

Latrobe City Council

Submission to Animal Industries Advisory Committee (Discussion Paper)



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Revision	Date	Written by	Reviewed by
1.0	21 January 2016	N. Misiurka	Helen Crawford
2.0	27 January 2016	N. Misiurka	Gail Gatt
3.0	1 February 2016	N. Misiurka	Jason Pullman

Introduction

On behalf of Latrobe City Council, I welcome the opportunity to make this submission to the Animal Industries Advisory Committee.

This submission is set out in the following three sections:

- Introduction
- General Discussion
- Key Issues and Response to the Advisory Committee Policy Directions

Latrobe City respectfully requests that it be involved in any relevant ongoing discussions and requests a copy of the Advisory Committee report to the Minister for Planning when it becomes available.

It is noted that due to the tight timeframes in which submissions were required, this submission has been prepared by Council Officers and has not been formally endorsed by Council resolution. Council may therefore require the opportunity to provide an addendum to this submission, following a Councillor briefing session to be held 22nd February 2016.

Should the Committee have any questions regarding this submission, please contact myself Jason Pullman, Coordinator Strategic Planning via phone 5128 6151 or email Jason.Pullman@latrobe.vic.gov.au. Alternatively, you may contact Gail Gatt, Manager Future Planning via phone 5128 5446 or email: Gail.Gatt@latrobe.vic.gov.au.

General Discussion

Latrobe City is the principal service centre for Gippsland, and is recognised as one of Victoria's four major regional cities. Land use planning considerations within Latrobe City are often unique, due to the urban and industrialised nature of the city that is situated within a regional setting.

Latrobe City's rural and agricultural land base comprises a mix of niche rural industry, minor traditional agricultural uses, expansive areas of forestry and also provides for long standing rural living opportunities. It is also noted that significant areas of Farming Zoned land across the municipality are encumbered by State Resource Overlays (SRO) or other heavy industry buffers, with the use of this predominantly utilised for grazing.

Due to the comparatively low direct economic contribution of traditional agricultural enterprises currently within Latrobe City, the protection of rural land for agriculture in some parts of the municipality has not previously been a primary concern, as acknowledged by the *Strategic Planning for Gippsland Rural Areas Study* (Municipal Association of Victoria, 2007). The preservation of rural land has therefore occurred more often from the need to retain buffer areas from heavy industry (*coal mines and the Australian Paper Mill*), the preservation of coal reserves and the limited development potential of the floodplain areas and steep topography of the foothills.

Rural living opportunities have consistently been encouraged throughout the settlement history of the municipality and have long established amenity expectations within the community. In this regard, it is important to note that it is the rural living opportunities which have sustained many of the smaller rural settlements in Latrobe City post the 1970's (*Latrobe City Heritage Study 2010, Context Pty Ltd*).

More recently however, the protection of the agricultural land base has been recognised amid the need to diversify the local economy and the opportunities intensive agricultural enterprises may provide.

The competing purposes for agricultural land are therefore expected to present new tensions, particularly regarding the expectation to use and develop smaller allotments within the Farming Zone for intensive agricultural uses which may result in required buffer's extending across adjoining properties (i.e. new farming practices may no longer require the large expanses of land to be viable).

A direct translation to the new rural zones was undertaken during July 2006, introducing the Farming Zone and changes to the Rural Living Zone. Since then, there have been limited drivers to support the implementation of additional rural zones, although community pressure for the creation of additional rural residential living areas remains high, particularly surrounding rural townships.

Latrobe City Council has recently commenced consultation with the local community to inform a number of key land use strategies, including the preparation of a Rural Land Use Strategy for the municipality. A key objective of this strategy is to formally identify appropriate locations for rural living and intensive agricultural uses. The recommendations of the Advisory Committee will therefore be a key consideration in the preparation of this strategy.

Settlement History

It is well understood that mining and heavy industry development have significantly influenced the settlement pattern of Latrobe City, however the impact of historic subdivision policies on the fragmentation of productive agricultural land within city is less obvious or recognised.

The pastoral and selection eras profoundly altered the natural landscape, while government policy to promote intensive land uses continued after the selection acts with the introduction of the *Closer Settlement Act* in 1898.

