

**22.02**21/11/2019  
C105latr**RURAL DWELLING AND SUBDIVISION IN THE FARMING ZONE**

This policy applies to an application for a dwelling or the subdivision of land in the Farming Zone Schedule 1 and Farming Zone Schedule 2.

**Policy Basis**

This policy builds on and supports Clause 21.05-1 Agriculture to facilitate the following:

- Retain larger lots and avoid the establishment of sensitive land uses within the Farming Zone – Schedule 1 in order to retain flexibility for current and future agriculture investment.
- Provide direction for the use and development of land within the Farming Zone - Schedule 2 for the purpose of niche and mixed farming, tourism and hobby farms in locations compatible with existing infrastructure investment, biodiversity values, land holding patterns and adjacent land use.

**22.02-1****Objectives**

In the Farming Zone Schedule 1:

- To ensure that the use, development or subdivision of land does not adversely impact on the productive use of land for food and fibre.
- To discourage the proliferation of dwellings not associated with agriculture use.
- To ensure that the siting of dwellings does not prejudice existing and future agricultural activities on surrounding land.
- To limit the fragmentation of land by subdivision and discourage the creation of irregular shaped or small lots.
- To preserve and encourage the creation of large land parcels through consolidation and/or re-subdivision.

In the Farming Zone Schedule 2:

- To provide for the orderly and complimentary use of land for agriculture, tourism, niche and mixed farming and related purposes in attractive rural landscapes.
- To discourage dwellings in locations that will limit the operation of surrounding commercial agriculture enterprises – including buffers required by industry codes of practice.
- To ensure buildings are suitably designed and sited to protect the landscape characteristics of the area.
- To support improved biodiversity and conservation outcomes through improved land management.

**22.02-2****Policy**

For all land in the Farming Zone Schedule 1 and Schedule 2, it is policy to:

- Encourage dwellings where permitted and associated development to be located away from ridgelines and hilltops to ensure that the buildings blend into the landscape.
- Ensure the siting of a dwelling does not compromise the operation of nearby commercial agricultural enterprises, including an assessment on how impacts can be managed and will not encroach on existing industry buffer and separation distances.
- Discourage a dwelling within 100 metres of agricultural production infrastructure, activity nodes (such as effluent ponds, stock yards etc), or intensive animal production, or within the buffer distances for any as-of-right animal production land uses.

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For land in the Farming Zone Schedule 1, it is policy to:

- Discourage dwellings not associated with the agricultural use of the land.
- Discourage more than one dwelling unless it can be demonstrated that the additional dwelling is required for a caretaker, farm manager or farm worker for the operation of the agricultural use, and is located on the same lot as the existing dwelling and the agricultural use.
- Enable the excision of dwellings from existing lots only where all of the following requirements apply, as appropriate:
  - There are beneficial agricultural outcomes, such as the expansion of an existing agricultural operation;
  - It is the re-subdivision of land so that the number of lots is not increased, or includes the consolidation of a number of small allotments;
  - The dwelling is located in close proximity to a road. Long narrow lots, ‘battle-axe’ or island style lots will be strongly discouraged.
  - No detriment is likely to result to adjoining agricultural activities.

For land in the Farming Zone Schedule 2, it is policy to:

- Encourage mixed use and niche farming enterprises, rural tourism, accommodation and produce sales.
- Discourage tourism uses not related to or that would likely introduce conflict with agriculture uses or rural amenity including camping, caravan park, backpacker hostels, market or residential hotel.
- Discourage subdivision of land that will result in the creation of a lot below the minimum lot size.
- Subject to site conditions, encourage dwellings and associated development to be clustered together in the landscape by requiring similar setbacks from road frontages.
- Support the use of land for a dwelling, including accommodation, provided all of the following requirements are met:
  - No detriment is likely to result to adjoining agricultural activities.
  - It can be demonstrated that improved land management and or rehabilitation for conservation purposes, or improvements to degraded land will result.
  - All wastewater can be retained onsite.
  - New dwellings or other buildings requiring a BAL, should demonstrate that they will be sufficiently setback from any bushfire hazard to achieve a BAL construction standard no higher than BAL-29, unless there are significant siting constraints.
  - That any risk from bushfire is reduced to an acceptable level and any bushfire protection measures can be adequately implemented.

### 22.02-3 Application Requirements

An application for a dwelling or subdivision within the Farming Zone must include the following information, as appropriate:

For dwellings, documents and plans for the site and surrounding area including:

- A site plan showing proposed buildings and works including driveway access, existing and proposed fencing, existing or proposed easements, services, waste and treatment disposal area, existing and proposed vegetation, waterways and water tank(s).

