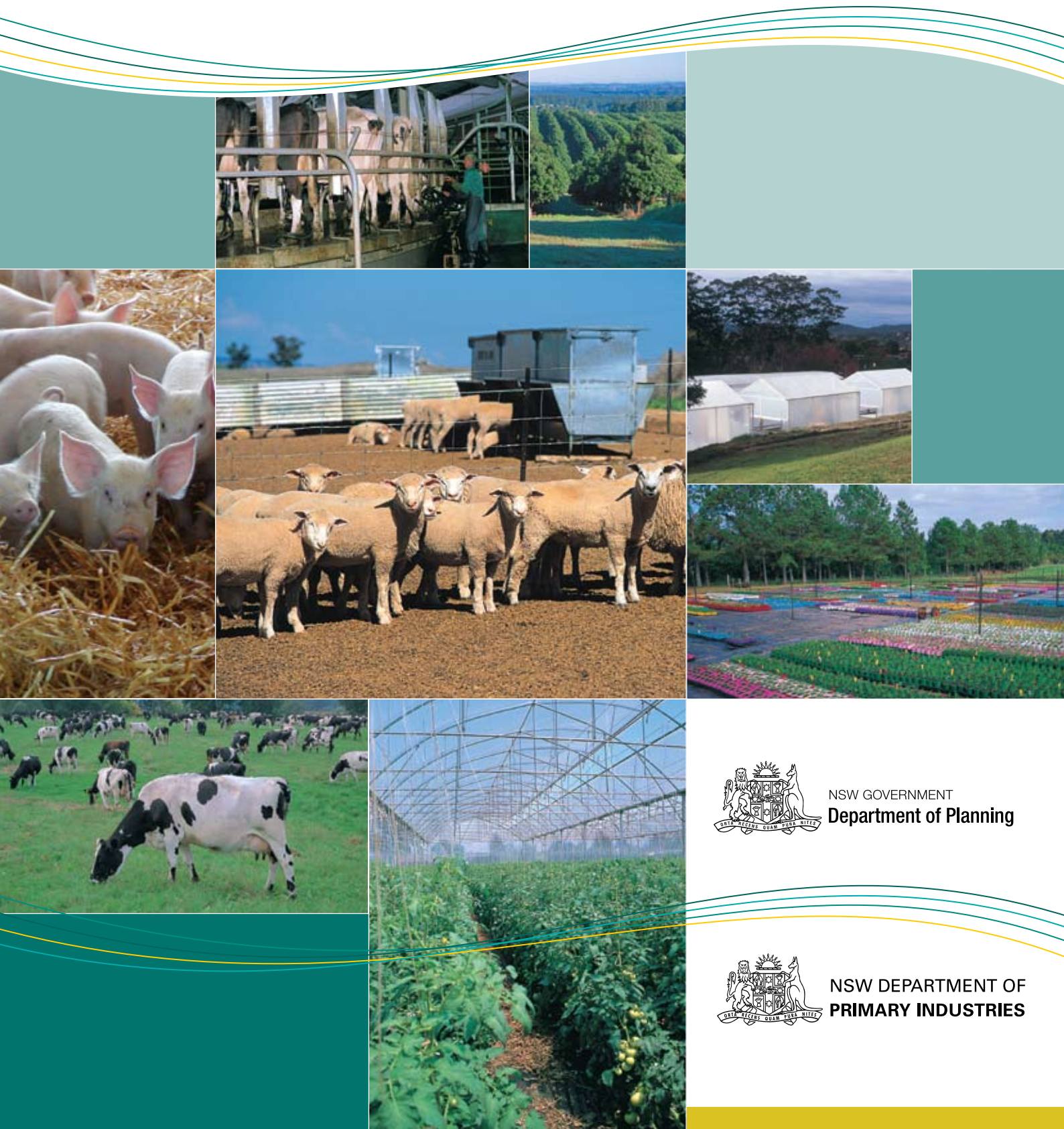


Preparing a **development application** for intensive agriculture in NSW



NSW GOVERNMENT
Department of Planning



NSW DEPARTMENT OF
PRIMARY INDUSTRIES

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Preparing a development application for intensive agriculture in NSW

Developed by Liz Rogers and Yolande Stone in consultation with government and industry stakeholders.

Endorsed by the Intensive Agriculture Consultative Committee (IACC), a government agency and industry committee that promotes the development of sustainable agricultural industries through efficient processes in environmental planning and protection.

The authors wish to acknowledge the contributions of Glenda Briggs, Wayne Garnsey, Rei Beumer, Ian Sinclair, Paul Judge, Ian Kruger, Allan Lugg, Andy Scott, Andrew Docking, Donna Ausling, Therese Hulme, Rik Whitehead, John Fisher, Malcolm Foster, Bruce Edgerton, Sally Walker, Suzanne Robinson, David Moffitt, Jane Littlejohn, the NSW Department of Environment & Climate Change and the NSW Department of Primary Industries communications unit.

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ISBN 0 7347 1716 4

Disclaimer

The information contained in this publication is based on knowledge and understanding at the time of writing (May 2006). However, because of advances in knowledge, users are reminded of the need to ensure that information on which they rely is up to date and to check the currency of the information with the appropriate officer of New South Wales Department of Primary Industries or the user's independent advisor.

TRIM Reference No: INT07/5370

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1. Introduction

This document has been written to help people prepare and submit a development application (DA) to local councils for its approval to establish, expand or modify an intensive agriculture development in NSW. Intensive agriculture includes industries such as poultry, piggeries, cattle and sheep feedlots, restricted dairies, rabbits, horticulture, viticulture, hydroponics, greenhouses and glasshouses. DAs are generally required for these industries so that potential impacts on the site and on adjoining land are managed and the potential for land use conflict is diminished.

