



DRAFT Farmland Rating Policy



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WINGECARRIBEE SHIRE COUNCIL



Leadership

Achieve ethical governance and improve decision making, through open, accountable and positive leadership

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**AGENDA OF THE ORDINARY MEETING OF COUNCIL
WEDNESDAY 20 MARCH 2024**



Draft Farmland Rating Policy, version 1.0

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1 Objectives

The objectives of the Policy are:

- To provide clear guidance and criteria for assessment of categorisation as farmland for rating purposes.
- To ensure that all applications are determined consistently.
- To promote the image of Council as efficient, consistent, and fair.

2 Policy Statement

Council is required by section 514 of the *Local Government Act 1993* (NSW) (the 'Act') to categorise each parcel of rateable land according to its **dominant use** as one of either Residential, Farmland, Business or Mining. Land will fall within the Business category if it cannot be categorised as Farmland, Residential or Mining. A "parcel of land" is defined by the Act as being a portion or parcel of land that is separately valued under the *Valuation of Land Act 1916* (NSW).

Categorisation of the land will be based solely on the **approved** use of the property. The zoning of the property is considered when any such use is approved, however, other than that the zoning will have no other implication as to how a property may be categorised for rating purposes.

The category of each parcel of land along with other information considered relevant will be included on each annual rate notice issued in respect of that land. A ratepayer may contact Council at any time to ascertain how their property is categorised for rating purposes.

It is important to note that:

- Farmland categorisation is not a means of providing a ratepayer with a concession on their rates or for providing them with concessions by other parties; and
- The recognition or identification by other external bodies of the property or its use is irrelevant when determining whether a property is eligible for the farmland categorisation.

Dominant Use

Where a property contains more than one use, the "dominant use" of the property will take into consideration not only the amount of land being used for the particular activity being carried on, but also the intensity of each use and any uses considered to be auxiliary uses.

In addition to farming being the dominant use of the land, the farming use must also display the following characteristics:

- It must have a significant and substantial commercial purpose or character; and
- It must be engaged in for the purpose of profit on a continuous or repetitive basis (whether or not a profit is actually made).

The above criteria will be expanded upon below.

The Farmland rating category

Section 515 of the Act states that:

- (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



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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.

Whilst each application will be assessed on its own merits, determining whether the business of farming is being carried on is generally the result of a process of weighing all the relevant indicators in the circumstances. The following indicators provide general guidance:

- Whether the activity has a significant and substantial commercial purpose or character;
- Whether the ratepayer has more than just an intention to engage in business;
- Whether the ratepayer has a purpose of profit as well as a prospect of profit from the activity;
- Whether there is repetition and regularity of the activity;
- Whether the activity is of the same kind and carried on in a similar manner to that of the ordinary trade in that line of business;
- Whether the activity is planned, organised, and carried on in a businesslike manner such that it is directed at making a profit;
- The size, scale, and permanency of the activity; and
- Whether the activity is better described as a hobby, a form of recreation or a sporting activity.

Commercial Purpose or Character

To be eligible for Farmland rating, Council must be satisfied that the Farming operation has a "significant and substantial commercial purpose or character". The following documentation may be requested by Council to assist in determining the application:

- a business plan drawn up by the applicant;
- where the applicant is not an expert, evidence that the applicant has sought expert advice from the relevant authorities, experienced farmers or agents that work in the area of primary production that the applicant intends to carry on;
- where the applicant is not an expert, evidence that the applicant obtained technical literature on the activity which the applicant intends to carry on;
- any reports obtained detailing soil and water analyses of the land that will be used for the activity;
- any reports establishing that the land is suitable for the activity which the ratepayer intends to carry on;
- any analysis obtained by the applicant to determine whether there is a market for the product and looked into potential markets for the product (the taxpayer is more likely to be regarded as carrying on a business if they sell in a commercial market instead of casual sales to relatives, friends, or the public);
- any reports obtained to determine properly the capital requirement of the venture and any plans established to show how that capital will be obtained and used;
- any research into the activity undertaken by the applicant which should confirm that profits can be expected based on the market prospects, the expected level of production and the running costs of the business (support for this research by reference to authenticated source material assists the ratepayer);
- ensured that the size and scale of the activity is sufficient for a commercial enterprise;

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- complied with any legal requirements, i.e., obtain any necessary licences, permits and registrations required to operate on a commercial level or show that these requirements can and will be complied with at the appropriate time, e.g., at the time that produce becomes available for sale; and
- an intention to make a profit. (This could be shown, for example, by a business plan. Further, the ratepayer should have a reasonable belief that the activity is likely to generate a profit.)

This documentation will assist the ratepayer to show that they are carrying on the business of farming.

Where the ratepayer refuses to provide any documentation requested to support their application for Farmland rating, Council reserves the right to refuse the application.

