



# primefacts

FOR PROFITABLE, ADAPTIVE AND SUSTAINABLE PRIMARY INDUSTRIES

DECEMBER 2009

PRIMEFACT 972

PLANNING FOR AGRICULTURE

## Farm subdivision assessment guideline: Developments with the potential for creating additional dwelling entitlements

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Subdivision is the dividing of an allotment of land to create one or more additional allotments. A dwelling entitlement may or may not accompany subdivision. The creation of additional dwelling entitlements and resultant land use changes can adversely affect primary industry operations and future development.

This Primefact sets out the relevant agricultural issues and planning principles to consider when assessing proposals to subdivide rural lands within Primary Production or Rural zones. The emphasis of this guide is on subdivision proposals where the lots to be created are equal to or greater than the minimum subdivision standard established in council Local Environmental Plans.

This guide is part of a series aimed at streamlining the Development Application (DA) process, by setting out the key agricultural issues, impacts and recommendations for consent authorities to consider.

This guideline focuses on agricultural issues and does not purport to cover the full range of issues that DAs and consent authorities must address.

Only those proposals that may trigger **integrated development** under the *Environmental Planning and Assessment Act 1979*, the provisions of the *Fisheries Management Act 1994*, the *Mining Act 1992*, or the *Plantations and Reafforestation (Code) Regulation 2001* should still be routinely referred to Industries and Investment NSW.

The guidelines may also help applicants, developers and consultants to identify important

subdivision design considerations and issues to be addressed to maintain sustainable primary industry production and development opportunities.

As councils are the local planning and development authority in NSW, all subdivision enquiries should be directed to the relevant local council.

Applications to subdivide land that is zoned for rural use may require the applicant or Council to seek specialist technical advice from an independent consultant with relevant expertise.

### The importance of rural land

Food and fibre production in NSW relies on access to rural land resources that are suited to efficient and profitable agricultural production. Lands that are suited to sustained agricultural production are a limited resource. Rural land resources are also important for extractive industries, mining, aquaculture and timber production.

The rural land resource is a fundamental asset to the communities of NSW as it provides a means of producing perpetual wealth, employment, raw materials and fresh food.

*Rural landscape North Coast NSW. Photo Rik Whitehead.*



Maintaining rural land in efficient and productive sized allotments is critical for maintaining opportunities for sustainable and profitable primary industry development and local food and fibre production. Maintaining productive sized allotments is a key factor in achieving wise resource use and enhancing the economic value of primary industries and protecting the capacity to manage environmental impacts.

### Why can farm subdivision be an issue?

Farm subdivision can result in permanent fragmentation of rural land and a decrease in the production and efficiency of agriculture, particularly where additional dwelling entitlements occur.

Farm subdivision and fragmentation can lead to a shift in land use from primary production to rural residential uses. This increases the risk of land use conflict and the alienation of agricultural resources.

The fragmentation of rural land can impact on access to critical farm and rural infrastructure, such as water resources, transport routes and stock reserves.

Farm subdivision can also lead to speculative increases in land values for rural lands which impacts on the capacity for farm amalgamation, farm adjustment and the 'buy-in' cost for agriculture investors.

### Assessing farm subdivision applications

The key statutory planning instruments that the subdivision proposal must be assessed against include:

- Environmental Planning and Assessment Act objectives and assessment criteria,
- State Environmental Planning Policy (Rural Lands 2008) objectives,
- relevant land use zone(s) objectives of the Local Environmental Plan,
- relevant provisions of any strategic planning documents or policies that apply.
- relevant provisions of Development Control Plans (DCPs) that apply.

Key principles to encourage sustainable and profitable agricultural development and investment are:

- The land resource base on which agriculture depends is protected from fragmentation and alienation.
- The sustainable profitable agricultural use of rural land is promoted over lifestyle uses in agricultural areas.
- Critical farm and rural infrastructure is recognised and addressed in land use planning decisions.

