

**DEPARTMENT OF NATURAL RESOURCES & MINES  
INTEGRATED RESOURCE MANAGEMENT OUTPUT**

**RESOURCE PLANNING GUIDELINES**

**GUIDELINE F9**

**DETERMINING MOST APPROPRIATE USE**

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**Purpose of this Paper**

This paper explains the principles to apply in evaluating an area of land to determine its ‘most appropriate use’. Although this exercise is best known as part of the process of *allocating* State land, the concepts can usefully be applied during other procedures such as writing reserve management plans or designating land in planning schemes; and for resources other than land.

*The paper has been written particularly to assist staff of the Department of Natural Resources & Mines in forming a conclusion about the potential use of an uncommitted area of land. The paper will also be relevant to local governments in evaluating their reserve portfolios, when proposing to develop reserves or when preparing planning schemes.*

## OVERVIEW

‘Most appropriate use’ is a term which originated in the *Land Act 1994* as a way of describing a land use that both takes optimal advantage of the capabilities of the land and advances the public interest. It is a concept which acknowledges the unique opportunity that the Department has to achieve public interest outcomes through using the tool of pro-active land allocation. This is by no means anti-development but there is a clear potential tension between this concept and that of ‘highest economic use’ as used in valuation practice and as revealed by real estate market forces. The public interest foundation – the ‘land ethic’ upon which land administration sits – is plainly set out in s.4 of the Act. The following explanation of how to evaluate ‘most appropriate use’ derives its legitimacy from that section and from best practice in land capability assessment. The logic is also relevant to evaluation of other resources such as water and extractives, although they are governed by different and specific statutory provisions.

Many complex and problematic transactions in which applicants claim various levels of prior interest in a property become much simpler if most appropriate use is determined first, and tenure is conceptualised as simply a way of achieving that desired use. Tenure is less fundamental than most appropriate use, for tenure can often or usually be adjusted to match use. Tenure is rarely fixed for all time: even freehold can be purchased or resumed to annul prior rights if the need arises. However, it is accepted that a land officer will not always be able to allocate land to match precisely its most appropriate use, for sometimes an applicant’s prior interest is too strong.

When evaluating most appropriate use for the purpose of tenure administration, the perspective adopted is usually that of a single property in a broader context; and this perspective is the focus of this paper. However, the concept is also relevant for a landholder standing on the boundary looking *inwards* and considering how to manage the separate parts of the property. In this case the range of uses available is usually less as some uses have been precluded by virtue of the issue of primary tenure to that landholder. For example, a pastoral lessee does not need to consider the need for public access.

The concept is also relevant to a planning authority when compiling a regulatory scheme. These schemes act mainly negatively (by preventing *inappropriate* uses) but can also act positively (by delineating areas where regulatory permission for *appropriate* uses will most readily be given).

## DEFINITIONS

### ***Public authority***

This usually refers to State departments and local governments. Statutory corporations may have a charter requiring them to operate in a commercial manner but are not relieved from their obligation to act in the public interest so the provisions here will often also apply to them. For example, landholder port authorities have privileges of allocating in their own name, and so their responsibility to take account of the public interest is the greater because of their operational independence. Freehold owned by statutory corporations is *public* land, even though it is not *State* land.

### ***Ecologically sustainable development (ESD)***

This concept is set out in the 1992 *National Strategy for Ecologically Sustainable Development* but thinking has advanced since then. The Department is developing a contemporary definition in terms of living within the sustainable income from the earth’s ecosystems. The concept of *triple bottom line* reporting is a recent innovation and should be factored in a land evaluation.

### ***Precautionary principle***

Lack of full scientific certainty should not be used as a reason for postponing remedial measures. There is an obligation upon the Government to heed scientific warnings which are still tentative or incomplete.

### ***Perverse incentives***

These are pressures, usually economic, which run counter to sustainable and prudent management. It is a goal of land policy to minimise and reverse these where possible. Removal of perverse incentives is a pre-condition of successful use of market forces to achieve sustainability.

## 1. NATURE OF LAND EVALUATION

### 1.1 Definition of Land Evaluation

*Land evaluation* is the process by which the appropriate use or uses of the subject area are determined in a systematic way, through assessment of technical data, goals, governmental policy and submissions from stakeholders.

*Land evaluation* should be preceded by *goal-setting*, by which strategic objectives are established and values articulated. As a guide for this activity, the planner should refer to statements of Government priority (the seven priorities), the Department's corporate plan, the Department's State Interests (Guideline A2), as well as any regional or catchment plans which spell out objectives for that study area and other statements of policy by governments. Land evaluation is also preceded by *resource assessment*, the scientific or technical description of the spatial, physical, environmental, social and economic attributes of the land. The three activities are collectively termed *land planning* or *land use planning*.

