

# Planning reforms for animal industries

The Victorian Government's response to consultation on proposed planning reforms for animal industries

June 2018



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# Background

Victoria's animal industries are significant contributors to the state's economy. They employ around 52,000 people in regional Victoria - on-farm and in processing. The sector contributes over 60 per cent (more than \$8 billion) of Victoria's total value of agricultural production, and it's growing.

Victoria's animal industries are also prominent contributors nationally. Victoria is Australia's largest dairy producing and exporting state, contributing more than 60 per cent of Australia's milk and 80 per cent of Australia's dairy exports. The state also produces 43 per cent of Australia's sheep and lamb meat, and processed beef and sheep products account for about \$3.1 billion of Victoria's food processing. The total value of pig, goat, poultry and eggs to the state's economy is about \$1.3 billion.

Animal industries are changing in response to new technology and different and growing market demands. Some farms are becoming more intensive to maximise productivity. Others are seeking to differentiate themselves and market to specific local food or consumer trends. Farm businesses are also expected to plan, prepare for and adapt to increased seasonal variability, and global market competitiveness. These factors are all changing the way farms look and operate in Victoria's landscape.

Victoria's planning system plays a key role in supporting the projected growth of animal industries. While economic development must be supported, growth must occur in a sustainable way to protect the long-term interests of all Victorians. This means balancing the economic growth of animal industries with community amenity and environmental concerns.

In 2015, the Hon Richard Wynne MP, Minister for Planning and the Hon Jaala Pulford MP, Minister for Agriculture, established the Animal Industries Advisory Committee (AIAC) to consider how the planning system can better support Victorian animal industries, environmental outcomes and community expectations.

In response to the AIAC's final report, the Victorian Government released *Planning for sustainable animal industries*, which outlines Government's strategic direction for land use planning for animal industries. *Planning for sustainable animal industries* includes 12 actions that will clarify and improve land use planning through targeted reforms and practical support.

## Land use planning reforms

In September 2017, the Victorian Government sought feedback on proposed planning reforms for animal industries. These reforms are one part of Victoria's commitment to improve the way we plan for and regulate our rapidly changing animal industries. Specifically, the reforms deliver on four actions from *Planning for sustainable animal industries*:

- **Action 3** – a commitment to introduce clear land use definitions for animal industries into the *Victoria Planning Provisions*.
- **Action 4** – a commitment to take a graduated approach to planning controls based on risk.
- **Action 7** – a commitment to remove the *Piggeries Code of Practice (1992)* from the *Victoria Planning Provisions*.
- **Action 12** – a commitment to develop clear guidance to improve the quality of planning permit applications and develop model permit conditions to guide local government.

Several information sessions were held across the state to facilitate feedback during a consultation period. Public submissions were also taken over eight weeks.

The Victorian Government has reviewed the submissions and discussed key issues with targeted stakeholders. This document is the Victorian Government's response to the key issues identified through the consultation process.

For more information on the status of the remaining eight *Planning for sustainable animal industries* actions, visit: [agriculture.vic.gov.au/planning-animal-industries](http://agriculture.vic.gov.au/planning-animal-industries).

# Policy objectives for land use planning reform

The Victorian Government is committed to supporting the sustainable growth of animal industries. *Planning for sustainable animal industries* is Government's commitment to ensuring this growth can occur in a way that balances the long-term interests of all Victorians.

It is the Victorian Government's vision that:

- Victoria's animal industries continue to grow in a sustainable manner
- environmental and amenity impacts of animal industries are considered and well-managed through the planning system
- local government is supported to make well-informed decisions
- community has confidence in Victoria's animal industries.

Planning reforms for animal industries are integral to achieving this vision. The current planning reforms have been developed and refined according to the Government's policy objective to support economic development while balancing environmental outcomes and community expectations.

The planning reforms have been refined further according to the following principles:

- farmers need to have the flexibility and information support to make farm management decisions and manage risks
- farmers are responsible for managing their environmental and amenity risks
- the planning process provides opportunity to ensure risks are considered and assessed prior to the land use proceeding
- the planning process should be fit-for-purpose based on risk
- the planning process is complementary and aligned to other Victorian environmental regulations that also deliver safeguards to address risks to the environment and community amenity.

Feedback received through consultation has been considered against these policy objectives and principles.

# Consultation on proposed reforms

In September 2017, Government started consulting with the public and key stakeholders on proposed planning reforms for animal industries.

The proposed reforms included the following:

- new land use definitions and planning controls for animal industries
- a proposed amendment to the *Victorian Code for Broiler Farms (2009)* to include free-range broiler farms
- guidance to farmers and councils on preparing land use planning applications and permits.

The consultation period included:

- **A formal public exhibition period:** The proposed reforms, including draft amendments to the *Victoria Planning Provisions*, were exhibited and explained in a consultation document that was published online alongside supporting explanatory information. Submissions on the proposed reforms were accepted from 20 September to 14 November 2017. Government received 170 written submissions on the proposed land use reforms. Submissions were from farmers, community, local government, industry representatives, consultants, advocacy groups, regulatory authorities and other parts of government.
- **Public information sessions:** In October 2017, government held 22 public information sessions in 11 locations across Victoria. These information sessions provided an opportunity for farmers, communities and local government planners to understand the reforms and provide feedback. Sessions were held in Traralgon, Pakenham, Bellarine, Bendigo, Echuca (Moama), Benalla, Colac, Hamilton, Alexandra, Horsham and Daylesford. More than 140 people attended the community sessions and more than 60 people attended the sessions for planners.
- **Additional consultation:** From September 2017 to May 2018, the Victorian Government actively consulted with a range of stakeholders to identify options to address key concerns.

Ongoing discussions were also held with the *Planning for Sustainable Animal Industries* Interdepartmental Steering Committee, and the *Planning for sustainable animal industries* Implementation Reference Group, which comprises Ministerially-appointed representatives of community, industry and local government.

