



Victorian
Farmers
Federation

Submission to the New land use planning regulations for animal production

Victorian Government

Department of Energy, Environment and Climate Action (DEECA)

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Introduction

Thank you for the opportunity to submit to the new land use planning regulations for animal production related technical requirement documents – known as Clause 53.AA.

The Victorian Farmers Federation (VFF) has participated in the Sustainable Animal Industries Reform process for ten years; however, we believe that the new Clause has not resolved confusion over what makes a production system ‘animal production’.

Rather than addressing the areas of confusion in the previous planning provision, the Government has proposed a new suite of terms and measures that are leading to new areas of confusion.

The draft Clause is complex as it applies to many different production systems and introduces new terms that do not reflect the terms used in industry. The Government has not released any material to show how planners will be assisted to understand the Clause or to know when to ask for information. This will compound the regulatory complexity for producers if planning seeks to manage issues currently dealt with in other regulatory systems.

The VFF is concerned that the clause has only drawn upon industry best practice and code documents for relatively large cattle feedlots, broiler farms and piggeries. These facilities generally require management systems to minimise impacts on the environment and amenity than smaller scale farms. The assumption that as large cattle feedlot facilities have audit systems in place a medium sized egg producer with dry effluent systems will require an audit is a regulatory impost that has not been tested by a regulatory impact statement. The VFF does not believe it is appropriate that smaller scale facilities or systems that have eliminated risks in their production system be captured the same way as a larger facilities.

The Sustainable Animal Industries project sought to end the confusion to at which point a grazed production system could be classified as intensive animal industry – now known as ‘animal production’. The confusion over which rule applies and when can be linked to:

- Supplementary feeding;
- Stock containment;
- Structures used for shelter.

Understanding what makes a production system intensive (animal production) or extensive (grazed animal production) is often beyond the scope and training of planners. A one size fits all approach for different production systems has added complexity and confusion. The terminology used in the clause does not match the production system information used in industry’s standards and guidance.

For example, planners are expected to know agricultural production systems and the nuances between them. For example, what is best animal husbandry in a grazed dairy farming system is different to cattle raised for beef. Supplementary feeding of dairy cattle is an integral part of the dairy production system. It is often daily and occurs while the herd is gathered for milking. Providing better infrastructure and shelter for the grazed cattle as they enter and exit the dairy does not transform the practice into a shed based dairy feedlot.

As there are no guidance or practice notes to assist planners in understanding the specific considerations in the individual production system, they need to access industry information to help them understand why an action is required – for example regular supplementary feeding is required for a healthy dairy herd. As the terminology is often different the Clause and the Technical Requirement Documents need to be refined so that planners clearly understand what planning provision applies and what information is required to

consider the application. Without this, planners will ask for material to be produced that is not required adding unnecessary cost and confusion to the permit process.

Refining the clause is achievable in the short term. Working groups of planners, industry experts and government can look at the clause and each technical reference document. They can highlight the issue and the solution, and work on drafting the change to the clause documents; draft the practice or guidance note content or develop the glossary and notes on compatibility with industry guidance. This material could then be circulated to submitters for comment before finalisation of the reform package.

Emma Germano

A handwritten signature in black ink, appearing to read 'Emma Germano', with a stylized flourish at the end.

President
Victorian Farmers Federation

II. Discussion

What was the problem the Sustainable Animal Industries program aimed to solve?

In 2013 the farming system used at Blackmore Farms near Alexandra was testing interpretations of the Victoria Planning Provisions. Public debate over this and other cases led to the Minister for Planning appointing a committee to make recommendations to reform the planning system.

The VFF is aware that planning controls for agriculture need to understand the operational considerations for agriculture and that currently there is little policy support or guidance for them on how to determine land uses or tests to measure impact-based decision guidelines.

This reform package was required because aspects of farming systems that require supplementary feeding or stock containment for feed management, animal health and welfare or environmental management were perceived by planners as making that land use an '*intensive animal production*' land use – now called '*animal production*'. What has been proposed in the draft Clause 53.AA redefines what was typically understood as '*animal production*'.

