



### Subdivision on Rural Land

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#### Is it possible to subdivide my property?

The subdivision of rural land is possible, although the creation of additional dwelling entitlements and resultant land use changes shall not adversely affect primary industry operations and future development.

#### What policies apply to rural subdivision?

The key statutory planning instruments and development guidelines which are considered in the assessment of rural subdivision include the following:

- Environmental Planning and Assessment Act 1979
- State Environmental Planning Policy (Rural Lands 2008)
- Cessnock Local Environmental Plan 2011
- Cessnock Local Environmental Plan 1989 (deferred land)
- DCP D.1 Subdivision Guidelines

#### State Environmental Planning Policy (Rural Lands 2008)

Clause 9 of the SEPP provides that land may be subdivided for the purpose of primary production to create a lot smaller than the minimum prescribed lot size.

**Note:** Subdivision under this provision is not permitted if a dwelling is already situated on the resulting lot nor can a dwelling be built on a lot created under this provision.

Clause 10 of the SEPP requires the consent authority to consider any impacts the development will have on other uses in the locality. Applicants should therefore have regard to current and emerging trends in agriculture, including trends to transition from extensive to intensive agriculture.

#### Cessnock Local Environmental Plan (CLEP) 2011

Clause 4.1 of CLEP 2011 prescribes the minimum allotment size for land zoned RU2, RU3, RU4 and RU5.

Clause 4.2B of CLEP 2011 provides that the size of a lot resulting from a strata subdivision on zone RU2 or RU4 land shall not be less than the minimum size shown on the 'Lot Size Map'.

#### DCP D.1 Subdivision Guidelines

Depending on which land use zone applies, the DCP provides development controls to facilitate a coordinated approach in the creation of rural lots.

A summary of the key requirements are provided as follows:

#### RU2 (Rural Landscape) requirements

Site Configuration		
Building envelope	Minimum area	3,000m <sup>2</sup>
	Minimum dimension	20m
	Distance to significant trees	4m
Maximum width to depth ratio		1:4

- Subdivision shall not negatively impact on sustainable agricultural activities.
- Fragmentation of bushland should be avoided.
- Vegetation of high scenic and environmental value shall be retained.
- Subdivision on bushfire prone land shall comply with NSW Rural Fire Service 'Planning for Bushfire Protection 2006'.
- Visual impacts arising from development on newly created allotments shall be minimal.
- Best management practices shall be implemented to control runoff and soil erosion to ensure there is no net impact on downstream water quality.
- Subdivision of land subject to landslip shall not increase risk to life or property.
- Stormwater disposal shall comply with Council's 'Engineering Requirements for Development'.
- Road networks shall accommodate for increased traffic associated with the creation of new lots.

#### RU5 (Village) requirements

Site Configuration		
Minimum width at building line		18m
Minimum depth of allotment		20m
Access-ways for battle-axe lots		
Maximum length		60m
Minimum width of access handle	Private	3.5m
	Shared (2 lots)	5m
	Shared (3-5 lots)	2m per lot
Maximum grade at any point		25% (1:4)
Earthworks		
Maximum extent of cut or fill		1m

- Stormwater shall drain by gravity to Council's system which may require inter-allotment drainage
- Lots are of a suitable shape to permit the location of a dwelling house with suitable solar access and private open space

## RU2 and RU5 allotments in general

- Preservation of heritage values/ historical settings
- Adequate provision of services
- Effluent and waste water shall be disposed of in a manner which is consistent with the land capability of the property.

## RU4 (Primary Production Small Lots) requirements

Subdivision within the Rural Smallholdings Zone should consider the provisions of DCP Part E: Specific Development, Chapter 3 (E.3): Vineyards District particularly in relation to lot size, density of development, retention and enhancement of natural vegetation.

## Cessnock Local Environmental Plan (CLEP) 1989

Land deferred from Cessnock LEP 2011, which includes land zoned Rural 1(a) and 1(c), will be assessed under the provisions of CLEP 1989 (development principles included under Clause 10) until Council completes an Agricultural Lands Study and Biodiversity Strategy.

Clause 11 of the CLEP 1989 specifies types of minor boundary adjustments which may be considered exempt from Council consent. This clause also states that consent will not be granted for subdivision unless the site is suitable for disposing and containing effluent.

## Specific requirements for 1(a) zone

Site configuration	
Minimum lot size	40 ha

- Consent may be granted for boundary adjustment where subdivision will not result in the creation of any new lots, additional right to construct a dwelling-house or compromise the agricultural productivity of the land.
- In meeting the minimum lot size, the proposed lot should be sufficient in size to allow reasonable use of the land.
- A proposed lot less than the minimum lot size, may be acceptable where subdivision has regard to Clause 12(3) of CLEP 1989.

## Specific requirements for 1(c) zone

Site configuration	
Minimum lot size where allotment is to be connected to a reticulated water supply	4,000m <sup>2</sup>
All other land	2 ha

- The subdivision of land must have regard to all matters under Clause 14 of CLEP 1989 to determine the suitability of the site.
- Subdivision proposals shall consider whether the construction of a dam on each lot is possible, if subsequent construction of dwelling-houses is appropriate, and if future subdivision is possible.

## Are there any other matters which need to be taken into consideration when preparing an application for subdivision?

In addition to meeting the relevant statutory planning instruments and development guidelines, applicants are encouraged to consider farm subdivision assessment guidelines issued by the Department of Primary Industries.