### 1.2 Broad Purpose: Allocation, Regulation or Management

There are three broad purposes for which a public authority might wish to evaluate land:

- to *allocate* its own property to a particular use or uses, or to assign proprietorial rights over the land to some person or other body. In this process, the authority has discretion to determine the use to which it will be put and conditions of occupation. The process can be run for primary allocation then repeated for secondary allocation by tenants or sublessees;
- to *regulate* the use of land by its holder. In this process, the authority defines and sets limits on the intensity of development or designates areas for acceptable uses;
- to *manage* its own property, by direct, operational development works or maintenance; or to advise the occupier of best practice management.

This paper has been written primarily to guide allocation, but many of the principles can also be applied to evaluating land for other purposes. Other Resource Planning Guidelines such as G100 *Implementing NRM Plans* and its summary G100A explain the difference.

#### ***Distinction between Statutory Zoning and Most Appropriate Use Evaluation***

The 'most appropriate use' logic can be applied by local governments to strategically important parcels when evaluating land during compilation of their statutory planning schemes, if latent development rights are not too powerful. However, there is a clear distinction between planning for development control purposes and planning for land allocation. Planning schemes tend to crystallise the previous pattern of development because of existing development rights. Most appropriate use is not so tightly bound by that. Planning schemes are (despite language of ecologically sustainable development in the *Integrated Planning Act 1997*) most concerned with off-site impacts. Most appropriate use is deeply concerned about the intrinsic welfare of the land.

Planning schemes specify a cap to the intensity of permitted development. Most appropriate use during land allocation examines whether the State may be prepared to privatise one of its assets via the tenure tool in order to achieve the objects of the *Land Act 1994* (sustainable development). For significant parcels of State land, the State's investigation during a s.16 study will be quite detailed and it is likely that the planning scheme will tend to 'follow' its findings.

Planning schemes and IDAS are administered by a rigorous statutory process, because they are adjusting *existing* private property rights at the margin. Most appropriate use allows more discretion to the State (community), because it is evaluating *whether to even grant* private property rights.

*The planner cannot determine most appropriate use by referring to the planning scheme, which simply indicates the likely most intensive legally permissible use. Also, the Integrated Planning Act 1997 is*

constructed on the premise that it is the applicant who determines the use to which the property is put, as no development can be prohibited in planning schemes. As applicants are motivated to pursue their own interest, there is a clear distinction with most appropriate use, which is grounded in the community's interest.

### ***Distinction Between On-property Management Planning and Most Appropriate Use Evaluation***

There are important distinctions between an evaluation of most appropriate use and a property resource management plan.

The most appropriate use report includes an assessment of land capability based on the intrinsic characteristics of the land, in the light of State and regional and local planning policies. It notes the 'big picture', giving consideration to the particular parcel of land in its neighbourhood, catchment or regional context. In this sense, most appropriate use is evaluated by first standing on the boundaries looking outward at the context. The report identifies the use that is best suited to the land's capability, the purpose of issuing tenure, the boundaries, any special tenure devices that may be needed such as esplanades along rivers, or nature conservation covenants and so on, arriving at a single main conclusion for each proposed separate cadastral parcel.

Property management planning is a process of documenting property resources and management practices and designing changes to the on-ground management. It includes four main components dealing with:

- natural resource management;
- human resource management and family affairs;
- financial management; and
- production/marketing.

In this sense, property management planning looks inward to assess the resources, but at a generally higher level of detail, as it aims to advise on how the component paddocks should be managed. Property management planning is largely a voluntary mechanism used by landholders after they have gained tenure, although a 'property resource management plan' (a subset dealing only with the natural resources) may be required in order to set the term and conditions of tenure or to gain a regulatory permit.

An evaluation of most appropriate tenure will generally stop at a single conclusion for the whole property and leave some details of the term and conditions to negotiation at the decision-making stage. For example, a planner's report may conclude that the most appropriate tenure is a lease for part grazing and part conservation for 30 years, leaving the land officer to investigate the best tenure device to protect the area of conservation significance, as well as the precise location of legal access and other such matters.

### **1.3 Specific Purpose: Acquisition, Retention, Disposal, Secondary Use**

Within the broad purpose of allocation, an authority might wish to determine whether the property should be added to, retained in or declared surplus to the authority's land portfolio. To ascertain this, the authority needs:

- to determine the range of uses for which the property is suitable;
- to determine whether the property is suitable for a given land use which the authority may wish to facilitate; and
- to compare the suitability of the property for a given use with the suitability of other candidate properties.

The fundamental investigation necessary to make these choices is to determine the most advantageous of possible alternative uses. Then, a conclusion can be reached as to the *most appropriate tenure*. Through

tenure, an authority influences the use of the land either directly (through the terms under which it is held or offered for disposal); or indirectly (by determining the size and shape of the allotments released).

