

22.01 RURAL ZONES POLICY

23/07/2015
C110

22.01-1 Farming Zone and Rural Activity Zone

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This policy applies to all land in the Farming Zone and Rural Activity Zone

Policy basis

This policy builds on local strategy in clause 21.06-6 of the Municipal Strategic Statement (MSS) which aims to protect and maintain agricultural land.

It also builds upon local strategy which promotes a diverse economy based mainly upon varied agricultural production and processing, tourism and business and service industries.

Research undertaken by Agriculture Victoria in 2001 highlights that most rural land in the Baw Baw Shire is highly suitable for both intensive horticultural and broadacre pasture based farming due to its fertile soil types, high rainfall, temperate climate, varied topography and proximity to markets. The productive use of this land has resulted in agricultural production being the most significant contributor to the economy of the Shire. Clause 21.06-5 of the MSS highlights the importance of maintaining the contribution made by agriculture to the economy of the Shire.

The current lot pattern in the Shire has largely resulted from the subdivision of the original Crown Allotments which were mainly created in the late 1800s. In more recent times, this has been regulated through planning schemes. The significantly different subdivision provisions included in the former planning schemes is now reflected by the varied lot pattern around the Shire. A more intensive lot pattern is evident in the area of the former City of Warragul (which had a minimum lot area of 16 hectares) whilst a more extensive lot pattern is evident in the area of the former Narracan Shire (which had minimum lot areas of 50 and 60 hectares).

Whilst the development of dwellings in rural areas has been integral to the development of the Baw Baw Shire as a farming area, in more recent times there have been increasing pressures for subdivision and residential development of rural land, primarily for rural lifestyle rather than for farming purposes. The increasing pressures for land for rural lifestyle purposes has the potential to significantly impact on the way agricultural land is used in the Shire, particularly in regard to the continuation of broadacre farming such as dairying, and its contribution to the economy of the Shire.

The increasing number of dwellings in rural areas is altering the rural landscape of the Shire. Maintaining the rural character of the Shire by protecting the rural environment and landscape is one of the Baw Baw Shire Council's core strategic objectives.

Objectives

- To support agriculture as a major contributor to the Shire's economy.
- To retain the potential for large scale, broadacre based farming enterprises by encouraging the retention of large lots.
- To encourage a diverse range of agricultural enterprises which can use smaller landholdings.
- To support tourism use and development that is compatible with agricultural production and/or the environmental attributes of the area.
- To ensure that the development of dwellings and the creation of small lots for existing dwellings minimises the loss of productive agricultural land and does not prejudice activities associated with agricultural production.

- To protect the rural character of the Shire by minimising the visual intrusion of new buildings on the natural landscape, particularly hill top/ridgeline development.

Policy

Exercising discretion

All subdivisions

For all rural subdivisions, it is policy to:

- Require a written submission explaining how the proposal meets the zone purposes and decision guidelines and the objectives of this policy.
- Encourage subdivision which creates or retains lots over 40 hectares.
- Require a land capability assessment to be provided to substantiate that proposed lots less than 1 hectare can satisfy the requirements of the Environmental Protection Authority's Guidelines for Environmental Management Code of Practice – Onsite Wastewater Management.

Dwelling excisions

Where the subdivision involves the creation of a small lot for an existing dwelling, it is policy to:

- Discourage the excision of a dwelling from an existing lot of less than 40 hectares unless the proposal involves the consolidation of remaining lots within a land holding or where the purpose of the subdivision is to make the residual lot available only for agricultural production and the applicant agrees to enter into a Section 173 agreement to prohibit a dwelling on the residual lot.
- Ensure that any small lot created for an existing dwelling has a maximum size of 2 hectares, except if the dwelling is directly associated with the management of an established intensive agricultural enterprise on the land comprising horticulture, crop raising or intensive animal husbandry as defined in the planning scheme.
- Discourage the creation of a small lot for an existing dwelling where it would be located within 100 metres of a farming activity node [dairy shed, effluent ponds, stock yards, etc], within the buffer distance of a use listed in clause 52.10 of the scheme or within the buffer distance of an approved broiler farm or cattle feedlot.
- Require any permit issued to be subject to a condition that a Section 173 Agreement be entered into requiring that each lot not be able to be used for any further dwelling.
- Require a plan to be submitted showing the location of all buildings on the land and on adjacent land in proximity to the small lot, the purpose of the buildings and the purpose for which the land and adjacent land is utilised.
- Require that any building used as the basis for the creation of a small lot for an existing dwelling, satisfies the definition of a dwelling in the planning scheme, has existing use rights as a dwelling and is in a habitable condition.

Re-subdivision

Where the subdivision involves the re-subdivision of existing lots, it is policy to:

- Support a proposal where it involves the realignment of boundaries between two lots and the boundaries are realigned so that less than 10 per cent of either lot is involved and the total size of the lots is less than 40 hectares.

- Discourage re-subdivision within a land holding, which comprises of more than one lot, where it would increase the overall development potential of the land, unless a Section 173 agreement is entered into to restrict the additional subdivision potential.
- Discourage the re-subdivision of existing lots where one or both of those lots was originally established for the purpose of a rail, road or other reserve.
- Encourage any small lot proposed primarily for rural living purposes to be 2 hectares or less in area.
- Support re-subdivision of lots which are proposed to contain an established rural business, where the area of the existing lot is excess to the requirements of the business.
- Limit to two the number of small lots created through the re-subdivision of a landholding comprising more than two lots, where they are proposed primarily for rural living purposes.
- Discourage re-subdivision proposals, which would result in fragmentation of a large farm holding, or abandonment of primary production on most of the land.

