



AGENDA APPENDIX
Council Meeting
Wednesday 24 August 2011

**AGENDA APPENDIX ITEM FOR SEPARATE DISTRIBUTION TO
COUNCILLORS AND EXECUTIVE LEADERSHIP TEAM DUE TO
DOCUMENT SIZE.**

**THE ITEM IS ACCESSIBLE VIA THE COUNCIL WEBSITE OR BY
CONTACTING GOVERNANCE ON 03 5662 9222.**

E.2 RURAL LAND USE STRATEGY

APPENDIX 1

South Gippsland Rural Land Use Strategy August 2011



South Gippsland
Shire Council



South Gippsland
Shire Council

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Summary

The South Gippsland Shire Council has been engaged in the process of creating a Rural Land Use Strategy (RLUS) since 2006. Council has undertaken a comprehensive research project conducted by RM Consulting Group (RMCG) with the assistance of Council officers.

The Rural Land Use Strategy 2011 has been informed by this research project along with reference to:

- South Gippsland Draft Rural Land Use Strategy 2008.
- Rural Strategy Reference Group.
- Rural Tourism Development Strategy 2009.
- C51 Amendment Review Committee.
- RMCG's final report: Rural Land Use Strategy Draft for Public Consultation April 2011.
- Extensive engagement with industry bodies, farmers, and communities over a five year period culminating in a public consultation process under Section 223 of the Local Government Act including a public forum in April 2011.
- Ministerial Amendments: C36, C48 and C51.

Rural Land Use Strategy Draft for Public Consultation April 2011

The Rural Land Use Strategy Draft for Public Consultation April 2011 built on the previous Draft Rural Land Use Strategy Final Report December 2010 and the South Gippsland Rural Tourism Development Strategy. It detailed a number of refinements to the complex Incorporated Document and the introduction of Rural Activity Zone.

The Rural Land Use Strategy Draft for Public Consultation April 2011 should now be read as a background document to the Rural Land Use Strategy August 2011 as it contains significant information that has informed this document. Council acknowledges the significant contributions of RMCG and Council officers in reaching the current position on agriculture and rural issues in the shire.

Rural Land Use Strategy August 2011

As a result of the extensive consultation process Council has incorporated much of the sentiment and concerns expressed by the community into the Rural Land Use Strategy whilst maintaining the integrity of the RMCG and officer research work detailed in the Rural Land Use Strategy Draft for Public Consultation April 2011.

The RLUS reflects the culmination of this comprehensive examination of rural issues. It includes:

- Rural Dwellings Policy at clause 22.08.
- Rural Subdivision Policy at clause 22.09.
- Rural Activity Policy at clause 22.10.
- Introduction of Rural Activity Zone areas.

Each section of the RLUS includes a summary for information purposes.

Ministerial Amendments to the South Gippsland Planning Scheme.

C36 – 12/7/2007

Introduction of the Farming Zone and Rural Conservation Zone into the South Gippsland Planning Scheme replacing the former Rural and Environmental Rural Zones.

C48 - 29/5/2009

The Draft Rural Land Use Strategy 2008 had been widely reported on and had undergone an extensive, shire wide, public consultation process when Planning Scheme Amendment C48 was implemented by the Minister for Planning. This effectively removed most of Council's decision making powers on land within the Farming Zone.

C51- 29/4/2011

After negotiations were held between Council and the State Government, Planning Minister Justin Madden introduced Planning Scheme Amendment C51 to the South Gippsland Planning Scheme.

C51 returned Council's ability to issue Planning Permits via a complex Incorporated Document (with a 'sunset clause' of 31/12/11) and the addition of two new clauses (22.08 & 22.09) to the Local Planning Policy Framework that set policy on Dwellings and Subdivision.



Section 223 Submission Summaries

Thirty-six responses were received as part of the Section 223 (Local Government Act) public consultation process undertaken in regard to the Rural Land Use Strategy Draft for Public Consultation April 2011. A smaller number of submitters chose to present their submissions to Council.

Submissions to the Rural Strategy Draft for Public Consultation April 2011 build on a much larger number of submissions received over a number of years of public consultation held on previous drafts and rural issues. Public meetings have been held across the shire in relation to rural planning issues since 2006 culminating in a meeting held in Korumburra during the Section 223 process.

