

State Environmental Planning Policy (Primary Production and Rural Development) 2019



New South Wales

Status information

Currency of version

Current version for 17 July 2020 to date (accessed 1 September 2020 at 00:25)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced. See [Historical Notes](#)

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*.

File last modified 17 July 2020.

State Environmental Planning Policy (Primary Production and Rural Development) 2019



New South Wales

Contents

Part 1 Preliminary	4
1 Name of Policy	4
2 Commencement	4
3 Aims of Policy	4
4 Definitions	4
5 Land to which Policy applies	5
6 Relationship with other environmental planning instruments	5
7 Maps	6
8 Repeals	6
9 Savings provision relating to development applications	7
Part 2 State significant agricultural land	7
10 Objects of Part	7
11 State significant agricultural land	7
Part 3 Farm dams and other small-scale and low risk artificial waterbodies	7
Note 1	7
12 Objects of Part	7
13 Land to which Part applies	8
13A Consent required for certain artificial waterbodies	8
14 Certain artificial waterbodies permissible without consent	8
15 Certain routine maintenance of artificial water supply or drainage channel permissible without consent	8
16 Emergency and routine work by irrigation corporations permissible without consent	9
Part 4 Livestock industries	10
17 Objects of Part	10
18 Certain development to temporarily contain livestock permissible without consent	10
19 Development on land in Western Division for purpose of intensive livestock agriculture that exceeds stock capaci	11
Part 5 Sustainable aquaculture	12

Division 1 Preliminary	12
20 Objects of Part	12
Division 2 Permissible marine waters aquaculture development	13
21 Development to which Division applies	13
22 Marine waters aquaculture permissible with consent	13
23 Consent authority for marine waters aquaculture	13
24 Consent authority to take aquaculture industry development plan into consideration	13
25 Other marine aquaculture development prohibited	13
Division 3 Categorisation of aquaculture development and designated development	14
26 Project profile analysis	14
27 Categorisation of development having regard to project profile analysis	14
28 Designated development	14
Division 4 Consideration of effects of proposed development on oyster aquaculture	15
29 Consultation with Secretary of Department of Industry	15
30 Development consent may be refused if development adversely affects oyster aquaculture	15
31 NSW Oyster Industry Strategy to be considered	15
Schedule 1 State significant agricultural land	16
Schedule 2 Marine waters aquaculture (other than oyster aquaculture)	16
Schedule 3 Designated consent authorities	16
Schedule 4 Application of certain standard provisions relating to primary production and rural development to non-standard local environmental plans and other instruments	16
Schedule 5 Rural land sharing communities	29
Schedule 6 (Repealed)	33
Historical notes	34

State Environmental Planning Policy (Primary Production and Rural Development) 2019



New South Wales

Part 1 Preliminary

1 Name of Policy

This Policy is *State Environmental Planning Policy (Primary Production and Rural Development) 2019*.

2 Commencement

This Policy commences on the day on which it is published on the NSW legislation website.

3 Aims of Policy

The aims of this Policy are as follows—

- (a) to facilitate the orderly economic use and development of lands for primary production,
- (b) to reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources,
- (c) 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,
- (d) to simplify the regulatory process for smaller-scale low risk artificial waterbodies, and routine maintenance of artificial water supply or drainage, in irrigation areas and districts, and for routine and emergency work in irrigation areas and districts,
- (e) to encourage sustainable agriculture, including sustainable aquaculture,
- (f) to require consideration of the effects of all proposed development in the State on oyster aquaculture,
- (g) to identify aquaculture that is to be treated as designated development using a well-defined and concise development assessment regime based on environment risks associated with site and operational factors.

4 Definitions

- (1) A word or expression used in this Policy has the same meaning as it has in the Standard Instrument unless it is otherwise defined in this Policy.

(2) In this Policy—

aquaculture development means development for the purpose of aquaculture.

aquaculture industry development plan means an aquaculture industry development plan published under Part 6 of the *Fisheries Management Act 1994*.

East Cadell Map means the [State Environmental Planning Policy \(Primary Production and Rural Development\) 2019 East Cadell Map](#).

environmentally sensitive area has the same meaning as in clause 1.5 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

irrigation corporation has the same meaning as in the *Water Management Act 2000*.

land-based aquaculture means any form of aquaculture that is not marine waters aquaculture.

marine waters aquaculture means aquaculture undertaken in the coastal waters of the State (within the meaning of Part 10 of the *Interpretation Act 1987*).

minimum performance criteria—see clause 22.

NSW Oyster Industry Sustainable Aquaculture Strategy means the third edition of the publication of that title, as published in 2016 by the Department of Primary Industries (within the Department of Industry).

oyster aquaculture development means development for the purposes of oyster aquaculture.

priority oyster aquaculture area means an area identified as a priority oyster aquaculture area on a map referred to in Chapter 5.3 of the *NSW Oyster Industry Sustainable Aquaculture Strategy*, being a map a copy of which is held in the head office of the Department of Primary Industries (within the Department of Industry) and published on that Department's website.

Standard Instrument means the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006*.

State significant agricultural land—see clause 11.

the Act means the *Environmental Planning and Assessment Act 1979*.

the Regulation means the *Environmental Planning and Assessment Regulation 2000*.

Note. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Policy.

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

5 Land to which Policy applies

Except as provided by this Policy, this Policy applies to the State.

6 Relationship with other environmental planning instruments

(1) If there is an inconsistency between this Policy and another environmental planning instrument,

whether made before or after the commencement of this Policy, this Policy prevails to the extent of the inconsistency, subject to section 3.28(4) of the Act.

- (2) *State Environmental Planning Policy No 1—Development Standards* does not apply to aquaculture development to which Division 2 of Part 5 of this Policy applies.
- (3) To remove any doubt—
 - (a) Part 2 (Planning principles) of *Murray Regional Environmental Plan No 2—Riverine Land* applies—
 - (i) when a consent authority determines a development application required by Part 3 of this Policy for land to which that Plan applies, and
 - (ii) when a public authority or person proposes to carry out on land to which that Plan applies development that does not require consent because of Part 3 of this Policy but that has the potential to adversely affect the riverine environment of the River Murray, and
 - (b) the provisions of Part 3 (Planning requirements and consultation) of that Plan that provide for consultation by a consent authority apply when development defined in the Planning Control and Consultation Table in that Part is required to be carried out with consent because of Part 3 of this Policy.

