

## 22 LOCAL PLANNING POLICIES

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C96

### 22.01 Rural Tenement Policy

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

#### 22.01-1 Policy Basis

12/09/2013  
C68(Part 1)

This policy;

- Applies the agriculture State Planning Policy Framework objective in Clause 14.01 to local circumstances.
- Builds on the MSS objectives in Clauses 21.05-2 and 21.06 relating to agriculture and rural landscape;
- Applies the findings of the Surf Coast Shire Rural Strategy 2007;
- Applies tenement provisions in the rural zones to protect rural and environmentally sensitive land for future generations;
- Specifies requirements for assessing applications for subdivision and dwellings in rural areas;
- Recognises that there is no nexus between subdivision and housing in rural areas.

Tenement provisions have been an important rural land use tool in the Shire over the past 20 years. Tenement provisions have effectively limited the number of houses built in the rural area and encouraged the retention of rural land holdings and their continued use for rural production. Without limiting the definition of a tenement in Clause 72 (General Terms), a tenement is a single lot or group of lots held in the same ownership; and 'tenement provisions' are used to limit the number of dwellings that will be approved on a tenement rather than on individual allotments which may or may not comprise separate titles.

#### 22.01-2 Objectives

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To help effect the long term protection of the Surf Coast Shire's rural land for agricultural purposes and for the rural landscape qualities it provides.

To provide a consistent and equitable basis for considering permit applications for dwellings and subdivision in the rural zones.

#### 22.01-3 Policy - Dwellings

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##### **Dwellings on lots below the minimum lot size specified in the Schedule to the Farming Zone or Rural Conservation Zone**

Where a permit is required to use land for the purpose of a dwelling on a lot below the minimum lot size specified in the Schedule to the Farming Zone or Rural Conservation Zone, it is policy to not grant approval unless all of the following requirements are met:

- The lot comprises and remains a tenement or part of a tenement falling within a category listed in Part A below; and
- The maximum number of dwellings on the said tenement does not exceed the relevant number listed in Part B below; and
- Any conditions listed in Part C below are met.

How to use this policy

A. Identify which of the five tenement categories the lot falls within.

B. Calculate the maximum number of dwellings permitted on a tenement falling within the relevant category.

C. Identify the conditions that will apply if a permit is granted.

Note: This policy is intended to supplement assessment of any application under the Farming Zone or Rural Conservation Zone. Compliance with the policy requirements does not imply that the responsible authority will grant a permit in every case.

#### Part A. Tenement categories

Category 1	A lot created under a Plan of Subdivision approved by the Responsible Authority prior to the approval date (5 October 2000).
Category 2	A lot listed in Table 1 to this Clause.
Category 3	A lot comprising a tenement on 18 December 1997.
Category 4	A lot comprising part of a tenement on 18 December 1997.
Category 5	A lot comprising part of a tenement on 18 December 1997 where the said part was acquired in a single transaction between 17 December 1975 and 18 December 1997.
Where a lot falls within more than one tenement category the category with the smallest total area is to be used.	

#### Part B. Maximum number of dwellings

Categories 1 & 3	1.
Category 2	Refer to Table 1 to this Clause.
Category 4 & 5*	<p>If the total area of the tenement identified in part A is less than twice the minimum lot size specified in the zone schedule: 1.</p> <p>If the total area of the tenement identified in part A is at least twice the minimum lot size specified in the zone schedule: the maximum number of dwellings is not to exceed the number permissible if the tenement were a single lot.</p> <p>The maximum number of dwellings includes:</p> <ul style="list-style-type: none"> <li>▪ The proposed dwelling;</li> <li>▪ Any existing dwelling;</li> <li>▪ Any dwelling for which a current permit exists but which has not been constructed.</li> </ul> <p>*Note: The maximum number of dwellings permitted on the tenement will not be increased whether or not part of the tenement is sold after the 18 December 1997.</p>