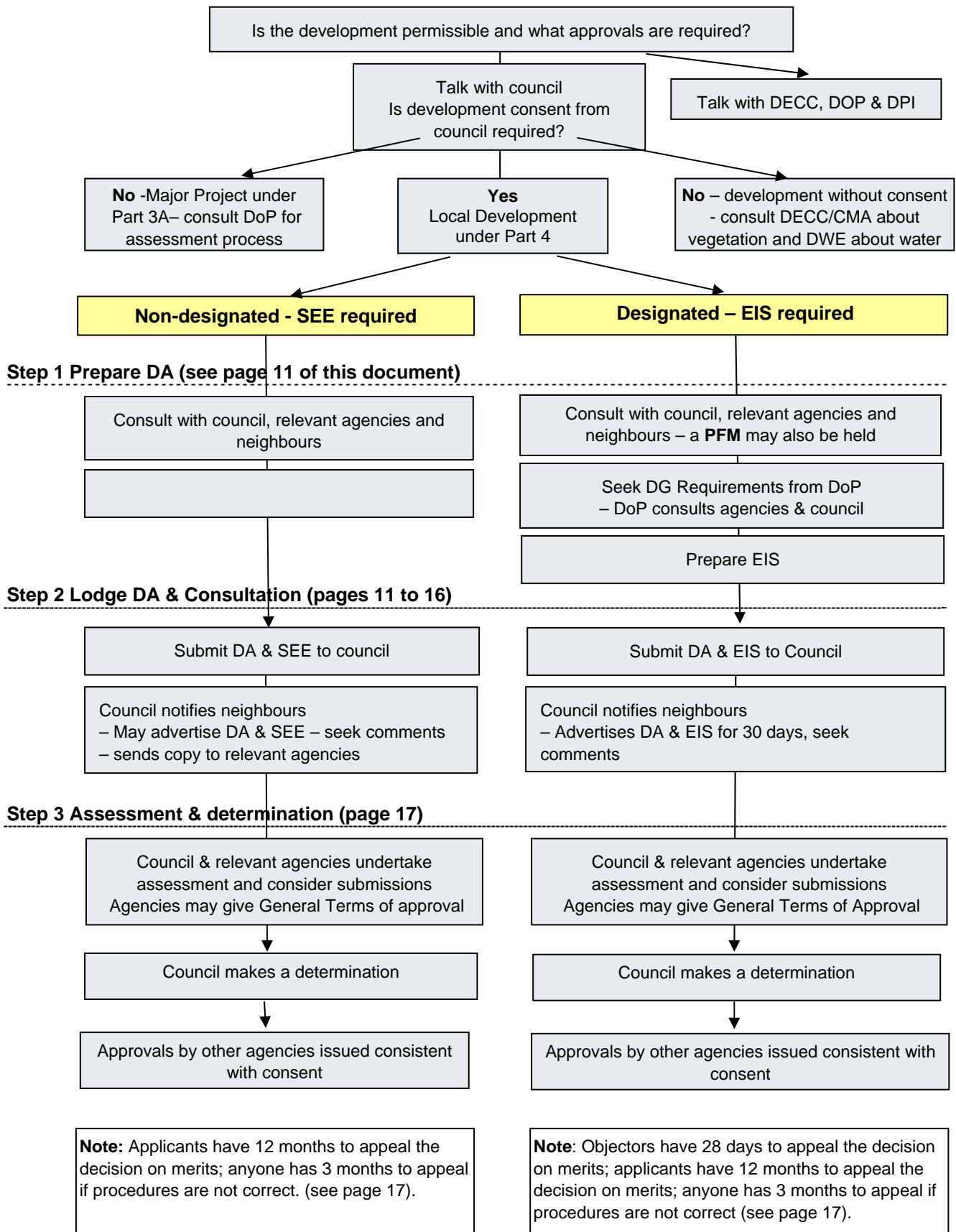
Although the requirements for a DA may seem complex, these guidelines clearly show you the path through them.

Before beginning to plan for an intensive agriculture development:

- **Be aware of industry guidelines.**
- **Contact your local council to identify areas suitable for intensive agriculture developments and determine whether a DA is required. Determine what provisions of the Local Environmental Plans and State Environmental Planning Policies apply? What is involved in making an application? How long will it take to obtain approval?**
- **Consider how your development may affect the environment and neighbours.**
- **Find out what other legislation affects your proposed development. What other permits or licences are required?**
- **Consider engaging the services of a suitably qualified and experienced consultant. A well-prepared application will save time and money.**

The key steps in the planning assessment are outlined in Figure 1 and discussed below. The time taken to complete this process depends on the scale and complexity of the development and the level of concern about the environmental performance by the neighbours and the broader community.

Figure 1: Key steps in the Development Assessment process



2. Identify a suitable site for your development

2.1. Contact your local council

Before committing to developing a particular site, you must determine whether the intensive agricultural activity you propose is permitted without consent, requires consent or is prohibited. This includes the expansion or alteration of an intensive agricultural enterprise. Even if your proposal requires consent, it still may not get approved if environmental and community concerns cannot be adequately addressed.

It is crucial that you consult with your local council to find out what planning requirements relate to your proposed development such as Local Environmental Plans, Development Control Plans, Regional Environmental Plans and State Environmental Planning Policies. Any proposed development must comply with your council's Local Environmental Plan and any State Environmental Planning Policies that apply to the type of development, in particular SEPP 30 – Intensive Agriculture. These plans and policies are legislation and can be found at www.legislation.nsw.gov.au

It is also important that you clearly understand the development assessment process, what information is required, what steps the application will need to go through, the role of government agencies and public consultation requirements. When you seek advice from your local council, provide council with clear and thorough information so that they fully understand the proposed development. Put your request in writing if possible and ask for a written copy of the advice you receive so you will have a copy to refer to during the application process.

(i) Check the Local Environmental Plan (LEP)

LEPs are developed by councils. They zone land into land use categories, such as business, residential, industrial, environment or rural. LEP maps show the zoning for your property. Many councils have these LEP provisions and their zoning maps on their websites for ease of use. Otherwise, they can be inspected at the council's offices.

Zones indicate whether the land use such as intensive agriculture is:

- permitted without consent;
- requires consent; or
- is prohibited.

LEPs also include definitions for many uses. It is important to identify under which definition your proposal falls. For example, 'agriculture' or 'extensive agriculture' is generally permitted without consent in rural zones. This is why most primary producers have not needed to consult LEPs in the past. On the other hand, 'horticulture' or 'intensive livestock agriculture' may require consent from council. Planning documents may use different terms such as 'intensive horticulture', 'greenhouse horticulture', 'controlled environment horticulture', 'intensive plant keeping', 'intensive livestock keeping establishments' or 'hydroponics' as well as 'intensive agriculture' to refer to intensive agriculture developments. Over the next 5 years, all councils will be developing new LEPs using standardised definitions for ease of use.

(ii) Check Development Control Plans (DCP)

Local councils have DCPs, which contain more detailed provisions than the LEP. For example, there may be provisions regarding entrance from a property onto a main road, setback from boundaries, water recycling, stormwater management, waste management, landscaping or signs which could be applicable to the development.

(iii) Check Regional Environmental Plans (REP) and Regional Strategies

REPs are in place in a number of areas of NSW such as the South Coast, North Coast, Murray, Riverina and Sydney regions. They may have implications for some types of intensive agriculture

enterprises. Regional Strategies are also being developed for the Sydney Metropolitan Region and for coastal and certain other regions. These strategies provide guidance regarding future development trends and infrastructure provisions.