Common themes drawn from the submissions were:

- Rural Activity Zone is a useful addition to the rural zones of the Shire and should be widely distributed across the shire.
- The Shire is large and contains a number of different soil types with varying topography that result in different land values and productivity which the Planning Scheme should acknowledge.
- Small lots should be allowed to contain a dwelling.
- Crown townships are no longer appropriate subdivisions.
- Agriculture is the mainstay of the Shire's economy.
- Farmers should be able to continue farming without interference from others users of the rural landscape, particularly dwellings.
- Farm gate sales are an important addition to farm income (VFF).
- 60ha should be the dwelling permit trigger (VFF).
- Calf rearing is a legitimate agricultural use and as legitimate justification for a dwelling.
- Revegetation of rural areas should be actively encouraged.
- Succession planning is difficult to achieve as it usually results in the fragmentation of farms.
- There should be no restrictions on subdivision or the right to build a dwelling.



Subdivision

Components of the existing subdivision policy at clause 22.09 in the South Gippsland Planning Scheme introduced by Planning Scheme Amendment C51 form part of the current strategy.

South Gippsland has a fragmented subdivision pattern with thousands of lots of many sizes available for either rural residential development or agricultural production and related uses. It is considered that further fragmentation would reduce agricultural productivity and amenity for rural residential lots. As a result subdivision size will remain at 80ha (requiring a 160ha lot to create two 80ha lots) in the Schedule to the Farming Zone.

The date of 16 December 1999 used in the policy represents the day the new format state-wide planning scheme came into force in South Gippsland Shire Council.

Resubdivision

Subdivision by moving boundaries between lots (resubdivision) for agricultural outcomes is addressed by the clause 22.09 policy and may be allowed with a Planning Permit. Resubdivision to create a rural residential lot of under 4.1ha will not be permitted.

Excisions

Subdivision to remove an existing dwelling from a lot (excision) for agricultural outcomes is addressed by the clause 22.09 policy and may be allowed with a Planning Permit. A regularly shaped and located lot up to 2ha may be created if allowed under the clause 22.09 provisions.

Rural Activity Zone subdivision

As the Rural Activity Zone is predominantly an agricultural zone the Rural Activity Zone Policy at clause 22.10 utilises the same subdivision provisions as those contained in the Farming Zone subdivision policy at clause 22.09.



Subdivision Summary

Subdivision type	Min lot size	Special conditions	
Excision	40ha+ (By increasing lots)	<ul style="list-style-type: none"> ▪ Dwelling must be genuinely surplus in long term ▪ Benefit to agriculture on land ▪ No previous excisions since 16 December 1999 	<ul style="list-style-type: none"> ▪ s.173 required 'no more dwellings' plus zone required s.173 'no further excisions'. ▪ Dwelling must have existed before 16 December 1999
	Any (By re-subdivision)	<ul style="list-style-type: none"> ▪ Maximum 2ha for dwelling lot ▪ No axe-handle / island lots 	<ul style="list-style-type: none"> ▪ If balance is below 40ha s173 'no more dwellings' required plus zone required s.173 'no further subdivision'
Re-subdivision	Any	<ul style="list-style-type: none"> ▪ Benefit to agriculture on land. ▪ Cannot create a lot under 4.1ha for a residential use. ▪ All lots created under 4.1ha s.173 'no dwellings' 	
Scheduled lot size	160ha+	<ul style="list-style-type: none"> ▪ Each lot must be greater than 80 hectares 	

22.09 RURAL SUBDIVISION POLICY

This policy applies to applications to subdivide and re-subdivide land in the Farming Zone.

Policy basis

The rural areas of South Gippsland have experienced a high level of land fragmentation, arising from both historical settlement patterns and less stringent planning policies under earlier planning schemes. Left unchecked, further fragmentation through land subdivision could have considerable implications for agricultural production, landscape, and the servicing of populations in outlying areas.

The agricultural sector dominates the economy of South Gippsland, with food production and processing accounting for significant employment. With high quality soils and generous rainfall relative to other parts of the State, this sector is likely to continue to dominate the local economy and further expand as farmers and processors seek secure land for the production of food and materials. It is necessary that farmers have access to sufficient areas of land to carry out food and fibre production in a cost-effective manner. The subdivision of land into smaller lots, including house lot excisions, can have ongoing implications for the supply of affordable agricultural lots by driving up land prices beyond the productive value of the land.