## Consultation findings

The consultation process has revealed there is broad support to amend the current land use planning definitions for animal industries. Overall, people have expressed confidence that the planning reforms will provide much needed clarity and improve the way animal industries are considered and managed through the planning system.

Consultation revealed several issues with the proposed reforms and areas where additional clarification could be provided. There were also issues where Government received strong, polarised views.

The key issues identified through consultation relate to:

1. New land use definitions
  - a) Animal Production
  - b) Grazing animal production and intensive animal production
  - c) Pig farms and poultry farms
  - d) Other miscellaneous issues.
2. Environmental risk management
3. Zone changes
4. Proposed amendments to the *Victorian Code for Broiler Farms (2009)*
5. Guidance to farmers and councils on how to prepare planning applications and permits.

The following sections of this report will describe the key issues and the Government's response.

# 1. New land use definitions and planning controls

Government proposed definitions and planning controls for the following new land use terms:

- Animal production
- Grazing animal production
- Intensive animal production
- Intensive dairy farm
- Pig farm
- Poultry farm
- Poultry hatchery.

Government also proposed amended definitions for

- Broiler farm
- Cattle feedlot.

There was general support to separately define animal industries. The following sections of this report outline the specific issues raised in relation to the proposed new land use definitions and planning controls.

## Animal production

### Proposed reforms

It was proposed that all existing and new land use terms for animal industries be nested under a new term, *animal production*. The term *animal production* was proposed as 'land used for the keeping and breeding of poultry and mammals (other than rodents) for the production of eggs, fibre, meat, milk and other animal products'.

*Animal production* would not apply to animals kept or bred for non-production purposes, such as horses and racing pigeons. The consultation document explained that these animals would likely fall within the existing land use definition for *animal husbandry – land used to keep, breed, board or train animals, including birds*.

### Consultation findings and response

Feedback revealed that *farm animals* is a broadly understood term and would be better than '*poultry and mammals, other than rodents*' as there is general understanding of what animals should be included.

There was also confusion about whether stud properties and other breeding operations were included. 'Livestock' has been added to the production purpose.

*Animal production* has been refined for simplicity.

(See also Appendix A re horses).

### Summary of response

1. The definition of *animal production* has been changed to:

Land used to keep or breed farm animals for the production of livestock, eggs, fibre, meat, milk or other animal products.

## Grazing animal production and intensive animal production

### Proposed reforms

It was proposed that the terms *grazing animal production* and *intensive animal production* replace the current generic definitions for extensive and intensive animal husbandry.

*Grazing animal production* sought to describe grazing-based farms and allow for the very common practice of supplementary feeding. The proposed reforms would allow farmers the flexibility to provide any level of supplementary feed to their animals, provided their intent was to operate a grazing-based farm.

Setbacks from waterways and neighbours were proposed to mitigate the immediate impacts that could arise from using supplementary feeding infrastructure. Farmers would continue to be responsible for ensuring they do not pollute the environment or reduce community amenity; however, it was proposed these considerations not be regulated through the planning system.

*Intensive animal production* aimed to describe farms where there is no meaningful grazing and essentially all of the animals' food is imported. Such systems require regulation through the planning system.

### Consultation findings

Government received strong, polarised views on these definitions.

Many people expressed relief with the proposed reforms, as they allow farmers flexibility to manage seasonal conditions and adopt new and innovative farming practices. Such flexibility enables farmers to remain competitive in an increasingly volatile marketplace.

Several issues with the proposed reforms were also raised. The key issues include:

- Concern that the supplementary feeding allowance under the *grazing animal production* definition will be abused and create potential for unacceptable environmental and amenity impacts.
- The 100-metre setback for supplementary feeding equipment may be inadequate for large, high-density farms. There is concern the setback is not linked to scientific evidence of impact and will create environmental risk.
- Linking the 100m setback to the eligibility for Section 1 land use was deemed confusing.
- Concern that setbacks for 'feeding infrastructure' would capture small/minor/temporary types of feeding infrastructure (e.g. hay rings, farm machinery) and restrict normal farm practices.
- The six-month limit for seasonal feeding may be difficult to measure, and some farmers may run an intensive system for six months of the year under claims they are 'seasonal feeding'.
- The word 'all' in the *intensive animal production* definition would be interpreted as 100 per cent and act as a loophole that allowed farms with insignificant grazing to avoid planning regulation.

## Government response

There are more than 23,000 beef, dairy and sheep farms in Victoria. Most are grazing-based and use a broad spectrum of supplementary feeding practices. Farmers are expected to prepare for and manage their own business risks – including increased seasonal variability and market turbulence. This means, as far as is practical, farmers must be able to make active decisions without unnecessarily needing regulatory approval.

The definitions for *grazing animal production* and *intensive animal production* have been refined to address some of the concerns listed in the findings above. For example, the planning controls for feeding infrastructure have been amended so they only apply to fixed or permanent feeding infrastructure. This provides flexibility for mobile infrastructure to be used in accordance with good management practice, without the requirement for planning controls.

However, given the potential for concentration of nutrients over time for permanent feeding infrastructure, some controls for fixed feeding equipment are deemed appropriate. The planning control should relate to the development of land rather than use of the land. A planning permit for a building or works will be required if fixed feeding structures are to be within 100 metres of waterways or neighbours, even if a planning permit is not required for the use of the land. This will apply to both seasonal and supplementary feeding.

The time limit for seasonal feeding has been removed in response to feedback that seasonal conditions are unpredictable and that a six-month time limit seems arbitrary.

The *grazing animal production* definition has been amended to include 'incidental penning, feeding and housing of animals for weaning or other husbandry purposes' (similar wording is in the definition for *Extensive Animal Husbandry* but was omitted during consultation).

The word 'all' has been removed from the *intensive animal production* definition along with other amendments to provide councils greater flexibility to assess a farm as intensive when it is not undertaking grazing in a meaningful manner.

*Intensive animal production* has been further amended by removing the secondary requirement, 'animals do not have access to daily grazing', as this was deemed to have potential for abuse through provision of nominal daily grazing. The definition now sets out the specific exclusions to which *intensive animal production* does not apply. The most notable is any enclosure or feeding system that is part of grazing animal production.

