

RURAL ADJUSTMENT ACT 1992

POLICY GUIDELINES APPLYING TO INTEREST RATE SUBSIDIES FOR FARMERS IN NEW SOUTH WALES UNDER THE EXCEPTIONAL CIRCUMSTANCES (EC) PROVISIONS OF THE RURAL ADJUSTMENT SCHEME (RAS) FOR DECLARED AREAS IN NEW SOUTH WALES (INCLUDING THE AUSTRALIAN CAPITAL TERRITORY).

I, CONALL O'CONNELL, Secretary of the Department of Agriculture, Fisheries and Forestry, pursuant to clause 6(2) of the Agreement between the Commonwealth and the States and Territories (**Agreement**) made under the *Rural Adjustment Act 1992* hereby establish the following policy guidelines (**Guidelines**) as to interest rate subsidies (**Support**) to Farmers in areas of New South Wales (including the Australian Capital Territory) (**State**).

INTEREST RATE SUBSIDIES

1) Interpretation

- a) In these Guidelines, unless the contrary intention appears:
- i) **Applicant** means a person who applies for Support under the scheme established under the Agreement.
 - ii) **Farmer** means a person engaged in the farm sector in a State, but does not include a person whose business consists principally of the provision of services.
 - iii) **Eligible Farmer** means a Farmer who satisfies the criteria for eligibility set out in clause 7 of the Agreement.
 - iv) **Suitably qualified adviser** means a person who:
 - (a) has relevant financial qualifications; and
 - (b) is a member of a professional association whose members normally provide financial advice.

But, if an applicant whose residence is away from a population centre is not practicably able to seek advice from a person referred to in the definition above then, a suitably qualified adviser is a person who:

- (c) has experience in financial matters because of his or her occupation (whether or not he or she normally provides, or provided, advice); and
- (d) is a member of a relevant professional association.

Occupations that give a person experience in financial matters include the following:

- (e) accountant;
- (f) bank manager; and
- (g) tax agent.

2) Purpose of Support

- a) Pursuant to sub-clause 5(2) of the Agreement, the purpose of the Support is to:
 - i) assist Eligible Farmers in areas of the State specified in Schedules 1 to 14 to these Guidelines during the period 1 April 2010 until 31 March 2011, and who would otherwise have prospects of long-term profitability and sustainability, but for the exceptional circumstances which have detrimentally affected the Eligible Farmer's income, leading to financial difficulty; and
- b) The Support will facilitate one or more of the following strategies:
 - i) improvements in productivity, including for recovery purposes;
 - ii) the provision of carry-on finance; and
 - iii) debt restructuring.

3) Payment of Support

- a) The Commonwealth will contribute 90 per cent of the Support, and the State will contribute 10 per cent of the Support provided under the State component of the RAS;
- b) Support is subject to the following conditions:
 - i) the Applicant for Support is an Eligible Farmer;
 - ii) in Schedule 10, for the area that is part of the former Molong Rural Lands Protection District east of the Newell Highway to the western extent of the Goobang National Park, which was not part of the Molong Revised EC area from 1 April 2009 until 31 March 2010, Support will not exceed 50 per cent of the interest payable on, and associated costs of, the borrowings being subsidised;
 - iii) in Schedule 4, for those parts of the former Dubbo Rural Lands Protection District within the Parishes of Biridoo, Gundong, Momo, Tomingley Bulgandramine and Caloma (all of which are in the County of Narromine), which was not part of the Dubbo Revised EC area from 1 April 2009 until 31 March 2010, Support will not exceed 50 per cent of the interest payable on, and associated costs of, the borrowings being subsidised;
 - iv) the Support during the second and subsequent years of assistance will not exceed 80 per cent of the interest payable on, and associated costs of, the borrowings being subsidised;
 - v) where a property has been purchased since EC was declared, the property purchase price shall be deducted from the level of commercial borrowings to be supported in an initial application unless the purchase took place more than 12 months prior to the date of application;
 - vi) any commercial borrowings or associated costs of borrowings already subsidised by the Commonwealth will not be considered for Support;
 - vii) the period for which a subsidy is provided will be determined in each case by the New South Wales Rural Assistance Authority (NSW RAA), subject to clause 2)a), and will only be available for a maximum period of 12 months in respect of each application;

viii) applications must be received no later than 28 days after 31 March 2011.

