

Planning Proposal – Additional Clause in LEP to Allow Exceptions to Minimum Lot Sizes for Certain Rural Subdivisions

Introduction:

The following proposal has been prepared to facilitate the addition of a clause to the June Local Environmental Plan 2012. This proposal has been prepared in response to a growing number of challenges facing Council in approving subdivisions in rural areas where lots smaller than the minimum lot sizes are required for permissible land uses.

Part 1: Objectives and Intended Outcomes

The objective of the planning proposal is to amend the June Local Environmental Plan 2012 to enable exceptions to the minimum lot size for certain rural subdivisions, allowing flexibility in the application of minimum lot sizes in rural areas for suitable development.

Part 2: Proposed Amendment of June LEP 2012

To achieve the intended objectives and outcomes as outlined in Part 1, the planning proposal seeks the addition of a clause to the June Local Environmental Plan 2012. The new provisions would:

- Confirm the objective of the clause, which is to allow the subdivision of lots smaller than the minimum lot size within rural areas
- Confirm that the exception only applies to land within the current Zone RUI Primary Production where suitable.
- Includes consideration for the consent authority that:
 - The use of the land after the subdivision will be the same use permitted under the proposed or existing development consent for the land.
 - Will not apply to residential land uses such as dwelling homes or dual occupancies
 - The subdivision will not adversely impact the surrounding land for agricultural uses
 - The subdivision is necessary for the proposed or ongoing operation of a permissible use
 - The subdivision will not increase rural land use conflict with adjoining or nearby rural land
 - The subdivision is appropriate with regard to the natural and physical constraints of the land
 - The subdivision will not unnecessarily cause the fragmentation of rural land that threatens their future use for primary production
 - The lot size is appropriate for the proposed or ongoing use of the land
 - Required infrastructure provision is adequate or can be achieved with respect to the considerations outlined above

An example of a similar clause from the Greater Hume Local Environmental Plan 2012 is included below, being representative of the desired outcomes of the planning proposal and operation of the proposed additional clause.

4.2AA Exceptions to minimum lot sizes for certain rural subdivisions

- (1) *The objective of this clause is to enable the subdivision of land in rural areas to create lots of an appropriate size to meet the needs of current permissible uses other than for the purpose of dwelling houses or dual occupancies.*
- (2) *This clause applies to land in Zone RU1 Primary Production.*
- (3) *Land to which this clause applies may, with development consent, be subdivided to create a lot of a size that is less than the minimum size shown on the Lot Size Map in relation to that land, if the consent authority is satisfied that the use of the land after the subdivision will be the same use (other than a dwelling house or a dual occupancy) permitted under the existing development consent for the land.*
- (4) *Development consent must not be granted for the subdivision of land to which this clause applies unless the consent authority is satisfied that—*
- (a) the subdivision will not adversely affect the use of the surrounding land for agriculture, and*
 - (b) the subdivision is necessary for the ongoing operation of the permissible use, and*
 - (c) the subdivision will not increase rural land use conflict in the locality, and*
 - (d) the subdivision is appropriate having regard to the natural and physical constraints affecting the land.*

Part 3: Justification

The justification for the planning proposal is outlined below in accordance with the Department of Planning's *Guide to Preparing Planning Proposals 2019*. The questions that are required to be considered are outlined in accordance with Section 2.3.1 of that document, with justification provided where questions are not considered to be relevant to the proposal.

Section A – Need for the planning proposal

Q1. Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?

The planning proposal is not the result of any endorsed local strategic planning statement, strategic study or report conducted by June Shire Council.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

It is considered that the planning proposal is the best means for achieving the intended outcomes as outlined in Part 1 and 2 of this document.

Consideration was given to alternative methods of achieving the desired outcomes of the planning proposal, however no alternative methods were considered to be suitable. Methods considered included:

- Amendment of site specific Minimum Lot Size mapping on a site by site basis
- Modification of existing clauses within the June LEP 2012

The proposed allowance of exceptions to the minimum lot sizes will allow the consent authority flexibility in applying the minimum lot size standard and reducing the need for one-off planning proposals for specific sites.