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- An elevation plan including maximum height of buildings and works above ground level, including description of colour and materials to be used.
- Setbacks from boundaries, adjacent farm infrastructure and neighbouring dwellings.
- A description of adjoining land use, buildings and features.
- An assessment which considers how the surrounding agricultural activity has been considered in the siting of the dwelling, including the following impacts:
  - Noise
  - Odour
  - Amenity (sight lines)
  - Infrastructure and livestock movements; and
  - Concentration of dwellings in the area and how these impacts have been mitigated.
- A description of the agricultural qualities of the land.
- For Farming Zone 1 applications, a farm plan which demonstrates that the dwelling is required for a agricultural use.
- Where land is undulating, contours and proposed earthworks to show how the proposed development will be integrated into the landscape.
- A Land Capability Assessment required for lots under one hectare or where the development envelope is within 100 metres of a waterway, is prone to flooding or landslip risk, in order to demonstrate that the treatment and disposal of wastewater on the site can meet the *Septic Tank Code of Practice*, as amended.
- For sites proposed to be subject to environmental rehabilitation or management for conservation purposes, a management statement including a schedule of works to achieve site rehabilitation or management, and describing how a dwelling or accommodation use would be an integral part of this. This should include a weed management program.
- For applications within a Bushfire Prone Area (BPA), outside a Bushfire Management Overlay (BMO), a bushfire hazard site assessment stating the type and slope of classified vegetation (in accordance with the assessment criteria under Australian Standard AS3959-2009) within 100m of the site and details of any bushfire protection measures which are to be relied upon to reduce the bushfire risk to an acceptable level, including the proposed BAL must be provided.

For subdivision, documents and plans for the site and surrounding area including:

- A written report that responds to decision guidelines and the policy framework.
- A description of adjoining land use, buildings and features
- A description of the agricultural qualities of the land.
- A site plan showing existing development, topography, watercourses, infrastructure and existing native vegetation and other relevant site features, with proposed boundary lines.
- For sites containing biodiversity assets, detail demonstrating that the new lots contain rather than divide biodiversity assets such as remnant patches of vegetation in their entirety, bodies of water or watercourses.
- A Land Capability Assessment required for lots under one hectare or where the development envelope is within 100 metres of a waterway, is prone to flooding or landslip risk, in order to

demonstrate that the treatment and disposal of wastewater on the site can meet the *Septic Tank Code of Practice*, as amended.

- For the creation of a lot for an existing dwelling, a written statement that the dwelling has existing use rights, is in a habitable condition and is no longer required as part of an agricultural enterprise.

#### 22.02-4 Decision Guidelines

Before deciding on an application, in addition to the decision guidelines in the Farming Zone, the responsible authority will consider as appropriate:

- Whether the proposed dwelling is located within the buffer or separation distances of permitted or existing agricultural uses, as required under appropriate government codes of practice, the Environment Protection Authority's Recommended Separation Distances for Industrial Residual Air Emissions (as amended) or within the as-of-right buffers of an animal production land use.
- Whether the dwelling will be located away from ridgelines or hill tops and the impact on the local landscape.
- Whether the dwelling will have a negative impact on surrounding commercial agricultural activity
- Whether the proposed development, including access and fencelines will require the removal of existing native vegetation.
- Where a proposed subdivision creates a lot less than the minimum lot size to be used for a dwelling, whether a section 173 agreement pursuant to the *Planning and Environment Act 1987* is required so that the remainder of the land will not be further subdivided.
- New dwellings or other buildings requiring a BAL, should demonstrate that they will be sufficiently setback from any bushfire hazard to achieve a construction standard no higher than BAL-29, unless there are significant siting constraints, in accordance with AS 3959 Construction of buildings in bushfire prone areas. The level of surety about ongoing vegetation management for the maintenance of defendable space or bushfire risk mitigation.
- That risk from bushfire is reduced to an acceptable level and any bushfire protection measures can be adequately implemented.
- The views of the relevant fire authority.

In the Farming Zone Schedule 1:

- For a proposed dwelling, whether a section 173 agreement pursuant to the *Planning and Environment Act 1987* is required to prevent the future excision of the dwelling from the parent lot.
- The nature of the agricultural activities on the land and whether they require permanent and continuous care, supervision or security as provided by a dwelling on the land, or whether they can be managed from an off-site location.
- Within a Bushfire Prone Area, whether a section 173 agreement pursuant to *Planning and Environment Act 1987* is required to ensure ongoing maintenance of defendable space and other bushfire protection measures for bushfire risk mitigation.

In the Farming Zone Schedule 2:

- For a proposed dwelling required in association with improved land management or conservation outcome, whether the environmental management plan is satisfactory; and whether a section 173 agreement pursuant to the *Planning and Environment Act 1987* is required, to ensure an environmental management or rehabilitation plan is enacted in perpetuity.

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- Within a Bushfire Prone Area, whether a section 173 agreement pursuant to Planning and Environment Act 1987 is required to ensure ongoing maintenance of defensible space and other bushfire protection measures for bushfire risk mitigation.
- The impact of the proposed use or development on the amenity of the area.

For subdivision applications:

- Whether a section 173 agreement pursuant to the *Planning and Environment Act 1987* is required in the following circumstances:
  - Where a parcel less than the minimum lot size is proposed to be re-subdivided or subdivided, to prevent further subdivision of the remnant parcel.
  - Where a parcel less than the minimum lot size is proposed to be re-subdivided or subdivided, to prevent a further dwelling to be placed on the vacant parcel.
  - Where bushfire risk mitigation requires ongoing vegetation management.
- Where an application proposes the creation of a lot for an existing dwelling:
  - Whether the balance lot is at least the minimum specified in the schedule to the zone.
  - Whether the excision of the dwelling is compatible with agricultural use and will not reduce the potential for farming or other established rural land uses nearby.
  - Whether the design of the lot does not isolate key rural infrastructure from the remnant parcel of the land.
  - Whether previous lot excisions have taken place and the cumulative impact on the viability of the parent lot for agriculture or related use.

### 22.02-5 Policy References

*Latrobe City Rural Land Use Strategy 2019* (as amended)