(iv) Check State Environmental Planning Policies (SEPP)

Consent may also be required under a SEPP. For example, SEPP 30 Intensive Agriculture (1989) requires development consent for cattle feedlots over 50 head, piggeries over 200 pigs or 20 sows production, and mushroom composting facilities. See <http://www.legislation.nsw.gov.au>

2.2. Review the suitability of the site

Having checked that your land is in a suitable planning zone for an intensive agriculture development, you also need to be satisfied that it is suitable in practical, financial and environmental terms.

For existing enterprises, where you are proposing to change or expand operations, it may be worthwhile to undertake a risk assessment and a cost–benefit analysis to consider whether it is worth continuing operation on the site, and to compare relocation options with expansion on the existing site. Include council levies and charges such as s94 contributions for road upgrades and maintenance and connection to water supply in your assessment of costs. It is also important to consider how long it may take to recoup your investment.

Where surrounding land use is changing and residential development is increasing or urban development is starting to occur in the vicinity of your enterprise, discuss with council the likely implications of these trends. It is important you keep talking with council about these issues so that their planning takes into account the needs of your industry and so you can make informed decisions about further investment on a particular site.

The Department of State and Regional Development (DSRD) may provide financial and other assistance to businesses investing in, expanding within or relocating to regional NSW. This assistance can include subsidising the costs of engaging independent expertise to examine the feasibility of regional sites.

Issues to be considered include:

(i) Planning and environmental issues

- zoning objectives and provisions in the LEP or other planning controls
- size and shape of land and proximity to neighbours
- topography and potential risk of conflict with neighbours because of air quality or noise issues, taking into consideration prevailing weather conditions
- topography, drainage, riparian zone and flood risk issues
- Indigenous and non-Indigenous cultural issues
- vegetation and threatened species issues
- availability of suitable land (considering soils and drainage issues) for sustainable waste disposal and distance from neighbours
- site contamination from previous uses
- traffic and transport issues, whether there are appropriate standard roads and load bearing bridges, access to rail, whether access is via a residential area, etc
- potential for cumulative impacts because of proximity to other farms generating similar impacts – spray drift, odour, dust, visual, water quality, trucks, etc.

(ii) Practical issues

- proximity to raw materials (for example feed or bedding supplies), processing plants or markets
- biosecurity issues – proximity to other farms

- suitable transport options including road access
- access to sufficient and reliable water and power supply
- available workforce
- climatic factors such as temperature and humidity particularly for animal welfare

2.3. Contact relevant government authorities

Before committing to developing a particular site, you should determine whether approval under other legislation is required and whether it is possible to meet such requirements. It is also useful to check if changing the design or location might avoid additional requirements.

(i) Pollution licence

Intensive agriculture developments may require a licence if they fall under the categories listed in Schedule 1 of the *Protection of the Environment Operations Act 1997*. As a general rule, if the development is a type which requires an EIS, it will also require a licence from the NSW Department of Environment & Climate Change (DECC). Consult with DECC early in the process, particularly in relation to avoiding or minimising air and water quality impacts, or if the land is likely to be contaminated from previous use of chemicals or fuels on the site. If a licence is required, the development is integrated development and these matters must be considered jointly by Council and DECC during the development approval process.

(ii) Clearing native vegetation

Clearing native vegetation may require a clearing consent from your local Catchment Management Authority (CMA). Clearing will now only be approved if, overall, management actions improve or maintain environmental outcomes. Offsets are permitted, if required, to offset the effects of clearing and to meet the 'improve or maintain' criteria. At an early stage contact your nearest CMA and visit the website <http://www.nativevegetation.nsw.gov.au> to determine if native vegetation can be removed or if an alternative site or project design needs to be considered.

(iii) Water licences and waterway work approvals

To extract water from rivers or aquifers and use it for commercial purposes generally requires a licence and/or other approval from the NSW Department of Water and Energy (DWE). Note that, in many areas of NSW, water licences for commercial activities are embargoed. In these areas, water can only be obtained by purchasing an existing water licence. Clearly, for any proposed development, a careful assessment of water availability should be undertaken to determine if adequate water is available. Unlicensed extraction of water under Basic Landholder Rights (formerly Riparian Rights) cannot be used for commercial purposes.

For water licences and associated water trading (the buying and selling of water licences or annual allocation water), NSW is currently operating under two pieces of legislation. In areas covered by a water sharing plan, licensing provisions come under the *Water Management Act 2000*; elsewhere, the licensing provisions of the *Water Act 1912* still apply. See the table below, and read more at <http://www.dnr.nsw.gov.au/water/plans.shtml>

Works within or adjacent to aquatic ecosystems such as lakes, lagoons, rivers, creek and wetlands will probably require one or more approvals from either the DWE or the NSW Department of Primary Industries (NSW DPI). Please contact these agencies for advice if all or part of the proposal is within or adjacent to a waterway.

Table 1 Water licences and waterway work approvals

Issue	Legislation	Approval or licence
Access to water	<i>Water Act 1912:</i> for areas not included within the water source of a Water Sharing Plan, a Water Management Plan or a Floodplain Management Plan	<ul style="list-style-type: none"> • Part 2, Surface water licences • Part 5, Ground water and bore licences • Part 8, Approvals for works on floodplains, banks of rivers and lakes • Part 8, Approvals for works that affect the flow of water to or from a river or lake
	<i>Water Management Act 2000:</i> for areas included within the water source of a Water Sharing Plan or a Water Management Plan <i>Please contact DWE</i>	<ul style="list-style-type: none"> • Access Licences • Harvestable Rights • Water Supply Work Approvals • Water Use Approvals • Flood Work Approval • Aquifer Interference Approval
Construction near/within or across lakes, lagoons, rivers, wetlands and creeks	<i>Rivers and Foreshores Improvement Act 1948</i> <i>Please contact DWE</i> <i>Fisheries Management Act 1994</i> <i>Please contact NSW DPI</i>	<p>Approval for works within 40 m of the bed or bank of a river, creek or lake</p> <p>Permit for dredging within or reclamation of any part of a waterway</p> <p>Permit to harm marine vegetation (mangroves, seagrasses and seaweeds)</p> <p>Permit for obstructing the free passage of fish within a waterway</p> <p>Licence to damage the habitat of a threatened aquatic species.</p>

Please note that the transitional provisions relating to the *Water Act 1912*, the *Water Management Act 2000* and the *Rivers and Foreshores Improvement Act 1948* are complex. Please contact your nearest DWE office for more information concerning your particular area.