#### 1.4 Scale

Land assessment and evaluation can be pursued at any of a number of scales:

- *portfolio* scale, a strategic process which is followed by authorities when reviewing their entire real property portfolio. The principles of the Government Asset Management System apply. As this is a policy rather than a spatial exercise, it will not be covered further in this paper;
- *State, regional or local* scales. These spatial but strategic activities are not specifically explained in this paper;
- *site-specific or property-specific* scale, the main focus of this paper.

#### 1.5 Background to Section 16

Section 16 when drafted in 1994 was considered to be a minimalist planning procedure compared, for example, with the prescriptive one specified in Crown lands administration in New South Wales. It still is – compared, for example, with the water planning process in the *Water Act 2000*, some 19 pages.

The reason a fully prescriptive planning process complete with public consultation, publication of drafts, submission to the Governor-in-Council and other formal procedures was not established is that some properties do not need that level of formality or detail; and that a ‘one size fits all’ approach would be inefficient and wasteful of resources.

Legal advice clearly states that a tenure issued without a competent most appropriate use and most appropriate tenure report is legally invalid – note that this is more than simply ‘open to legal challenge’: it is automatically invalidated.

## 2. GUIDING PRINCIPLES - CONCEPTUAL FRAMEWORK

Evaluation is an exercise of judgement, and as such it operates within a conceptual framework set by the mission and values of the authority undertaking the evaluation and its empowering legislation. The principles outlined under the ten headings enumerated below form such a framework. There is some overlap between them; *e.g.* the State land ethic set out in the *Land Act 1994* is based upon *ecologically sustainable development* (ESD) but the principles of ESD are separately listed. Also, many if not most of the principles could arguably be said to be embraced by the first principle, the catch-all requirement to protect the public interest. Also, there will usually be conflict between some of the principles. So the list is not clinical but indicative.

‘Most appropriate use’ is fundamentally distinct from ‘highest and best use’ and derives from:

- the intrinsic capabilities of the land in its context;
- the public interest.

### 2.1 Public Interest

The primary guiding principle for any public authority engaged in land evaluation is to protect the public interest; in other words to optimise the long-term community benefit. Of course it may be in the public interest to foster certain kinds of sustainable economic activity but facilitating outcomes that result in primarily private benefit is the responsibility of private individuals.

### 2.2 Land Ethic

The evaluation must be in accordance with a land ethic. A land ethic assists the authority to exercise stewardship of the resource under its control. For State land, this is set out in s.4 of the *Land Act 1994*; for all lands a framework for a stewardship-based land ethic is set out in Guideline B7 *Rights and Responsibilities in Property* (the Director-General's speech of 8 April 2003 on property rights).

### 2.3 Ecologically Sustainable Development

The evaluation must be in accordance with the objectives and principles of ESD, outlined in the 1992 National Strategy for ESD and refined since then in numerous contemporary writings. The 1992 objectives are:

- to enhance individual and community well-being and welfare by following a path of economic development that safeguards the welfare of future generations;
- to provide for equity within and between generations;
- to protect biological diversity and maintain essential ecological processes and life support systems.

The principles are:

- decision-making processes should effectively integrate both long- and short-term economic, environmental, social and equity considerations;
- where there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing counter measures (*the precautionary principle*). This can be taken to mean, where the desirability of a proposed project is uncertain, that it is usually best not to develop the site, because the site then remains available for a future better proposal or for reconsideration when more information is available;
- the global dimension of environmental impacts of actions and policies should be recognised. This can be taken to refer (for example) to greenhouse gases, protection of the Great Barrier Reef from siltation and protection of habitat for wader birds;
- the need to develop a strong, growing and diversified economy which can enhance the capacity for environmental protection should be recognised. This can be taken to require the planner to *facilitate* (but not necessarily to *encourage*) sustainable economic development;
- the need to maintain and enhance international competitiveness in an environmentally sound manner should be recognised;
- cost-effective and flexible policy instruments should be adopted, such as improved valuation, pricing and incentive mechanisms. *Perverse incentives* (q.v.) should be removed;
- decisions and actions should provide for broad involvement of the community on issues which affect them.

### 2.4 Time Horizon

Decisions about retaining or disposing of State land should be based upon a long term vision for the area. Many developmental actions are in effect irreversible: *e.g.* clearing of ground flora in natural bushland, conversion of farmland into urban development, subdivision of large sites into small lots and sale to separate owners, dumping fill on mangroves.

Sometimes a shorter horizon is necessary; *e.g.* a site on the edge of an expanding town may be evaluated to decide on a suitable interim use applicable for a few years while waiting for its development potential to mature.