7 Maps

- (1) A reference in this Policy to a named map adopted by this Policy is a reference to a map by that name—
 - (a) approved by the Minister when the map is adopted, and
 - (b) as amended or replaced from time to time by maps declared by environmental planning instruments to amend or replace that map, and approved by the persons making the environmental planning instruments when the instruments are made.
- (2) Any 2 or more named maps may be combined into a single map. In that case, a reference in this Policy to any such named map is a reference to the relevant part or aspect of the single map.
- (3) Any such maps are to be kept and made available for public access in accordance with arrangements approved by the Minister.
- (4) For the purposes of this Policy, a map may be in, and may be kept and made available in, electronic or paper form, or both.

Note. The maps adopted by this Policy are to be made available on the official NSW legislation website in connection with this Policy.

8 Repeals

- (1) The following environmental planning instruments are repealed—
 - (a) *State Environmental Planning Policy No 30—Intensive Agriculture*,
 - (b) *State Environmental Planning Policy No 52—Farm Dams and Other Works in Land and*

Water Management Plan Areas,

- (c) *State Environmental Planning Policy No 62—Sustainable Aquaculture,*
 - (d) *State Environmental Planning Policy (Rural Lands) 2008.*
- (2) *Sydney Regional Environmental Plan No 8 (Central Coast Plateau Areas)* is amended by omitting clause 11.

9 Savings provision relating to 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 commenced.

Part 2 State significant agricultural land

10 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.

11 State significant agricultural land

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

Note. At the commencement of this Policy, there were no areas listed in Schedule 1 to which the Policy applies.

Part 3 Farm dams and other small-scale and low risk artificial waterbodies

Note 1.

Development that may be carried out without the need for development consent under this Part is not exempt from any approval, licence, permit or authority that is required under any other Act (in particular, the *Water Management Act 2000*), and adjoining owners' property rights and the common law still apply.

Note 2. Clause 6(3) provides for the application of Part 2 (Planning principles) and Part 3 (Planning requirements and consultation) of *Murray Regional Environmental Plan No 2—Riverine Land* in relation to development that may be carried out under this Part.

12 Objects of Part

The objects of this Part are as follows—

- (a) to allow the carrying out of development for the purpose of artificial waterbodies on land to

which this Part applies only with development consent, except as referred to in paragraph (b),

- (b) to allow the carrying out of development without development consent on that land for the purposes of the following—
 - (i) small artificial waterbodies, such as those used for the purpose of storing water and for run-off for reuse, subject to certain restrictions as to location,
 - (ii) routine maintenance of irrigation channels, and the use of land for related access,
 - (iii) emergency work on irrigation channels by irrigation corporations and the use of land for related access.

13 Land to which Part applies

This Part applies to—

- (a) land within the area of operations of an irrigation corporation within the meaning of Part 1 of Chapter 4 of the *Water Management Act 2000*, and
- (b) the land shown edged heavy black on the [East Cadell Map](#).

13A Consent required for certain artificial waterbodies

- (1) Development for the purpose of an artificial waterbody may be carried out on land to which this Part applies only with development consent.

Note. The *Environmental Planning and Assessment Regulation 2000* declares certain artificial waterbodies to be designated development for the purposes of the Act, relevantly, those located on land referred to in clause 13 of this Policy that have a storage capacity of 800 megalitres or more, or that have a storage capacity of 100 megalitres or more and are in an environmentally sensitive area.

- (2) Subclause (1) does not apply to development for the purpose of an artificial waterbody—
 - (a) with a storage capacity of 15 megalitres or more but less than 100 megalitres, and
 - (b) that is carried out in an environmentally sensitive area.

Note. Standard instrument local environmental plans for an area that includes land referred to in clause 13 require development consent for the development referred to in this subclause.

14 Certain artificial waterbodies permissible without consent

Despite clause 13A, development for the purpose of an artificial waterbody may be carried out without development consent on land to which this Part applies if—

- (a) its storage capacity is less than 15 megalitres, and
- (b) it is not within 40 metres of a public road, natural waterbody, environmentally sensitive area or tree clearing operations.

15 Certain routine maintenance of artificial water supply or drainage channel permissible without consent

- (1) Despite clause 13A, development for the purpose of routine maintenance of an artificial water supply or drainage channel may be carried out without development consent on land to which

this Part applies.

(2) In this clause—

artificial water supply or drainage channel includes an artificially improved part of a natural water supply or drainage channel.

routine maintenance of a channel means work to restore the channel, such as cleaning and resealing, and includes periodic inspections and the creation and use of tracks reasonably necessary for access to the site of the work.

16 Emergency and routine work by irrigation corporations permissible without consent

(1) Despite clause 13A, development consisting of emergency work, or routine maintenance, in relation to the works of an irrigation corporation (and development ancillary to that development) may be carried out without development consent by or on behalf of the irrigation corporation on land to which this Part applies.

Note. Ancillary development may include, for example, the carrying out of excavation work, the construction of access ways and the provision of power supplies.

(2) Subclause (1) does not apply to development that is exempt development, or that is prohibited, under another environmental planning instrument.

(3) Despite subclause (1), an irrigation corporation may carry out development only with development consent if the development consists of routine maintenance involving demolishing a building or work that is—

(a) identified as a heritage item or an Aboriginal object or is within a heritage conservation area under an environmental planning instrument, or

(b) on land on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance within the meaning of an environmental planning instrument.

(4) In this clause—

demolish, in relation to a heritage item or an Aboriginal object, or a building or work, means to wholly or partly destroy, dismantle or deface the heritage item, Aboriginal object or building or work.

emergency work means the repair or replacement of any part of the works of an irrigation corporation—

(a) because it has been (or is being) damaged by a natural disaster, an accident, an act of vandalism or a similar occurrence, or

(b) because it has suddenly ceased to function or suddenly ceased to function adequately, or

(c) because it is reasonably necessary to prevent or limit any further damage or malfunction.

routine maintenance includes the periodic inspection, cleaning, repair and replacement of the works of an irrigation corporation, but does not include development that would result in an increase in the designed capacity of any part of those works.

works of an irrigation corporation means works owned or controlled by an irrigation corporation.