Further information

For more details, contact the licensing officer at your local DWE office (contact details are available separately and on the website), or phone 1800 353 104, or email wma.info@dnr.nsw.gov.au .

As well, more detailed information and Information Sheets are available on:

- water management and water licensing: see www.dnr.nsw.gov.au
- water quality: see www.dnr.nsw.gov.au/water/water_quality.html

2.4. Talk with your neighbours

Consent and regulatory authorities make their decisions according to the law and planning instruments, but the level of support from the local community and neighbours can influence whether your enterprise will be approved and how it will operate in the future.

If there is strong community opposition to an intensive agriculture development, the DA may not be approved. If it is approved despite community resistance, then you will have to divert time and

resources that should be used in operating the enterprise to deal with complaints. Community opposition will usually lead to the imposition of additional conditions to consent.

It is extremely important that you thoroughly inform potential neighbours before committing to a proposal. An active and comprehensive engagement with your neighbours and community early on will establish a firm foundation for good relationships. Be open and honest about all aspects of the proposal and take time to listen to what your neighbours have to say. In many cases, a neighbour's concerns can be taken into consideration and the proposal modified so that it can proceed with the neighbours' support or at least without their opposition.

The more information you can provide, the more likely neighbours are to accept the proposal. For instance, minor changes in siting and design of the development may prevent future problems and delays. Organising a visit to a nearby similar enterprise which demonstrates high standards or taking people on a tour of your existing farm may reduce the concerns of neighbours or communities who are unfamiliar with how the proposed development would operate.

3. Find out what approvals are required

Your local council will be able to tell you whether you need consent for your proposed development and what their requirements are. Your proposal may be classified as a local development (where the local council is the consent authority), or it may qualify as a 'major project' (which requires approval from the Minister for Planning).

Most intensive agriculture developments need development consent from local council, which means that you need to prepare a DA. In many cases, where you propose to expand or change an existing intensive enterprise, you will also need a DA.

3.1. Major Projects requiring Ministerial approval

Major projects require approval from the Minister for Planning (and not councils). A development is classified as a **major project** if it is considered to be of State or Regional planning significance and is listed in the SEPP (Major Projects) 2005. See <http://www.legislation.nsw.gov.au>.

Major projects include:

- **intensive livestock industries** that employ 20 or more people for the purpose of feedlots, piggeries, poultry (egg or meat production) or dairies
- **agricultural produce industries and food and beverage processing** that employ 100 or more people or have a capital investment value of more than \$30 million.

Part 3A of the EP&A Act provides the rules for how major projects are to be assessed. To determine whether your proposal is a major project or for information on how to lodge an application, contact the Department of Planning (DoP) or go to <http://www.planning.nsw.gov.au>.

The guidelines in this document do not apply to Part 3A projects.

3.2. Developments requiring Council consent

Developments that require consent from local council under Part 4 of the EP&A Act are referred to as 'local development' and can be:

- non-designated development, or
- designated development

Either of these types of development can also be an **integrated development**, that is, they require permits or licences from state government agencies in addition to council consent (see Table 2).

(i) Non-designated development

Non-designated developments are typically proposals which pose a lower or more acceptable risk to the environment than other types of development. Development applications for this type of proposal

need to include a Statement of Environmental Effects (SEE), which is a review of the key issues and measures to minimise or manage impacts.

(ii) Designated development

The Environmental Planning and Assessment Regulation 2000 identifies particular types, sizes and locations of developments with potential for significant environmental impacts as being 'designated development'. Certain agricultural and related activities which meet specified size or locational criteria are designated developments:

- agricultural produce industries
- composting facilities or works
- livestock intensive industries
- livestock processing industries
- turf farms
- wood or timber milling or processing works.

You can see the full list of designated developments in Schedule 3 'Designated development' of the Environmental Planning and Assessment Regulation 2000 at <http://www.legislation.nsw.gov.au>

For designated developments, an Environmental Impact Statement (EIS) is required, which is a more detailed assessment of the potential impacts of the development and of measures to minimise these impacts. When preparing an EIS it is strongly recommended that you use the services of a suitably qualified consultant. You should carefully research the consultant's capacity for and experience in preparing such documentation and if necessary ask to see examples of their work.

Requirements for the preparation of the EIS must be first sought from the Director-General of the Department of Planning. There are also specific requirements for council to advertise designated development proposals for a minimum of 30 days and to seek submissions from the community. Any objector who lodges an objection with council during the exhibition of the DA has the right to appeal to the Land and Environment Court and for the court to redetermine the DA on its merits.

3.3. Threatened species

A 'test of significance' (7 Part Test) must be undertaken and submitted to the consent authority if there is a possibility that threatened species will be affected (either directly or indirectly) by the proposal. This is used to determine if a Species Impact Statement (SIS) is needed. Preferably the 7 Part Test should be done prior to lodging the DA so that if a SIS is needed it can be prepared and included in the SEE or EIS.

The 7 Part Test is an assessment of terrestrial and/or aquatic flora and fauna in accordance to matters listed in S5A of the EP&A Act. This assessment considers the likely impacts of the proposed development on any critical habitat, or on threatened species, population or ecological community or their habitats. The list of critical habitats or threatened species, population or ecological community or their habitats are in the *Threatened Species Conservation (TSC) Act 1995* or the *Fisheries Management (FM) Act 1994*.

Impacts may be direct, such as clearing of vegetation containing threatened species or populations, or the impacts may be indirect, such as clearing vegetation which is habitat for threatened species, or changing the water flows or quality in a waterway.

If the impacts are likely to be significant, the consent authority will require a SIS to accompany the DA in accordance with the TSC Act or the FM Act. Prior to preparing an SIS, your consultant must write to the Director-General of DECC (for terrestrial plants and animals) or NSW DPI (for fish) for the matters to be addressed in the SIS.

3.4. Integrated developments

Some developments require permits or licences from state government agencies as well as council consent to proceed. If a development requires a permit or licence listed in Table 2, the development is

considered to be an integrated development. When Council receives this type of proposal, the Council must refer it to the relevant agency, and a joint assessment is undertaken.

With integrated development, there is an integrated assessment of the proposal with both council and the agency assessing the information in the EIS or SEE. Agencies may request that certain information be included in the SEE or EIS, or that certain issues be assessed.

The agency provides the council with 'general terms of approval' which must be included in the council's consent conditions, if it intends to approve the DA. If the agency refuses to provide general terms of approval, the council must refuse the DA.

Once the DA has been approved, you then need to obtain the permits or licences required from the relevant agencies. Any licence or permit issued by the agency within the next 3 years in relation to the development may not be inconsistent with the general terms of approval.