The planner must consider the likelihood that the primary use for which the land may have been earmarked will decline in importance with time and that the land if it remains in the public estate may become available for other uses. The horizon adopted by the local government in its statutory zoning – often 10-15 years – is too short when planning for allocating land tenure, the outcomes of which usually endure much longer than that.

### 2.5 Establishing a Wider Context

Planning ideally should progress from the broad to the property-specific scale, to establish the State, regional and local context. This will often be difficult as such broader plans as exist may be patchy in content. Without a broader perspective, land uses risk being fragmented, neighbouring land uses may be poorly compatible and opportunities for (say) establishing habitat corridors or remedying catchment-wide degradation may be overlooked.

The plan must be as compatible as possible with the relevant plans of the local government and of other State and federal authorities. If an inconsistency can be justified, it should be identified and the reasons explained. Before a parcel of land is released for development, approval in principle should be obtained from relevant authorities. A new landholder should not be obliged to resolve substantial inconsistencies between the planning intentions of different arms of government. However all necessary permissions must still be obtained.

A wider context is helpful when evaluating proposals for developmental projects. Claims of economic benefits such as numbers of jobs created do not necessarily mean that only *this* site can be developed for the purpose. If investment capital is available, presumably it can also be invested somewhere less problematic.

For example, a mining company may ask for a pastoral lease to be subdivided and part allocated for a spoil dump. The planning officer must evaluate the effects on grazing management, the alternative possible sites for the spoil dump, the toxicity of the spoil, even (up to a point) the viability of the mine. Another site may oblige the company to rearrange their operations but that may be no great hardship. Commercial firms often apply for the most obviously convenient site but that may well not be the most efficient seen from the community's viewpoint. Can the company combine with another dumping operation to achieve economies of scale? In what condition will the land be left after the spoil dumping? Standard cost-benefit analysis does not cope very well with situations in which costs linger for longer than about 20 years. The subdivision might be refused on living area grounds (see Guideline F7 '*Living Area*' in *Tenure Administration*) unless the residual lot is a good rural residential lot near a town.

## 2.6 Incrementalism

The phenomenon of incrementalism is explained in the *Land Management Planning Kit* for trustees of reserves (Guideline G51). It refers to the expansion of new uses, often in small steps, each non-objectionable by itself but perhaps overall diverging from a desirable outcome. Incrementalism recognises the power of precedent.

When evaluating the acceptability of a potential use, the prospect that the proposed use might expand after becoming established should be considered. Establishing a use legitimises that use and makes later intensification easier. Conversely, small size does not make a use acceptable: even small-scale earthworks, for example, can disrupt drainage patterns; and billboards occupying only a few square metres of ground can disturb the visual amenity of a locality.

Incremental extension of development becomes almost inevitable if costly trunk services are installed in advance: the marginal cost of extending services is generally much lower than the fixed cost of bringing them to the locality, so extending them holds the prospect of bringing in revenue to offset the initial cost. In other words, servicing encourages development as much as development obliges the authorities to install services. Although some costs can be passed on to the developer through infrastructure charging, development is never cost-free to a community.

## 2.7 Irreplaceability: Retaining Prime Sites for Prime Uses

Land should be used for the most demanding use for which it is suitable. In other words, the feasible and desirable optional uses should be ranked in order of the flexibility with which they can be accommodated and a property allocated to the use or uses which are most likely to be difficult to locate on other properties (other aspects being equal). This approach is in accord with the ESD precautionary principle. Irreplaceability identifies the extent to which options to achieve a wider goal are lost if the site is lost.

For example, large properties are inherently more flexible than small ones as they can accommodate both large and small developments, whereas small properties cannot. Planners should retain large properties for those uses which require them. Specifically, prime large sites should not be used for housing unless there is little likelihood that an alternative use will arise. Houses can be constructed on sites almost anywhere. Also, large industrial sites especially near rail heads should not be cut into sites for small factories, even if there is no particular proposal for a big project on the books at the time. Sites for shooting ranges are another example.

A typical ranking in order of irreplaceability *other aspects being equal* might appear as follows:

- marine frontage (retained for public access and protection of coastal processes);
- mangroves and saltmarsh (plant community);
- prime natural conservation land (biodiversity) and rainforest;
- watercourse frontage;
- floodplain frontage in urban areas (retained to allow soft treatment of stormwater);
- large flat property in centre of town (retained for a public institution or a suitable development which provides for community needs);
- large flat property on fringes of town (retained as a reserve for strategic land management to accommodate future urban growth);
- small lots within town (sale in freehold).

Bushland will always appear high on such lists, because the remnants are declining under threat from weeds and development. Once cleared it is almost impossible to recreate bushland faithfully.