Under this legislation, the government purchased large estates (usually large pastoral properties) and subdivided them into small allotments that were available for people with limited capital to turn into farms. The scheme aimed to increase rural populations, promote intensive land use and increase agricultural exports. The policy proved to be a failure, mostly because the allotments were too small to become viable farms.

In spite of this, this policy was massively extended as a repatriation measure following the First World War when the government attempted to settle returned soldiers on

farms throughout Victoria. The Hazelwood estate near Churchill in Latrobe City was one of the properties that the Soldier Settlement Board bought and subdivided into small farms for soldier settlers.

This was again experienced following the post-war expansion and industrialization of the Latrobe Valley, whereby rural subdivisions were progressively carved from larger farms commonly within close proximity to smaller settlements for people working within main townships and for the heavy industries.

Rural living choice has provided a valued layer of housing opportunity, consistently encouraged by government policy and increasingly sought after by new arrivals to Latrobe City. The embracing of a rural lifestyle has often meant a revitalisation for small rural towns, their schools, associated clubs, hotels and local agricultural retailers and service providers. This is evidenced in many of the small townships in Latrobe City, where after years of decline, these towns have been sustained by rural living opportunities and the employment opportunities within the main townships. It is believed that this is an important consideration when reviewing the recommendations provided by the committee considering what may-be considered significant changes to the amenity expectations of long standing rural settlements.

More recently, increased land values resulting from the desirability of rural living areas in close proximity to main urban centres and smaller townships, has reduced opportunities for the consolidation of smaller lots with large scale agricultural pursuits.

It is clear that the completion of the Latrobe City Rural Land Use Strategy will provide a key opportunity to establish policy directions that ensure that rural land assets in Latrobe City complements both rural living, whilst meeting its primary rural function and enabling new opportunities for intensive agricultural industries within locations considered appropriate by the community and industry.

In summary, rural land use planning matters in Latrobe City are often unique when compared to other major regional cities, and are not often experienced elsewhere in the state.

KEY ISSUES AND RESPONSE TO THE ADVISORY COMMITTEE POLICY DIRECTIONS:

- 1. Provide stronger strategic guidance by undertaking regional agricultural land capability assessments and identifying appropriate areas for intensive agriculture in local planning policies.**
 - This recommendation is supported.
 - Such strategies must be undertaken in partnership with local communities, business and industry representatives.
 - The quality of the land alone is not an indicator of economic viability of intensive agriculture opportunities, as marginal agricultural land may support intensive agricultural businesses.
 - Additional considerations should include proximity to market and labour, transport routes, land value, ownership patterns, infrastructure, climate change impacts / opportunities, availability of water and the provision of necessary amenity buffers.

- Land capability assessment should consider co- location with complimentary uses such as within the State Resource Overlays (SRO). Coal resources place significant constraints on large expanses of land within Latrobe City, and there is a desire to consider allowing more intensive agricultural uses of this land, whilst recognising the purpose of the SRO.

2. Strengthen the purpose of the Farming Zone to promote agriculture activity as the priority activity and remove reference to encouraging dwellings as a means of promoting population growth.

- It is recommended that the existing Farming Zone better articulate the support and evidence required to justify the construction of new dwellings and remove 'as of right' provisions for new dwellings on large lots.
- The inherent weakness of the current discretionary system of dwellings within the Farming Zone requires applicants to justify construction of a dwelling (a permanent use) with a temporary and often 'as of right' use. Anecdotal evidence suggests that there are few dwellings approved with the justification of a proposed farming use, with the farming use continued in the longer term.
- Council has had a number of planning permits recently overturned at VCAT related to the use and development of the land for a dwelling in association with an agricultural use. The refusals issued by VCAT have largely been based on the determination that a dwelling was not genuinely required for the agricultural use of the land.
- The ambiguous nature of the current Farming Zone provisions adds to the frustrations for land owners, and has resulted in the potential for inconsistent decision outcomes. The proximity of the Farming Zone allows a broad range of uses not related to the primary intent of the zone. This has in part, led to a substantial dilution of the functionality of the zone. As recommended by the committee, the identification of appropriate areas for intensive agriculture in local planning policies would also provide clearer direction.
- To better reflect the 'industrial' nature of new and emerging agricultural practices to be supported, reduce potential land use conflicts, permit and notice requirements, preserve these locations in the longer term and provide clarity to landowners and investors; a new dedicated zone as opposed to a 'one size fits all' approach may be considered. Alternatively, other options may include the establishment of schedules to the Farming Zone, broader utilisation of the Development Plan Overlay and the retrospective application of the Rural Living Zone and Rural Activity Zone to reflect existing settlement patterns.