Table 2 Relevant Integrated Approvals under Section 91 of EP&A Act.

Approval	Act	Provision	Agency
<ul style="list-style-type: none"> • aquaculture permit • permit to carry out dredging or reclamation work • permit to cut, remove, damage or destroy marine vegetation on public water land or an aquaculture lease, or on the foreshore of any such land or lease • permit to obstruct fish passage 	<i>Fisheries Management Act 1994</i>	s 144 s 201 s 205 s 219	<i>NSW DPI</i>
<ul style="list-style-type: none"> • approval in respect of the doing or carrying out of an act, matter or thing referred to in s57(1) 	<i>Heritage Act 1977</i>	s 58	<i>DoP</i>
<ul style="list-style-type: none"> • approval to alter or erect improvements within a mine subsidence district or to subdivide land therein 	<i>Mine Subsidence Compensation Act 1961</i>	s 15	<i>Mine Subsidence Board</i>
<ul style="list-style-type: none"> • consent to knowingly destroy, deface or damage or knowingly cause or permit the destruction or defacement of or damage to, a relic or Aboriginal place 	<i>National Parks and Wildlife Act 1974</i>	s 90	<i>DECC</i>
<ul style="list-style-type: none"> • Environment protection licence to authorise carrying out of scheduled development work at any premises. • Environment protection licence to authorise carrying out of scheduled activities at any premises (excluding any activity described as a 'waste activity' but including any activity described as a 'waste facility'). • Environment protection licences to control carrying out of non-scheduled activities for the purposes of regulating water pollution resulting from the activity. 	<i>Protection of the Environment Operations Act 1997</i>	ss 43 (a), 47 and 55 ss 43 (b), 48 and 55 ss 43 (d), 55 and 122	<i>DECC</i>
<ul style="list-style-type: none"> • consent to: <ul style="list-style-type: none"> (a) erect a structure or carry out a work in, on or over a public road, or (b) dig up or disturb the surface of a public road, or (c) remove or interfere with a structure, work or tree on a public road, or (d) pump water into a public road from any land adjoining the road, or (e) connect a road (whether public or private) to a classified road 	<i>Roads Act 1993</i>	s 138	<i>Council and/or RTA</i>
<ul style="list-style-type: none"> • authorisation under section 100B in respect of bush fire safety of subdivision of land that could lawfully be used for residential or rural residential purposes or development of land for special fire protection purposes 	<i>Rural Fires Act 1997</i>	s 100B	<i>RFS</i>
<ul style="list-style-type: none"> • water use approval • water management work approval • activity approval under Part 3 of Chapter 3 	<i>Water Management Act 2000*</i>	s 89 s90, s91	<i>DWE</i>
<ul style="list-style-type: none"> • approval for works within 40 m of the bed or bank of a river, creek or lake 	<i>Rivers and Foreshores Improvement Act 1948</i>	s22B (1)	<i>DWE</i>

*Note that in some areas **not included** within a Water Sharing Plan or a Water Management Plan, certain provisions of the *Water Act 1912* still apply.

3.5. Other licences or permits

(i) Commonwealth Environmental Approvals

Under the Commonwealth Environment Protection and Biodiversity Conservation (EPBC) Act 1999, an approval may be required if the development is likely to affect matters of national significance listed in the Act. The Act lists threatened species (similar to those listed in the TSC Act), wetlands and heritage items as being of national significance.

If the development is likely to affect these matters (for example from clearing vegetation including the listed species), the development proposal should be referred to the Commonwealth Department of the Environment and Water Resources (DEW) in Canberra before the DA is lodged with local council.

If an approval is required, a joint assessment can generally be undertaken under the EPBC Act along with the DA process. If you have any questions about the application of the EPBC Act to your proposal, you should contact the DEW in Canberra (02 6274 1111) See www.environment.gov.au

(ii) Clearing native vegetation

If an approval under the Native Vegetation Act 2003 is required to clear native vegetation, an application should be lodged with your local Catchment Management Authority (CMA) at the same time as the DA is lodged with local council.

A clearing consent involves the development of a Property Vegetation Plan (PVP), which is a voluntary agreement between the landholder and the CMA.

Clearing will now only be approved if, overall, management actions improve or maintain environmental outcomes. Offsets are permitted, if required, to offset the effects of clearing and to meet the 'improve or maintain' criteria.

Clearing approvals within a PVP can last up to 15 years. For more information about the clearing of native vegetation and PVPs, contact your nearest CMA and visit the website <http://www.nativevegetation.nsw.gov.au>

(iii) Health and Safety

A risk assessment may be required to ensure the development meets health and safety requirements under *Occupational Health & Safety Act 2000*. Contact WorkCover NSW.

4. Preparing the DA

- If your proposal is non-designated development, you must submit a SEE when you lodge the DA with the consent authority.
- If your proposal is a 'designated development', you must submit an EIS when you lodge the DA with the consent authority.

You must formally request and receive the Director-General's requirements for the EIS from the Department of Planning before lodging the DA with the consent authority.

The SEE or the EIS need to outline the size and nature of the proposed development, a description of the site and surrounding environment, and the management practices and environmental impact mitigation strategies to be employed. Support the application with maps, plans, diagrams and photographs where appropriate.

Agencies such as DoP and DECC have guidelines in relation to assessment and management of environmental issues which can assist in preparation of the EIS or SEE. The issues that need to be assessed in an EIS are complex and typically require the use of a consultant.

DSRD may consider contributing towards the costs of an EIS for the establishment or expansion of an intensive agriculture operation at a regional site, where the project is unlikely to proceed without such assistance.

4.1. Planning Focus Meetings

A pre-lodgement meeting with council is recommended before lodging a DA.

A Planning Focus Meeting (PFM) is also recommended where there are a large number of issues to be considered and development is likely to be contentious. A PFM allows relevant parties to meet and identify possible issues in advance. Doing this can greatly reduce the risk of subsequent delays in processing your application. It also avoids the risk that council may be unable to accept your application because of inadequate information. PFMs are usually organised by the consent authority, but can also be organised by the proponent or by consultants. Resource Management Officers from NSW DPI can assist.

A Planning Focus Meeting should include a site visit and would normally involve:

- the applicant
- the applicant's consultants
- representatives from the local council
- DECC, DoP, NSW DPI, Catchment Management Authorities and other appropriate State Government agencies
- any other parties/stakeholders.

If the development is likely to be contentious, the council may recommend that other meetings might be necessary involving councillors and community so that their concerns can be identified.