In addition:

- (1) eligibility must be assessed in each EC year; and
 - (2) the provision of Support in previous years does not guarantee support in a subsequent year or part thereof. Farmers not receiving support in the declaration year may be eligible in the subsequent year(s).
- ix) to be eligible to apply for Support over a cumulative total of \$300 000 applicants must have a viable farm enterprise. In addition:
- (1) Viability of the farm enterprise is to be determined by an independent business assessment, conducted by a suitably qualified adviser who neither:
 - (a) has an interest in the farm enterprise; nor
 - (b) has had professional dealings with the farm enterprise within the past five years.
 - (2) The determination of farm enterprise viability in an independent business assessment undertaken by a suitably qualified adviser does not guarantee support. The final decision to provide support will be determined by NSW RAA in accordance with these guidelines.
- x) in determining the amount of Support to be paid, NSW RAA will take into account the level of assistance which has already been made under the RAS; accordingly the total amount of Support payable in each EC Year, or part thereof if the declaration is less than 12 months, may not exceed \$100 000 (pro rata) per Eligible Farmer or a maximum cumulative total of Support of \$500 000 over five years.
- c) Support may be paid to the lender or the Eligible Farmer;
 - d) Farmers receiving other support under the *Rural Adjustment Act 1992* may also be eligible for this Support;
 - e) Farmers can apply for an additional interest rate subsidy within the same tranche as their last successful interest rate subsidy application, provided that this is for additional debt incurred in relation to drought carry-on, with the subsidy calculated on a pro rata basis and the total amount of support payable within a tranche does not exceed \$100 000. A farmer located in an EC area can apply for another tranche of interest rate subsidy no earlier than three months prior to the expiry of the current tranche of support.

4) Assessment Criteria

- a) In assessing the eligibility of an Applicant for Support, NSW RAA must be satisfied that:
 - i) the farm enterprise is located in the area specified in the relevant Schedule to these Guidelines and meets the conditions specified in that Schedule;
 - ii) the farm enterprise is in financial difficulty due to exceptional circumstances, defined in clause 2;

- (1) on considering whether a farm enterprise is in financial difficulty, NSW RAA must consider:
 - (a) the total amount of interest payable per annum;
 - (b) the estimated farm surplus over the medium term;
 - (c) the Applicant's equity in the farm enterprise in relation to the amount of current and future indebtedness, together with both farm and off-farm assets and income.
- (2) when considering whether a farm enterprise is in financial difficulty due to exceptional circumstances, NSW RAA must disregard the ability of the farm enterprise to purchase farming property since the beginning of the drought.
- iii) the provision of the Support is necessary to achieve the strategies as outlined in clause 2 of these Guidelines;
- iv) without the Support the farm enterprise would not have the capacity to achieve or maintain sustainable long-term profitability. In addition:
 - (1) in assessing the likelihood of the farm enterprise being profitable in the long-term, the following factors must be taken into account:
 - (a) the expected future capacity of the farm enterprise to operate profitably (without Government assistance) as measured by its ability to meet, from estimated surpluses, its future financial commitments relating to:
 - (i) the farm operating costs;
 - (ii) living costs of the farm family;
 - (iii) servicing of the farm debts;
 - (iv) future capital requirements for plant and improvements; and
 - (v) investment requirements to return the farm to profitability.
 - (b) the long-term economic trends which impact on the farm enterprise;
 - (c) the demonstrated technical, financial and business management performance of the Farmer responsible for the relevant farm enterprise; and
 - (d) the provision of financial support for the farm enterprise by commercial lenders through the exceptional circumstance and beyond.
- v) the Applicant has disposed of:
 - (1) all non-essential farm assets;
 - (2) up until 30 June 2010, off-farm assets such that the net value of off-farm assets is not in excess of \$750 000;
 - (3) where an application is received after 30 June 2010, off-farm assets, such that the net value of off-farm assets must not exceed double the Newstart Allowance Assets test for homeowners (partnered).