- Farm amalgamation and farm adjustment capacity is maintained by sound land use planning decisions.
- The potential for conflict between adjoining land uses is prevented or minimised.
- Environmental and amenity impacts are avoided through good farm design that allows management of adverse on-site and off-site effects.
- The current viability or profitability of a property is not a valid basis for farm subdivision.

To achieve these key principles the following factors should be considered.

- local context of the subdivision proposal,
- minimum lot size and agricultural development,
- sufficient resources for sustainable agricultural development,
- minimising land use conflict,
- alternatives to the subdivision have been considered and are justifiably discounted.

These factors are discussed below.

#### Local context of the subdivision proposal

The proposal should be considered against the strategic plan for the rural lands for the LGA. The proposal should identify the existing and typical land uses in the locality including the dominance of such uses. This provides an understanding of the compatibility of the proposed development with the surrounding land uses.

Farm and rural property subdivision can change land use options. The creation of smaller lots with dwellings in the rural zone can result in the cumulative fragmentation of rural lands reducing the potential for agricultural use and allowing instead lifestyle-orientated uses which may be incompatible. It may also change the profile of the area and restrict efficient primary production.

*Industry & Investment NSW recommends that the consent authority verifies that:*

- the development application has identified the existing land uses in the locality and the dominance of such uses,
- the lots created by the subdivision proposal are compatible with surrounding land uses and encourage sustainable agricultural development,
- the subdivision proposal will not result in a change of land use that is contrary to zone objectives,
- each of the lots has practical and legal access and that there is no reliance on a right of way, for example, through State forest.

### Minimum lot size and agricultural development

Local Environmental Plans prescribe minimum subdivision standards for a dwelling in rural areas (often referred to as the Minimum Lot Size).

The intent of minimum lot sizes is to manage rural settlement patterns and thereby maintain access to the resource base for primary industry production.

Minimum subdivision standards that have been developed via a strategic planning and consultative process can provide a useful guide as to appropriate lot sizes for a particular locality to prevent the inappropriate fragmentation of rural lands and support profitable, sustainable agricultural development and food production.

The minimum historic subdivision standards (e.g. 40 ha or 100 ha) which have been carried forward from the 1970s and 1980s are typically arbitrary and were only intended as a temporary resource land protection measure.

Whilst the 40 ha and 100 ha lot size minimum may be relevant for some agricultural industries, it is inappropriate to adopt this figure for all agricultural enterprises or across all landforms.

*Industry & Investment NSW recommends that the consent authority verifies that:*

- ❑ all lots proposed by the rural subdivision meet or exceed the specified minimum lot size,
- ❑ the subdivision proposal has been justified against the State Environmental Planning Policy Rural Lands 2008 objectives and the Zone objectives.

### Sufficient resources for sustainable agricultural development.

The area required to sustain an agricultural enterprise will depend on the type of enterprise (e.g. beef cattle, dairying, intensive poultry, horticulture), and the natural resource base (e.g. soils and water) as well as the climatic conditions, available markets and the proximity to sensitive development (e.g. residences on adjoining properties).

To be sustainable, agriculture must operate within the capacity of available resources, protect and restore the natural resource base and prevent onsite and offsite impacts. Each lot should be designed to manage environmental and social impacts while being able to make productive and profitable utilisation of the resources. Each lot should have the ability to manage industry infrastructure, waste utilisation, flood impacts, climate change and climate variability, and the potential to expand or adjust to changing circumstances and markets.

*Industry & Investment NSW recommends that the consent authority verifies that:*

- ❑ each lot has sufficient area and resources required to sustain the dominant commercial agricultural industries suitable to the locality,
- ❑ each lot can manage its onsite and offsite environmental impacts,
- ❑ the justification for further fragmentation given current number of small lots,
- ❑ the appropriate distribution and balance of agricultural resources within lots, e.g. flood refuge, cultivation land, shelter belts, water resources and infrastructure.