This amendment means that there is no gap between *intensive animal production* and *grazing animal production* systems.

To enhance clarity and provide additional guidance, Agriculture Victoria is developing guidelines to complement the planning regulations for *grazing animal production* and *intensive animal production*. These guidelines will clarify scenarios where farms should be classified as *intensive animal production*. The guidelines will also clarify land management expectations for a range of farming activities that may affect the environment or community amenity. They will describe various farming activities and mitigation strategies for potential environmental and amenity impacts.

Government recognises concerns that the *grazing animal production* definition may be abused by farmers who supplementary feed in a manner that causes unacceptable environmental and amenity risks. These concerns will be addressed through environmental, not planning, regulation.

## Summary of response

### 2. The definitions for grazing animal production and intensive animal production have been amended to improve clarity and avoid unintended consequences. Key changes are as follows:

#### *Grazing animal production:*

- i. now includes reference to incidental feeding for weaning and other husbandry purposes
- ii. the 100-metre setbacks for feeding infrastructure now apply to fixed or permanent feeding infrastructure used for seasonal or supplementary feeding. These setbacks are now a buildings and works requirement, rather than a land use requirement
- iii. Reference to the six-month time limit for seasonal feeding has been removed.

#### *Intensive animal production:*

- i. the word 'all' has been removed
- ii. improved clarity has been introduced by amending the reference to daily grazing and replacing it with exclusion-based text to differentiate intensive animal husbandry from other definitions.

### 3. Agriculture Victoria will provide guidelines to complement the regulation

These guidelines will:

- clarify scenarios where production systems should be classified as *intensive animal production*
- clarify land management expectations for a range of farming activities that may affect the environment or community amenity. The guidelines will describe various farming activities and mitigation strategies for potential environmental and amenity impacts.

### 4. There will be strong Government communication on farmers' responsibilities under environmental legislation

- Agriculture Victoria will work with the Department of Environment, Land, Water and Planning and the Environment Protection Authority to implement the Victorian Government's response to the Environment Protection Authority (EPA) review.

### 5. The amended land use definitions are as follows:

#### *Grazing animal production*

Land used for animal production where the animals' food is obtained by directly grazing, browsing or foraging plants growing on the land.

It includes:

- emergency, seasonal and supplementary feeding;
- the incidental penning, feeding and housing of animals for weaning or other husbandry purposes.

In this definition:

- *emergency feeding* means providing feed to animals when an emergency event such as a flood, bushfire or biosecurity event restricts or prevents the animals from grazing, browsing or foraging plants growing on the land;
- *seasonal feeding* means providing feed to animals when seasonal conditions, including drought, restrict or prevent the animals from grazing, browsing or foraging plants growing on the land;
- *supplementary feeding* means providing feed to animals to supplement the food the animals obtain by directly grazing, browsing or foraging plants growing on the land.

#### *Intensive animal production*

Land used for animal production where the animals' food is imported from outside the immediate building, enclosure, paddock or pen.

It does not include:

- an abattoir or sale yard;
- grazing animal production, pig farm or poultry farm.

## Pig farm and poultry farm

### Proposed planning reforms

New land use terms and definitions were proposed for *pig farm* and *poultry farm*.

It was proposed that very small-scale, low-risk pig farms and poultry farms be Section 1 uses (no permit required) in the Farming Zone, Green Wedge Zone and Rural Activity Zone, if certain conditions were met.

It was also proposed that applications for small-scale pig and poultry farms be exempt from the notice and third-party review requirements of the *Planning and Environment Act 1987*, if certain conditions were met.

### Consultation findings

Government received strong, polarised views on the planning controls for pig and poultry farms.

The regenerative/outdoor pig and poultry industries expressed disappointment that their production systems were not recognised for their potential to have minimal off-site impacts. Many small pig and poultry producers asked for reduced regulatory requirements so they could continue to be viable and grow as an industry, and to reflect their low risks to the environment and community amenity. This view was supported by several councils who recognised the regional tourism and 'local food' benefit from this emerging industry. Low density outdoor pig and poultry farms requested they be defined as *grazing animal production*.

Conversely, other pig and poultry producers expressed great concern over the proposed reduced regulatory requirements for pig and poultry farms. These concerns were based on the potential for significant biosecurity risks if the siting and responsible development of new pig and poultry farms was not managed through the planning permit process.

Councils also reported that issues most commonly arose from small pig or poultry farms (without planning permits) that expanded over time without sufficient consideration to neighbours or the environment.

### Government response

Government recognises the planning system is an effective mechanism to support responsible development in the pig and poultry industries. Overall, pig and poultry industries can pose a higher biosecurity risk than other industries, due in part to the intensive nature of both. Pig and poultry industry stakeholders need assurance and confidence that industry participants are aware of their biosecurity risks and implementing practices that ensure their farms (and other nearby farms) are not at risk of serious disease.

All pig and poultry farms also need to be aware of the potential environmental and amenity impacts that can arise if farms are not well-sited, designed and managed. Therefore, pig and poultry farms will continue to require a planning permit.

Government supports risk-based regulation and sees an opportunity to simplify the planning permit application process for low-risk pig and poultry farms. Well-managed low-density, outdoor pig and poultry producers have a different risk profile to other more intensive farms. A risk-based planning permit process based on site selection, design and land management practices is therefore supported.

A simple planning permit process has been developed for low-risk pig and poultry farms to minimise regulatory requirements relating to notice and review of applications. Low-density, outdoor pig and poultry farms will be the first to benefit from the new exemptions from notice and review. These farms have been targeted as a priority, as some existing farms in this sector do not have planning permits as they had not recognised their system as being 'intensive' under the former definitions.

Simplified planning permit processes for other low-risk production systems will be developed soon. The *Planning for sustainable animal industries* program includes a commitment to develop a general Code of Practice for animal industries. This project will provide an opportunity to develop further risk-based planning regulation.