The booklet *Planning focus* is useful if you are considering a Planning Focus Meeting. It is available at <http://www.planning.nsw.gov.au>

If a PFM is not required, or has not been organised, agencies should be consulted about their requirements.

4.2. Director-General Requirements

If the development is designated development, the applicant must seek Director General Requirements from the Department of Planning. These requirements will set out the matters which must be assessed in the preparation of the EIS. The PFM is usually held after the applicant has

requested Director-General Requirements so that matters relevant for inclusion in these requirements can be discussed with relevant agencies at that meeting.

If the development is integrated development, then the relevant agencies provide the Department of Planning with their matters to be included in the Director-General requirements.

These requirements provide the overall scope of matters which must be addressed in the EIS.

4.3. Community consultation

While preparing the SEE or EIS, it is important to consult with neighbours and possibly the broader community to ensure that all issues of importance are appropriately addressed. This consultation may also produce information that will assist in the preparation of the assessment. It may also be useful if you provide agencies with a draft EIS prior to lodgement for advice as to whether you are appropriately addressing the issues.

4.4. Information to be included in development application

Local councils will have a development application form and can provide guidance on submitting a DA. The following is the minimum information to be included in a DA (noting that Schedule 1 of the EP&A Regulation sets out specific requirements for information required for a DA):

- a) the name and address of the applicant,
- b) a description of the development to be carried out,
- c) the estimated cost of the development and number of employees,
- d) the address, and formal particulars of title of the land,
- e) an indication as to whether the land is, or is part of, critical habitat or whether the development is likely to significantly affect threatened species, populations or ecological communities, or their habitats,
- f) a list of any authorities from which concurrence must be obtained,
- g) a list of any approvals that must be obtained before the development may be carried out,
- h) if the applicant is not the owner of the land, a statement signed by the owner of the land to the effect that the owner consents to the making of the application,
- i) a list of the documents accompanying the application.

4.5. Components of an EIS or SEE for intensive agriculture

Schedule 2 of the EP&A Regulation sets out specific requirements for an EIS.

The assessment level should match the level of impact that the proposed enterprise might have.

The components of an EIS are summarised as follows. There is no standardised format for preparation of a SEE, but proponents would be expected to address these components, but in less detail than for an EIS.

A) Summary of the EIS or SEE

B) Statement of objectives

- objectives: reason for undertaking the proposal

C) Analysis of alternatives

- An analysis of any feasible alternatives to the carrying out of the development or activity, having regard to its objectives, including the consequences of not carrying out the development or activity.

D) Description of the proposal

- (i) capital investment value of the development proposal and likely employment
- (ii) size of the operation: for example, the area under production, and/or production targets and estimated value of production per annum
- (iii) production, packing and processing facilities, if any
- (iv) previous and existing operation on the site
- (v) site layout plans including any waste storage and disposal areas
 - a. existing vegetation and trees on the land,
 - b. the location and uses of existing buildings on the land,
 - c. existing levels of the land in relation to buildings and roads,
 - d. the location and uses of buildings on sites adjoining the land.
- (vi) a sketch of the development,
 - a. the location of any proposed buildings or works (including extensions or additions to existing buildings or works) in relation to the land's boundaries and adjoining development,
 - b. floor plans of any proposed buildings showing layout, partitioning, room sizes and intended uses of each part of the building,
 - c. elevations and sections showing proposed external finishes and heights of any proposed buildings,
 - d. proposed finished levels of the land in relation to existing and proposed buildings and roads,
 - e. proposed parking arrangements, entry and exit points for vehicles, and provision for movement of vehicles within the site (including dimensions where appropriate),
 - f. proposed landscaping and treatment of the land (indicating plant types and their height and maturity),
 - g. proposed methods of draining the land,
 - h. in the case of residential development, such other matters as any BASIX certificate for the development requires to be included on the sketch,
- (vii) water and power supply, road access and proposed truck movements
- (viii) outline of any construction to be undertaken
- (ix) plan for the storage and disposal of wastes; for example, crop residues, unsaleable produce, mass mortality, used growing media or waste water
- (x) emergency management strategies to minimise the potential for risk events including emergency response plans, for example, in the case of power failure or emergency pest or disease outbreaks, flood or bushfire.

E) Location and site description

- description of the site, adjacent areas and existing or approved land uses
- topography, drainage and flooding pattern, vegetation, soil type and groundwater depth (particularly where there is on-site waste water disposal)
- relationship with surrounding land uses, for example, distances to any houses, property boundaries or watercourses
- whether the proposal is consistent with any relevant SEPP, REP, LEP or DCP provisions
- a general description of the environment likely to be affected by the development or activity, together with a detailed description of those aspects of the environment that are likely to be significantly affected

F) Identification of key issues

- Identify the likely impact on the environment. A risk-based approach should be taken when identifying issues, with the focus on matters likely to significantly affect the environment

G) Assessment of environmental issues

- Air quality including chemical spray drift, dust and odour
- Noise issues especially at night if residences nearby (including on truck routes)
- water quality, drainage, flooding, erosion and sedimentation
- water supply impacts
- traffic and road impacts
- lighting impacts

- waste management – on-site waste water treatment, use and or disposal, composting, growing media or crop residue disposal
 - native vegetation and, if relevant, threatened species populations, ecological communities and their habitats, of both terrestrial and aquatic species
 - visual impacts taking into consideration the landscape characteristics and viewing sites
 - social issues including health risks and potential impacts on amenity
 - economic issues including employment issues
- H) List of approvals and licences**
- a list of any approvals that must be obtained under any other Act or law before the development or activity may lawfully be carried out
- I) Proposed environmental management plan and mitigation measures**
- a full description of the measures proposed to mitigate any adverse effects of the development or activity on the environment
 - proposed actions to minimise and manage land use conflicts
 - a compilation in a single section of all commitments to avoid, minimise or manage potential impacts
- J) Justification for the proposal**
- reasons justifying the carrying out of the development or activity in the manner proposed, having regard to biophysical, economic and social considerations, including the principles of ecologically sustainable development

4.6. Other documents to accompany the development application

The following documents are to accompany the DA or be integrated into the SEE or EIS if relevant:

- b) a species impact statement (in the case of land that is, or is part of, critical habitat or development that is likely to significantly affect threatened species, populations or ecological communities, or their habitats),
- c) if the development involves any subdivision work, preliminary engineering drawings of the work to be carried out,
- d) if an environmental planning instrument requires arrangements for any matter to have been made before development consent may be granted (such as arrangements for the provision of utility services), documentary evidence that such arrangements have been made,
- e) in the case of development that involves the erection of a building, an A4 plan of the building that indicates its height and external configuration, as erected, in relation to its site,
- f) if the development involves building work to alter, expand or rebuild an existing building, a scaled plan of the existing building,
- g) if the land is within a wilderness area and is the subject of a wilderness protection agreement or conservation agreement within the meaning of the [Wilderness Act 1987](#), a copy of the consent of the Minister for the Environment to the carrying out of the development,
- h) if the development involves a change of use of a building (other than a dwelling-house or a building or structure that is ancillary to a dwelling-house): a list of the Category 1 fire safety provisions that currently apply to the existing building, and a list of the Category 1 fire safety provisions that are to apply to the building following its change of use,
- i) in the case of residential development, a BASIX certificate is to accompany the application. See website www.sustainability.nsw.gov.au for information.