Part 4 Livestock industries

17 Objects of Part

The objects of this Part are as follows—

- (a) to allow development for the purpose of keeping or breeding livestock for commercial purposes to be carried out without development consent if it is only to be used—
 - (i) for emergency feeding or emergency housing arrangements for livestock in response to emergencies, including fire, flood, drought and animal disease outbreaks, or
 - (ii) for routine husbandry purposes such as weaning or dipping, subject to certain restrictions as to location,
- (b) to allow development for the purpose of goat depots to be carried out without development consent, subject to certain restrictions as to location,
- (c) in relation to land within the Western Division that is not within a local government area—
 - (i) to require development consent for development to be carried out on that land for the purpose of cattle feedlots, goat feedlots, sheep feedlots, pig farms, dairies (restricted) or poultry farms that exceed specified capacity thresholds, or for the purpose of intensive livestock agriculture in certain locations, and
 - (ii) to provide for matters for consideration for the granting of development consent.

18 Certain development to temporarily contain livestock permissible without consent

- (1) This clause applies to land on which development for the purpose of agriculture may be carried out with or without development consent.
- (2) Development for the purpose of keeping or breeding livestock for commercial purposes may be carried out on land to which this clause applies without development consent if—
 - (a) the development is for a stock containment area, or other feeding or housing arrangements, during or immediately following a drought, flood, fire or similar emergency, and
 - (b) there is currently an agriculture land use lawfully occurring on the land.
- (3) Development for the purpose of keeping or breeding livestock for commercial purposes may be carried out on land to which this clause applies without development consent if the development—
 - (a) is for either or both of the following—
 - (i) temporary agistment or housing,
 - (ii) weaning, dipping, tagging or similar husbandry purposes, and
 - (b) is not located in an environmentally sensitive area, and

- (c) is not located within 100 metres of a natural watercourse, and
 - (d) is not located within 500 metres of a residential zone or an adjoining dwelling that is not associated with the development.
- (4) Development for the purpose of a goat depot may be carried out without development consent on land to which this clause applies if the development—
- (a) is not located in an environmentally sensitive area, and
 - (b) is not located within 100 metres of a natural watercourse, and
 - (c) is not located within 500 metres of a residential zone or an adjoining dwelling that is not associated with the development.
- (5) To avoid doubt, this clause does not apply to aquaculture development.
- (6) In this clause—

goat depot means land (including land comprising 1 or more parcels of land that are proximate and that are worked as 1 property) used to aggregate goats before the sale or slaughter of those goats.

residential zone means Zone RU4 Primary Production Small Lots, Zone RU5 Village, Zone RU6 Transition, Zone R1 General Residential, Zone R2 Low Density Residential, Zone R3 Medium Density Residential, Zone R4 High Density Residential, Zone R5 Large Lot Residential, Zone B4 Mixed Use, Zone B6 Enterprise Corridor, Zone E3 Environmental Management or Zone E4 Environmental Living.

stock containment area means a fenced area where livestock is temporarily held, fed and watered to protect soil and pasture resources on the property but does not include restriction facilities, a feedlot or other permanent works or structures.

19 Development on land in Western Division for purpose of intensive livestock agriculture that exceeds stock capacity threshold

- (1) This clause applies to land within the Western Division that is not within a local government area.
- (2) Development on land to which this clause applies for the purpose of any of the following types of intensive livestock agriculture may be carried out only with development consent—
 - (a) a cattle feedlot having a capacity to accommodate 50 or more head of cattle,
 - (b) a goat feedlot having a capacity to accommodate 200 or more goats,
 - (c) a sheep feedlot having a capacity to accommodate 200 or more sheep,
 - (d) a pig farm having a capacity to accommodate 200 or more pigs (including any breeding sows) or 20 or more breeding sows,
 - (e) a dairy (restricted) having a capacity to accommodate 50 or more dairy cows,
 - (f) a poultry farm having the capacity to accommodate more than 1,000 birds for meat or egg

production (or both).

- (3) Development on land to which this clause applies for the purpose of intensive livestock agriculture may be carried out only with development consent if it is located—
 - (a) within 100 metres of a natural waterbody, or
 - (b) within 500 metres of any adjoining dwelling that is not associated with the development, or
 - (c) in an environmentally sensitive area.
- (4) In deciding whether to grant development consent under this clause, the consent authority must take the following into consideration—
 - (a) the potential for odours to adversely impact on the amenity of residences or other land uses within the vicinity of the site,
 - (b) the potential for the pollution of surface water and ground water,
 - (c) the potential for the degradation of soils,
 - (d) the measures proposed to mitigate any potential adverse impacts,
 - (e) the suitability of the site in the circumstances,
 - (f) whether the applicant has indicated an intention to comply with relevant industry codes of practice for the health and welfare of animals,
 - (g) the consistency of the proposal with, and the reasons for departing from, the environmental planning and assessment aspects of the guidelines for the establishment and operation of relevant types of intensive livestock agriculture published, and made available to the consent authority, by the Department of Primary Industries (within the Department of Industry) and approved by the Planning Secretary.
- (5) The consent authority for development under this clause is the Minister.
- (6) In this clause—

Western Division has the same meaning as in the *Crown Land Management Act 2016*.

Note. The *Environmental Planning and Assessment Regulation 2000* declares certain intensive livestock agriculture (including poultry farms for commercial production that are located within 500 metres of another poultry farm) to be designated development for the purposes of the Act.

Part 5 Sustainable aquaculture

Division 1 Preliminary

20 Objects of Part

The objects of this Part are as follows—

- (a) to encourage sustainable marine waters aquaculture and set out the minimum site location and operational requirements for permissible development for the purpose of marine waters aquaculture,

- (b) to establish a regime for categorising development for the purpose of aquaculture based on the applicable level of environmental risk associated with site and operational factors (including risks related to climate change, in particular, rising sea levels) and to identify certain categories of development as designated development,
- (c) to require consent authorities to take into consideration the effect of development on existing and future oyster aquaculture development and oyster aquaculture areas when assessing development applications.

