

Primary Industry Support Package

Critical Producer Grant

Details

RAA	Name	New South Wales Rural Assistance Authority, a corporation established by the <i>Rural Assistance Act 1989</i> (ABN 17 283 358 394)
	Address	105 Prince St, Orange NSW, 2800
RAA's Authorised Officer	Name	
	Position	Program Officer
	Address	105 Prince Street Orange NSW 2800
	Telephone	1800 678 593
	E-mail	Rural.assist@raa.nsw.gov.au
Grantee ('You')	Name	Click here to enter text.
	Address	Click here to enter text.
	LGA	Click here to enter text.
	ABN	Click here to enter text.
Your Authorised Officer	Name	Click here to enter text.
	Position	Click here to enter text.
	Address	Click here to enter text.
	Telephone	Click here to enter text.
	E-mail	Click here to enter text.
Program		Critical Producer Grant program under the Primary Industry Support Package (PISP)
	Stream	Stream 1- Agriculture
Grant		A maximum total amount of \$ [insert] (GST exclusive), payable in Instalments. Please refer to the RAA Website – Funding arrangements and Milestones :
Events		February and March 2022 NSW Severe Weather and Flooding (AGRN 1012) events
Activities		Targeted industry: Choose an item. Please refer to section 4 of the Guidelines for the eligible Activities.
Activity Period		You must complete the Activities by 30 May 2024.

Eligibility

You warrant that you meet the eligibility criteria set out in the Guidelines including that:

[For Agriculture]

- you are a property owner, share-farmer or lessee with an interest in the agriculture industry
- the Events directly damaged the property, physical assets, equipment, livestock or crops that you were actively farming; and
- you intend to continue, or to re-establish, the primary production enterprise.

OR [For Horticulture]

- you are a property owner, share-farmer or lessee with an interest in the horticulture industry
- the Events directly damaged the property, physical assets, equipment or crops that you were actively farming; and
- you intend to continue, or to re-establish, the primary production enterprise.

OR [For Aquaculture]

- you have a Class A Aquaculture permit or a licensed NSW commercial fishing business
 - the Events directly damaged the property, physical assets, equipment or stock that you were actively farming or actively using for your commercial fishing; and
 - you intend to continue, or to re-establish, the primary production enterprise.
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Special Conditions

SC1. Your own advice: RAA strongly recommends that you obtain your own financial and legal advice before entering into this Deed. The Grant may be assessable under business income tax laws. There may be other tax or financial consequences for your business.

SC2. Consent of land owner: If you are not the owner of all or part of the property where the Activities will be carried out, you agree and warrant that you have obtained the written approval and agreement of the land owner to carry out the Activities at the property.

SC3. No other funding : You warrant that you have not received funds towards the Activities from any other State or Australian government program (other than a Special Disaster Grant) nor from an insurance claim. You must not spend the Grant on costs, which you have incurred as a result of the Events, that you have claimed, or are able to claim, through any other State or Australian government program of assistance and, or, private insurance.

SC5. Special Disaster Grant: You must spend your Special Disaster Grant before claiming a payment under this Deed.

Terms and Conditions

1. Interpretation

1.1 Unless the context requires otherwise, in this Deed:

- (a) the terms set out in the left hand column of the Details have the meaning ascribed to them in the right hand column of the Details;
- (b) where any time limit pursuant to this Deed falls on a day which is not a Business Day then the time limit will be deemed to have expired on the next Business Day;
- (c) the meaning of general words is not limited by specific examples introduced by “including” or “for example” or similar expressions;
- (d) references to persons include bodies corporate, government agencies and vice versa;
- (e) references to the parties include references to respective directors, officers, employees and agents of the parties;
- (f) nothing in this Deed is to be interpreted against a party solely on the ground that the party put forward this Deed or any part of it; and
- (g) where an expression is defined, any other grammatical form of that expression has a corresponding meaning.

2. Definitions

2.1 Unless the context requires otherwise, in this Deed:

Business Day means any day other than a Saturday, Sunday or public holiday in New South Wales.

Commencement Date means the date that this Deed commences which is the date that this Deed is executed by the last party.

Correctly Rendered Invoice means an invoice rendered in accordance with the “Tax Invoice Requirements” defined at <https://www.raa.nsw.gov.au/loans/glossary-of-terms>.

Deed means this funding deed document and includes the Details, Special Conditions, Terms and Conditions and any other schedules, annexures or other documents cross-referenced in this deed.

Guidelines means the industry guidelines for the Program available at:

<https://www.raa.nsw.gov.au/disaster-assistance/storm-and-flood-programs/critical-producer-grants>

Instalment means a part of the Grant which RAA pays to you.

Notice means any approvals, consents, instructions, orders, directions, requests or other communication one party gives to another party in writing under this Deed.

