

# **SHIRE OF BODDINGTON**

## **LOCAL PLANNING POLICY No. 12 – MULTIPLE DWELLINGS ON RURAL LAND**

### **1. Policy Statement**

The intention of this Policy is to provide guidelines for the establishment of a second dwelling and multiple dwellings on Rural zoned land within the Shire of Boddington.

### **2. Background and Issues**

Rural production is a key part of the district's economy. The Council considers the support and protection of rural production is critical to the sustainable future of the community. Many farms run as family businesses and/or require permanent or seasonal workers in order to function competitively and effectively. These additional family members or other workers require accommodation. However, living in town and commuting daily are not always an appropriate option for some agricultural operations. Allowing for limited additional on site housing can be a beneficial contribution to viable farming.

There are other circumstances in rural areas (e.g. tourism) where there could be a need for more than one dwelling on a title.

An allowance for an additional dwelling on a Rural zoned lot is a concession that should be respected. In the past, it has sometimes been considered as an automatic right for a second dwelling, regardless of any justification or rural activities generating a need. In other local government authorities, it has been used as a basis to support an application to subdivide the lot. Another difficulty that can arise from indiscriminate development of additional houses on rural zoned lots, is the introduction of people seeking a "lifestyle" residence, but having no direct involvement in agricultural production. This can create land use conflicts and impact on agricultural production.

The Council understands that the need for more than one dwelling on a title can arise in situations where a family is operating a large farming activity when accommodation may need to be provided for farm employees or for other legitimate purposes. In such cases, the Council can determine that an additional dwelling is complementary to the farming activity or other approved use.

### **3. Definitions**

In this Policy, the following definitions apply:

"Ancillary Accommodation" – as defined in the Residential Design Codes of Western Australia is "Self contained living accommodation on the same site as a single house that may be attached or detached from the single house occupied by members of the same family as the occupiers of the main dwelling.

"Caretaker's Dwelling" – means a building used as a dwelling by a person having the care of the building, plant, equipment or grounds associated with an industry, business, office or recreation area carried in or existing on the same site.

"Dwelling" - as defined in the Residential Design Codes of Western Australia, is "A building or portion of a building being used, adapted, or designed or intended to be used for the purpose of human habitation on a permanent basis by a single person, a single family, or no more than six persons who do not comprise a single family."

“R Codes” - the Residential Design Codes of Western Australia, adopted by the Western Australian Planning Commission including any updates.

“Residential Building” – has the same meaning as is given to that term in the Residential Codes of Western Australia.

“Single House” – One (1) dwelling on a title.

“Second Dwelling” - Two (2) dwellings on a title which can include a combination of a Single House with either a Caretaker’s Dwelling, or Ancillary Accommodation or a Residential Building.

“Multiple Dwelling” - Three (3) dwellings on a title which can include a combination of a Single House with two additional dwellings comprising either a Caretaker’s Dwelling, Ancillary Accommodation or a Residential Building.

#### **4. Objectives**

The objectives of this Policy are to:

- support sustainable agricultural production as a key component of the district economy;
- protect productive agricultural land from conflicting land uses;
- set out the opportunities and restrictions associated with additional dwellings on rural lots;
- provide guidelines in relation to applications to construct a second/multiple dwelling on a lot in rural areas;
- retain the rural character of the district;
- provide further interpretation of LPS2 in the assessment of applications for dwellings within the Rural Zone;
- provide increased certainty for landowners, the community and others by providing greater consistency in decision making by the Council;
- facilitate the effective and timely processing of applications where in accordance with this Policy;
- ensure that the overall amenity of the district is retained and enhanced for the benefit of residents and in the interests of the district’s tourist potential; and
- ensure key landscape values are maintained.

#### **5. Application of the Policy**

This Policy applies to the Rural Zone.

#### **6. Links to Local Planning Scheme and Other Documents**

This Policy relates to various requirements set out in LPS2 and the Local Planning Strategy.

Clause 4.5 of LPS2 titled “Residential Development in the Rural Zone” states the following:

“4.5.1 Regardless of other provisions in the Scheme, including the Zoning Table, the Council will not support more than three dwellings on any title/lot regardless of the dwelling type (dwelling, ancillary accommodation, caretaker’s dwelling).

4.5.2 No more than one dwelling may be developed on a lot zoned Rural, except where the Council is satisfied that the accommodation is -

- (a) for ancillary accommodation; or
- (b) required for a caretaker's dwelling or workers accommodation which is necessary for the continuation of an agricultural, rural or other permitted use."

