

POLICY NAME: (NEW)
Farmland Rating Policy

POLICY REF:

MEETING ADOPTED:
Resolution No.

POLICY HISTORY:



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OBJECTIVES

- To provide clear guidelines for Council and property owners on how to qualify for the farmland rating category
- To ensure that all farmland assessments are determined using a consistent criteria.

POLICY

Procedures

A completed "Rating Category Application - Farmland" form must be lodged with Council by the property owner. The application will be assessed in accordance with the criteria stated in this policy.

Council may ask the applicant to supply further information where the details in the original application do not satisfactorily discharge the onus of proof that the land is farmland.

All information contained within a "Rating Category Application - Farmland", and additional information supplied in relation to, shall be treated as strictly confidential.

Criteria for Assessing Applications

Council will assess applications from ratepayers for their land to be categorised as farmland for rating purposes in a fair and consistent manner and in accordance with the provisions of the Local Government Act and the criteria outlined below.

Criteria for Assessing Applications

1. Land use - what type of farming is being carried out
2. Minimum Area – required for commercial viability
 - Grazing – 10 hectares
 - Pig Farming – 1.5 hectares
 - Viticulture – 5 hectares
 - Vegetable Growing – 2 hectares
 - Orcharding – 2 hectares
 - Crop Growing – 2 hectares
 - Forestry – 100 hectares
3. Minimum Gross Margin – assessment produces an annual Gross Margin (before depreciation, loan payment and tax) equal or greater than **\$20,000** ~~\$24,000~~.

Clarification of the above and additional requirements is detailed as follows.

Grazing

Applications under this category must have a minimum area of 10 hectares with a minimum number 20 head of stock. Anything smaller cannot be classified as a grazing operation of sufficient scale.

Using the Beef Stocking Rates and Farm Size, as issued by Department of Primary Industries (DPI) in June 2006 – "40 breeding cows is recommended as the minimum number of cattle needed to cover the direct costs and justify the effort of running a grazing operation".

On this basis, a policy minimum benchmark of 20 head of stock is a conservative benchmark.

The basic connotation of the word "grazing" is that animals feeding themselves by cropping the grasses, or pastures, natural or improved. The word does not include the notion of feeding by eating hay, or other produce taken from the soil by a person.

For this reason Horse Stud Farms will not be classified as grazing and not permissible as farming.

A further requirement for eligibility is that the landowner is registered with the Livestock Health & Pest Authority (LHPA).

A copy of the LHPA rate notice is to be provided with the application.

Agistment

A copy of the written agreement for agistment must be supplied showing the number of stock and the time periods of agistment.

Where land is given over to agistment for the purposes of grazing horses used by another person for recreation or sport does not constitute the business of grazing.

Animal Feedlots

A minimum of 100 square meters per head is required with loading and unloading ramps.

According to DPI 'A beef feedlot is a confined yard area with watering and feeding facilities where cattle are completely hand or mechanically fed for the purpose of production. This definition does not include the feeding or penning of cattle in this way for weaning, dipping or similar husbandry purposes or for drought or other emergency feeding, or at a slaughtering place or in recognised sale yards.'

Dairying

The applicant must have proof of registration with the Dairy Industry Marketing Authority supplied with the application.

According to Dairy Australia the average herd size is estimated at 200 - 250 head.

Pig Farming

Applicants will need a minimum of 1.5 hectares.

A minimum small-scale piggery, according to NSW DPI, is defined as holding around 20 sows or 200 pigs.

Poultry Farming

- a) Meat chicken farms - Day-old chicks delivered to the farms and raised on deep litter within large, naturally or mechanically ventilated sheds.

It is expected that the farming activities would have a minimum of two sheds and each shed around 100 to 150 metres long and 12 to 20 metres wide, housing approximately 20,000 to 50,000 birds per shed.

- b) Free Range Eggs - The range area must be capable of continued production of vegetation.

It is expected that stocking density would be as per the website for the Free Range Egg & Poultry Australia Ltd.

Viticulture

A minimum cultivation area of five hectares is required and all applicants must supply a copy of their registration with the Wine Producers Association or other appropriate body.

Horticulture

Horticulture industry comprises fruit, nuts, flowers, turf and nursery products. The Horticulture Code of Conduct requires that all Traders (Wholesalers) must have a signed Horticulture Produce Agreements with their Grower. A copy of the agreement is required with the application.

