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2018 Planning Reforms

What do the planning reforms do?

The 2018 planning reforms:

- Introduce clear land use definitions and risk-based planning controls for animal industries into the *Victoria Planning Provisions*.
- Remove the *Piggeries Code of Practice (1992)* from the *Victoria Planning Provisions*.
- Amend the *Victorian Code for Broiler Farms (2009)* so it also applies to free-range broiler farms.
- Deliver a range of support materials, such as guidelines and Planning Practice Notes, to facilitate decision-making.

Who do these reforms apply to?

The 2018 planning reforms apply to farms where farm animals are kept or bred for the production of livestock, eggs, fibre, meat, milk or other animal products.

When did the new laws come into operation?

On 21 September 2018.

Do the planning reforms apply to all local government areas?

Yes. The 2018 planning reforms amend the *Victoria Planning Provisions* and all planning schemes in Victoria.

Do the planning reforms apply to planning permit applications that were lodged prior to 20 September 2018?

No. Planning permit applications are assessed against the planning scheme in place on the date the application was lodged.

Do these reforms apply to my existing farm?

If you established your farming operation lawfully before the reforms came into effect, they do not apply to your existing operation. Your 'existing use rights' are protected by the law.

If you wish to expand your operation, construct a building or carry out works, you may be required to obtain a planning permit and the new requirements will apply.

Why did government change planning requirements for animal industries?

In 2015, the Government identified a need to update the planning regulations to keep pace with recent rapid changes in animal industries. These changes, dictated by new technologies, changing consumer preferences and growing global demand for our food and fibre products, alter the way farms look and operate in Victoria's landscape.

The Victorian Government appointed the Animal Industries Advisory Committee (AIAC) to investigate how the planning system could be improved to better support animal industries, while

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balancing environmental and amenity concerns. The AIAC identified a broad range of issues and made recommendations related to land use definitions. In response, the Victorian Government made a commitment through *Planning for sustainable animal industries* (PSAI) to undertake 12 actions to address the issues identified by the AIAC.

The 2018 planning reforms deliver on the following *Planning for sustainable animal industries* actions:

- Action 3 – Introduce clear land use definitions for animal industries into the VPP
- Action 4 – Take a graduated approach to planning controls based on risk
- Action 7 – Remove the *Piggeries Code of Practice (1992)* as an incorporated document in the *Victoria Planning Provisions*
- Action 12 – Develop clear guidance to improve the quality of planning permit applications, and develop model permit conditions to guide local government.

More information about *Planning for sustainable industries* and the AIAC report is available at agriculture.vic.gov.au/agriculture/planning-animal-industries.

What are the 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 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

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- 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.

What support will be provided to implement the reforms?

Agriculture Victoria held 13 information sessions across Victoria in July–August 2018. These sessions were open to local government, planners, planning professionals, industry and interested community.

Training for planners and planning professionals is available through the Planning Institute of Australia's PLANET training program.

There will also be a support program for existing small pig and poultry farms, which will include workshops to help producers prepare their planning permit applications.

Guidelines, planning practice notes, information sheets and other materials are also available to inform and explain the changes.

Go to agriculture.vic.gov.au/agriculture/planning-animal-industries to find out more.

Stakeholder consultation on reforms

Who was consulted in the development of the planning reforms?

Consultation on the planning reforms has been extensive. This is because it was recognised that for the reforms to be successful, all interested parties would need to have a level of comfort with the proposed changes. Widespread consultation ensured that everyone's view could be considered and anyone could provide input into the reform process. The consultation took several forms and included the following:

- A formal public exhibition period: The proposed reforms, including draft amendments to the *Victoria Planning Provisions*, were exhibited and explained in a consultation document published online with 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 gave farmers, communities and local government planners an opportunity 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.

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- **Targeted consultation:** From September 2017 to June 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.

What changes have been made in response to the public consultation?

In September 2017, the Victorian government sought feedback on proposed planning reforms for animal industries. The Victorian Government has reviewed the submissions and discussed key issues with stakeholders. Changes to the draft reforms have been made to address key concerns. The changes seek to balance the views received during consultation and to ensure the aims of the reforms are met. More information on the feedback received through consultation and the Victorian Government response is available at agriculture.vic.gov.au/agriculture/planning-animal-industries.

Are these reforms the final step in the *Planning for Sustainable Animal Industries* program?

No. The planning reforms are a key component of the *Planning for Sustainable Animal Industries* program. They represent the beginning, not the end, of the work. Work on all 12 actions of the PSAI program is underway and there are more milestones to be delivered soon, including:

- establishment of a panel of technical experts to support local government
- delivery of a general Code of Practice and technical guidelines to support the siting, design, planning and operation of animal industries
- delivery of a more consistent approach to separation distances
- delivery of online tools and information to assist with the planning and assessment of intensive animal industry developments.

