

# State Environmental Planning Policy (Rural Lands) 2008

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New South Wales

## Status Information

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Authorisation

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## Contents

<b>Part 1 Preliminary</b> .....	4
1 Name of Policy .....	4
2 Aims of Policy .....	4
3 Definitions .....	4
4 Land to which Policy applies .....	6
5 Relationship with other environmental planning instruments .....	6
6 Repeal of Schedule .....	6
<b>Part 2 Rural Planning Principles</b> .....	6
7 Rural Planning Principles .....	6
<b>Part 3 Rural subdivisions and dwellings</b> .....	7
Note .....	7
8 Rural Subdivision Principles .....	7
9 Rural subdivision for agricultural purposes .....	8
10 Matters to be considered in determining development applications for rural subdivisions or rural dwellings .....	8
11 Amendment of concessional lot provisions .....	9
<b>Part 4 State significant agricultural land</b> .....	9
12 Objects of Part .....	9
13 State significant agricultural land .....	9

<b>Part 5 Rural lands planning panels</b> .....	9
14 Functions of panels.....	9
15 Constitution of panels.....	10
16 Members of panels .....	10
17 Alternate member .....	10
18 Term and other conditions of office .....	10
19 Vacancy in office.....	11
20 Pecuniary interests .....	11
21 Procedure at meetings .....	11
22 Quorum .....	11
<b>Part 6 Miscellaneous</b> .....	11
23 Existing development applications .....	11
<b>Schedule 1 (Repealed)</b> .....	11
<b>Schedule 2 State significant agricultural land</b> .....	12

# State Environmental Planning Policy (Rural Lands) 2008



New South Wales

## Part 1 Preliminary

### 1 Name of Policy

This Policy is *State Environmental Planning Policy (Rural Lands) 2008*.

### 2 Aims of Policy

The aims of this Policy are as follows:

- (a) to facilitate the orderly and economic use and development of rural lands for rural and related purposes,
- (b) to identify the Rural Planning Principles and the Rural Subdivision Principles so as to assist in the proper management, development and protection of rural lands for the purpose of promoting the social, economic and environmental welfare of the State,
- (c) to implement measures designed to reduce land use conflicts,
- (d) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,
- (e) to amend provisions of other environmental planning instruments relating to concessional lots in rural subdivisions.

### 3 Definitions

(1) In this Policy:

**dwelling** means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

**environment protection zone** means any of the following, or an equivalent land use zone:

- (a) Zone E1 National Parks and Nature Reserves,

- (b) Zone E2 Environmental Conservation,
- (c) Zone E3 Environmental Management,
- (d) Zone E4 Environmental Living.

**panel** means a rural lands planning panel constituted under Part 5.

**Rural Planning Principles**—see clause 7.

**rural residential zone** means Zone R5 Large Lot Residential or an equivalent land use zone.

**Rural Subdivision Principles**—see clause 8.

**rural zone** means any of the following, or an equivalent land use zone:

- (a) Zone RU1 Primary Production,
- (b) Zone RU2 Rural Landscape,
- (c) Zone RU3 Forestry,
- (d) Zone RU4 Rural Small Holdings,
- (e) Zone RU6 Transition.

**State significant agricultural land**—see clause 13.

**the Act** means the [Environmental Planning and Assessment Act 1979](#).

- (2) A reference in this Policy to land within a named land use zone is a reference to land that, under an environmental planning instrument made as provided by section 33A (2) of the Act, is within that zone.
  - (3) A reference in this Policy to land within a land use zone that is equivalent to a named land use zone is a reference to land that, under an environmental planning instrument that is not made as provided by section 33A (2), is within a land use zone that (in the opinion of the consent authority for the land) is equivalent to that named land use zone.
- (3A) Despite subclause (3), in relation to land:
- (a) to which an environmental planning instrument that is not made as provided by section 33A (2) of the Act applies, and
  - (b) to which a draft environmental planning instrument that complies with that section and that has been the subject of community consultation also applies,
- a reference in this Policy to a lot or land in a named land use zone is a reference to a

lot or land specified in such a zone in the last such draft environmental planning instrument that was the subject of such community consultation.

(3B) In subclause (3A), **community consultation** means community consultation under section 57 of the Act or public exhibition under section 66 of the Act (as continued on by clause 12 of the *Environmental Planning and Assessment Regulation 2000*).

