

Direction No. 29 – Oyster Aquaculture

Objectives

- (1) The objectives of this direction are:
 - (a) to ensure that Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area are adequately considered when preparing a draft Local Environmental Plan.
 - (b) to protect Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area from land uses that may result in adverse impacts on water quality and consequently, on the health of oysters and oyster consumers.

Where this direction applies

- (2) This direction applies to Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area as identified in the *NSW Oyster Industry Sustainable Aquaculture Strategy* (2006) (“the Strategy”).

When this direction applies

- (3) This direction applies when a council decides to prepare, or is directed by the Minister to prepare, any draft Local Environmental Plan (“draft LEP”) that proposes a change in land use which could result in:
 - (a) adverse impacts on a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate”; or
 - (b) incompatible use of land between oyster aquaculture in a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate” and other land uses.

What a council must do if this direction applies

- (4) In the preparation of a draft LEP affected by this direction, the council shall:
 - (a) identify any Priority Oyster Aquaculture Areas and oyster aquaculture leases outside such an area, as shown on the maps to the Strategy, to which the draft LEP would apply;
 - (b) identify any proposed land uses which could result in any adverse impact on a Priority Oyster Aquaculture Area or oyster aquaculture leases outside such an area;
 - (c) identify and take into consideration any issues likely to lead to an incompatible use of land between oyster aquaculture and other land uses and identify and evaluate measures to avoid or minimise such land use incompatibility.
 - (d) consult with the Director-General of the Department of Primary Industries (DPI) of the proposed changes in the preparation of the draft LEP; and
 - (e) ensure the draft LEP is consistent with the Strategy.
- (5) Where a draft LEP proposes land uses that may result in adverse impacts identified under (4)(b) and (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 of the Department of Planning under section 64 of the EP&A Act.

Consistency

- (6) A draft LEP may be inconsistent with the terms of this direction only if council can satisfy the Director General of the Department of Planning 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 1979, and
 - (b) the provisions of the draft LEP that are inconsistent with the terms of this direction are of minor significance.

Note: In this direction:

- (a) "Priority Oyster Aquaculture Areas" has the same meaning as in the NSW Oyster Industry Sustainable Aquaculture Strategy; and
- (b) an "incompatible use of land" includes access to oyster leases being limited by the change in land use or the risk of adverse impacts as a result of that change in land use on water quality and, consequently, on the health of oysters and on the health of consumer of those oysters.