

MORNINGTON PENINSULA SHIRE COUNCIL - INTERIM POLICY - JUNE 2011

Rural dwellings including bed and breakfast accommodation

This policy applies to the use and development of land for a dwelling, including a caretaker's dwelling and bed and breakfast, in any of the following zones:

- Green Wedge Zone
- Special Use Zone

1.0 Policy basis

The Mornington Peninsula has a combination of versatile soil types, access to water and proximity to markets that provides good opportunities for agricultural production. Strong subdivision controls have also been established since the mid 1970s and have been reinforced by the Green Wedge policy under Melbourne 2030, so there are now very limited opportunities to create additional lots. However, there remain a significant number of vacant lots, only some of which may be suitable for a dwelling.

This policy is based on an understanding that it is essential for proposed dwellings to be carefully assessed and regulated so that they will not significantly prejudice, either by themselves or through incremental change, the implementation of State and local policies.

In addition, while a strong justification for the construction of a dwelling based on existing or prospective agricultural activity may not be appropriate in all cases, it is considered that the proposed use and development of dwellings in the Green Wedge Zone and Special Use Zone must demonstrate a significant positive contribution to the achievement of green wedge objectives. There should be no presumption that a dwelling will be approved on every existing title within the Green Wedge. Equally, there should be recognition that the residential use of rural land i.e. without associated farming or habitat conservation activity (i.e. one of the 'core' Green Wedge Uses) is not an objective of the Zone

Applications which propose the use and development of a dwelling on the remaining vacant lots must avoid:

- Adversely affecting the landscape character of the rural area.
- Direct or indirect changes that can adversely affect biodiversity and natural systems.
- Changes which unnecessarily exclude or significantly limit agricultural land use and farm management practices, both on site and on adjoining land.
- Creation of demand for services and infrastructure that is often difficult to provide in the rural area.

These impacts are exacerbated where the break up of an existing landholding comprised of several titles may result in the effective unplanned conversion of rural land to a low-density residential cluster. Council proposes to investigate mechanisms to retain these larger landholdings, to discourage their disposal as separate lots for the purpose of rural living, and to encourage their consolidation.

This policy builds on the State Planning Policy Framework and the Local Planning Policy Framework, in particular:

- Clause 11 Settlement
- Clause 11.03-2 Open space management
- Clause 11.04-6 Green wedges
- Clause 12 Environmental and landscape values
- Clause 12.04-1 Environmentally sensitive areas
- Clause 12.04-2 Landscapes
- Clause 14 Natural resource management

MORNINGTON PENINSULA SHIRE COUNCIL INTERIM POLICY - JUNE 2011.

- Clause 14.01 Agriculture
- Clause 15 Built environment and heritage
- Clause 16.02-1 Rural residential development
- Clause 18 Transport
- Clause 19 Infrastructure
- Clause 21.04 Mornington Peninsula strategic framework plan
- Clause 21.06 Strategic framework and the Peninsula's development pattern - Objective 1
- Clause 21.23 -3 Commercial activity centres
- Clause 21.08 Foreshores and coastal areas
- Clause 21.09 Planning for rural areas
- Clause 22.11 Mornington Peninsula Fire Protection Policy
- Clause 22.23 Non-agricultural uses in rural areas

2.0 Objectives

- To ensure that the use and development of land for a dwelling occurs only where this will support the use of land for productive agriculture and/or the protection, conservation and enhancement of the Peninsula's biodiversity, cultural heritage significance and landscape character; in all cases combined with sustainable land management.
- To avoid significant constraints on the existing or future use of land for agriculture, utility installations, mineral and stone extraction, public outdoor recreation or natural resource management by regulating the location, siting and design of dwellings.
- To locate new dwellings in such a way as to minimise their impact on agricultural use (existing and potential), and on landscape and biodiversity values, on the site, on adjoining land, and across the wider area.
- To ensure that applicants intending to reside in the green wedge are fully aware of, and recognise, the importance of productive agricultural activities in the green wedge, the fact that these activities potentially produce emissions or other off-site impacts and of their obligations in relation to proper land management.
- To minimise infrastructure demands associated with new dwellings.
- To ensure any building used for the provision of bed and breakfast accommodation presents as part of the dwelling rather than as a secondary dwelling.
- To avoid any dwelling having the appearance of being more than a single dwelling.
- To ensure the clustering of all buildings, including outbuildings and structures associated with a dwelling, as far as reasonably practicable to avoid loss of productive agricultural land, reduce the development footprint and limit landscape and biodiversity impact.