#### Part C. Conditions to apply

Category 2	Any conditions specified in Table 1 to this Clause.
Categories 4 & 5**	<p>If the tenement comprises more than one lot:</p> <ul style="list-style-type: none"> <li>▪ the lots must be consolidated prior to the commencement of development; or</li> <li>▪ an agreement under s.173 of the Act must be entered into providing that the owner or any future owner will not apply to use or develop a dwelling on any lot that does not contain a dwelling or have a valid permit for a dwelling at the date of the agreement; and such agreement must be registered on title.</li> </ul>
All categories	<p>Each lot used for the purpose of a dwelling must:</p> <ul style="list-style-type: none"> <li>▪ have legal frontage to a road which provides a suitable means of access to the satisfaction of the responsible authority and</li> </ul>

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- be suitable for a dwelling by way of its shape, configuration and means of access.
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**\*\*Note:** If a tenement is broken up after 18 December 1997 this condition may need to be modified, however approval will not be granted for any dwelling which would increase the maximum number of dwellings otherwise permitted on the former tenement.

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### **More than one dwelling on a lot**

Where a permit is required to use a lot for the purpose of more than one dwelling it is policy to not grant approval for an additional dwelling unless the responsible authority is satisfied that an additional dwelling is required for the operation of a productive rural activity that will generate a marketable rural commodity.

## **22.01-4 Policy - Subdivision**

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Where a permit is required for subdivision, it is policy to:

- Require a written report which addresses the decision guidelines of the Rural Conservation Zone or Farming Zone, as applicable.
- Require a land management plan which demonstrates how the proposal achieves good land management practices. A land management plan should be prepared along the lines of a 'whole farm plan' as described in 'Whole Farm Planning, Principles and Options', edited by BK Garrett, Department of Conservation and Natural Resources and the Department of Agriculture, 1993.
- Where relevant, requiring the implementation of a land management plan within a specified time as a condition of permit.
- Disregard subjective considerations, such as the perceived non-viability of a lot for farming purposes, personal hardship, or family circumstances, which do not form part of the statutory decision guidelines,
- Require a subdivision layout that takes into consideration the ongoing protection and enhancement of any environmental assets within the property, ensuring adequate buffers (50m from a wetland/waterway, 30m from a minor waterway, 10m clearance of significant trees and 30m clearance of significant understorey) are provided around the asset to ensure protection from current or future land use or development.
- Require an owner to enter into a section 173 agreement to protect any environmental values identified by the responsible authority.

Where a permit is required to re-subdivide existing lots to create a new lot or lots that do not comply with the minimum lot size in the zone schedule, it is policy to:

- When calculating the number of lots that may be re-subdivided, count only a lot that has legal frontage to a road and is suitable for a dwelling due to its shape, configuration and means of access.

Where a permit is required to subdivide land to create a lot for an existing dwelling, it is policy to not grant approval unless all of the following requirements are met:

- The dwelling must have been in existence since 18 December 1997 and have been occupied or capable of being occupied, on and since 18 December 1997.
- The lot intended to contain the existing dwelling is not to be greater than 1 hectare in area and is of a shape and configuration that will have minimal impact on the continuing agricultural use and management of the balance of the tenement (in particular, battle-axe shaped blocks are discouraged).
- Since 17 December 1975, no other dwelling is to have been excised from any tenement of which the land has formed a part.
- The larger tenement after subdivision is to comply with the minimum lot size requirement in the zone schedule.

**22.01-5 Reference Documents**11/11/2010  
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*Whole Farm Planning, Principles and Options*, BK Garrett, Department of Conservation and Natural Resources and the Department of Agriculture, 1993; (for examples of land management plans).

**Table 1 to Clause 22.01**

A permit may be granted to use the land described in this table for a dwelling provided the condition opposite is met.

