

Direction No. 15 – Flood Prone Land

Objective

- To ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual, 2005.
- To ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.

Where this direction applies

This direction applies to all councils that contain flood prone land within their LGA.

When this direction applies

This direction applies when a council prepares a draft LEP that creates, removes or alters a zone or a provision that affects flood prone land.

What a council must do if this direction applies

- (1) A draft LEP shall include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual, 2005 (including the *Guideline on Development Controls on Low Flood Risk Areas*).
- (2) A draft LEP shall not rezone land within the flood planning areas from Special Area, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial or Special Area Zone.
- (3) A draft LEP shall not contain provisions that apply to the flood planning areas 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 development of that land,
 - (d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or
 - (e) permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas) or exempt development.
- (4) A draft LEP must not impose flood related development controls above the residential flood planning level for residential development on land, unless a council provides adequate justification for those controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).
- (5) For the purposes of a draft LEP, a council must not determine a flood planning level that is inconsistent with the Floodplain Development Manual 2005 (including the *Guideline on Development Controls on Low Flood Risk Areas*) unless a council provides adequate justification for the proposed departure from that Manual to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).
- (6) A draft LEP may be inconsistent with this direction only if council can satisfy the Director-General (or an officer of the Department nominated by the Director-General) that any particular provision or area should be varied or excluded having regard to the provisions of section 5 of the Environmental Planning and Assessment Act, and
 - (a) the rezoning is in accordance with a floodplain risk management plan prepared in accordance with the principles and guidelines of the Floodplain Development Manual, 2005, or
 - (b) the rezoning is, in the opinion of the Director-General (or an officer of the Department nominated by the Director-General), of a minor significance.

Note: “flood planning area”, “flood planning level”, “flood prone land” and “floodway area” have the same meaning as in the Floodplain Development Manual 2005