## **7. Policy Provisions**

### 7.1 General

No more than one dwelling may be developed on a lot zoned Rural, except where the Council is satisfied that the accommodation is:

- for ancillary accommodation; or
- required for a caretaker's dwelling or worker's accommodation which is necessary for the continuation of an established significant agricultural/rural activity. The agricultural/rural activity is of a scale or type to justify the full time employment of an additional full time worker to ensure a viable operation, and the lot (or farm) shall have an existing suitable dam and/or another legitimate alternative water supply to support the agricultural/rural activity; or
- required for a caretaker's dwelling or worker's accommodation which is necessary to support the operation of an approved and substantial tourism or commercial development; or
- for a valid reason to support a residential building in a rural setting.

The Council will only consider 3 dwellings on any title/lot in exceptional circumstances and where appropriately justified by the proponent.

The Council will not support more than 3 dwellings on any title/lot in the Rural Zone regardless of the dwelling type (dwelling, ancillary accommodation, caretaker's dwelling, residential building). Four (4) dwellings and above is not supported.

The Council will require applicants to demonstrate that the additional dwelling is required to accommodate persons who need to live on the lot to assist in the management of the farming unit or the tourist/commercial operation. The "onus of proof" rests with the applicant to justify their application and variations to this Policy.

### 7.2 Matters to Consider

The Council requires that applications for a second or multiple dwelling on a lot in a Rural Zone shall be treated on its merits.

The Council will have regard to matters including the following in assessing applications:

- Policy objectives and Policy provisions;
- lot size, shape and features;
- land use;
- setbacks and location of the proposed dwelling;
- generally seek to "cluster" the proposed dwelling/s adjacent to the existing dwelling to minimise off-site land use impacts;
- impact and amenity on adjoining/nearby properties and agricultural areas;
- visibility from nearby vantage points (especially public roads);
- the extent of existing screening including vegetation;
- construction materials and proposed colour/s;

- provisions and requirements set out in LPS2;
- development statements set out in the Local Planning Strategy;
- relevant State Planning Policies;
- written comments from affected landowners and other stakeholders; and
- any other circumstance and factor affecting the application in the opinion of Council.

The Council will have regard to other relevant Local Planning Policies including *Local Planning Policy 6 – Development in Flood Affected Areas* and *Local Planning Policy 8 – Fire Protection Measures for New Development and Subdivisions*.

The Council will favourably consider an application where:

- it is consistent with the Local Planning Strategy;
- it is satisfied that the additional dwelling is necessary or desirable for continuation of bona fide rural activity or for any other approved use; and
- the proposed dwelling location appropriately addresses fire management, environmental considerations, servicing, land use compatibility with adjoining/nearby properties and visual impact from regional and key tourist roads.

The Council will not support additional dwellings in the mining buffer, on flood impacted land, in extreme fire risk areas, where there is unacceptable visual impact or where the location will detrimentally impact adjoining farming operations.

### 7.3 Size of Property

The minimum lot size for consideration of a second dwelling is 40 hectares.

The minimum lot size for consideration of a multiple (3rd) dwelling is 100 hectares.

### 7.4 Dwelling Location/Setbacks

The Council shall ensure that the additional dwelling is so positioned on the lot to avoid land use conflicts or potential restrictions on productive agricultural activities on adjoining lots or farms. Subject to adjoining/nearby land uses, the Council will have regard to the Environmental Protection Authority (EPA) guidelines *Separation Distances between Industrial and Sensitive Land Uses* (or any updates). The Council will consider variations to the EPA guidelines subject to suitable justification from the applicant (or their consultant/s), site/environmental conditions or subject to the advice received through advertising the planning application.

The minimum boundary setbacks for development in the Rural Zone is 20 metres in LPS2. Unless the Council approves otherwise, and subject to adjoining uses, the Council will generally require a minimum 100 metre building setback from a property boundary for an additional dwelling.

Unless justified by the applicant and agreed to by the Council, the additional dwelling should be located within 100 metres of the existing dwelling. The Council will only be prepared to support a separation of greater than 100 metres where the need for such a separation can be demonstrated (i.e. the site characteristics may prevent establishment in close proximity or where the proposed dwelling location will not create detrimental off-site impacts in the opinion of the Council).

In considering an application for an additional dwelling, the Council will have regard for the maintenance and enhancement of the rural landscape and shall take into consideration:

- the location of the additional dwelling the lot;
- the type and colour of exterior building materials;
- the requirement for the dwelling to be appropriately located and/or screened from regional roads and tourist routes; and
- such other matters as considered appropriate by the Council in the circumstances of the case.

### 7.5 Servicing

The Council will require that legal and practical access to the lot is appropriate to the satisfaction of the Council.

The Council will require the proponent to seal the crossover, if accessed from a sealed public road.