South Gippsland already has a considerable supply of lots at a range of sizes, such that further subdivision for genuine agricultural reasons will rarely be necessary. Many areas that have experienced high levels of fragmentation may require consolidation or restructure through boundary realignments in order to create economically competitive land units. Likewise, expanding farming businesses may find it necessary to remove surplus dwellings from the land through house lot excisions. There is a compelling need for clear and robust planning criteria around such practices in order to ensure the fair, sustainable and economic use and development of rural land.

Objectives

- To limit the further fragmentation of rural land by subdivision.
- To ensure that lots resulting from subdivision are of a sufficient size to be of benefit to agricultural production.
- To encourage the consolidation of rural lots.
- To limit the cumulative impact of house lot excisions, including serial small lot subdivisions.
- To ensure that house lot excisions are undertaken for legitimate reasons related to agriculture.
- To provide a consistent basis for considering planning permit applications for the subdivision of rural land.

Policy

Subdivision of land to accommodate an existing dwelling

The following policy identifies that the excision of a dwelling through subdivision can take place by either of two methods. Firstly, through the re-subdivision of existing lots such that the number of lots does not increase, or secondly through the creation of an additional lot on the land such that the number of lots is increased.

It is policy that:

- Any proposal for the subdivision of land to accommodate an existing dwelling must demonstrate that:
 - The existing dwelling is no longer reasonably required for the carrying out of agricultural activities in the long term; and
 - There are beneficial agricultural outcomes for the land by excising the dwelling; and
 - The excision of the dwelling is compatible with and will not reduce the potential for farming or other legitimate rural land uses on the land, adjoining land and the general area.
- Any proposal for the excision of an existing dwelling must be undertaken by the re-subdivision of existing land titles where that potential exists. Former road reserves, lots under 40ha created by consolidation or other subdivision process not requiring a planning permit, and historic lots in former inappropriate Crown settlements and townships, may not be used for this purpose.
- A permit that approves the excision of an existing dwelling by re-subdivision where the balance (remaining) lot is less than 40 ha will contain a condition requiring that the land owner enter into an Agreement under s.173 of the Act that prevents the development of any additional dwelling on the balance lot.
- Where the application seeks to excise a dwelling by increasing the number of lots:
 - There must be no opportunity available for re-subdivision of the balance lot(s); and
 - The subject dwelling proposed for excision must have existed on the land on or before 16 December 1999; and
 - The balance (remaining) lot must be greater than 40 hectares in area.
- An application proposing an area of greater than 2 hectares for the dwelling lot will be strongly discouraged.
- Excisions that result in 'axe-handle' or island style lots will be strongly discouraged.
- A house lot excision that is likely to lead to a concentration of lots that would change the general use and character of the rural area will be strongly discouraged.
- An adequate distance must be maintained around dwellings to limit impacts on agricultural activities.

Re-subdivision of existing lots without a dwelling

Applications to re-subdivide land for purposes other than house lot excisions will be assessed in accordance with the criteria below.

It is policy that:

- An application to re-subdivide existing lots must demonstrate that the proposal enhances existing or proposed agricultural activities.
- An application to create a lot under 4.1ha is not permitted unless for the purposes of a non residential use. A permit that approves a lot under 4.1ha shall contain a condition requiring that the land owner enter into an Agreement under s.173 of the Act that prevents the development of any additional dwelling on the lot.

Application Requirements

An application to subdivide land must include:

- A site analysis outlining notable features of the site and surrounding area including topography, orientation, slope, vegetation, existing buildings and works, roads (made and unmade), utility services, easements, soil type and other relevant features.
- A report that addresses this policy.
- A proposed plan of subdivision drawn to scale showing proposed boundaries, lot sizes and dimensions.

Policy reference

South Gippsland Rural Land Use Strategy, 2011

Dwellings

Much of the community comment regarding the RLUS and preceding documents has been in regard to the ability to develop dwellings in the Farming Zone. As there are over 5,000 vacant lots in the zone, allowing dwellings to be developed on each lot could be counterproductive to the maintenance of agricultural production in the shire.