Section B – Relationship to strategic planning framework.

Q3. Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

Consideration of the *Riverina Murray Regional Plan 2036* indicates that the planning proposal supports the objectives and actions of the regional plan.

Goal 1 of the Regional Plan outlines directives for the growth and diversification of the economy of the region, which this proposal will allow the consent authority greater flexibility in supporting where appropriate.

Direction 1 advocates the protection of diverse and productive agricultural land within the region. The planning proposal will again allow the consent authority to protect agricultural land and permit smaller lot sizes where appropriate and adequate justification and requirement can be demonstrated.

Direction 11 promotes the diversification of energy supply through renewable energy generation which can be achieved through the aims of the planning proposal on RUI Primary Production zoned land. Current requirements for renewable energy projects require small lots to be dedicated to energy providers for essential infrastructure to facilitate the operation and connection of these projects to other energy infrastructure.

Goal 3 of the Regional Plan outlines directives for the provision of efficient transport and infrastructure networks in the region, which this proposal will allow the consent authority greater flexibility in supporting where appropriate.

Direction 21 encourages the alignment and protection of utility infrastructure investment. The proposal will support this directive through the ability of the consent authority to permit development of utility infrastructure on lots that are smaller than the current minimum lot size in rural areas. This will increase the availability of lots that can be utilised for infrastructure investment while minimising land use conflict and rural land fragmentation.

Direction 27 advises on the management of rural residential development, which this planning proposal will support. The planning proposal will not permit residential development in rural areas as a result of the added clause.

The *Riverina Murray Regional Plan 2036* also identifies the priorities of the June LGA as:

- *Encourage economic growth by supporting agriculture and other emerging industries such as tourism and freight-related opportunities.*
- *Increase access to local services and infrastructure within the community, including improving recreation and sporting facilities and enlarging efficient sewerage systems.*
- *Leverage growth opportunities through its proximity to Wagga Wagga.*

It is considered that the planning proposal will support these priorities through new growth opportunities for rural based development and provision of infrastructure such as renewable energy sources.

There are no sustainability criteria that apply to the June LGA. The assessment criteria as contained in the Department of Planning's *Guide to Preparing Planning Proposals 2019* are addressed in Table 1.

Assessment Criteria	
a) Does the proposal have strategic merit?	
Will it give effect to the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney Region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment?	The proposal will give effect to the Riverina Murray Regional Plan 2036, including Goals 1 and 3 and Directions 1, 11 and 21 of that regional plan. Consideration of the regional plan is outlined further above.
Will it give effect to a relevant local strategic planning statement or strategy that has been endorsed by the Department or required as part of a regional or district plan or local strategic planning statement?	The proposal will give effect to a relevant local planning strategy, Junee Shire's Community Strategic Plan 2017 – 2035. It is considered that the proposal will have minimal relevance to the Junee Residential Strategy 2006 as residential development will not be impacted by the proposed clause. No local strategic planning statement has been prepared by the Junee Shire Council currently.
Will it respond to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing strategic plans?	The planning proposal responds to a recently identified deficiency in the LEP regarding exceptions to minimum lot size in certain situations that has not been recognised by the current local planning strategy. The planning proposal will also support the recently developed Riverina Murray Regional Plan.
b) Does the proposal have site-specific merit, having regard to the following?	
The natural environment (including known significant environmental values, resources or hazards)?	N/A – planning proposal is not site specific.
The existing uses, approved uses, and likely future uses of land in the vicinity of the proposal?	
The services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision?	

Table 1: Assessment Criteria

As shown in Table 1, the proposal meets the assessment criteria as set out in the Department of Planning's *Guide to Preparing Planning Proposals 2019*. In addition, no significant LGA wide changes to the current Junee LEP 2012 have been undertaken since the adoption of the plan.

