

POLICY NAME: Residential Use in the Agriculture Zone

Purpose

The purposes of the Policy are to:

- 1) Protect agricultural land and existing agricultural operations in the municipality by ensuring that Zone Purpose statements 21.1.1 and 21.1.3 of the Agriculture Zone of the Tasmanian Planning Scheme – Brighton (Planning Scheme) are upheld.
- 2) Establish clear guidelines to assist Council in determining whether discretionary Residential use is required to support genuine agricultural use.¹
- 3) Ensure that agricultural use is the dominant use of land in the Agriculture Zone when a Residential use is approved.
- 4) Provide consistency and transparency in the decision-making process, particularly to potential applicants.

Scope

The Policy applies to:

- Assessment of all new development applications for Residential use in the Agriculture Zone as mapped in the Planning Scheme.
- Compliance with all existing planning permits that approve Residential use in the Agriculture Zone on the condition that it is to support an ongoing agricultural use.

The Policy does not apply to subdivision.

POLICY:

General Principles

- 1.1 In the Agriculture Zone, a new discretionary Residential use must be required to support an agricultural business on the same site, unless it can be demonstrated that it can satisfy clause 21.3.1 P4 (b) of the Planning Scheme.
- 1.2 To demonstrate that an agricultural use is operating as an agricultural business, which may include complementary uses (e.g. farm stay, cellar door, etc.) and that a Residential use is required as part of that use, a Farm Management Plan is required.

¹ Residential use is capitalised as it is a listed Use Class under Table 6.2 of the Tasmanian Planning Scheme – Brighton. Agricultural use is not capitalised as it is a sub-use of the Resource Development use.

- 1.3 The size and design of a new dwelling must be commensurate with the functional requirements of the agricultural use it is required to support.
- 1.4 Enforcement of existing permit conditions approving Residential use to support an agricultural use is vital if the purposes of this Policy are to be achieved.
- 1.5 This Policy does not override any applicable standards of the Planning Scheme and is to be read in conjunction with these standards.

Assessment of discretionary Residential use in the Agriculture Zone

When applying for a discretionary Residential use in the Agriculture Zone, in addition to responding to all other relevant requirements of the Planning Scheme, a Farm Management Plan (prepared by a suitably qualified person) must be submitted to demonstrate that the Residential use will support a genuine agricultural business on the property.

A suitably qualified person means someone with demonstrated expertise and/or qualifications in the agricultural field.

It is important to note that submission of a Farm Management Plan by a suitably qualified person does not guarantee an application will be approved. Council staff will give due regard to the plan submitted and may obtain their own independent advice from a suitably qualified agricultural consultant prior to coming to a judgement based on all the evidence available.

Requirements of a Farm Management Plan

A Farm Management Plan must contain:

- Details of the proposed/existing agricultural use, including:
 - Resources to be farmed (e.g. livestock, crops, etc.)
 - Site plan showing existing and proposed servicing of the land, including all weather road access, potable, stock and domestic water supply, power, telecommunications, waste- and storm-water management, and proposed residential use
 - Land capability and any necessary improvements to improve land capability
 - Climate considerations
 - Irrigated water considerations
 - Infrastructure required (e.g. sheds, yards, irrigation facilities, greenhouses, etc.)
 - Plant and machinery
 - Labour requirements – demonstrate how the agricultural use requires at least one full time equivalent employee that resides in the dwelling.
 - Access to local services (e.g. pickers, agronomist)

 - Details of the dwelling:
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- Location and layout of proposed dwelling and any outbuildings, including access, proposed services and waste- and storm-water disposal areas.
 - Full elevations
 - Demonstrate why a dwelling on the particular site is required for the successful operation of the agricultural use as opposed to affording a more convenient lifestyle.
 - How the proposed dwelling site has been selected to minimise adverse impacts on the ability to:
 - farm the land;
 - manage the environment; and
 - farm adjoining land.
 - How the dwelling is a size which is commensurate with the functional requirement of the proposed agricultural enterprise, rather than the desires of the owner or occupier. Dwellings that are unusually large in relation to the agricultural needs of the unit, or unusually expensive to construct in relation to the income it can sustain in the long-term, should not be permitted.
- A Business Plan:
 - A description of the business.
 - Demonstrate how the business will be sustainable.
 - Details of the market/buyers to which the operator proposes to sell and realistic estimates of quantity and volume of sales.
 - Income expected from the activity.
 - Information about expected expenses and capital outlays - e.g., cost of travel, electricity, gas and water, cost of plant and equipment and stock; and
 - Demonstrate that the operator has the knowledge or skill to undertake the agricultural business.

Ongoing agricultural use

A permit condition of approval for any dwelling in the Agriculture Zone is that the owner and Council enter into an agreement pursuant to Part 5 of the *Land Use Planning and Approvals Act 1993*.

The agreement is to provide that the owner covenants and agrees with Council that the residential use of the property is dependent upon the establishment and ongoing operation of agricultural use(s) that aim to maximise the potential of the land with consideration of limitations and constraints such as land capability, access to water, and the residential use must cease if and when the agricultural use ceases.

This ensures that owners, or future owners, of the land are clear about their responsibility that the agricultural use is ongoing. The wording of the agreement is intended to recognise that agricultural operations are subject to change depending on a range of external factors (e.g. markets, technology, climate, etc.) and a degree of flexibility is required.

Right-to-farm

A permit condition of approval for any dwelling in the Agriculture Zone is that the owner and Council enter into an agreement pursuant to Part 5 of the *Land Use Planning and Approvals Act 1993*.

The agreement is to provide that the owner covenants and agrees with Council that the land is within an established rural area and may be subject to noise, odour, chemical and dust emissions associated with surrounding agricultural activities.

This assigns responsibility for mitigating impacts of lawful agricultural operations to the 'agent of change' – the person who introduces a new Residential use into an existing agricultural environment. The intent of this requirement is to protect agricultural operations from amenity complaints from new residents.

Permit checks

Council staff will undertake ongoing compliance checks on all existing planning permits for dwellings approved 'be required as part of an agricultural use' on land in the Agricultural Zone. Owners and/or occupiers not in compliance with their existing permit will be required to provide evidence of how this will be achieved within a reasonable timeframe. Depending on the specifics of the permit in question, this may require (but not limited to):

- Submission of a new or amended Farm Management Plan to the standards outlined in this Policy.
- A new application for planning approval under section 57 of the Act.

Bringing properties into compliance will involve a balance of providing a fair period for owners/operators to co-operate, and the potential use of statutory enforcement measures if compliance cannot be reached co-operatively.

ROLES & RESPONSIBILITIES:

Planning: Ensure that the requirements of this Policy are applied to all relevant planning applications and permits.

Environmental Health: Ensure that this Policy is considered when assessing a complaint received involving conflict between agricultural and residential uses.

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