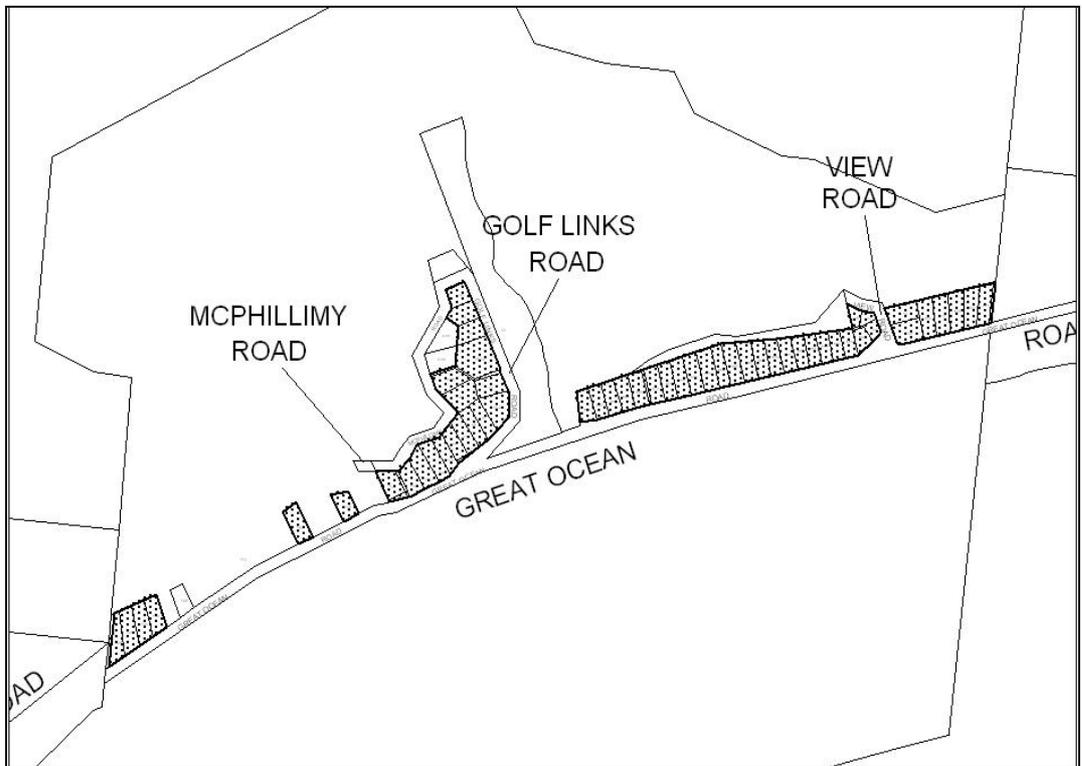
MAP REF NO.	LOCALITY	CONDITION
1	Bellbrae Township (as shown shaded on map no. 1)	One dwelling on each lot
2	Jarosite Road, Bells Beach (as shown shaded on map no. 2)	One dwelling on each of lots 1 to 24 LP136440
3	Aireys Inlet (as shown shaded on map no. 3)	One dwelling on each lot
4	Eastern View (as shown shaded on map no. 4)	One dwelling on each lot
5	Big Hill (as shown shaded on map no. 5)	One dwelling on consolidated lots: 18 & 76 LP10103, and One dwelling on each other lot
6	Cathedral Rock (as shown shaded on map no. 6)	One dwelling on each lot
7	Lorne (as shown shaded on map no. 7)	One dwelling on each of: <ul style="list-style-type: none"> <li>▪ Crown Allotments 1 &amp; 2 Section F</li> <li>▪ Crown Allotments 1 to 10 Section B</li> </ul>



