

# **Categorisation of Land as Farmland for Rating Policy 2023**

**POL146**



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| Policy No:           | POL146  |
| Policy Title:        | Categorisation of Land as Farmland for Rating |
| Section Responsible: | Finance                                       |
| Minute No:           | 23/046  |
| Doc ID:              | 524411  |

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### 1. INTENT

To ensure that rate assessments categorised as 'Farmland' comply with the provisions of section 515(1) of the Local Government Act 1993.

### 2. SCOPE

This policy applies to rate assessments within the Narrandera Shire proposed to be classified as 'Farmland' under Section 515 of the Local Government Act 1993.

### 3. OBJECTIVE

- To provide clear guidelines and procedures in relation to the assessment of rateable land parcels for categorisation as Farmland for rating purposes
- To ensure that all farmland assessments are determined using consistent measures.
- To ensure that the guidelines and procedures are implemented efficiently and effectively.
- To ensure assessment of farmland rating applications are determined using consistent criteria.

### 4. POLICY STATEMENT

It is recommended by the Office of Local Government that councils have an internal set of guidelines as to what factors will be used in determining categorisation as farmland for rating purposes. This policy has been produced in response to this recommendation.

In relation to the determination of rateable land parcels for categorisation as Farmland for rating purposes, Chapter 15, Part 3 and Part 3A of the *Local Government Act 1993*, as amended, must apply.

For land to be categorised as farmland in terms of Section 515(1) of the *Local Government Act 1993*, as amended, it must be:

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
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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.

## **5. PROVISIONS**

### **5.1 GUIDELINES**

#### **5.1.1 Dominant Use**

When determining dominant use, the following attributes will be considered but not limited to:

- Total rateable area being used for farming operations
- Income derived from farmland operation
- Intensity of farming activity

#### **5.1.2 Significant and Substantial Commercial Purpose or Character**

The activity must show a degree of commercial purpose or character and independent viability and not be a hobby or interest.

Commercial is described as the “interchange of goods or commodities especially on a large scale” and Business as “the purchase and sale of goods and services in an attempt to make a profit”.

#### **5.1.3 Purpose of Profit on a Continuous or Repetitive Basis**

The entity must have completed at least one cycle of farming operation, seasonal fluctuations should not affect the outcome. Whether a profit is made or not is not irrelevant to the question of being engaged in for the purpose of profit on a continuous or repetitive basis.

### **5.2 ASSESSING APPLICATIONS**

#### **5.2.1 Criteria**

When assessing applications, the following criteria will be considered when determining categorisation as farmland:

- Land use – type of farming being carried out
- Land capacity – carrying capacity and return per hectare

- Area
- Ongoing and repetitive basis – it would be expected the activity to have completed at least one cycle or be operating for at least one year.

### **5.2.2 Land Used in Conjunction with Other Properties**

Under the Local Government Act 1993, to be categorised as farmland the land must be a parcel of rateable land valued as one assessment. However, where a parcel of rateable land valued as one assessment is used in conjunction with other parcels of rateable land, Council may consider the total of all the parcels as one holding for the purpose of this policy, providing that all the parcels are owned or leased by the same entity.

### **5.2.3 Leased Land**

Full details of the lease must be supplied, including area leased and activities undertaken.

### **5.2.4 Farm Stays/B&Bs**

Information is required on tourist accommodation regarding the number of available rooms and the frequency of occupation.

### **5.2.5 Timing**

- A property owner/s may make an application for farmland rating at any time.
- The effective date for category change of successful applications will be the date that Council receives the application.

### **5.2.6 Assessment**

- Assessment shall be carried out by Council staff in accordance with Council's Procedures for Assessing Farmland for Rating Purposes Applications.
- A site visit by Council officers may be conducted as part of the assessment.
- The initial assessment will be carried out by the Revenue Officer who will make a recommendation and report for approval by the Deputy General Manager Corporate & Community.
- If additional substantiating information cannot be supplied and eligibility for farmland categorisation is indeterminate, benefit of the doubt will be granted and the property will be rated as farmland.