3.0 Policy

It is policy that:

General

- The occupation of rural land should be linked to and conditional upon the applicant's clear recognition of the potential for agricultural use of nearby land to affect amenity and the need to make an appropriate contribution to the objectives of productive agriculture, and the protection and enhancement of heritage, biodiversity and landscape values, or some combination of these goals consistent with the values, opportunities and constraints of each site, and with ensuring sustainable land management.

Location

- Land should not be used for a dwelling if any of the following apply:
 - The land has been disposed of by a public authority or utility service provider since the approval date of Mornington Peninsula Planning Scheme Amendment C160. This does not apply to lots of more than 40 hectares.
 - The lot is described in a Certificate of Title that has been issued to recognise adverse possession.
- Only one dwelling (other than a removable dependent persons dwelling) may be approved on any lot. If an old dwelling is to be replaced by a new one, then the old one must be removed and not converted for an alternative use.
- Replacement dwellings must meet all of the requirements of this policy.
- All built form, including but not limited to swimming pools, domestic outbuildings, tennis courts, ornamental gardens, stables, menages and other buildings and works ancillary to the dwelling, including domestic effluent disposal fields, to the extent that is reasonably possible, must be contained within a building envelope consisting of no more than 10% of the site area or 2000 square metres whichever is the lesser. However dedicated haysheds and pump sheds may be located outside of the building envelope

Information to accompany application

- An application for the use or development of land for a dwelling should be accompanied by a site analysis and impact assessment, including an assessment, where relevant of:
 - The impacts on agriculture, biodiversity, cultural heritage significance? and landscape character.
 - The impact of the proposed dwelling on both the existing and potential use of adjoining land.
- An application for the use or development of land for a dwelling should be accompanied by an integrated site layout and land management plan that has regard to the site analysis and impact assessment. The site layout and land management plan should respond to the natural features and values of the land in an integrated manner and include an explanation of the opportunities and constraints that have been taken into consideration, and how these have been reflected in the plan. The land management plan should include:
 - The definition of a building envelope on the site which meets the requirements set out in the previous section ('Location')
 - The provision of a landscaping plan for the site, having regard to the protection of scenic landscapes
 - If the dwelling is proposed primarily on the basis of supporting agricultural production, the land management plan should particularly demonstrate management of the land for sustainable and productive agricultural use, depending on the operational requirements of the proposed use;
 - If the dwelling is proposed to be complementary to the achievement of biodiversity conservation objectives, the land management plan should particularly demonstrate biodiversity protection and enhancement on the site;
 - If the dwelling is intended to support a recreational use of the land, the land management plan should particularly demonstrate that the proposed recreational activity is linked to one or more of: agriculture, habitat restoration, protection of biodiversity or conservation of significant cultural heritage sites/values on the land; and that substantial new opportunities for public access to recreational opportunities will be created.
 - An analysis of how the use and/or development recognises and responds to each individual overlay that applies to the land.

In all cases the application should provide for sustainable land management and have regard to the protection of environmental, cultural heritage and landscape values. The land management plan should include, as appropriate:

- The protection and enhancement of any significant native vegetation or fauna habitat on the land. This may include a requirement for a habitat restoration plan and re-vegetation requirements to the satisfaction of the responsible authority.
- The protection and enhancement of any heritage values including actions to ensure heritage conservation
- The exclusion of any fencing and freestanding walls that do not have a rural character.
- The exclusion of planting hedge lines, which, at maturity will form a solid visual wall, or the construction of any bund wall or similar earthworks or other artificial barriers that obstruct existing view lines,
- The opening and maintenance of any significant view line available from the public realm by the removal of existing vegetation, earthworks or other artificial barriers.
- The removal of any former dwelling or derelict buildings on the land that are not of heritage value.
- Measures to be taken to ensure sustainable land management, including eradication of pest plants such as blackberry, ragwort, thistle and gorse.