The planning permit application process will be simplified for low density mobile outdoor pig and poultry farms. This will be achieved by:

- clear application requirements
- clear standards to support decisions by the responsible authority
- exempting applications from the notice and third-party appeal requirements of the *Planning and Environment Act 1987* where certain thresholds are achieved.

The simplified process will be monitored over an 18-month implementation period and will be supported by a training and support program for farmers. The program will be reviewed and ultimately incorporated into the Code reforms that are underway.

### Summary of response

6. **The definition for *pig farm* and *poultry farm* has been simplified as follows:**

***Pig farm:*** Land used to keep or breed pigs.

***Poultry farm:*** Land used to keep or breed poultry.

7. **All *pig farms* and *poultry farms* will require a planning permit, unless they are in a zone where they are prohibited.**

This provides industry and local government with greater confidence that pig and poultry farms are aware of environmental, amenity and biosecurity risks and are adopting siting, design and management practices to manage these risks.

The only exemption is for poultry farms with less than or equal to 100 poultry or 10 emus or ostriches.

8. **Low-density, outdoor pig and poultry farms that meet certain best practice criteria will have access to a simplified planning permit process.**

The simple planning permit process will support low-risk pig and poultry farms to complete the permit application process with minimal regulatory burden.

9. **Guidance material will be provided to planners to facilitate decision making.**

Agriculture Victoria will develop guidance material for local government planners to facilitate their decision making on eligible applications. Guidance material will include information about how certain land management practices can mitigate the environmental and amenity risks associated with low-density outdoor pig and poultry farms.

10. **The introduction of pig farm and poultry farm definitions will be monitored and supported with a training and support program for farmers.**

Agriculture Victoria is developing a support program targeting existing outdoor and small pig and poultry producers that require a permit.

## Other definitions and planning controls

- Appendix A outlines other issues and the government's response.
- Appendix B provides a list of the final land use definitions.
- Appendix C shows the nesting diagram for the definitions.
- Appendix D shows the zoning controls.
- Appendix E provides a summary of key amendment documents and other non-regulatory support documents.

## 2. Environmental risk management

### Proposed planning reforms

Government proposed that *grazing animal production* and *intensive animal production* replace the current generic definitions for extensive and intensive animal husbandry. *Grazing animal production* aimed to provide greater flexibility for farmers to manage their farms without the need for a planning permit.

Minimum setbacks from waterways and neighbours were proposed to mitigate the immediate impacts that may arise from using supplementary feeding infrastructure. Farmers would continue to be responsible for ensuring they do not pollute the environment or reduce community amenity; however, it was proposed these considerations not be regulated through the planning system.

### Consultation findings

Local government, community and other stakeholders raised a range of concerns about environmental management and the role of the EPA when issues arise, including:

- supplementary feeding allowance under *grazing animal production* will be abused and create potential for unacceptable environmental and amenity impacts
- some community members expressed a lack of confidence that the EPA would respond to environmental or amenity issues based on historical experience
- the increasing intensification of grazing-based industries poses increased risks for future industry development.

### Government response

#### The role of the EPA, and the EPA reforms

The EPA provides oversight of environmental and amenity issues in accordance with the *Environment Protection Act 1970*. It regulates high-risk industries through Works Approval, and has compliance and enforcement powers to ensure all industries comply with legislated environmental standards.

The Victorian Government is committed to modernising the EPA to meet Victoria's environment and human health challenges now and in the future. The government response to the EPA Inquiry details the suite of reforms for transforming the EPA to a world class environmental regulator. These are the first major reforms since the EPA was formed in 1971.

*The Environment Protection Act 2017* has been passed by Parliament and received Royal Assent on 24 October 2017. This Act introduces a new statutory objective for the EPA to protect human health and the environment by reducing the harmful effects of pollution and waste, and modernises EPA's governance.

This is the first of two phases of legislative reform to overhaul the 47-year-old *Environment Protection Act 1970* and replace it with modern and fit-for-purpose legislation. The second phase of legislative reform will overhaul the remaining 1970 legislation and introduce a general preventative duty designed to increase clarity and guidance for industry and other stakeholders on environment protection responsibilities. Government has committed to introducing this legislation into Parliament in 2018.

Local Government and the EPA play a vital role in responding to pollution and waste issues that compromise environmental and public health, and adversely impact liveability and amenity. The Victorian Government has committed \$4.8 million to implement a pilot program of Officers for the Protection of the Local Environment (OPLEs), embedded in councils state-wide to address small-scale pollution reports not currently resolved by either local councils or the EPA.

The councils selected for the pilot are: Port Phillip City Council; City of Casey; City of Greater Dandenong; Wyndham City Council; Surf Coast Shire Council; Rural City of Mildura; Greater Shepparton City Council; Rural City of Wodonga; Loddon Shire, Buloke Shire and Central Goldfields (shared OPLE); and Brimbank and Hobsons Bay (shared OPLE).

The EPA will monitor the OPLE program alongside implementing other additional reforms.

The EPA is also working with Agriculture Victoria to develop standards to assess, prevent and monitor environmental risks on-farm. This work will align with animal industries Code reform work underway through the Planning for Sustainable Animal Industries (PSAI) program.

## Summary of response

- 11. The Victorian Government is committed to modernising the EPA to meet Victoria's environment and human health challenges now and into the future.**
- 12. The *Environment Protection Act 2017* introduces a new statutory objective for the EPA to protect human health and the environment by reducing the harmful effects of pollution and waste, and modernises EPA's governance.**
- 13. The EPA in collaboration with Agriculture Victoria is developing standards for assessing, preventing and monitoring environmental risks on farm. This work will align with Code reform work that is underway through the PSAI program.**

# 3. Zone changes

## Proposed planning reforms

Government consulted on how planning controls for the new definitions would apply across the zones.

## Consultation findings

Councils proposed a range of amendments to planning controls across the zones.

