



NSW GOVERNMENT
Department of Planning

Section 117 ministerial directions issued under the Environmental Planning and Assessment Act 1979

30 September 2005



New South Wales planning reforms

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Note

This document is believed to be a correct and accurate representation of the section 117(2) directions made and amended from time to time.

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ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

Direction under Section 117(2)

I, the Minister for Planning, pursuant to Section 117(2) of the Environmental Planning and Assessment Act 1979 (the Act), hereby direct Councils to exercise functions under Divisions 4 and 5 of Part 3 of the Act in relation to the preparation of a draft local environmental plan as specified in Schedule 1.

Frank Sartor, MP
Minister for Planning

Sydney,
Signed 27 September 2005
Issued 30 September 2005

Note

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Direction No.1 - Acid Sulfate Soils

Objective

- To ensure that any use of land that is mapped as having a probability of containing acid sulfate soils will not result in significant environmental impacts.

Where this direction applies

This direction applies to all councils that contain land having a probability of containing acid sulfate soils, as shown on Acid Sulfate Soils Risk Maps produced by the Department of Natural Resources.

When this direction applies

This direction will apply when a council prepares a draft LEP that will apply to land having a probability of containing acid sulfate soils.

What a council must do if this direction applies

- (1) Council shall consider the Acid Sulfate Soils Planning Guidelines adopted by the Director-General when preparing a draft local environmental plan or a draft development control plan that applies to any land identified on the Acid Sulphate Soils Risk Maps as having a high or low probability of acid sulfate soils being present.
- (2) When a council is preparing a draft LEP to introduce provisions to regulate works in acid sulfate soils, those provisions shall be consistent with the Acid Sulfate Soils Model LEP in the Acid Sulfate Soils Planning Guidelines adopted by the Director-General.
- (3) If a change of land use is proposed, a council shall not prepare a draft LEP that rezones land identified as having a high or low probability of acid sulfate soils on Acid Sulfate Soils Risk Maps unless the council has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils.
- (4) Where an ASS LEP has not been introduced and council is preparing a draft LEP that rezones any land identified as having a high or low probability of acid sulfate soils on the Acid Sulfate Soils Risk Maps, the draft LEP must contain provisions consistent with the ASS model LEP.
- (5) A draft LEP may be inconsistent with (2) and (4) if that draft LEP is prepared pursuant to the standard instrument under section 33A of the Environmental Planning and Assessment Act 1979.

Direction No.2 – Approval, Concurrence and Consultation

Objective

- To ensure that state agencies are appropriately involved in consultation and concurrence roles.

Where this direction applies

This direction applies to all councils.

When this direction applies

This direction applies when a council prepares a draft LEP.

What a council must do if this direction applies

- (1) A draft LEP shall not contain provisions requiring concurrence, consultation or referral of a Minister or public authority;
- (2) A draft LEP may be inconsistent with paragraph (1) only if council has obtained the approval of the appropriate Minister or public authority and the Director-General prior to a certificate under section 65 of the Act being issued.

Note: In this direction “*public authority*” has the same meaning as section 4 of the Act.

Direction No.3 – Business Zones

Objective

- To ensure the economic and efficient development of existing business areas and centres, and related public services.

Where this direction applies

This direction applies to all councils.

When this direction applies

This direction applies when a council prepares a draft LEP that creates, removes or alters a Business Zone boundary or a Business Zone provision.

What a council must do if this direction applies

- (1) The draft LEP shall not:
 - (a) alter the location of existing zonings, or
 - (b) alter the area of existing zonings, or
 - (c) create, remove or alter provisions applying to land zoned for Business that will result in a reduction of potential floor space area.
- (2) A draft LEP may be inconsistent with this direction only if council can satisfy 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 land has been identified in a strategy prepared by the council and approved by the Director-General, or
 - (b) the rezoning is justified by an environmental study, or
 - (c) the rezoning is in accordance with the relevant Regional Strategy prepared by the Department, or
 - (d) the rezoning is, in the opinion of the Director-General, of a minor significance.
- (3) For the purposes of (2)(b), an environmental study has the same meaning as in s.57 of the Environmental Planning and Assessment Act.

Direction No.4 – Central Coast

Objective

- To ensure that land is zoned in accordance with the appropriate regional strategy.

Where this direction applies

This direction applies to Gosford and Wyong Councils.

When this direction applies

This direction applies when these councils prepare a draft LEP.

What a council must do if this direction applies

- (1) A draft LEP shall be consistent with the Gosford-Wyong Structure Plan (as approved by the Minister in November 1977) except as amended by the Sydney Regional Environmental Plan No 6 –Gosford Coastal Areas.
- (2) A draft LEP may be inconsistent with this direction only if council can satisfy 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 land has been identified in a strategy prepared by the council and approved by the Director-General, or
 - (b) the rezoning is justified by an environmental study, or
 - (c) the rezoning is in accordance with the relevant Regional Strategy prepared by the Department
 - (d) the rezoning is, in the opinion of the Director-General, of a minor significance.
- (3) For the purposes of (2)(b), an environmental study has the same meaning as in s.57 of the Environmental Planning and Assessment Act.

Direction No.5 – Coal, Other Minerals, Petroleum and Extractive Resources

Objective

- To ensure that State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are adequately considered when preparing a draft Local Environmental Plan
- That inappropriate development does not compromise the future extraction of these resources

Where this direction applies

This direction applies to all councils.

