

IRF21/1279

Gateway determination report – PP-2021-2708

Removal of existing holdings provisions from Junee
LEP 2012

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Planning proposal – Removal of Existing Holdings Provisions from Clause 4.2A of the Junee LEP 2012
Minutes of the Ordinary Meeting of Junee Shire Council held in the Council Chambers, Belmore Street, Junee on Tuesday, 15 December 2020

1 Planning Proposal

1.1 Overview and objectives of planning proposal

Table 2 Planning proposal details

LGA	Junee Shire Council
PPA	Junee Shire Council
NAME	Removal of “existing holdings” provisions from clause 4.2A of the Junee LEP 2012
NUMBER	PP-2021-2708
LEP TO BE AMENDED	Junee LEP 2012
ADDRESS	Applied to whole Junee LGA
DESCRIPTION	Applies to whole Junee LGA
RECEIVED	18/03/2021
FILE NO.	IRF21/1279
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

The planning proposal (page 1) contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objective of the planning proposal is to remove references to “existing holdings” in clause 4.2A of the Junee LEP 2012. This will be initially achieved through inserting a 12-month sunset clause prior to the removal of the existing holdings clause. The intended outcome of the planning proposal is to support the objective of clause 4.2A through minimising unplanned rural residential development as well as provide greater certainty to residential development in Zone RU1 Primary Production in the Junee local government area.

The objectives of this planning proposal are clear and adequate.

1.2 Explanation of provisions

The planning proposal seeks to amend the Junee LEP 2012 through the insertion of a 12-month sunset clause for “existing holdings” in *Clause 4.2A Erection of dual occupancies (attached) and dwelling houses on land in Zone RU1*.

Clauses 4.2A(2)(d), 4.2A(2)(e) and 4.2A(4) of the Junee LEP relate to existing holdings. An additional provision is to be inserted into the Junee LEP to introduce the 12-month sunset clause so that clause 4.2A(2)(d), the reference to clause 4.2A(2)(d) in clause 4.2A(2)(e) and the reference to existing holdings in clause 4.2A(4) will cease to have effect 12 months after the amendment of the LEP.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.3 Site description and surrounding area

The planning proposal applies to the whole local government area of Junee Shire Council that is zoned as RU1 Primary Production. The majority of the Junee Shire Council is zoned as RU1 Primary Production.

2 Need for the planning proposal

The planning proposal seeks to minimise unplanned rural residential development throughout Zone RU1 Primary Production in the Junee local government area. The planning proposal is not the result of any strategic study or report. However, the planning proposal supports the strategic direction of the Junee LSPS and Riverina Murray Regional Plan as further outlined in Section 3.

Additionally, the planning proposal also supports the objectives of Clause 4.2A(1) of the Junee LEP 2012:

(1) The objectives of this clause are as follows—

(a) to minimise unplanned rural residential development.

The planning proposal (page 2) outlines that enquiries to Council for the ‘existing holdings’ provision are low with a total of 41 enquiries between 2010 and 2020. In 2020 there were six enquiries whilst in 2019 there were zero enquiries and in 2018 there were four enquiries. Council speculated that some of the enquiries are likely for the same parcel of land when it has been offered for sale. Historically, there have been one or two development applications lodged per year utilising the existing holdings provisions.

The planning proposal (page 2) outlines that a 12-month sunset clause is proposed to be inserted into the June LEP 2012 prior to the expiry of the existing holdings provision.

The Department agrees with inserting a 12-month sunset clause prior to removal of the existing holdings provisions. The expiry of the existing holdings provision has strategic merit in assisting minimising unplanned rural residential development. A sunset clause will also provide the community with certainty when the existing holdings provision will cease to have effect.

The historical relatively low demand to utilise the existing holdings provisions likely means that the potential number of development applications to be lodged to Council during the sunset period is expected to be low. Therefore, the risk of further unplanned rural residential development as well as agricultural land fragmentation during the 12-month sunset period is likely to be low. However, a sunset period will still provide the community with a transitional opportunity to utilise the existing holdings provisions which is particularly important due to the removal of dwelling entitlements on rural land.

The final wording of the 12-month sunset provisions will be subject to Parliamentary Counsel drafting.

It is agreed that the need for the planning proposal is justified, and it is the best means for achieving the intended outcomes.

3 Strategic assessment

3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the Riverina Murray Regional Plan 2036.