The purpose of profit on a continuous or repetitive basis

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.

Land used in conjunction with other land(s)

Where a parcel of rateable land is used in conjunction with other parcel(s) of rateable land, the parcels covered by the whole of the operation will be assessed as being eligible for categorisation for rating purposes as Farmland.

Type of Farming

When assessing an application, the following will be generally accepted requirements which need to be satisfied for a property to be categorised for rating purposes as Farmland:

Grazing

- Registration with the relevant authority (for example, Local Land Services);
- Minimum area of 10 hectares;
- Minimum number of 20 head of stock, acceptable carrying capacity;
- Relevant infrastructures such as dams, corrals, loading/unloading ramps, secure and appropriate fencing;
- Numbers of sheep, alpacas, llamas, goats required will be calculated using the dry sheep equivalent (which is detailed later in this Policy).

The basic connotation of the word "grazing" is that animals feed themselves by cropping the grasses or pastures. The word does not include the notion of feeding by eating hay, or other produce taken from the soil by man. For this reason, Horse Stud Farms will not be considered as grazing and therefore not eligible to the Farmland rating category.

Agistment

Means the grazing of livestock where the predominant source of feed for the livestock is grazing. Land will not be eligible to be categorised for rating purposes as Farmland where it is used for the purposes of grazing livestock that are used by another person for showing, sport or recreation.

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

Animal Feedlots

- Minimum of 100 square meters per head;
- Confined yard with watering and feeding facilities, either hand or mechanical, required loading and unloading ramps, secure and appropriate fencing;
- Capacity of 50 head or more.

The NSW Department of Primary Industries states:

"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 yard."

Dairying

- Proof of registration with the relevant authority (for example, the Dairy Industry Marketing Authority);
- Availability of milking facility;
- Acceptable carrying capacity - Dairy Australia recommend that the average herd size is estimated at 230 head. The acceptable carry capacity is calculated using dry sheep equivalents.
- Relevant infrastructures such as dams, corrals, loading and unloading ramps, secure and appropriate fencing.

Pig Farming

- Minimum area of 2 hectares;
- Minimum of 20 sows or 200 pigs, penned and cared for in accordance with relevant legislation;
- Piggeries with a capacity to accommodate 200 or more pigs or 20 or more breeding sows will need to obtain development consent.

Poultry Farming

- Minimum of two (2) sheds with minimum average quota of 20,000 chickens per annum, 12,000 turkeys per annum or 10,000 laying hens per annum;
- Where free range chickens, ducks or turkeys are produced, the stocking density in a shed must not exceed 28kg of live birds per square metre of floor space, unless there is mechanical ventilation where the density must not exceed 35kg of live birds per square metre. Free range ostriches, minimum average quota of 5 birds per annum;
- Where free range eggs are produced, the stocking density in a shed shall be no more than:
 - 10 birds per square metre up to 1,000 birds;
 - 9 birds per square metre up to 2,000 birds;
 - 8 birds per square metre up to 3,000 birds;
 - 7 birds per square metre up to 4,000 birds;
 - 6 birds per square metre over 4,000 birds.

Viticulture

- Minimum area under cultivation 5 hectares;
- Registration with the Wine Producers Association or other appropriate body;

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- Availability of appropriate irrigation.

Horticulture

Definition: this industry comprises fruit, nuts, flowers, turf, and nursery products.

- Minimum area under cultivation of 2 hectares;
- Water supply readily available or land irrigated;
- The Horticulture Code of Conduct requires that all Traders (Wholesalers) must have a signed Horticulture Produce Agreements with all their grower suppliers. A copy of agreement is required to be submitted with the application;
- Nurseries are required to be registered and must be growing their own stock.

Vegetable Growing

- Minimum area under cultivation of 2 hectares;
- Water supply readily available or land irrigated;
- Enterprise to cover the majority of useable land (either preparation or planting).

Orcharding

- Minimum area under cultivation of 2 hectare;
- Water supply readily available or land irrigated;
- Enterprise to cover the majority of useable land (either in preparation or planting).

Beekeeping

- Registration with the relevant authority (for example, NSW Department of Primary Industries);
- Minimum of 200 hives in production;
- Hives must be in continuous use;
- An extraction plant must be in use;

Crop Growing

Includes wheat and other grains, oilseeds, pulses, rice, sugar, cotton, and seeds.

- Minimum area under cultivation of 10 hectares;
- Water supply readily available or land irrigated.

Forestry

The creation and implementation of systems that allow forests to continue a sustainable supply.

- Must have a private forestry approval from relevant authority (for example, NSW Department of Primary Industries);
- Minimum area of 100 hectares;
- Evidence of propagation on site;

Aquaculture

- Department of Primary Industries requires the obtaining of a permit for all 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 of the permit is to be submitted with the application.

