



## RATING CATEGORY APPLICATION For Property to be declared as FARMLAND

### **IMPORTANT INFORMATION TO ASSIST YOU IN YOUR APPLICATION:**

**How is land defined as Farmland? The following information is taken from the NSW Local Government Act, 1993.**

#### **Categorisation as Farmland – Section 515 of the Local Government Act**

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 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.

**Please Note: Under Council's current Rating Structure properties categorised as 'Farmland' and 'Residential' are charged the same rate.**

## **GUIDELINES IN DETERMINING CATEGORISATION OF LAND AS FARMLAND**

### **Dominant Use:**

Is determined by looking at the amount of land used for the particular activity and also the intensity of that use.

### **Business or Industry:**

The activity or activities carried on must be carried on as a commercial venture organised for profit.

### **Significant and substantial commercial purpose or character:**

The activity or activities carried on must have a substantial degree of commercial purpose or character, that is, if the activities produce only small returns then they would be considered to be of a slight or minor character.

Purpose of profit on a continuous or repetitive basis:

The farming carried on must be on a sufficient scale as to have some element of independent viability.

## **FARMLAND RATING – OBLIGATIONS AND EXPLANATIONS**

### **Obligation upon owners to apply – Section 525(2)**

The onus is on the owner of the land (or their agent) to submit an application to Council to have their land categorised as Farmland.

### **Providing further information, if required – Section 525(4)**

Council may notify the applicant of any further information it requires in order to be satisfied that the land is within that category. Council is not obliged to consider the declaration unless that information is provided.

### **Notifying the applicant of Council's decision – Section 525(5)**

The Council must notify the applicant of its decision. The Council must include the reasons for its decision if it declares that the land is not within the category nominated in the application.

### **Appeal against declaration of a category – Section 526(1)**

A rateable person, who is dissatisfied with a category declaration under Section 525, may:

- a) Appeal to Council to review its decision (and/or)
- b) Lodge an appeal with the Land and Environment Court within 30 days of receiving notification from Councils of the category declaration decision.

### **Notification by the owner to Council of a change of category – Section 524**

A rateable person (or the person's agent) must notify the Council within 30 days after the person's rateable land changes from one category to another (e.g. the property is no longer used for farming).

## **GENERAL INFORMATION**

Applicants are asked to consider carefully the meaning of 'farmland' and 'farming' as referred to previously in these notes. The zoning or acceptance by other authorities cannot be considered, only the activity being undertaken on the land and the extent of the activity (as they relate to the definition of farmland and farming, within the Local Government Act) can be considered.

Applicants also need to consider the term '**forestry**' in relation to farmland categorisation. Generally speaking there is some evidence from court decisions that:

The business or industry of harvesting naturally occurring timber is the business of logging (not forestry) which is **not a prescribed farming activity** under the definition.