The Council will need to be satisfied that on-site wastewater can be satisfactorily addressed.

A potable water supply is required to be provided to the dwelling prior to occupation.

Water Corporation advise the following in relation to reticulated water:

- construction of an additional dwelling, on a lot that has an existing reticulated water supply connection, should not be taken as approval to obtain an additional water connection to service a new dwelling;
- an additional water allocation should not be assumed to the site; and
- there may be a requirement to upgrade Water Corporation infrastructure and/or install new works to meet the additional water demand.

### 7.6 Development Requirements

In terms of an agricultural/rural operation, the additional dwelling shall only be occupied by a member of the farm owner's family or a farm worker employed on that lot or farm.

In terms of an approved tourism or commercial use, the dwelling is to be occupied by a person or persons involved in the management/running of the tourism/commercial development.

Applications for Planning Consent for a new dwelling on a Rural zoned lot, where an existing dwelling/s exists, may require:

- appropriate documentation to remove or render the existing dwelling unusable for habitation to the satisfaction of the Council at the time of the new dwelling being completed; and
- the applicant to provide an undertaking by way of Statutory Declaration.

### 7.7 Subdivision

The grant of consent by Council for an additional dwelling does not, in any way, indicate that Council considers or will consider the subject land to be suitable for future subdivision. The Council is not supportive of subdivisions on this basis and such an application is unlikely to receive approval from the Western Australian Planning Commission. In any case, the Council will generally not support the subdivision of a lot where any of the resultant lots will

generally have an area of less than 40 hectares or as set out in the endorsed Local Planning Strategy.

When persons are contemplating the construction of a second or multiple dwelling, the Council advises that every consideration should be given to the possibility of it being located on another lot or location owned by them or acquiring an additional lot/s. This will assist to avoid future problems of over capitalisation on a particular lot, finance and ownership complications for family members and difficulties associated with obtaining approval to subdivide Rural land.

## **8. Administration**

### 8.1 Matters to be Addressed Prior to Formally Lodging the Application

Applicants are encouraged to discuss proposals that seek to vary Policy requirements with the Shire administration early on in the planning process and prior to the formal lodgement of any application.

### 8.2 Application Requirements

An applicant seeking the consent of Council shall submit such plans and documentation as shall be necessary, in the opinion of Council, to demonstrate that the application accords with the provisions of this Policy.

Planning Applications are to include the following:

- the requirements set out in sections 6.2.1 and 6.2.2 of LPS2 which includes a site plan (including highlighting any existing dwelling/s);
- floor plans and elevations; and
- clearly explain the existing and proposed future productive agricultural uses or approved tourist/commercial uses on the lot and justify the requirement for an additional dwelling for a family member or another worker to assist in the running of the agricultural/rural operation or tourist/commercial uses.

### 8.3 Consultation With Affected Stakeholders

The Council may refer the application to the Department of Agriculture and Food (or its successors) or other agencies for advice.

Where an application for a dwelling is made that does not comply with the requirements as set out in this Policy, the application may be referred to adjoining/nearby landowners, State Government agencies or other stakeholders for comment.

In assessing the capability of the land for rural pursuits, the Council may seek advice from appropriate authorities and may have regard to land capability studies prepared by such authorities.

### 8.4 Assessing the Application

Applications will be assessed on a case by case basis subject to this Policy (including details in sections 4 and 7.2), LPS2, the Local Planning Strategy, State Planning Policies, information provided by the applicant and any submissions received.

Should an application for a dwelling not comply with requirements of this Policy, the application will be referred to Council for consideration.

Where objections are received and the objections are not able to be adequately dealt with through conditions of approval, the application will be referred to Council for determination.

The Council may refuse its consent or grant its consent with or without conditions.

The Council may refuse a Planning Application where the application is inconsistent with this Policy, LPS2, the Local Planning Strategy, State Planning Policies, or be based on information provided by the applicant, or be based on information set out in any submissions received.

The Council may require a planning condition (or modified as required) addressing the following:

A notification pursuant to Section 70A of the Transfer of Land Act must be registered against the Certificate of Title to the land the subject of the proposed development advising the owners and subsequent owners of the land that the dwelling is to be occupied by person or persons involved in the management/running of the agricultural property. Such notification is required to be placed on the title prior to the issue of a Building Licence.

Should Planning Approval be issued, it will also be necessary for the proponent to submit a Building Licence Application (which gains a necessary approval) prior to undertaking construction.

## **9. Approval Authorisation**

Authority to implement the Policy will be delegated to the Chief Executive Officer, other than as outlined in this Policy.

## **10. Final Adoption**

Final adoption of the Policy was originally resolved by Council on 11 January 2011 and amended by the Council on 19 June 2012.