When this direction applies

This direction applies when a council prepares any draft LEP that:

- Introduces a prohibition on mining of coal or other minerals production of petroleum, or winning or obtaining of extractive materials, or
- may restrict potential development of resources of coal, other minerals, petroleum or extractive materials, which are of State or regional significance, by changing the permissible use of any land to permit a use that is potentially incompatible with such development.

What a council must do if this direction applies

- (1) In the preparation of a draft Local Environmental Plan affected by this direction, the council shall:
 - (a) Consult the Director-General of the Department of Primary Industries (DPI) to identify any:
 - (i) Resources of coal, other minerals, petroleum or extractive material that are of either State or regional significance, and
 - (ii) Existing mines, petroleum production operations or extractive industries occurring in the area subject to the draft LEP, and
 - (b) Seek advice from the Director-General of DPI on the development potential of resources identified under (1)(a)(i), and
 - (c) Identify and take into consideration issues likely to lead to land use conflict between other land uses and :
 - (i) development of resources identified under (1)(a)(i), or
 - (ii) existing development identified under (1)(a)(ii),
- (2) Where a draft LEP prohibits or restricts development of resources identified under (1)(a)(i), or proposes land uses that may create land use conflicts identified under (1)(c), council shall:
 - (a) Provide the Director-General of DPI with a copy of the draft LEP and notification of the relevant provisions, and
 - (b) Allow the Director-General of DPI a period of 40 days from the date of notification to provide in writing any objections to the terms of the draft LEP, and
 - (c) Include a copy of any objection and supporting information received from the Director-General of DPI with the statement to the Director-General under section 64 of the EP&A Act.

Direction No.6 – Coastal Protection

Objective

- To protect the ecological, scenic and leisure value of the coast for the people of NSW.

Where this direction applies

This direction applies to the coastal zone, as defined in the Coastal Protection Act 1979.

When this direction applies

This direction applies when a council prepares a draft LEP that creates, removes or alters a zone or a provision relating to land in the coastal zone.

What a council must do if this direction applies

- (1) A draft LEP shall:
 - (a) include provisions that give effect to and are consistent with:
 - (i) the manual relating to the management of the coastline for the purposes of section 733 of the Local Government Act 1993 [NSW Coastline Management Manual 1990], and
 - (ii) the NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997, and
 - (iii) the Coastal Design Guidelines 2003
 - (b) not alter, create or remove existing zonings.
- (2) A draft LEP may be inconsistent with this direction only if council can satisfy 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 land has been identified in a strategy prepared by the council and approved by the Director-General, or
 - (b) the rezoning is justified by an environmental study, or
 - (c) the rezoning is in accordance with the relevant Regional Strategy prepared by the Department, or
 - (d) the rezoning is, in the opinion of the Director-General, of a minor significance.
- (3) For the purposes of (2)(b), an environmental study has the same meaning as in s.57 of the Environmental Planning and Assessment Act.

Direction No.7 – Commercial and Retail Development along the Pacific Highway, North Coast

Objective

The objectives for managing commercial and retail development along the Pacific Highway are:

- To protect the Pacific Highway’s function, that is to operate as the North Coast’s primary inter- and intra-regional road traffic route;
- To prevent inappropriate development fronting the highway
- To protect public expenditure invested in the Pacific Highway,
- To protect and improve highway safety and highway efficiency,
- To provide for the food, vehicle service and rest needs of travellers on the highway, and
- To reinforce the role of retail and commercial development in town centres, where they can best serve the populations of the towns.

Where this direction applies

This direction applies to those councils on the North Coast that the Pacific Highway traverses, being those councils between Port Stephens Shire Council and Tweed Shire Council, inclusive.

When this direction applies

This direction applies when a council prepares a draft LEP for land in the vicinity of the existing and/or proposed alignment of the Pacific Highway.

What a council must do if this direction applies

- (1) A draft LEP that applies to land located on “within town” segments of the Pacific Highway shall provide that:
 - (a) new commercial or retail development shall be concentrated within distinct centres rather than spread along the highway,
 - (b) development with frontage to the Pacific Highway shall consider impact the development has on the safety and efficiency of the highway.
 - (c) For the purposes of this paragraph, “within town” means areas which, prior to the draft local environmental plan, have an urban zone (eg: “village”, “residential”, “tourist”, “commercial”, “industrial”, etc) and where the Pacific Highway speed limit is less than 80km/hour.
- (2) A draft LEP that applies to land located on “out-of-town” segments of the Pacific Highway shall provide that:
 - (a) new commercial or retail development shall not be established near the Pacific Highway if this proximity would be inconsistent with the objectives of this Direction.
 - (b) development with frontage to the Pacific Highway shall consider impact the development has on the safety and efficiency of the highway.
 - (c) For the purposes of this paragraph, “out-of-town” means areas which, prior to the draft local environmental plan, do not have an urban zone (eg: “village”, “residential”, “tourist”, “commercial”, “industrial”, etc) or are in areas where the Pacific Highway speed limit is 80km/hour or greater.

