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Submitted online.

To whom it may concern

## **Climate Change and Natural Hazards SEPP**

I write in relation to the Department's proposal to create a new Climate Change and Natural Hazards State Environmental Planning Policy.

The discussion papers state that the policy will support merit-based decisions and that the NSW Government does not want to **slow the development process or add unreasonable cost** (our bold).

It recognises that different developments will have different risk profiles over time.

This is a welcome approach to climate change policy.

Initiatives that deliver consistent decision-making, and that guide consent authorities about how they should address climate risk and mitigate the effects of natural hazards, will help to reduce the unnecessary obstruction of development.

Urban Taskforce Australia believes that State Government oversight will help to ameliorate the often excessively conservative approaches often taken by local councils when it comes to climate change.

We support initiatives that will balance risk management with the need to deliver more housing, a point recognised by the Department in the *Explanation of Intended Effect* paper.

### **The need for guidance**

Urban Taskforce Australia supports stronger rules for climate change mitigation in principle, so long as they are supported with guidance that ensures consistent council decision-making and gives certainty for developers about where to invest.

This needs to be the central position of the NSW Government.

Climate change policy cannot be set at a high level only then to be left to councils to interpret and implement. It should be an iterative process where the State Government carries out a reality check on some of the more extreme positions councils may adopt.

The State Disaster Mitigation Plan 2024-2026 (SDMP) and Disaster Adaptation Plans (DAP) will be useful to address mitigation, but more guidance may be needed to help councils to implement those strategies appropriately.

Guidance for councils would be welcomed by Urban Taskforce, but it needs to be directed to prevent potential local government overreach.

**Recommendation 1: Ensure that sufficient guidance and tools are developed to support councils in delivering climate change and natural hazards mitigation strategies and planning controls.**

### **Tolerable risk**

Urban Taskforce Australia supports the concept of “tolerable” risk, allowing “acceptable” risk, rather than “no” risk, to be the guiding principle.

We contend that a risk-management approach to decision-making is essential to striking a balance between risk mitigation and housing supply through the creation of the *State Environmental Planning Policy (Climate Change and Natural Hazards) 2026* (the SEPP).

This will require guidance and support for councils to ensure that they can analyse and determine tolerable risk and transform it into effective solutions.

**Recommendation 2: Outline methodologies and considerations for use by councils to determine tolerable risk, reinforcing the principle of proportionality in decision-making.**

### **Costs and benefits**

Urban Taskforce agrees that planning is uniquely placed to address climate risk and natural hazards and to guide future development decisions.

However, costs and benefits must be considered in decision-making.

Traditionally, planning policy has been created without any such analysis, and councils are not necessarily well-versed in understanding the cost implications of their proposals.

It is difficult to see from the papers what level of assessment will be required of these proposals in the future, but it is essential that it be carried out openly and measured against agreed principles.

Urban Taskforce encourages the NSW Government to create a framework to help councils to consider the costs and benefits of their proposals before they are implemented.

**Recommendation 3: Deliver a cost-benefit analysis framework for councils to use to assess the implications of their climate change and natural hazard decisions.**

### **Housing supply**

Urban Taskforce welcomes the emphasis in *Explanation of Intended Effect* of the importance of housing, which is a positive change to the approach often taken in relation to climate change policy.

Housing has been identified by the NSW Government as a key priority, strongly supported by Urban Taskforce and the development industry, and it is appropriate to remind those developing and implementing policy of what the goal should be.

Urban Taskforce members believe that this needs to be reiterated in local policies and plans to remind planners of the importance of improving supply and affordability.

**Recommendation 4: Require councils to include a statement in local climate change and natural hazards policies recognising the need to support housing supply.**

### **Climate change**

Urban Taskforce Australia agrees that decision-makers will need to use stronger risk-management frameworks to address climate change.

However, while climate scenarios are helpful, planning should consider what is likely, rather than what “might” happen, and decisions should be practical, not overly conservative.