Industry and Investment NSW publishes farm size guides for a number of specific agricultural enterprises, which can be useful in assessing the merits of a subdivision proposal.

Guidelines such as [Beef stocking rates and farm size – Hunter region](#) (NSW DPI, 2006) and [Macadamia costs and returns for northern NSW](#) (NSW DPI, 2004) provide a basis for determining the likely scale, sustainability and profitability of beef cattle grazing and horticultural enterprises in coastal regions of NSW. The Industry & Investment NSW website has information on [Minimum lot size methodology](#) that may be used to identify or determine minimum lot sizes. The methodology provides a guide for determining what could be regarded as a commercial farm size for a locality.

The Industry & Investment NSW website also contains additional information on the resources required for sustainable agricultural development including intensive agriculture proposals.



*Most agricultural businesses rely on a diversity of complementary land resources. Photo Andrew Scott.*

### Minimise land use conflict

If the subdivision proposal and resulting land uses are not compatible with surrounding land uses, land use conflict may arise, fuelling community anxiety and straining neighbour relations, as well as removing future primary industry opportunities. Land use conflict issues may force primary industries to significantly alter the timing of routine practice or force the industry to engage in expensive technologies.

A successful subdivision facilitates efficient farm management while reducing the likelihood of land use conflict with neighbouring land users. To be sustainable, agriculture must be able to manage off-site impacts.

Farm subdivision proposals should be designed so that the resulting land uses and practices can meet environmental legislative requirements such as the *Protection of the Environment Operations Act 1997* and the *Pesticides Act 1999*. In some cases this requires the farm to have adequate buffer distances to avoid conflict resulting from on-farm activities.

Consequently to manage offsite impacts the area of the lot may need to be greater than the direct footprint of an enterprise, especially for intensive agricultural enterprises.

The publication [Living and Working in Rural Areas: A handbook for managing land use conflict issues on the NSW North Coast](#) contains a list of common neighbour issues and some suggestions for addressing these issues.

*Industry & Investment NSW recommends that the consent authority verifies that:*

- a land use conflict risk assessment has been undertaken by a suitably qualified practitioner where there is a real risk of neighbourhood issues resulting from the subdivision,
- the subdivision proposal considers the location of dwellings relative to lot boundaries and the proximity to neighbours and surrounding land uses to minimise the risk of land use conflict,
- the subdivision proposal addresses relevant rural land issues such as chemical use, air quality, access, drainage, and managing fire, fencing, weeds and pest animals,
- the proposed subdivision has regard for the existing land uses and industries in the area including forestry, extractive industries, agriculture and the associated operations resulting from these industries.

### The alternatives to subdivision

The current viability or profitability of a property is not a valid basis for farm subdivision. All alternatives to subdivision should be considered before planning the subdivision of a rural property. Farm and rural property subdivision is not necessarily the only option.

There may be several alternatives to the subdivision of a farm or rural property. The available alternatives depend on the intended objectives of the proponent and the motivations of the landholder. Some options may offer a cheaper alternative while others may not be practical due to current investment in

infrastructure and existing management systems. Alternatives include:

- leasing out part or all of the farm,
- agisting stock or share farming,
- reassessing the land use options and management arrangements of the property,
- revising a property plan to assess future options for the farm,
- selling the farm and finding a new property more suitable to the present owner's circumstances.

*Industry & Investment NSW recommends that the consent authority verifies that:*

- the alternatives have been considered,
- the preferred subdivision plan is justified having regard to key subdivision principles set out in this guideline and the statutory planning framework.

### Pre-application enquiries

Rural landholders may have minimal prior experience of the development application process and relevant planning requirements. Encouraging intending applicants to seek pre-lodgement advice from the consent authority can greatly improve the quality of information provided, help to streamline the application process and help to ensure sustainable development of rural lands.

