

SUSTAINABLE ANIMAL INDUSTRIES CONSULTATION PAPER

Introduction

Animal industries form an integral part of the agricultural sector in Murrindindi Shire. While traditional animal grazing enterprises have been the primary operations in the past, the sector is becoming increasingly diversified. Some of the agricultural diversification in the municipality includes more intensive agricultural industries.

Sustainable agriculture is a vital part of the Murrindindi Shire economy and community and is supported in both the planning scheme and the Council Plan. The Council Plan includes clear objectives around growing our prosperity and maintaining and enhancing places that are attractive, liveable and in balance with our natural environment. In this context, Council recognises that growing its sustainable agriculture industries will require a balanced approach to economic, environmental and social objectives that also provides confidence for investment and rewards well managed facilities.

As animal industries become more intensive, amenity and environmental issues begin to arise and councils and/or other agencies need effective tools to manage these issues and achieve balanced outcomes. Further amenity, environmental and other impacts can also affect neighbours, local community and an organisation's social licence and in turn impact the organisation's confidence to operate and invest.

In relation to amenity, more intensive animal industries tend to give rise to off-farm impacts such as noise, odour, dust and the potential for negative impacts on surrounding farming operations. More intensive animal industries also tend to increase environmental risks through increased waste (including manure) and effluent management and impacts on water and soil quality. All these issues have the capacity to affect community support and social licence to operate.

Overview of approach

In considering the management of sustainable animal industries, Council is of the view that the following elements are critical:

- providing certainty and confidence for investment in well managed and located animal industries
- balancing social, economic and environmental outcomes, including clarity about acceptable impacts and amenity expectations in the farming zone and consideration of adjoining agricultural land users
- a graduated risk-based approach where the risks justify the level of control
- a preventative approach in which there is clarity up front about requirements and acceptable practices, recognising that responding after impacts arise often results in increased cost and compromised outcomes for all parties
- guidance and support to identify good management practices, including waste/manure and effluent management practices, that minimise any impacts on neighbours (including adjoining agricultural industries)
- a clear, transparent, predictable and cost-effective process for resolution of issues where impacts arise.

Murrindindi Shire Council's response to the proposed actions

Action 3: Introduce clear land use definitions for animal industries into the Victoria Planning Provisions

Definitions

Council recognises that the Animal Industries Advisory Committee's (AIAC) recommended definitions of 'intensive' and 'extensive' would be difficult to implement and supports the proposal not to adopt these definitions.

However, Council has concerns about the proposed definitions for 'grazing animal production' and 'intensive animal production' where intensive production includes operations where all food is imported from outside. The proposed definition of 'intensive animal production' will allow too many intensive-type operations to be undertaken under the 'grazing animal production' definition without consideration through a planning process. The risks associated with this definition are exacerbated by the proposal to allow increased seasonal and supplementary feeding within grazing animal production systems.

Council is also concerned that the proposed definition will fail to achieve its objective of providing certainty to farming operations because the proposed definitions will undoubtedly lead to:

- confusion about what constitutes a 'grazing operation'
- what 'access' to pasture means; and
- when a grazing animal production system using supplementary feeding will become an intensive animal production system either temporarily or permanently and at what point a planning permit will be required.

Compliance and enforcement

In relation to compliance and enforcement, Council is concerned about the proposal to remove more intensive type grazing animal industries from the planning process. This is because the planning process is a strong proactive tool for managing foreseeable issues, and its removal will force councils to rely on reactive legislative tools that are likely to be less effective, costly and slower to implement resulting in increased impacts on communities.

While Council recognises that amenity and environmental issues can be reactively managed through the *Public Health and Wellbeing Act 2008* and the *Environment Protection Act 1970*, these tools have limitations. For instance, the *Public Health and Wellbeing Act 2008* defines nuisance as dangerous to health or offensive (ie noxious or injurious to personal comfort), with no reference to what level of amenity is appropriate in a farming zone. However, such context is appropriately taken into account when considering matters under the *Planning and Environment Act 1987*. The *Environmental Protection Act 1970* also has limitations in how it considers environmental breaches associated with animal production. The effectiveness of the *Environment Protection Act 1970* in this context is dependent on legislative amendments (e.g. introduction of a general preventative duty) that are yet to be considered by parliament.

Council is concerned that reliance on these reactive legislative tools may increase uncertainty for farmers and communities and lead to more cumbersome, ineffective and costly ways of delivering balanced outcomes. It may also undermine the 'right to farm' approach and result in unintended limitations on farming operations because these tools are not tailored for application in farming zones.

If the proposed definitions are to be retained, an effective legislative framework, outside the planning system, will be required to manage compliance and enforcement of animal industries. The framework will need to produce predictable, efficient and cost effective outcomes that balance economic, environmental and social objectives. Council is of the view that the *Public Health and Wellbeing Act 2008* is not appropriate as the primary legislation to be used in managing amenity and other impacts from these animal industries.

To the extent that animal industries result in increased local populations of birds, rodents and other wildlife that may impact on other land users, the relevant legislative framework and approach for managing this issue needs to be identified.

Supplementary feeding infrastructure for ‘grazing animal production’

Council supports the proposed setback requirements for buildings and works used for supplementary feeding for ‘grazing animal production’ as it will provide some level of amenity and environmental protection. However further information is required about the basis for setting the nominated set back distances.