Although projections and potential exposure should be considered, and scenarios can help with that analysis, a practical approach should be taken – in line with the principle of “tolerable” risk – to determine the likelihood of something happening.

Merit-based decisions are welcomed, predictions over 20, 50, or 100 years should not rely on extreme assumptions, using the “worst-case” results of climate models.

Climate change policy should not open the door for a new round of prohibitions on development, creating another convenient excuse to block development.

New controls should not propose restrictions for something that may never occur or introduce measures more appropriately dealt with through BASIX or the Apartment Design Guideline.

**Recommendation 5: Ensure that climate change policy decisions are based on tangible evidence and analysed against tolerable risk thresholds.**

**Recommendation 6: Prevent “scope creep” by ensuring that climate change controls do not deal with issues that are adequately addressed through other means.**

### **Urban heat**

While it is recognised that urban heat is becoming an issue of greater concern, the problem does not just lie with the development sector, but a growing number of dark, hard surfaces, such as roads.

Housing development will undoubtedly have a role to play in addressing urban heat, but so will public domain spaces.

A flexible, outcomes-based approach would be welcome, if applied to all elements of urban growth, and any proposed design changes to a development should be assessed upfront for costs and benefits before being prescribed.

Independent advice should be sought to ensure that proposed minor adaptations are as flexible and cost-effective as the Department suggests.

Any requirements on urban heat design should be outlined at the design stage of a DA or at a rezoning, so that a proponent knows in advance what implications controls may have on their development.

Councils should equally be required to demonstrate the mitigation strategies with which they will be seeking to reduce the impact of their own assets on urban heat for a precinct.

The case studies discussed Transport Oriented Development (TOD) Accelerated Precincts as an example of effective urban heat strategies.

It is important to note, however, that to date none of these precincts have been delivered.

While this is not solely due to urban heat requirements, and the issues need to be addressed, it is important not to put so many expectations and restrictions on these precincts that it prevents projects from being feasible.

**Recommendation 7: Address urban heat issues through a place-based strategy that considers not just development, but also roads, public domain, and community facilities and their contributions to urban heat.**

### **Bushfire**

Sensible bushfire planning is welcome, and the intention to maintain and support current processes, rather than creating a new framework, is applauded.

Bushfire planning can only be managed on the basis of risk assessment, and should be a collaborative process with the Rural Fire Service.

Again, any policy initiatives should be based on tolerable risk, not on a purely prohibitive basis, and those who own land in bushfire prone areas should be given sufficient data to make informed decisions.

Urban Taskforce agrees that assessments should be addressed at subdivision, rather than on a house-by-house basis.

**Recommendation 8: Collaborate with RFS on the update of *Planning for Bushfire Protection*, so that it is balanced between planning and emergency response needs and perspectives.**

### **Coastal hazards**

Urban Taskforce supports the existing coastal hazards framework, but is concerned that councils may not be completing their assessments.

Risk assessment approaches need to take practical benchmarks for inundation, not the most extreme cases, and to consider the role of local government in managing the public domain to prevent flooding.

A conservative position on coastal hazards will unnecessarily prevent development, and should be avoided.

For example, the case study for North Tuncurry talked about sea level rises of 28-96cm by 2100 with 90% confidence. It is presumably not difficult to have such high confidence over a range of almost 70cm from highest to lowest – there would presumably be quite disparate impacts caused by a 28 cm rise compared with a 96cm rise.

Planning for these areas should be based on more nuanced analysis, rather than broad ranges.

**Recommendation 9: Take a practical approach to coastal hazards, in collaboration with councils, that addresses public domain management as a factor in mitigation and uses reasonable assessments of potential impacts.**

### **Flooding**

The move to “dynamic consideration of risk” in relation to flooding appears to be reasonable, but there is still a high propensity of authorities to assume the worst in flood planning.

At present, flood policy is too at the mercy of individual assessment officers, who appear to take conservative positions to avoid any liability on future flood impacts.

The “Probable Maximum Flood” approach often used does not represent tolerable risk, but is a “no risk” stance to planning, which tends to rule out most development. It makes sense for the design of critical facilities, but not for housing supply.