Vegetable Growing

Minimum area under cultivation must be two hectares and the majority of useable land either for preparation or planting must be used.

Orcharding

Parcels will need to have a minimum of two hectares of land under cultivation and the orchards are to cover the majority of useable land either in preparation or planting.

Beekeeping

Commercial beekeepers can be defined as those managing 200 hives or more. A hive is a colony of bees headed by a queen bee. These hives must be in continuous use. Only properties with the extraction plant are qualified for farmland rating.

All beekeepers must be registered with NSW Department of Primary Industries.

A copy must be supplied with the application.

Crop Growing

Cropping industries includes wheat and other grains, oilseeds, pulses, rice, sugar, cotton and seeds. Minimum area under cultivation must be two hectares and the majority of useable land either for preparation or planting must be used.

Forestry

The main goal of forestry is to create and implement systems that allow forests to continue a sustainable of environmental supplies and services. There is a minimum of 100 hectares and proof of propagation required to be approved as farmland.

Aquaculture

A DPI permit is required for fish hatcheries or grow-out facilities, including yabby farms, grow-out ponds, 'fish-out' facilities and oyster farms, (but not including aquariums for display or pet shops). A copy is required with any farmland application.

Application of Minimum Gross Margin Criteria

An assessment will be deemed to meet this criteria if it meets the minimum gross margin criteria in any one of the previous four years.

Alternatively, if the above criteria is not met, an applicant may make application for special consideration based on the property's expected future viability.

For example, if a property was recently replanted with tube stock, it would not be expected to generate profit for a number of years. An analysis of the number of trees, expected yield per tree, forecast sales and expenditure, together with supporting evidence, may allow a determination that the assessment meets the criteria.

The onus is on the applicant to provide sufficient appropriate evidence to allow for a determination to be made by Council staff.

It is noted that plans to plant stock alone are not sufficient. It would be necessary for the applicant to have either planted the stock or be able to show evidence of tube stock ordered.

All applications made under the special consideration provision will also be subject to a secondary review process by the Manager Financial Services.

Multiple Assessments Considered as One Holding

Where a parcel of rateable land valued as one assessment is used in conjunction with other parcels of rateable land valued as one assessment, the total of all the parcels may be considered as one holding for the purposes of this policy.

Incomplete Applications

If an applicant refuses to complete an application form or to provide sufficient information to enable a determination of the categorisation, the property shall be considered ineligible for farmland rating.

Right of Appeal

Applications for a change in rating category must be assessed and the owner notified in writing of the outcome within 40 days of the application being made (Section 525 LGA).

If the owner is dissatisfied with the decision, the owner may apply for a further review which again must be completed within 40 days.

If dissatisfied with the declaration made, the owner may appeal to the Land and Environment Court within 30 days of the declaration being made (Section 526 LGA).

BACKGROUND

Legislation

Under Section 514 of the Local Government Act, 1993, (LGA), Council is required to categorise all rateable land as one of the following categories:

- Farmland
- Residential
- Business
- Mining

The purpose behind categorisation of land is to allow councils to determine a fair and equitable distribution of ordinary rates.

For land to be categorised as farmland it must satisfy the criteria of Section 515 of the LGA, as follows:

(1) *Land is to be categorised as **farmland** if it is a parcel of rateable land valued as one assessment and its dominant use is for farming (that is, the business or industry of grazing, animal feedlots, dairying, pig-farming, poultry farming, viticulture, orcharding, bee-keeping, horticulture, vegetable growing, the growing of crops of any kind, forestry or aquaculture within the meaning of the Fisheries Management Act 1994 , or any combination of those businesses or industries) which:*

(a) has a significant and substantial commercial purpose or character, and

(b) is engaged in for the purpose of profit on a continuous or repetitive basis (whether or not a profit is actually made).

(2) *Land is not to be categorised as farmland if it is rural residential land.*

Rural residential land is defined in the LGA as land that:

(a) Is the site of a dwelling, and

(b) Is not less than 2 hectares and not more than 40 hectares in area, and

(c) Is either:

(i) not zoned or otherwise designated for use under an environmental planning instrument, or

(ii) zoned or otherwise designated for use under such an instrument for non-urban purposes, and

(d) does not have a significant and substantial commercial purpose or character.

Definitions

Dominant Use

In order to determine whether “dominant use” of the land in question is for farming Council will not merely look at the amount of land used for the particular activity carried on, but also at the intensity of that use. Merely because the greater part in area of a

parcel of rateable land is used for farming does not necessarily mean that the dominant use of the land is for farming.