### **5.2.7 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.

### **5.2.8 Right of Appeal**

Council must notify the applicant of its decision within 40 days after application is made as per Section 525 (6) of the Local Government Act 1993. Should the decision be made to not rate the property as farmland, reasons must be included in the notification.

If the applicant is dissatisfied with the decision, the applicant has 30 days to appeal. The applicant may request a review of the decision by submitting their request in writing to the General Manager outlining the reasons they believe a property should be categorised farmland.

If the applicant remains dissatisfied with the outcome of the review an appeal against the declaration of category under Section 526 (1) of the Local Government Act 1993 must be lodged with the Land and Environment Court within 30 days after the declaration is made by Council.

If an applicant chooses to appeal to the Land and Environment Court against the categorisation, Council may obtain an independent review of the application. Council may appointment an independent advisor with agricultural experience to inspect the property and provide a written report.

### **5.2.9 Reviews**

- Where a property is sold, transferred, or subdivided the owners shall be required to complete an application for farmland rating for determination.
- Council may carry out reviews when deemed necessary.
- Properties included in a periodic review are to be assessed under the same criteria as new applications.

### **5.2.10 Confidentiality**

All information supplied with or contained within an application shall be treated as strictly confidential.

## **6. DEFINITIONS**

- **Rateable land** means land that is rateable to an ordinary rate or a special rate, or both.
- **Rural residential land** means land that
  - a. is the site of a dwelling, and
  - b. is not less than two (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.

## **7. ROLES AND RESPONSIBILITIES**

### **7.1.1 Property Owner/s**

1. Property owners wishing to change the rating category of their land to farmland shall submit an Application for Farmland Rating Category.

2. Property owners wishing to appeal the outcome of their application shall do so within required timeframes.

### 7.1.2 Council

1. Applications for Categorisation of Land as Farmland for Rating Purposes shall be assessed by the Revenue Officer in accordance with Council's Procedures for Assessing Farmland for Rating Purposes Applications.
2. Assessments shall be reviewed by the Senior Finance Officer.
3. Recommendations for approval or rejection of an application shall be reviewed by the Deputy General Manager Corporate & Community prior to the applicant being notified of the determination.
4. Appeals by ratepayers dissatisfied by an initial determination shall be assessed by the Finance Manager.
5. Recommendations regarding appeal outcomes shall be reviewed by the General Manager.

### 8. RELATED LEGISLATION

- Local Government Act (NSW) 1993; sections 493, 515, 519-527.

### 9. RELATED DOCUMENTS

- Procedures for Assessing Farmland for Rating Purposes Applications

### 10. VARIATION

Council reserves the right to review, vary or revoke this policy in accordance with legislation, regulation and award changes, where applicable. Council may also make charges to this policy and the relevant procedures from time-to-time to improve the effectiveness of its operation.

### 11. PREVIOUS VERSIONS

- Not applicable

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### POLICY HISTORY

|  |   |                    |                          |
|--|---|--------------------|--------------------------|
| <b>Responsible Officer</b>   | <b>Finance Manager</b>  |                    |                          |
| <b>Approved by</b>   | <b>General Manager</b>  |                    |                          |
| <b>Approval Date</b>   | <b>2 May 2023</b>   |                    |                          |
| <b>GM Signature</b><br><i>(Authorised staff to insert signature)</i> |  |                    |                          |
| <b>Next Review</b>   | <b>28 February 2025</b>   |                    |                          |
| <b>Version Number</b>  | <b>Endorsed by ELT</b>  | <b>Endorsed by</b> | <b>Date signed by GM</b> |

|                   |            | <b>Council</b> |           |
|-------------------|------------|----------------|-----------|
| <b>1 Adopted</b>  | 13/10/2020 | 20/10/2020     | 4/12/2020 |
| <b>2 Reviewed</b> | 14/02 2023 | 21/03/2023     | 2/05/2023 |

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