- (3) A draft LEP shall permit the establishment of a highway service centre beside the Pacific Highway, provided that:
- (a) They are located as near as possible to an existing town that has been by-passed,
 - (b) the town's economy is considered before approval is given to establish any new or expanded highway service centre on the edge or outside the town, and
 - (c) it is spaced no closer than 24 kilometres from another highway service centre or a town through which the highway still passes, and
 - (d) it is limited to one highway service centre to serve both directions of traffic, or one highway service centre per side of the highway,
 - (e) the only uses allowed in highway service centres are:
 - (i) service stations (which may supply convenience goods catering for the needs of the travelling public),
 - (ii) emergency vehicle repairs,
 - (iii) bus/coach terminal facilities (but not depots),
 - (iv) restaurant facilities (preferably both sit-down and fast food),
 - (v) toilet/shower facilities,
 - (vi) tourist information (but not commercial tourist facilities),
 - (vii) telephones,
 - (viii) rest areas (including seating, barbecue and play areas), and
 - (ix) adequate parking for cars, buses and trucks.
 - (f) For the purposes of this paragraph, a highway service centre is a place which provides only services essential to long distance travellers on the highway

Direction No.8 – Community Use of Educational Establishments

Objective

- To ensure that planning controls do not prevent community use of schools.

Where this direction applies

This direction applies to all councils that do not have a principal Local Environmental Plan, or a draft LEP, prepared pursuant to the standard instrument under section 33A of the Environmental Planning and Assessment Act 1979.

When this direction applies

This direction applies when a council prepares a draft LEP that zones or reserves land for educational establishments.

What a council must do if this direction applies

- (1) A draft LEP shall permit the development of land reserved or zoned for educational establishments for a community use, whether or not the community use is of a commercial nature or is a use ancillary to an educational establishment use.

Direction No.9 – Conservation and Management of Environmental and Indigenous Heritage

Objective

- To conserve items, places and precincts of environmental heritage
- To conserve the heritage significance of existing significant fabric, relics, Aboriginal objects, settings and views associated with the heritage significance of heritage items and heritage conservation areas.
- To conserve archaeological sites.
- To conserve places of Aboriginal heritage significance.

Where this direction applies

This direction applies to all councils.

When this direction applies

This direction applies when a council prepares a draft LEP that applies to an:

- item of heritage significance, being a place, building, work, relic, moveable object or precinct of significance to an area in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item.
- Aboriginal object or Aboriginal place:
 - protected under the National Parks and Wildlife Act 1974.
- An area, Aboriginal object or Aboriginal place:
 - identified by any Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, or any other Aboriginal body, which identifies the area, object or place as being of heritage significance to Aboriginal culture and people, and has been provided to the council

What a council must do if this direction applies

- (1) A draft LEP shall contain provisions to facilitate the conservation of:
 - (a) that item of heritage significance, and
 - (b) the Aboriginal object, the area of Aboriginal heritage significance or Aboriginal place.

Direction No.10 – Designated Development

Objective

- To ensure that development is assessed at the appropriate level.

Where this direction applies

This direction applies to all councils.

When this direction applies

This direction applies when a council prepares a draft LEP.

What a council must do if this direction applies

- (1) A draft LEP shall not identify development as designated development.
- (2) A draft LEP may be inconsistent with (1) only if council can satisfy the Director-General that any particular provision should be varied having regard to:
 - (a) The provisions of section 5 of the Environmental Planning and Assessment Act, and
 - (b) The class of development is likely to have a significant impact on the environment.
- (3) The Director-General's agreement in (2) shall be obtained prior to a certificate under section 65 of the Act being issued.

Direction No.11 – Development in a Mine Subsidence District or on Unstable Land

Objective

- To prevent damage to life, property and the environment by ensuring that appropriate provision is made for the development of land identified as unstable or subject to subsidence

Where this direction applies

This direction applies to all councils that contain a mine subsidence district proclaimed pursuant to section 15 of the Mine Subsidence Compensation Act 1961 or that contain unstable land.

When this direction applies

This direction applies when a council prepares any draft LEP that permits development of land in a mine subsidence district or on unstable land.

What a council must do if this direction applies

- (1) In the preparation of a draft Local Environmental Plan affected by this direction, the council shall:
 - (a) Where the land is subject to mine subsidence, consult the Mine Subsidence Board to ascertain:
 - (i) If the Mine Subsidence Board has any objection to the draft Local Environmental Plan, and the reason for such an objection, and
 - (ii) The appropriate scale, density and type of development that is appropriate for the potential levels of subsidence.
 - (b) Incorporate provisions into the draft Local Environmental Plan that are consistent with the recommended scale, density and type of development recommended under (1), and
 - (c) Include a copy of any information received from the Mine Subsidence Board with the statement to the Director-General of the Department of Infrastructure Planning and Natural Resources under section 64 of the EP&A Act 1979.
 - (d) Where a draft LEP applies to unstable land, council shall not prepare the draft LEP unless it is justified by an environmental study.
- (2) A draft LEP shall not permit development on unstable land.
- (3) A draft Local Environmental Plan shall be strictly consistent with this direction.
- (4) Notwithstanding (3), a draft LEP referred to in (2) may be inconsistent with this direction only if council can satisfy 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 land has been identified in a strategy prepared by the council and approved by the Director-General, or
 - (b) the rezoning is justified by an environmental study, or
 - (c) the rezoning is in accordance with the relevant Regional Strategy prepared by the Department, or
 - (d) the rezoning is, in the opinion of the Director-General, of a minor significance.
- (5) For the purposes of (4)(b), an environmental study has the same meaning as in s.57 of the Environmental Planning and Assessment Act.

