



STATE POLICY ON THE PROTECTION OF AGRICULTURAL LAND 2000

GUIDELINE NO 1

Non-agricultural use of prime agricultural land

Preamble

This Guideline is issued under the *State Policy on the Protection of Agricultural Land 2000* by the Resource Planning and Development Commission (RPDC), with the approval of the Minister, to assist planning authorities in dealing with the implementation of the Policy.

A planning authority must comply with this Guideline.

The Policy contains seven principles intended to guide outcomes that give effect to the Policy.

This Guideline concerns Principle 4 of the Policy, which deals with the circumstances in which prime agricultural land may be considered for conversion to a non-agricultural use.

Principle 4

Principle 4 states:

Provision of public utilities or other infrastructure or a proposal of significant economic benefit to the region may cause prime agricultural land to be converted to non-agricultural use. Such conversion must:

- (i) comply with the planning scheme or amendment; and*
- (ii) have the Resource Planning and Development Commission confirm there is an overriding need for a use or development for community benefit and a suitable alternative site is not available.*

This Guideline is issued with the approval of the Minister for Environment and Planning under Paragraph 4 of the *State Policy on the Protection of Agricultural Land 2000* and is effective from 30 August 2005.

There are four main components to the Principle.

1. Compliance with the planning scheme or amendment.
2. The type of use or development that is being contemplated;
 - a. the provision of public utilities;
 - b. other infrastructure; or
 - c. a proposal of significant economic benefit to the region.
3. The overriding need for the use or development in terms of community benefit.
4. A suitable alternative site is not available.

Interpretation of the Principle

(i) Compliance with the planning scheme or amendment

Whether or not the proposed use or development complies with the planning scheme or amendment is a matter for the planning authority. Any application for a permit to convert prime agricultural land must be for use or development that is provided for in the planning scheme.

The category of use or development will determine the specifics that need to be addressed by any proponent. There is a distinction between a proposal that concerns the provision of a public utility or other infrastructure, and a proposal that claims to be of significant economic benefit to a region.

A matter concerning the provision of public utilities or infrastructure does not have to specifically demonstrate significant economic benefit.

However, the first consideration that must be made is whether or not the application satisfies the requirements of Principle 4(ii). **It is essential that this determination is made prior to lodgment with the planning authority of an application under Section 57 or 58 of the Land Use Planning and Approvals Act 1993 (the Act), so that the 42 day determination period provided for in Section 57(6)(b) or 58(2) of the Act does not commence until the Commission has made its determination.**

If an application is made to the planning authority under Section 57 or 58 of the Act and has not provided evidence of the Commission's confirmation that Principle 4(ii) has been satisfied, then a notice should be served on the applicant pursuant to S.54 of the Act requiring proper consideration of that Principle.

If the Commission does not confirm that the Principle is satisfied then any application to the planning authority must be refused on the basis that the proposed conversion of prime agricultural land to a non-agricultural use does not meet the requirements of Principle 4 of the *State Policy on the Protection of Agricultural Land 2000*.

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(ii) **Commission's Role**

The Policy requires the Commission to confirm, in relation to the provision of public utilities or other infrastructure or a proposal of significant economic benefit to the region, that there is an overriding need for that use or development for community benefit, and that a suitable alternative site is not available.

➤ **significant economic benefit to the region**

The Principle is clear that any proposal, other than public utilities or infrastructure, must have significant economic benefit to the region in which it is proposed to be established.

A detailed analysis clearly demonstrating the regional economic benefits should be a part of any proposal. 'Region' is not defined in the Policy, but the Commission takes it to mean more than the immediate surroundings. A region may be an area having some characteristic or characteristics that distinguish it from other areas. It may be a local township and its surrounding social and economic catchment; it may be the full extent of a municipality or extend across municipal boundaries. To a large degree it will depend on the nature of any proposal that defines the area of influence.

➤ **the overriding need for the use or development in terms of community benefit**

Community benefit may include, but goes beyond, economic benefit. It is a more intangible term that the Commission considers goes to broader issues of the general well being of a community in terms of its environmental assets, social capital and capacity building.

In other words a more holistic approach is required, which must take into account matters beyond the economic. In general terms, infrastructure improvements would be more likely to meet this test than would a private commercial proposal.

➤ **alternative siting**

This matter is defined by the nature of the proposed non-agricultural use or development. The Commission considers that there are matters concerning infrastructure that can demonstrate that there is no alternative site. For example, clearly the land immediately adjacent to a road or junction is the only site where upgrading can occur.

However the matter is not so clear-cut when considering any proposal that does not have an absolute dependence on, or benefit for, immediately adjacent existing infrastructure.

In these circumstances it would need to be demonstrated that there was no suitable alternative site. Land tenure is not necessarily justification for determining that there is no suitable alternative. In other words the justification for siting must look beyond the boundary of the land on which the use or development is proposed.

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Procedure

1. Request to the Commission for confirmation under Principle 4(ii)

- The applicant must provide the Commission with at least the following:
 - (a) A copy of the proposed development application
 - (b) A site specific land capability assessment for the entire parcel of land
 - (c) A report demonstrating the significant economic benefit to the region
 - (d) A report dealing with alternative siting
 - (e) A report dealing with the overriding need for the proposal in terms of community benefit
- The Commission makes a determination and advises the applicant and the planning authority

2. Compliance with the planning scheme or amendment

- Provided that the Commission's determination is to confirm that the requirements of Principle 4(ii) are satisfied, the applicant lodges the development application and Commission determination with the planning authority. If the Commission does not confirm that the requirements of Principle 4(ii) are satisfied, the planning authority cannot consider the development application.
- The planning authority considers the development application in the terms of its compliance with the planning scheme or amendment and the provisions of the Act apply in relation to the time within which that determination should be made.

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Executive Commissioner

Resource Planning & Development Commission

30 August 2005

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