

Flooding

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.
 - (b) to ensure that the provisions of a local environmental plan that apply to flood prone 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 all relevant planning authorities that are responsible for flood prone land.

When this direction applies

- (3) This direction applies when a planning proposal authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.

What a planning proposal authority must do if this direction applies

- (4) A planning proposal must include provisions that give effect to and are consistent with:
 - (a) the NSW Flood Prone Land Policy,
 - (b) the principles of the Floodplain Development Manual 2005,
 - (c) the *Considering flooding in land use planning guideline 2021*, and
 - (d) any adopted flood study and/or floodplain risk management plan prepared in accordance with the principles of the Floodplain Development Manual 2005 and adopted by the relevant council.
- (5) A planning proposal must not rezone land within the flood planning area from Recreation, Rural, Special Purpose or Environmental Protection Zones to a Residential, Business, Industrial or Special Purpose Zones.
- (6) A planning proposal must not contain provisions that apply to the flood planning area which:
 - (a) permit development in floodway areas,
 - (b) permit development that will result in significant flood impacts to other properties,
 - (c) permit development for the purposes of residential accommodation in high hazard areas,
 - (d) permit a significant increase in the development and/or dwelling density of that land,
 - (e) permit development for the purpose of centre-based childcare facilities, hostels, boarding houses, group homes, hospitals, residential care facilities, respite day care centres and seniors housing in areas where the occupants of the development cannot effectively evacuate,
 - (f) permit development to be carried out without development consent except for the purposes of exempt development or agriculture. Dams, drainage canals, levees, still require development consent,
 - (g) are likely to result in a significantly increased requirement for government spending on emergency management services, flood mitigation and emergency response measures, which can include but are not limited to the provision of road infrastructure, flood mitigation infrastructure and utilities, or
 - (h) permit hazardous industries or hazardous storage establishments where hazardous materials cannot be effectively contained during the occurrence of a flood event.
- (7) A planning proposal must not contain provisions that apply to areas between the flood planning area and probable maximum flood to which Special Flood Considerations apply 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 dwelling density of that land,
 - (d) permit the development of centre-based childcare facilities, hostels, boarding houses, group homes, hospitals, residential care facilities, respite day care centres and

- seniors housing in areas where the occupants of the development cannot effectively evacuate,
 - (e) are likely to affect the safe occupation of and efficient evacuation of the lot, or
 - (f) 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.
- (8) For the purposes of preparing a planning proposal, the flood planning area must be consistent with the principles of the Floodplain Development Manual 2005 or as otherwise determined by a Floodplain Risk Management Study or Plan adopted by the relevant council.

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 study or plan adopted by the relevant Council in accordance with the principles and guidelines of the Floodplain Development Manual 2005, or
 - (b) where there is no council adopted floodplain risk management study or plan, the planning proposal is consistent with the flood study adopted by the council prepared in accordance with the principles of the Floodplain Development Manual 2005 or
 - (c) the planning proposal is supported by a flood and risk impact assessment accepted by the relevant planning authority and is prepared in accordance with the principles of the Floodplain Development Manual 2005 and consistent with the relevant planning authorities' requirements, or
 - (d) the provisions of the planning proposal that are inconsistent are of minor significance as determined by the relevant planning authority.

Note: In this direction:

- (a) "flood prone land" "flood storage" "floodway" and "high hazard" have the same meaning as in the Floodplain Development Manual 2005.
- (b) "flood planning level" "flood behaviour" and "flood planning area" has the same meaning as in the Considering flooding in land use planning guideline 2021.
- (c) Special flood considerations are outlined in the Considering flooding in land use planning guideline 2021 and an optional clause in the Standard Instrument (Local Environmental Plans) Order 2006.
- (d) Under the floodplain risk management process outlined in the NSW Government's *Floodplain Development Manual 2005*, councils may produce a flood study followed by a floodplain risk management study and floodplain risk management plan.