Division 2 Permissible marine waters aquaculture development

21 Development to which Division applies

This Division applies to development for the purpose of marine waters aquaculture (other than oyster aquaculture development).

Note. Clause 6(2) provides that *State Environmental Planning Policy No 1—Development Standards* does not apply to aquaculture development to which this Division applies.

22 Marine waters aquaculture permissible with consent

- (1) Development to which this Division applies may be carried out only with development consent.
- (2) Development consent must not be granted unless the consent authority is satisfied that—
 - (a) the development will not be undertaken in an excluded place specified in Part 1 of Schedule 2, and
 - (b) the development complies with the site location and operational requirements (if any) set out in Part 2 of Schedule 2 for the development (the *minimum performance criteria*).
- (3) The requirements set out in Part 2 of Schedule 2 are minimum requirements and do not limit the matters a consent authority is required to take into consideration under the Act or the conditions that it may impose on a development consent.

23 Consent authority for marine waters aquaculture

The consent authority for development to which this Division applies is as follows—

- (a) the consent authority (if any) designated in Schedule 3,
- (b) if there is no consent authority under paragraph (a)—the Minister.

24 Consent authority to take aquaculture industry development plan into consideration

In determining a development application for aquaculture development to which this Division applies, the consent authority is to take into consideration the provisions of an aquaculture industry development plan that are relevant to the subject of the development application.

25 Other marine aquaculture development prohibited

Development to which this Division applies that is not permissible under this Division with development consent is prohibited.

Division 3 Categorisation of aquaculture development and designated development

26 Project profile analysis

- (1) For the purposes of this Division, the Planning Secretary is to publish in the Gazette a project profile analysis for any particular kind of aquaculture development in any particular part of the State.
- (2) A project profile analysis is a matrix of environmental and operational criteria for ranking the level of environmental risk in relation to site location and operational attributes of aquaculture development.
- (3) There are to be 3 levels of risk for each attribute (Level 1, 2 or 3 in ascending order of risk).
- (4) The criteria in a project profile analysis are to be consistent with the relevant aquaculture industry development plan.
- (5) A project profile analysis must be reviewed by the Planning Secretary when the relevant aquaculture industry development plan is amended or replaced.

Note. Clause 5.19(5)(b) of the Standard Instrument requires a consent authority to consider the *NSW Oyster Industry Sustainable Aquaculture Strategy* in determining a development application for development for the purpose of oyster aquaculture.

27 Categorisation of development having regard to project profile analysis

- (1) For the purposes of determining the level of assessment of applications for aquaculture development, the proposed aquaculture development is to be categorised in accordance with the opinion of the consent authority formed having regard to the relevant project profile analysis, as follows—
 - (a) Class 1—Non-designated development (low-level risk),
 - (b) Class 2—Non-designated development (medium-level risk),
 - (c) Class 3—Designated development.
- (2) The relevant class is to be determined as follows—
 - (a) Class 1—if all the risk levels in relation to each attribute are Level 1,
 - (b) Class 2—if all the risk levels in relation to each attribute are Level 2 or Levels 1 and 2,
 - (c) Class 3—if any risk level in relation to an attribute is Level 3.

Note. The consent authority will need to determine the categorisation of aquaculture development to determine whether or not the development is designated development that is required to be advertised.

28 Designated development

- (1) Development categorised as Class 3 aquaculture development is designated development for the purposes of the Act.
- (2) Development categorised as Class 1 or 2 aquaculture development is not designated

development by virtue of any other environmental planning instrument.

Note. Designated development must be advertised for 28 days.

Division 4 Consideration of effects of proposed development on oyster aquaculture

29 Consultation with Secretary of Department of Industry

- (1) Before determining a development application for any development, a consent authority—
 - (a) must consider whether, because of its nature and location, the development may have an adverse effect on oyster aquaculture development or a priority oyster aquaculture area, and
 - (b) if it suspects that the development may have that effect, must give notice of the application to the Secretary of the Department of Industry.
- (2) In determining a development application for any development, a consent authority must consider any comments received from the Secretary of the Department of Industry under subclause (1), including comments that identify—
 - (a) an adverse effect that the development may have on, or ways in which the development may impede or be incompatible with, oyster aquaculture development or priority oyster aquaculture area, and
 - (b) measures to avoid or minimise the adverse effect, impediment or incompatibility.

Note. Development may be incompatible with or impede oyster aquaculture if, for example, the development will limit access to oyster leases or have an impact on water quality and, consequently, on the health of oysters and of consumers of those oysters.
- (3) This clause does not require a consent authority to consider comments received more than 21 days after notice was given as referred to in subclause (1)(b).

30 Development consent may be refused if development adversely affects oyster aquaculture

A consent authority may refuse to grant consent to development—

- (a) if it is satisfied that the development will have an adverse effect on, or impede or be incompatible with—
 - (i) an oyster aquaculture development that is being carried out (whether or not within a priority oyster aquaculture area), or
 - (ii) oyster aquaculture development that may in the future be carried out within a priority oyster aquaculture area, or
- (b) if it is not satisfied that appropriate measures will be taken to avoid or minimise the adverse effect, impediment or incompatibility.

31 NSW Oyster Industry Strategy to be considered

In exercising its functions under this Division, a consent authority and the Secretary of the Department of Industry must each take into consideration the *NSW Oyster Industry Sustainable Aquaculture Strategy*.

Schedule 1 State significant agricultural land

(Clause 11)

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

Schedule 2 Marine waters aquaculture (other than oyster aquaculture)

(Clause 22(2))

Part 1 Excluded places

Part 2 Minimum performance criteria for permissible development

Note. This Schedule was blank on the commencement of this Policy.

Schedule 3 Designated consent authorities

(Cl 23(a))

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

Schedule 4 Application of certain standard provisions relating to primary production and rural development to non-standard local environmental plans and other instruments

Part 1 Preliminary

1 Application of Schedule

This Schedule applies—

- (a) to each of the environmental planning instruments referred to in the table in Part 6 of this Schedule, except as provided by this Schedule, and
- (b) despite any other provision of that environmental planning instrument.