Animal production

What animal industries are included in the new land use term *animal production*?

The land use term *animal production* applies to the keeping or breeding **farm animals** for the production of livestock, eggs, fibre, meat, milk or other animal products.

Are animals that are kept or bred for racing or recreation included in the land use term *animal production*?

No. Only farm animals kept or bred for production purposes are included. For example: chickens, beef cattle, dairy cattle, pigs, sheep, rabbits, camels, buffalos, goats.

Horse stud farms, where horses are bred for the production of livestock, are *animal production*; however, horse agistment or the keeping of horses for recreational purposes is not *animal production*.

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Grazing animal production

Guidance on how to interpret the land use terms *grazing animal production* and *intensive animal production* is available. The *Victorian grazing and intensive animal production guidelines* can be downloaded at agriculture.vic.gov.au/agriculture/planning-animal-industries.

What is the new definition of *grazing animal production*?

Grazing animal production is where the animals' food is obtained by directly grazing, browsing or foraging plants growing on the land. This can include emergency, seasonal and supplementary feeding and incidental penning, feeding and housing of animals.

Grazing animal production applies to farms where grazing is a key component of the farming system. If there is little intention for the animals to meaningfully obtain food by directly grazing/browsing/foraging, then the use would likely be *intensive animal production*.

Grazing animal production does not include pig farms or poultry farms.

If more than 50 per cent of the farm animals' food is imported from outside the immediate enclosure, is the use *intensive animal production*?

The 50 per cent or 'most food' rule was commonly used in the former regulations to differentiate between extensive and intensive operations. This rule is no longer used to differentiate between farms.

If grazing is a key component of the farming system, the use is *grazing animal production*.

Grazing animal production recognises there are times when the provision of additional feed is necessary and good management practice. The amount of food provided through emergency, seasonal or supplementary feeding will vary depending on the circumstance and can be substantial. This feeding should occur to support a grazing-based system.

Do I need a planning permit (for building and works) for supplementary or seasonal feeding equipment?

If your new feeding equipment is to be fixed/permanent AND you want to locate it within 100 metres of a dwelling in separate ownership, waterway, designated flood plain, or residential zone or the Urban Growth Zone, a planning permit for buildings and works is required.

If your feeding equipment is movable, a planning permit for buildings and works is NOT required.

This permit requirement does NOT apply to existing infrastructure. It also does not apply to feed storage infrastructure, such as hay sheds and silos.

I already have supplementary or seasonal feeding equipment within the 100 metre setback. Do I need to get a planning permit?

No. The requirement does not apply to a building, works or equipment used for supplementary feeding that was already located within the setback before the reforms came into effect.

What happens if a dwelling is built within 100 metres of my existing fixed supplementary feeding equipment?

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You will not need to apply for a planning permit. The setback requirement does not apply to a building, works or equipment located within the setback from a dwelling before the dwelling existed.

I want to establish a farm where the animals have access to pasture but they will never/rarely eat it. Is this a *grazing animal production* system?

No. The use is likely *intensive animal production*. To be defined as *grazing animal production*, imported food must supplement what the animals obtain from grazing, not replace it entirely. Grazing must be a key component of the farming system to be *grazing animal production*.

I want to establish a production system where I will provide supplements to my animals every day but the animals will also graze on pasture every day. What is my land use?

Grazing animal production allows supplementary feeding. If grazing is a key component of the production system, the use is likely *grazing animal production*.

I import all my animals' feed when it is too wet or too dry for my animals to graze on pasture. Will I need a planning permit?

No – in this scenario, where *grazing animal production* is a Section 1 use, a planning permit is not required. This scenario is defined as 'seasonal feeding'. *Grazing animal production* allows farmers to feed their animals imported food where seasonal conditions, including drought, restrict or prevent the animals from grazing. When seasonal conditions improve and pasture becomes available, the animals should return to grazing.

Is 100 metres a sufficient setback for fixed and permanent feeding infrastructure?

Producers should have regard to the scale of their operation and the potential for environmental risks and amenity impacts. The 100 metre setback provides a minimum safeguard to ensure environmental risks and amenity impacts are considered before permanent feeding infrastructure is constructed. Larger setbacks may be required for large or heavily stocked farms to manage the impacts of their production system on the environment and community amenity. It is highly recommended that producers seek advice and discuss their plans with neighbours before investing in infrastructure.

How are the environmental and amenity impacts from *grazing animal production* regulated when they do not require a planning permit?