Taking a tolerable risk approach to flooding should not require 1-in-500 benchmarks, as shown in the Riverstone East Stage 3 case study – but should allow for more reasonable thresholds.

A 1-in-100 threshold plus freeboard is usually the most appropriate approach, balancing risk with housing need.

Taking an overly conservative approach to planning for an area, will simply lock off land that should be developable and reduce the ability to deliver new housing supply.

**Recommendation 10: Adopt a 1-in-100 plus freeboard threshold for flood planning.**

### **Rebuilding after natural disasters**

Urban Taskforce Australia recognises the high cost of rebuilding following a natural disaster, and notes the impact this has on the delivery of new housing supply.

To this end, we support an emphasis on improving mitigation and seeking to reduce the cost of recovery.

Developing principles to support rebuilding is also a sensible strategy, and Urban Taskforce supports the move of clause 5.9 into the new SEPP. It should not be an opt-in for councils.

However, the inclusion of requirements to make rebuilt homes and buildings more resilient needs to be practical and limited. If the inclusion of resilience in rebuilds is too costly, it will exceed insurance payments and make recovery more expensive.

This could delay – by weeks, months, or even years – the reconstruction of housing and the resumption of normal life for affected homeowners.

**Recommendation 11: Move clause 5.9 into the SEPP with limited requirements for including resilience in reconstruction, and make it mandatory for councils.**

## Conclusion

Urban Taskforce Australia supports the proposal to create a new SEPP for climate change and natural hazards.

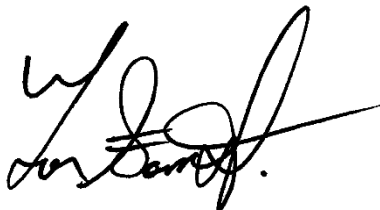
We believe that the SEPP should require proportionality, reemphasise the need for housing, and ensure that all proposed measures have been analysed for costs and benefits.

Climate change and natural hazards policies should be developed on the principle of tolerable risk and recognise that events will happen and people will be affected.

They should not be used as an excuse to throw further barriers in the way of new development.

Should you wish to discuss any aspect of this submission further, please call our Policy, Planning, and Research Analyst, Paul Waterhouse, on 0411-875-366 or via email [paul@urbantaskforce.com.au](mailto:paul@urbantaskforce.com.au)

Yours sincerely



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*Appendix: Climate Change and Natural Hazards State Environmental Planning Policy Explanation of Intended Effect Feedback Questions*

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### ***Do you support the proposal to introduce an overarching climate risk clause in the CC&NH SEPP?***

Yes, but within reason. Climate change implications should be considered, but not so conservatively that they cause most development to be unviable.

### ***What additional guidance or supporting materials would be needed to implement the CC&NH SEPP?***

Stronger risk-management frameworks, so that decision-makers are considering realistic scenarios and not basing planning on worst-case climate models.

### ***Should projects under Division 5.1 (Part 5) also consider climate risk and how should the proposed Climate Change Scenario Guidelines be used in the preparation of a Review of Environmental Factors (REF)?***

An overarching climate risk clause could allow councils to impose a range of controls more appropriately dealt with through other means (BASIX, the ADG).

Climate change should be considered, but as one of many factors, not as the primary consideration.

### ***Do you support the proposal to introduce the Urban Heat Policy to encourage greater consideration of urban heat in land use planning decisions?***

In general, guidance would be welcome, but it should apply at the design stage of a DA or at rezoning.

### ***What guidance or supporting materials will be needed to ensure urban heat considerations are appropriate for different contexts and climate zones?***

Tailored guidance, based on the different climate zones identified in the National Construction Code, which addresses key considerations relevant to each area.

### ***Do you support the proposal to develop urban heat provisions in the CC&NH SEPP? Where should such provisions apply and to what type of development?***

Yes, but it needs to be practical and not mandatory. Each development site needs to be considered on its own merits, and not as a generic urban heat-affected development.