## 2.8 Overcoming Constraints

This principle is the converse of the previous. A property should be put to the use which will most effectively recognise, and where appropriate, overcome its limitations, thus releasing more flexible sites for more demanding uses. For example, houses can be constructed on steep, eroded land or stony, barren soil which is unsuitable for agriculture or conservation. Urban growth should be directed away from good agricultural land towards the fringes or less intensively developed parts of established serviced urban areas, or towards localities with few alternative uses.

## 2.9 Alternatives

As a general rule, the State should not enter into competition with the private sector for supply of land or the services which are dependent upon land. This principle does not prevent the State from retaining operational land for its own purposes. This principle also does not prevent the State from selling land on the market, as a means of achieving public policy goals such as facilitating economic development or to dispose of genuinely surplus assets.

This principle however suggests that it is imprudent of an authority to dispose of valuable properties into a glutted market or to actively compete with private developers who may be able to offer alternative freehold sites to satisfy a given demand. The Government has an indefinite time horizon and can await a more auspicious market or a clearer picture of the way that a community is developing. It can act counter-cyclically to the benefit of industry and customers.

## 2.10 Multi-dimensional Analysis

The processes for assessing land are not just biophysical assessments but are multi-dimensional: as shown in the models described in *Social, Economic and Environmental Assessment – Guidelines for Policy and Planning Proposals* - October 2002. The document outlines methods and tools to aid assessment of economic, social and environmental impacts of proposed plans or policy (it is not focused on assessing specific sites or properties). The checklist in its Appendix 1 could with modification be used to assess the relative performance of various development options generated from a biophysical assessment.

## 3. GUIDING PRINCIPLES - SPECIFIC CIRCUMSTANCES



### 3.1 Biophysical Attributes

#### *Visual framework*

If the property forms part of the visual framework for a locality or a region, the most appropriate use will be one which protects the integrity of that framework. For example, retain the natural vegetation of dominant hills, the physical integrity of riverbanks and the strips of mangroves along estuaries. Avoid allowing visually discordant development, e.g. a house on an otherwise forested hillslope.

#### *Access*

Large parcels of State land within towns sometimes become surplus and the highest *economic* use is often housing or commercial development, but the *most appropriate* use may be for a less profitable purpose which takes advantage of the land's unique size or location, or the community's need for something else. Sites close to nodes of public transport - particularly within 500 m - should be retained for community uses which can attract large numbers of people – notably educational institutions, intensive sporting facilities, public offices and venues of entertainment.

Ensure that uses which generate road traffic are sited to minimise distances travelled and to facilitate safe egress and ingress from arterial roads. Minimise the numbers of intersections.

#### *Land condition*

Land condition such as erosion, contamination or presence of pest plants and animals can affect decisions as to appropriate use. For example, an infestation of parthenium weed may be so severe that continuing agriculture may be a threat to neighbours and forestry instead be preferable. A site may be contaminated by toxic waste or soil-soaked petroleum, or it may have previously been a rubbish dump. If a possible use would mean that the soil need not be disturbed, the site may not require de-contamination but this will always be problematic for proposed residential or public uses.

#### *Water frontage*

Along the marine frontage, continuous public esplanade or reserve should be retained or if lost, eventually be retrieved. This strip is critical for recreational, environmental, scenic, tourism and other qualities. Also, it protects the land from the sea and allows coastal processes to operate. No exclusive public or private use should be accommodated on the marine frontage unless it essentially requires a coastal location *and* is in the public interest. No land with a direct frontage should be sold – particularly on headlands.

The same principle should apply to estuaries. But the frontage along fresh rivers is more complex and is covered in a separate Guideline, G10 *Land Subdivision Adjoining Watercourses*. Planning officers should become familiar with the *Coastal Protection and Management Act 1995*, which contains powers to retrieve strips of foreshore land into public ownership; and Guideline G23 *Parkland Surrender at Time of Subdivision* (in preparation).

Planning officers should become familiar with the State Coastal Management Plan and any approved Regional Coastal Management Plans as these documents have the statutory force of State Planning Policies.

#### *Compatibility*

A proposed land use should, where possible, be compatible with (and even enhance) the land uses on neighbouring properties - and vice versa. For example, facilities might be shared, or the subject land might augment an adjoining conservation corridor. A new residential development might be compatible with an adjoining park by causing it to be more effectively utilised throughout the day.

Avoid siting incompatible uses near to each other: for example, a residential area should not adjoin cropland or an industrial area without an adequate buffer. See Planning Guideline *Separating Residential from Agricultural Land Uses*. A potential land use may generate levels of noise or night-time illumination that are unfair to nearby residents due to disruption of their amenity. If these problems cannot be reduced to acceptable levels by such measures as tree-filled buffers, optimal siting of a building envelope and angling of lights, the site is unsuitable.

