



NSW GOVERNMENT  
**Department of Planning**

# Local planning directions

issued by the Minister for Planning under section 117(2) of  
the Environmental Planning and Assessment Act 1979

19 July 2007 | Version 1.0

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Local planning directions: issued by the Minister for Planning under section 117(2) of the *Environmental Planning and Assessment Act 1979* (19 July 2007)

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ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

## Direction under Section 117(2)

I, the Minister for Planning, under section 117(2) of the *Environmental Planning and Assessment Act 1979* (the Act), direct that:

- (1) The directions previously issued under section 117 (2) of the Act that are specified in Schedule 1 are revoked.
- (2) Councils exercise their functions under Divisions 4 and 5 of Part 3 of the Act in accordance with the principles, aims, objectives or policies specified in Schedule 2.
- (3) Despite subclause (1), a direction given under section 117 (2) of the Act that is specified in Schedule 1 shall continue in force in relation to a draft local environmental plan only if the draft plan has been issued with a certificate under section 65 of the Act before the date referred to in subclause (5).
- (4) Subclause (2) does not apply to a draft local environmental plan that has been issued with a certificate under section 65 of the Act before the date referred to in subclause (5).
- (5) This direction shall take effect 5 weeks after the date specified below.



Frank Sartor, MP  
Minister for Planning,  
Sydney

[Date:

14 June 07]

**Schedule 1**

## Directions Revoked

The following directions previously issued to councils under section 117(2) of the Act:

Direction No.1 – Acid Sulfate Soils	Issued 30 September 2005
Direction No.2 – Approval, Concurrence and Consultation	Issued 30 September 2005
Direction No.3 – Business Zones	Issued 30 September 2005
Direction No.4 – Central Coast	Issued 30 September 2005
Direction No.5 – Coal, Other Minerals, Petroleum and Extractive Resources	Issued 30 September 2005
Direction No.6 – Coastal Protection	Issued 30 September 2005
Direction No.7 - Commercial and Retail Development along the Pacific Highway, North Coast	Issued 30 September 2005
Direction No.8 – Community Use of Educational Establishments	Issued 30 September 2005
Direction No.9 – Conservation and Management of Environmental and Indigenous Heritage	Issued 30 September 2005
Direction No.10 – Designated Development	Issued 30 September 2005
Direction No.11 – Development in a Mine Subsidence District or on Unstable Land	Issued 30 September 2005
Direction No.12 – Development near Licensed Aerodromes	Issued 30 September 2005
Direction No.13 – Environmental Protection Zones	Issued 30 September 2005
Direction No.14 – Farmland of State and Regional Significance on the NSW Far North Coast	Issued 30 September 2005
Direction No.15 – Flood Prone Land	Issued 31 January 2007
Direction No.16 – Industrial Zones	Issued 30 September 2005
Direction No.17 – Integrating Land Use and Transport	Issued 30 September 2005
Direction No.18 – Manufactured Home Estates and Caravan Parks	Issued 30 September 2005
Direction No.19 – Planning for Bushfire Protection	Issued 30 September 2005
Direction No.20 – Recreation Vehicle Areas	Issued 30 September 2005
Direction No.21 – Residential Zones	Issued 30 September 2005
Direction No.22 – Rural Zones	Issued 30 September 2005
Direction No.23 – Savings	Issued 30 September 2005
Direction No.24 – Second Sydney Airport: Badgerys Creek	Issued 30 September 2005
Direction No.25 – Site Specific Zoning	Issued 30 September 2005
Direction No.26 – Special Area Zones and Recreation Zones	Issued 30 September 2005
Direction No.27 – Sydney to Canberra Corridor Strategy	Issued 30 September 2005
Direction No.28 – Water Catchment Areas – Sydney Catchment Authority	Issued 30 September 2005
Direction No.29 – Oyster Aquaculture	Issued 19 March 2007
Direction No.30 – Implementation of Regional Strategies	Issued 4 April 2007
Direction No.31 –Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	Issued 4 April 2007

## Schedule 2

Directions issued to councils under section 117(2) of the Act:

### 1. Employment and Resources

- 1.1 Business and Industrial Zones
- 1.2 Rural Zones
- 1.3 Mining, Petroleum Production and Extractive Industries
- 1.4 Oyster Aquaculture

### 2. Environment and Heritage

- 2.1 Environmental Protection Zones
- 2.2 Coastal Protection
- 2.3 Heritage Conservation
- 2.4 Recreation Vehicle Areas

### 3. Housing, Infrastructure and Urban Development

- 3.1 Residential Zones
- 3.2 Caravan Parks and Manufactured Home Estates
- 3.3 Home Occupations
- 3.4 Integrating Land Use and Transport
- 3.5 Development Near Licensed Aerodromes

### 4. Hazard and Risk

- 4.1 Acid Sulfate Soils
- 4.2 Mine Subsidence and Unstable Land
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection

### 5. Regional Planning

- 5.1 Implementation of Regional Strategies
- 5.2 Sydney Drinking Water Catchments
- 5.3 Farmland of State and Regional Significance on the NSW Far North Coast
- 5.4 Commercial and Retail Development along the Pacific Highway, North Coast
- 5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)
- 5.6 Sydney to Canberra Corridor
- 5.7 Central Coast
- 5.8 Second Sydney Airport: Badgerys Creek

### 6. Local Plan Making

- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes
- 6.3 Site Specific Provisions

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# **1. Employment and Resources**

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## 1.1 Business and Industrial Zones

### Objectives

- (1) The objectives of this direction are to:
  - (a) encourage employment growth in suitable locations,
  - (b) protect employment land in business and industrial zones, and
  - (c) support the viability of identified strategic centres.

