

Mornington Peninsula Shire submission:

New land use planning regulations for animal production



New land use planning regulations for animal production – Mornington Peninsula Shire submission

The Mornington Peninsula Shire Council welcomes the opportunity to make this submission on the proposed new regulations for animal production. This submission provides general support to the proposed changes, which are an important step towards providing for a best-practice agricultural economy in Victoria that balances the needs of farmers, rural land-owners, planners, and the environment.

This submission emphasises the need for the appropriate level of support to be provided by the Agriculture Victoria to Council as the responsible authority for complex planning applications to which the proposed new Clause 53.AA will apply. It also provides commentary on the drafting of this clause which may improve the clarity and operation of this clause.

It is not expected that the Mornington Peninsula Shire will frequently receive applications that trigger the proposed new clause. By area, agricultural land uses on the Mornington Peninsula are predominantly grazing animal production, vineyards, orchards, and market gardens. Use of land for Animal production is largely restricted to poultry farming, particularly in the central and northern areas of the Mornington Peninsula. Planning permit applications received relating to (non-grazing) Animal production land uses have historically been limited in quantity.

At the same time, the proposed new clause, particularly the general animal production code, is a highly technical piece of regulation. It is expected that on the infrequent occasions the Mornington Peninsula Shire receive complex applications for animal production, that few planning officers will have the required experience to efficiently navigate the new regulations. It is therefore requested that the Agriculture Victoria provides adequate training opportunities and support services to assist in administering the assessment of complex animal production planning permit applications.

In addition to the above comments, Table 1 below provides commentary of the draft ordinance for Clause 53.AA that may improve the clarity and operation of the clause.

Proposed Clause	Content	Comments
53.AA-1 Application	<i>This clause applies to an <u>application to use land</u>, or to construct a building or construct or carry out works, for animal production other than an application to: ...</i>	Consider revising drafting to make clear that the clause applies to 'an application to amend a permit' or expand an existing animal production land use.
	<i>This clause applies to an application to use land, or to construct a building or construct or carry out works, <u>for</u> animal production other than an application to:</i>	Consider if the drafting should instead say "associated with the use of" - if a building is to be shared between the animal production use and another use (e.g.) hay storage.

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Proposed Clause	Content	Comments
	<i>The number of animals or the <u>Standard Animal Units (SAU)</u> that may be lawfully kept on the land is not increased...</i>	A definition of Standard Animal Unit is not included in the Clause, and it is therefore unclear how SAU should be calculated.
53.AA-2 Pig farm – Low density mobile outdoor pig farm	<i>- 100 metres from a <u>building</u> used for a sensitive use.</i>	Referring only to buildings may exclude open areas used for sensitive uses, e.g., a school oval, a childcare playground. Because of the definition of a building under the <i>Planning and Environment Act 1987</i> , this drafting may therefore also extend the application of this provision to unnecessary structures, such as fences.
	<i>An application that meets all of the requirements of 53.AA-2 must be accompanied by the information listed in section 7</i>	Consider if the words “to the satisfaction of the responsible authority” be included, so that the detail of information provided can respond to the scale of the application.
53.AA-3 Poultry farm – Low density mobile outdoor poultry farm	<i>Any area used as a poultry range, including associated buildings and <u>works</u>, must meet the setback requirements specified in Table 1.</i>	Because of the definition of ‘works’ under the <i>Planning and Environment Act 1987</i> , this drafting may extend to any change to the natural or existing condition or topography of land. It may therefore refer to works that do not require a permit. If this is the intention, consider if, “whether or not a permit is required” be added.
	<i><u>Chicken numbers</u></i>	Consider if this should be clarified so that it is clear if the number refers to the total amount of chickens across the land use, or, in the context of an application to expand an existing operation, the increase in total chicken numbers.
	<i>Minimum distance to a building used for a sensitive <u>use</u></i>	Same comment as above for pig farms. Referring only to buildings may exclude open areas used for sensitive uses, e.g., a school oval, a childcare playground. Because of the definition of a building under the <i>Planning and Environment Act 1987</i> , this drafting may therefore also extend the application of this provision to unnecessary structures, such as fences.
	<i>An application that meets all of the requirements of 53.AA-2 must be accompanied by the information listed in section 7</i>	Same comment as above for pig farms. Consider if the words “to the satisfaction of the responsible authority” be included, so that the

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Proposed Clause	Content	Comments
		detail of information provided can respond to the scale of the application.
53.AA-5.1 Meaning of terms	Sensitive use: Accommodation, education centre, <u>leisure and recreation</u> , place of assembly, medical centre, or hospital land use, not in the same ownership.	Leisure and recreation contains many nested land uses, some of which may not be typically considered to be sensitive uses. Suggest reviewing all the included uses.
53.AA-5.6 Referral of applications	<i>Animal production separation distance requirements</i> (Department of Energy, Environment and Climate Action, <u>2022</u>),	Note that the version circulated with this consultation is a 2023 draft version.
	<i>... must be referred in accordance with <u>clause 66.02</u></i>	Note that 66.02 currently contains referral requirement to the EPA for a cattle feedlot, but no other types of animal production land uses. It is unclear what the proposed referral requirements will be under Clause 66.02 for Tier 3 applications.
53.AA-5.7 Exemption from notice and review	<i>An application is exempt from the notice requirements of section 53 (1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) if the separation distance required by clause 53.AA-5.5 is wholly contained within the property boundary of the land.</i>	It is common that agricultural uses may straddle more than one lot in the same ownership. Consider including words to the effect of "...property boundary of the land in the same ownership".
	<i>... is exempt from the notice requirements of <u>section 53</u> (1)(a), (b) and (d) ...</i>	This should be a reference to Section 52.
53.AA-5.8 Amenity objective	<i>Approved measure AM1.3 Range areas should be at least 250 metres from <u>a sensitive use</u>.</i>	It is noted that the drafting relating to separation distances for sensitive uses is not consistent with the previous sub-clauses that refer to a building used for a sensitive use. It is suggested that the drafting for this issue should be consistent across the clause
	<i>Approved measure AM1.3 Range areas should be at least 250 metres from a sensitive use.</i>	It is noted that the draft separation distance for animal production document does not include reference to the Public Use Zone and other public land zones, which commonly contain sensitive uses such as schools and leisure and

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Proposed Clause	Content	Comments
		recreation facilities.
53.AA-5.11 Surface water objective	<i>To minimise impact of nutrient loads on <u>surface water</u>.</i>	Consider how this objective relates to private dams that may be connected to managed waterways.
53.AA-5.13 Access and parking objective	<i>To ensure the site is provided with appropriate and functional access, on-site parking and loading facilities</i>	Consider if access to fire trucks should be incorporated, particularly in areas of higher fire risk.

Table 1 – Review of draft ordinance for Clause 53.AA

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