps NSW communities to be more resilient to flooding beyond the 1% Annual Exceedance Probability¹ (AEP). This involves considering the management of flood risk for the full range of flooding up to the Probable Maximum Flood (PMF) in land use planning. The guideline applies to both mainstream and overland flow flooding.

This guideline is consistent with the NSW Government's Flood Prone Land Policy (the policy), set out in the NSW Floodplain Development Manual (the manual) published in 2005, which supports the resilient development of flood-prone land. Flood-prone land, or the floodplain, is defined in the manual as the land susceptible to flooding by the PMF event. The policy recognises that flood-prone land may be able to support some types of development. It outlines that each local council is responsible for managing the flood risk to reduce the risk to life, property damage and other impacts in their local government area.

The manual outlines the flood risk management (FRM) process to help councils make informed decisions on managing flood risk to both existing and future development. The FRM process involves studies to understand flood behaviour and examine management options, and the development and implementation of FRM plans.

The manual sets out key issues relating to managing risk to existing and future occupants of flood-prone land that need consideration in land use planning. These include the:

- safety of people including evacuation considerations
- management of flood risk, to reduce flood damage to public and private property and infrastructure
- management of the impacts of development, including cumulative impacts of development
- application of development controls
- management of the impacts of development on emergency services.

All terms referenced in this guideline have the same meaning as those in the standard instrument prescribed by the Standard Instrument (Local Environmental Plans) Order 2006 (Standard Instrument) or the manual, unless otherwise defined at the end of this guideline.

¹ The 1% AEP flood is equivalent to the 100-year Annual Recurrence Interval (ARI) and has a 1% chance of happening every year.



Applying the guideline

Section 733 of the *Local Government Act 1993* provides councils with a limited protection from liability if they have followed the principles of the Floodplain Development Manual. As councils undertake or update studies under the FRM process or obtain additional flood information, this information could support councils with the implementation of this guideline.

Councils do not need to apply both flood planning categories outlined in this guideline in their land use planning documents. Councils are required to use the 'Flood Planning Area' (FPA) category and associated standard instrument clause but have discretion in the use of the 'Special Flood Considerations' (SFC) category in their land use planning documents.

Considering flooding in land use planning

The full range of flooding up to and including the PMF must be considered when undertaking strategic land use planning. This includes the preparation of:

- regional, metropolitan and district plans,
- local strategic planning statements,
- environmental planning instruments, and
- planning proposals.

Understanding how key flood constraints vary

The key constraints that result from flooding on land are:

- Flood function. Determining flood function involves identifying the location of floodways, flood storage areas, and flood fringe areas. Floodways and flood storage areas are sensitive to changes in flood behaviour due to activities such as filling or more intense development.
- Flood hazard. Floods are hazardous to people, and public and private infrastructure. The degree of flood hazard varies between locations in the floodplain and flood events of different scales.
- Extent and flooding behaviour. Understanding the extent of the full range of flood events and how flood function and flood hazard may change between events can enable the associated constraints on land to be considered in decision-making.
- Risk to life, such as in areas identified by council or state agencies under the FRM process or through emergency management planning processes.

Hunter Valley Flood Mitigation Scheme – John Spencer | DPIE

The Floodplain Development Manual and its guides provide guidance to assist councils in determining these flood constraints and how they vary on land within the floodplain.

Understanding these constraints allows DCP controls to be developed for the two categories outlined below, that are used in land use planning decision-making. The controls applied in these areas will vary with location, constraints and type of development.

Where flood-related development controls may be applied

There are two different categories where flood-related development controls may be applied/considered. These are:

- Flood Planning Areas (FPAs), and
- Special Flood Considerations (SFCs).

Councils will be required to include the mandatory standard instrument 'flood planning' provision without variation in their LEPs, and if they choose to adopt the optional standard instrument SFC provision, it must be adopted without variation but subject to any relevant direction in the standard instrument (cl 4(2), SI order).

Flood Planning Areas

Flood Planning Areas will be introduced through a mandatory 'flood planning' clause in the Standard Instrument.

FPA is the area of land at or below the flood planning level (FPL).

The **FPL** is a combination of the flood level from the defined flood event (DFE) and freeboard selected for flood risk management purposes.

Councils should define their FPAs and FPLs in their development control plans (DCPs) and outline if there are multiple FPAs/FPLs and where they apply. For example, a council may have a different FPAs for different catchments based on the flood risk identified through the FRM process. Council may also have different FPLs based on the land use type (for example, residential, industrial, commercial developments) these should be documented in their DCP. Council may have a range of development controls to suit the flood constraints and different types of development.

Councils can attach their adopted flood policies, flood studies and floodplain risk management studies and plans to their DCPs to ensure they are considered by the consent authority when determining a development application under section 4.15 of the *Environmental Planning and Assessment Act 1979*.

The **DFE** is selected by council for floodplain risk management purposes for an area/catchment, generally through the FRM process outlined in the manual. DFEs form the basis for determining the level of exposure to flooding and associated risks to life and property damage. The manual identifies the 1% AEP flood event, or an equivalent historic flood, as an appropriate starting point for determining the DFE for development controls, including for residential development. The manual allows the selection of a rarer DFE to address broad scale flood impacts in consideration of the social, economic, environmental and cultural consequences associated with floods of different probabilities.