Significant and substantial commercial purpose or character

In order to determine whether the farming has a significant and substantial commercial purpose or character, it is legitimate for council to enquire whether the particular activity or activities carried on are "too slight" or "too minor" to be reasonably regarded as having the requisite degree of commercial purpose or character. In the case of farming activities producing very small returns, it may be difficult, if not impossible, to designate those activities as a business having a significant and substantial commercial purpose or character.

Engaged in for the purpose of profit

The question of whether or not a profit is actually made is immaterial to the question of whether the farming is "engaged in for the purpose of profit on a continuous or repetitive basis", it is still required to enquire, more or less objectively, as to whether there is evidence to support a conclusion that the activities will be economically viable in the future. In other words, the farming carried on must be "on a sufficient scale to have some element of independent viability".

SCOPE OF POLICY

This policy applies to:

- Ratepayers of the Ballina Shire

RELATED DOCUMENTATION

Related documents, policies and legislation:

- Local Government Act 1993
- Rating Category Application Form - Farmland

REVIEW

The Farmland Rating Policy is to be reviewed every four years.

Rating Category Application - Farmland



Lodge Applications at Ballina Shire Council • 40 Cherry Street Ballina (Mon-Fri 8.15am to 4.30pm)
 mail PO Box 450 Ballina 2478 • e council@ballina.nsw.gov.au
 t 1300 864 444 • w ballina.nsw.gov.au

Important Information

How is land defined as Farmland? The following information is taken from the *NSW Local Government Act, 1993* (LGA). Councils comply with Chapter 15 of the Act, which deals with how councils are financed, and specifically under Sections 515 thru 529, how a council should administer applications for Farmland Rates.

Categorisation as farmland - Section 515 of the LGA

- (1) Land is to be categorised as farmland if it is a parcel of rateable land valued as one assessment and its **dominant** use is for **farming** (that is, the business or industry of grazing, animal feedlots, dairying, pig-farming, poultry farming, viticulture, orcharding, bee-keeping, horticulture, vegetable growing, the growing of crops of any kind, forestry or aquaculture within the meaning of the *Fisheries Management Act 1994*, or any combination of those businesses or industries) which:
 - (a) has a **significant** and substantial **commercial** purpose or character, and
 - (b) is engaged in for the **purpose of profit on a continuous or repetitive basis** (whether or not a profit is actually made).
- (2) Land is not to be categorised as farmland if it is rural residential land.
- (3) The regulations may prescribe circumstances in which land is or is not to be categorised as farmland.

Guidelines to Determining Factors for Categorisation of Land as Farmland

Dominant use is determined not only by looking at the amount of land used for the particular activity, but also the intensity of that use.

Business or industry the activity or activities carried on must be carried on as a commercial venture organised for profit.

Significant and substantial commercial purpose or character the activity or activities carried on must have a requisite degree of commercial purpose or character, that is, if the activities produce only small returns then they would be of a slight or minor character.

Purpose of profit on a continuous or repetitive basis the farming carried on must be on a sufficient scale as to have some element of independent viability.

Obligations and Explanations

When are the declarations of categories reviewed? *Section 523 LGA*

Council may review a declaration as part of a general review of the categorisation of all or a number of parcels of land, or because it has reason to believe that a parcel of land should be differently categorised. Council must also review a declaration if required to do so in accordance with Section 525.

Notification by the owner to Council of a change of category *Section 524 LGA*

A rateable person (or their agent) must notify the Council within 30 days after the person's rateable land changes from one category to another.

Obligation upon owners to apply *Section 525(2) LGA*

The onus is on the rateable person (or their agent) to submit an application for change of category in the approved form.

Providing of further information, if required *Section 525(4) LGA*

Council may notify the applicant of any further information it requires in order to be satisfied that the land is within that category. Council is not obliged to consider the declaration unless that information is provided.

Notification of the applicant by Council of the decision *Section 525(5)LGA*

The Council must notify the applicant of its decision. The Council must include the reasons for its decision if it declares that the land is not within the category nominated in the application.

Appeal against declaration of a category *Section 526(1) LGA*

A rateable person who is dissatisfied with the date on which a declaration is specified to take effect or a declaration of a Council under Section 525, may appeal to:

- a) Council to review its decision; **and/or**
- b) An appeal must be lodged within 30 days after the declaration is made to the Land and Environment Court.