### Where this direction applies

- (2) This direction applies to all councils.

### When this direction applies

- (3) This direction applies when a council prepares a draft LEP that affects land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).

### What a council must do if this direction applies

- (4) A draft LEP shall:
  - (a) give effect to the objectives of this direction,
  - (b) retain the areas and locations of existing business and industrial zones,
  - (c) not reduce the total potential floor space area for employment uses and related public services in business zones,
  - (d) not reduce the total potential floor space area for industrial uses in industrial zones, and
  - (e) ensure that proposed new employment areas are in accordance with a strategy that is approved by the Director-General of the Department of Planning.

### Consistency

- (5) 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 (or an officer of the Department nominated by the Director-General) that the provisions of the draft LEP that are inconsistent are:
  - (a) justified by a strategy which:
    - (i) gives consideration to the objective of this direction, and
    - (ii) identifies the land which is the subject of the draft LEP (if the draft LEP relates to a particular site or sites), and
    - (iii) is approved by the Director-General of the Department of Planning, or
  - (b) justified by an environmental study (prepared in accordance with section 57 of the *Environmental Planning and Assessment Act 1979*) which gives consideration to the objective of this direction, or
  - (c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or
  - (d) of minor significance.

**Note:** In this direction, “identified strategic centre” means a centre that has been identified as a strategic centre in a regional strategy, sub-regional strategy, or another strategy approved by the Director General.

## 1.2 Rural Zones

### Objective

- (1) The objective of this direction is to protect the agricultural production value of rural land.

### Where this direction applies

- (2) This direction applies to all councils.

### When this direction applies

- (3) This direction applies when a council prepares a draft LEP that affects land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary).

### What a council must do if this direction applies

- (4) A draft LEP shall:
- (a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone,
  - (b) not contain provisions which will increase the permissible density of land within a rural zone (other than land within an existing town or village), and
  - (c) include provisions that control access from traffic generating developments to classified roads in rural zones.

### Consistency

- (5) 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 (or an officer of the Department nominated by the Director-General) that the provisions of the draft LEP that are inconsistent are:
- (a) justified by a strategy which:
    - (i) gives consideration to the objective of this direction,
    - (ii) identifies the land which is the subject of the draft LEP (if the draft LEP relates to a particular site or sites), and
    - (iii) is approved by the Director-General of the Department of Planning, or
  - (b) justified by an environmental study prepared in accordance with section 57 of the *Environmental Planning and Assessment Act 1979* which gives consideration to the objective of this direction, or
  - (c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or
  - (d) of minor significance.

**Note:** In this direction, “classified road” has the same meaning as in the *Roads Act 1993*.

## 1.3 Mining, Petroleum Production and Extractive Industries

### Objective

- (1) The objective of this direction is to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.

### Where this direction applies

- (2) This direction applies to all councils.

### When this direction applies

- (3) This direction applies when a council prepares a draft LEP that would have the effect of:
  - (a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or
  - (b) restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.

### 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) 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 (4)(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 (4)(a)(i), or
    - (ii) existing development identified under (4)(a)(ii).
- (5) Where a draft LEP prohibits or restricts development of resources identified under (4)(a)(i), or proposes land uses that may create land use conflicts identified under (4)(c), council shall:
  - (a) provide the Director-General of DPI with a copy of the draft LEP and notification of the relevant provisions,
  - (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 (or an officer of the Department nominated by the Director-General) under section 64 of the *Environmental Planning and Assessment Act 1979*.

### 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 (or an officer of the Department nominated by the Director-General), that the provisions of the draft LEP that are inconsistent are of minor significance.

## 1.4 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 LEP,
  - (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 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 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:
  - (d) provide the Director-General of DPI with a copy of the draft LEP and notification of the relevant provisions,
  - (e) 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
  - (f) 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 *Environmental Planning and Assessment Act 1979*.

### 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 (or an officer of the Department nominated by the Director-General) that the provisions of the draft LEP that are inconsistent 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 consumers of those oysters.

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## **2. Environment and Heritage**

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## 2.1 Environmental Protection Zones

### Objective

- (1) The objective of this direction is to protect and conserve environmentally sensitive areas.

### Where this direction applies

- (2) This direction applies to all councils.

### When this direction applies

- (3) This direction applies when a council prepares a draft LEP.

### What a council must do if this direction applies

- (4) A draft LEP shall include provisions that facilitate the protection and conservation of environmentally sensitive areas.
- (5) A draft LEP that applies to land within an existing environmental protection zone or land otherwise identified for environmental protection purposes in a LEP shall not reduce the environmental protection standards that apply to the land (including by modifying any development standards or subdivision controls that apply to the land).