Key aspects of animal industries continue to be regulated under the following Acts:

- Environmental:
 - *Catchment and Land Protection Act 1994*
 - *Environment Protection Act 1970*
- Amenity:
 - *Environment Protection Act 1970*
 - *Public Health and Wellbeing Act 2008*
- Rural economic development (including industry reputation)
 - *Dairy Act 2000*
 - *Meat Industry Act 1993*

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- Animal welfare and biosecurity:
 - *Prevention of Cruelty to Animals Act 1986* (and associated Codes of Practice or National Standards relating to animal welfare)
 - *Livestock Management Act 2010*
 - *Impounding of Livestock Act 1994*
 - *Livestock Disease Control Act 1994*
 - *Agricultural and Veterinary Chemicals (Control of Use) Act 1992*

What can I do if my neighbour's farm has an unacceptable level of environmental or amenity impact but it does not require a planning permit?

You are encouraged to have a friendly conversation with your neighbour to discuss your concerns and see if the impacts can be managed.

If talking to your neighbour does not lead to a resolution, you can talk to your council or the Environment Protection Authority (EPA).

How is the environment protected if a planning permit is not required?

All landholders have an obligation to comply with State Environment Protection Policy, which is subordinate legislation under the *Environment Protection Act 1970*. The EPA sets and enforces standards regulating permissible levels of emission, discharge and deposit to the environment. Causing pollution above these levels constitutes an offence. You can report incidents of pollution, environmental hazard or other activities potentially harmful to the environment to EPA.

Intensive animal production

What is the new definition of *intensive animal production*?

Intensive animal production is where the animals' food is imported from outside the immediate building, enclosure, paddock or pen. It does not include an abattoir, sale yard, grazing animal production, pig farm or poultry farm.

Guidance on how to interpret the land use terms *grazing animal production* and *intensive animal production* is available. The *Victorian grazing and intensive animal production guidelines* can be downloaded at agriculture.vic.gov.au/agriculture/planning-animal-industries.

I wish to routinely (or on an ongoing basis) provide my animals with all the food (e.g. grain, pellets, hay and silage) they require; however, the animals will also have access to pasture and can minimally graze on pasture. What is my land use?

The use is likely *intensive animal production*. Grazing must be a key element of the production system to be classified *grazing animal production*.

I wish to use a section of my farm as an intensive feeding operation that is separate to my grazing system (i.e. I provide the animals in this area with all the food they require – and it is not supplementary to a grazing operation). What is my land use?

This part of the farm is likely *Intensive animal production* and will require a permit.

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It may be possible to have both *intensive animal production* and *grazing animal production* as part of a farming business.

Why are the land use terms *cattle feedlot* and *intensive dairy farm* required?

The term *cattle feedlot* is required because specific planning requirements apply to cattle feedlots, including a Code of Practice. *Cattle feedlot* applies to feedlots that are described in the *Victorian Code for Cattle Feedlots (1995)*.

The term *intensive dairy farm* has been added to make it clear that farms where dairy cattle are confined in an intensive housing system and/or fed 100 per cent imported feed (a total mixed ration diet) require a planning permit. *Intensive dairy farm* excludes milk-producing animals other than dairy cattle.

Why can cattle feedlots with up to 1000 cattle be established with no planning permit in some zones?

This is an existing arrangement and applies only to feedlots in the Farming Zone and Rural Activity Zone that comply with the *Victorian Code for Cattle Feedlots (1995)*. There have been no changes to the way cattle feedlots are regulated in these zones. While a permit is not required to use land for a cattle feedlot with up to 1000 cattle in both zones, the use must still comply with the requirements of the *Victorian Code for Cattle Feedlots (1995)* to the satisfaction of the responsible authority (the council) and meet other conditions specified in the zones.

Feedlots with less than 50 head of cattle in these two zones must be sited outside a declared water supply catchment or designated flood plain. These feedlots also need to meet the following mandatory setbacks:

- 300m from a neighbouring dwelling
- 200m from a waterway or any road
- 800m from a potable water supply, the take-off point or a bore supplying potable water.

Setbacks for feedlots with more than 50 head of cattle are also required but are calculated on a case-by-case basis using a range of factors including stocking density, distance to sensitive receptors, receptor type, terrain and vegetation cover.

For both types of feedlots, a proposal demonstrating compliance with the Code, and environment and waste management plans, must be submitted to the council before the use can commence.

I wish to build an intensive beef feeding system but it will not be a *cattle feedlot* as described in the *Victorian Code for Cattle Feedlots (1995)*. What is my use?

Cattle feedlot applies to feedlots that are described in the *Victorian Code for Cattle Feedlots (1995)*.

All other intensive beef cattle systems where the food is imported from outside the immediate building, enclosure, paddock or pen is *intensive animal production*.