In particular they raised concerns about:

- planning controls for the Urban Growth Zone (UGZ), Urban floodway zone, Rural Conservation Zone (RCZ) and Rural Living Zone (RLZ)
- the treatment of pig farm and poultry farm in the RCZ and RLZ
- allowing grazing animal production in the UGZ to ensure land was not a stranded asset.

## Summary of response

**14. Changes to the zones have been made and the summary of the revised requirements are set out in Appendix D, including:**

- **Urban Growth Zone:** Animal production, Pig farm, Poultry farm, Poultry hatchery and Broiler farm ( $\leq 10,000$  birds) can occur with a permit and Grazing animal production can occur as-of-right. However, Intensive animal production, Cattle Feedlot and Broiler Farm ( $> 10,000$  birds) are prohibited.
- **Rural Conservation Zone:** Animal production, Pig farm, Poultry farm, Poultry hatchery, Broiler farm ( $\leq 10,000$  birds) and Grazing animal production can occur with a permit. However, Intensive animal production, Cattle Feedlot and Broiler Farm ( $> 10,000$  birds) are prohibited.
- **Urban Floodway Zone:** Animal production is prohibited except for Grazing animal production which can occur with a planning permit.

*Pig Farm* and *Poultry Farm* are allowable as Section 2 uses in Urban Growth Zone, Rural Conservation Zone, Green Wedge A Zone and Rural Living Zone because there will be some small or low-density farms that will be suited to the land in these zones and will align with the purpose of the zone. Large poultry and pig farms are unlikely to align with the purposes of these zones and are not expected to be supported in the permit process. The Practice notes for pig and poultry farms will provide further guidance.

Poultry less than or equal to 100 birds, 10 emus or 10 ostriches are a section 1 use.

## 4. Proposed amendment to the *Victorian Code for Broiler Farms (2009)*

### Proposed planning reforms

Government proposed amending the *Victorian Code for Broiler Farms 2009* (the Broiler Code) so it applies to both conventional and free-range broiler farms.

### Consultation findings

There was general support to amend the *Victorian Code for Broiler Farms 2009* to include free-range broiler farms. However, councils and industry identified that application of the Broiler Code was not appropriate for small free-range chicken-meat farms.

### Government response

Amending the Broiler Code will provide a clearer, more consistent assessment framework for free-range broiler farm applications. It will also give farmers greater flexibility to switch between conventional and free-range systems in response to market demand.

### Summary of response

**15. The *Victorian Code for Broiler Farms (2009)* plus 2018 amendments will apply to broiler farms with more than 10,000 birds.**

- Broiler/chicken meat farms of less than or equal to 10,000 birds will require a planning permit but will not need to comply with the *Victorian Code for Broiler Farms (2009)*.

**16. The *Planning Practice Note 63: Applying for a planning permit to farm chickens* has been revised to provide guidance on the changes pertaining to poultry farms.**

## 5. Guidance for farmers and planners

### Proposed planning reforms

Government consulted on draft planning permit application guidelines and model planning permit conditions. These are for consideration by applicants, councils and referral authorities when drafting and assessing planning permit applications. While not all model conditions will be relevant to every application, they provide prompts for planners to promote a consistent approach during the permit drafting process.

### Consultation findings

Minor feedback was received and has been incorporated. Some feedback identified that the application guidelines would be too onerous for small low-risk farms.

### Government response

Concerns for small low-risk pig and poultry farms have been addressed in the planning permit guidelines for low-risk pig and poultry farms. These guidelines identify the pre-requisite considerations for a simplified application. This simplified approach will be applied to other low-risk applications soon.

### Summary of response

17. The Department of Environment, Land, Water and Planning (DELWP) will publish a Planning Practice Note for *Better Permit Applications and Model Permit conditions for Animal Industries*.

## 6. Removal of the *Piggeries Code of Practice (1992)*

*Planning for sustainable animal industries* also includes an action to remove the *1992 Piggeries Code of Practice* document from the *Victoria Planning Provisions (VPP)* (Clause 72.04). This action was not specifically consulted on during the public consultation phase. This is because there had already been clear support to remove the *1992 Piggeries Code of Practice* document from the *VPP*.

A 'Planning Practice Note' for pig farms will guide local government decision-making on an interim basis until the new general Code of Practice for animal industries and industry-specific technical guidelines are complete.

### Summary of reform

18. **The *1992 Piggeries Code of Practice* will be removed from the *Victoria Planning Provisions* as an incorporated document as part of these reforms.**
19. **A Planning Practice Note for *Applying for a planning permit for a pig farm* has been developed for use by applicants and council planners.**
  - This will be an interim measure until the general Code of Practice is released.

## 7. Next steps

The Victorian Government is committed to its ongoing delivery of the *Planning for sustainable animal industries* program.

The Government is also committed to providing industry, community and local government support to successfully implement the new planning reforms. To achieve this, the following support will be provided:

**Table 1: Support for producers, local government and community**

Support	Timeline
<b>For producers/applicants</b>	
Training for small and outdoor pig and poultry producers to help with development of planning applications	October 2018 – 2019
Grant program to assist with the cost of preparing a planning application for existing small or outdoor pig and poultry producers who don't already have a permit	October 2018 – 2019
Launch Navigating Dairy Development program	July 2018
Information notes and guidance materials for producers	Ongoing
<b>For local government</b>	
Roadshow/training for local government planners and other stakeholders	July – December 2018
PLANET training	August – December 2018
Establishment of the panel of technical experts	By December 2018
<b>For producers, local government, community</b>	
Presentations to industry and community groups as requested	July – December 2018
Development of a general Code of Practice for animal industries and industry-specific technical guidelines	2019
Remaining PSAI reforms	2019

# Appendices

## Appendix A: Response to other key issues raised in the submissions

Note: Pig farm, poultry farm and grazing animal production issues are excluded from the list below.

The following issues were raised for consideration:

### **Issue 1 – Horses**

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That horses and horse stables should be included in the reforms. Other non-farming animals (e.g. pigeons) can have amenity and environmental impacts that should be considered.