40ha 'as of right' to a Dwelling

The scheduled lot size over which a Planning Permit is not required to use the land for a dwelling in the South Gippsland Planning Scheme is 40ha. This strategy supports the maintenance of this policy. Lots may be consolidated to create lots over 40ha that also have 'as of right' to a dwelling.

Incorporated Document

The existing scheme provisions include reference to the Shire of South Gippsland Incorporated Document, 2010 – Rural Area, which as of the writing of this report has a 'sunset clause' that will expire upon the finalisation and implementation of the RLUS, or on 31 December 2011, whichever is sooner. The Incorporated Document contains planning provisions regarding dwellings that have proven difficult for the community to understand, for Council to clearly explain and for VCAT to determine appeals. As a result the Dwelling's Policy contained in this strategy is specifically designed to provide clarity to the community as detailed in the Dwellings Summary table.

The implementation of the policies and direction of this strategy in the South Gippsland Planning Scheme will enable the Incorporated Document to be removed from the scheme.

Farming Zone Dwellings on lots under 4.1ha

The Dwelling Policy at clause 22.08 in this strategy acknowledges that the vast majority of community sentiment favours the ability to develop a dwelling on existing smaller lots that are not generally of a size to be independently used for farming. Whilst a large number of lots under 4.1 ha are held as part of tenement farms that include larger lots, it is clear that the community has a long held expectation that lots of this size should be able to accommodate dwellings.

Mapping and database work undertaken in 2011 has shown that the total number of vacant lots in the Farming Zone of this size is approximately 2000 and they have a combined area of approximately 2400ha. Whilst vacant lots of under 4.1 are distributed widely across the shire the combined area represents only 0.7% of the total area of the South Gippsland Shire.

Consequently the clause 22.10 Dwelling Policy that forms part of this strategy allows for the rural residential development of dwellings on all lots under 4.1 ha in the Farming Zone regardless of tenement holdings or subdivision dates subject to normal planning permit processes and overlay controls.

A Planning Permit is required for new dwellings on lots under 4.1ha that addresses:

- Any existing agricultural activities on surrounding land.
- The environmental characteristics of the surrounding area.
- The rural character and landscape values of the area, including visual impact.
- Natural systems, water quality or water quantity in the locality.

Rural Activity Zone Dwellings

The areas identified for the application of Rural Activity Zone in this strategy have been specifically identified by the Rural Tourism Development Strategy 2009 as being ideally located to increase the tourism offer of the shire. Dwellings in these areas will be allowed without a permit for use on lots over 40ha.

All dwellings on lots under 40ha will require a Planning Permit for use.

On lots under 4.1ha dwellings are encouraged if they are in association with a separate tourism use (i.e. not simply a bed and breakfast facility within a dwelling). This policy is designed to encourage tourism uses that are not currently permitted in the Farming Zone rather than to allow dwellings for rural residential use.

Dwelling applications for lots under 4.1ha will be required to address issues around the location of the dwelling on the lot and whether it will adversely affect the operation and expansion of adjoining and nearby agricultural uses.

On lots between 4.1ha and 40ha dwelling applications will be assessed against the following provisions of the RAZ:

- Whether the dwelling will result in the loss or fragmentation of productive agricultural land.
- Whether the dwelling will be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.
- Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.

It is policy that dwellings in association with Extensive Animal Husbandry (grazing), and calf rearing, on lots greater than 4.1ha will not be supported.

Dwellings constructed after 16 December 1999 will not be permitted to be excised.



Dwelling Summary

Dwelling type	Lot size	Special conditions
Rural-Residential*	0 - 4.1 ha	Permit required <ul style="list-style-type: none"> ▪ to assess impact on nearby agriculture and related uses
Agricultural	4.1 - 40ha	<ul style="list-style-type: none"> ▪ Must comply with detailed agricultural policy ▪ Extensive Animal Husbandry / calf rearing not supported
Agricultural	40 ha up	<ul style="list-style-type: none"> ▪ No Planning Permit required for use
Biodiversity	4.1 – 40ha	<ul style="list-style-type: none"> ▪ Predominantly(>50%) occupied by remnant Native Vegetation or 15yo regrowth ▪ Fire / vegetation issues must be satisfied

* Lot cannot be an historic lot in a former inappropriate Crown township or subdivision (see Clause 22.08 Policy).