Table 3 Regional Plan assessment

Regional Plan Objectives	Justification
Direction 1: Protect the region's diverse and productive agricultural land	The Regional Plan discusses the importance of protecting the regions agricultural land from land-use conflict and fragmentation. The Planning Proposal is consistent with Direction 1 through removing the "existing holdings" provision that has the ability to contribute to agricultural land fragmentation from the development of dwelling houses on rural land. The removal of the "existing holdings" provision provides further protection for productive agricultural land.
Direction 27: Manage rural residential development	The Regional Plan outlines the importance of managing the growth of rural residential developments to minimise land use conflicts. The Planning Proposal is consistent with Direction 27 through providing Council with the ability to further minimise unplanned rural residential development.

3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

Table 4 Local strategic planning assessment

Local Strategies	Justification
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<p>Junee Local Strategic Planning Statement</p>	<p>The planning proposal outlines that it will support the Junee LSPS through reducing unplanned rural residential development. However, the relevant Junee LSPS planning priorities and actions are not explicitly identified in the planning proposal report.</p> <p>A review of the Junee LSPS indicates that the planning proposal supports the following planning priorities:</p> <ul style="list-style-type: none"> • Planning Priority Six: Support and protect agriculture; and • Action 6.1: Review Council’s LEP and DCP controls to ensure they can minimise land fragmentation and land use conflict, and advocate for innovation and best practice in the agriculture industry. <p>The planning proposal will assist Council to maintain existing rural lands and prevent land fragmentation through the removal of a planning control that facilitates the construction of new residential dwellings on rural land that is smaller than the minimum lot size.</p> <p>Overall, the planning proposal is consistent with the Junee LSPS.</p>
<p>Junee Shire’s Community Strategic Plan 2017 – 2035</p>	<p>The planning proposal outlines that it will give effect to the Junee Community Strategic Plan (CSP). However, the planning proposal does not explicitly identify the themes and/or objectives of the Junee CSP that are being addressed.</p> <p>A review of the Junee CSP indicates that the planning proposal will indirectly support the implementation of the following objectives:</p> <ul style="list-style-type: none"> • Objective 2: To be a great place to live; • Objective 3: To grow our local economy; and • Objective 5: For our community to be in harmony with its built and natural environment. <p>The planning proposal will assist the implementation of the abovementioned CSP objectives through assisting improving the liveability of the area through encouraging residential development in appropriate rural localities, minimising agricultural land fragmentation from rural residential development as well as assisting council to manage growth and sustainable development in its land-use plans.</p> <p>Overall, the planning proposal is consistent with the Junee CSP.</p>

3.3 Section 9.1 Ministerial Directions

The planning proposal’s consistency with relevant section 9.1 Directions is discussed below:

Table 4 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
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1.2 Rural Zones	Yes	The aim of Direction 1.2 Rural Zones is to protect the agricultural production value of rural land. This Direction applies to the planning proposal as it will affect existing rural zone land within the Junee local government area. However, the planning proposal is consistent with this Direction as it does not rezone any rural land as it will only remove provisions for dwelling entitlements on RU1 Primary Production land.
1.5 Rural Lands	Yes	The aim of Direction 1.5 Rural Lands is to protect the agricultural production value of rural land as well as minimise the potential for land fragmentation and land use conflict. This Direction applies to the planning proposal as it will affect land within an existing rural zone (i.e. RU1 Primary Production). However, the planning proposal is consistent with this Direction as it will reduce the potential for dwelling houses being developed on rural land. Additionally, the removal of the existing holdings provision will reduce unplanned residential development in rural areas which in turn supports the minimisation of land fragmentation and land use conflict.
4.4 Planning for Bushfire Protection	Yes	The aim of Direction 4.4 Planning for Bushfire Protection is to encourage sound management of bushfire prone areas. This Direction applies to the planning proposal as it will affect bushfire prone land. However, the planning proposal is consistent with this Direction as it is removing provisions for the construction of residential dwellings on rural land.
5.10 Implementation of Regional Plans	Yes	The aim of Direction 5.10 Implementation of Regional Plans is to give legal effect to the goals and directions contained in Regional Plans. This Direction applies to all planning proposals. The planning proposal is consistent with this Direction as it implements two objectives in the Riverina Murray Regional Plan as outlined in Table 3.
6.1 Approval and Referral Requirements	Yes	The aim of Direction 6.1 Approval and Referral Requirements is to encourage efficient and appropriate assessment of development. This Direction applies to all planning proposals. The planning proposal is consistent with this Direction as it does not impose any additional concurrence, consultation or referral requirements of development applications.

