

PLANNING FACT SHEET

Dwellings on small lots within the Farming Zone



Murrindindi
Shire Council

This fact sheet has been prepared to provide information to members of the community who may be considering building any dwellings on small lots within the Farming Zone.

Why do we protect agricultural land?

Land in the Farming Zone is primarily for farming and agricultural activities, including sustainable land management practices. Managing the use and development of dwellings in the Farming Zone is important in order to protect and facilitate agricultural activities, ensure that non-agricultural uses do not adversely affect the use of land for agriculture and to protect and enhance rural landscapes and the environment.

Why do we manage housing in farming areas?

Small lots in the Farming Zone are typically those less than 40 hectares in area. A planning permit is required for use and development of a dwelling on small lots.

Dwellings on small lots in the Farming Zone are generally discouraged, unless they are required for agricultural activity on the site (such as cropping activities and the management of animals) and will not impact on farming practices on the site and nearby properties. Agricultural Business / Operational Plans and Whole Farm Plans are required to demonstrate how the agricultural activity will be conducted and operated.

Small lots in the Farming Zone are not appropriate for rural residential living. The Rural Living Zone and Low Density Residential Zone are established for those wishing to live on large lots or in rural areas, without necessarily farming the land. This reduces the conflict associated with farming practices and ensures that the value of farming land is not impacted upon.

Murrindindi Planning Policy Framework

The purpose of the Farming Zone (Clause 35.07) in the Murrindindi Planning Scheme is:

- To provide for the use of land for agriculture
- To encourage the retention of productive agricultural land
- To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture
- To encourage the retention of employment and population to support rural communities
- To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision

The Farming Zone includes mandatory infrastructure requirements for dwellings (Clause 35.07-2) and detailed decision guidelines for considering applications (Clause 35.07-6).

The State Planning Policy for Agriculture (Clause 14.01) recognises agriculture as being the dominant land use within our Farming Zone areas.

The Local Planning Policy for Agriculture (Clauses 14.01-1S and 14.01-1L) sets out clear objectives, strategies and decision guidelines relating to new dwellings within the Farming Zone.

Additional controls may apply if overlays affect your land.

In summary, new housing within the Farming Zone is generally only permitted where it can be reasonably demonstrated that the house is required for the agricultural activities on the land.

Can I build a house in the Farming Zone?

There may be some circumstances where a dwelling is appropriate or reasonably required on a small lot in the Farming Zone to carry out agricultural activity including the planting, raising, and harvesting of crops and rearing, feeding and management of animals.

In these instances, Council will give careful consideration to the following:

- Is the land productive, located in an established agricultural area or does it require a dwelling for land management?
- Will the addition of a dwelling in the area contribute to a change in character of the locality and the loss of productive agricultural land forever?
- Are adjoining lots small, rural residential in nature, or used for agricultural purposes?

- Will the dwelling contribute to a concentration of dwellings in the area through incremental change, or result in a loss or fragmentation of productive agricultural land? Are dwellings part of a primarily rural residential area, or isolated examples?
- Is there nearby land in a more appropriate zone?
- Are there likely to be amenity impacts on the proposed dwelling from agriculture?

Dwellings on lots that are less than the minimum lot size within the Farming Zone are discouraged. Approval is typically only possible where it is reasonably justified that the dwelling is associated with agricultural activities on the land.

Lodging an application for a dwelling on a small lot in the Farming Zone (FZ)

In addition to the information identified on the General Planning Application Checklist which you can find on our website, you must provide:

- A written statement to explain:
- Full details of the current and future agricultural activities on the land including - how long the operation has been established, the extent of the operation (i.e. what other nearby land is in the same ownership), plans for expansion or intensification, current and proposed staffing levels and any other relevant information to support your application
- Details of any existing dwellings on the property and the relationship of the occupants to the farming enterprise
- Why permanent on-site management is required for the agricultural activities on the land
- How the particular dwelling site has been selected to minimise adverse impacts on the environment and the ability to farm the land
- How the dwelling will be supplied with all-weather access, power, water and waste disposal
- Cultural Heritage Management Plan (CHMP) – if required. More information is available online (refer to Useful Website Resources table)
- A written response to the mandatory requirements at Clause 35.07-2 and 35.07-5 of the Murrindindi Planning Scheme
- Written details of the proposed farming/agricultural activity including a Business/Operation Plan and Whole Farm/Land Management Plan
- A site plan which includes details of activities on surrounding properties, including access points, infrastructure and any significant environmental features

Further information may be required depending on the nature of the application. Additional controls may apply if overlays affect your land.