Q4. Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

The proposal will support the objectives and actions of the Junee Shire's Community Strategic Plan 2017 – 2035 through supporting and enabling development and growth of rural sites for specific uses that the consent authority deems to be acceptable within and sensitive to a rural land use environment.

It is considered that the planning proposal will not have any perceptible effect to Junee Shire Council's Residential Strategy 2006 as the proposed additional clause is not proposed to impact existing residential land.

June Shire Council does not currently have a draft or adopted local strategic planning statement.

Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPPs)?

There are no SEPPs that are considered to be applicable to this planning proposal.

Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

There are a number of Ministerial Directions that are considered to be applicable to this planning proposal, including:

Ministerial Direction	Applicable to Planning Proposal?
1.1 Business and Industrial Zones	Not Applicable
1.2 Rural Zones	Yes, additional clause will target land currently zoned as rural zones.
1.3 Mining, Petroleum Production and Extractive Industries	Not Applicable
1.4 Oyster Aquaculture	Not Applicable
1.5 Rural Lands	Yes, additional clause seeks to provide exceptions to minimum lot size on land within rural zones.
2.1 Environment Protection Zones	Not Applicable
2.2 Coastal Management	Not Applicable
2.3 Heritage Conservation	Not Applicable
2.4 Recreation Vehicle Areas	Not Applicable
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	Not Applicable
3.1 Residential Zones	Not Applicable
3.2 Caravan Parks and Manufactured Home Estates	Not Applicable
3.3 Home Occupations	Not Applicable
3.4 Integrating Land Use and Transport	Not Applicable
3.5 Development Near Regulated Airports and Defence Airfields	Not Applicable
3.6 Shooting Ranges	Not Applicable
3.7 Reduction in non-hosted short term rental accommodation period	Not Applicable
4.1 Acid Sulfate Soils	Not Applicable
4.2 Mine Subsidence and Unstable Land	Not Applicable
4.3 Flood Prone Land	Not Applicable
4.4 Planning for Bushfire Protection	Applicable, additional clause will impact on land identified as bushfire prone.
5.1 Implementation of Regional Strategies	Not Applicable
5.2 Sydney Drinking Water Catchments	Not Applicable
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Not Applicable
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not Applicable
5.9 North West Rail Link Corridor Strategy	Not Applicable
5.10 Implementation of Regional Plans	Yes, a planning proposal has been prepared.
5.11 Development of Aboriginal Land Council land	Not Applicable
6.1 Approval and Referral Requirements	Yes, additional clause may impact approval processes.
6.2 Reserving Land for Public Purposes	Not Applicable
6.3 Site Specific Provisions	Not Applicable
7.1 Implementation of A Plan for Growing Sydney	Not Applicable
7.2 Implementation of Greater Macarthur Land Release Investigation	Not Applicable
7.3 Parramatta Road Corridor Urban Transformation Strategy	Not Applicable
7.4 Implementation of North West Priority	Not Applicable

Growth Area	
Land Use and Infrastructure Implementation Plan	Not Applicable
7.5 Implementation of Greater Parramatta Priority Growth Area Interim	Not Applicable
Land Use and Infrastructure Implementation Plan	Not Applicable
7.6 Implementation of Wilton Priority Growth Area Interim	Not Applicable
Land Use and Infrastructure Implementation Plan	Not Applicable
7.7 Implementation of Glenfield to Macarthur Urban Renewal Corridor	Not Applicable

Table 2: Applicable Ministerial Directions

An assessment of the planning proposal against the provisions of each Direction is shown in Table 2.