22.08 RURAL DWELLINGS POLICY

This policy applies to applications for the use and development of dwellings in the Farming Zone.

Policy basis

South Gippsland Shire contains some of the most productive agricultural areas in Victoria and provides a substantial proportion of Victoria's milk as well as beef, prime lamb and vegetables. Agriculture and its associated processing and service industry underpin the Shire's economy. The future outlook for agriculture in the Shire is strong with the advantages of high rainfall, soil and land types suited to producing a wide range of agricultural commodities. With issues of climate change and water scarcity at hand, there is likely to be increasing demand for the Shire's high quality agricultural land from producers in less fertile areas. Existing farming activities in the Shire will need to have the capacity to grow and expand and will require access to affordable land unencumbered by unwanted infrastructure.

The settlement and subdivision history of the Shire has left a legacy of small lots scattered amongst larger farming lots. There are approximately 12,000 lots in the Farming Zone, including a large number of small lots in old Crown Townships and remnant vacant lots arising from early subdivisions. These lots are often isolated, or in strips along road sides and surrounded by agricultural uses. Multi-lot farms (tenements) are the most common structure of land tenure in the Shire, with commercially viable production areas being formed by the aggregation of smaller lots.

The Shire's significant environmental and landscape assets make the area attractive for rural residential lifestyles. The northern and western areas of the Shire are particularly popular for rural living, primarily due to the proximity to Melbourne and the area's attractive pastoral and forested landscapes. There is a significant level of *ad hoc* rural lifestyle development already in the rural areas of the Shire. The conversion of agricultural land into rural residential land use activities results in a net loss to agriculture due to permanent land use changes. In the absence of a planned approach to rural residential development, detrimental impacts on the landscape, environmental and agricultural values of the Shire may arise.

Objectives

- To discourage the proliferation of dwellings not associated with agriculture on lots over 4.1ha.
- To ensure that the development of dwellings on rural land does not prejudice existing agricultural activities on surrounding land.
- To ensure that agricultural land is maintained for the cost-effective production of food and raw materials.
- To retain the open farmed landscape as the defining visual characteristic of the Shire.
- To ensure the cost-effective servicing of towns and communities across the Shire by avoiding the impacts of a dispersed population base.
- To provide a consistent basis for considering planning permit applications for the use and development of dwellings in rural areas.

Policy

Development of dwellings on lots in association with or without agriculture

The use and development of dwellings where not genuinely required for the ongoing operation of a commercial agricultural activity can have adverse implications on agricultural output through the conversion of land to residential or hobby-farm use. Policy will therefore require substantial demonstration that any new dwelling on a lot of over 4.1ha is genuinely required for the enhancement and ongoing growth of agricultural production in South Gippsland.

It is policy that:

- A permit must not be granted to use land for a dwelling under Section 2 of the Table of uses to Clause 35.07-1 unless any of the following apply:
 - The dwelling is proposed for rural-residential purposes on a lot less than 4.1ha.
 - The dwelling is proposed in association with agriculture on a lot greater than 4.1ha in area.
 - The dwelling is proposed on a lot that is predominantly occupied by remnant Native Vegetation (remnant vegetation or regrowth over 15 years old and at least 50% cover).
- A permit must not be granted to create a lot less than the area specific in the schedule to the Farming Zone for an existing dwelling under Clause 35.07-3 unless the application satisfies the policy provisions of Clause 22.09.
- It must be clearly demonstrated that the dwelling on a lot over 4.1ha is genuinely required to carry out a long-term agricultural activity on the land.