2 Interpretation—references to named land use zones and equivalent land use zones

- (1) A reference in this Schedule to a named land use zone is a reference to a land use zone specified in the Standard Instrument.
- (2) A reference in this Schedule to a land use zone that is equivalent to a named land use zone is a reference to a land use zone under the environmental planning instrument to which the reference applies—
 - (a) that the Planning Secretary has determined under clause 1.6 of *State Environmental Planning Policy (Exempt and Complying Development Codes 2008)* is a land use zone in which equivalent land uses are permitted to those permitted in that named land use zone, or
 - (b) if no such determination has been made in respect of the particular zone, that is a land use zone in which (in the opinion of the Planning Secretary) equivalent land uses are permitted to those permitted in that named land use zone.
- (3) In this Schedule—

Table means the table of environmental planning instruments in Part 6 of this Schedule.

Part 2 Subdivision of, or dwellings on, land in certain zones

3 Subdivision of, or dwellings on, land in certain rural, residential or environment protection zones

- (1) The objective of this clause is to minimise potential land use conflict between existing and proposed development on land in the zones under a relevant EPI that are equivalent to the rural, residential or environment protection zones concerned (particularly between residential land uses and other rural land uses).
- (2) This clause applies to each environmental planning instrument specified in Part A of the Table (referred to in this clause as a *relevant EPI*).
- (3) This clause applies to land in the zones under a relevant EPI that are equivalent to the following zones—
 - (a) Zone RU1 Primary Production,
 - (b) Zone RU2 Rural Landscape,
 - (c) Zone RU3 Forestry,
 - (d) Zone RU4 Primary Production Small Lots,
 - (e) Zone RU6 Transition,
 - (f) Zone R5 Large Lot Residential,
 - (g) Zone E2 Environmental Conservation,
 - (h) Zone E3 Environmental Management,
 - (i) Zone E4 Environmental Living.
- (4) A consent authority must take into account the matters specified in subclause (5) in determining whether to grant development consent to development on land to which this clause applies for either of the following purposes—
 - (a) subdivision of land proposed to be used for the purposes of a dwelling,
 - (b) erection of a dwelling.
- (5) 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) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c).

Part 3 Intensive livestock agriculture

4 Intensive livestock agriculture

- (1) The objectives of this clause are—
 - (a) to ensure appropriate environmental assessment of development for the purpose of intensive livestock agriculture that is permitted with consent under a relevant EPI, and
 - (b) to provide for certain capacity thresholds below which development consent is not required for that development, subject to certain restrictions as to location.
- (2) This clause applies to each environmental planning instrument specified in Part B of the Table (referred to in this clause as a *relevant EPI*) if development for the purpose of intensive livestock agriculture is permitted with development consent under the relevant EPI.
- (3) In this clause, a reference to intensive livestock agriculture includes a reference to any of the following land uses that apply under a relevant EPI—
 - (a) agriculture—general farming,
 - (b) intensive animal husbandry,
 - (c) intensive livestock keeping,
 - (d) feedlots, piggeries, poultry farms, stock homes,
 - (e) intensive keeping of animals.
- (4) In determining whether or not to grant development consent under a relevant EPI to development for the purpose of intensive livestock agriculture, the consent authority must take the following into consideration—
 - (a) the adequacy of the information provided in the statement of environmental effects or (if the development is designated development) the environmental impact statement accompanying the development application,
 - (b) the potential for odours to adversely impact on the amenity of residences or other land uses within the vicinity of the site,
 - (c) the potential for the pollution of surface water and ground water,
 - (d) the potential for the degradation of soils,
 - (e) the measures proposed to mitigate any potential adverse impacts,
 - (f) the suitability of the site in the circumstances,
 - (g) whether the applicant has indicated an intention to comply with relevant industry codes of practice for the health and welfare of animals,

- (h) the consistency of the proposal with, and any reasons for departing from, the environmental planning and assessment aspects of any guidelines for the establishment and operation of relevant types of intensive livestock agriculture published, and made available to the consent authority, by the Department of Primary Industries (within the Department of Industry) and approved by the Planning Secretary.
- (5) Despite any other provision of a relevant EPI, development for the purpose of intensive livestock agriculture may be carried out without development consent if—
- (a) the development is of a type specified in subclause (6), and
 - (b) the consent authority is satisfied that the development will not be located—
 - (i) in an environmentally sensitive area, or
 - (ii) within 100 metres of a natural watercourse, or
 - (iii) in a drinking water catchment, or
 - (iv) within 500 metres of any dwelling that is not associated with the development, or a zone under a relevant EPI that is equivalent to a residential zone, or
 - (v) if the development is a poultry farm—within 500 metres of another poultry farm.
- (6) The following types of development are specified for the purposes of subclause (5)—
- (a) a cattle feedlot having a capacity to accommodate fewer than 50 head of cattle,
 - (b) a goat feedlot having a capacity to accommodate fewer than 200 goats,
 - (c) a sheep feedlot having a capacity to accommodate fewer than 200 sheep,
 - (d) a pig farm having a capacity to accommodate fewer than 20 breeding sows, or fewer than 200 pigs (of which fewer than 20 may be breeding sows),
 - (e) a dairy (restricted) having a capacity to accommodate fewer than 50 dairy cows,
 - (f) a poultry farm having a capacity to accommodate fewer than 1,000 birds for meat or egg production (or both).
- (7) For the avoidance of doubt, subclause (5) does not apply to development that is prohibited or that may be carried out without development consent under a relevant EPI or any other environmental planning instrument.
- (8) In this clause—
- residential zone** means any zone under the relevant EPI that is equivalent to any of the following zones—
- (a) Zone RU4 Primary Production Small Lots,
 - (b) Zone RU5 Village,
 - (c) Zone RU6 Transition,

- (d) Zone R1 General Residential,
- (e) Zone R2 Low Density Residential,
- (f) Zone R3 Medium Density Residential,
- (g) Zone R4 High Density Residential,
- (h) Zone R5 Large Lot Residential,
- (i) Zone B4 Mixed Use,
- (j) Zone B6 Enterprise Corridor,
- (k) Zone E3 Environmental Management,
- (l) Zone E4 Environmental Living.