The typical freeboard for residential development due to flooding from waterways, such as rivers or creeks, is 0.5m. A lower freeboard or an alternative approach to freeboard may be used where the consequences to people and property of low probability flood events are assessed as minor through the FRM process.

Where councils propose alternative FPLs, they are required to demonstrate and document – in a flood study and/or floodplain risk management study – the merits of this approach, based on a risk management approach that is consistent with the FRM process and the principles of the manual.



Governor Phillip Park in flood, March 2021 — Infrastructure NSW | Top Notch Video

Special Flood Considerations

Special flood considerations (SFC) are particular flood risk considerations that a consent authority must be satisfied with before granting consent to certain types of development that have been identified by councils and the state government as having a higher risk to life and warranting the consideration of the impacts of rarer flood events on land located outside the FPA. These types of development require special flood considerations relating to the management of risk to life and the risk of hazardous industry/hazardous storage establishments to the community and the environment in the event of a flood.

SFCs also apply to land that, in the event of a flood, may cause a particular risk to life and require the evacuation of people or other safety considerations.

These special flood considerations include that the development:

1. will not affect the safe occupation of and efficient evacuation of people in the event of a flood, and
2. incorporates appropriate measures to manage risk to life from flood, and
3. will not adversely affect the environment in the event of a flood.

SFCs will be introduced through an optional clause in the Standard Instrument. This is an optional provision of the Standard Instrument and councils will have the discretion whether to adopt the clause in a LEP that adopts the Standard Instrument and apply the SFCs in their LGA, provided they have appropriate information and justification to support the flood related development controls. Studies under the FRM process, as well as emergency management planning processes and relevant strategies and plans developed by NSW Government may provide information and support justification for the adoption of the clause.

If councils choose to adopt the optional SFC clause in their LEPs, it is suggested that councils also include the relevant SFCs in its DCP.

These controls generally relate to:

- Sensitive uses that require ongoing functionality during and after a flood event such as hospitals with emergency facilities and emergency services facilities.
- Sensitive uses that require high levels of assistance with evacuation, such as seniors housing, group homes, boarding houses, hostels, caravan parks, educational establishments, centre-based childcare facilities and hospitals.
- Hazardous industries or hazardous storage establishments that require containment of materials in the event of a flood.

- Development that is not identified as sensitive and hazardous development (refer to definitions) that requires risk to life or other safety consideration such as:
 - areas of low probability flood events that have the potential for high consequences. (for example, where new floodways develop in low probability floods)
 - areas covered by an adopted council policy or plan
 - where development controls are needed to address risk to life or other safety considerations identified in studies under the FRM process or through the emergency management planning process.
 - Areas that warrant development controls to address risk to life considerations such as:
 - areas with evacuation limitations
 - where increases in dwelling densities would have a significant impact on the ability of the existing community to evacuate
- using existing evacuation routes within the available warning time
 - where vertical evacuation for short duration flooding is required such as where the rate of rise of floodwater prohibits safe evacuation from the land
 - behind flood levees which may have warning and/or evacuation limitations.
 - impacted by either high hazard or/and H4 to H6 hazard vulnerability thresholds in the PMF as defined in the manual or its supporting guides, and unable to safely evacuate
 - where subdivision layouts and connections to local or regional evacuation routes need to be consistent with the Hawkesbury Nepean Designing Safer Subdivisions Guide
 - areas indirectly affected by flooding where development may have for example outages of utility services
 - areas isolated by floodwaters and/or terrain (such as high flood island or trapped perimeter).

Maps

All areas where flood-related development controls apply should be mapped, with maps made publicly available. This could entail being published in development control plans, other relevant environmental planning instruments or on a council website.

However, in areas where mapping is not available, risk-based flood controls can still apply to other flood-prone land, in accordance with the manual.

Isolated rural property in the Hawkesbury, March 2021 — Infrastructure NSW | Adam Hollingworth



Further Information

Please contact the relevant regional offices of the Department of Planning, Industry and Environment.
www.planning.nsw.gov.au

Definitions

Defined flood event (DFE)

is the flood event selected as a general standard for the management of flooding to development.

Flood Behaviour

refers to the characteristics of flood waters interacting with the landscape. These characteristics include the location, depth, velocity, timing, volume, and period of inundation related to flood water.

Flood planning level (FPL)

is the combination of the flood level from the defined flood event and freeboard selected for flood risk management purposes.

Sensitive and Hazardous development may include:

- boarding houses,
- caravan parks,
- correctional centres,
- early education and care facilities,
- eco-tourist facilities,
- educational establishments,
- emergency services facilities,
- information and education facilities,
- group homes,
- hazardous industries,
- hazardous storage establishments,
- hospitals,
- hostels,
- respite day care centres,
- seniors housing,
- sewerage system,
- tourist and visitor accommodation,
- water supply system.



Warrego flooding between Fords Bridge and Engonnia – Melissa Hams | DPIE



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