- New dwellings on lots over 4.1ha will only be approved in order to support rural activities and production and are not to meet rural lifestyle objectives that may be in conflict with the rural use of the land.
- An application for a dwelling on a lot over 4.1ha must demonstrate net benefit to agricultural productivity on the land.
- Development of the land for the purposes of a dwelling should be compatible with and not adversely impact upon:
 - Any existing agricultural activities on surrounding land.
 - The environmental characteristics of the surrounding area.
 - The rural character and landscape values of the area, including visual impact.
 - Natural systems, water quality or water quantity in the locality.
- Dwellings in association with Extensive Animal Husbandry (grazing), and calf rearing, on lots between 4.1ha to 40ha will not be supported.
- Dwellings in association with agricultural activities on lots over 4.1ha other than Extensive Animal Husbandry (grazing), or calf rearing will be assessed taking into account the following:
 - Whether a dwelling is reasonably required on the land having regard to the size, intensity and ongoing nature of the proposed agricultural activity.
 - Whether the dwelling is secondary to the use of the land for agriculture (as opposed to the agricultural activity being secondary to the use of the land for a dwelling.)
 - Whether the land requirements of the proposed agricultural activities compromise the commercial agricultural activities of the existing farm through a reduction in the size of the existing farm, which may include a tenement or multi-lot holding.
 - Whether the agricultural activity can be reasonably managed from an off-site location.
 - Whether the objectives of planning will be assisted by the use of permit conditions or s.173 Agreements to require the construction of supporting agricultural infrastructure.

Development of second and subsequent dwellings

In assessing an application for a second or subsequent dwelling on a lot or in connection with a multi-lot farming property, in addition to the requirements above it is policy that:

- Second and subsequent dwellings on lots less 40ha will be strongly discouraged.
- Second and subsequent dwellings on multi-lot farming properties should be located on the same lot as the existing dwelling.
- Consideration be given to the need for consolidation of existing lots in order to ensure that the dwelling(s) remain connected to the agricultural use of the land.
- Consideration be given to the need for a s.173 Agreement to prevent the excision of the dwelling from the land through subdivision.

Development of dwellings in association with native vegetation and biodiversity outcomes

It is policy that:

- Dwellings in association with the management of biodiversity and native vegetation on lots less than 40ha will only be supported where all of the following circumstances apply:
 - The lot is predominantly occupied by remnant native vegetation or regrowth at least 15 years old, where there is no or highly limited potential for an agricultural activity to occur,
 - There is no or limited vegetation removal required to facilitate the construction of a dwelling; and
 - Wildfire protection outcomes on the site can be demonstrated to the satisfaction of the responsible authority in consultation with the Country Fire Authority
- Where a permit is granted, a condition of the permit will require that the landowner enter into a s.173 Agreement or similar binding mechanism for the developments and implementation of a land management plan which provides for the ongoing protection and management of the native vegetation and biodiversity on site.

Development of lots in old crown townships / settlements

It is policy that:

- A permit must not be granted to use land for a dwelling under Section 2 of the Table of uses to Clause 35.07-1 if the lot is within an historic crown township or settlement. This includes the following Farming Zoned areas:
 - Welshpool/ Hedley
 - Port Franklin
 - Hoddle
 - Whitelaw
 - Newcastle
 - Bennison
 - Jeetho
 - Jumbunna
 - Outtrim

Application Requirements

An application for a dwelling must include:

- A site analysis outlining notable features of the site and surrounding area including topography, vegetation, existing buildings and works, roads (made and unmade), utility services, easements, soil type and other relevant features.
- A Whole Farm Plan with any application to use and develop a lot for a dwelling in association with an agricultural activity.

- A report that addresses this policy.
- A detailed set of plans, drawn to scale, showing:
 - Site layout, including property access.
 - Floor plans and elevations.
 - External building materials and colours.
 - Location of wastewater system and effluent fields.

Policy reference

South Gippsland Rural Land Use Strategy, 2011

Rural Activity Zone

The application of the Rural Activity Zone (RAZ) is based on the South Gippsland Rural Tourism Development Strategy 2009. The strategy highlighted particular areas for investigation after considerable consultation with the tourism industry. The Rural Land Use Strategy Draft for Public Consultation April 2011 contained accurately defined areas which were mapped as Rural Activity Zone Schedule 1. Additional areas were loosely mapped as Rural Activity Zone Schedule 2, these areas do not form part of this strategy as they are now affected by the application of rural residential dwelling provisions in the Farming Zone.

RAZ to be applied as a result of this strategy have now been fully mapped and are detailed in Attachment 1.

The introduction of the RAZ will include policy at clause 22.10 in the scheme. This policy makes it clear that the RAZ areas are primarily agricultural areas that are available for a range of tourism uses. Accommodation in various forms is generally encouraged whilst a range of uses that are included in Table 2 of the zone are discouraged as they may detract from the rural based tourism that was highlighted as lacking in the shire as a result of the change from Rural Zone to Farming Zone in 2007.

