

Proposed reforms to planning controls for animal industries in Victoria

14 NOVEMBER 2017
NILLUMBIK SHIRE COUNCIL
SUBMISSION TO VICTORIAN STATE GOVERNMENT

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1 Introduction

Nillumbik Shire Council welcomes this opportunity to make comment to the State Government's proposed reforms to planning controls for animal production, relating to land used for grazing.

Council's submission is divided into two key sections:

- A summary of the Shire of Nillumbik, with particular reference to the sector.
- Nillumbik Shire Council's response to the proposed changes.

Generally, Nillumbik Shire Council is supportive of the broad approach to encourage grazing animal production whilst balancing environmental and amenity concerns. However, Council has some concerns about the proposed changes to the planning zones. Most significantly, Council is concerned that the proposed changes to the planning requirements within the Rural Conservation Zone could lead to reduction in environmental values, and conflict with rural-residential amenity in the Nillumbik Green Wedge.

Careful consideration is needed to delineate appropriate animal industries that are consistent with the defined values of the area, and adequate setbacks to mitigate potential impacts on environment and amenity.

2 Local Context

2.1 *The Shire of Nillumbik*

The Shire of Nillumbik is located on metropolitan Melbourne's north-eastern fringe. Around 91 per cent of land within the Shire is non-urban land within the Nillumbik Green Wedge, with the remainder located inside the Urban Growth Boundary (UGB).

The non-urban land is typified by rolling hills covered by a mixture of pasture and indigenous bushland. The predominant land uses in non-urban areas are rural-residential living, agriculture and public conservation. The Green Wedge also contains the Sugarloaf Reservoir, a key reservoir in Melbourne's water supply infrastructure.

While the number of large-scale agricultural operations is small in comparison to other areas, a considerable amount of the Shire is used for small-scale value added agriculture and 'hobby farming'.

2.2 *Agricultural activity in the Shire of Nillumbik*

The area utilised for farming and agriculture is only 16 per cent of the land area of the Shire (ABS, 2010). Nevertheless there remains some substantial commercial farming enterprises and agriculture continues to contribute to economic activity. One hundred and fifty one (151) people are directly employed in agriculture (2015/16). Within Nillumbik, agriculture generates an output of \$31.7M (2016), an increase on \$30.1m in 2010/11 (National Institute of Economic and Industry Research, 2016).

The Land Capability Study identifies areas in the north of the Nillumbik Green Wedge are used primarily for grazing, whilst the eastern and southern regions support viticulture and horticulture (Woodward and Clyde, 2008; Essential Economics 2008, pp. 51–53).

The principal agriculture products of the Shire are beef cattle, sheep, grapes and orchard fruit, although there are also a wide range of minor farm products including horses, poultry, and pigs. There are 111 registered agribusinesses in Nillumbik, with beef cattle (specialised) production being the predominant activity by number (40%), followed by horse farming (6.3%), grain sheep/cattle farming (6.3%), poultry for meat and eggs (5.6%), sheep (4.5%), dairy cattle (3.6%), and pig farming (2.7%) (Australian Business Register, February 2017). The proposed changes to the planning scheme will affect a range of animal grazing activities within the Shire from large commercial broadacre to smaller-scale grazing animal production activities.

Within the Green Wedge, land use is a mix of intensively settled rural lifestyle areas, farming, recreational zones and state forest and parks. In areas of rural residential development the subdivision pattern is generally too small to support large, broad acre commercial farming. Agriculture is considered one of the most suitable uses of Green Wedge land by the 2010 *Outer Suburban/interface Services and Development Committee report: Inquiry into sustainable development of agribusiness in outer suburban Melbourne*. This report concludes that there are a '...raft of possibilities for making farming a more sustainable and profitable pursuit in green wedges'.

In general, farming operates in the Nillumbik Green Wedge as a supplement to non-farm incomes and explains the high incidence of part-time and hobby farming. Agricultural activities in the Nillumbik Green Wedge are small scale with low profit margins reflecting the growing number of hobby farmers (Essential Economics 2008, pp. 51–53). Future opportunities for the agricultural sector might include farm stays, development of overnight accommodation, cottage industries, restaurants, wineries, small scale intensive primary production and fresh produce (Essential Economics 2008, p. 7). The current trend towards locally produced fresh foods is a significant opportunity and outlets include farmers markets and, potentially, shops in the townships. Proximity to Melbourne markets is considered a key advantage.