Pig farm

I have a pig farm. Do I need a planning permit?

Yes. Planning permits were required under the previous planning controls and are still required under the new reforms.

Why do pig farms need a planning permit?

Pig farms have the potential to cause significant environmental and amenity impacts if not sited and managed correctly. The planning permit application process allows local government to consider whether the siting and size of a proposed farm, or expansion of an existing farm, is compatible with the specific location. The process allows potential environmental and amenity risks to be identified and mitigated. It also allows applicants the opportunity to consider with council the ability of the land to accommodate future expansion.

What are the risk-based planning controls for pig farms?

Low density mobile outdoor pig farms that meet certain best practice criteria have access to a simplified planning permit process. The simple planning permit process supports low-risk pig farms to complete the permit application process with minimal regulatory requirements.

How has the planning permit application process been simplified for low density mobile outdoor pig farms?

The planning permit application process has been simplified by introducing:

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

Why is the simplified planning permit process limited to a specific type of farming?

Low-density mobile outdoor pig farms will be the first to benefit from the simplified planning permit process. 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 will provide an opportunity to develop further risk-based planning regulation.

As the *Piggeries Code of Practice (1992)* has been removed as an incorporated document in the *Victoria Planning Provisions*, what guidance is there to develop a new piggery or expand an existing piggery?

A Planning Practice Note for piggeries will replace the code on an interim basis until the new general Code of Practice for animal industries is complete (*Planning for sustainable animal industries* Action 8).

Poultry farm

I have a poultry farm. Do I need a planning permit?

Farms with more than 100 poultry, 10 emus or 10 ostriches require a planning permit.

If you have less than 100 poultry, 10 emus or 10 ostriches, ask your council what is allowed in your area. There may be local laws that limit the number of animals you can keep.

Why do poultry farms need a planning permit?

Poultry farms have the potential to cause significant environmental and amenity impacts if not sited and managed correctly. The planning permit application process allows local government to consider whether the siting and size of a proposed farm, or expansion of an existing farm, is compatible with the specific location. The process allows potential environmental and amenity risks to be identified and mitigated. It also allows applicants the opportunity to consider with council the ability of the land to accommodate future expansion.

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Low density mobile outdoor poultry farms that meet certain best practice criteria have access to a simplified planning permit process. The simple planning permit process supports low-risk poultry farms to complete the permit application process with minimal regulatory requirements.

How has the planning permit application process been simplified for low density mobile outdoor poultry (chicken) farms?

The planning permit application process has been simplified by introducing:

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

Why does the simplified planning permit process only apply to chickens?

Chicken farms have been identified as a priority for the simplified planning process as they constitute the largest proportion of the outdoor poultry sector. The environmental and amenity effects of 'other' poultry vary considerably across species. Further analysis, along with industry and local government consultation, is required to develop appropriate planning controls that address their relevant environmental and amenity considerations. Simplified planning permit processes for other low-risk production systems will be developed soon.

Why is the simplified planning permit process limited to a specific type of farming?

Low density mobile outdoor poultry (chicken) farms will be the first to benefit from the simplified planning permit process. Simplified planning permit processes for other low-risk production systems - such as fixed housing systems, very small farms or other poultry, 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.

Victorian Code for Broiler Farms

Does the Victorian Code for Broiler Farms apply to free-range poultry farms?

The *Victorian Code for Broiler Farms 2009* has been amended so the Code applies to both conventional and free-range broiler farms with more than 10,000 birds.

The amended Code is now titled: *Victorian Code for Broiler Farms 2009 (Plus 2018 amendments)*.

The environmental and amenity effects of free-range and conventional broiler farms are comparable. Amending the broiler code so it applies to free-range broiler farms will provide greater certainty and a clearer and more consistent assessment framework for free-range broiler farm applications.

Do the amendments to the Victorian Code for Broiler Farms constitute a full review of the Code?

No. The amendments to the Victorian Code for Broiler Farms 2009 are limited to:

- providing the new definition for broiler farm to include free-range chicken meat farms
- introducing a minimum farm size for which the code applies
- updates to the titles of government departments and other relevant references.

Why are there permit exemptions for a conventional broiler farm to convert to a free-range farm with up to 150,000 chickens without a planning permit?

This permit exemption is not new. The *Victoria Planning Provisions* previously allowed for an existing, lawfully established conventional broiler farm to convert to a free-range system, provided the number of chickens is not increased, and there are no more than 150,000 chickens.

This permit exemption recognises that:

- most existing broiler farms have established in accordance with a planning permit where the siting of the broiler sheds has been considered
- no significant new amenity and environmental impacts are introduced when a conventional system is converted to free-range.