Assistance from council may include:

- providing a copy of the relevant sections of the LEP, DCPs and SEPPs,
- providing a written guide setting out the required supporting information to accompany the DA,
- providing Council's policy on the subdivision of rural properties in that zone or locality,
- a copy of this and other relevant guidelines.

### Strategic planning recommendations

Councils are encouraged to strategically review desired planning outcomes for rural lands considering, in particular, the resources and sustainable development opportunities for primary industry enterprises.

I & I NSW recommends that consent authorities assess minimum lot size for rural lands to ensure that:

- the land resource base on which agriculture depends is protected from fragmentation and alienation;

- ❑ the minimum lot size encourages and supports current and future investment in primary industries;
- ❑ land use conflicts between land uses in rural areas is prevented or minimised;
- ❑ agricultural enterprises have sufficient land resource to manage environmental and social impacts and to be adaptive.

I & I NSW further recommends that consent authorities:

- ❑ Review industry outlooks and resource requirements to identify future land use options and infrastructure needs,
- ❑ Develop complementary economic development strategies and programs to foster agricultural development and food security.

### Additional information

Agricultural Land Classification (Agfact AC.25 NSW Agriculture, 2002)

<http://www.dpi.nsw.gov.au/agriculture/resources/land/class/agricultural>

Beef stocking rates and farm size – Hunter region (NSW DPI, 2006)

<http://www.dpi.nsw.gov.au/agriculture/livestock/beef/management/beef-stocking-farm-size-hunter>

Farm budgets and costs (NSW DPI)

<http://www.dpi.nsw.gov.au/agriculture/farm-business/budgets>

How DPI is involved in land use planning and farm subdivision

<http://www.dpi.nsw.gov.au/agriculture/resources/land/dpi/planning-subdivision>

Living and Working in Rural Areas: A handbook for managing land use conflict issues on the NSW North Coast (NSW DPI, Dec. 2007).

[http://www.dpi.nsw.gov.au/research/alliances/centre\\_for\\_coastal\\_agricultural\\_landscapes/living-and-working-in-rural-areas](http://www.dpi.nsw.gov.au/research/alliances/centre_for_coastal_agricultural_landscapes/living-and-working-in-rural-areas)

Macadamia costs and returns for northern NSW (K. Quinlan, NSW DPI, 2004)

<http://www.dpi.nsw.gov.au/agriculture/horticulture/nu-ts/economics/macadamia-costs-returns>

Minimum lot size methodology

<http://www.dpi.nsw.gov.au/agriculture/resources/land/planning/lot-size>

Policy for the Protection of Agricultural Land (NSW DPI, 2004)

<http://www.dpi.nsw.gov.au/agriculture/resources/land/policies/protection>

Preparing a development application for intensive agriculture in NSW (NSW DPI, May 2006)

<http://www.dpi.nsw.gov.au/agriculture/resources/land/planning/dev-app-intensive>

Some precautions when buying rural land (Agnote NSW DPI, Sep. 2004)

<http://www.dpi.nsw.gov.au/agriculture/livestock/chemical-residue-control2/land>

State Environmental Planning Policy (Rural Lands) 2008

<http://www.legislation.nsw.gov.au/maintop/view/information/epi+128+2008+cd+0+N>

State Environmental Planning Policy (Rural Lands) 2008 Planning circular

[http://www.planning.nsw.gov.au/planningsystem/pdf/ps08\\_002\\_sepp\\_rural\\_land.pdf](http://www.planning.nsw.gov.au/planningsystem/pdf/ps08_002_sepp_rural_land.pdf)

### Acknowledgements

The following people are thanked for their contribution to this Primefact:

Glenda Briggs, Wendy Goodburn, Mary Kovac, Therese Hulme and Liz Rogers (I & I NSW).

External review and input was provided by Matthew Hutchings and Jon Stone.

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ISSN 1832-6668

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Job number 9761 PUB09/69