Council is seeking opportunities to develop a strong local economy that supports business growth, jobs and community wealth (The Council Plan 2017-2021 Strategic Objective 4 – A Prosperous economy).

In line with the Nillumbik Council Plan 2017-2021 and Green Wedge Management Plan 2010-2025, Council is working towards increasing opportunities for business development to reinforce agricultural production and grow tourism in the Green Wedge, which is a key strategy.

It is a strategic imperative to encourage investment and development within the Shire to increase economic development and local employment, and broaden the rate base while at the same time preserving the Green Wedge.

The next section considers the implications of the proposed changes in relation to land use activities in the Green Wedge Zone and Rural Conservation Zone, as this is where the main effects are likely to be.

2.3 Nillumbik Green Wedge Policy and grazing animal production

2.3.1 Plan Melbourne, the Green Wedge Zone and Rural Conservation Zone

Plan Melbourne identifies Green Wedge areas as containing a mix of agriculture and low-density activities, whilst acknowledging that the use and appearance of land in each Green Wedge area is unique. The Nillumbik Planning Scheme supports the use of land for agriculture in the Green Wedge Zone.

The *Nillumbik Green Wedge Management Plan 2010-2015* provides a strategic framework for managing the Green Wedge within the Shire, and identifies the values of the Green Wedge as primarily environmental and cultural, which are provided by conservation habitat, scenic rural landscapes and infrastructure important to Melbourne's water supply needs, whilst providing an economic function. Within the Shire's Green Wedge zones, land uses which undermine these values are prohibited or discouraged.

Due to the potential off-site impacts that intensive animal husbandry can create (e.g. pollution, noise and odour) zoning controls prohibit this use in much of the Nillumbik Green Wedge. Most significantly, it is prohibited within the Rural Conservation Zone, which is the zone applied to most private land in the Nillumbik Green Wedge. Much of this rural area is highly valued by residents and visitors for its strategic environmental conservation and landscape qualities.

2.3.2 Local Planning Policy Framework

Nillumbik Shire Council's Local Planning Policy Framework places paramount emphasis on protecting the social and environmental values of the Nillumbik Green Wedge. Consequently, whilst the Framework supports on-going economic development of the Green Wedge, such development is required to be of a type that protects and enhances the social and environmental values of the Green Wedge, such as soil based agricultural enterprises and sensitive tourism development. This stance is articulated in the following strategies cited in the Nillumbik Municipal Strategic Statement:

- Promote economic development opportunities that build on the cultural and physical characteristics of the conservation and rural focus (the 'green wedge') of the Shire.
- Facilitate low impact tourism development opportunities that build on the cultural and physical characteristics of the 'green wedge'.
- Retain agricultural land in the north-western area of the Shire and in Kangaroo Ground for predominantly soil based agricultural purposes.

In Nillumbik the Green Wedge Zone provides potential for broiler farm use (Section 2). This zone comprises a sizeable area of land for agricultural use.

Council has recently commenced a review of the Green Wedge Management Plan which, amongst other considerations, seeks to re-test the Green Wedge Values, including how animal production contributes to these diverse values.

3 Response to the Recommendations of the Review

3.1 General Support

In relation to the proposed changes, Council is supportive of the Government's intent to enhance opportunities for increasing small scale animal production activities within the Green Wedge by:

- Continuing to grow Victoria's animal industries in a sustainable manner
- Assessing and managing environmental and amenity impacts of animal industries are considered through the planning system
- Supporting local government to make well informed decisions
- Increasing community confidence in Victoria's animal industries
- Providing greater clarity around land use terms
- Distinguishing between 'intensive' and 'extensive' animal production
- Including grazing animal production as a Section one use (no permit required) within the Green Wedge Zone. Agriculture is already a Section two use (permit required) in the Rural Conservation Zone (RCZ). The proposed reforms will clearly confirm that a permit would be required to initiate or expand a grazing operation in the RCZ.
- Providing a logical, graduated approach to planning controls based on risk that is accompanied by decision guidelines and information requirements tailored to the category and the level of risk.

3.2 Feedback on the proposed changes

Notwithstanding Nillumbik Shire Council's general support for the proposals, Council does have the following concerns with the findings of the proposed reforms:

3.2.1 Compatibility with conservation values and environmental sensitivity of the Rural Conservation Zone and Green Wedge Zone

Clause 35.06 of the Victoria Planning Provisions sets out the purpose of the Rural Conservation Zone (RCZ):

To encourage development and use of land which is consistent with sustainable land management and land capability practices, and which takes into account the conservation values and environmental sensitivity of the locality.