Note: investments in bona fide insurance and superannuation funds are exempt from the off-farm assets test.

- vi) the disposal of assets has been on commercial terms and the applicant has applied the proceeds to the farm enterprise (except where this would result in extreme financial hardship to the Applicant);
- vii) under normal circumstances, the Applicant contributes at least 75 per cent of his/her labour to the farm enterprise, at least 50 per cent of income is derived from farming, and has been a Farmer for at least two years;
- viii) the Applicant's property was affected by exceptional circumstances as defined in clause 2;
- ix) loans supplied by a commercial institution, vendor or by private arrangements, are provided on commercial terms at arms length and the interest rate charged by the lender is competitive with that which is generally applicable to the type of loan(s) being subsidised.

5) Level of Support

- a) The level of Support to be provided to an Eligible Farmer will be determined by the extent of Support needed for the strategies as outlined in clause 2 and will be subject to clause 3; and
- b) the level of Support will be determined from budgets for the farm enterprise which make due allowance for financial demands on the enterprise appropriate to the exceptional circumstance (including an assessment of the living expenses for the farm household at the relevant Newstart Allowance rate).

6) Terms and Conditions to Attach to Support

- a) NSW RAA must obtain agreement from the Eligible Farmer that the Eligible Farmer will use the Support only for the purposes specified in clause 2;
- b) the period of Support in respect of any application is limited to a maximum period of 12 months or part thereof if the declaration is less than 12 months, in accordance with clause 3;
- c) NSW RAA may terminate Support where the Eligible Farmer does not rectify breaches of the relevant terms and conditions of that Support;
- d) NSW RAA may attach other terms and conditions to the Support considered necessary for the particular case subject to obtaining the prior written consent of the Commonwealth; and
- e) the Eligible Farmer and the relevant financial institution must agree to the terms and conditions of Support before the payment of Support.

7) Outcomes Expected from Support

- a) The outcomes expected from the Support for the Eligible Farmer include:
 - i) a program has been undertaken or maintained to increase farm productivity which will lead to improved sustainable long-term profitability and financial self-reliance;
 - ii) increased farm productivity;

- iii) the restructuring of debt has been implemented;
- iv) the financial demands on the farm business are reduced;
- v) a farm enterprise which can be demonstrated by the Eligible Farmer to the satisfaction of NSW RAA to be productive, profitable, sustainable and financially viable (without Government support) in the long-term is maintained in the farm sector; and
- vi) the farm enterprise is assisted to recover from the exceptional circumstances.

8) Variation or Revocation

- a) The Commonwealth reserves the right to revoke or vary these Guidelines at any time.

Dated this.....day of2010.

CONALL O'CONNELL
Secretary, Department of Agriculture, Fisheries and Forestry

SCHEDULE 1**DESCRIPTION OF THE BRAIDWOOD DECLARED AREA IN NEW SOUTH WALES AFFECTED BY EXCEPTIONAL CIRCUMSTANCES**

All producers whose properties are Exceptional Circumstances affected and located in the Braidwood declared area of New South Wales described below and who provide information to the satisfaction of the New South Wales Rural Assistance Authority that their income has been affected by the impact of Exceptional Circumstances.

The area includes:

The former RLPB of Braidwood in its entirety.

Buffer zone:

None.