Part 4 Aquaculture—development controls

5 Application of Part

This Part applies to each environmental planning instrument specified in Part C of the Table (referred to in this Part as a *relevant EPI*).

6 Aquaculture that is permitted only with development consent

- (1) Development for the purpose of aquaculture may be carried out only with development consent in zones under a relevant EPI that are equivalent to the following zones—
 - (a) Zone RU1 Primary Production,
 - (b) Zone RU2 Rural Landscape,
 - (c) Zone RU3 Forestry,
 - (d) Zone RU4 Primary Production Small Lots,
 - (e) Zone IN4 Working Waterfront,
 - (f) Zone SP1 Special Activities,
 - (g) Zone SP2 Infrastructure,
 - (h) Zone SP3 Tourist,
 - (i) Zone RE1 Public Recreation,
 - (j) Zone RE2 Private Recreation,
 - (k) Zone W1 Natural Waterways,
 - (l) Zone W2 Recreational Waterways,
 - (m) Zone W3 Working Waterways.

- (2) Development for the purpose of oyster aquaculture may be carried out only with development consent in all zones under a relevant EPI.
- (3) Development for the purpose of pond-based aquaculture may be carried out only with development consent in zones under a relevant EPI that are equivalent to the following zones—
 - (a) Zone R1 General Residential,
 - (b) Zone R2 Low Density Residential,
 - (c) Zone R5 Large Lot Residential,
 - (d) Zone E3 Environmental Management,
 - (e) Zone E4 Environmental Living.
- (4) Development for the purpose of tank-based aquaculture may be carried out only with development consent in zones under a relevant EPI that are equivalent to the following zones—
 - (a) Zone RU5 Village,
 - (b) Zone RU6 Transition,
 - (c) Zone R1 General Residential,
 - (d) Zone R2 Low Density Residential,
 - (e) Zone R3 Medium Density Residential,
 - (f) Zone R5 Large Lot Residential,
 - (g) Zone B1 Neighbourhood Centre,
 - (h) Zone B2 Local Centre,
 - (i) Zone B3 Commercial Core,
 - (j) Zone B4 Mixed Use,
 - (k) Zone B5 Business Development,
 - (l) Zone B6 Enterprise Corridor,
 - (m) Zone B7 Business Park,
 - (n) Zone B8 Metropolitan Centre,
 - (o) Zone IN1 General Industrial,
 - (p) Zone IN2 Light Industrial,
 - (q) Zone IN3 Heavy Industrial,
 - (r) Zone E3 Environmental Management,

- (s) Zone E4 Environmental Living.

7 Aquaculture that is prohibited

- (1) Development for the purpose of pond-based aquaculture is prohibited in zones under a relevant EPI that are equivalent to the following zones—
 - (a) Zone RU5 Village,
 - (b) Zone RU6 Transition,
 - (c) Zone R3 Medium Density Residential,
 - (d) Zone R4 High Density Residential,
 - (e) Zone B1 Neighbourhood Centre,
 - (f) Zone B2 Local Centre,
 - (g) Zone B3 Commercial Core,
 - (h) Zone B4 Mixed Use,
 - (i) Zone B5 Business Development,
 - (j) Zone B6 Enterprise Corridor,
 - (k) Zone B7 Business Park,
 - (l) Zone B8 Metropolitan Centre,
 - (m) Zone IN1 General Industrial,
 - (n) Zone IN2 Light Industrial,
 - (o) Zone IN3 Heavy Industrial,
 - (p) Zone E1 National Parks and Nature Reserves.
- (2) Development for the purpose of tank-based aquaculture is prohibited in zones under a relevant EPI that are equivalent to the following zones—
 - (a) Zone R4 High Density Residential,
 - (b) Zone E1 National Parks and Nature Reserves,
 - (c) Zone E2 Environmental Conservation.

8 Pond-based, tank-based and oyster aquaculture

- (1) **Objectives** The objectives of this clause are as follows—
 - (a) to encourage sustainable oyster, pond-based and tank-based aquaculture in the State, namely, aquaculture development that uses, conserves and enhances the community's resources so that the total quality of life now and in the future can be preserved and enhanced,

- (b) to set out the minimum site location and operational requirements for permissible pond-based and tank-based aquaculture development.
- (2) **Pond-based or tank-based aquaculture—matters of which consent authority must be satisfied before granting consent** The consent authority must not grant development consent to carry out development for the purpose of pond-based aquaculture or tank-based aquaculture unless the consent authority is satisfied of the following—
- (a) that the development complies with the site location and operational requirements set out in Division 1 of Part 5 of this Schedule for the development,
 - (b) in the case of—
 - (i) pond-based aquaculture or tank-based aquaculture in a zone under a relevant EPI that is equivalent to Zone R1 General Residential, Zone R2 Low Density Residential or Zone R5 Large Lot Residential—that the development is for the purpose of small scale aquarium fish production, and
 - (ii) pond-based aquaculture in a zone under a relevant EPI that is equivalent to Zone E3 Environmental Management or Zone E4 Environmental Living—that the development is for the purpose of extensive aquaculture, and
 - (iii) tank-based aquaculture in a zone under a relevant EPI that is equivalent to Zone R3 Medium Density Residential, Zone E3 Environmental Management or Zone E4 Environmental Living—that the development is for the purpose of small scale aquarium fish production, and
 - (iv) pond-based aquaculture or tank-based aquaculture in a zone under a relevant EPI that is equivalent to Zone W1 Natural Waterways, Zone W2 Recreational Waterways or Zone W3 Working Waterways—that the development will use waterways to source water.
- (3) The requirements set out in Division 1 of Part 5 of this Schedule are minimum requirements and do not limit the matters a consent authority is required to take into consideration under the Act or the conditions that it may impose on any development consent.
- (4) **Extensive pond-based aquaculture permitted without consent in certain zones** Development for the purpose of pond-based aquaculture, that is also extensive aquaculture, may be carried out without development consent if—
- (a) the development is carried out in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots or Zone RU6 Transition, and
 - (b) the development complies with the site location requirements and operational requirements set out in Division 2 of Part 5 of this Schedule.
- (5) **Oyster aquaculture—additional matters that consent authority must consider in determining a development application** In determining a development application for development for the purpose of oyster aquaculture, the consent authority must consider—
- (a) any provisions of any aquaculture industry development plan that are relevant to the subject

of the development application, and

(b) the *NSW Oyster Industry Sustainable Aquaculture Strategy*.