Living in the Mornington Peninsula Green Wedge

- Before the start of any use or development of land for a new dwelling, the owner of the land should be required to enter into an agreement under Section 173 of the Planning and Environment 1987 that provides for all of the following:
 - Attachment of a copy of the permit to the agreement.
 - Inclusion of a warning for potential owners and residents about:
 - the requirement to responsibly manage cats and dogs to prevent attacks on neighbours livestock and native animals;
 - the potential off-site impacts of existing uses (e.g. horticulture, broiler farms, grazing, restaurants, quarries) that might affect residents' enjoyment of the land; and,
 - the land being located in the Green Wedge Zone, where agricultural production is encouraged and future agricultural practices and processes may potentially have impacts associated with the movement of trucks or agricultural machinery (including during the night and early morning periods), the emission of light, odour or noise, spraying and/or the implementation of measures to control weeds, rabbits, foxes and stray dogs.
 - The importance of being a “good neighbour” and engaging in sustainable land management (including preventing off-site roaming of dogs and cats and timely control of pest plants and animals), with understanding and tolerance of lawful off-site impacts of nearby agricultural uses.
 - A copy of the agreement to be made available to any intending tenant of the land.
 - Registration of the agreement on the Certificate of Title.

Siting

- Any dwelling and all buildings associated with the dwelling, but excluding buildings required for agricultural purposes, must be contained within a defined building envelope shown on the land management plan, consisting of no more than 10 % of the site area or 2000 sqm, whichever is the lesser.
- A dwelling should be located so as to minimise the impact on agricultural use (existing and potential), and on biodiversity values, both on the site and on adjoining land, consistent with maintaining landscape and conservation values.
- A dwelling should be located to avoid the need for removal of existing vegetation for fire prevention purposes having regard to the requirements of the CFA Household Bushfire Self-Assessment Tool and the Wildfire Management Overlay, whichever is applicable.
- A dwelling should be located to protect existing native vegetation and maintain opportunity for revegetation to achieve future connectivity between significant stands of native vegetation in the area.
- A dwelling, and associated infrastructure and driveways, should be located and sited in accordance with a land management plan, providing maximum opportunities for productive agricultural use consistent with the retention of native vegetation. This does not apply if the land is within a Significant Landscape Overlay or forms part of a green break between nearby towns; in which case, a site providing minimal landscape impact, particularly avoiding ridgelines, is required.
- A dwelling should be sited to maximise, as far as reasonably practicable, the distance from any nearby existing use that has a risk of emitting offensive off-site noise, light or air emissions. The distance should be measured from the source of the emission.
- A dwelling should be sited having regard to the need to protect future opportunities for the extraction of stone or minerals.

A dwelling will only be supported if all of the above requirements are met.

Design

- All buildings and works that form part of a dwelling should be sited and designed to complement each other and protect the landscape character of the area.
- All habitable rooms of a dwelling, including those which are included in a habitable outbuilding or which are used for the provision of bed and breakfast accommodation, should be contained in a single building or if more than one building is proposed connected by covered walkways of less than 10 metres in length.
- A separate building, to be used for the purpose of a bed and breakfast, whether or not connected by a covered walkway, should be designed with a substantial functional reliance on other parts of the dwelling and appear to be secondary in nature, such as by having a floor area of 60 square metres or less or no more than 30% of the floor area contained in the main building of the dwelling, whichever is the lesser.
- A bed and breakfast should, without duplication, share all of the following infrastructure with other parts of the dwelling:
 - Crossover and driveway.
 - Waste water disposal system.
 - Water, electricity and gas meters.
- An application should be accompanied by a landscaping plan.

Performance measures

Nil

4.0 Decision guidelines

Before deciding on an application the responsible authority must consider as appropriate:

- The nature of any evidence to support the submissions of the applicant or how the proposal would help to implement the objectives of this policy or zone including whether the owner is already committed to such objectives through other measures such as an agreement under Section 173 of the Planning and Environment Act or, a Trust for Nature covenant, to secure public view lines or biodiversity enhancement; donation of land for public use; removal of an unused dwelling or derelict building;
- Whether the proposed location of the dwelling on the site facilitates:
 - the future use of the land for agricultural purposes and avoids creating barriers to the reasonable agricultural use of the land or adjoining land..
 - the re-alignment or re- subdivision of land with an adjoining property to facilitate agricultural use, and
 - the lease of land to a neighbour or other landholder for the purposes of agricultural use
 - the sale of unused land to a neighbour for the purposes of agricultural use, by means of a boundary realignment
- The extent to which any interpretation of this policy can be applied on a consistent basis without undermining the strategic directions of this Scheme.
- The need to require a bond to ensure proper implementation of the landscaping plan.

References

Nil