### 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 (or an officer of the Department nominated by the Director-General) that the provisions of the draft LEP that are inconsistent are:
- (a) justified by a strategy which:
    - (i) gives consideration to the objective of this direction, and
    - (ii) identifies the land which is the subject of the draft LEP (if the draft LEP relates to a particular site or sites), and
    - (iii) is approved by the Director-General of the Department of Planning, or
  - (b) justified by an environmental study prepared in accordance with section 57 of the *Environmental Planning and Assessment Act 1979* which gives consideration to the objective of this direction, or
  - (c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or
  - (d) of minor significance.

## 2.2 Coastal Protection

### Objective

- (1) The objective of this direction is to implement the principles in the NSW Coastal Policy.

### Where this direction applies

- (2) This direction applies to the coastal zone, as defined in the *Coastal Protection Act 1979*.

### When this direction applies

- (3) This direction applies when a council prepares a draft LEP that applies to land in the coastal zone.

### What a council must do if this direction applies

- (4) A draft LEP shall include provisions that give effect to and are consistent with:
- (a) the *NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997*, and
  - (b) the *Coastal Design Guidelines 2003*, and
  - (c) the manual relating to the management of the coastline for the purposes of section 733 of the *Local Government Act 1993* (the *NSW Coastline Management Manual 1990*).

### Consistency

- (5) 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 (or an officer of the Department nominated by the Director-General) that the provisions of the draft LEP that are inconsistent are:
- (a) justified by a strategy which:
    - (i) gives consideration to the objective of this direction, and
    - (ii) identifies the land which is the subject of the draft LEP (if the draft LEP relates to a particular site or sites), and
    - (iii) is approved by the Director-General of the Department of Planning, or
  - (b) justified by an environmental study prepared in accordance with section 57 of the *Environmental Planning and Assessment Act 1979* which gives consideration to the objective of this direction, or
  - (c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or
  - (d) of minor significance.

## 2.3 Heritage Conservation

### Objective

- (1) The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

### Where this direction applies

- (2) This direction applies to all councils.

### When this direction applies

- (3) This direction applies when a council prepares a draft LEP.

### What a council must do if this direction applies

- (4) A draft LEP shall contain provisions that facilitate the conservation of:
  - (a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area,
  - (b) Aboriginal objects or Aboriginal places that are protected under the *National Parks and Wildlife Act 1974*, and
  - (c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the council, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.

### Consistency

- (5) 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 (or an officer of the Department nominated by the Director-General) that the draft LEP complies with Part 5 of the *Heritage Act 1977*, and
  - (a) the environmental or indigenous heritage significance of the item, area, object or place is conserved by existing or draft environmental planning instruments, legislation, or regulations that apply to the land, or
  - (b) the provisions of the draft LEP that are inconsistent are of minor significance.

**Note:** In this direction:

“conservation”, “environmental heritage”, “item”, “place” and “relic” have the same meaning as in the *Heritage Act 1977*.

“Aboriginal object”, “Aboriginal area” and “Aboriginal place” have the same meaning as in the *National Parks and Wildlife Act 1974*.

Heritage conservation is covered by a compulsory clause in the Standard Instrument (Local Environmental Plans) Order 2006. A LEP that adopts the Standard Instrument should identify such items, areas, objects or places of environmental heritage significance or indigenous heritage significance as are relevant to the terms of this direction on the Heritage Map and relevant Schedule of the LEP.

## 2.4 Recreation Vehicle Areas

### Objective

- (1) The objective of this direction is to protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.

### Where this direction applies

- (2) This direction applies to all councils.

### When this direction applies

- (3) This direction applies when a council prepares a draft LEP.

### What a council must do if this direction applies

- (4) A draft LEP shall not 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 (4)(a) or (4)(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*.

### Consistency

- (5) 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 (or an officer of the Department nominated by the Director-General) that the provisions of the draft LEP that are inconsistent are:
  - (a) justified by a strategy which:
    - (i) gives consideration to the objective of this direction, and
    - (ii) identifies the land which is the subject of the draft LEP (if the draft LEP relates to a particular site or sites), and
    - (iii) is approved by the Director-General of the Department of Planning, or
  - (b) justified by an environmental study prepared in accordance with section 57 of the *Environmental Planning and Assessment Act 1979* which gives consideration to the objective of this direction, or
  - (c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or
  - (d) of minor significance.

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### **3. Housing, Infrastructure and Urban Development**

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### 3.1 Residential Zones

#### Objectives

- (1) The objectives of this direction are:
  - (a) to encourage a variety and choice of housing types to provide for existing and future housing needs,
  - (b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and
  - (c) to minimise the impact of residential development on the environment and resource lands.

#### Where this direction applies

- (2) This direction applies to all councils.

#### When this direction applies

- (3) This direction applies when a council prepares a draft LEP that affects land within:
  - (a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary),
  - (b) any other zone in which significant residential development is permitted or proposed to be permitted.

