



PLANNING SYSTEM

Local planning / section 117 directions

Circular	PS 07-006
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Related	PS 05-009

Implementation of regional strategies – ministerial direction

This circular is to advise councils of a new Ministerial Direction under section 117 of the *Environmental Planning and Assessment Act 1979* that will give statutory effect to the regional strategies finalised by the NSW Government.

Introduction

On 26 February 2007, the Minister for Planning issued a new Direction under section 117 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The new Direction No. 30 requires councils to implement the vision, land use strategy, policies, outcomes and actions of a regional strategy when preparing draft local environmental plans (LEPs). The Direction takes effect immediately from the date of publication on the Department’s website, and will apply to all draft LEPs from this date.

Final regional strategies have been released by the NSW Government for the Far North Coast, Lower Hunter, Illawarra and South Coast Regions of NSW. Draft regional strategies have been released for the Central Coast and the Mid North Coast and a draft strategy is still in preparation for the Sydney–Canberra Corridor region.

Background

The NSW Government is committed to protecting the environmental values of coastal and inland regions—while at the same time providing opportunities for sensible economic development and the housing needs of growing populations. As part of the Government’s Planning Reform package, a number of regional strategies have been prepared throughout 2006 to identify the strategic priorities that will direct land use planning over the next 25 years.

The preparation and finalisation of regional strategies represents a whole-of-government position on the future land use planning and environmental priorities of high growth regions.

The strategies also align with a number of State Plan priorities (NSW Government 2006) to promote jobs closer to home, improve housing affordability, increase business investment and achieve better environmental outcomes for rural and regional NSW. The regional strategies will guide and direct both local strategic planning and the preparation of comprehensive LEPs.¹

Implementing the strategies

The new Ministerial Direction No. 30—‘Implementation of Regional Strategies’ directs councils when preparing a draft LEP to ensure they are consistent with the relevant regional strategy.

When a new draft LEP is prepared by a council, council is required to ensure that the draft plan is consistent with the requirements of ministerial directions under section 117 of the EP&A Act. Under the terms of the new Direction, councils are to ensure that both comprehensive LEPs, as well as amending LEPs are consistent with the regional strategy.

The regional strategy will also provide the context for the preparation of land use planning strategies that support LEPs. Land use planning strategies prepared by councils are to generally provide a local perspective on the vision, land use strategy and relevant outcomes for the council area as set out in the regional strategy.

Specifically draft LEPs should only zone land to be consistent with the land use strategy, relevant housing/employment projections or relevant

¹ Each regional strategy contains a land use strategy map, supported by a vision statement as well as policy commentary on key issues that are given effect through the identification of specific outcomes and actions.

actions contained in the regional strategy. A draft LEP should also incorporate specific controls or provisions consistent with the land use strategy, relevant housing/employment projections or relevant actions contained in the regional strategy.

Under the terms of the Direction only LEPs of minor significance can proceed if they are inconsistent with the regional strategy. In these circumstances, councils will need to satisfy the Director General that the draft LEP will meet the outcomes identified within the regional strategy.

Sustainability criteria

In certain cases an innovative proposal may arise that, while inconsistent with the terms of the regional strategy, may satisfy the Government's principles on sustainable development as set out in the Sustainability Criteria appendix of the regional strategy. Under the terms of the Minister's Direction, where compelling reasons are provided by the council and accepted by the Director General that the proposal satisfies the Sustainability Criteria, then a proposal is considered to be consistent with the regional strategy.

Councils have been provided with advice regarding the information that needs to be provided with draft LEPs to enable assessment by the Department's LEP Review Panel.² Councils have also been provided with advice regarding the level of environmental assessment that is expected to be provided by development proponents.³ It is expected that councils will include a justification of a draft LEP against the Sustainability Criteria as part of this process.

Should the Director General provide written authorisation to proceed to prepare a draft LEP for a proposal justified using the Sustainability Criteria, the Director General will typically identify the level of detail needed in supporting environmental assessment to determine that the proposal satisfies the Sustainability Criteria. These justifications will need to be complete in order that the Director General will consider recommending that the Minister make the final LEP.

Unless special circumstances apply, the information justifying the proposal against the sustainability criteria will need to form part of the documentation accompanying the exhibition of the draft LEP. This enables the community to comment on the extent to which the proposed draft LEP and accompanying proposal satisfies the Sustainability Criteria.

Liaison with regional teams

Council will need to liaise closely with the relevant regional team of the Department regarding their

local strategies and comprehensive LEPs to ensure consistency with the regional strategy. The regional teams can provide advice on the interpretation and application of the regional strategy, including the application of the Sustainability Criteria.

Further information

A copy of Ministerial Direction No. 30—'Implementation of Regional Strategies' is attached. If you have further inquiries, please contact the relevant regional office of the Department:

- Hunter
Price Waterhouse Coopers Centre
Level 2, 26 Honeysuckle Drive
PO Box 1226 Newcastle NSW 2300
Tel: 02 4904 2700 Fax: 02 4904 2701
Email: hunter@planning.nsw.gov.au
- North Coast
76 Victoria Street
Locked Bag 10 Grafton NSW 2460
Tel: 02 6641 6600 Fax: 02 6641 6601
Email: northcoast@planning.nsw.gov.au
- Southern
Level 2, 84 Crown Street
PO Box 5475 Wollongong NSW 2520
Tel: 02 4224 9450 Fax: 02 4224 9470
Email: wollongong@planning.nsw.gov.au

Available on the Department's website are:

- section 117 directions issued by the Minister
<<http://www.planning.nsw.gov.au/planningsystem/local.asp>>
- regional strategies
<<http://www.planning.nsw.gov.au/plansforaction/whats happening.asp>>
- this and other Department of Planning circulars
<<http://www.planning.nsw.gov.au/planningsystem/practicenotes.asp>>

The NSW Government's *State Plan: A new direction for NSW* (2006) can be viewed online at <http://www.nsw.gov.au/stateplan>.

Authorised by:

Sam Haddad
Director General

Important note

This circular does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this circular.

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² Department of Planning Circular PS06-005 *Local Environmental Plan Review Panel*.

³ Department of Planning Circular PS06-013 *Local Environmental Studies*.

Direction No. 30 – 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.