(6) **Oyster aquaculture permitted without consent in priority oyster aquaculture areas** Development for the purpose of oyster aquaculture may be carried out without development consent—

(a) on land that is wholly within a priority oyster aquaculture area, or

(b) on land that is partly within and partly outside a priority oyster aquaculture area, but only if the land outside the area is no more than 0.1 hectare in area.

(7) **Definitions** In this clause—

extensive aquaculture has the same meaning as in the *Fisheries Management (Aquaculture) Regulation 2017*.

Part 5 Pond-based and tank-based aquaculture—site location and operational requirements

Note. This Part contains the site location and operational requirements referred to in clause 8 of this Schedule.

Division 1 Pond-based and tank-based aquaculture

Subdivision 1 Site location requirements

9 Conservation exclusion zones

(1) Must not be carried out on land dedicated or reserved under the *National Parks and Wildlife Act 1974*.

(2) Must not be carried out on the following land, except to the extent necessary to gain access to water—

(a) land declared an area of outstanding biodiversity value under the *Biodiversity Conservation Act 2016*,

(b) vacant Crown land,

(c) land within a wetland of international significance declared under the Ramsar Convention on Wetlands.

(3) Must not be carried out on the following land, except for the purposes of minimal infrastructure to support the extraction of water from, and discharge of water to, the land concerned—

(a) land declared as an aquatic reserve under the *Marine Estate Management Act 2014*,

(b) land declared as a marine park under the *Marine Estate Management Act 2014*.

Note. Nothing in subclause (2) or (3) affects any requirement under an Act relating to land specified in subclause (2) or (3) to obtain a licence or other authority under that Act for development of the land.

Subdivision 2 Operational requirements

10 Species selection

Species of fish or marine vegetation cultivated or kept must be consistent with the relevant aquaculture industry development plan.

11 Pond-based aquaculture that is also intensive aquaculture—pond design

For pond-based aquaculture that is also intensive aquaculture—ponds must be capable of being drained or pumped and then completely dried.

12 Pond-based aquaculture and tank-based aquaculture that is also intensive aquaculture—freshwater discharges

For pond-based aquaculture and tank-based aquaculture that is also intensive aquaculture—no discharge of freshwater used to intensively cultivate or keep fish to natural waterbodies or wetlands is permitted, except freshwater discharge from open flow through systems.

13 Outlets from culture ponds etc

All outlets from culture ponds, tanks and other culture facilities must be screened to avoid the escape of fish.

14 Definition

In this Subdivision—

intensive aquaculture has the same meaning as it has in the *Fisheries Management (Aquaculture) Regulation 2017*.

Division 2 Extensive pond-based aquaculture

Subdivision 1 Site location requirements

15 Conservation exclusion zones

- (1) Must not be carried out on land dedicated or reserved under the *National Parks and Wildlife Act 1974*.
- (2) Must not be carried out on the following land, except to the extent necessary to gain access to water—
 - (a) land declared an area of outstanding biodiversity value under the *Biodiversity Conservation Act 2016*,
 - (b) vacant Crown land,
 - (c) land within a wetland of international significance declared under the Ramsar Convention on Wetlands.

Note. Nothing in subclause (2) affects any requirement under an Act relating to land specified in subclause (2) to obtain a licence or other authority under that Act for development of the land.

16 Flood liability

Must be designed or constructed on land so that it will not be inundated by the discharge of a 1:100 ARI (average recurrent interval) flood event.

Subdivision 2 Operational requirements

17 Species selection

Species of fish or marine vegetation cultivated or kept must be consistent with the relevant aquaculture industry development plan.

18 Pond design

- (1) Must not require the construction of new ponds, water storages, dams or buildings.
- (2) Must not be located on permanent watercourses, creeks, billabongs or isolated outreaches of creeks or rivers.
- (3) Must be capable of preventing the escape of stock into natural waterbodies or wetlands.

19 Culture water

Must use freshwater.

Part 6 Table of EPIs to which Schedule applies

Note. Parts A, B and C of the following Table specify the relevant environmental planning instruments to which clauses 1, 3 and 4 and Part 4 of this Schedule apply.

Name of environmental planning instrument

Part A—EPIs to which clauses 1 and 3 apply

Ballina Local Environmental Plan 1987

Bega Valley Local Environmental Plan 2002

Byron Local Environmental Plan 1988

Deniliquin Local Environmental Plan 1997

Forbes Local Environmental Plan 1986

Gosford Interim Development Order No 122

Gosford Planning Scheme Ordinance

Kyogle Interim Development Order No 1

Lismore Local Environmental Plan 2000

Lithgow City Local Environmental Plan 1994

Lord Howe Island Local Environmental Plan 2010

Queanbeyan Local Environmental Plan 1991

Queanbeyan Local Environmental Plan 1998

Shellharbour Local Environmental Plan 2000

Shellharbour Rural Local Environmental Plan 2004

Shoalhaven Interim Development Order No 1

Shoalhaven Local Environmental Plan 1985

Singleton Local Environmental Plan 1996

Terania Interim Development Order No 1

Tweed Local Environmental Plan 1987

Tweed Local Environmental Plan 2000

Yarrowlumla Local Environmental Plan 2002

Young Local Environmental Plan 1991—Urban Lands

Part B—EPIs to which clauses 1 and 4 apply

Ballina Local Environmental Plan 1987

Bega Valley Local Environmental Plan 2002

Blue Mountains Local Environmental Plan No 4

Byron Local Environmental Plan 1988

Campbelltown Interim Development Order No 15

Campbelltown (Urban Area) Local Environmental Plan 2002

Deniliquin Local Environmental Plan 1997

Forbes Local Environmental Plan 1986

Gosford Interim Development Order No 122

Gosford Planning Scheme Ordinance

Hurstville Local Environmental Plan 1994

Ku-ring-gai Planning Scheme Ordinance

Kyogle Interim Development Order No 1

Lake Macquarie Local Environmental Plan 1984

Lake Macquarie Local Environmental Plan 2004

Leichhardt Local Environmental Plan 2000

Lismore Local Environmental Plan 2000

Lord Howe Island Local Environmental Plan 2010

Penrith Interim Development Order No 93

Penrith Local Environmental Plan 1998 (Urban Land)