#### What a council must do if this direction applies

- (4) A draft LEP shall include provisions that encourage the provision of housing that will:
  - (a) broaden the choice of building types and locations available in the housing market, and
  - (b) make more efficient use of existing infrastructure and services, and
  - (c) reduce the consumption of land for housing and associated urban development on the urban fringe, and
  - (d) be of good design.
- (5) A draft LEP shall, in relation to land to which this direction applies:
  - (a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and
  - (b) not contain provisions which will reduce the permissible residential density of land.

#### 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 (or an officer of the Department nominated by the Director-General) that the provisions of the draft LEP that are inconsistent are:
  - (a) justified by a strategy which:
    - (i) gives consideration to the objective of this direction, and
    - (ii) identifies the land which is the subject of the draft LEP (if the draft LEP relates to a particular site or sites), and
    - (iii) is approved by the Director-General of the Department of Planning, or
  - (b) justified by an environmental study prepared in accordance with section 57 of the *Environmental Planning and Assessment Act 1979* which gives consideration to the objective of this direction, or
  - (c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or
  - (d) of minor significance.

## 3.2 Caravan Parks and Manufactured Home Estates

### Objectives

- (1) The objectives of this direction are:
  - (a) to provide for a variety of housing types, and
  - (b) to provide opportunities for caravan parks and manufactured home estates.

### Where this direction applies

- (2) This direction applies to all councils. This direction does not apply to:
  - (a) Crown land reserved or dedicated for any purposes under the *Crown Lands Act 1989*, except Crown land reserved for accommodation purposes, or
  - (b) land dedicated or reserved under the *National Parks and Wildlife Act 1974*.

### When this direction applies

- (3) This direction applies when a council prepares a draft LEP.

### What a council must do if this direction applies

- (4) In identifying suitable zones, locations and provisions for caravan parks in a draft LEP, council shall:
  - (a) retain provisions that permit development for the purposes of a caravan park to be carried out on land, and
  - (b) retain the zonings of existing caravan parks, or in the case of a new principal LEP zone the land in accordance with an appropriate zone under the Standard Instrument (Local Environmental Plans) Order 2006 that would facilitate the retention of the existing caravan park.
- (5) In identifying suitable zones, locations and provisions for manufactured home estates (MHEs) in a draft LEP, council shall:
  - (a) take into account the categories of land set out in Schedule 2 of SEPP 36 as to where MHEs should not be located,
  - (b) take into account the principles listed in clause 9 of SEPP 36 (which councils are required to consider when assessing and determining the development and subdivision proposals), and
  - (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* be permissible with consent.

### 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 (or an officer of the Department nominated by the Director-General) that the provisions of the draft LEP that are inconsistent are:
  - (a) justified by a strategy which:
    - (i) gives consideration to the objective of this direction, and
    - (ii) identifies the land which is the subject of the draft LEP (if the draft LEP relates to a particular site or sites), and
    - (iii) is approved by the Director-General of the Department of Planning, or
  - (b) justified by an environmental study prepared in accordance with section 57 of the *Environmental Planning and Assessment Act 1979* which gives consideration to the objective of this direction, or
  - (c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or
  - (d) of minor significance.

### **3.3 Home Occupations**

#### **Objective**

- (1) The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.

#### **Where this direction applies**

- (2) This direction applies to all councils.

#### **When this direction applies**

- (3) This direction applies when a council prepares a draft LEP.

#### **What a council must do if this direction applies**

- (4) Draft LEPs shall permit home occupations to be carried out in dwelling houses without the need for development consent.

#### **Consistency**

- (5) 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 (or an officer of the Department nominated by the Director-General) that the provisions of the draft LEP that are inconsistent with the terms of this direction are of minor significance.

**Note:** In this direction “home occupation” has the same meaning as it has in the Standard Instrument (Local Environmental Plans) Order 2006.

### 3.4 Integrating Land Use and Transport

#### Objective

- (1) The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:
  - (a) improving access to housing, jobs and services by walking, cycling and public transport, and
  - (b) increasing the choice of available transport and reducing dependence on cars, and
  - (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and
  - (d) supporting the efficient and viable operation of public transport services, and
  - (e) providing for the efficient movement of freight.

#### Where this direction applies

- (2) This direction applies to all councils.

#### When this direction applies

- (3) This direction applies when a council prepares a draft LEP that creates, alters or removes a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.

#### What a council must do if this direction applies

- (4) 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).

#### Consistency

- (5) 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 (or an officer of the Department nominated by the Director-General) that the provisions of the draft LEP that are inconsistent are:
  - (a) justified by a strategy which:
    - (i) gives consideration to the objective of this direction, and
    - (ii) identifies the land which is the subject of the draft LEP (if the draft LEP relates to a particular site or sites), and
    - (iii) is approved by the Director-General of the Department of Planning, or
  - (b) justified by an environmental study prepared in accordance with section 57 of the *Environmental Planning and Assessment Act 1979* which gives consideration to the objective of this direction, or
  - (c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or
  - (d) of minor significance.

### 3.5 Development Near Licensed Aerodromes

#### Objectives

- (1) The objectives of this direction are:
  - (a) to ensure the effective and safe operation of aerodromes, and
  - (b) to ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity, and
  - (c) to ensure development for residential purposes or human occupation, if situated on land within the Australian Noise Exposure Forecast (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

- (2) This direction applies to all councils.