The whole basis of what is '*animal production*' has been amended. It is a complex clause and there was no decision support guidance provided on how to understand the definitions or the Technical Reference documents.

The VFF is concerned that the decision to move to a Clause and Technical Reference documents that encompassing all production systems. This will create more confusion in land use terms and permit triggers. Rather than having easily interpreted clauses and decision support tools, the effectiveness of the Clause will be determined by how it is interpreted in VCAT or the Courts.

The exhibited Clause and its five technical requirement documents will be difficult for planners to utilise. They will not know when certain information is required which may lead to requesting consultant reports that are not required in that instance, especially for sectors without a pre-existing industry code in place, such as dairy feedlots and eggs.

Cattle feedlots, broilers and piggeries have industry codes and guidance in place. These are relevant to facilities with high stock numbers and include industry auditing systems. They have material that relates to the size / scale of the facility. In designing a Clause that works for existing codes it creates uncertainty for other production systems. The absence of a relevant industry codes and audit system can be an indicator of a production system with a different scale or effluent management system that creates a lower risk pathway.

There are concerns in some commodities that applying the technical reference standards will implement a compliance cost that is not proportionate to the risk of the facility. It could impact the future of existing or future periurban animal production as it creates a perception that existing facilities that do not have an audit system in place are not meeting their general environmental duty.

The VFF believes the following revisions to the Animal Production Clause are required to deliver the *Clearer, fit-for-purpose regulation* to allow *Victoria's animal industries continue to grow in a sustainable manner* and

- *Environmental and amenity impacts are well-managed.*
- *Local government is supported to make well-informed, faster planning decisions.*
- *The market, community, and investors have confidence in Victoria's animal industries.*

Recommendations

To ensure that Victoria's animal industries continue to grow in a sustainable manner and are managed by a clear and fit for purpose regulation that delivers well informed and faster planning decisions the VFF recommends that Government undertake the following actions before introduction of the Clause into planning schemes.

Industry Codes

- 1. That industry specific terminology be utilised in the clause and technical documents rather than the use of newly created terms. If new production system terminology is used it must be accompanied by a glossary of equivalent terms used in each production system, and that this glossary is referenced in the Clause. This glossary should be prepared in conjunction with industry, including representatives from each animal production system.*

Terminology

- 2. That Clause 53.AA and its technical documents be revised in conjunction with agriculture industry bodies to resolve all issues and queries raised in their submissions. This includes addressing contradictory provisions in approved measures, failure to cover all types of animal production systems and statutory confusion from use of certain terms.*

Complexity, Support and Guidance

- 3. That guidance be developed prior to the gazettal of the Animal Production Clause. These materials should be produced in conjunction with the Municipal Association of Victoria and agriculture industry bodies. Guidance should be developed on:
 - a. understanding different animal production systems and industry guidance.*
 - b. how to determine what information is required to assess a planning permit.*
 - c. how to write planning permit conditions to facilitate adoption of new technology that reduces amenity and environmental impacts.*
 - d. understanding audit systems.**
- 4. That Agriculture Victoria re-establish its advisory service for dwelling and other sensitive use applications to ensure that land use conflict / right to farm / generation environmental duty issues are not created by approving sensitive uses in farming areas.*

Auditing

- 5. That Agriculture Victoria develop in conjunction with industry of a simple production system specific self-assess audit systems for low-risk animal production systems.*
- 6. That Agriculture Victoria works with the Environment Protection Authority to ensure existing and future permit and environmental management systems be seen as state of knowledge for the General Environmental Duty.*

Egg Production

- 7. That Agriculture Victoria examine the amenity risks in different production systems of poultry for egg production to be reflected in the Clause and associated materials.*

Industry Codes

The VFF supports the use of industry codes to guide operators as to what is best practice. Best practice codes are not appropriate for regulatory standards. It is important for business and community confidence that government establishes a system that ensures business know what the legal operational requirements are, and industry seeks to develop tools that exceed those requirements.

