

Productive rural land is a critical asset in New South Wales. It provides food and other products for local consumption and export, contributes \$56 billion annually to the national economy, and underpins employment and investment in regional and rural communities.

The existing planning rules for rural subdivision have been in place since 2008. There is an opportunity to update the rules and improve certainty about how they are applied. Any updates need to give farmers the flexibility to manage their business while also protecting productive rural land for future generations and minimising potential land use conflict.

The Department of Planning and Environment is now seeking community feedback on proposals to clarify the planning rules for rural land subdivision.

Can you subdivide rural land now?

Yes. Subdivision of rural land occurs as part of the normal business of running a farm. Farmers can subdivide their land to adapt their operations to take advantage of changing farming practices, emerging markets or facilitate succession planning. The planning system supports this by allowing for the subdivision of rural land for primary production purposes and this will continue. The minimum lot size requirements for rural subdivision are outlined in councils' planning rules.

Subdivision of rural land can create pressure and expectations to allow new residential dwellings. Dwellings that are not associated with a farming operation can in some circumstances lead to land use conflicts, such as complaints about noise and odour from a neighbouring farm. Fragmenting productive land into smaller lots with dwellings may also affect future opportunities for viable primary production activities.

What are the current planning rules

State Environmental Planning Policy (Rural Lands) 2008 and the Standard Instrument Local Environmental Plan (LEP) contain planning rules that permit the subdivision of rural land for primary production purposes with consent. They allow rural land to be subdivided for the purpose of primary production to create a lot that is less than the minimum lot size permitted under the relevant LEP, but only if such a lot would not contain an existing dwelling. In addition, a new dwelling cannot be erected on such a lot (if it is below the minimum lot size).

The purpose of the existing rules is to provide flexibility in subdivision standards so that primary production is supported, while avoiding the risks of unplanned new residential development.

However, the current wording of the rules has on occasion led to uncertainty and debate, and there has been concern that a consistent interpretation may not have been applied. The key area of doubt has been how the current provisions apply when a residue lot (other than the primary production lot) that contains an existing dwelling or is vacant, would also be less than the minimum lot size following the subdivision.

What are the proposed updates?

The proposal in the *Primary Production and Rural Development Explanation of Intended Effect* is to clarify the wording of the existing rules to make it clear that subdivision of rural land for primary production purposes can result in two lots, both of which may be below the minimum lot size requirements for a dwelling house in the LEP:

- one lot, below, equal to or above the minimum lot size, can contain an existing lawful dwelling
- one lot, if below the minimum lot size, must be for primary production purposes only and must not have an existing dwelling, nor can a new dwelling be erected on the lot.

Consistent with the overarching policy objective of providing flexibility for farmers without encouraging unplanned residential development, the proposed clarification will not result in additional new dwellings.

As is currently the case, new dwellings will only be permitted where a new lot meets the minimum lot size requirement in the LEP.

This proposal will provide opportunities for farmers wishing to stay on the land in an existing house but on a smaller lot, during a transition to retirement or as part of business succession planning. It will also allow farmers to dispose of existing dwellings on their property that they no longer require.

Have your say

Your views, comments and suggestions on the proposals are invited.