3. Identify in planning schemes defined buffer distances for different types and scales of intensive animal industries.

- The establishment of buffer distances is supported for certain types of intensive animal husbandry such as piggeries, cattle feedlots and broiler farms where odour and other off-site environmental considerations are necessary. Where new dwellings are proposed to be constructed within these buffers they should be strongly discouraged (the challenge however is being aware of established buffer distances where they are not mapped within planning schemes).
- Defined buffer distances must be consistent with recognised industry standards and consideration must also be given to the role of Clause 52.10 in Victorian Planning Schemes.

4. Require a permit in the farming zones for new dwellings within the buffer distance of Intensive animal operations.

- This recommendation is supported in principle. The practical application of this recommendation is however considered problematic for the following reasons:
 - Existing and future intensive agricultural uses may not be known by either Council and / or landowners (i.e. landowner does not know their use of land is deemed to be 'intensive').
 - This would require mapping available to the community and Council to support investment decisions and planning assessments to be made.
 - This may require notice requirements for the construction of new dwellings to extend beyond adjoining properties.

5. Base the generic definition of intensive animal husbandry on the impacts of the operation.

- This recommendation is supported in principle. Whilst it is acknowledged that permit conditions can be included to regulate operations (i.e. hours of operation), this recommendation is considered problematic however due to the planning system establishing the regulations for the 'use' of land and not the 'operation' (i.e. off-site impacts are either increased or reduced by the operation and practices of individuals whilst the 'use' definition remains the same).
- Monitoring the impacts of intensive animal husbandry is secondary (i.e. secondary to the issuing of a permit and / or determination that no permit was required). A permit may then be required retrospectively where impacts are considered to trigger a permit requirement.
- This recommendation may result in an increased demand upon Local Government planning enforcement resources, which may be required to monitor the impact of operations, to either ensure compliance with an existing planning permit or to determine whether a planning permit is required.

6. Base the requirement for a permit for animal industries on the potential environmental and amenity impacts of the operation derived from an assessment with an online tool.

- An online assessment tool is not supported.
- Site specific issues such as site access, traffic movements, waste disposal, water management, community values or referral agency considerations could not be adequately assessed by an online tool.
- An online assessment tool would be reliant on accurate inputs, which present risks to data reliability.
- Whilst an on-line self-assessment tool is not supported, the exemption for a permit requirement may be supported for an intensive agricultural or intensive animal husbandry operation where the following applied:
 - all required buffers were located within the subject property boundary.
 - the proposed use and development is consistent with a relevant land use strategy (where incorporated or referenced within the local planning scheme).

7. Create specific land use terms for poultry farms (broiler, egg and hatcheries), cattle and sheep feedlots and piggeries and other clearly intensive uses, to avoid reliance on a generic intensive animal husbandry definition where possible.

- This recommendation is supported.
- It is noted that the use tables would need to be revised across all zones.
- It is recommended that standard permit conditions be identified within Victorian Planning Provisions, the relevant code of practice and / or industry standards which align to the new 'use' definitions.
- It is recommended that a definition of 'free range' also be included within planning schemes. It is acknowledged the challenges that this may present for the industry.

8. Strengthen permit triggers, application requirements and referral arrangements for animal industry applications.

- This recommendation is supported. Clear application requirements would support a consistent approach to assessing permit applications, whilst referral authorities may be required to resource new or additional expertise in order to guide the planning permit decision making process.
- Permit triggers, application requirements and referral requirements should be consistent with relevant guidelines, code of practices and industry standards which apply.
- It is recommended that standard permit conditions are also established, consistent with relevant guidelines, codes of practice and industry standards.

9. Limit the 'right to object' in the Farming Zone when standards prescribed for an animal husbandry enterprise type are met.