#### When this direction applies

- (3) This direction applies when a council prepares a draft LEP that creates, alters or removes a zone or a provision relating to land in the vicinity of a licensed aerodrome.

#### What a council must do if this direction applies

- (4) In the preparation of a draft LEP that sets controls for the development of 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, and
    - (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.
- (5) A draft LEP shall not rezone land:
  - (a) for residential purposes, nor increase residential densities in areas where the 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.
- (6) A draft LEP that rezones 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.

**Consistency**

- (7) 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 (or an officer of the Department nominated by the Director-General) that the provisions of the draft LEP that are inconsistent are:
- (a) justified by a strategy which:
    - (i) gives consideration to the objectives of this direction, and
    - (ii) identifies the land which is the subject of the draft LEP (if the draft LEP relates to a particular site or sites), and
    - (iii) is approved by the Director-General of the Department of Planning, or
  - (b) justified by an environmental study prepared in accordance with section 57 of the *Environmental Planning and Assessment Act 1979* which gives consideration to the objective of this direction, or
  - (c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or
  - (d) of minor significance.

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## **4. Hazard and Risk**

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## 4.1 Acid Sulfate Soils

### Objective

- (1) The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.

### Where this direction applies

- (2) This direction applies to all councils that contain land having a probability of containing acid sulfate soils, as shown on Acid Sulfate Soils Planning Maps held by the Department of Planning.

### When this direction applies

- (3) This direction applies when a council prepares a draft LEP that will apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps.

### What a council must do if this direction applies

- (4) Council shall consider the Acid Sulfate Soils Planning Guidelines adopted by the Director-General of the Department of Planning when preparing a draft LEP that applies to any land identified on the Acid Sulfate Soils Planning Maps as having a probability of acid sulfate soils being present.
- (5) When a council is preparing a draft LEP to introduce provisions to regulate works in acid sulfate soils, those provisions shall be consistent with:
  - (a) the Acid Sulfate Soils Model LEP in the Acid Sulfate Soils Planning Guidelines adopted by the Director-General, or
  - (b) such other provisions provided by the Director-General of the Department of Planning that are consistent with the Acid Sulfate Soils Planning Guidelines.
- (6) A council shall not prepare a draft LEP that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning 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. Council shall provide a copy of any such study with its statement to the Director-General of the Department of Planning under section 64 of the EP&A Act.
- (7) Where provisions referred to under paragraph (5) of this direction have not been introduced and council is preparing a draft LEP that proposes an intensification of land uses on land identified as having a probability of acid sulfate soils on the Acid Sulfate Soils Planning Maps, the draft LEP must contain provisions consistent with paragraph (5).

### Consistency

- (8) 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 (or an officer of the Department nominated by the Director-General) that the provisions of the draft LEP that are inconsistent are:
  - (a) justified by an environmental study prepared in accordance with section 57 of the *Environmental Planning and Assessment Act 1979* which gives consideration to the objective of this direction, or
  - (b) of minor significance.

## 4.2 Mine Subsidence and Unstable Land

### Objective

- (1) The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.

### Where this direction applies

- (2) This direction applies to land that:
  - (a) is within a Mine Subsidence District proclaimed pursuant to section 15 of the Mine Subsidence Compensation Act 1961, or
  - (b) has been identified as unstable land.

### When this direction applies

- (3) This direction applies when a council prepares a draft LEP that permits development on land that:
  - (a) is within a mine subsidence district, or
  - (b) has been identified as unstable in a study, strategy or other assessment undertaken:
    - (i) by or on behalf of the council, or
    - (ii) by or on behalf of a public authority and provided to the council.

### What a council must do if this direction applies

- (4) When preparing a draft LEP that would permit development on land that is within a Mine Subsidence District a council shall:
  - (a) 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 scale, density and type of development that is appropriate for the potential level of subsidence, and
  - (b) incorporate provisions into the draft Local Environmental Plan that are consistent with the recommended scale, density and type of development recommended under (4)(a)(ii), 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 Planning (or an officer of the Department nominated by the Director-General) under section 64 of the *Environmental Planning and Assessment Act 1979*.
- (5) A draft LEP shall not permit development on unstable land referred to in paragraph 3(b).

### 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 (or an officer of the Department nominated by the Director-General) that the provisions of the draft LEP that are inconsistent are:
  - (a) justified by a strategy which:
    - (i) gives consideration to the objective of this direction, and
    - (ii) identifies the land which is the subject of the draft LEP (if the draft LEP relates to a particular site or sites), and
    - (iii) is approved by the Director-General of the Department of Planning, or
  - (b) justified by an environmental study prepared in accordance with section 57 of the *Environmental Planning and Assessment Act 1979* which gives consideration to the objective of this direction, or
  - (c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or

(d) of minor significance.

**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 *Environmental Planning and Assessment Act 1979* (the EP&A Act) 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.

## 4.3 Flood Prone Land

### Objectives

- (1) The objectives of this direction are:
  - (a) 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*, and
  - (b) 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

- (2) This direction applies to all councils that contain flood prone land within their LGA.

### When this direction applies

- (3) 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

- (4) 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*).
- (5) A draft LEP shall not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.
- (6) 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), roads or exempt development.
- (7) 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).
- (8) 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).