As detailed in the Dwellings section of this report dwellings that are to be developed in association with a separate tourism use are encouraged on lots below 4.1ha. Dwellings are allowed without a permit for use on lots over 40ha. Dwellings on lots between 4.1 and 40ha will have to address the Rural Activity Zone Policy at 22.10 which includes relevant guidelines in the zone.

The Subdivision section of this report details the policy to be included at 22.10 which mirrors the policy for the Farming Zone at clause 22.09.



Rural Activity Zone Summary

Subdivision type	Min lot size	Conditions
Excision	40ha+ (By increasing lots)	<ul style="list-style-type: none"> ▪ Dwelling must be genuinely surplus in long term ▪ Benefit to agriculture on land ▪ No previous excisions since 16 December 1999 ▪ Maximum 2ha for dwelling lot ▪ No axe-handle / island lots
	Any (By re-subdivision)	<ul style="list-style-type: none"> ▪ s.173 required (no more dwellings) plus zone required s.173 'no further excisions'. ▪ Dwelling must have existed before 16 December 1999
Re-subdivision	Any	<ul style="list-style-type: none"> ▪ Benefit to agriculture on land ▪ Cannot create a lot under 4.1ha for a residential use. ▪ All lots created under 4.1ha s.173 'no dwellings'
Scheduled lot size	160ha+	<ul style="list-style-type: none"> ▪ Each lot must be greater than 80 hectares

Dwellings	Lot size	Conditions
	0 - 4.1 ha	Permit required: <ul style="list-style-type: none"> ▪ Encouraged if dwelling is in conjunction with separate tourism venture.
	4.1 – 40 ha	Permit required: <ul style="list-style-type: none"> ▪ Must be considered against decision guidelines of the zone and policy at clause 22.10. ▪ Extensive animal husbandry / calf rearing not supported
	Over 40ha	No Permit required for use of a Dwelling.

22.10 RURAL ACTIVITY ZONE POLICY

This policy applies to all land within a Rural Activity Zone (RAZ).

Policy Basis

The South Gippsland Rural Land Use Strategy (2011) noted that a range of tourism based uses could be considered or encouraged in the area identified for the application of the Rural Activity Zone.

In the RAZ, all new dwellings on lots under 40ha will require a permit. As the RAZ is primarily to provide for agriculture and compatible uses it does not seek to provide for rural residential outcomes on lots above 4.1 ha. Increased dwelling development will ultimately compromise the values of the areas identified for application of the RAZ as suitable for agriculture and rural-based tourism. The land within the RAZ is already substantially subdivided and to avoid further fragmentation of land, boundary realignments and re-subdivision will be assessed against the subdivision policy in this clause. In terms of uses, the types of tourism activities to be promoted are to be primarily accommodation and low key activities in conjunction with agriculture rather than activities which could readily be accommodated in nearby towns.

Policy Objectives

- To promote and encourage a diverse range of agricultural activities.
- To promote and encourage tourism use and development that is compatible with agricultural production and the environmental attributes of the area.
- To discourage uses that can be reasonably accommodated in an urban zone.
- To protect the rural character of the Shire by minimising the visual intrusion of new buildings on the natural landscape.
- To encourage the retention of productive agricultural land, and
- To ensure that non-agricultural uses, particularly dwellings, do not adversely affect the use of land for agriculture.

Policy

Land Use

It is policy that:

The following land uses are encouraged in the Rural Activity Zone if decision guidelines in the Rural Activity Zone and Policy are met:

- Agriculture.
- Leisure and recreation.
- Group accommodation associated with tourist or recreational activities (including backpacker accommodation, camping and caravan park, cabins, residential hotel / motel etc).
- Restaurant (but only in association with a tourist / recreational activity).
- Primary Produce sales.
- Winery.

The following uses are discouraged in the Rural Activity Zone:

- Cattle feedlot
- Convenience shop
- Intensive animal husbandry
- Landscape and gardening supplies
- Manufacturing sales other than products made from local rural produce
- Place of assembly where land is to be used for more than 10 days in a calendar year
- Hotel
- Store
- Tavern
- Timber production

RAZ Dwellings Policy

Dwellings on lots under 4.1 ha in size are encouraged if in conjunction with a separate tourism venture on the lot. The location of the dwelling on the lot will be considered against whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.