Farmers invest in development of production system that minimise dust, odour, noise, or damage to soils. Industry needs flexibility as soils, climate, slope, location / proximity to other uses, and other regulation can impact the ability of the farmer to use a tool.

Victorian animal production is part of a national industry. Industry research and guidance uses terminology in use in that production system. The Technical Reference documents use terms that are not used in the agriculture industry in Australia or are not used in all production systems.

Terms not used in industry best practice documents or land use terms require planners to know what the equivalent term or measure is in industry guidance documentation. It is confusing for farmers as if Council or EPA uses the new terminology in discussions with the operator, they may not understand the nature of the question. This will cause confusion for producers and planners and fails to deliver faster and well-informed decisions.

For example, the Clause and its technical documents use a performance measure – such as e.g. 50% groundcover. How does a planner measure that? Over what area? In what season? Averaged over a period?

Relying on existing codes and applying them as standards in unrelated industries is causing regulatory confusion. For example, the failure of the surface water tool to differentiate between irrigated and dryland agriculture in dairy. These production systems have different infrastructure, management requirements and associated risks to be managed that the Technical Reference document does not consider.

Relying on five separate and complex Technical Reference Documents is not simple for planners. It is even harder when there is not a clear correlation between the planning provision requirements and the production system. Planners are not trained in understanding what is best practice versus what will meet the regulatory requirement. They are not trained in different animal production systems.

The VFF is concerned the Clause, and the Technical Reference documents require a level of agricultural knowledge beyond that of most planners. This will lead to planners asking for technical studies and supporting information beyond what is needed to decide if a permit can be granted and may lead to permit conditions that are based on best practice or will restrict the adoption of best practice in the future.

Terminology issues

Terminology is important in the planning system. While there are definitions of land use terms, there are terms used within industry to describe areas or practices. This terminology often differs between production systems. In moving from a Clause that had provisions specific to different production systems the Clause uses new terms that do not relate to land use terms or industry production terms. For instance, by using by-products rather than effluent or manure.

Bodies such as Dairy Australia or Australian Pork limited are the experts on the production systems and best practice. Both producers and regulators use their materials to understand best practice.

The submission from Dairy Australia outlines several high-level issues that demonstrate the importance of regulatory systems to use understand the operational context and management systems of the industries they seek to regulate. Having close alignment between the terms used in the Clause and Technical Reference documents and Industry guidance is critical to fit for purpose regulation, improved outcomes and industry and community acceptance.

If a planner doesn't understand what is meant by a term or how it applies to a decision guideline, and if there is no practice note, and if the National Best Practice document does not use that term, then the Clause will not lead to faster decisions based on better information.

There is also risk in using common terms that have a broad regulatory meaning. For instance, waterway can mean a stream, lake, dam, drainage line, drain, ephemeral stream or wetland. When there are setbacks to waterways few farms in Victoria would meet the setbacks to waterways.

Resolving the detailed feedback from RDC's will lead to a better Clause. This should be supported by planning practice and decision support tools for planners.

Complexity, Support and Guidance

The draft clause and technical reference documents are complex. Planners are not trained in agricultural land uses and production systems. It is common for the VFF to discover that planners have no knowledge that Rural Research and Development bodies exist. Planners have told the VFF that they do not feel equipped to make decisions in the farming zone.

The Animal Production Clause is the most complex of applications. Its complexity and lack of guidance on how to apply the Technical Reference is a risk to achieving the aim that *Local government is supported to make well-informed, faster planning decisions*.

Without material targeted at understanding how to decide on applications for animal production will fail to be delivered in a fair and consistent manner. This would lead to significant and unnecessary costs and potential over regulation.

The preparation of guidance materials for planners is essential to understanding the Clause and whether it will be effective. No materials have been prepared or exhibited to show how planners will be supported to understand the materials and how to make decisions under the clause, the zone, or the relevant policy.