### Consistency

- (9) 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:
  - (a) the draft LEP 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 provisions of the draft LEP that are inconsistent are of 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*.

## 4.4 Planning for Bushfire Protection

### Objectives

- (1) The objectives of this direction are:
  - (a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and
  - (b) to encourage sound management of bush fire prone areas.

### Where this direction applies

- (2) This direction applies to all councils that are required to prepare a bush fire prone land map under section 146 of the *Environmental Planning and Assessment Act 1979* (the EP&A 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 that Act.

### When this direction applies

- (3) 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

- (4) In the preparation of a draft LEP a Council shall consult with the Commissioner of the NSW Rural Fire Service under section 62 of the EP&A Act, and take into account any comments so made,
- (5) A draft LEP shall:
  - (a) have regard to *Planning for Bushfire Protection 2006*,
  - (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and
  - (c) ensure that bushfire hazard reduction is not prohibited within the APZ.
- (6) 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 LEP 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.

### Consistency

- (7) 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 (or an officer of the Department nominated by the Director-General) that the council has obtained 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 LEP.

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## **5. Regional Planning**

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## 5.1 Implementation of Regional Strategies

### Objective

- (1) The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.

### Where this direction applies

- (2) This direction applies to land to which the following regional strategies apply:
  - (a) Far North Coast Regional Strategy
  - (b) Lower Hunter Regional Strategy
  - (c) Illawarra Regional Strategy, and
  - (d) South Coast Regional Strategy

### When this direction applies

- (3) This direction applies when a council prepares a draft Local Environmental Plan (LEP).

### What a council must do if this direction applies

- (4) Draft LEPs shall be consistent with a regional strategy released by the Minister for Planning.

### Consistency

- (5) 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 (or an officer of the Department nominated by the Director-General), that the extent of inconsistency with the regional strategy:
  - (a) is of minor significance, and
  - (b) the draft LEP achieves the overall intent of the regional strategy and does not undermine the achievement of its vision, land use strategy, policies, outcomes or actions.

## 5.2 Sydney Drinking Water Catchments

### Objective

- (1) The objective of this direction is to protect water quality in the hydrological catchment.

### Where this direction applies

- (2) This Direction applies to the hydrological catchment in the following local government areas:

Blue Mountains	Kiama	Sutherland
Campbelltown	Lithgow	Upper Lachlan
Cooma Monaro	Oberon	Wingecarribee
Eurobodalla	Palerang	Wollondilly
Goulburn Mulwaree	Shoalhaven	Wollongong.

### When this direction applies

- (3) This Direction applies when a council prepares a draft LEP that applies to the hydrological catchment.

### What a council must do if this direction applies

- (4) A draft LEP shall be prepared in accordance with the general principle that water quality within the hydrological catchment must be protected, and in accordance with the following specific principles:
- (a) new development within the hydrological catchment must have a neutral or beneficial effect on water quality, and
  - (b) new development within the hydrological catchment must not compromise the achievement of the water quality objectives set out in the Drinking Water Catchments Regional Environmental Plan No.1, and
  - (c) future land use in the hydrological catchment should be matched to land and water capability, and
  - (d) the ecological values of land within a Special Area that is:
    - (i) reserved as national park, nature reserve or state recreation area under the *National Parks and Wildlife Act 1974*, or
    - (ii) declared as a wilderness area under the *Wilderness Act 1987*, or
    - (iii) owned or under the care control and management of the Sydney Catchment Authority,
 should be maintained.
- (5) When preparing a draft LEP that applies to land within the hydrological catchment, council shall:
- (a) include provisions which will achieve or give effect to the principles in paragraph (4), and
  - (b) give consideration to the outcomes of any strategic land and water capability assessment prepared by the SCA, or if such an assessment has not yet been prepared may give consideration to:
    - (i) the outcomes of an assessment, prepared in consultation with the Sydney Catchment Authority, which is equivalent to a strategic land and water capability assessment, or
    - (ii) a site-specific assessment prepared in consultation with the Sydney Catchment Authority which takes into account the likely impact of rezoning on water quality, or
    - (iii) a current settlement strategy or rural residential strategy that has been approved by the Director-General of the Department of Planning, and

- (c) zone land within the Special Areas owned or under the care control and management of Sydney Catchment Authority generally in accordance with the following:

<i>Land</i>	<i>Zone under Standard Instrument (Local Environmental Plans) Order 2006</i>
Land reserved under the <i>National Parks and Wildlife Act 1974</i>	E1 National Parks and Nature Reserves
Land in the ownership or under the care, control and management of the SCA located above the full water supply level	E2 Environmental Conservation
Land below the full water supply level (including water storage at dams and weirs) and operational land at dams, weirs, pumping stations etc.	SP2 Infrastructure (and marked "Water Supply" on the Land Zoning Map)

, and

- (d) consult with the Sydney Catchment Authority under section 62 of the *Environmental Planning and Assessment Act 1979* (the Act), describing the means by which the draft LEP gives effect to the water quality protection principles set out in paragraph 4 of this direction, and
- (e) include a copy of any information received from the Sydney Catchment Authority as a result of the consultation process, in its statement to the Director-General of the Department of Planning under section 64 of the 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 (or an officer of the Department nominated by the Director-General) that the provisions of the draft LEP that are inconsistent are of minor significance.