#### **SUPPORT**

Horses were not specifically considered as part of the reform process, but the proposed 'Animal Production' definition allows for horses under some conditions. It is expected that the keeping of horses for the purpose of 'production of livestock' would be considered under 'Animal Production' and in turn either 'Grazing animal production' or 'Intensive Animal production'. Horses kept for recreational purposes would fall outside of Animal Production. Significant consultation with the horse sector including recreational and racing industry would be required to more specifically include horses in the proposed planning reforms. Horses may be further considered in future reforms, if required.

### **Issue 2 – Animal production definition**

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That 'Animal production' should be limited to 'commercial production'.

#### **DO NOT SUPPORT**

Including the word 'commercial' in the definition of animal production will create further ambiguity about how 'commercial' is defined. Whether a land use is or is not 'commercial' does not change the impacts of the land use.

### **Issue 3 – Intensive dairy farm definition**

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That intensive dairy farm should not include calf rearing associated with the use of the land.

#### **SUPPORT**

Calf rearing that is incidental to the dairy production/ grazing animal production is not viewed as a separate use and should be considered as part of 'incidental penning, feeding and housing of animals'. Further consideration is needed for commercial calf-rearing operations that are not incidental to the farm's dairy production. This will be considered under the Code reform work.

### **Issue 4 – Cattle feedlot definition**

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'Cattle feedlot' is defined in the *1995 Victorian Code for Cattle Feedlots*, which is currently incorporated into the *VPP*. The proposed definition is not aligned to the incorporated Code. The proposed definition also creates confusion regarding other intensive cattle systems that don't fit the Cattle Code definition.

#### **SUPPORT**

The definition for *Cattle Feedlot* has been amended to align with the incorporated Cattle Code. Other intensive cattle systems (that are not strictly feedlots) will fall under *Intensive Animal Production*. Under the Code reform work, the definition for Cattle feedlots will be further considered against the national definitions.

### **Issue 5 – Goats and sheep**

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That goat farms should be defined with a separate definition.

#### **DO NOT SUPPORT**

At this stage, there is no Code or particular requirements that would set apart decision-making for goat farms from other intensive animal production operations (such as buffalo, camel). Agriculture Victoria will keep monitoring industry's development along with the Code reforms to ensure this industry is adequately covered.

### **Issue 6 – Setback from dwellings in separate ownership**

Several issues were raised regarding buffers to dwellings in separate ownership including:

- Requiring a setback from a dwelling in separate ownership disadvantages the producer if the adjacent property owner chooses to build closer (on their land) than the required setback to the producer's pasture/infrastructure/animal housing
- Requiring a setback from a dwelling can impact the future development (location of dwellings) of the neighbouring property
- The setback distance to neighbours is arbitrary and a one-size-fits-all approach may not protect neighbours from larger intensive supplementary feeding.

#### **NOT APPLICABLE**

The application of a 100m buffer for buildings and works associated with fixed permanent feeding infrastructure is consistent with other setbacks required under buildings and works.

### **Issue 7 – Setback from waterways**

That waterways should be limited to permanent waterways only.

#### **DO NOT SUPPORT**

Setbacks from defined waterways currently exist in the VPP. The proposed setbacks are consistent with other VPP clauses. The introduction of 'permanent' will raise questions of how 'permanent' is defined and will not align to the treatment of waterways in other parts of the VPP. Agriculture Victoria will develop and promote guidance on best practice management to mitigate risk to waterways

### **Issue 8 – Setback from special water supply catchment areas**

Can animal production occur in special water supply catchment areas (SWSCA)?

#### **FURTHER WORK IS REQUIRED**

Animal production can occur in special water supply catchment areas under the VPP. Cattle feedlots are the exception as the use is prohibited in some SWSCA listed in Section 4.1 of the *Victorian Code for Cattle Feedlots (1995)*. Planning permit applications for animal industries within SWSCA are referred to a Water Authority for assessment. The Water Authority is the 'determining authority' and can refuse a permit or set conditions (including setbacks) for a permit.

Agriculture Victoria is working with DELWP to provide consideration for the range of pig and poultry farms that sit under the new definitions.

### **Issue 9 – Definition for poultry**

That poultry could include chickens, turkeys, ducks, geese, guinea fowl, squabs, quail and the like. The reforms are taking a one-size-fits all approach despite the different size and impacts of the birds.

#### **SUPPORT**

All poultry farms require planning permits and currently there is no provision for additional definitions – apart from broilers. Consistent with current practice, while all poultry farms will require a planning permit, the assessment of the application should be fit-for-purpose in accordance with risk. The **Planning Practice Note 63: Applying for a planning permit to farm chickens** has been revised to provide guidance on planning changes pertaining to poultry farms.

### **Issue 10 – Support for Council planners**

That Agriculture Victoria needs to be a referral agency.

#### **DO NOT SUPPORT**

Agriculture Victoria's role to support local councils on assessment of planning permit applications requires further discussion and is being examined through Action 6. A survey of local government planners will determine local council and planners' needs for technical support to assess planning permit applications, and inform Agriculture Victoria about the most effective ways support can be provided. The survey will inform further design of the 'technical panel of specialists'. Agriculture Victoria has committed to providing technical support and other materials to support the successful launch and implementation of the planning reforms.

### **Issue 11 – Notice and third-party review exemptions for planning permits**

That property owners should be invited to comment on proposed uses/developments on neighbouring properties that are about to establish farming enterprises.

#### **FURTHER WORK IS REQUIRED**

Agriculture Victoria is developing planning permit application processes for low-risk farms in response to the consultation findings. If certain conditions are met, low-risk farms should be allowed to establish in appropriate rural zones without being subject to the extra cost and time associated with third party notice and review.

### **Issue 12 – Code of Practice**

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That there is a need to have the Codes in place prior to implementing the new reforms.

#### **DO NOT SUPPORT**

The general Code of Practice and industry-specific technical guidelines require significant work and co-development with local Government and industry before they are accepted by stakeholders. This work is scheduled for completion in 2019.