5. Lodging the DA

5.1. Information required

Once completed, the DA with all relevant information must be submitted to the consent authority. You should check with the council about the number of copies needed for exhibition and consultation purposes.

The DA can be delivered by hand to the council or sent by post or transmitted electronically to the principal office of the consent authority.

The DA must be accompanied by:

- (a) An environmental assessment – if designated development, this assessment will be in the form of an EIS; if it is not designated development, in the form of an SEE. This must be signed by the person responsible for preparing it to say that the information in the assessment is not false or misleading.
- (b) Landowners' consent
The DA must be accompanied by a landowners' consent if you do not own the land or if it is leased. If any of the land is Crown land, permission must be obtained from the Department of Lands or, if the land is in the Western Division of NSW, from the Western Lands Commissioner.
- (c) DA fees
DA fees are required. Payments are based on the estimated capital value of the project. Additional charges are levied if the DA is to be advertised, if it is designated development, if it requires concurrence from another authority, or if the project is integrated development. A quotation on DA fees can be obtained from Council prior to formal lodgement of the DA.

On receipt of the DA, the consent authority will register the application, date it, and issue a DA number.

5.2. Exhibition and notification of the DA

Once the DA is lodged, the consent authority usually notifies adjoining or affected landowners in writing of the proposal and provides the opportunity for them to comment. If the project is integrated development, a copy of the DA must also be sent to any integrated approval authorities.

If the project is a designated development, then the DA will be advertised in the local newspaper and often in the *Sydney Morning Herald*. This will involve a public notice being placed in the local newspaper at certain intervals about the DA and SEE or EIS being exhibited, with an invitation to comment on the proposal. These documents will usually be made available for inspection at the council offices and or library and the Department of Planning Sydney Office and possibly regional offices.

If the development is not designated development but is integrated development, the DA must also be advertised. The consent authority will send copies of the documentation to relevant agencies to seek their views. A copy of submissions received as a result of the exhibition is also sent to relevant agencies.

5.3. Request for additional information

The consent authority may reject a DA within 7 days after receiving it if it is unclear or illegible, or within 14 days if the DA is not accompanied by the appropriate fee, or if any relevant integrated approvals have not been identified in the application, or if the DA is not accompanied by a Species Impact Statement where one is required. In addition, an agency may 'stop the clock' and request additional information during the exhibition and assessment period. This means that the time for assessing the development is extended. The assessment clock is not restarted again until the agency is satisfied that they have sufficient information to appropriately assess the DA.

6. Assessment and determination

6.1. Assessing the impacts

The consent authority assesses the impact of the proposed development on the biophysical environment, the built environment, the community and the economy.

(i) Consideration of submissions

The council analyses the submission and identifies key issues which need to be considered in their assessment. Councils may also organise meetings between those people who made submissions and the applicant to clarify issues and if appropriate to develop appropriate management measures to apply as conditions of consent.

(ii) Advice from panels or independent experts

Where there are outstanding technical or other issues, council may engage independent experts to assist them in the assessment of the development. Some councils may establish an independent panel to hold hearings with the community and other parties to assist in the assessment of the development and to provide opportunities for the community to raise issues with technical experts.

(iii) Advice from agencies

In assessing a DA, the consent authority may seek advice from NSW DPI, DWE, DECC, DoP and other State government agencies.

For integrated development, the council would have sent a copy of submissions to the relevant agencies and will seek the agencies' advice. Each agency provides the council with 'general terms of approval' which must be included in the council's consent conditions, if it intends to approve the DA. The consent authority incorporates this advice into their assessment and the *general terms* in consent conditions. If the agency refuses to provide general terms of approval, the council must refuse the DA.

(iv) Impacts on council infrastructure

Where the development is likely to result in impacts on council infrastructure such as roads (and bridges), the council may charge a S94 contribution as part of the approval conditions. This may relate to a one-off contribution for example to the upgrade of a facility such as a bridge, or it may be an annual payment, for example one based on the number of truck movements to offset the cost of road maintenance.

6.2. Matters for consideration in making a determination

Following this assessment, the consent authority then decides to either grant consent; grant consent with some conditions; or refuse consent for the application. Matters taken into account include:

- (a) the provisions of any local, regional or State planning instrument, development control plan and planning legislation that relates to the site or the proposed development
- (b) the impact the proposed development is likely to have on the natural environment and the built environment and the social and economic implications in the locality
- (c) whether the site is suitable for the proposed development
- (d) any submissions made by neighbours, the wider community and government agencies in response to the exhibition of the DA
- (e) the public interest.

The applicant is notified in writing of the decision and the decision is made public.

7. After the DA decision

7.1. Other approvals under the EP&A Act

(i) Approval to begin building works – Construction Certificate

Once the development application is approved, the next step is to obtain approval of the building details. If the development involves building works such as a building, road, stormwater system or even large greenhouses, you must apply separately to the council or an accredited certifier for a construction certificate. This certificate certifies that the work you intend to do will comply with the Building Code of Australia and any other required building standards.

Before any work can start, you must choose a Principal Certifying Authority (PCA). This can be an appropriately certified officer of the council or an accredited private certifier. When lodging your application for a construction certificate to the PCA, you need to provide detailed design and construction plans of the proposed building works. These must be consistent with the plans approved by the Council, and it must comply with the Building Code of Australia.

The PCA will make sure that the building work is undertaken in accordance with the development consent and approved construction plans. There will also be a regime of mandatory inspections required, and these should be clearly determined in consultation with Council or the PCA.

At least two days before starting work, you must notify the council who the PCA is (if not the council) and that work is about to commence.

(ii) Approval to occupy – Occupation Certificate

You must obtain an Occupation Certificate from the certifying authority before occupying or using a new building or changing the use of an existing building. The DA consent will specify what works are to be completed prior to occupation of the development.