Note: With regard to development applications, section 15 of the Mine Subsidence Compensation Act 1961 requires approval from the Mine Subsidence Board to alter or erect improvements within a mine subsidence district or to subdivide land therein.

Section 91 of the EP&A Act 1979 provides that approval under section 15 of the Mine Subsidence Compensation Act 1961 is integrated development. Section 91A of the EP&A Act provides that the consent authority must obtain from the relevant approval body (Mine Subsidence Board) the general terms of any approval proposed to be granted by the approval body in relation to the development. A consent granted by the consent authority must be consistent with the general terms of any approval proposed to be granted by the approval body.

Direction No.12 – Development near Licensed Aerodromes

Objective

- To ensure the effective and safe operation of aerodromes, and
- To ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity.
- To ensure development for residential purposes or human occupation, if situated on land within the ANEF contours of between 20 and 25, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.

Where this direction applies

This direction applies to all councils.

When this direction applies

This direction applies when a council prepares a draft LEP that creates, removes or alters a zone or a provision relating to land subject to noise from a licensed aerodrome.

What a council must do if this direction applies

- (1) In the preparation of a draft Local Environmental Plan affecting land in the vicinity of a licensed aerodrome, the council shall:
 - (a) consult with the Department of the Commonwealth responsible for aerodromes and the lessee of the aerodrome,
 - (b) take into consideration the Obstacle Limitation Surface (OLS) as defined by that Department of the Commonwealth,
 - (c) for land affected by the OLS:
 - (i) prepare appropriate development standards, such as height
 - (ii) allow as permissible with consent development types that are compatible with the operation of an aerodrome
 - (d) obtain permission from that Department of the Commonwealth, or their delegate, where a draft LEP proposes to allow, as permissible with consent, development that encroaches above the OLS. This permission shall be obtained prior to a certificate under section 65 of the Act being issued.
- (2) Draft Local Environmental Plans shall not rezone land:
 - (a) for residential purposes, nor increase residential densities in areas where the Australian Noise Exposure Forecast (ANEF) as from time to time advised by that Department of the Commonwealth exceeds 25, or
 - (b) for schools, hospitals, churches and theatres where the ANEF exceeds 20, or
 - (c) for hotels, motels, offices or public buildings where the ANEF exceeds 30.
- (3) Draft Local Environmental Plans that rezone land:
 - (a) for residential purposes or to increase residential densities in areas where the ANEF is between 20 and 25, or
 - (b) for hotels, motels, offices or public buildings where the ANEF is between 25 and 30, or
 - (c) for commercial or industrial purposes where the ANEF is above 30, shall include a provision to ensure that development meets AS 2021 regarding interior noise levels.

- (4) A draft LEP may be inconsistent with this direction only if council can satisfy 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 land has been identified in a strategy prepared by the council and approved by the Director-General, or
 - (b) the rezoning is justified by an environmental study, or
 - (c) the rezoning is in accordance with the relevant Regional Strategy prepared by the Department, or
 - (d) the rezoning is, in the opinion of the Director-General, of a minor significance.
- (5) For the purposes of (4)(b), an environmental study has the same meaning as in s.57 of the Environmental Planning and Assessment Act.

Direction No.13 – Environmental Protection Zones

Objective

- To protect land identified for environmental protection purposes.

Where this direction applies

This direction applies to all councils.

When this direction applies

This direction applies when a council prepares a draft LEP that creates, removes or alters an Environmental Protection Zone boundary or an Environmental Protection Zone provision.

What a council must do if this direction applies

- (1) Draft Local Environmental Plans shall not:
 - (a) create, alter or remove existing zonings, or identification, of land for environmental protection, however described, or
 - (b) alter or remove existing provisions in environmental planning instruments relating to subdivision and development controls for land referred to in (a).
- (2) A draft LEP may be inconsistent with this direction only if council can satisfy 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 land has been identified in a strategy prepared by the council and approved by the Director-General, or
 - (b) the rezoning is justified by an environmental study, or
 - (c) the rezoning is in accordance with the relevant Regional Strategy prepared by the Department, or
 - (d) the rezoning is, in the opinion of the Director-General, of a minor significance.
- (3) For the purposes of (2)(b), an environmental study has the same meaning as in s.57 of the Environmental Planning and Assessment Act.

Direction No.14 – Farmland of State and Regional Significance on the NSW Far North Coast

Objective

- To ensure that the best agricultural land will be available for current and future generations to grow food and fibre,
- To provide more certainty on the status of the best agricultural land, thereby assisting councils with their local strategic settlement planning,
- To reduce land use conflict arising between agricultural use and non-agricultural use of farmland as caused by urban encroachment into farming areas.

Where this direction applies

This direction applies to Ballina Shire Council, Byron Shire Council, Kyogle Shire Council, Lismore City Council, Richmond Valley Council and Tweed Shire Council.

When this direction applies

This Direction will apply when a council prepares a draft local environmental plan for land mapped as:

- State significant farmland, or
- regionally significant farmland, or
- significant non-contiguous farmland

as identified on the set of four maps held in the Department of Planning and marked “Northern Rivers Farmland Protection Project, Final Map 2005 (Section 117(2) Direction)”.