### **Issue 13 – Dwellings in the farming zone**

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That reforms should not preference dwellings over farming uses in the Farming Zone.

#### **NOT APPLICABLE**

Agriculture is a primary purpose of the farming zone. The reforms do not preference dwellings over farming uses. The reforms seek to ensure agricultural development also protects environmental and amenity outcomes.

### **Issue 14 – Education and training**

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Can we have training for farmers to ensure they actively manage environmental and amenity risks?

#### **SUPPORT**

The planning reforms will be accompanied by technical guidelines that provide clear land management expectations, with minimum environmental and amenity standards. Agriculture Victoria is actively looking at what information and support is needed to ensure the reforms are well understood and implemented across Victoria. Consideration is also being given to the information and support needed to ensure grazing operations (including supplementary feeding) are undertaken with high understanding of environmental and amenity responsibilities.

### **Issue 15 – Transitional period**

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That councils require a transitional period to implement the planning reforms into local planning schemes.

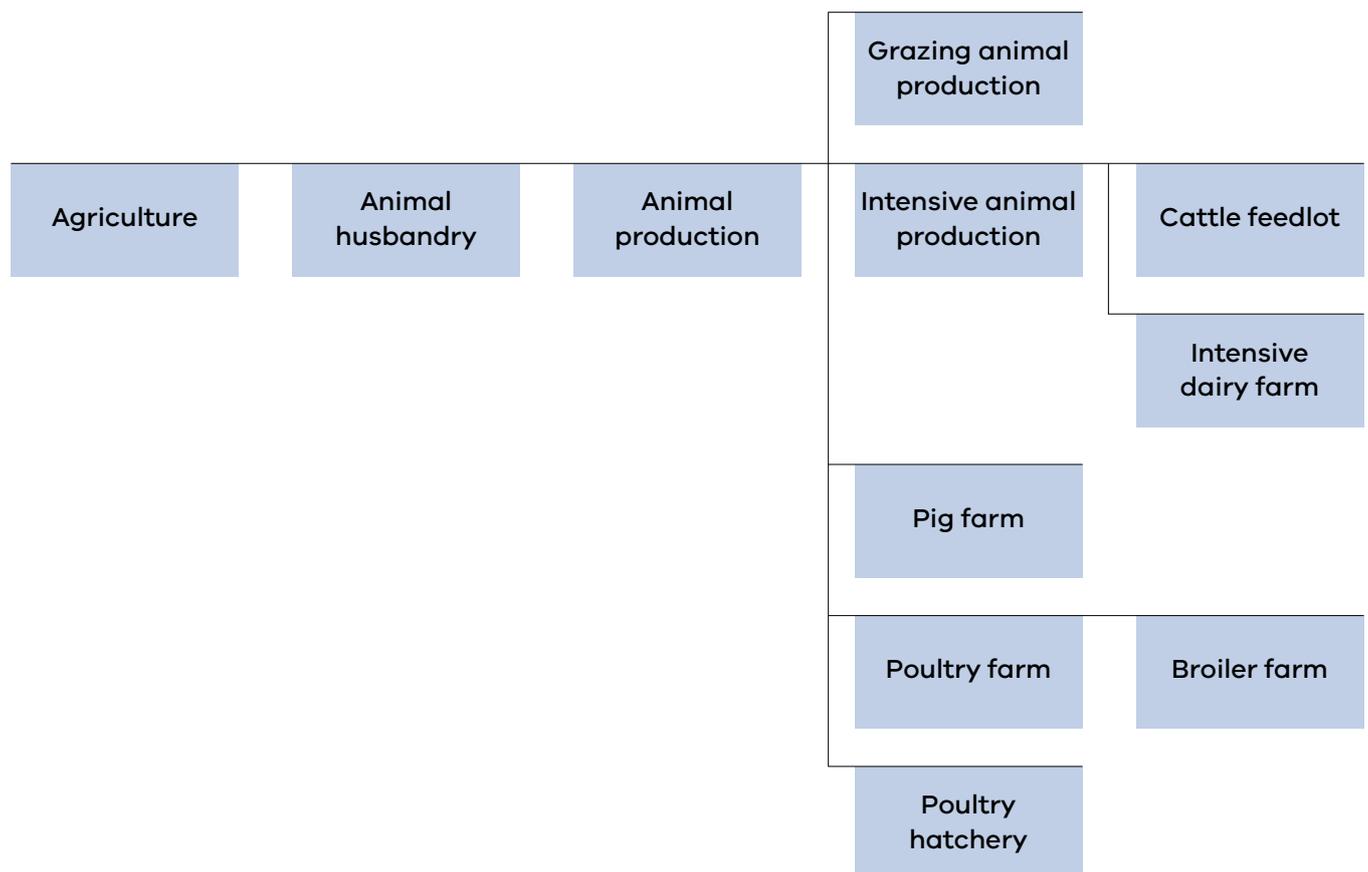
#### **FURTHER WORK IS REQUIRED**

DELWP is conducting further work with affected local councils to discuss transition requirements.