Triggers are not supported, as these do not consider the individual circumstances of a site.

### ***Are there any other opportunities to build resilience to urban heat in the planning system?***

A place-based strategy should be adopted that considers linear assets (roads), public domain, and intended community use.

***What matters will need to be included in the new clause regarding bushfire risk assessment?***

Clear guidelines on what can be built in what BAL zone. *Updating Planning for Bushfire Protection needs to be a collaboration between RFS and DPHI, not the brigade alone.*

***Do you support the proposed application of streamlined bushfire risk assessments for urban release areas? What mechanisms would you recommend to ensure that adequate bushfire evacuation and mitigation infrastructure is delivered in these areas?***

Yes, anything that can give greater certainty to the development community.

Proposed restrictions should be discussed with members of the public so that potential sites for housing development are not unnecessarily ruled out because of blanket restrictions.

***Which existing coastal hazard-related LEP clause provisions should be included in an updated CVA clause and why?***

No comment.

***The CVA can apply to all seven coastal hazards, what specific matters should be addressed in an updated clause?***

The existing framework is fine, but implementation through hazard and verified wetland mapping is a long way off, because councils don't appear to want to take on existing landowners.

The process should lead to clarity around development, not additional reasons to oppose housing.

***The CUA clause is identified for inclusion in the CC&NH SEPP. If this clause was also updated, what matters would need to be included?***

No comment.

***What matters should be included in updated coastal protection work provisions to address both the risk of coastal hazards and potential impacts of a proposed structure?***

Many solutions to inundations require effective management of the public domain, and this should be the focus of DCCEEW.

***Do you support transition of existing coastal risk planning mapping in LEPs to be CVA mapping?***

Sure, if it leads to greater consistency and certainty.

***Would you support transition of existing coastal hazard mapping in Development Control Plans to be CVA mapping?***

Sure, if it leads to greater consistency and certainty.

**Would you support transition of coastal hazard mapping from a certified coastal management program, or a council adopted coastal hazard study to be CVA mapping?**

Sure, if it leads to greater consistency and certainty.

**Are there opportunities to fast-track CVA identification and mapping?**

No comment.

**Do you support using the NSW coastal erosion and inundation hazards and exposure assessment (DCCEEW, 2025) as the basis for CVA mapping across the state?**

Sure, if it leads to greater consistency and certainty.

**Do you support the proposal to move SI LEP clauses 5.21 and 5.22 into the CC&NH SEPP?**

Sure, if it leads to greater consistency and certainty.

Clause 5.22(2)(b) should not be transferred to the new SEPP but should instead be removed from the Standard Instrument.

**Would councils like to 'opt in' to clause 5.22?**

No comment.

**Would you support updating the terminology around flood control lots including changing the term to align with the existing flood planning area terminology and moving the flood control clauses into a standardised clause in the CC&NH SEPP?**

Yes, because flood policy is too much at the mercy of individual assessment officers, which is leading to highly subjective and conservative decision-making.

**Are there any additional considerations needed in the flood clauses (5.21 and 5.22)?**

PMF currently combines a range of extreme conditions and probabilities to calculate the largest flood possible in a catchment (1 in 10,000+ years).

This threshold should not apply to residential development but should only be used for the design of critical facilities, such as hospitals.

It takes a "no risk" planning approach, when a 1:100 plus freeboard measure is the most appropriate benchmark.

**Do you support the proposal to give effect to council prepared flood prone land maps through the CC&NH SEPP?**

Maybe, but it has to lead to more consistency in decision-making. Planning should be based on what is likely, not on extreme probabilities that may never happen.

**Are there specific circumstances where build back better should not be pursued?**

No. There should be a standard, consistent approach to rebuilding across NSW.

**Would councils like to opt in to adopt clause 5.9?**

The clause should be mandated in the SEPP for all councils.

***Are there additional ways the planning framework could address rebuilding post disaster?***

There must be a limit to what consent authorities can require proponents to do to make their homes more resilient, focusing on practical and fast rebuilding, rather than prescription and red tape.