



**AUSTRALIAN FOOD  
SOVEREIGNTY ALLIANCE**

# **Australian Food Sovereignty Alliance (AFSA)**

## **Legal Guide for farmers (Victoria)**

**Updated August 2024**

**Note: This is intended to be a living document that is updated in accordance with changes to legislation, policy and regulation. Please [email us](#) for the latest version. In addition, AFSA has sought legal support to develop this guide, however we strongly advise that you seek your own legal advice where needed to ensure you are following legislation, guidelines and regulation administered by state and local governments.**

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# Introduction

If you are a farmer or making plans to farm, this guide will help you navigate what can be a confusing and at times overwhelming range of practical, legal, philosophical, and political concerns. While the focus is on the legalities of farming, from growing to processing and distributing your food, the Guide also encourages you to think about the principles you bring to your farming enterprise.

First, all of us in what is today known as Australia are living on unceded Aboriginal and Torres Strait Islander Land, and whether we are farming or not, we have a responsibility to care for and heal Country. We should all acknowledge on whose traditional lands we are/will be farming. Consider how you can contribute to Indigenous sovereignty, land restitution, paying the rent, and decolonising approaches to agriculture. This may be done by stating one's relationship to the First Peoples on whose Land you are farming. Build this understanding and practical resolutions throughout your approach to farming, processing and distributing your food.

Consider the background you bring to farming, setting out what resources and skills all farmers bring to farming. Who are the parties engaged in the farming enterprise? Are they individuals, businesses or incorporated associations, for instance? If it is more than an individual or family farming, do you need a land sharing agreement? If so see our section on *Land Sharing Agreements*.

Determine your practical, political and philosophical approach to farming – e.g. agroecology, regenerative agriculture, certified organic, biodynamic. (See [AFSA's discussion of the differences and similarities between agroecology and regenerative agriculture](#).) Consider all aspects of your farming system (e.g. are you producing vegetables, pasture-raised animals, eggs or dairy? Are you building processing facilities? Through what distribution channels are you selling?). Ensure you understand all legal requirements of your enterprise (see *sections on Planning & Land-Use Controls, Water Rights and Licensing and Food Safety Licensing*).

Regulatory matters – this Guide will help you understand what regulatory approvals or permits may be necessary (i.e. Local Laws, Planning, NLIS for livestock, PIC number) and agree on a plan for compliance. Do you need planning approvals for your land use (e.g. pastured pigs or poultry, or on-farm processing or sales), or food safety licences for processing or sales (e.g. boning rooms, egg processing, abattoirs, or dairy processing). *Here, you should read sections on Planning & Land-Use Controls and Food Safety Licensing*.

As the ATO considers primary production income as taxable, you need to decide on your business structure (e.g. sole trader, partnership, or cooperative), and register an ABN. If you earn over \$75,000, you will need to [register for GST](#). If you employ others, you will need to

pay income tax and obtain Workcover (*see section on Volunteer Agreements*). Consider insurance responsibilities – public liability, third party etc.

The contents of this Guide have been produced by AFSA for your information and are intended to provide guidance on the relevant laws and regulations as at the date of publication (or as otherwise indicated), but is not a substitute for legal advice and should not be relied upon as such.

AFSA is not liable for any loss, damage or injury (direct or indirect) arising as a result of your reliance on this Guide, or arising as a result of or in part by any act or omission in procuring, compiling, collecting, interpreting, reporting, communicating or delivering any information from this Guide. AFSA encourages readers to seek independent advice regarding the material contained in this Guide.

## Planning and Development

### I BACKGROUND

The planning system governs the agricultural activities/uses that farmers and producers can legally undertake on any given parcel of land. Every local government area (council) has a **land use plan** that outlines **land use controls**. Land use controls such as **zones** and **overlays** ‘determine the type of activity/use and/or development’ that is ‘allowed (with or without a permit) or prohibited, on a given site’.<sup>1</sup> There may be multiple zones and overlays on a property. For example, in Victoria, a property may be located within both the rural living and green wedge zones.

Land use plans are amended from time to time so it is essential to ensure the current version is being accessed. Issues that arise in this area are typically in relation to the interpretation of the land use plan by the council. Members are welcome to seek support from the AFSA Legal Defence Fund as a first step.

#### **Definitions of intensive and extensive animal production in each state and territory**

It is important to have an understanding of what category of land use applies to your farm or prospective farm, ideally before you purchase a property. Amending the land use of your property can be costly and time-consuming. The AFSA Legal Defence Fund can help you to

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<sup>1</sup> <https://www.pc.gov.au/research/completed/planning-zoning-reforms/planning-zoning-reforms.pdf>

determine the land use category under the relevant land use plan. The land use plan will determine what types of activities are permitted and restricted on your property. Often small scale farmers' activities will be categorised as "intensive" or "extensive", which will determine what other requirements apply to your farming enterprise. The below table informs readers of this Guide about how animal production land uses are defined under the state planning codes. Please note that local planning schemes may include different definitions.