***Area***

The property must be large enough to allow for all ancillary use - parking, internal roads, landscaping and buffers - both for immediate needs and for future expansion.

For residential estates, ensure that space is available for soft treatment of stormwater to avoid discharging polluted water directly to the nearest stream. Urban stormwater is usually as high in organic biological oxygen demand as sewage, and the rapid rises and falls in volume can severely erode the receiving watercourse. Wetlands can ameliorate these effects and enhance the environment and amenity, but space should be available to allow the works necessary to overcome the potential hazards such as mosquitoes and gross pollutants. Mosquitoes need not be a problem if the base is permanently wet enough to support populations of native fish.

***Catchment management***

Susceptibility of land to flooding is easily overlooked, especially in dry seasons. As catchments urbanise, flood peaks tend to rise and dry weather flow declines. Development may affect the spread of overland flow of floodwaters in natural flood plains. Even costly drainage works may not convey an adequate level of security from flooding. In or near urban districts, space should be retained for flood retardation basins. These can reduce the intensity of storm flows and, if they have a wet base, can have high value for landscape and conservation.

The less clearing and grazing in a catchment for a water supply, the better. Clearing usually causes soil degradation, causing turbidity, which in turn increases costs of water treatment. Soil also carries nutrients. Cropping and grazing often result in runoff of fertiliser, herbicide and insecticide into surface water. This can cause fish kills, either directly from the poison, or indirectly through algal blooms consuming the oxygen in the water, or creating poisons in its turn.

***Matching land capability to uses***

The planner needs to examine the physical attributes of the land including its soil, vegetation and mineral resources to clarify its suitability for a range of potential uses. The planner needs to understand which of these can be overcome by normal prudent management or capital works and which are definitely limiting.

**3.2 Social Attributes*****Community identity***

Avoid allowing a use which degrades the identity of the locality, the atmosphere which residents hold dear. This will often mean protecting open space buffers around towns, access to beaches and lakes, rolling farmland and local parks.

In districts of expanding population, larger centres can swallow up smaller communities. The planner should maintain open space between each township or community to preserve their identity and unique qualities such as 'village atmosphere'.

***Community recreation***

Make provision for the broadest possible range of recreational pursuits to satisfy present and future needs. Trends in recreation are generating a demand for large sites for integrated complexes, both indoor and outdoor. Their locational requirements are quite demanding.

**3.3 Economic Attributes*****Economic efficiency***

Reject uses which impose unnecessary economic burdens on governments and the community. For example, reject remote subdivisions, where the costs to establish and maintain infrastructure are excessive and the costs of living to the community are expensive. Do not choose a use which will shift

avoidable costs onto another level of government: for this purpose assume that government is a single entity.

The costs to the private sector of a proposed use are also relevant; *e.g.* a residential subdivision remote from a township may cause owners to run up large bills in fuel and other forms of unproductive expenditure which overall drag down the economy. Applicants do not always operate in the best interests of subsequent buyers or the community.

### ***Viability of local industry***

Some local industries require a certain minimum input of raw materials below which their viability is compromised. For example, factories such as sugar mills which process agricultural products may become uneconomic if their hinterland is converted to housing. Economic benefit to individual property-owners does not necessarily coincide with economic benefit to the community; and where the planner is in a position to choose, the wider benefit must prevail.

The planner must assess market forces critically in the subject sector in order to distinguish between industries which will inevitably decline, no matter to what use the land is put; and industries which can remain vigorous given firm and sensible land planning. Research on industry condition and trend is required. However, this must not amount to central planning of industry.

### ***Facilitating development***

Planning must assist public authorities to site public infrastructure such as railways, ports and electricity supply. Particular attention should be given to opportunities to reserve linear corridors for extensive infrastructure: it is difficult and economically inefficient to later acquire corridors across fragmented ownerships.

Opportunities for clustering industry should be explored. Often, businesses will achieve competitive advantage through co-location, especially if they are sited close to each other.

### ***State land portfolio***

The extent of other public lands in the locality is a relevant consideration. A district in which there are large tracts of undeveloped State land can afford to allocate more of it to some form of private development than one in which public lands are scarce; in the latter case, these lands should be retained for non-commercial community functions.

In forming this judgement, the level of security under which the other lands are held should be noted. They may be in the control of an authority which may be under economic pressure to divest assets or which may be a candidate for privatisation. Regulatory reform may well sweep aside other safeguards.