To provide for agricultural use consistent with the conservation of environmental and landscape values of the area.

Currently, under the Nillumbik Planning Scheme, broiler and pig Farms are Section 3 Uses (prohibited) within the RCZ. These will potentially become Section 1 and 2 uses. The RCZ has a strong environmental conservation focus and provides little guidance in promoting agricultural industry. As such, the objectives and decision guidelines of this zone will need to adapt to this new direction of encouraging the growth of Victoria's animal industries. As an option, consideration could be given to grazing becoming a Section one (no permit) in the RCZ. Farming is a primary purpose of these zones and the use should be as-of-right

where it does not unreasonably impact the amenity of nearby properties, and reinforces the values of the Green Wedge and Rural Conservation Zone.

Encouraging sustainable agricultural production is a strategic imperative for Nillumbik, and critical to a strong local economy, where this reinforces the values of the Green Wedge and RCZ. It is unclear how the proposal for the uses of pig farm, poultry and broiler farms to move to Section 1 will demonstrate compatibility with sustainable land use and farming without a permit application. It is also recommended that more work is undertaken in this area to assist assessment of proposed agricultural uses. Further, it would be appropriate to review the purpose of the zone concurrently with these changes.

3.2.2 Support for physical setback requirements as a means of mitigating impact – but clarity on thresholds required

Council supports the proposed use of setbacks to meet the Section 1 conditions as a practical approach. However, there is uncertainty over whether the setbacks are sufficient to mitigate potential impacts on amenity. The proposed setback for a pig farm is 50-100 metres from dwellings / residential zone / waterways and wetlands – it is unclear on what basis the setback requirements have been derived. Given that physical conditions vary from site to site, with variation in land form and topography, Council supports a more scientific approach to determine setbacks rather than an arbitrary distance.

In relation to keeping and breeding poultry, a permit would not be required for outdoor range chickens for production of meat or eggs (poultry farm). Depending on the proximity, this could create noise and odour issues for adjoining land uses. A setback from dwellings is strongly recommended, which is clearly specified. The proposed modifications could be more clearly explained to a general audience by the use of plans and diagrams.

3.2.3 Streamlined application process – proposed exemptions from notice and review for Section 2 uses

There is general support for business development, and streamlining planning processes to encourage appropriate, low risk development that does not have adverse impact or cause nuisance. However, there is limited discussion about the thresholds for small pig and poultry farms and how the risk has been assessed. Council is concerned that the streamlined application process and proposed exemptions from notice and review for Section 2 uses (poultry and pig farm) may be counter to natural justice – given there is likely to be community sensitivity about communication and neighbour amenity that require careful management. In considering new Section 2 use (rather than Section 3 use) should take a precautionary approach, subject to later review before taking away notice of appeal rights.

As detailed above, it is a strategic imperative of Nillumbik Shire Council to encourage development whilst protecting the Nillumbik Green Wedge and Rural Conservation Zone from intrusive uses which undermine the social and environmental values. A clear differentiation between small scale/low risk grazing activities and more intensive animal production activities should be retained. Broiler farms are an intensive form of agriculture (*Victorian Code for Broiler Farms*, 2009), requiring careful management to avoid adverse impact on surrounding land and amenity.

3.2.4 Track changes - corrections

The proposed planning scheme provisions include track changes to Clauses 35 and 52, presumably to show the modifications proposed. However, Council notes that some modifications highlighted by use of track changes appear to be incorrect. For example, in Clause 35.04-1 Table of Uses, the proposed changes to pig farm refer to conditions specified in Clause 52.YY-1. This should be Clause 52.ZZ-1. Similarly, references to Clause 52.ZZ-1 for poultry farm should be 52.YY. The suffix .XX and .YY need to be re-ordered for pig farms and poultry farms.

4 Conclusion

The proposed changes are of significance to land use in the Shire of Nillumbik given the important contribution of this sector to the Shire's agricultural production, but also due to the high importance Council places on ensuring the values of the Shire's Green Wedge are adequately protected from potential adverse impacts of Animal husbandry and intensive animal production.

The intention of the proposed changes to supporting grazing production on existing farms, to improve viability and encourage economic development is supported. However, Council is concerned that the proposal to relax planning controls on broiler and pig farms is not adequately justified, and that adequate measures to control potentially intrusive environmental amenity impacts are provided.