Dwellings on lots over 4.1 ha will be considered in the Rural Activity Zone based on the decision guidelines of the Zone;

- Whether the dwelling will result in the loss or fragmentation of productive agricultural land.
- Whether the dwelling will be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.
- Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.

It is policy that:

- Dwellings in association with Extensive Animal Husbandry (grazing), and calf rearing, on lots between 4.1ha to 40ha will not be supported.

It is policy that:

When considering a permit application for the construction of a dwelling, the landowner is required to enter into an agreement under section 173 of the Planning and Environment Act (1987) to prevent the subdivision of the lot containing the dwelling.

Subdivision of land to accommodate an existing dwelling

The following policy identifies that the excision of a dwelling through subdivision can take place by either of two methods. Firstly, through the re-subdivision of existing lots such that the number of lots does not increase, or secondly through the creation of an additional lot on the land such that the number of lots is increased.

It is policy that:

- Any proposal for the subdivision of land to accommodate an existing dwelling must demonstrate that:
 - The existing dwelling is no longer reasonably required for the carrying out of agricultural activities in the long term; and
 - There are beneficial agricultural outcomes for the land by excising the dwelling; and
 - The excision of the dwelling is compatible with and will not reduce the potential for farming or other legitimate rural land uses on the land, adjoining land and the general area.
- Any proposal for the excision of an existing dwelling must be undertaken by the re-subdivision of existing land titles where that potential exists. Former road reserves, lots under 40ha created by consolidation or other subdivision process not requiring a planning permit, and historic lots in former inappropriate Crown settlements and townships, may not be used for this purpose.
- A permit that approves the excision of an existing dwelling by re-subdivision where the balance (remaining) lot is less than 40 ha will contain a condition requiring that the land owner enter into an Agreement under s.173 of the Act that prevents the development of any additional dwelling on the balance lot.
- Where the application seeks to excise a dwelling by increasing the number of lots:
 - There must be no opportunity available for re-subdivision of the balance lot(s); and
 - The subject dwelling proposed for excision must have existed on the land on or before 16 December 1999; and
 - The balance (remaining) lot must be greater than 40 hectares in area.
- An application proposing an area of greater than 2 hectares for the dwelling lot will be strongly discouraged.
- Excisions that result in 'axe-handle' or island style lots will be strongly discouraged.
- A house lot excision that is likely to lead to a concentration of lots that would change the general use and character of the rural area will be strongly discouraged.
- An adequate distance must be maintained around dwellings to limit impacts on agricultural activities.

Re-subdivision of existing lots without a dwelling

Applications to re-subdivide land for purposes other than house lot excisions will be assessed in accordance with the criteria below.

It is policy that:

- An application to re-subdivide existing lots must demonstrate that the proposal enhances existing or proposed agricultural activities.
- An application to create a lot under 4.1ha is not permitted unless for the purposes of a non residential use. A permit that approves a lot under 4.1ha shall contain a condition requiring that the land owner enter into an Agreement under s.173 of the Act that prevents the development of any additional dwelling on the lot.

Application Requirements

An application to subdivide land must include:

- A site analysis outlining notable features of the site and surrounding area including topography, orientation, slope, vegetation, existing buildings and works, roads (made and unmade), utility services, easements, soil type and other relevant features.
- A report that addresses this policy.
- A proposed plan of subdivision drawn to scale showing proposed boundaries, lot sizes and dimensions.

Policy Decision Guidelines

All applications for use or development including subdivision and buildings and works will be assessed according to the policy objectives of this clause.

All applications for use or development should be:

- Of modest scale, that is relevant to the land size, surrounding uses and the ability to blend with the landscape;
- Subservient to the landscape so as not to detract from the quality of the landscape;
- Capable of net gain environmental outcomes, and
- A application will be required to demonstrate how the proposal will be self-sufficient in the provision of relevant infrastructure and associated development costs.

Policy reference

South Gippsland Rural Land Use Strategy, 2011

Attachment 1

Rural Activity Zone Area Maps