Penrith Local Environmental Plan No 201 (Rural Lands)

Queanbeyan Local Environmental Plan 1991

Queanbeyan Local Environmental Plan 1998
Shellharbour Local Environmental Plan 2000
Shellharbour Rural Local Environmental Plan 2004
Shoalhaven Interim Development Order No 1
Shoalhaven Local Environmental Plan 1985
Singleton Local Environmental Plan 1996
Sutherland Shire Local Environmental Plan 2000
Tweed Local Environmental Plan 1987
Tweed Local Environmental Plan 2000
Wollongong Local Environmental Plan 1990
Wollongong Local Environmental Plan No 38
Yarrowlumla Local Environmental Plan 2002

Part C—EPIs to which clause 1 and Part 4 apply

Ballina Local Environmental Plan 1987
Bega Valley Local Environmental Plan 2002
Blue Mountains Local Environmental Plan 1991
Blue Mountains Local Environmental Plan 2005
Blue Mountains Local Environmental Plan No 4
Botany Local Environmental Plan 1995
Byron Local Environmental Plan 1988
Campbelltown Interim Development Order No 15
Campbelltown Local Environmental Plan—District 8 (Central Hills Lands)
Campbelltown (Urban Area) Local Environmental Plan 2002
Deniliquin Local Environmental Plan 1997
Fairfield Local Environmental Plan 1994
Forbes Local Environmental Plan 1986
Gosford Interim Development Order No 122
Gosford Planning Scheme Ordinance
Hurstville Local Environmental Plan 1994
Ku-ring-gai Planning Scheme Ordinance
Kyogle Interim Development Order No 1
Lake Macquarie Local Environmental Plan 1984
Lake Macquarie Local Environmental Plan 2004

Leichhardt Local Environmental Plan 2000
Lismore Local Environmental Plan 2000
Lithgow City Local Environmental Plan 1994
Lord Howe Island Local Environmental Plan 2010
Penrith Interim Development Order No 13
Penrith Interim Development Order No 47
Penrith Interim Development Order No 93
Penrith Local Environmental Plan 1998 (Urban Land)
Penrith Local Environmental Plan No 201 (Rural Lands)
Queanbeyan Local Environmental Plan 1991
Queanbeyan Local Environmental Plan 1998
Shellharbour Local Environmental Plan 2000
Shellharbour Rural Local Environmental Plan 2004
Shoalhaven Interim Development Order No 1
Shoalhaven Local Environmental Plan 1985
Singleton Local Environmental Plan 1996
South Sydney Local Environmental Plan 1998
Sutherland Shire Local Environmental Plan 2000
Sutherland Shire Local Environmental Plan 2006
Sydney Local Environmental Plan 2005
Terania Interim Development Order No 1
Tweed Local Environmental Plan 1987
Tweed Local Environmental Plan 2000
Wollongong Local Environmental Plan 1990
Wollongong Local Environmental Plan No 38
Yarrowlunla Local Environmental Plan 2002
Young Local Environmental Plan 1991—Urban Lands

Schedule 5 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) (Repealed)
- (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*,
- (k1) *Nambucca Local Environmental Plan 2010*,
- (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,

- (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.

Schedule 6 (Repealed)

Historical notes

The following abbreviations are used in the Historical notes:

Am	amended	LW	legislation website	Sch	Schedule
Cl	clause	No	number	Schs	Schedules
Cll	clauses	p	page	Sec	section
Div	Division	pp	pages	Secs	sections
Divs	Divisions	Reg	Regulation	Subdiv	Subdivision
GG	Government Gazette	Regs	Regulations	Subdivs	Subdivisions
Ins	inserted	Rep	repealed	Subst	substituted

Table of amending instruments

State Environmental Planning Policy (Primary Production and Rural Development) 2019 (137). LW 28.2.2019. Date of commencement, on publication on LW, cl 2. This Policy has been amended as follows—

2019	No 1	<i>Statute Law (Miscellaneous Provisions) Act 2019</i> . Assented to 17.6.2019. Date of commencement of Sch 3, 1.8.2019, sec 2 (3).
	(459)	<i>State Environmental Planning Policy Amendment (Artificial Waterbodies) 2019</i> . LW 13.9.2019. Date of commencement, on publication on LW, cl 2.
	(503)	<i>Eurobodalla Local Environmental Plan 2012 (Amendment No 11)</i> . LW 11.10.2019. Date of commencement, 11.10.2019, cl 2. The Plan (environmental planning instrument) specified 30 September 2019 as the date of commencement. Pursuant to section 3.24(5B) of the <i>Environmental Planning and Assessment Act 1979</i> the Plan is not invalid merely because the Plan was published on the NSW legislation website after the day on which one or more of its provisions is or are expressed to commence but provides, in that case, for that or those provisions to commence on the day on which it is published on the NSW legislation website, instead of on the earlier day.
2020	(45)	<i>Coffs Harbour Local Environmental Plan 2013 (Amendment No 21)</i> . LW 14.2.2020. Date of commencement, on publication on LW, cl 2.
	(418)	<i>State Environmental Planning Policy (Primary Production and Rural Development) Amendment (Rural Land Sharing Communities) 2020</i> . LW 17.7.2020. Date of commencement, on publication on LW, cl 2.

Table of amendments

Cl 6	Am 2019 (459), Sch 1 [1].
Cl 12	Subst 2019 (459), Sch 1 [2].
Cl 13A	Ins 2019 (459), Sch 1 [3].
Cl 14	Subst 2019 (459), Sch 1 [3].
Cll 15, 16	Am 2019 (459), Sch 1 [4].
Sch 4	Am 2019 (503), cl 4; 2020 (45), cl 6.
Sch 5	Am 2020 (45), cl 6; 2020 (418), cl 4.
Sch 6	Rep 2019 No 1, Sch 3.