

State Environmental Planning Policy (Rural Lands) 2008

[2008-128]



New South Wales

Status Information

Currency of version

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Provisions in force

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

Notes—

- **Repeal**

This Policy was repealed by cl 8 (1) of the [State Environmental Planning Policy \(Primary Production and Rural Development\) 2019 \(137\)](#) with effect from 28.2.2019.

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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New South Wales

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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 3.20 (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 3.20 (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 3.20 (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 9.1 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 3.33 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 9.1 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 3.33 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.

Schedule 3 Rural land sharing communities

1 Application of Schedule

This Schedule applies as if it formed part of each of the following local environmental plans and has effect despite any other provision of those plans:

- (a) *Bega Valley Local Environmental Plan 2002,*
- (b) *Bega Valley Local Environmental Plan 2013,*
- (c) *Bellingen Local Environmental Plan 2010,*
- (d) *Clarence Valley Local Environmental Plan 2011,*
- (e) *Coffs Harbour City Local Environmental Plan 2000,*
- (f) *Coffs Harbour Local Environmental Plan 2013,*
- (g) *Gloucester Local Environmental Plan 2010,*
- (h) *Great Lakes Local Environmental Plan 2014,*
- (i) *Guyra Local Environmental Plan 2012,*
- (j) *Inverell Local Environmental Plan 2012,*
- (k) *Kyogle Local Environmental Plan 2012,*
- (l) *Port Stephens Local Environmental Plan 2013,*
- (m) *Richmond Valley Local Environmental Plan 2012,*
- (n) *Tenterfield Local Environmental Plan 2013,*
- (o) *Tweed Local Environmental Plan 2000,*
- (p) *Tweed Local Environmental Plan 2014.*

2 Aims of Schedule

This Schedule aims to encourage and facilitate the development of rural land sharing communities committed to environmentally sensitive and sustainable land use practices by:

- (a) enabling people who collectively own a single lot to erect multiple dwellings on that lot without dividing the lot (such as by subdivision or by contractual arrangements), and
- (b) enabling the sharing of facilities and resources to allow a wide range of communal rural living opportunities at a lower cost, and
- (c) facilitating development on rural land (preferably in a clustered style) without undue harm to the environment and without creating a demand for the unreasonable or uneconomic provision of public amenities or services, and
- (d) creating opportunities for an increase in rural population in areas that are experiencing population loss.

3 Land to which Schedule applies

This Schedule applies to land in any rural zone but not to the following land:

- (a) land in an environmentally sensitive area for exempt or complying development within the meaning of clause 3.3 of the standard instrument prescribed by the [Standard Instrument \(Local Environmental Plans\) Order 2006](#),
- (b) land to which a wilderness protection agreement under the [Wilderness Act 1987](#) relates,
- (c) land that is a forestry area within the meaning of the [Forestry Act 2012](#),
- (d) land that is within a special area or a controlled area under the [Hunter Water Act 1991](#), the [Sydney Water Act 1994](#) or the [Water NSW Act 2014](#).

4 Rural land sharing community permitted with consent

- (1) The consent authority may grant development consent to development on land to which this Schedule applies for the purposes of 3 or more dwellings if satisfied of the following:
 - (a) the land is a single lot with an area of not less than 10 hectares,
 - (b) the height of any building on the land will not be more than 8 metres,
 - (c) no more than 25% of the land is prime crop and pasture land and no building containing a dwelling will be on any such land,
 - (d) no building will be on land that is a wildlife refuge, wildlife corridor or wildlife management area and the development will not adversely affect any such land,
 - (e) the development will not include a camping ground, caravan park, eco-tourist facility or tourist and visitor accommodation, except where otherwise permissible on the land,

(f) no building will be on land that has a slope in excess of 18 degrees or that is prone to mass movement,

(g) the development is consistent with the aims of this Schedule.

(2) In this clause:

prime crop and pasture land means:

(a) land identified as prime crop and pasture land under *State Environmental Planning Policy No 15—Rural Landsharing Communities* as in force immediately before the repeal of that Policy, or

(b) land identified by the Secretary of the Department of Industry that has been notified in writing to the consent authority as prime crop and pasture land for the purposes of this Schedule.

5 Matter to be considered

The consent authority must not grant development consent under this Schedule unless it has taken into account the following:

(a) the arrangements for operating and managing the community,

(b) the design of the proposed development,

(c) the physical and heritage characteristics of the proposed site and surrounding land,

(d) the availability of roads, utilities and other services,

(e) the impact of the development on the environment and any present or future use of the land,

(f) any other matter that the consent authority considers to be relevant.

6 Future management

The consent authority must not grant consent to development under this Schedule unless it is satisfied that adequate provision will be made for the following:

(a) water and waste management,

(b) prevention, control and management of soil erosion,

(c) bush fire management,

(d) flora and fauna management, including the control of noxious weeds and noxious animals,

(e) provision and maintenance of internal roads, boundary fences, water reticulation, service corridors for telephone and electricity cables and similar matters.

7 Density of development

- (1) The consent authority must not grant consent to development under this Schedule if the development would result in more than the following number of dwellings on the land:
 - (a) if the land has an area of 10 hectares or more but not more than 210 hectares—4 dwellings plus 1 additional dwelling for every 4 hectares of land greater than 10 hectares,
 - (b) if the land has an area of 210 hectares or more—54 dwellings plus 1 additional dwelling for every 6 hectares of land greater than 210 hectares up to a maximum of 80 dwellings.
- (2) The consent authority must not grant consent to development under this Schedule if the development would result in the number of persons reasonably accommodated in all the dwellings on the land being greater than 4 times the maximum number of dwellings otherwise permitted by this clause.

8 Subdivision prohibited

Subdivision (other than a subdivision permitted under clause 2.75 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*) of land is prohibited if development has been carried out on the land under this Schedule or under provisions similar to this Schedule.

Note—

For example under the former *State Environmental Planning Policy No 15—Rural Landsharing Communities*.

There should be no application for a strata certificate under this Schedule as subdivision is prohibited.

9 More than 1 dwelling may be treated as a single dwelling

The consent authority may, for the purposes of this Schedule, treat 2 or more dwellings as a single dwelling if it is satisfied that, having regard to the sharing of any cooking or other facilities and any other relevant matter, the dwellings comprise a single household.