What a council must do if this direction applies

- (1) A draft local environmental plan shall not rezone land identified as “State Significant Farmland” for urban or rural residential purposes.
- (2) A draft local environmental plan shall not rezone land identified as “Regionally Significant Farmland” for urban or rural residential purposes.
- (3) A draft LEP shall not rezone land identified as “significant non-contiguous farmland” for urban or rural residential purposes.
- (4) A draft LEP may be inconsistent with this direction only if council can satisfy the Director-General that:
 - (a) 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
 - (b) the draft LEP is consistent with Section 4 of the report titled "Northern Rivers Farmland Protection Project - Final Recommendations, February 2005", as lodged in the Department of Planning.

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.
- (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 may be inconsistent with this direction only if council can satisfy 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, 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

Direction No.16 – Industrial Zones

Objective

- To maintain the supply of land primarily for industrial purposes.

Where this direction applies

This direction applies to all councils.

When this direction applies

This direction applies when a council prepares a draft LEP that creates, removes or alters an Industrial Zone boundary or an Industrial Zone provision.

What a council must do if this direction applies

- (1) The draft LEP shall not:
 - (a) alter the location of existing zonings, or
 - (b) alter the area of existing zonings, or
 - (c) create, remove or alter provisions affecting land zoned for industrial purposes that will reduce existing floor space ratio or height controls.
- (2) A draft LEP may be inconsistent with this direction only if council can satisfy 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 land has been identified in a strategy prepared by the council and approved by the Director-General, or
 - (b) the rezoning is justified by an environmental study, or
 - (c) the rezoning is in accordance with the relevant Regional Strategy prepared by the Department, or
 - (d) the rezoning is, in the opinion of the Director-General, of a minor significance.
- (3) For the purposes of (2)(b), an environmental study has the same meaning as in s.57 of the Environmental Planning and Assessment Act.

Direction No.17 – Integrating Land Use and Transport

Objective

To ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:

- improving access to housing, jobs and services by walking, cycling and public transport
- increasing the choice of available transport and reducing dependence on cars
- reducing travel demand including the number of trips generated by development and the distances travelled, especially by car
- supporting the efficient and viable operation of public transport services
- providing for the efficient movement of freight.

Where this direction applies

This direction applies to all councils.

When this direction applies

This direction applies when a council prepares a draft LEP that creates, removes or alters a zone or a provision relating to urban land, such as for residential, business or industrial purposes.

What a council must do if this direction applies

- (1) A draft LEP shall locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:
 - (a) Improving Transport Choice – guidelines for planning and development (DUAP 2001), and
 - (b) The Right Place for Business and Services – Planning Policy (DUAP 2001).
- (2) A draft LEP may be inconsistent with this direction only if council can satisfy 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 land has been identified in a strategy prepared by the council and approved by the Director-General, or
 - (b) the rezoning is justified by an environmental study, or
 - (c) the rezoning is in accordance with the relevant Regional Strategy prepared by the Department, or
 - (d) the rezoning is, in the opinion of the Director-General, of a minor significance.
- (3) For the purposes of (2)(b), an environmental study has the same meaning as in s.57 of the Environmental Planning and Assessment Act.

Direction No.18 – Manufactured Home Estates and Caravan Parks

Objective

- To ensure that councils provide for manufactured home estates and caravan parks

Where this direction applies

This direction applies to all councils. This direction does not apply to:

- Crown land reserved or dedicated for any purposes under the Crown Lands Act 1989, except Crown land reserved for accommodation purposes, and
- Land dedicated or reserved under the National Parks and Wildlife Act 1974

When this direction applies

This direction applies when a council prepares a draft LEP.

What a council must do if this direction applies

- (1) Draft LEPs shall:
 - (a) retain existing zones of land that permit caravan parks in LEPs,
 - (b) define Manufactured Home Estates [MHEs] in accordance with their definition in SEPP 36,
 - (c) include provisions that the subdivision of MHEs by long term lease of up to 20 years or under the Community Land Development Act 1989 must be permissible with consent, and
 - (d) define caravan parks in accordance with their definition in SEPP 21 and retain such caravan parks in zones where they are currently permissible.
- (2) In identifying suitable zones and locations for MHEs in draft local environmental plans council shall take into account the following principles contained in SEPP 36:
 - (a) the categories of land set out in Schedule 2 of the SEPP as to where MHEs should not be located.
 - (b) the principles listed in clause 9 of the SEPP which councils are required to consider when assessing and determining the development and subdivision proposals.
- (3) A draft LEP may be inconsistent with this direction only if council can satisfy 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 land has been identified in a strategy prepared by the council and approved by the Director-General, or
 - (b) the rezoning is justified by an environmental study, or
 - (c) the rezoning is in accordance with the relevant Regional Strategy prepared by the Department, or
 - (d) the rezoning is, in the opinion of the Director-General, of a minor significance.
- (4) For the purposes of (3)(b), an environmental study has the same meaning as in s.57 of the Environmental Planning and Assessment Act.