Subdivision of land located within, abutting or divided by a township boundary

Where the subdivision includes land located within, abutting or divided by a township boundary around any town in the Shire, it is policy to:

- Require the applicant to demonstrate that the subdivision is consistent with any Development Plan prepared for the area or, if there is no Development Plan prepared, to demonstrate that the subdivision would not compromise future potential residential development on the land.
- Ensure that subdivision of land within a township boundary does not increase the potential for conflict between the use of that land and the use of land abutting the township boundary for agricultural purposes.
- Ensure that subdivision of land abutting a township boundary does not increase the potential for conflict between the use of that land and the future use of land within the township boundary for residential purposes.

Dwellings

It is policy to:

- Require a proposal for a dwelling in the Farming Zone to be accompanied by a business plan and/or farm plan that justifies that the dwelling is an integral but ancillary part of the use of the land for a commercial farming purpose or for an approved tourism business that is intended to be carried out by the applicant.
- Discourage a proposal for a dwelling unless it can clearly be demonstrated through a business plan or farm management plan that it is required for a commercial farming purpose or for an approved tourism business. In general, a dwelling will not be supported if the farming enterprise comprises only small scale extensive animal husbandry unless it can be demonstrated that there are special management requirements relating to the grazing stock.
- Where a proposed dwelling would be an ancillary part of the use of the land for a commercial farming purpose, assess a business plan or farm plan, submitted with the proposal, having regard to issues including suitability of lot size, availability of a suitable water supply, suitability of topography and other natural features, as indicators of the site's inherent potential for a commercial farming operation,.

- Require any rural dwelling, together with its domestic outbuildings, yards, pool, garden, primary and secondary waste water envelopes etc to be contained within a 2000 square metre envelope.
- Require the owner of the lot on which the dwelling is proposed, to enter into an agreement under Section 173 of the Planning and Environment Act 1987, which ensures that the lot cannot be subdivided to create an additional lot and cannot be used for any further dwelling.
- Require consolidation of vacant lots within the property (being lots in the same ownership which adjoin each other or are separated only by a stream, stream reserve, or unmade or unused government road or rail reserve) on which the dwelling is proposed, where the property comprises of more than one lot.
- Discourage new dwellings being developed less than 100 metres from a neighbouring house or a farming activity node [stock yards, dairy shed, effluent treatment ponds etc].
- Consider a proposal for a new dwelling adjacent to two or more existing dwellings as constituting a ‘concentration’ or ‘proliferation’ of dwellings in the area when considering the Dwelling Issues Decision Guidelines under clause 35.07-6 of the Farming Zone.
- Discourage new dwellings being developed on lots where wastewater cannot be retained and treated within the lot through use of a conventional on site septic tank system.
- Discourage new buildings being located in visually prominent positions, including on ridgelines and hilltops. Where proposed buildings may be visible, ensure that they are visually blended into the landscape, through the use of non-reflective exterior material and cladding (in muted tones) and minimising the building height.

Dwellings for conservation purposes

Dwelling applications for conservation purposes (vegetated lots and/or steep land) should also be considered having regard to the location of the proposal in the Settlement framework. It is policy to:

- Discourage dwellings being located within isolated communities in the north of the Shire that have limited access, rough terrain and are surrounded by State forest and present a strategic bushfire risk, such as Happy-Go-Lucky, Maidentown and Coopers Creek.
- Encourage dwellings (provided other planning controls are met) on existing lots within the Strzelecki Ranges in the south of the Shire, which is an area with good access, proximate to the main towns and where population growth would lead to good outcomes for the local environment and surrounding communities.

Applications will be assessed against the following, as appropriate:

- The land has been identified as not being of good quality for extensive agriculture of cropping purposes due to steep slopes and soils which are prone to erosion and landslip. Provision is to be made for the rehabilitation and stabilisation of existing degraded land.
- The provision of a Land Management Plan or Native Vegetation Management Plan to the satisfaction of the responsible authority, including:
 - A description of the location and type of native vegetation or fauna habitat to be managed and protected, including a site map;
 - A schedule of actions to be undertaken to manage and protect the native vegetation or fauna habitat (e.g. fencing, weed control, pest control, revegetation);
 - The person(s) responsible for implementing the specified management actions;
 - Approximate timelines for the implementation of the management actions;

- The method by which the management actions will be undertaken (e.g., spot spray target weeds);
- The standard to which the management actions will be undertaken (e.g., control blackberry to < 1% cover).
- Protection of native vegetation or native fauna habitat that provides a significant contribution to biodiversity conservation and/or land management protection
- Placement of an on-title encumbrance on the native vegetation or fauna habitat to be protected and managed, to the satisfaction of the responsible authority (i.e., S 173 Agreement under *P & E Act 1987*, S 69 Agreement under *C F & L Act 1987* or Trust for Nature Covenant under the *Victorian Conservation Trust Act 1972*). The area being protected and managed must not contribute to any part of the land required for bushfire management protection or result in the use of any planning scheme exemptions for the removal, destruction or lopping of native vegetation (e.g., safety)

Reference Documents

'Baw Baw Settlement Management Plan, August 2013'.