Property Details *as found on your rates notice*

Rate Assessment Number Area of Assessment

Property Address

Applicant Details

Owners Name

Applicant Name *if different from above*

Applicant Address

Postal Address *if different from above*

Phone Number *office hours* Phone Number *mobile* Email Address

Occupation of Applicant

Property Use

In accordance with the definition of Farmland you are required to substantiate that the dominant use of the property is for farming which:

- (a) **has significant and substantial commercial purpose or character, and**
- (b) **is engaged in for the purpose of profit on a continuous or repetitive basis.**

Type of activities carried out on the land *see definition for farmland. If grazing, state the average number and type of livestock (breeders/ dairy etc). If orcharding, state the number, type and age of trees and yield produced. If cropping, state the crop type and area under planting and yields produced. Please provide details*

Copies of documentation are required for certain activities, please check page 6 for copies to be provided with the application

Property Use *continued*

How is your produce marketed? Is there an organised marketing process in place? *Please provide details*

Approximate area of land used for the above activity

How long has the farming activity been conducted on the land?

When did you commence the farming activity on this land?

Improvements on the land related to the activity *eg storage sheds, silos, farming machinery, fencing, stockyards or irrigation. Please provide details*

Area of land **not** used for the farming activity *eg. land used for a dwelling and surrounding grounds, steep slopes, swamp, rocky or unproductive land, by area. Please provide details*

Is the property also used for tourist activities/accommodation?

 Yes No

If Yes, *please provide details*

Property Use *continued*

Is the farming activity carried out as: Hobby/Interest Business/Income earner

On a percentage, to what extent do you rely on the income earned from this activity/activities?

Are business records or financial statements kept for this activity? Yes No

ABN Number *if applicable*

Primary Producer Number *if applicable*

Are tax returns assessed on the basis of being a primary producer? Yes No

Are returns completed to the Department of Primary Industry? Yes No

Are returns completed to the Local Land Services Board? Yes No

Are returns completed to a statutory marketing authority? Yes No

If you are grazing, what is the estimated carrying capacity (DSE) of the property as per Local Land Services rate notice? *a copy of the Notice must be included with the application*

Please list any other returns that are made

Has the business made a profit to 30 June last financial year? Yes No

If Yes, from what source did you make a profit? *eg. sale of crops, stock etc.*

If No, when do you anticipate that the business will make a profit?

Sales and Profit & Loss results for the business over the previous four years:

Year	Gross Sales	Net Profit/(Loss)
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>

Property Use *continued*

If there are any special circumstances relating to the profitability or non-profitability, *please provide details*

Is part of the land used for agistment purposes? Yes No

If Yes, state the area of land agisted Name, Address and Phone numbers of person Land is Agisted to

Are there dwellings situated on the property? Yes No

If Yes, is the dwelling your Residence or Leased Number of dwellings

Location

Number or property name on gate *if applicable*

Are there dogs on the property? Are they aggressive?

Land Use Plan - please show the location and extent of the activity and location of buildings

Location *continued*

Any other reasons to support why the category of Farmland is more appropriate

Any additional information which you feel is relevant to your application *eg membership of a primary industry association, or licences held in relation the activity. If more space is required, attach separate sheets as necessary.*

Supporting Documentation Required

Type of Industry	Copies of documentation to be provided with application
Grazing	Copy of Livestock Health & Pest Authority rates notice
Dairying	Copy of Licence with dairy farming from NSW Food Authority
Viticulture	Proof of registration with Wine Producers Association or other appropriate body
Horticulture	Copy of agreement between grower & trader or statutory declaration indicating this agreement exists
Nursery products	Copy of documentation stating registered nursery
Beekeeping	Copy of registration with Department of Industries
Forestry	Copy of private forestry approval from Department of Primary Industries
Fish/Oyster farming	Copy of aquaculture permit from Department of Primary Industries

Privacy Protection Notice

The completed Rating Category Application form contains personal information which is being collected for the purpose of determining eligibility for farmland rating and to enable Council to perform any other duty or task under any relevant legislation. The information will be processed by the Corporate and Community Division and may be made available to public enquiries under the Government Information (Public Access) Act. The information will be stored in Council's electronic document management system.

Property Inspection

I hereby consent to Council or any person(s) authorised by Council, to enter onto the above property for the purpose of carrying out an inspection in connection with this application

I require to be present for the inspection or I do not require to be present during the inspection

Signature of Applicant

Date