Direction No.19 – Planning for Bushfire Protection

Objective

- To protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas.
- To encourage sound management of bush fire prone areas

Where this direction applies

This direction applies to all councils that are required to prepare a bush fire prone land map under section 146 of the Act, or, until such a map has been certified by the Commissioner of the NSW Rural Fire Service, a map referred to in Schedule 6 of the Act.

When this direction applies

This direction applies when a council prepares a draft LEP that affects, or is in proximity to land mapped as bushfire prone land.

What a council must do if this direction applies

- (1) In the preparation of a draft local environmental plan a Council shall consult with the Commissioner of the NSW Rural Fire Service under section 62 of the Act, and take into account any comments so made,
- (2) A draft LEP shall:
 - (a) have regard to Planning for Bushfire Protection 2001,
 - (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and
 - (c) ensure that bushfire hazard reduction is not prohibited within the APZ
- (3) A draft LEP shall, where development is proposed, comply with the following provisions, as appropriate:
 - (a) provide an Asset Protection Zone (APZ) incorporating at a minimum:
 - (i) an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and
 - (ii) an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road,
 - (b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the draft local environmental plan permit Special Fire Protection Purposes (as defined under section 100B of the Rural Fires Act 1997), the APZ provisions must be complied with,
 - (c) contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks,
 - (d) contain provisions for adequate water supply for firefighting purposes,
 - (e) minimise the perimeter of the area of land interfacing the hazard which may be developed,
 - (f) introduce controls on the placement of combustible materials in the Inner Protection Area, and

- (4) If the draft local plan does not comply with the provisions listed in paragraphs 2 and 3, the Council must obtain written advice from the Commissioner of the NSW Rural Fire Service, to the effect that, notwithstanding the non-compliance, the NSW Rural Fire Service does not object to the progression of the draft local environmental plan.

Direction No.20 – Recreation Vehicle Areas

Objective

- To protect sensitive land or land with significant conservation values, by ensuring recreation vehicle areas are not permitted on them.
- To ensure relevant guidelines are considered for any other land which a council is intending to zone to permit recreation vehicle areas.

Where this direction applies

This direction applies to all councils.

When this direction applies

This direction applies when a council prepares any draft LEP.

What a council must do if this direction applies

- (1) Draft local environmental plans shall not zone land or enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the Recreation Vehicles Act 1983):
 - (a) where the land is within an Environmental Protection Zone,
 - (b) where the land comprises a beach or a dune adjacent to or adjoining a beach,
 - (c) where the land is not within an area or zone referred to in paragraphs (a) or (b) unless the council has taken into consideration:
 - (i) the provisions of the guidelines entitled "Guidelines for Selection, Establishment and Maintenance of Recreation Vehicle Areas, Soil Conservation Service of New South Wales, September, 1985", and
 - (ii) the provisions of the guidelines entitled "Recreation Vehicles Act, 1983, Guidelines for Selection, Design, and Operation of Recreation Vehicle Areas, State Pollution Control Commission, September 1985".
- (2) A draft LEP may be inconsistent with this direction only if council can satisfy 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 land has been identified in a strategy prepared by the council and approved by the Director-General, or
 - (b) the rezoning is justified by an environmental study, or
 - (c) the rezoning is in accordance with the relevant Regional Strategy prepared by the Department, or
 - (d) the rezoning is, in the opinion of the Director-General, of a minor significance.
- (3) For the purposes of (2)(b), an environmental study has the same meaning as in s.57 of the Environmental Planning and Assessment Act.

Direction No.21 – Residential Zones

Objective

- To ensure the orderly and economic use or development of residential land.

Where this direction applies

This direction applies to all councils.

When this direction applies

This direction applies when a council prepares a draft LEP that creates, removes or alters a Residential Zone boundary or a Residential Zone provision.

What a council must do if this direction applies

- (1) Draft local environmental plans shall contain a requirement that residential development is not permitted until land is adequately serviced with water and sewerage (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it).
- (2) Draft local environmental plans shall retain existing provisions enabling a dwelling house to be erected on an existing allotment.
- (3) Draft local environmental plans which zone land for residential purposes:
 - (a) shall not contain provisions which will reduce the permissible residential density on any land to which the plan applies, and
 - (b) shall in as much as is practicable and compatible with the environmental quality of the area, provide for a variety of housing forms and increase the permissible residential density on the land.
- (4) Draft local environmental plans in the Sydney region shall retain provisions to allow dual occupancy of dwelling houses, in other regions, draft local environmental plans may include such provisions.
- (5) A draft LEP may be inconsistent with this direction only if council can satisfy 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 land has been identified in a strategy prepared by the council and approved by the Director-General, or
 - (b) the rezoning is justified by an environmental study, or
 - (c) the rezoning is in accordance with the relevant Regional Strategy prepared by the Department, or
 - (d) the rezoning is, in the opinion of the Director-General, of a minor significance.
- (6) For the purposes of (5)(b), an environmental study has the same meaning as in s.57 of the Environmental Planning and Assessment Act.

Direction No.22 – Rural Zones

Objective

- To protect the agricultural production value of existing rural land.

Where this direction applies

This direction applies to all councils.

When this direction applies

This direction applies when a council prepares a draft LEP that creates, removes or alters a Rural Zone boundary or a Rural Zone provision.