(4) Notes included in this Policy do not form part of this Policy.

#### **4 Land to which Policy applies**

This Policy applies to the State, other than those parts of the State within the following local government areas:

Ashfield, Auburn, Bankstown, Baulkham Hills, Blacktown, Blue Mountains, Botany Bay, Burwood, Camden, Campbelltown, Canada Bay, Canterbury, City of Sydney, Fairfield, Gosford, Hawkesbury, Holroyd, Hornsby, Hunters Hill, Hurstville, Kogarah, Ku-ring-gai, Lake Macquarie, Lane Cove, Leichhardt, Liverpool, Manly, Marrickville, Mosman, Newcastle, North Sydney, Parramatta, Penrith, Pittwater, Randwick, Rockdale, Ryde, Strathfield, Sutherland, Warringah, Waverley, Willoughby, Wollondilly, Wollongong, Woollahra, Wyong.

#### **5 Relationship with other environmental planning instruments**

If there is an inconsistency between this Policy and any other environmental planning instrument, whether made before or after the commencement of this Policy, this Policy prevails to the extent of the inconsistency.

#### **6 Repeal of Schedule**

(1) Schedule 1 is repealed on the day following the day on which this Policy commences.

(2) The repeal of that Schedule does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Policy.

## **Part 2 Rural Planning Principles**

#### **7 Rural Planning Principles**

The Rural Planning Principles are as follows:

- (a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,
- (b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,
- (c) recognition of the significance of rural land uses to the State and rural communities,

including the social and economic benefits of rural land use and development,

- (d) in planning for rural lands, to balance the social, economic and environmental interests of the community,
- (e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,
- (f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,
- (g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,
- (h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.

**Note—**

Under section 117 of the Act, the Minister has directed that councils exercise their functions relating to local environmental plans in accordance with the Rural Planning Principles. Under section 55 of the Act, the Minister may also direct a council to prepare a local environmental plan.

### **Part 3 Rural subdivisions and dwellings**

**Note—**

This Policy does not change the minimum lot size provision in existing environmental planning instruments. This Policy does permit variation of minimum lot sizes for agricultural purposes (see clause 9).

#### **8 Rural Subdivision Principles**

The Rural Subdivision Principles are as follows:

- (a) the minimisation of rural land fragmentation,
- (b) the minimisation of rural land use conflicts, particularly between residential land uses and other rural land uses,
- (c) the consideration of the nature of existing agricultural holdings and the existing and planned future supply of rural residential land when considering lot sizes for rural lands,
- (d) the consideration of the natural and physical constraints and opportunities of land,
- (e) ensuring that planning for dwelling opportunities takes account of those constraints.

**Note—**

Under section 117 of the Act, the Minister has directed that councils exercise their functions relating to changes in minimum lot sizes under local environmental plans in accordance with the Rural Planning Principles and the

Rural Subdivision Principles. Under section 55 of the Act, the Minister may also direct a council to prepare a local environmental plan.

### **9 Rural subdivision for agricultural purposes**

- (1) The objective of this clause is to provide flexibility in the application of standards for subdivision in rural zones to allow land owners a greater chance to achieve the objectives for development in the relevant zone.
- (2) Land in a rural zone may, with consent, be subdivided for the purpose of primary production to create a lot of a size that is less than the minimum size otherwise permitted for that land.
- (3) However, such a lot cannot be created if an existing dwelling would, as the result of the subdivision, be situated on the lot.
- (4) A dwelling cannot be erected on such a lot.
- (5) *State Environmental Planning Policy No 1—Development Standards* does not apply to a development standard under this clause.

### **10 Matters to be considered in determining development applications for rural subdivisions or rural dwellings**

- (1) This clause applies to land in a rural zone, a rural residential zone or an environment protection zone.
- (2) A consent authority must take into account the matters specified in subclause (3) when considering whether to grant consent to development on land to which this clause applies for any of the following purposes:
  - (a) subdivision of land proposed to be used for the purposes of a dwelling,
  - (b) erection of a dwelling.
- (3) The following matters are to be taken into account:
  - (a) the existing uses and approved uses of land in the vicinity of the development,
  - (b) whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development,
  - (c) whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b),
  - (d) if the land is not situated within a rural residential zone, whether or not the development is likely to be incompatible with a use on land within an adjoining rural residential zone,



- (e) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d).

