

Preparing Intensive Plant Agriculture Development Applications

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Introduction

This factsheet sets out the relevant issues to consider when preparing a development application for intensive plant production.

The factsheet focuses on agricultural issues rather than the full range of issues that applicants must address. Intensive plant agriculture includes horticulture and viticulture.

This factsheet helps applicants, consultants and the general public to identify issues to be addressed when undertaking intensive plant agriculture development opportunities and minimising the risk of land use conflict.

Intensive plant agriculture development applications (DAs) may require the applicant or Council to seek additional specialist advice from other government agencies and independent planning, agricultural and/or agri-business consultants. Other factsheets which may provide further information include [Preparing a development application for intensive agriculture in NSW](#) and [Assessing intensive plant agriculture development applications](#).

Councils are the usual planning and development consent authority in NSW, so all DA enquiries should be directed to the relevant local council in the first instance.

What is Intensive Plant Agriculture?

Intensive plant agriculture and various component activities are defined in the Standard Instrument - Local Environmental Plans (LEP) Order 2006¹.

Table 1 lists the types of agriculture covered by each term as defined in the Standard Instrument. Older LEPs have varied definitions that may not be in the Standard Instrument.

Table 1 Standard Instrument Definitions

Standard LEP Definitions	Type of development
Intensive Plant Agriculture	Any of the following carried out for commercial purposes: <ul style="list-style-type: none"> a) cultivation of irrigated crops (other than pasture or fodder crops), b) horticulture, c) turf farming, d) viticulture
Horticulture	The cultivation of fruits, vegetables, mushrooms, nuts, cut flowers and foliage and nursery products for commercial purposes, but does not include retail sales or viticulture
Turf farming	Commercial cultivation of turf for sale and the removal of turf for that purpose
Viticulture	Cultivation of grapes for commercial purposes for use in the production of fresh or dried fruit or wine

The Standard Instrument LEP does not specifically define what comprises an irrigated crop (other than pasture or fodder crops), but this might include any irrigated vegetable, flower, fruit or nut, cotton or rice crop grown for commercial purposes.

Is Development Consent Required?

The Standard Instrument LEP provides considerable flexibility by allowing councils to:

¹ Standard Instrument (Local Environmental Plans) Order 2006

- ☑ identify if development consent is required for various forms of intensive plant agriculture and in what zone
- ☑ specify different minimum lot sizes (for a dwelling) in specific locations and/or zones, and
- ☑ to zone land suitable for smaller scale intensive plant agriculture as a Rural Small Holdings Zone (RU4).

Some forms of intensive plant agriculture may require development consent, depending on the Local Environmental Plan or the land use zone, for example:

- ☑ Broadacre irrigated crops such as cotton or lucerne are also usually considered to be extensive agriculture and do not require consent. However, a LEP may prescribe that irrigated agriculture, or developments that involve aerial spraying may require consent.
- ☑ Horticulture or viticulture might require consent in an Environmental zone, but not in a rural zone. All forms of intensive agriculture may be prohibited in a Rural Residential zone.

Pre-application Enquiries

Given the flexibility provided by the Standard Instrument LEP it is important applicants contact the local councils before commencing an intensive plant agriculture development, to verify if development consent is required.

Pre lodgement advice from council can be critical for ensuring sustainable development of rural lands. Useful assistance from council may include:

- ☑ a copy of the relevant sections of the LEP, Development Control Plans (DCPs) and State Environmental Planning Policies (SEPPs)
- ☑ a written guide as to the type of supporting information to accompany the DA
- ☑ indicating Council's policy on intensive agricultural development in that zone or locality
- ☑ providing a copy of this factsheet.

Land Use Conflict

Intensive plant agriculture can involve a range of activities that might lead to conflict with adjoining properties.

Land use conflict may result from many factors such as dust generation, noise from harvesting activities, chemical usage and spray drift and pest control methods such as "lawful" shooting of pests.

The factsheet, [Land Use Conflict Risk Assessment](#) provides information on assessing the potential for land use conflict between neighbouring land uses.

Good communication between neighbours and monitoring (eg checking wind direction before cultivating paddocks) can greatly reduce the incidence and intensity of conflict and reduce opposition to intensive agricultural activities.

The overriding principal is that agricultural operations should not have significant adverse "off site" impacts on the environment. This includes; soil, water, vegetation and the local amenity (air quality, noise levels and visibility).

In all cases, early and regular consultation with consent authorities is recommended.



Intensive production of blueberries under netting- Photo NSW DPI

Where a high risk of conflict is identified possible consent conditions might include:

- ☑ developing an Environmental Management Plan that documents the key environmental issues and proposed management actions to mitigate / avoid conflicts and is periodically updated (eg annually)
- ☑ maintaining a log of key farm activities (eg major traffic movements, cultivation or harvesting activities)
- ☑ maintaining a record of complaints and remedial actions can help to readily identify the issues and whether any further remediation is required and making these documents available for Council inspection in response to reasonable requests
- ☑ ensuring new non-agricultural developments on adjoining land (eg new dwellings) include mitigation of potential conflicts as part of their own approval

Recommended Information to accompany Development

Applications (including subdivision and a dwelling)

A development application using the prescribed form must be lodged with the relevant local council.