Assessment of Planning Proposal against Ministerial Directions		
Direction	Provision	Proposal
I.2 Rural Zones	4a) A planning proposal must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.	Consistent, the planning proposal does not seek to rezone land from a rural zone to any other type of zone.
	4b) A planning proposal must not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).	Not applicable, the June LGA is not listed in the applicable LGAs as per 2b of the Ministerial Direction.
I.5 Rural Lands	4a) be consistent with any applicable strategic plan, including regional and district plans endorsed by the Secretary of the Department of Planning and Environment, and any applicable local strategic planning statement	Consistent, as outlined in the Planning Proposal, the proposal supports the aims, objectives and directives of all available and applicable Regional and Local Strategic documents.
	4b) consider the significance of agriculture and primary production to the State and rural communities	Consideration has been given to the significance of agriculture and primary production to the State and rural communities and it is considered that any impact to agriculture and primary production as a result of this additional clause can be minimised through the DA assessment process.
	4c) identify and protect environmental values, including but not limited to, maintaining biodiversity, the protection of native vegetation, cultural heritage, and the importance of water resources	Consistent, the planning proposal includes aspects of the clause that require consent authority to take these environmental values into consideration when assessing any application utilising the proposed clause.
	4d) consider the natural and physical constraints of the land, including but not limited to, topography, size, location, water availability and ground and soil conditions	Consistent, the planning proposal includes aspects of the clause that require consent authority to take these constraints into consideration when assessing any application utilising the proposed clause.
	4e) promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities	Consistent, the proposal will allow flexibility in applying the minimum lot size for lots that do not include residential uses, such as rural industry and other permissible land uses within rural zonings.
	4f) support farmers in exercising their right to farm	Consistent, the planning proposal will support farmers in exercising their right to farm by allowing subdivisions smaller than the minimum lot size where appropriate.
	4g) prioritise efforts and consider measures to minimise the fragmentation of rural land and reduce the risk of land use conflict, particularly between residential land uses and other rural land uses	Consistent, the proposal will allow for flexibility in applying minimum lot sizes to rural lands for rural or suitable purposes, but will not permit development for residential uses.

	4h) consider State significant agricultural land identified in <i>State Environmental Planning Policy (Primary Production and Rural Development) 2019</i> for the purpose of ensuring the ongoing viability of this land	Not Applicable, no State significant agricultural land is identified within the June LGA.
	4i) consider the social, economic and environmental interests of the community	The proposal will support the social, economic and environmental interests of the community by allowing flexibility in applying development standards to rural areas, promoting rural growth in rural zones.
	5a) is consistent with the priority of minimising rural land fragmentation and land use conflict, particularly between residential and other rural land uses	Consistent, the proposal will allow for flexibility in applying minimum lot sizes to rural lands for rural or suitable purposes, but will not permit development for residential or incompatible land uses.
	5b) will not adversely affect the operation and viability of existing and future rural land uses and related enterprises, including supporting infrastructure and facilities that are essential to rural industries or supply chains	Consistent, the proposal will allow for flexibility in applying minimum lot sizes to rural lands for rural or suitable purposes, but will not permit development for residential or incompatible land uses, minimising and impact on the viability or operation of existing or future rural land uses.
	5c) where it is for rural residential purposes: i. is appropriately located taking account of the availability of human services, utility infrastructure, transport and proximity to existing centres ii. Is necessary taking account of existing and future demand and supply of rural residential land	Not Applicable. The planning proposal does not include provision for subdivisions where any residential component is proposed.
4.4 Planning for Bushfire Protection	(4) In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made,	Noted, consultation will be undertaken with the NSW RFS following the receipt of a gateway determination under section 56 of the Act. No additional dwellings or residential zoned land will be permitted as a result of the proposal.
5.10 Implementation of Regional Plans	4) Planning proposals must be consistent with a Regional Plan released by the Minister for Planning.	Consistent, the proposal is considered to be consistent with a number of directives outlined in the <i>Riverina Murray Regional Plan 2036</i> .
6.1 Approval and Referral Requirements	4a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority	Consistent, the proposal does not include provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority. The proposal will further minimise the amount of planning proposals that may be required to be submitted to the Department of Planning to vary minimum lot sizes of specific sites within rural zones.
	4b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of: i. the appropriate Minister or public authority, and ii. the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation	Consistent, the planning proposal does not contain provisions requiring concurrence, consultation or referral of a Minister or public authority.

	in satisfaction of section 57 of the Act	
	<p>4c) not identify development as designated development unless the relevant planning authority:</p> <ul style="list-style-type: none"> i. can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director General) that the class of development is likely to have a significant impact on the environment, and ii. has obtained the approval of the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act. 	Consistent, the planning proposal does not identify any development as designated development within the proposed clause.