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Agritourism Uses and the Implication on the Rating Category

Agritourism land uses were recently introduced into the Wingecarribee Local Environment Plan (WLEP) 2010 after the land use definition was added to the Standard Instrument by the Department of Planning and Environment.

Agritourism means the following:

- a) farm gate premises;
- b) farm experience premises.

Farm gate premises means:

- a) a building or place:
 - i) on a commercial farm, and
 - ii) ancillary to the farm, and
 - iii) used to provide visitors to the farm, on a commercial basis, with agricultural products predominantly from the farm, supplemented by products from other farms in the region, or with services or activities related to the products, including the following:
 - (A) processing, packaging, and sale of the products, but not the processing of animals;
 - (B) the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided;
 - (C) tastings or workshops;
 - (D) the provision of information or education related to the products;
- b) includes cellar door premises.

Farm experience premises means a building or place:

- a) on a commercial farm, and
- b) ancillary to the farm, and
- c) used to provide visitors to the farm, on a commercial basis, with small-scale and low-impact tourist or recreational activities, including the following, but not including motor sports:
 - i) horse riding,
 - ii) farm tours,
 - iii) functions or conferences,
 - iv) farm field days.

As these land uses are **not** included in the definition of Farmland rating contained within the rating legislation, these uses are likely to affect the categorisation of a property when determining the **dominant use** of a property.

Multiple Farming Activities

Where multiple farming activities are being conducted on a property and the above criteria for a single farming type are not met, the application for Farmland rating will be approved if evidence can be provided to show that the mixed farming business has a significant and substantial purpose or character.

A Property Identification Code (PIC)

A PIC is a number allocated to a particular property on which certain stock are kept. From 1 September 2012 the land on which certain species are kept, and which will consequently require a PIC was expanded to include cattle, sheep, goats, pigs, deer, bison, buffalo, alpacas, llama, horses, 100 or more poultry or 10 or more emus or ostriches.

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NOTE: Copies of all Local Land Services Rate Notices must be supplied with all Farmland applications that have the animals listed above.

Drought Relief

For the purposes of the below provisions, the Wingecarribee Shire will be considered in drought when the Combined Drought Indicator (CDI) on the Department of Primary Industries website shows that the Wingecarribee Shire is in the Intense Drought phase.

This stage is where rainfall, soil water and plant growth are below the 5th percentile. Ground cover is very low, soil moisture stores are exhausted and where there has been minimal rainfall for a period of 6 to 12 months.

When this occurs, the below relief can be accessed by farmland ratepayers experiencing financial hardship resulting from drought:

- Ratepayers can defer payment of outstanding rates for the duration of the drought plus a period of up to twelve months following on. Provided that the account(s) have been brought up to date within 12 months, any interest that has accrued will be waived;
- No legal action for the recovery of outstanding rates and charges will be taken whilst the area is declared in drought;
- Where stock levels or crop areas fall below the farmland rating policy minimum criteria, the effects of the drought will be taken into consideration when assessing an Application for Categorisation as Farmland for Rating Purposes (including any periodical reviews);
- The above consideration would continue to apply for twelve months after the area is no longer declared in drought by Department of Primary Industries.

Dry Sheep Equivalents

Beef enterprises cannot be identified based on the gross margin per head or gross margin per breeding cow alone because each enterprise requires differing amounts of feed. For example, you can run more breeding cows on a farm if you turn off the progeny as yearlings than if all progeny is kept through until 2 years of age. In addition, it is known that large cows eat more than small cows and those pregnant or lactating animals eat more than non-reproducing animals.

In measuring the energy requirements of livestock, the standard animal against which all other animals are compared is a 50 kg wether sheep maintaining a constant weight. By definition, a 50 kg wether has a dry sheep equivalent (DSE) rating of 1. Animals requiring more feed have a higher rating and vice versa.

The DSE rating of all classes of stock is based on the feed requirements of the animals. The energy requirements of different cattle are identified in the table below, together with the ratio or rating of requirement compared with a 50 kg wether at maintenance. Note, in some references the standard DSE is based on a 45 kg wether and not a 50 kg wether. From those figures we can calculate the DSE rating for an activity by estimating the numbers of cattle in each class (pregnant and lactating cows, calves, replacement females and bulls) and estimating the DSE rating of the herd.

Remember that the DSE ratings are based on a number of assumptions about weights, growth rates and calving percentages. As there will be some variation in these figures from region to region and from farm to farm, the figures quoted are estimates but will still provide a reasonable guide of the differences between animal types.

In periods of drought and in the drier western country, direct comparison between livestock enterprises on a DSE basis may be inaccurate. Sheep and goats can forage better than cattle in dry times and when feed is short. In areas that regularly receive dry seasonal conditions, the safe

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number of cattle to run on an area may be less in terms of total DSE requirements than with sheep or goats.