**Note:** In this direction:

"hydrological catchment" has the same meaning as in the Drinking Water Catchments Regional Environmental Plan No.1.

"Special Area" has the same meaning as in the *Sydney Water Catchment Management Act 1998*.

"strategic land and water capability assessment" has the same meaning as in the Drinking Water Catchments Regional Environmental Plan No.1.

## 5.3 Farmland of State and Regional Significance on the NSW Far North Coast

### Objectives

- (1) The objectives of this direction are:
  - (a) to ensure that the best agricultural land will be available for current and future generations to grow food and fibre,
  - (b) to provide more certainty on the status of the best agricultural land, thereby assisting councils with their local strategic settlement planning, and
  - (c) 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

- (2) This direction applies to:
  - (a) Ballina Shire Council,
  - (b) Byron Shire Council,
  - (c) Kyogle Shire Council,
  - (d) Lismore City Council,
  - (e) Richmond Valley Council, and
  - (f) Tweed Shire Council,

except within areas contained by a "town and village growth boundary" in the Far North Coast Regional Strategy.

### When this direction applies

- (3) This Direction will apply when a council prepares a draft LEP for land mapped as:
  - (a) State significant farmland, or
  - (b) regionally significant farmland, or
  - (c) significant non-contiguous farmland,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

- (4) A draft LEP shall not:
  - (a) rezone land identified as "State Significant Farmland" for urban or rural residential purposes.
  - (b) rezone land identified as "Regionally Significant Farmland" for urban or rural residential purposes.
  - (c) rezone land identified as "significant non-contiguous farmland" for urban or rural residential purposes.

### Consistency

- (5) 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 or (an officer of the Department nominated by the Director-General) that the draft LEP is consistent with:
  - (a) the Far North Coast Regional Strategy, and
  - (b) Section 4 of the report titled *Northern Rivers Farmland Protection Project - Final Recommendations, February 2005*, held by the Department of Planning.

## 5.4 Commercial and Retail Development along the Pacific Highway, North Coast

### Objectives

- (1) The objectives for managing commercial and retail development along the Pacific Highway are:
  - (a) to protect the Pacific Highway's function, that is to operate as the North Coast's primary inter- and intra-regional road traffic route;
  - (b) to prevent inappropriate development fronting the highway
  - (c) to protect public expenditure invested in the Pacific Highway,
  - (d) to protect and improve highway safety and highway efficiency,
  - (e) to provide for the food, vehicle service and rest needs of travellers on the highway, and
  - (f) 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

- (2) 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

- (3) 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

- (4) 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.
- (5) 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.
- (6) 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

**Consistency**

- (7) 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 (or an officer of the Department nominated by the Director-General) that the provisions of the draft LEP that are inconsistent are of minor significance.

## **5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)**

### **Objective**

- (1) The objective of this direction is to ensure that development in the vicinity of the villages of Ellalong, Paxton and Millfield is consistent with the Cessnock City Wide Settlement Strategy and the Lower Hunter Regional Strategy.

### **Where this direction applies**

- (2) This direction applies to land in the vicinity of the villages of Ellalong, Paxton and Millfield in the Cessnock LGA.

### **When this direction applies**

- (3) This direction applies when Council prepares a draft LEP to zone or identify land for urban purposes.

### **What Council must do if this direction applies**

- (4) Council must not prepare a draft LEP for the life of the Lower Hunter Regional Strategy that is inconsistent with:
  - (a) The Agreement signed between the Minister for Planning, the Minister for the Environment and Hardie Holdings (and associated companies) on 22 December 2006, or
  - (b) Cessnock City Wide Settlement Strategy as endorsed by the Department of Planning and amended from time to time.

### **Consistency**

- (5) 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 (or an officer of the Department nominated by the Director-General) that the provisions of the draft LEP that are inconsistent are of minor significance.

## 5.6 Sydney to Canberra Corridor

### Objective

- (1) The objective of this direction is to ensure that draft LEPs are prepared in accordance with the Sydney to Canberra Corridor Strategy.

### Where this direction applies

- (2) 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

- (3) This direction applies when a council prepares a draft LEP.

### What a council must do if this direction applies

- (4) A draft LEP shall include provisions that give effect to and are consistent with the publication entitled *The Sydney to Canberra Corridor Strategy 1995*.

### Consistency

- (5) 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 (or an officer of the Department nominated by the Director-General) that the provisions of the draft LEP that are inconsistent with the terms of this direction are:
  - (a) justified by a strategy which:
    - (i) identifies the land which is the subject of the draft LEP (if the draft LEP relates to a particular site or sites), and
    - (ii) is approved by the Director-General of the Department of Planning, or
  - (b) justified by an environmental study prepared in accordance with section 57 of the *Environmental Planning and Assessment Act 1979* which gives consideration to the objective of this direction, or
  - (c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or
  - (d) of minor significance.