### ***Multiple use***

A site is more valuable if it can be used for a multiplicity of purposes. However, the widely advocated concept of multiple use loses focus when it is examined closely. *Any* area has multiple uses: even a wilderness zone of a national park with limited public access is valuable for water catchment, conservation, landscape and low-intensity recreation. Also, any extractive or consumptive use inevitably compromises the capacity of the property to satisfy non-consumptive, protective uses. Ultimately the only satisfactory way of resolving these conflicts is to zone the area to give primacy in each zone to one or the other of the competing uses. The total area may remain multiple use, but each zone is more limited. Thus multiple use is reduced to a question of the scale at which the property is viewed.

## **3.4 Consultation and Evaluating Submissions**

The planner must give due weight to submissions from the public and stakeholders according to their familiarity with the locality and the issues; their level of self-interest compared with community interest; the level of commercial gain attaching to various options; the likely support they enjoy in the community; and the influence of recent media exposure.

Ensure that the process adopted for sounding out community opinion has local credibility: for larger study areas or more contentious properties, a systematic, publicly announced consultation process with transparent steps usually becomes desirable. Public meetings, information displays, letter drops, etc. may be appropriate to ascertain views.

Consider any requirements of public authorities, especially a previous or potential occupier. An authority now in occupation may not be able to vacate the site for a period of time or may wish to continue in occupation under certain terms. Is vacant possession necessary or desirable? Should existing improvements be relocated? Funds derived from a sale may not accrue to the body needing to build the replacement facility.

#### **4. PROCEDURE - FORMING A CONCLUSION**

Guideline F1 *Conduct of a Planning Study* explains the *practical* process of conducting a planning study; this section deals with the *intellectual* process of applying the above principles to form a coherent conclusion on most appropriate use.

Integrating the results of the technical assessment in the light of the goals and the above guiding principles is not just a mechanical task. No textbook, manual or checklist can take the place of the informed judgement of an experienced officer who is familiar with the resource use issues at stake and sensitive to the wishes and needs of government and society.

##### **4.1 Identify Constraints**

List the limiting factors, the attributes which render the property inflexible, that is, which constrain the range of uses to which it might be put. List the current legal interests, trends, the views of stakeholders and the policy considerations which constrain flexibility to deal with the land. Tabulate the strategic plans and regulatory provisions of the authorities.

Mention external effects: what effects will land use on the subject land have on neighbouring properties or land downstream? Are there particularly sensitive features or areas nearby or downstream? Might it be required as an extension to existing public open space? Also mention problems emanating from nearby land such as noise and height limitations near airports or industrial emissions and wastes. Identify developments which may affect the property in question, such as planned road or rail works.

##### **4.2 Identify Opportunities and Demand**

List the attributes of which advantage should be taken if the property is to be used to its optimum potential. List the uses which are poorly accommodated in the locality or perhaps even the region. Ascertain the needs for land of all other public authorities. Ascertain which other properties might become surplus to other authorities' requirements in the foreseeable future. Match up supply and demand: land availability and potential requirements. For example, the State Land Release Strategy for Gladstone and Calliope developed in response to the need for more residential land to match accelerated industrial development. However, demand should be evaluated critically: an entrepreneur's assertions about the viability of their development may not equate to a genuine commercial trend.

This can be a very complex exercise, especially if the opportunity is available to review a number of parcels in one locality. For example, a local government may wish to rationalise its recreation reserves. Seemingly endless possibilities can open up, and perhaps even s.18 of the *Land Act 1994* (allowing exchange of land) may become applicable. Despite this complexity, outcomes highly beneficial to the community can result.

Consider imminent major works or planning-related initiatives affecting the locality, including new roads, other infrastructure, major tourist resorts or new public institutions; also, are any major planning studies which might shed light on the subject land under way?

The availability of surplus government property assets may open a window of opportunity to augment existing property stocks with sites for facilities which were not catered for in the original development of the

area – either from a shortfall in past planning or the emergence of new demands as the community matures. Examples of such infrastructure strengthening include public utilities, expansion of cramped commercial centres, open space linkages, traffic rearrangements, child care centres and bike track linkages. Indicate the requirements of public authorities for adjustments to their asset portfolios in the locality.

Sometimes opportunities arise for the State to use its land holdings to demonstrate or to trial some innovation in land or property development, such as green street housing or community titles run on ecovillage lines. The State can also act as a land banker to guide the direction in which development spreads or ensure that the budget end of the market is not squeezed out by commercial imperatives.

#### 4.3 Identify Necessary and Sufficient Conditions

Where there is flexibility, list the circumstances which *are sufficient*, *are necessary*, or *are desirable*, if an area is to be considered suitable for a particular purpose. For example, if the local government requires land for a sporting complex, there may be several *desirable* criteria such as size, proximity to transport and the town centre, flatness, freedom from flooding, soil type, buffer around to minimise noise pollution for neighbours, shape to accommodate several sports. There is no single *sufficient* criterion, because the ideal site will display all of these attributes. But some such as a minimum size and accessibility are *necessary*, more so than others. This list will reveal some inherent tensions, such as between proximity to the town centre vs. space for a buffer (less likely in the town centre). Criteria can be ranked.

