

ATTACHMENT D

Ministerial Direction (Section 117 Direction)

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.

Direction 6.2 – issued 19 July 2007