### **11 Amendment of concessional lot provisions**

The environmental planning instruments specified in Schedule 1 are amended as set out in that Schedule.

**Note—**

The amendments made by the Schedule do not affect any existing entitlement in any environmental planning instrument to erect a dwelling on land within a rural zone or an environment protection zone.

## **Part 4 State significant agricultural land**

### **12 Objects of Part**

The objects of this Part are as follows:

- (a) to identify State significant agricultural land and to provide for the carrying out of development on that land,
- (b) to provide for the protection of agricultural land:
  - (i) that is of State or regional agricultural significance, and
  - (ii) that may be subject to demand for uses that are not compatible with agriculture, and
  - (iii) if the protection will result in a public benefit.

### **13 State significant agricultural land**

- (1) Land is State significant agricultural land if it is listed in Schedule 2.
- (2) The provisions in Schedule 2 relating to the carrying out of development on State significant agricultural land have effect.

## **Part 5 Rural lands planning panels**

### **14 Functions of panels**

- (1) A rural lands planning panel is, at the request of the Director-General, to advise the Director-General with respect to a rural lands development application that contravenes a development standard.

**Note—**

Under [State Environmental Planning Policy No 1—Development Standards](#), and provisions equivalent to clause 4.6 of the standard instrument under the [Standard Instrument \(Local Environmental Plans\) Order 2006](#), the Director-General's concurrence is required to development consent that contravenes a development standard.

(2) In this clause:

***rural lands development application*** means an application for development consent to subdivide land or to erect a dwelling on land in a rural zone or an environment protection zone or on land within a rural residential zone that adjoins a rural zone.

### **15 Constitution of panels**

- (1) The Minister may constitute one or more rural lands planning panels.
- (2) A panel may be constituted for a region or for one or more local government areas or for all the local government areas to which this Policy applies.
- (3) More than one panel may be constituted in relation to the same region or the same local government area.

### **16 Members of panels**

- (1) A panel is to consist of not more than 3 persons appointed by the Minister.
- (2) The Minister is to appoint one of the members of a panel as the chairperson of the panel.
- (3) A person is qualified for appointment as a member of a panel if the person has expertise in any one or more of the following, namely, planning, local government, primary production or economics.
- (4) In appointing the members of a panel, the Minister is to ensure, as far as practicable, that the members have expertise in a mix of the disciplines referred to in subclause (3).

### **17 Alternate member**

- (1) The Minister may appoint one or more alternate members for a panel.
- (2) An alternate member may act in the place of any member of the panel who for any reason is unable to act as a member.
- (3) An alternate member must have one of the qualifications referred to in clause 16 (3) and is not required to have the same qualification as the member in whose place the alternate member acts.
- (4) The provisions of this Part apply to an alternate member in the same way as those provisions apply to a member.

### **18 Term and other conditions of office**

A member of a panel:

- (a) holds office for such term as is determined by the Minister, and
- (b) ceases to hold office in such circumstances as are determined by the Minister, and
- (c) is entitled to such remuneration, if any, and to the payment of such expenses, if any, as are determined by the Minister, and
- (d) holds office subject to such conditions as are determined by the Minister.

### **19 Vacancy in office**

If the office of a member of a panel becomes vacant, a person may, subject to this Policy, be appointed to fill the vacancy.

### **20 Pecuniary interests**

A member of a panel who has a pecuniary interest (within the meaning of sections 442 and 443 of the *Local Government Act 1993*) in any matter that is the subject of advice by the panel and who is present at a meeting of the panel at which the matter is being considered:

- (a) must disclose the interest to the meeting as soon as practicable, and
- (b) must not take part in the consideration or discussion of the matter, and
- (c) must not vote on any question relating to the matter.

### **21 Procedure at meetings**

Subject to clause 22, the procedure at meetings of a panel is to be determined by the Minister or, in the absence of any such determination, by the panel.

### **22 Quorum**

The quorum at a meeting of a panel is a majority of the members for the time being of the panel.

## **Part 6 Miscellaneous**

### **23 Existing development applications**

If a development application has been made before the commencement of this Policy in relation to land to which this Policy applies and the application has not been finally determined before that commencement, the application must be determined as if this Policy had not been commenced.

## **Schedule 1 (Repealed)**

## **Schedule 2 State significant agricultural land**

(Clause 13)

**Note—**

At the time this Policy was made, this Schedule was blank.