Special Disaster Grant means a grant provided to you under the NSW and Australian Special Disaster Grant program.

3. Term of this Deed

3.1 This Deed will commence on the Commencement Date.

3.2 Unless terminated earlier, this Deed will end once you have completed the Activities to RAA’s satisfaction and RAA has paid all Instalments due.

4. Your general obligations

4.1 You must:

- (a) ensure the Grant or any Instalment is used only for the Activities and eligible costs;
- (b) ensure each Activity is completed within the Activity Period in accordance with this Deed;
- (c) comply with all Australian, State and Local government laws that are relevant to the Activities, this Deed, or your registration as an entity;
- (d) comply with the Guidelines and Framework (available at [this link](#)) and any other policies, guidelines and reasonable directions RAA provides to you; and
- (e) manage the Activities with all due skill and care including in relation to financial management, project planning and risk management.

5. Payment

5.1 The Grant is the maximum amount to be paid under the Program for the Activities.

5.2 RAA will pay an Instalment on condition that RAA receives from you:

- (a) a Correctly Rendered Invoice that clearly identifies the Instalment you are claiming; and
- (b) other than for the first Instalment, evidence showing that you have performed the Activities as required under this Deed.

5.3 RAA will pay the Instalment within 30 days of the conditions being satisfied under **clause 5.2**.

5.4 RAA may change the amount of the Instalment by issuing you with a Notice setting out the details of the changes.

5.5 If you are not complying with this Deed, RAA may withhold or suspend payment of an Instalment until you comply with your obligations to RAA's satisfaction.

5.6 If RAA pays you an Instalment, this does not constitute an admission that the performance of the Project is in conformity with this Deed and no payment will be deemed to release you from your obligations under this Deed.

5.7 Unless otherwise indicated, all consideration for any supply under this Deed is exclusive of any GST imposed in relation to the supply.

6. Repayment

6.1 You must repay within 30 days of the date of a demand:

- (a) any Grant which you have received as a result of you providing fraudulent or intentionally misleading or incorrect information as part of the application for the Grant;
- (b) any Instalment spent in breach of this Deed;
- (c) all unspent Instalments;
- (d) any overpayment; and
- (e) any interest earned on any Instalment required to be repaid.

7. Acknowledgement and evaluation

7.1 The announcement of the Grant may be made jointly by the NSW and Australian Governments.

- 7.2 You must acknowledge that the Activities are jointly funded by the NSW and Australian Governments in any public statements you make about the Activities.
- 7.3 You must comply with any directions from RAA on the nature and content of any announcements, promotional material or publicity relating to the Activities. This includes media releases, social media, signage and advertising.
- 7.4 You must include both the NSW and Australian governments' logos on any publications plus the following disclaimer: 'Although funding for this product has been provided by both the NSW and Australian governments, the material contained herein does not necessarily represent the views of either Government'.
- 7.5 You must participate in program evaluation activities including questionnaires, interviews and surveys.
- 7.6 When RAA requests, you must provide evidence of how the Activities have resulted in measurable benefits consistent with the objectives of the Program, with a focus on employment, recovery and growth.

8. Disclosure of Information

- 8.1 RAA, the NSW government and the Australian government may use information about you and the Activities in media regarding the Program, such as in press releases, case studies, promotional material and in response to media enquiries.
- 8.2 You acknowledge that RAA may be required to publicly disclose information about this Deed, including in response to a Standing Order 52 of the Legislative Council or under the *Government Information (Public Access) Act 2009*.

9. Insurance

- 9.1 You must maintain all appropriate insurances to cover any liability you may incur in relation to the Activities, and provide copies of those policies to RAA when requested.

10. Indemnities

- 10.1 You must indemnify and keep indemnified RAA, the Crown in right of the State of New South Wales, the Commonwealth, and their officers, employees and agents ("those indemnified") from and against liability or loss (including reasonable legal costs) incurred or made against any of those indemnified arising directly or indirectly in connection with: your Activities; your breach of this Deed; or any unlawful or negligent act or omission by you, your employees or your subcontractors in connection with this Deed.
- 10.2 Your liability to indemnify those indemnified will be reduced proportionately to the extent that any negligent or unlawful act or omission by those indemnified contributed to the relevant loss or liability.

11. Covid-19

- 11.1 Both parties acknowledge the uncertainty arising from the current pandemic COVID-19, the measures taken by State and Australian Governments in relation to the emergency, and the consequential effects on daily activities (“C-19 Emergency”).
- 11.2 If either party becomes aware that its ability to comply with any of its obligations on time will be affected by the C-19 Emergency, the parties will attempt in good faith to reach agreement promptly to vary or terminate the Deed.
- 11.3 Despite any other provisions in this Deed, if RAA considers that, as a result of the C-19 Emergency there is likely to be significant delay before you will be able to complete your obligations, or the Deed is no longer viable, RAA may terminate the Deed by Notice, with effect on the date stated in the Notice.
- 11.4 You release RAA from any claim or liability in respect of termination under this clause.