VCAT Relevant Case Law

When making planning decisions regarding the use, development and subdivision of land within the Farming Zone, Council refers to a number of relevant VCAT cases.

There is a VCAT case law precedent to prevent new housing on small lots within the Farming Zone where it cannot be demonstrated that a house is required to support the agricultural activities on the land.

Zreikia v Greater Geelong CC [2015]

The subject site is in the Farming Zone and is occupied by one existing dwelling. The applicant sought a two-lot subdivision to create a lot of 1.6 hectares and one of 13.9 hectares.

The Tribunal reversed Council's decision to refuse the permit and approval was given for a small lot excision. The site was located at the interface between smaller lots and productive agricultural land. The VCAT member found that the land had low agricultural viability and its size would not offer much opportunity for sustainable or meaningful production.

The concern in this case was not so much about the loss of productive farming land, rather it came down to an interface issue between residential and farming land. The proposed subdivision would not have an unreasonable impact on the viability of the surrounding farming land.

Therefore, it was found that the proposed two lot subdivision is consistent with State and Local Policies that seek to limit non-rural uses located in rural areas. In approving the subdivision, the Tribunal imposed a condition requiring that no dwelling be constructed on the vacant lot unless the land was rezoned for a non-agricultural zone.

It is important to discuss your proposal with a Council Planning Officer at an early stage.

Gippsland Coastal Board v South Gippsland SC & Ors [2008]

This case involved six permit applications for dwellings on lots that were 2-4 hectares in area. The land is located in a Farming Zone.

It was found that the land is unsuitable for residential development. An overwhelming weight of planning policy discourages residential development in the area. The dwellings are not reasonably required for the operation of agricultural activities conducted on the subject land and consequently are contrary to the purpose of the Farming Zone.

The cumulative impact of the development will adversely affect the ongoing use of the area for productive agriculture and detract from the visual quality of the landscape contrary to policy.

The construction of dwellings on land subject to inundation is contrary to policy and not a good planning outcome.



Agricultural Business / Operation Plan

Your Operation Plan describes how you will deliver value to your customer. It will include a clear outline of the following:

- Description of operations (how will the farm be operated)
- The facility or building needs that the farm requires
- Detail on how the farm will to utilise technology
- The reasons why these technologies have been selected

Whole Farm / Land Management Plan

Your Farm Plan should address the following:

- Identify the existing conditions on the land
- Identify proposed future conditions (changes)
- Identify the whole farm process (i.e. how will the agricultural activity be carried out)
- Identify what soil types are present
- Describe how water be sourced and used
- Assess if there is there biodiversity and native vegetation present on the property and describe how will it be managed
- Describe how the proposal addresses biosecurity risks
- Detail how other potential risks will be managed

Useful website resources

Murrindindi Planning Scheme	planning-schemes.delwp.vic.gov.au/schemes/murrindindi
Landata	landata.online
Agriculture Victoria How to prepare a Farm Plan	Visit agriculture.vic.gov.au and search 'How to prepare a Farm Plan'
Aboriginal Victoria Cultural Heritage Management Plans	Visit aboriginalvictoria.vic.gov.au and search 'Cultural Heritage Management Plans'
Zreikia v Greater Geelong CC [2015]	Visit austlii.edu.au and search 'Zreikia'
Gippsland Coastal Board v South Gippsland SC & Ors [2008]	Visit austlii.edu.au and search 'Gippsland Coastal Board v South Gippsland SC & Ors'

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