Table 3: Assessment of Applicable Ministerial Directions

It is considered that the planning proposal is consistent with the relevant Ministerial Directions, as outlined in Table 3.

Section C – Environmental, social and economic impact

Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The adoption of the clause proposed by the planning proposal will not directly impact any critical habitat, threatened species, populations or ecological communities, or their habitats. The proposed clause includes considerations for consent authorities that will assess any future applications under this clause for the potential impact to these environmental values and their appropriateness. No assessment under the Environment Protection and Biodiversity Conservation Act 1999 is required for this planning proposal.

Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

There are no additional environmental impacts anticipated as a result of this planning proposal. Any natural hazards are required to be considered under the proposed clause.

Q9. Has the planning proposal adequately addressed any social and economic effects?

The social and economic impacts of the planning proposal are anticipated to be positive, encouraging appropriate growth and development in rural areas. The proposal seeks to provide flexibility in applying the minimum lot size for subdivisions in rural areas, with a focus on supporting rural land uses such as rural industry and other permitted land uses within rural zones.

Section D – State and Commonwealth interests

Q10. Is there adequate public infrastructure for the planning proposal?

Not Applicable. The planning proposal does not require the provision of public infrastructure. The planning proposal does not include any of the following:

- *Residential subdivisions in excess of 150 lots*
- *Substantial urban renewal*
- *Infill development*
- *Development that will result in additional demand on infrastructure (such as public transport, roads, utilities, waste management and recycling services, essential services such as health, education and emergency services)*

Any infrastructure provisions to subdivisions conducted under the proposed clause are required to be considered by the consent authority.

Q11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

The views of relevant State and Commonwealth Public Authorities will be sought after Gateway lodgement. It anticipated that Department of Primary Industries will be the main public authority who will be consulted on this planning proposal given the application of the clause to rural lands. Any consultation will be conducted on issuance of the Gateway Determination by the Department of Planning and Environment.

Part 4: Mapping

No LEP mapping is proposed to be affected by the planning proposal. The proposed clause will rely on LGA wide rural zonings for implementation.

Part 5: Community Consultation

It is considered that it is appropriate that this planning proposal be classified as a 'Low Impact Proposal' with a standard 14 day exhibition period in accordance with the Department of Planning and Environments *Guide to Preparing Local Environmental Plans 2019*. The criteria for a 'Low Impact Proposal' are that the planning proposal is:

- *consistent with the pattern of surrounding land use zones and/or land uses*
- *consistent with the strategic planning framework*
- *presents no issues with regard to infrastructure servicing*
- *not a principal LEP*
- *does not reclassify public land*

It is considered that the proposal is consistent with these criteria. Council will place the planning proposal on public exhibition and undertake any community and agency consultation in accordance with the conditions of a Gateway Determination.

Part 6: Project Timeline

The following project timeline has been developed in accordance with timeframes established by Council and through recent correspondence with the Department on other planning proposal matters. The timeline developed is intended as a guide only and is subject to a number of factors outside of Council's control.

Project Timeline	
Stage	Anticipated Date
Presentation to Council Meeting	February 2020
Planning Proposal Lodgement	March 2020
Assessment	March 2020
Gateway Determination	March 2020
Revision of Planning Proposal if Required	March 2020
Public Exhibition	April 2020
Submission to DPE and Parliamentary Council	May 2020
Finalisation and implementation of LEP	December 2020 (Estimated – to be confirmed at Gateway)

Table 4: Proposed Project Timeline