## 5.7 Central Coast

### Objective

- (1) The objective of this direction is to ensure that land is zoned in accordance with the appropriate regional strategy for the Central Coast.

### Where this direction applies

- (2) This direction applies to Gosford and Wyong Councils.

### When this direction applies

- (3) This direction applies when these councils prepare a draft LEP.

### What a council must do if this direction applies

- (4) 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.

### Consistency

- (5) 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 (or an officer of the Department nominated by the Director-General), that the provisions of the draft LEP that are inconsistent are:
  - (a) justified by a strategy which:
    - (i) identifies the land which is the subject of the draft LEP (if the draft LEP relates to a particular site or sites), and
    - (ii) is approved by the Director-General of the Department of Planning, or
  - (b) justified by an environmental study prepared in accordance with section 57 of the Environmental Planning and Assessment Act 1979, which gives consideration to the objective of this direction, or
  - (c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning, which gives consideration to the objective of this direction, or
  - (d) of minor significance.

## 5.8 Second Sydney Airport: Badgerys Creek

### Objective

- (1) The objective of this direction is to avoid incompatible development in the vicinity of any future second Sydney Airport at Badgerys Creek.

### Where this direction applies

- (2) 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

- (3) 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.

### Consistency

- (4) 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 (or an officer of the Department nominated by the Director-General) that the provisions of the draft LEP that are inconsistent with the terms of this direction are:
  - (a) justified by a strategy which:
    - (i) gives consideration to the objectives of this direction, and
    - (ii) identifies the land which is the subject of the draft LEP (if the draft LEP relates to a particular site or sites), and
    - (iii) is approved by the Director-General of the Department of Planning, or
  - (b) justified by an environmental study prepared in accordance with section 57 of the *Environmental Planning and Assessment Act 1979* which gives consideration to the objective of this direction, or
  - (c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or
  - (d) of minor significance.

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## **6. Local Plan Making**

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## 6.1 Approval and Referral Requirements

### Objective

- (1) The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.

### Where this direction applies

- (2) This direction applies to all councils.

### When this direction applies

- (3) This direction applies when a council prepares a draft LEP.

### What a council must do if this direction applies

- (4) A draft LEP shall:
  - (a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and
  - (b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the council has obtained the approval of:
    - (i) the appropriate Minister or public authority, and
    - (ii) the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General),prior to a certificate under section 65 of the Act being issued, and
  - (c) not identify development as designated development unless the council:
    - (i) can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and
    - (ii) has obtained the approval of the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to a certificate being issued under section 65 of the Environmental Planning and Assessment Act 1979.

### Consistency

- (5) A draft LEP must be substantially consistent with the terms of this direction.

Note: In this direction "public authority" has the same meaning as section 4 of the Environmental Planning and Assessment Act 1979.

## 6.2 Reserving Land for Public Purposes

### Objectives

- (1) The objectives of this direction are:
  - (a) to facilitate the provision of public services and facilities by reserving land for public purposes, and
  - (b) to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.

### Where this direction applies

- (2) This direction applies to all councils.

### When this direction applies

- (3) This direction applies when a council prepares a draft LEP.

### What a council must do if this direction applies

- (4) A draft LEP shall not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General).
- (5) When a Minister or public authority requests a council to reserve land for a public purpose in a draft LEP and the land would be required to be acquired under Division 3 of Part 2 of the *Land Acquisition (Just Terms Compensation) Act 1991*, the council shall:
  - (a) reserve the land in accordance with the request, and
  - (b) include the land in a zone appropriate to its intended future use or a zone advised by the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), and
  - (c) identify the relevant acquiring authority for the land.
- (6) When a Minister or public authority requests a council to include provisions in a draft LEP relating to the use of any land reserved for a public purpose before that land is acquired, the council shall:
  - (a) include the requested provisions, or
  - (b) take such other action as advised by the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) with respect to the use of the land before it is acquired.
- (7) When a Minister or public authority requests a council to include provisions in a draft LEP to rezone and/or remove a reservation of any land that is reserved for public purposes because the land is no longer designated by that public authority for acquisition, the council shall rezone and/or remove the relevant reservation in accordance with the request.

### Consistency

- (8) 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 (or an officer of the Department nominated by the Director-General) that:
  - (c) with respect to a request referred to in paragraph (7), that further information is required before appropriate planning controls for the land can be determined, or
  - (d) the provisions of the draft LEP that are inconsistent with the terms of this direction are of minor significance.

- 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 EP&A Act, and
  - (b) may not contain a provision in respect of that reservation as required by section 27 of the EP&A 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:

“public authority” has the same meaning as section 4 of the EP&A Act.

the use or reservation of land for a public purpose has the same meaning as in section 26(1)(c) of the EP&A Act.

## 6.3 Site Specific Provisions

### Objective

- (1) The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.

### Where this direction applies

- (2) This direction applies to all councils.

### When this direction applies

- (3) This direction applies when a council prepares a draft LEP to allow a particular development to be carried out.

### What a council must do if this direction applies

- (4) 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.
- (5) A draft LEP shall not contain or refer to drawings that show details of the development proposal.

### 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 (or an officer of the Department nominated by the Director-General) that the provisions of the draft LEP that are inconsistent are of minor significance.