3.4 State environmental planning policies (SEPPs)

There are no applicable state environmental planning policies that are relevant to the planning proposal.

4 Site-specific assessment

4.1 Environmental

The following table provides an assessment of the potential environmental impacts associated with the proposal.

Table 5 Environmental impact assessment

Environmental Impact	Assessment
No adverse environmental impacts	<p>The planning proposal outlines no environmental impacts were anticipated.</p> <p>There are likely to be very minimal adverse impacts on the environment including biodiversity, water quality, air quality, soils, waste, and noise. However, there are indirect positive impacts for the environment through the reduction of dwelling houses being constructed on rural land.</p>

4.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

Table 6 Social and economic impact assessment

Social and Economic Impact	Assessment
Limit rural residential development	<p>The planning proposal states positive social and economic impacts through limiting residential development in rural areas and increasing the certainty of developable rural land.</p> <p>Further identified positive social and economic impacts are outlined below.</p>
Preserve rural landscape amenity	The planning proposal will assist in the preservation of the rural landscape amenity through the reduction of rural residential development in situations that are under the minimum lot size.
Preserve agricultural lands	The planning proposal will assist in reducing the fragmentation of rural lands. This in turn will assist the economic prosperity of the local area through maintaining a critical viable land mass for rural industry. Prevention of residential development on rural land under the minimum lot sizes will also assist in preventing sterilisation of the land.
Reduction in dwelling entitlements on rural land	<p>The planning proposal will remove existing landholder rights to build a dwelling on rural land. The planning proposal (in section A – justification) outlines that the c14.2A provision has existed for an extended period of time.</p> <p>Whilst the planning proposal outlines that removal of “existing holdings” will assist in prevention fragmentation of rural lands, it does not outline the potential negative social impacts through reducing landholder dwelling entitlements. There may be community expectation that the provision will exist into the future that a landholder could utilise to build a dwelling. The introduction of a sunset clause will enable the community to utilise the existing holdings provision to lodge a development application for a brief period prior to it ceasing to have effect and removal.</p>

4.3 Infrastructure

The following table provides an assessment of the adequacy of infrastructure to service the site and the development resulting from the planning proposal and what infrastructure is proposed in support of the proposal.

Table 7 Infrastructure assessment

Infrastructure	Assessment
No adverse impacts	<p>The planning proposal outlines that the provision of public infrastructure is not required, and no impacts were outlined.</p> <p>However, there are likely to be a very minor positive impact on public road infrastructure through reducing the potential for unplanned rural residential development (i.e. construction of additional dwellings on rural lands) which could place additional pressure on local road networks from light vehicle traffic. There is anticipated to be no impact on reticulated water and sewer networks as the planning proposal is for rural lands, an area not usually serviced by urban reticulation networks.</p>

5 Consultation

5.1 Community

Council proposes a community consultation period of 14 days.

The exhibition period proposed is considered not appropriate as the planning proposal is not a low impact due to the removal of dwelling entitlements on rural land. The Gateway determination has been conditioned to require a community consultation period of 28 days.

5.2 Agencies

Council has nominated a public agency (i.e. NSW Department of Primary Industries) to be consulted about the planning proposal due to the relevance to rural lands.

It is recommended the following agencies be consulted on the planning proposal and given 21 days to comment:

- Regional NSW – Department of Primary Industries

6 Timeframe

Council proposes a twelve month time frame to complete the LEP.

The Department recommends a time frame of six months to ensure it is completed in line with its commitment to reduce processing times.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

As the planning proposal does not likely involve Council owned or managed land, the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

8 Assessment Summary

The planning proposal is supported to proceed with conditions for the following reasons:

- Adequately demonstrates strategic merit;
- Consistency with relevant regional and local plans;
- Positive social and economic impact through limiting unplanned rural residential development and preserving agricultural lands; and
- No adverse impacts on the environment or infrastructure.

9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that there are no inconsistencies with section 9.1 Directions.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Consultation is required with the following public authorities:
 - Regional NSW – Department of Primary Industries
2. The planning proposal should be made available for community consultation for a minimum of 28 days.
3. The timeframe for completing the LEP is to be 6 months from the date of the Gateway determination.
4. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



____ (Signature)

____ 14/04/2021 ____ (Date)

Haydon Murdoch

Manager, Western Region



_____ (Signature)

19 April 2021 (Date)

Garry Hopkins

Director, Western Region

Assessment officer

Helen Smith

Planning Officer, Western Region

5852 6800