It is also necessary to provide sufficient documentation to demonstrate that all significant environmental impacts have been identified and can be reasonably mitigated.

A Statement of Environment Effects (SEE) normally accompanies the Development Application. If the proposal is a designated development an Environmental Impact Statement will be required. Both documents cover similar site related issues.

In some council areas further detail may also be required as part of a property management or farm plan. Photos can be used to explain features.

A risk management approach is recommended when considering possible impacts and consent conditions.

Where agricultural lands and agricultural activities are dominant elements of the proposal, NSW DPI additionally recommends that the application should demonstrate the merits and sustainability of the proposal. This requires specific assessment of the capability of the subject land, any land use limitations, and economic sustainability.

Specific details that should accompany an application include:

Applicant and Property details

- applicant name, address, contact details
- owner name, lot and DP, local government area
- zoning of the land and a list of the relevant planning provisions (eg Rural SEPP, LEP clauses, DCP clauses)
- current lot configuration, lot size and land use
- proposed subdivision, lot configuration, lot sizes and intended uses.

Existing Environment and Suitable Resources for Intensive Agricultural Development:

An aerial photograph or a map/s of the property showing:

- general location of the property
- property boundary and existing lot configuration

- key agricultural industries in the general locality
- the relative location of existing and proposed residences on the property and nearby
- utilities and easements, crown lands and rights-of-way, roads and access tracks, buildings on the property
- relevant farm infrastructure (eg paddock layout, dams and existing irrigation systems, farm sheds) and other structures, and
- topography and natural features including aspect, slope, drainage, waterways, creeks and native vegetation.



Production of eggplants – Photo NSW DPI

Additional information concisely describing (or mapping):

- land use history on the site and an assessment of the potential impact of the subdivision on such land use
- local climatic conditions and the suitability / risks for the proposed intensive plant development
- existing and proposed vegetation (cropping areas, improved pastures, windbreaks, plantations, native vegetation remnants, riparian zones etc.)
- soils of the property and providing an overview of their suitability and value for the proposed use including soil testing results and an estimate of productive or carrying capacity
- environmentally sensitive features of the property such as wetlands, remnant vegetation, groundwater resources, important fish habitat, heritage items or places
- an assessment of the risk of contaminated land (e.g. due to previous chemical

applications, dip sites, storage facilities) and how this will be managed

- ground and surface water resource quality, availability and relevant licence details. Include current water sharing plan and access conditions. This should document / tabulate the amount of water available from all sources (eg dams, bores, tanks, effluent re-use, town water and harvestable rights). This can be verified by a copy of all water licences setting out their volumes and conditions. For bores a copy of recent pump test showing water recovery should also be provided. For new horticultural developments evidence should also be provided of consultation with the NSW Office of Water.
- an overview of water quality test results relevant to irrigation methods and crop suitability
- research into the production systems proposed, the suitability of these for this location, available processing facilities in the region and market prospects. Where relevant this should include details of contracts to process or purchase food grown on site and proposed sales outlets.
- services (power, water, communications) and current farm infrastructure (eg dwellings, sheds, yards, fences, dams, bores, pumps, tracks, bridges). This should include an assessment of condition and suitability for the proposed development, and
- proposed adaptations, monitoring proposals and Environmental Management Plans to ensure environmental values are protected.

Detailed subdivision proposals

For each of the proposed lots describe the lot sizes and intended uses and infrastructure. This should be accompanied by an assessment of:

- the useable area for the intended intensive plant agriculture landuse (eg the planted or plantable area)
- the potential productivity and likely returns from each separate lot relative to the current holding
- areas to be protected or rehabilitated, including items of cultural heritage
- areas required for the application of effluent or manure, or for infrastructure and on site handling, processing or sales facilities

- buffer zones and strategies to mitigate and manage the risk of land use conflict and complaints
- proposed use and design of any crop protection, shade or shelter structures and an assessment of the visibility of this, and
- any environmental hazards (eg flood or fire risk) or contaminated lands and how these will be managed.

Justification for the proposal, detailing:

- how it satisfies the LEP and zone objectives and relevant provisions of state, regional or local planning policies and strategies
- the natural resources of the proposed lots and their suitability for the proposed development. In particular legal access to water rights and identification of impacts with suggested measures for eliminating these.
- the advantages of this site for the proposed intensive plant agriculture development relative to other locations
- socio-economic benefits including assessment of direct on farm employment, service requirements and local processing options, and
- SEPP 1 (or Clause 4.6 Standard Instrument LEP) justification for any proposed variation to minimum subdivision standard.

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ISSN 1832-6668

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Published by the Department of Primary Industries, a part of the Department of Trade and Investment, Regional Infrastructure and Services.

PUB 11/110