

22.06 RURAL DWELLINGS AND SUBDIVISION

22/12/2016
C194

This policy applies to all land in the Farming Zone.

22.06-1 Policy Basis

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The rural areas of the City of Ballarat are an integral component of the municipality's rural identity and highly valued for their contribution to the economy, liveability and amenity. The Farming Zone (FZ) has been applied to most of the rural areas of the City and the main purpose of the FZ is to support farming activity.

Within the FZ there is the potential to subdivide land and to erect dwellings. The purpose of the zone states that dwellings should not adversely affect the use of the land for agriculture. The use of land for a dwelling will require a permit in most cases and it should have a clear relationship to the use of that land for farming activity.

Council acknowledges that subdivision and dwellings in farming areas can potentially restrict the ability to use that land for farming activities and can impact on the ability of neighbouring farms to carry out agricultural production activities. Council has therefore developed a clear position to manage subdivision and dwellings in the Farming Zone to support ongoing and long term farming in its rural areas.

Rural subdivision

It is acknowledged that subdivision alone does not necessarily pose a threat to farming, as it can provide the opportunity for consolidation of a farm property and/or divestment of farming assets from one farm enterprise to another. Subdivision can provide farmers with a degree of flexibility in terms of their agricultural operations and their long term planning. Council supports subdivision of land within the Farming Zone where it is clearly based on improving a productive farming outcome.

In some instances subdivision of land is proposed to adjust existing title boundaries (boundary realignment) or to remove an existing dwelling from the property (a house lot 'excision'). While house lot excisions can provide the opportunity to consolidate farms and remove unwanted dwellings from the farm property, they also pose a 'right to farm' risk to farming operations by introducing a small residential lot into a farming area.

Council will consider small lot subdivisions on a case by case basis, but will only support them if they are subject to a Section 173 Agreement under the Planning and Environment Act 1987 prohibiting a house and further subdivision on any lot which has been subdivided.

Rural dwellings

Development of land for housing has the potential to permanently remove the land from agricultural activity, particularly when the residential use does not relate to a farming enterprise. Council recognises that there is demand for rural living housing in the municipality and land has been appropriately planned for and allocated through application of the Rural Living Zone.

Council does not support use of land in farming areas for rural residential use as this has the potential to permanently remove that land from agricultural use and can impact on the 'right to farm' existing rural properties. This is often due to different amenity expectations that residential properties have to farming properties. This can include complaints regarding pesticide spraying and late night harvesting or domestic dogs attacking livestock and the spread of pest species from residential properties to farms.

Accordingly, Council will only support the construction of a dwelling in the FZ where it can be demonstrated that the dwelling is reasonably required to support and enhance agricultural activity.

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Objectives

To provide for the retention of productive agricultural land for farming;

- To ensure development of dwellings are for the purpose of supporting ongoing or planned farming activity.
- To encourage consolidation of agricultural land to support farming activity.
- To ensure small lot subdivisions are for the purpose of supporting farming activity.
- To ensure the location of a dwelling does not compromise surrounding rural activities, in particular farming.

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Policy

Subdivision

- When considering a permit application for any subdivision, it is policy that:
 - The subdivision will enhance farm consolidation or trading of lots between farms.
 - The subdivision will not adversely impact on the ability to use the land for agriculture.
 - The subdivision must not increase the potential for future dwellings.
 - The subdivision must be conditional on entering into a Section 173 Agreement under the Planning and Environment Act 1987 prohibiting further dwellings on the land if it is less than the minimum lot size specified in the schedule to the zone.
- When considering a planning permit application to excise a lot containing a dwelling, it is policy that:
 - The purpose of the excision is to facilitate farm consolidation.
 - It can be demonstrated that farming can be continued on the balance lot unhindered.
 - The dwelling is not required for the farming use of the property.
 - The benefit of removing the dwelling from the land outweighs the risk of having a residential land use adjoining a farming property in terms of supporting agriculture.
 - The balance lot should meet the minimum lot size requirement specified in the schedule to the zone.
 - The dwelling is in a habitable condition.
 - The dwelling and immediate surrounds should be a maximum of 1ha.
 - The excised lot should not include significant farm infrastructure.
 - The dwelling is at the front of the property and long narrow lots or battle axe lots are discouraged.
 - The dwelling is serviced by a sealed road or a rural gravel access road.
 - A Section 173 Agreement under the Planning and Environment Act 1987 must be entered into that prevents:
 - The construction of a dwelling on the residual lot other than if it meets the requirements specified in the schedule to the zone.

- When considering a planning permit application to realign boundaries, it is policy that:
 - Proposals for re-aligning boundaries are only permitted for the purpose of making minor adjustments such as responding to topographical or public infrastructure features, except where the re-alignment will support more productive agricultural outcomes (particularly through farm consolidation).

Dwellings

It is policy that:

- When considering a planning permit application to construct a dwelling in the Farming Zone the following requirements should be met:
 - The dwelling should be necessary to support the ongoing or planned farming activity on the land and any adjacent land.
 - The dwelling should be in conjunction with the use of the land and any adjacent land for farming.
 - A Section 173 Agreement under the Planning and Environment Act 1987 should be applied that prevents:
 - The subdivision of the lot containing the dwelling if it is less than the minimum specified in the schedule to the Farming Zone; and
 - The development of further dwellings on other contiguous lots in the same ownership which are less than the minimum dwelling lot size requirements of the Farming Zone. The permit application for the dwelling should include all such lots including lots that may or may not be directly adjoining the primary lot and the agreement should be applied to each lot.
 - An agreement under the Planning and Environment Act 1987 may also be required to acknowledge the possible off-site impacts caused to dwelling occupiers from nearby agricultural activities.
- An application to use a lot for a dwelling must be accompanied by a written statement which explains how the proposed dwelling responds to the policy framework, the decision guidelines for dwellings in the Farming Zone and it should detail the following:
 - Why there is a need to live on site and how that would assist in agricultural production.
 - A layout of agricultural uses on the property which must demonstrate that the majority of the property is to be used for farming.