

Primary use of the land in the Coastal Zone under the Land Management Code 2018

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AUTHORISED BY Sue-Anne Nicol, Director State Programs and Partnerships	AUTHORISED DATE 24/01/2020
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Revision history

Version	Date issued	Notes	By
1	18/10/2017	Initial drafting and approval	SLM Group Director
2	17/01/2020	<ul style="list-style-type: none"> Added broadacre agistment of grazing livestock for commercial purposes to the extensive agriculture definition Updated year of Code to 2018 Updated the contact to Business Partner (Land Management) Strategy and Engagement 	Director Programs and Partnerships

Policy Statement

The aim of this policy is to provide a working definition of 'agricultural activities' to support the correct application of the *Land Management (Native Vegetation) Code 2018* (LM Code) in the Coastal Zone.

Context

The Pasture Expansion (Div. 2 & Div. 3) ; Equity (Div. 1, Div. 3 & Div. 4) and Farm Plan (Div.1 & Div.2) parts of the LM Code are restricted on landholdings predominantly in the Coastal Zone '...unless Local Land Services is satisfied the primary use of the land is for agricultural activities' (see Landholding restrictions under each Part).

A clear definition of agricultural activities is needed so that LLS Sustainable Land Management can determine whether landholders may utilise the pasture expansion, equity and farm plan divisions of the LM Code in the Coastal Zone.

Policy Position

For the purpose of the LM Code agricultural activities are defined as the following:

- a) Aquaculture including:
 - i. cultivating fish or marine vegetation for the purpose of harvesting the fish or marine vegetation or their progeny with a view to sale, or
 - ii. keeping fish or marine vegetation in a confined area for a commercial purpose (such as a fish-out pond),
- b) Extensive agriculture including;
 - i. the production of crops or fodder (including irrigated pasture and fodder crops for commercial purposes, or
 - ii. the grazing of livestock for commercial purposes

- iii. the broadacre agistment of grazing livestock for commercial purposes
 - iv. bee keeping,
 - v. a dairy (pasture-based)
- c) Intensive livestock agriculture including;
- i. dairies
 - ii. feedlots
 - iii. piggeries
 - iv. poultry farms
- d) Intensive plant agriculture including:
- i. the cultivation of irrigated crops for commercial purposes (other than irrigated pasture or fodder crops)
 - ii. horticulture
 - iii. turf farming
 - iv. viticulture

The above activities are deemed the primary use of the land provided these activities:

- a) have a significant and substantial commercial purpose or character; and
- b) have been engaged in for the purpose of profit on a continuous or repetitive basis (whether or not a profit is actually made); and
- c) are the predominant commercial activity on the landholding, unless associated with diversifying the operations of a significant and substantial commercial agricultural activity on the same landholding.

Commercial purpose means a business activity that is undertaken for the purposes of financial gain and is at a scale comparable to similar businesses in the region.

In circumstances where a landholder is proposing new agricultural development, LLS needs to be satisfied the proposed activity meets the above criteria. The landholder must provide the following evidence and any other evidence as requested to satisfy LLS that the primary use of the land will be for agricultural activities:

- (i) A business plan showing the activity could generate profit; and
- (ii) Written confirmation from the relevant consent authority that the proposed agricultural activity (and associated ancillary activities) does, or does not, require development consent; and
- (iii) Evidence of advice from a suitable qualified agricultural professional that the land is capable for proposed activity.

Roles and responsibilities

LLS has responsibility for providing landholders with information on the application of the LM Codes on their property and certifying activities under the relevant parts of the LM Code. LLS staff will be provided with *LLS Guidelines - Agricultural activities in the Coastal Zone and on Small Holdings*.

Legislation

Local Land Services Act 2013

Standard Instrument (Local Environmental Plans) 2006

Fisheries Management Act 1994

Other related documents

1. LLS Guidelines - Agricultural activities in the Coastal Zone and on Small Holdings.
2. Australian Taxation Office. 1997. *Taxation Ruling*, Income tax: am I carrying on a business of primary production? TR97/11. See:
<https://www.ato.gov.au/law/view/document?Docid=TXR/TR9711/NAT/ATO/00001>

Review date

This policy will be reviewed in 12 months.

Contact

Business Partner (Land Management) Strategy and Engagement Team