

Note: The drafting of this direction is indicative of the intent of the policy. Preparation of the final direction will be undertaken by the Parliamentary Counsel following this public consultation process.

Flooding

Objectives

- (1) The objectives of this direction are:
 - (a) To ensure that development of land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 (or its update).
 - (b) To ensure that the provisions of a Local Environmental Plan (LEP) on land are commensurate with flood behaviour and include consideration of the potential flood impacts on and off the subject land.

Where this direction applies

- (2) This direction applies to the state.

When this direction applies

- (3) This direction applies when a relevant planning authority prepares a planning proposal or a draft LEP that creates, removes or alters a zone or a provision that affects land due to flooding.

What a planning proposal authority must do if this direction applies

- (4) A planning proposal or draft LEP must include provisions that give effect to and are consistent with:
 - (a) The NSW Flood Prone Land Policy, and
 - (b) The principles of the Floodplain Development Manual 2005 (or its update), and
 - (c) The *Considering flooding land use planning guideline*.
- (5) A planning proposal or draft LEP must not rezone land within the Flood Planning Area from Recreation, Rural, Special purpose zones or Environmental Zones to a Residential, Business, Industrial, or Special Purpose Zone
- (6) A planning proposal or draft LEP must not contain provisions that apply to the Flood Planning Area which:
 - (a) permit development in a floodway,
 - (b) permit development that will result in significant flood impacts to other properties,
 - (c) permit residential development in high hazard areas,
 - (d) permit a significant increase in the dwelling density of that land,
 - (e) permit the development of centre-based child care facilities, hostels, boarding houses, group homes, hospitals, residential care facilities, respite day care centres and seniors housing in areas where the development cannot effectively self-evacuate,
 - (f) permit development to be carried out without development consent except for the purposes of exempt development or agriculture. Dams, drainage canals, levees, buildings structures or filling in floodways or high hazard areas, still require development consent,
 - (g) are likely to result in a significantly increased requirement for government spending on emergency management services, and flood mitigation and emergency response measures, which can include but not limited to road infrastructure, flood mitigation infrastructure and utilities or
 - (h) permit hazardous industries or hazardous storage establishments where hazardous materials cannot be effectively contained during floods.
- (7) A planning proposal or draft LEP must not contain provisions that apply to the Regional Evacuation Consideration Area which:
 - (a) permit development in areas that will exceed the capacity of an established regional evacuation route(s).
- (8) For the purposes of a draft LEP, a council's Flood Planning Level(s) must be consistent with the Floodplain Development Manual 2005 (or its update) or as otherwise determined by an adopted Floodplain Risk Management Study.

Consistency

- (9) A planning proposal may be inconsistent with the terms of this direction only if the planning proposal authority can satisfy the Secretary of the Department of Planning, Industry and Environment (or their nominee) that:
- (a) the planning proposal is in accordance with a floodplain risk management plan prepared by the relevant council/s in accordance with the principles and guidelines of the Floodplain Development Manual 2005 (or its update), and/or
 - (b) the planning proposal is supported by a flood and risk impact assessment or Council adopted flood study consistent with the relevant planning authorities' requirements, and/or
 - (c) the provisions of the planning proposal that are inconsistent are of minor significance.

Note: In this direction:

- (a) "flood prone land" "flood storage" and "floodway" have the same meaning as in the Floodplain Development Manual 2005 (or its update)
- (b) "high hazard" has the same meaning as in the Floodplain Development Manual 2005 (or its update)
- (c) "flood planning level" has the same meaning as in the Considering flooding in land use planning guideline 2020 (or its update)
- (d) "flood behaviour" has the same meaning as in Considering flooding in land use planning guideline 2020 (or its update)
- (e) "hazardous materials" has the same meaning as in the Considering flooding in land use planning guideline 2020 (or its update)
- (f) flood planning area - Is the area of land below the flood planning level (FPL) and may also extend to include other areas of land where the majority flood related controls apply.
- (g) regional evacuation consideration area - is the area that is identified in a relevant regional flood evacuation strategy or flood related state emergency sub-plan by NSW State Emergency Service