7.2. Approvals under other Acts

Once the DA has been approved, any other required permits or licences under other legislation must be obtained, in order to construct and operate the development, for example licences under the PoEO Act or the Water Management Act. If the approval was an integrated approval listed in Table 1, then the permit or licence must be consistent with the council's consent conditions.

7.3. Compliance check

The authority that has approved the development will monitor the development to make sure that the approval conditions are being complied with. If the development does not comply, then you can be:

- issued with a penalty notice and fined; and
- ordered to rectify or make changes to the development or the activities carried on at the premises.

Action may also be initiated in the Land and Environment Court. As a result, the court may order you to carry out necessary works (such as making repairs), or may forbid you to use the premises.

7.4. Right of appeal under the EP&A Act

If as the applicant you are unhappy with the decision, you may ask the consent authority to review the application. This must be done within 12 months of the decision being made. In addition, you may appeal to the Land and Environment Court in accordance with the requirements of the EP&A Act.

If the project is designated development and it is approved, anyone who objected in writing to the proposal during the exhibition period may appeal to the Land and Environment Court in accordance with the EP&A Act. This appeal must be lodged within 28 days. If appropriate procedures were not followed, anyone may appeal to the Land and Environment Court. This appeal must be lodged within 3 months. Seek legal advice before commencing any proceedings.

8. Appendix

8.1. Industry guidelines

Guidance and more detailed information about developing your proposal can be found in these industry guidelines:

A producer's guide to starting a small beef feedlot in NSW
<http://www.dpi.nsw.gov.au/reader/feedlotting/guide-small-beef-feedlot>

Best practice guidelines for growing vegetables
www.dpi.nsw.gov.au/reader/veg-bestprac

Effluent reuse
<http://www.environment.nsw.gov.au/water/effluent.htm>

EIS Guideline: Poultry Farms
www.shop.nsw.gov.au/search.jsp?keyword=EIS

EIS Guideline: Cattle Feedlots
www.shop.nsw.gov.au/search.jsp?keyword=EIS

Feedlotting lambs
www.dpi.nsw.gov.au/reader/sheep-grazing/dai42ed2.pdf

Guidelines for the development of controlled environment horticulture
www.dpi.nsw.gov.au/reader/ceh-guidelines.pdf

National Beef Cattle Feedlot Environmental Code of Practice
<http://www.mla.com.au/NR/rdonlyres/FABEF8B2-475C-4758-BAEF-9BD68D8FF74E/0/Nationalbeeffeedlotcodeofpractice.pdf>

National environmental guidelines for piggeries (Australian Pork)
www.australianpork.com.au/index.cfm

National guidelines for beef cattle feedlots in Australia
www.publish.csiro.au/pid/114.htm

NSW meat chicken farming guidelines
www.dpi.nsw.gov.au/reader/poultry/chicken-farm-guide-splash.htm

Assessment and management of odour from stationary sources in NSW
<http://www.environment.nsw.gov.au/air/odour.htm>

Opportunity lotfeeding of beef cattle
www.dpi.nsw.gov.au/reader/lotfeeding

Rabbit farming
www.dpi.nsw.gov.au/reader/an-rabbit/rabbit-guidelines.htm

This list is just a starting point. More information can be obtained using the contacts listed below.

8.2. Government contacts

(i) State Government contacts

Catchment Management Authorities

www.cma.nsw.gov.au

Department of Environment and Climate Change

Head Office telephone (02) 9995 5000

www.environment.nsw.gov.au

Department of Local Government

Head Office telephone (02) 4428 4100

www.dlg.nsw.gov.au

Department of Water and Energy

Head Office telephone (02) 8281 7777

www.dnr.nsw.gov.au

Department of Planning

Head Office telephone (02) 9228 6111

www.planning.nsw.gov.au

NSW Department of Primary Industries

Head Office telephone (02) 6391 3100

www.dpi.nsw.gov.au

Resource Management Officer, North Coast, phone (02) 6626 1349

Resource Management Officer, North West, phone (02) 67631142

Resource Management Officer, Hunter/Central Coast, phone (02) 4939 8942

Resource Management Officer, Central West, phone (02) 6881 1250

Resource Management Officer, Sydney, phone (02) 4588 2128

Resource Management Officer, South East, phone (02) 4828 6635

Resource Management Officer, South West, phone (02) 6951 2750

Department of State and Regional Development, Head Office telephone (02) 9228 3111,

www.business.nsw.gov.au

NSW Food Authority, Head Office telephone 1300 552 406, www.foodauthority.nsw.gov.au

Roads and Traffic Authority, Major Projects

Information Line telephone 1800 633 332

www.rta.nsw.gov.au

WorkCover Authority of NSW

www.workcover.nsw.gov.au/default.htm

(ii) Local Government Contacts

Local Council Directory www.dlg.nsw.gov.au

Local Government and Shires Association of NSW,

telephone 02 9242 4000, www.lgsa.org.au

(iii) Commonwealth Government Contacts

Department of Environment and Water Resources

www.environment.gov.au

8.3. Industry and consultant contacts

Australian Egg Corporation Ltd

telephone (02) 9409 6999

www.aecl.org

Australian LotFeeders Association

telephone (02) 9241 6988

www.feedlots.com.au

Australian Mushroom Growers Association

telephone (02) 4577 6877

www.mushrooms.net.au

Australian Pork Limited

telephone 1800 789 099

www.australianpork.com.au

Dairy Industry Development Company

telephone 0417 217 535

www.didco.com.au

Meat and Livestock Australia

telephone 1800 023 100

www.mla.com.au

NSW Farmers' Association

telephone 1300 794 000

www.nswfarmers.org.au

Planning Institute of Australia

telephone (02) 9280 2121

www.planning.org.au

Consultants

The Planning Institute of Australia or relevant industry body can provide information on qualified consultants.

8.4. Abbreviations

CMA	Catchment Management Authority
DA	Development Application
DECC	Department of Environment and Climate Change (NSW)
DWE	NSW Department of Water and Energy
DoP	NSW Department of Planning
DPI	NSW Department of Primary Industries
DSRD	NSW Department of State & Regional Development
EIS	Environmental Impact Statement
EP&A Act	Environmental Planning & Assessment Act 1979
LEP	Local Environmental Plan
PCA	Principal Certifying Authority
PFM	Planning Focus Meeting
PVP	Property Vegetation Plan
PoEO Act	Protection of the Environment Operations Act 1997
REP	Regional Environmental Plan
RFS	NSW Rural Fire Service
RTA	NSW Roads & Traffic Authority
SEE	Statement of Environmental Effects
SEPP	State Environmental Planning Policy
SIS	Species Impact Statement