12. Termination

- 12.1 RAA may terminate this Deed by Notice, with effect on the date stated in the Notice, if:
- (a) RAA considers that you have provided fraudulent or intentionally misleading or incorrect information as part of the application for the Grant or as part of this Deed;
 - (b) you breach this Deed and do not remedy that breach within seven days of RAA notifying you of that breach;
 - (c) RAA considers that the Activities are no longer viable;
 - (d) RAA considers that there has been a material change in circumstances in your financial position, your structure or your identity; or
 - (e) you become insolvent, are the subject of a debtors or creditors petition under the Bankruptcy Act 1966, resolve to go into administration or liquidation, or if a summons for your winding up is presented to a Court or you enter into any scheme of arrangement with your creditors.
- 12.2 This clause does not exclude or reduce the rights of a party to terminate the Deed arising by operation of the common law or statute or the other terms of this Deed.
- 12.3 RAA will not in any circumstances be liable for any consequential loss or loss of profits suffered by you because of this Deed terminating.
- 12.4 On termination or expiry of this Deed accrued rights and obligations are not affected.

13. Other Legal Matters

- 13.1 **Variation:** This Deed can be varied by written agreement of both parties including by email.
- 13.2 **Disputes:** If a dispute arises in relation to this Deed, a party must notify the other party's Authorised Officer. If they (or their representatives) cannot resolve the dispute within a reasonable time, they must refer the Dispute to an independent expert or mediator. Each party must pay its own costs of resolving the dispute.

- 13.3 **Notices:** All Notices to be given under this Deed must be in writing, and hand-delivered or emailed to the Authorised Officer. If the Notice is delivered or emailed before 5pm on a Business Day, the receiving party will be deemed to have received the Notice on that day. If it is delivered or emailed after 5pm on a Business Day or on a day that is not a Business Day, then it will be deemed to be received on the next Business Day.
- 13.4 **Survival:** The following clauses survive termination or expiry of this Deed: **clause 9** (Insurance), **clause 10** (Indemnities), **clause 12** (Termination), **clause 13.6** (Keeping of records), this **clause 13.4** and any other clause which by its nature is intended to survive this Deed.
- 13.5 **Subcontractors:** You remain fully responsible for the performance of the Activities if you subcontract the performance of any part of the Activities.
- 13.6 **Keeping of records, audit and rights of access to such records:** You must:
- (a) keep complete and accurate records and books of account with respect to the Activities (the "Records"), and retain such Records for a minimum of seven years after expiry or termination of this Deed; and
 - (b) allow the staff and authorised representatives of RAA and of any State or Australian Government department or agency that has provided moneys for the purposes of the Activities to undertake audits and to examine, inspect and copy any such Records.
- 13.7 **Conflict of Interest:** You must not carry on or be involved in any capacity in an activity or business, which may conflict with, or adversely affect, your ability to carry out your obligations under this Deed. You must immediately notify RAA if such a conflict arises.
- 13.8 **Entire agreement:** This Deed states all the express terms agreed by the parties as to the matters referred to in this Deed. It supersedes all prior contracts, obligations, representations, conduct and understandings between the parties relating those matters.
- 13.9 **Inconsistency:** If there is any inconsistency between provisions of this Deed then the order of precedence will be: the Details; the Special Conditions; these Terms and Conditions; then any attachments or documents referenced in this Deed.
- 13.10 **Waiver:** If a party fails to exercise any of its rights under this Deed, or delays exercising those rights, that failure or delay will not operate as a waiver of those rights or any future rights or in any respect estop a party from relying on the terms of this Deed to their full force and effect. Any waiver of a breach of this Deed must be in writing and will not be construed as a waiver of any further breach of the same or any other provision.
- 13.11 **Assignment:** You must not assign or novate your obligations or interests under this Deed, without the prior written consent of RAA.
- 13.12 **Counterparts:** This Deed may be signed in any number of counterparts which taken together will constitute one instrument.
- 13.13 **Electronic execution:** The parties accept execution under the provisions of the *Electronic Transactions Act 2000 (NSW)*.
- 13.14 **Governing Law:** The laws of New South Wales govern this Deed and the parties submit to the non-exclusive jurisdiction of the courts in that State.

Executed as a deed

NSW Rural Assistance Authority

Signed, sealed and delivered for and on behalf of the **New South Wales Rural Assistance Authority** by its authorised signatory but not so as to incur personal liability:

..... Signature of authorised signatory Signature of witness
..... Name of authorised signatory Name of witness
..... Position of authorised signatory Address of witness
 Date

EXAMPLE