Table: Comparative feed requirements of livestock		
Livestock description	Energy required (megajoules/day)	Ratio compared with 50 kg wether (DSE rating)
Sheep		
50 kg dry wether	9.0	1.0
Cattle		
Dry stock 450kg	54.0	6.0
450kg cow last 3rd of pregnancy	66.0	7.3
450 kg cow early lactation	119.0	13.2
450 kg cow last 3rd mid lactation	112.0	12.4
450 kg cow last 3rd late lactation	102.0	11.3
Calf of above, grazing pasture (3–6 months)	34.0	3.8
Calf of above, grazing pasture (6–9 months)	56.0	6.2
380 kg heifer, early lactation, gaining 0.5 kg/day	150.0	16.7
350 kg yearling gaining 0 kg/day	48.0	5.3
350 kg yearling gaining 0.5 kg/day	71.0	7.9
350 kg yearling gaining 1.0 kg/day	94.0	10.4
350 kg yearling gaining 1.5 kg/day	116.0	13.0
540 kg yearling gaining 0 kg/day	57.6	6.3
540 kg yearling gaining 0.5 kg/day	83.0	9.2
540 kg yearling gaining 1.0 kg/day	109.0	12.1
540 kg yearling gaining 1.5 kg/day	135.0	15.0
Bulls 800 kg	90.0	10.0

Review process

Section 525 of the Act allows an owner to:

- Apply for a review of the rating category for their land, or
- Have the land to be declared within a particular category.

An application for a review should be made using the prescribed form available via Council's website.

Applications will be determined using the criteria established by this Policy and any category change will be made applicable from the commencement of the quarter following receipt of the application.

Where Council does not notify the ratepayer of its decision within forty (40) days, the land is taken as remaining within its **existing** category.

When determining an application under section 525:

- A property inspection may be required to confirm information that has been supplied in an application. This inspection shall be made at a time suitable and in the company of the applicant; and
- Further information may be requested to allow the application to be properly considered.

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Where the above request(s) is refused by the applicant, a notice will be provided to the applicant that the application will not be considered unless the request(s) is agreed to. At the expiration of this notice period, the application will be rejected on the basis that the information supplied is insufficient to determine an opinion. A new application will be required to have the rating category of the land reviewed or declared in a particular category.

Where an application is refused:

- A notification will be sent to the applicant including any reason(s) for refusal; and
- The ratepayer will be allowed a thirty (30) day period in which to appeal Council's determination. Any objection should be made in writing and include the reasons why the determination be reviewed and include any other documentation that may support their request.

Council may choose to engage a third party to consider any appeals lodged by a ratepayer.

Section 526 of the Act allows the ratepayer a right to appeal Council's decision to the Land and Environment Court within thirty (30) days of Council's determination made under section 525.

Ongoing review process

The owner(s) of a property may be required to apply for Farmland rating where a property is:

- Sold or transferred (unless the farming activity is included or sold as a going concern);
- Subdivided.

Council will endeavour to undertake a review of properties categorised for rating purposes as Farmland on a four (4) yearly cycle using the criteria and other processes established by this Policy.

3 Scope

This Policy applies to all land within the Wingecarribee Shire Council area.

4 Responsibilities

Responsibilities for the implementation of this Policy are shared as follows.

4.1 Councillors

Councillors are responsible for upholding the provisions of this policy.

4.2 General Manager

The General Manager is responsible to ensure the policy is executed in accordance with the intended outcomes.

4.3 Chief Financial Officer

The Chief Financial Officer shall:

- provide guidance to Councillors, Executive and other Council staff as to the content and implementation of this Policy.
- ensure the controls are in place for the policy to be implemented in accordance with its intended outcomes.
- ensure the timely review of this Policy; and
- conduct investigations into alleged non-compliance with this Policy.

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4.4 Managers

Managers shall provide guidance to Council staff within their respective branches as to the content and implementation of this Policy, seeking guidance from the Revenue team as required.

4.5 Council staff

Council staff shall:

- Be aware of this Policy; and
- Be aware of the need to seek assistance from the Revenue team when dealing with related matters.

5 Performance Measures

The success of this Policy will be measured by the number of successful appeals that are lodged by ratepayers.

6 Definitions

All relevant terminology is defined within the Policy.

7 Related Material

7.1 Related Legislation

The following legislative materials are related to this Policy:

- *Local Government Act 1993*;
- *Local Government Act (General) Regulations 2005*.

7.2 Related Policies

- Statement of Revenue Policy in Council's Operational Plan.

8 Non-compliance with this Policy

Non-compliance with this Policy should be reported to Chief Financial Officer who will investigate and determine the appropriate course of action.

9 Document Control

9.1 Version Control

Version	Adoption Date	Notes
1.0	[insert date on which version was adopted]	Initial adoption of document

10 Attachments

There are no attachments to this Policy.

Approved by:

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