#### 4.4 Identify Possible Alternative Outcomes

Where the authority has no specific purpose in mind, list the uses to which the area might reasonably be committed. The list would include uses for which there is an as-yet-unsatisfied inherent or expressed need. *This is perhaps the most difficult step in the process*, and the point at which planning for land allocation offers greater scope for imagination than regulatory planning for development control where the existing development prerogatives and ‘sovereignty’ of the landholder must be recognised. (Landholder sovereignty is explained in Guideline G100 *Implementing NRM Plans* and its summary G100A).

Many systems for assessing and evaluating land reveal only uses which are already obvious or for which models already exist. However, the planner of State land will often be able to facilitate some use which is quite creative and perhaps unknown in that district or in Queensland. Interstate or international models may be applicable. To take advantage of this potential, the planner of State land must view the craft as *using tenure as a tool to achieve the potential of State land to develop the community* and not simply as applying a process that the private applicant must navigate to get an economic proposal off the ground. There is a gulf between this creative view of tenure and the more common view that all the good ideas arise in the private sector and that the absence of freehold is an impediment to economic activity.

What range of activities was envisaged when the previous primary tenure was allocated? Are they still relevant? Can parallel uses co-exist (given adequate measures to protect the public interest)? Identify the potential for subdivision or further development. Identify any site or administrative preparation that might be needed if the property is to be sold at an advantage. Ensure that sufficient flexibility exists in the conclusions to cater for emerging trends.

Alternative uses must be viable, which means that they must be capable of delivering reasonable commercial or community benefits. To be commercial, a use must be capable of supporting a transaction in the market place on reasonable terms and conditions, even if it is to be operated by government (that is, competitive neutrality should apply). If a use is a community one, it need not displace a more economically beneficial use where there are other areas equally as suitable and available for the community purpose.

Consider the nature and hence the likely effects of any intended use. Will it damage the features or usefulness of the land or impair its inherent condition? Can its effects on the land or locality be ameliorated? Are they likely to be ameliorated? To what extent does the use require continuing watchful monitoring by a local government or State department?

#### 4.5 *The Most or An Appropriate Use?*

It is a complex question whether a proposed use needs to be *the most* appropriate, or simply *an* appropriate one. If only one application is presented, it must be judged on its merits, though the applicant may be amenable to creative suggestions. If there happens to be more than one feasible use or potentially feasible use, then clearly the *most* appropriate of them should be chosen. However, where some use is already established and it is not *inappropriate*, it makes no sense to replace it with a marginally better one. Also, where a potential tenant arrives with an acceptable proposal, it may not make sense to refuse it on the grounds that a slightly better one might arise at some distant time.

It is possible for a planning officer to conclude that there is more than one ‘most appropriate use’, perhaps in circumstances like this:

“should an export licence be obtainable for plantation timber, then the most appropriate use would be forestry; but if not, then broad acre cattle grazing is the most appropriate use”.

#### 4.6 **Form a Conclusion**

This step is the pivotal application of judgement to the facts and circumstances. This task is both a technical one requiring multi-disciplinary knowledge of resource planning; and an ethical one.

Planners have available a coherent conceptual framework within which to conduct their evaluation and a coherent set of guidelines on the nature of planning, how to coordinate planning, the mechanisms available to implement plans and numerous other relevant subjects. These are set out in the Resource Planning Guidelines, most in the public arena. In principle at least, two planners from widely different backgrounds should arrive at similar conclusions about most appropriate use, although some imaginative potential uses may surface only as a product of very personal experiences; and some planners who have experience only of statutory development control need to become familiar with the different nature of tenure allocation. In all cases familiarity with the Department’s *stewardship* ethos is essential and this should moderate unduly pro-development, pro-conservation or pro-market-based approaches.

In all evaluations the condition of the natural resources and the public interest must be the prime considerations. As the Minister said (see April 2003 speech on the Department’s “Property” web page), “...the history of civilisation demonstrates that no production system that exceeds the sustainable carrying capacity of its ecological systems can survive for long”.

In all and overall, the reporting officer must derive their conclusions from the inherent capabilities of the land and a strong sensitivity to the public interest.

End of Guideline

*This Guideline replaces Guideline B4 of the same name issued as an Operational Draft on 20 April 1998. For guidance on the principles of decision-making refer to Guidelines D1 Making Decisions According to Policy (published in the Australian Journal of Public Administration June 2000) and D2 Power to Make Decisions and D4 Making Decisions About the Use and Tenure of State Land (this latter being work in progress and not yet available for public release).*