The current proposed setbacks are insufficient, particularly in the context of animal production operations near waterways (including floodplains, permanent and seasonal creeks and lagoons and variable water tables). The rationale for nominated setback distances needs to be clearly articulated and recognise that differing standards may be appropriate with regard to local environmental conditions and neighbouring land uses. Council also supports this proposed level of control being extended to buildings, works and other structures associated with ‘intensive animal production’. These are primary concerns for communities together with other agricultural producers who may be impacted.

Consent for animal production

Council notes that under the proposed reforms grazing animal production would be a Section 1 (as of right) use in Urban Floodway, Rural Activity and Green Wedge Zones.

If the proposed definition of grazing animal production is adopted, particularly without a graduated approach (see next section), Council’s position is that grazing animal production in these Zones must be a Section 2 (planning permit required) use. This is because the proposed definition will allow intensive-type operations that increase environmental risks in these sensitive areas to an extent that would justify proactive consideration and control through the planning process. In this context, appropriate determining referral authorities should be identified so that articulated concerns can be addressed in a proactive and effective manner, thus mitigating adverse impacts and the need for reactive actions.

Recommendations:

1. Revised definitions of grazing animal production and/or intensive animal production be adopted such that the more intensive (and therefore likely to cause impacts) animal production operations (including some grazing animal production in proposed reforms) are assessed within the planning system. We note that this is generally consistent with the recommendations of the AIAC.
2. That in considering grazing animal production/intensive animal production under the planning system, a graduated risk-based approach be adopted (consistent with Action 4).
3. If the proposed definition of grazing animal production is to be retained, Council recommends additional clarity be provided on when a grazing animal production system

using supplementary feeding will become an intensive animal production system either temporarily or permanently and at which point a planning permit is required.

4. If the proposed definitions are to be retained, Council recommends a simultaneous review of the *Public Health and Wellbeing Act 2008* and the *Environment Protection Act 1970* to identify what, if any, changes are needed to ensure that these tools are fit for purpose and capable of producing predictable, efficient and cost effective outcomes that balance economic, environmental and social objectives.
5. Support proposed planning controls for setbacks for buildings and works used for supplementary feeding for 'grazing animal production', provide further information about the basis for the nominated set back distances and extend these controls to also apply to buildings, works and other structures associated with 'intensive animal production'.
6. Make 'grazing animal production' a Section 2 (permit required) use in the Urban Floodway Zone, Rural Activity Zone and Green Wedge Zone rather than Section 1 (no permit required) use as proposed.

Action 4: Take a graduated approach to planning controls based on risk

Council supports the initiative to provide a graduated risk based approach to animal industries in recognition that all animal industries, including grazing animal production systems, can impact on amenity, the environment and neighbouring landowners. As a planning authority Council has a responsibility for considering the long term future of land near animal production operations as well as appropriately supporting the agricultural sector.

Council's experience in relation to grazing animal production is that the likelihood of amenity and environmental complaints increases as grazing operations become more intense. Council's experience also shows that it is difficult to manage these types of complaints through the *Public Health and Wellbeing Act 2008* and the *Environment Protection Act 1970*. Consequently good management practices in respect of waste, manure and effluent with particular regard to waterways are critical and need to be defined to minimise and mitigate impacts on the local environment, other agricultural producers and communities.

For this reason, if the proposed definition of grazing animal production is to be retained, Council recommends a graduated approach be adopted to enable limited proactive planning based consideration of amenity and environmental impacts of more intensive-type grazing animal production systems. This could be a technical exercise where permits are required, but the notice and review provisions are removed to create certainty but still allow appropriate consideration and conditions. The graduated risk based approach could, for instance, include required setbacks for supplementary feeding works particularly in the context of prolonged requirements.

The graduated risk based approach to planning controls should also be extended to apply to intensive animal production activities, including cattle feedlots, in line with the recommendations of the AIAC report. A potential extension of a graduated risk based approach for intensive animal production activities could include graduated permit requirements based on compliance or non-compliance with the proposed general code for animal production. Such an approach could take the form of a detailed proposal to the relevant authority for assessment and, if compliant with the relevant code, could be allowed to proceed without a planning permit.

Recommendations:

1. Support the implementation of a graduated approach to planning controls based on risk.
2. If the proposed definitions of grazing animal production and intensive animal production are to be retained, Council recommends the introduction of a graduated approach that would enable limited proactive planning based consideration of the amenity and environmental impacts of more intensive grazing animal production systems.
3. Develop and extend a graduated approach to apply to all 'intensive animal production', including cattle feedlots.

Action 12: Develop clear guidance to improve the quality of planning permit applications, and develop model permit conditions to guide local government

Council strongly supports implementation of this action as a priority. Clearer guidance on how to develop high quality planning permit applications will greatly assist landowners and councils. Model permit conditions will also assist councils to prepare appropriate conditions and improve consistency and certainty of outcome.

Council also supports the establishment of an expert working group to monitor guidance and model permit conditions to ensure that they keep pace with industry innovation and community expectations.

Recommendations:

1. Support the provision of information to improve planning permit applications and the provision of model conditions.
2. Advocate for the establishment of an expert working group to monitor the guidelines and model conditions to ensure that they keep pace with industry innovation and community expectations.