What a council must do if this direction applies

- (1) Draft LEPs shall retain existing zones and provisions relating to the control of traffic generating development or access on major road frontages.
- (2) Draft LEPs shall not rezone rural land for urban purposes, including residential, business or industrial purposes.
- (3) Draft LEPs which zone land for rural purposes shall not contain provisions which will increase the permissible density on any land to which the plan applies.
- (4) A draft LEP may be inconsistent with this direction only if council can satisfy 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 land has been identified in a strategy prepared by the council and approved by the Director-General, or
 - (b) the rezoning is justified by an environmental study, or
 - (c) the rezoning is in accordance with the relevant Regional Strategy prepared by the Department, or
 - (d) the rezoning is, in the opinion of the Director-General, of a minor significance.
- (5) For the purposes of (4)(b), an environmental study has the same meaning as in s.57 of the Environmental Planning and Assessment Act.

Direction No.23 – Savings

Objective

- To ensure that all Crown and public utility undertakings are dealt with uniformly under the Act.
- To ensure that small business in the form of home occupations carried on in dwelling houses are not over regulated.

Where this direction applies

This direction applies to all councils that do not have a principal Local Environmental Plan, or a draft LEP, prepared pursuant to the standard instrument under section 33A of the Environmental Planning and Assessment Act 1979.

When this direction applies

This direction applies when a council prepares any draft LEP.

What a council must do if this direction applies

- (1) Draft LEPs shall not alter or remove the existing savings provisions relating to:
 - (a) certain developments by public authorities or public utility undertakings, or
 - (b) the use by the Crown of existing buildings, or
 - (c) home occupations carried on in dwelling houses.

Note: “*public utility undertaking*” has the same meaning as in the Environmental Planning and Assessment Model Provisions 1980.

“*public authority*” has the same meaning as s.4 of the Environmental Planning & Assessment Act 1979

Direction No.24 – Second Sydney Airport: Badgerys Creek

Objective

- To ensure that potential development is not incompatible with any future second Sydney Airport.

Where this direction applies

This direction applies to land shown within the boundaries of the proposed airport site and within the 20 ANEF contour as shown on the map entitled "Badgerys Creek–Australian Noise Exposure Forecast–Proposed Alignment–Worst Case Assumptions", this being found in Appendix U of the Second Sydney Airport Site Selection Program Draft Environmental Impact Statement within Fairfield City Council, Liverpool City Council, Penrith City Council and Wollondilly Shire Council local government areas.

What a council must do if this direction applies

- (1) Draft LEPs shall not contain provisions that enable the carrying out of development, either with or without development consent, which at the date of this Direction, could hinder the potential for development of a Second Sydney Airport.
- (2) A draft LEP may be inconsistent with this direction only if council can satisfy 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 land has been identified in a strategy prepared by the council and approved by the Director-General, or
 - (b) the rezoning is justified by an environmental study, or
 - (c) the rezoning is in accordance with the relevant Regional Strategy prepared by the Department, or
 - (d) the rezoning is, in the opinion of the Director-General, of a minor significance.
- (3) For the purposes of (2)(b), an environmental study has the same meaning as in s.57 of the Environmental Planning and Assessment Act.

Direction No.25 – Site Specific Zoning

Objective

- To make the range of uses permissible in zones as flexible as possible

Where this direction applies

This direction applies to all councils.

When this direction applies

This direction applies when a council prepares any draft Local Environmental Plan to allow a particular development proposal to be carried out.

What a council must do if this direction applies

- (1) A draft LEP that amends another environmental planning instrument in order to allow a particular development proposal to be carried out shall either:
 - (a) allow that land use to be carried out in the zone the land is situated on, or
 - (b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or
 - (c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.
- (2) A draft LEP shall not contain or refer to drawings that show details of the development proposal.
- (3) A draft LEP may be inconsistent with (1) only if council can satisfy 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 land has been identified in a strategy prepared by the council and approved by the Director-General, or
 - (b) the rezoning is justified by an environmental study, or
 - (c) the rezoning is in accordance with the relevant Regional Strategy prepared by the Department, or
 - (d) the rezoning is, in the opinion of the Director-General, of a minor significance.
- (4) For the purposes of (3)(b), an environmental study has the same meaning as in s.57 of the Environmental Planning and Assessment Act

Direction No.26 – Special Area Zones and Recreation Zones

Objective

- To facilitate the provision of public services and facilities by ensuring land for public purposes,
- To provide for the creation of zones and reservations for public purposes,
- To provide for land to be acquired by the Crown or any public authority when requested by that agency,

Where this direction applies

This direction applies to all councils.

When this direction applies

This direction applies when a council prepares a draft LEP that creates, alters or removes a zoning or provision for any public purpose.

What a council must do if this direction applies

- (1) A draft Local Environmental Plan shall not create, alter or reduce existing reservations or zonings of land for public open space without the approval of the relevant public authority and the Director-General.
- (2) When a Minister or public authority requests a council to zone land for a public purpose, the council shall include the requested provisions, unless the Director-General, upon being consulted by the council, advises to the contrary.
- (3) When a Minister or public authority requests a council to reserve land for a public purpose, the council shall include the requested provisions, unless the Director-General, upon being consulted by the council, advises to the contrary.
- (4) Land reserved under (3) shall either:
 - (a) maintain its existing zoning, or
 - (b) be rezoned to a zone appropriate to its future use, assuming that the acquisition does not proceed.
- (5) Consultation with the Director-General shall occur prior to a certificate under section 65 of the Act being issued.