- In principle this is supported, in principle. However it is considered that permit application notice requirements and the 'right to object' could only be reduced where the buffer distances for the proposed intensive agricultural activity were contained within the property boundary (or properties in single ownership). This is considered appropriate given intensive agricultural uses may prevent other agricultural pursuits on adjoining land due to biosecurity and other industry requirements (*i.e. 5 km buffer distance between broiler farms*).
- Rural living occurs across the municipality and provides a valuable and sought after lifestyle choice. The relative affordability of rural lifestyle areas as opposed to metropolitan Melbourne has attracted many seeking an alternative lifestyle where quality of housing is a key factor. The 'blanket' removal or restriction of long established amenity expectations and notice requirements from members of the community located within the former Rural Zone and now Farming Zone is not supported, where required buffer distances could not be achieved without impacting surrounding properties.
- It is noted that the relevant standards and required buffers must first be consistent with the provisions of the planning scheme and be able to be easily interpreted.
- This matter highlights the need for clear rural strategies to support the retention of large lots within certain locations of the Farming Zone.

10. Clarify when farming operations have existing use rights

- It is considered that the existing use right provisions provided in the Victoria Planning Provisions (VPP) are adequate. In this regard, it is considered that Clause 63.03 be retained (*i.e. "The definition of a term in this scheme, or the amendment of any definition, does not increase or restrict the extent of any existing use right established prior to the inclusion of the definition or amendment"*).

11. Create a single point of contact for all enforcement actions whose role it is to oversee enforcement activities.

- This recommendation is supported.
- There may be the requirement to have a joint enforcement function between relevant authorities and local government, whereby a 'lead' agency is appointed and is jointly supported.

12. Increase the role of the EPA as an enforcement body.

- This recommendation is supported, acknowledging that the relevant codes of practice are commonly within jurisdiction of the EPA to monitor, are technical in nature and

permit conditions are often required by the EPA.

- It is acknowledged that additional resources would need to be provided to the EPA in order to meeting this requirement. Other government departments who have animal industry expertise may also be equipped to assist with enforcement actions.

13. Set clearer prescribed standards and conditions for intensive animal industries in planning schemes using the Codes of Practice approach.

- This recommendation is supported.
- Further, it may be appropriate that the table of uses be amended within the zone(s) to state that as a condition that the specific intensive use “must comply with the code of practice”.

14. Develop and maintain a contemporary Code of Practice for all intensively farmed livestock (as a minimum for poultry (broiler, egg and hatchery), piggeries, cattle feedlots, sheep feedlots, and feedlot dairies).

- This recommendation is supported.
- It is recommended that consideration be given to each code of practice being independently reviewed and subsequently incorporated within Planning Schemes.

15. Introduce a fast track process for applications that meet defined standards.

- In principle this recommendation is supported, particularly where a relevant department with animal industry experience has demonstrated its endorsement or support for a proposal (*similar to the extractive industries process in Victoria*).

16. Formally recognise participation in compliant industry assurance programs in the planning process. Some examples include APIQ, NFAS, Chicken Care and Egg Corp Assured.

- It is unclear what level of industry support, participation and governance arrangements are in place for all industry assurance programs. More information is required regarding the implications of this proposal to enable a response (i.e. referrals, requirements for peer reviews of permit applications, independent assessments and certifications).
- It may be appropriate/ beneficial that standard permit conditions be established which align to recognised codes of practice.

Additional comments:

- The discussion paper does not consider the opportunity for intensive farming industries within the other rural zones (nor the implication of adjustments to the use definitions on other rural zones).
- The discussion paper does not consider that many large farming operations are supported by a composite of smaller land parcels. The opportunity therefore for the further fragmentation of existing large farm operations over time and the incremental reduction in the supply of large farms currently within single ownership is not addressed.
- There is no discussion of the utilisation of land for intensive agriculture or intensive animal husbandry within large parcels of existing constrained land, such as land located within the State Resource Overlay (SRO) or Environmental Significance Overlay (ESO). Whilst this issue may be more relevant to Latrobe City, it is requested that the Advisory Committee provide recommendations regarding such opportunities.
- Given intensive agricultural industries may introduce restrictions as to how surrounding land can be used and or developed, there is a need to understand what opportunities to utilise and develop land located within buffer distances may be explored and supported.