SCHEDULE 2

DESCRIPTION OF THE CONDOBOLIN DECLARED AREA IN NEW SOUTH WALES AFFECTED BY EXCEPTIONAL CIRCUMSTANCES

All producers whose properties are Exceptional Circumstances affected and located in the Condobolin declared area of New South Wales described below and who provide information to the satisfaction of the New South Wales Rural Assistance Authority that their income has been affected by the impact of Exceptional Circumstances.

The area includes:

Divisions A and B of the former Condobolin RLPB.

Buffer zone:

None.

SCHEDULE 3**DESCRIPTION OF THE CONDOBOLIN-NARRANDERA DECLARED AREA
IN NEW SOUTH WALES AFFECTED BY EXCEPTIONAL
CIRCUMSTANCES**

All producers whose properties are Exceptional Circumstances affected and located in the Condobolin-Narrandera declared area of New South Wales described below and who provide information to the satisfaction of the New South Wales Rural Assistance Authority that their income has been affected by the impact of Exceptional Circumstances.

The area includes:

Divisions C and D of the former Condobolin RLPB and Division A of the former Narrandera RLPB. Producers in divisions B, C and D of the former Narrandera RLPB are under the South West Slopes and Plains EC declaration.

Buffer zone:

None.

SCHEDULE 4**DESCRIPTION OF THE DUBBO REVISED DECLARED AREA IN NEW SOUTH WALES AFFECTED BY EXCEPTIONAL CIRCUMSTANCES**

All producers whose properties are Exceptional Circumstances affected and located in the Dubbo Revised declared area of New South Wales described below and who provide information to the satisfaction of the New South Wales Rural Assistance Authority that their income has been affected by the impact of Exceptional Circumstances.

The area includes:

Those parts of the former Dubbo Rural Lands Protection District south of the Mitchell Highway and west of the Newell Highway and those parts of the former Dubbo Rural Lands Protection District within the Parishes of Biridoo, Gundong, Momo, Tomingley, Bulgandramine, Caloma (all of which are in the County of Narromine).

Buffer zone:

None.

SCHEDULE 5

DESCRIPTION OF THE FORBES DECLARED AREA IN NEW SOUTH WALES AFFECTED BY EXCEPTIONAL CIRCUMSTANCES

All producers whose properties are Exceptional Circumstances affected and located in the Forbes declared area of New South Wales described below and who provide information to the satisfaction of the New South Wales Rural Assistance Authority that their income has been affected by the impact of Exceptional Circumstances.

The area includes:

The former Forbes RLPB in its entirety.

Buffer zone:

None.

SCHEDULE 6

DESCRIPTION OF THE GOULBURN – YASS DECLARED AREA IN NEW SOUTH WALES AFFECTED BY EXCEPTIONAL CIRCUMSTANCES

All producers whose properties are Exceptional Circumstances affected and located in the Goulburn – Yass declared area of New South Wales described below and who provide information to the satisfaction of the New South Wales Rural Assistance Authority that their income has been affected by the impact of Exceptional Circumstances.

The area includes:

The former RLPBs of Goulburn and Yass in their entirety.

Buffer zone:

None.

SCHEDULE 7

DESCRIPTION OF THE GUNDAGAI DECLARED AREA IN NEW SOUTH WALES AFFECTED BY EXCEPTIONAL CIRCUMSTANCES

All producers whose properties are Exceptional Circumstances affected and located in the Gundagai declared area of New South Wales described below and who provide information to the satisfaction of the New South Wales Rural Assistance Authority that their income has been affected by the impact of Exceptional Circumstances.

The area includes:

Division D of the former Gundagai RLPB and the parts of Divisions B and C, east of the Hume Highway.

Buffer zone:

None.

SCHEDULE 8

**DESCRIPTION OF THE HAY DECLARED AREA IN NEW SOUTH WALES
AFFECTED BY EXCEPTIONAL CIRCUMSTANCES**

All producers whose properties are Exceptional Circumstances affected and located in the Hay declared area of New South Wales described below and who provide information to the satisfaction of the New South Wales Rural Assistance Authority that their income has been affected by the impact of Exceptional Circumstances.