This material must be prepared in conjunction with industry before the Clause is finalised (gazetted). It should include planning practice notes and guidance materials that are specific to commodity production systems and support the planners in understanding the level of risk and the appropriate statutory response.

The VFF has previously called for funding of an advisory service of land use planners with agriculture industry knowledge. The technical panel and Agriculture Victoria advisory service has been supported, with recommendations made to improve the value of this system to land use decisions rather than production system guidance.

As this service has been significantly reduced in areas where the planning system needs significant support (land use conflict). The greatest threat to animal production is the approval of a sensitive use, such as a dwelling, near it. The existing cutbacks to this service are impacting on the ability for planners to understand how to protect and support agricultural land uses. Any further cuts to expert advice on animal production will make it very difficult for planners to use the Clause.

It is recommended that this service work with the MAV and agriculture industry bodies to create Planning Practice Notes and fact sheets to assist planners in understanding the Clause and how to make decisions under it.

Auditing

The draft Animal Production Clause will require auditing for farms not previously requiring audits. Where there is no or low risk there is no need for audits to be undertaken. Requiring audits where there are low risks creates a perception of a problem being ignored by industry rather than innovation by industry to manage risks to a level that does not require ongoing management. For example, Full auditing at \$5000 a year for 500 egg laying chickens would not be proportionate to the risk.

Large producers have auditing programs in place, often with their RRDC. Some production systems are lower risk due to their size or the nature of their systems, and these RRDCs do not run audit programs. Agriculture Victoria should consider working with industry to develop simple self-auditing checklists that can be undertaken by the producer.

The audit provisions need review to ensure that they are fit-for-purpose, related to risk and have considered the regulatory impact on food production.

Grazing

Planners do not understand issues such as supplementary feeding or stock containment. Many have personal concerns with issues such as animal welfare, or perceptions that containment areas degrade the environment. They may not understand the nutritional needs of different livestock for supplementary feeding, so they believe that is an attempt to be a feedlot.

It is a similar issue with stock containment yards. In dairy it might be a short term daily for feeding. Agriculture Victoria funds stock containment yards as an emergency preparedness or response issue as they reduce impacts on the environment in floods, fires, droughts, and can improve animal welfare.

The VFF has been calling for practice notes that clarify the welfare and environmental benefits of these tools used in grazing.

The Dairy Industry has identified some unique issues or considerations for dairy production and the VFF supports the submission by Dairy Australia in relation to opportunities to address these issues.

Failure to address what the planning system needs to make *well-informed, faster planning decisions*, including in previous stages of the reform process, threatens to repeat the statutory confusion around the new definitions and terms.

Egg Production

The VFF believes there is a need for a closer examination of the differences in production systems in poultry. The broiler and egg production systems can have different profiles. A case study has been included to highlight opportunities for refinements for egg production.

Conclusion

As the reform is now dealing with what was always the most complex applications it is critical to reassess the reform as a whole and take actions now to ensure its objectives are met without excessive regulatory impost on food production.

The Advisory Committee originally envisaged provisions tailored to production systems, so that different commodities and their specific issues and operational considerations were understood. The move to a single clause and single technical documents needs refinements to ensure that it operates as envisaged and achieves the aims of the Sustainable Animal Industries Reforms.

Moving to a single Clause has created complexity that needs to be resolved. Discussions throughout the reform process have led to greater understanding of statutory planning issues within the agriculture industry and have increased the state of knowledge available. It is important that this knowledge is used to guide the refinement of the Clause so that animal production is supported with fit for purpose regulation; producers can easily adopt lower impact production systems; and planners understand their role in the broader regulatory framework.

The VFF believes that there is a process for representatives of industry and local government to refine the statutory documents and to develop advisory systems and decision support guidance for planners prior to gazettal of the Clause. In addition, there should be a body established with industry and local government to monitor the effectiveness of the new provisions and make recommendations for the resolution of issues as they arise.