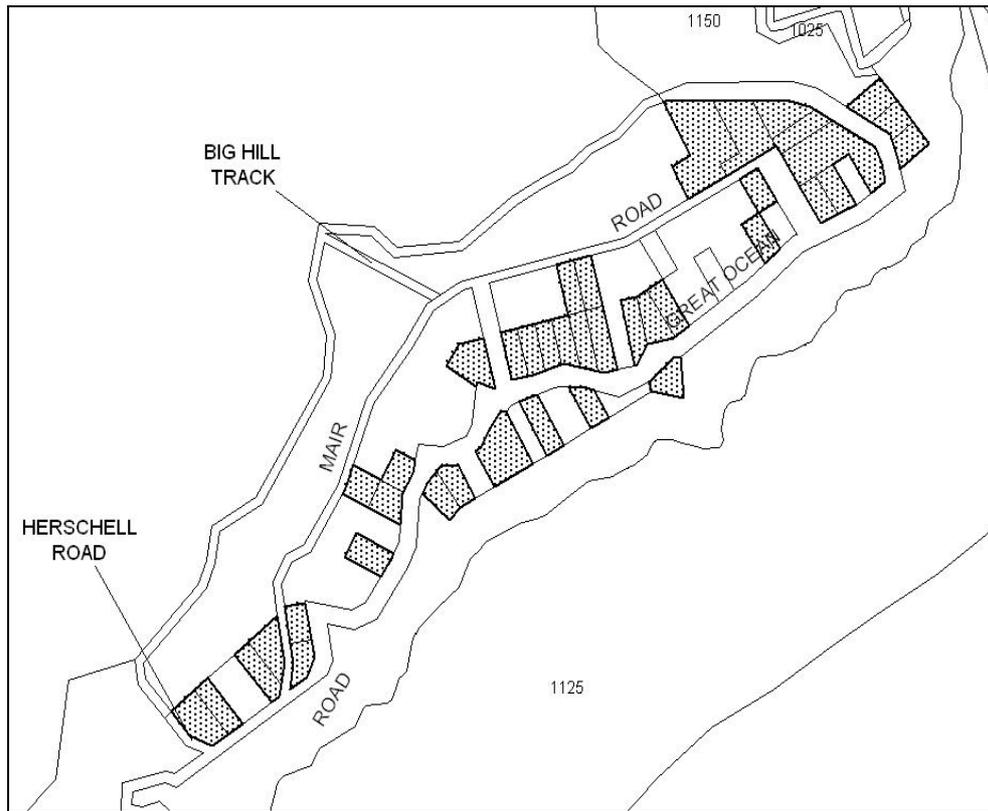
**Map 3 to Clause 22.01 – Aireys Inlet**



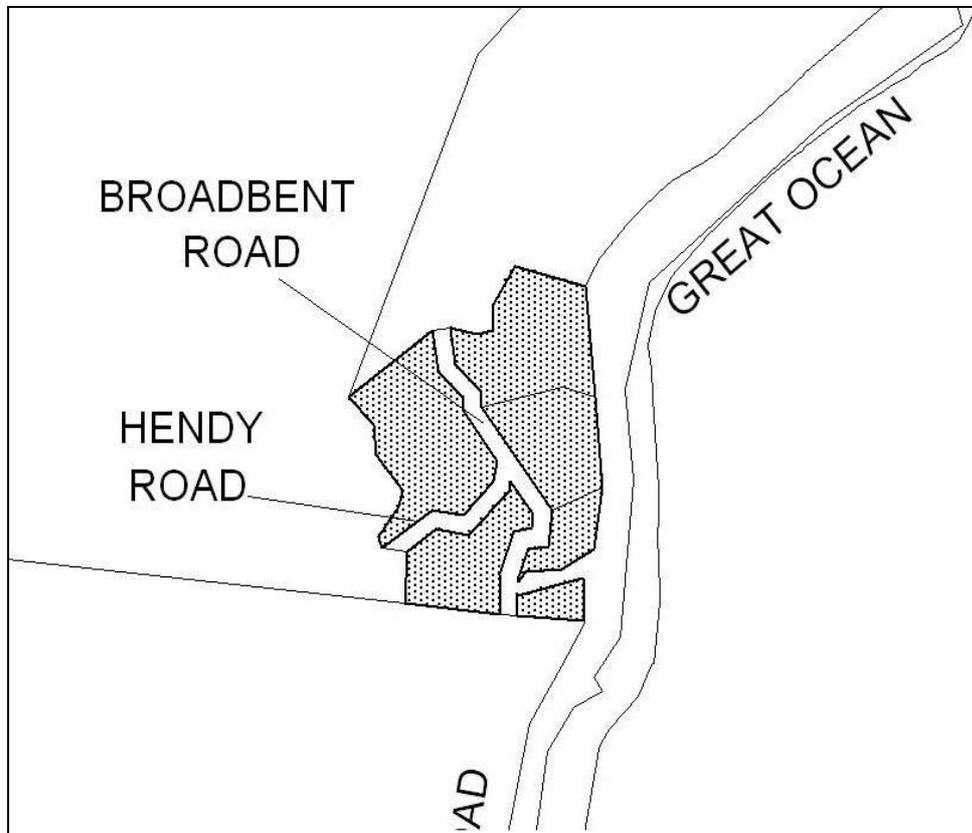
**Map 4 to Clause 22.01 – Eastern View**



**Map 5 to Clause 22.01 – Big Hill**



**Map 6 to Clause 22.01 – Cathedral Rock**



Map 7 to Clause 22.01 – Lorne