The area includes:

The former Hay RLPB in its entirety.

Buffer zone:

None.

SCHEDULE 9
**DESCRIPTION OF THE MAJORITY WESTERN DIVISION DECLARED
AREA IN NEW SOUTH WALES AFFECTED BY EXCEPTIONAL
CIRCUMSTANCES**

All producers whose properties are Exceptional Circumstances affected and located in the Majority Western Division declared area of New South Wales described below and who provide information to the satisfaction of the New South Wales Rural Assistance Authority that their income has been affected by the impact of Exceptional Circumstances.

The area includes:

The former RLPB districts of: Broken Hill; Wanaaring; Wentworth; Milparinka; Wilcannia; Balranald; Hillston and Cobar.

Buffer zone:

None.

SCHEDULE 10

DESCRIPTION OF THE MOLONG REVISED DECLARED AREA IN NEW SOUTH WALES AFFECTED BY EXCEPTIONAL CIRCUMSTANCES

All producers whose properties are Exceptional Circumstances affected and located in the Molong Revised declared area of New South Wales described below and who provide information to the satisfaction of the New South Wales Rural Assistance Authority that their income has been affected by the impact of Exceptional Circumstances.

The area includes:

That part of the former Molong Rural Lands Protection District west of the western extent of the Goobang National Park.

Buffer zone:

None.

SCHEDULE 11**DESCRIPTION OF THE NYNGAN REVISED DECLARED AREA IN NEW SOUTH WALES AFFECTED BY EXCEPTIONAL CIRCUMSTANCES**

All producers whose properties are Exceptional Circumstances affected and located in the Nyngan Revised declared area of New South Wales described below and who provide information to the satisfaction of the New South Wales Rural Assistance Authority that their income has been affected by the impact of Exceptional Circumstances.

The area includes:

The former Nyngan RLPB west of the Bogan River and south of the Mitchell Highway.

Buffer zone:

None.

SCHEDULE 12

DESCRIPTION OF THE RIVERINA DECLARED AREA IN NEW SOUTH WALES AFFECTED BY EXCEPTIONAL CIRCUMSTANCES

All producers whose properties are Exceptional Circumstances affected and located in the Riverina (including Eastern Riverina, Murray Mixed Irrigators, Murray Rice Growers) declared area of New South Wales described below and who provide information to the satisfaction of the New South Wales Rural Assistance Authority that their income has been affected by the impact of Exceptional Circumstances.

The area includes:

The whole of the former RLPBs of Riverina and Murray and Division A of the former Hume RLPB.

Buffer zone:

None.

SCHEDULE 13

DESCRIPTION OF THE SOUTH WEST SLOPES AND PLAINS DECLARED AREA IN NEW SOUTH WALES AFFECTED BY EXCEPTIONAL CIRCUMSTANCES

All producers whose properties are Exceptional Circumstances affected and located in the South West Slopes and Plains declared area of New South Wales described below and who provide information to the satisfaction of the New South Wales Rural Assistance Authority that their income has been affected by the impact of Exceptional Circumstances.

The area includes:

The former RLPBs of: Wagga Wagga in its entirety; Gundagai west of the Hume Highway; Hume west of the Hume Highway (excluding Division A); and Narrandera, Divisions B, C and D.

Buffer zone:

None.

SCHEDULE 14

DESCRIPTION OF THE YOUNG DECLARED AREA IN NEW SOUTH WALES AFFECTED BY EXCEPTIONAL CIRCUMSTANCES

All producers whose properties are Exceptional Circumstances affected and located in the Young declared area of New South Wales described below and who provide information to the satisfaction of the New South Wales Rural Assistance Authority that their income has been affected by the impact of Exceptional Circumstances.

The area includes:

The former Young RLPB in its entirety.

Buffer zone:

None.