IV. Case Study – Egg Industry

Egg Industry Case study – technical solutions

The Victorian Egg Industry was not represented directly on the Sustainable Industries Committee. This has led to a lack of understanding about the advances made by the Egg Industry over the last 10 years as well as a lack of acknowledgement about the very few substantiated complaints regarding environmental issues such as odour.

The eggs produced in modern cages do not produce odorous manure as the manure is dried on belts under the cages before leaving the shed. It is then removed from the farm. As an example, see <https://salmet.de/product/S700>.

Previously, there was only one way of barn-laid and free-range production i.e. litter on the floor inside a shed. However, the industry has moved on and there are now 4 methods: litter on the floor, manure taken out of the shed by manure belts (like cages), moveable sheds and multi-layer sheds with manure belts under each layer of the shed (once again similar to cage sheds).

The recent decision by government to change the rules around the changes to conventional cages has made the use of manure belts for barn-laid and free range much more common. Sheds with litter are emptied when the birds have finished laying and the movement of moveable sheds varies depending on the farmer involved.

The Research and Development Organisation for the Australian Egg Industry, Australian Eggs, does not have the facilities to audit for the Animal Production Clause 53AA. Although Australian Eggs has an Egg Industry environmental guidelines document as a research project, it is for advice only and has not been reviewed since 2018. It is a document which is best suited to very large farms. Victoria has very few very large farms.

The vast majority of Victorian egg farms are in the range of 15,000 to 100,000 birds. In the area around Melbourne the farms are 20,000 to 75,000 bird range. Farms with more than 100,000 birds' farms are primarily located outside of Melbourne,

Audit programs should be proportional to the risk. Where an industry has complaints about odour then a detailed program is not justified. A producer self-assessment program is more than enough to deal with any possible problems if they arise.

Egg Industry Case Study – Concerns with the Clause and Technical Documents

Issue	Comments
Animal Production Clause	Difficult to read and does not capture the diversity of the Egg Industry.
Knowledge of Planners	Planners lack knowledge of the Egg industry. Many planners that ring egg industry representatives for information.
Definitions	These are not clear nor are in the Technical Documents.
Audits	<p>The National R&D organisation, Australian Eggs, does not have facilities to audit Victorian egg farmers.</p> <p>Due to the risk profile a checklist-based audit undertaken by the producer will enable any problems to be addressed.</p>
Australian Eggs Environmental Guidelines	The Guidelines are advisory only, currently 6 years ago and do not utilise an audit system.
Regulation	One of the objectives is to reduce regulation where the Clause increases regulation for egg production.
High Ground Cover Range	Confusing and not a term used by the Egg industry. The industry uses 'range' for the outside area for free range birds.
Measures	Many of the measures are difficult to assess for the Egg industry as the terms used are unknown to the industry.
Groundcover	Not understood as used by the Egg Industry. It certainly does not include hard shoulder around the sheds.
Operational and Environmental Management Plan	This is unnecessary for Egg Industry. The plan does not allow for nuances which apply to the different size farms.
Mandatory Separation Distances	<p>Not clear for all size farms.</p> <p>Farms have varying number of sheds and other buildings such as grading floors. There is no reason to include these sheds under separation distances.</p>

Confusion	There is confusion between the egg industry and the broiler industry. The egg industry uses a great deal of technical equipment which reduces the risk of odour out of egg sheds.
Soil Amenity Objectives	The language is very negative and needs to be changed to positive language,
All Weather Access Roads	This is not necessary, depending on the size and situation of the farm.
Emergency Vehicles	Why is this necessary? Any site which can access feed trucks will be able to access emergency vehicles.
Time Limit of feed preparation	A limit of 7am is not appropriate for the Egg industry which usually starts feeding birds around 6am.
Manure Moisture Level	Cage sheds and some barn and free-range sheds have manure drying whereas litter-based sheds do not have the ability to measure the dryness of the litter.
Biosecurity	The egg industry has detailed biosecurity protocols so there is no need for biosecurity to be included in the Clause or the Technical Documents

Victorian Farmers Federation

The voice of Victorian farmers and rural communities since 1979

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