Note: Clause 11 of the EP&A Reg 2000 provides that a local environmental plan or draft local environmental plan:

- (a) may not contain a provision reserving land for a purpose referred to in section 26 (1) (c) of the Act, and
- (b) may not contain a provision in respect of that reservation as required by section 27 of the Act, unless the public authority responsible for the acquisition of the land has notified the council of its concurrence to the inclusion of such a provision in the plan.

In this direction “*Land for public purposes*” has the same meaning as section 26(1)(c) of the Act.

In this direction “*public authority*” has the same meaning as section 4 of the Act.

Direction No.27 – Sydney to Canberra Corridor Strategy

Objective

- To ensure that draft LEPs are prepared in accordance with the Sydney to Canberra Corridor Strategy.

Where this direction applies

This direction applies to that land within the local government areas that are described as the Sydney to Canberra Corridor in the publication entitled *The Sydney to Canberra Corridor Strategy 1995*.

When this direction applies

This direction applies when a council prepares a draft LEP.

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 publication entitled *The Sydney to Canberra Corridor Strategy 1995*.
- (2) A draft LEP may be inconsistent with this direction only if council can satisfy 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 land has been identified in a strategy prepared by the council and approved by the Director-General, or
 - (b) the rezoning is justified by an environmental study, or
 - (c) the rezoning is in accordance with the relevant Regional Strategy prepared by the Department, or
 - (d) the rezoning is, in the opinion of the Director-General, of a minor significance.
- (3) For the purposes of (2)(b), an environmental study has the same meaning as in s.57 of the Environmental Planning and Assessment Act.

Direction No.28 – Water Catchment Areas – Sydney Catchment Authority

Objective

- To encourage the implementation of planning provisions which promote the protection of the quality of stored waters in the Sydney Catchment Authority's water storages.
- To encourage the maintenance of the ecological integrity of Special Areas

Where this direction applies

This direction applies to councils affected by State Environmental Planning Policy 58 – Protecting Sydney's Water Supply

When this direction applies

This Direction applies to the preparation of draft local Environmental Plans (DLEPs) that:

- apply to Special Areas: or
- zone land within an Outer Catchment Area: or
- remove, add or alter provisions relating to water catchment protection in an Outer Catchment Area, or
- remove, add or alter provisions relating to subdivision in an Outer Catchment Area: or
- remove, add or alter provisions relating to changes in permissible uses within a zoning in an Outer Catchment Area.

What a council must do if this direction applies

- (1) Council shall consult with the Sydney Catchment Authority when carrying out consultation under s62 of the Environmental Planning and Assessment Act to:
 - (a) ascertain whether the Sydney Catchment Authority has any objection to the DLEP and the reasons for the objection, and
 - (b) identify the likely impact of the DLEP on the quality of stored waters in the Sydney Catchment Authority's water storages.
- (2) Council shall allow the Sydney Catchment Authority 40 days from the date of consultation to provide the information, in writing, referred to in paragraph 1 (a) and (b).
- (3) Council shall also:
 - (a) include a copy of any information received from the Sydney Catchment Authority, as a result of the consultation process, in its statement under s 64 of the Environmental Planning and Assessment Act to the Director-General of the Department of Urban Affairs and Planning, and
 - (b) justify its reasons for proceeding with the preparation of that DLEP.
- (4) DLEPs which apply to Special Areas shall:
 - (a) clearly delineate any Special Area on any map forming part of the DLEP, and
 - (b) zone Special Areas as Environment Protection or National Park, where appropriate, except that land in Special Areas which is currently zoned for urban use, including land zoned to permit residential, commercial, or industrial purposes, may retain that zoning. The maps for the DLEP must clearly delineate these retained zones, and

- (c) require development consent for all development within a Special Area, except development for the purposes of protecting and/or providing drinking water by the Sydney Catchment Authority, which shall be permissible without consent, and
 - (d) include provisions which encourage the protection of the quality of stored waters in the Sydney Catchment Authority's water storages, and
 - (e) include provisions to maintain the ecological integrity of the Special Areas, and
 - (f) include provisions which require that Council, when determining a development application relating to a Special Area, take into consideration the impact of the proposed development on the quality of stored water in the Sydney Catchment Authority's water storages, and
 - (g) include provisions which require that Council, when determining a development application relating to a Special Area, take in consideration the impact of the proposed development on the ecological integrity of the Special Area.
- (5) DLEPs which apply to Outer Catchment Areas must:
- (a) clearly delineate any Outer Catchment Area on any map forming part of the DLEP, and
 - (b) include provisions to protect the quality of stored waters in the Sydney Catchment Authority's water storages, and
 - (c) include provisions which require that Council, when determining a development application relating to an Outer Catchment Area, take into consideration the impact of the proposed development on the quality of stored water in the Sydney Catchment Authority's water storages.

Note: For the purposes of this Direction, the following definitions apply:
“*Special Area*” means Special Areas declared under the Sydney Water Catchment Management Act 1998, as provided by Schedule 6 Clause 5(1) of the Sydney Water Catchment Management Act 1998.
“*Outer Catchment Area*” means Outer Catchment Area declared under section 41 (2) of the Sydney Water Catchment Management Act 1998.