## Appendix B: Final VPP amendments – Land use definitions

Term	Definition
<b>Animal production</b>	Land used to keep or breed farm animals for the production of livestock, eggs, fibre, meat, milk or other animal products.
<b>Grazing animal production</b>	<p>Land used for animal production where the animals' food is obtained by directly grazing, browsing or foraging plants growing on the land.</p> <p>It includes:</p> <ul style="list-style-type: none"> <li>• emergency, seasonal and supplementary feeding</li> <li>• the incidental penning, feeding and housing of animals for weaning or other husbandry purposes.</li> </ul> <p>In this definition:</p> <ul style="list-style-type: none"> <li>• <b>emergency feeding</b> means providing feed to animals when an emergency event such as a flood, bushfire or biosecurity event restricts or prevents the animals from grazing, browsing or foraging plants growing on the land;</li> <li>• <b>seasonal feeding</b> means providing feed to animals when seasonal conditions, including drought, restrict or prevent the animals from grazing, browsing or foraging plants growing on the land;</li> <li>• <b>supplementary feeding</b> means providing feed to animals to supplement the food the animals obtain by directly grazing, browsing or foraging plants growing on the land.</li> </ul>
<b>Intensive animal production</b>	<p>Land used for animal production where the animals' food is imported from outside the immediate building, enclosure, paddock or pen.</p> <p>It does not include:</p> <ul style="list-style-type: none"> <li>• an abattoir or sale yard;</li> <li>• grazing animal production, pig farm or poultry farm.</li> </ul>
<b>Pig farm</b>	Land used to keep or breed pigs.
<b>Poultry farm</b>	Land used to keep or breed poultry.
<b>Cattle feedlot</b>	Land used for a cattle feedlot as defined by the <i>Victorian Code for Cattle Feedlots 1995</i> .
<b>Intensive dairy farm</b>	Land used for intensive animal production where cattle are kept or bred for the production of milk.
<b>Broiler farm</b>	Land used to keep broiler chickens for the production of meat.
<b>Poultry hatchery</b>	Land used to incubate and hatch poultry eggs.

## Appendix C: Final VPP amendments – Nesting diagram



## Appendix D: Final VPP amendments – Summary of zone changes

Nesting of Definitions	Agriculture								
	Animal Production:		Land used to keep or breed farm animals for the production of livestock, eggs, fibre, meat, milk or other animal products						
			Grazing Animal Production	Intensive Animal Production		Pig Farm	Poultry Hatchery	Poultry Farm	
				Cattle Feedlot				Broiler Farm	
<b>Farming Zone</b>	Section 1	Section 2	Section 1	Section 2	Section 1* / 2*	Section 2	Section 2	Section 1* / 2	Section 1* / 2
<b>Rural Activity Zone</b>	Section 1	Section 2	Section 1	Section 2	Section 1* / 2*	Section 2	Section 2	Section 1* / 2	Section 1* / 2
<b>Green Wedge Zone</b>	Section 1	Section 2	Section 1	Section 2	Section 2*	Section 2	Section 2	Section 1* / 2	Section 1* / 2
<b>Green Wedge A Zone</b>	Section 1	Section 2	Section 2	Section 3	Section 3	Section 2	Section 2	Section 1* / 2	Section 1* 2* / 3
<b>Rural Conservation Zone</b>	Section 2	Section 2	Section 2	Section 3	Section 3	Section 2	Section 2	Section 1* / 2	Section 1* 2* / 3
<b>Rural Living Zone</b>	Section 2	Section 2	Section 2	Section 3	Section 3	Section 2	Section 2	Section 1* / 2	Section 1* 2* / 3
<b>Urban Floodway Zone</b>	Section 2	Section 3	Section 2	Section 3	Section 3	Section 3	Section 3	Section 3	Section 3
<b>Urban Growth Zone</b>	Section 1	Section 2	Section 1	Section 3	Section 3	Section 2	Section 2	Section 1* / 2	Section 1* 2* / 3
<b>Industrial zones</b>	Section 2	Section 2	Section 1	Section 3	Section 3	Section 3	Section 2	Section 3	Section 3
<b>Commercial zones</b>	Section 2	Section 3	Section 2	Section 3	Section 3	Section 3	Section 3	Section 3	Section 3
<b>Residential zones</b>	Section 2	Section 3	Section 2	Section 3	Section 3	Section 3	Section 3	Section 3	Section 3

Section 1 = No permit, Section 1\*/Section 2\* = subject to conditions being met, Section 2 = Permit required, Section 3 = Prohibited

## Appendix E: List of planning reform documents

<b>Particular Provisions</b>	<ul style="list-style-type: none"> <li>• Pig farm</li> <li>• Poultry farm</li> </ul>
<b>Guidance material (e.g. Planning Practice Notes, reference documents, information and support material)</b>	<ul style="list-style-type: none"> <li>• Low density mobile outdoor pig farm planning permit guidelines</li> <li>• Low density mobile outdoor poultry farm planning permit guidelines</li> <li>• Applying for a planning permit for a pig farm</li> <li>• Applying for a planning permit for a poultry farm or broiler farm</li> <li>• Understanding grazing and intensive animal production</li> <li>• Guidelines for high-quality animal industries planning applications and model permit conditions</li> <li>• One-page fact sheets</li> <li>• Updated webpages on Agriculture Victoria web-site, including FAQs</li> </ul>
<b>VPP Clauses to be amended</b>	<p>14.01-2 Sustainable agricultural land use</p> <p>16.01-5 Rural residential development</p> <p>32.03 Low Density Residential Zone</p> <p>32.04 Mixed Use Zone</p> <p>32.05 Township Zone</p> <p>32.07 Residential Growth Zone</p> <p>32.08 General Residential Zone</p> <p>32.09 Neighbourhood Residential Zone</p> <p>33.01 Industrial 1 Zone</p> <p>33.02 Industrial 2 Zone</p> <p>33.03 Industrial 3 Zone</p> <p>34.01 Commercial 1 Zone</p> <p>34.02 Commercial 2 Zone</p> <p>35.03 Rural Living Zone</p> <p>35.04 Green Wedge Zone</p> <p>35.05 Green Wedge A Zone</p> <p>35.06 Rural Conservation Zone</p> <p>35.07 Farming Zone</p> <p>35.08 Rural Activity Zone</p> <p>37.03 Urban Floodway Zone</p> <p>37.07 Urban Growth Zone</p> <p>42.01 Environmental Significance Overlay</p> <p>42.02 Vegetation Protection Overlay</p> <p>42.03 Significant Landscape Overlay</p> <p>44.01 Erosion Management Overlay</p> <p>44.02 Salinity Management Overlay</p> <p>52.16 Native Vegetation Precinct Plan</p> <p>53.09 Broiler farm</p> <p>72.04 Incorporated Documents</p> <p>73.03 Land Use Terms</p> <p>73.04 Nesting Diagrams</p>