State	Definition of intensive animal production	Definition of extensive animal production
Victoria	<p>Land used for animal production where:</p> <p>a) all of the animals' food is imported from outside the immediate building, enclosure, paddock or pen; and</p> <p>b) the animals do not obtain food by directly grazing, browsing or foraging plants growing on the land on a daily basis. Other than cattle feedlot and intensive dairy farm, it does not include any other defined use.</p>	<p><b>Appears to have been deleted in 2018. No current definition seems to exist.</b></p>
New South Wales	<p>The keeping or breeding, for commercial purposes, of cattle, poultry, pigs, goats, sheep, horses or other livestock, and specifically includes any of the following:</p> <p>(a) dairies (restricted),</p> <p>(b) feedlots,</p> <p>(c) pig farms,</p> <p>(d) poultry farms.</p>	<p>(a) the production of crops or fodder (including irrigated pasture and fodder crops) for commercial purposes,</p> <p>(b) the grazing of livestock for commercial purposes, where the animals eat plants growing on the land as the main source of dietary requirements,</p> <p>(c) bee keeping,</p> <p>(d) a dairy (pasture-based), where the animals eat plants growing on the land as the main source of dietary requirements,</p> <p>(e) supplementary and emergency feeding, and temporary penning or</p>

		housing of animals for weaning, dipping or related purposes, that is incidental to the grazing of livestock or a dairy (pasture-based)
Queensland	<p>(a) means the use of premises for—</p> <p>(i) the intensive production of animals or animal products, in an enclosure, that requires food and water to be provided mechanically or by hand; or</p> <p>(ii) storing and packing feed and produce, if the use is ancillary to the use in subparagraph (i); but</p> <p>(b) does not include the cultivation of aquatic animals.</p> <p>Examples of intensive animal industry—feedlot, piggery, poultry and egg production.</p>	<b>Appears to be no current definition in legislation/regulation.</b>
Tasmania	Any concentrated, confined animal growing operation for meat, milk or egg production located in pens or houses wherein the animals are provided with externally sourced feed.	<b>Cannot find a current definition.</b>

## II PLANNING & LAND USE CONTROL

### 1 Land Use Controls

The zone(s) and overlays that apply to a property can be determined by either obtaining an unofficial Planning Report for that property from [DELWP](#), locating the land on the ‘map’ of the applicable planning scheme (for example, see map for [Hepburn Shire Council](#)), or on the page of your parcel of land on [VicPlan](#), or applying for an official Planning Certificate pursuant to section 198 of the *Planning & Environment Act 1987* (Vic) for a fee: a) \$24.50 (1.5 fee

units) for an application not made electronically and b) \$7.82 for an application made electronically (as of August 2024).

## **2 Planning Scheme**

In Victoria, land use plans are called ‘planning schemes’, for example [Hepburn Planning Scheme](#). The planning scheme for a council can be accessed through the [Department of Transport and Planning](#), [VicPlan](#), or the website of the relevant council.

## **3 Victoria Planning Provisions**

The Victoria Planning Provisions (‘VPP’) is a broader planning instrument that forms the framework for all planning schemes in Victoria. It provides a template for councils in order to ensure the consistency of planning schemes within Victoria.

## **3 Zoning**

The **zone** in which a property is located affects the types of land uses (farming, processing, farm gate shops, etc) that are allowed (with or without a permit) or prohibited on that land.

It is necessary to determine the land use(s) within which the proposed farming operation falls. Each land use is defined in the table at clause 73.03 of the relevant planning scheme. For example, ‘animal production’ means ‘land used to keep or breed farm animals for the production of livestock, eggs, fibre, meat, milk or other animal products’.

The below tables, taken **from the VPP**, illustrate the requirements for agricultural uses within a sample of zones. For example, in a Rural Living Zone, a *poultry* farm with no more than 100 poultry does not require a permit. However, a *broiler* farm with more than 100 but no more than 10,000 chickens requires a permit (as at 28 July 2022).

A local planning scheme is usually consistent with the VPP. However, any requirements for the proposal must be confirmed against the relevant planning scheme (by reviewing the table of uses, and the meaning of terms (see clause 73 of the relevant Scheme, noting that where there is no definition of a listed term, it indicates the ordinary meaning)), for the zone in which the property is located and any schedule to that zone). The zoning provisions are located in



each local planning scheme from clause 30 onwards. Further conditions may be included in any schedule to the zone as it applies to the relevant property.

### Zone RU1 Primary Production<sup>2</sup>

Use	No permit required	Permit required	Prohibited
Agriculture (other than animal production, apiculture) <sup>3</sup>			
Animal production (other than grazing animal production)			
Grazing animal production			

Use	No permit required	Permit required	Prohibited
Agriculture (other than animal production, apiculture)			
Grazing animal production			

### Industrial 1 Zone,<sup>4</sup> Industrial 2 Zone,<sup>5</sup> and Industrial 3 Zone<sup>6</sup>

	No permit required	Permit required	Prohibited
Crop raising			
Grazing animal production			
Agriculture (other than apiculture, crop raising, grazing animal production, intensive animal production, pig farm and poultry farm)			

<sup>2</sup><https://planning-schemes.app.planning.vic.gov.au/Victoria%20Planning%20Provisions/ordinance/35.07>

<sup>3</sup> **NB:** excludes other uses such as horse husbandry which are not necessarily relevant to farming?

<sup>4</sup> VPP, cl 33.01.

<sup>5</sup> VPP, cl 33.02.

<sup>6</sup> VPP, cl 33.03.

Intensive animal production			
Pig farm			
Poultry farm			

### Rural Living Zone<sup>7</sup>

	No permit required	Permit required	Prohibited
Poultry farm	Maximum of 100 poultry (10 for emus or ostriches)		
Agriculture (other than apiculture, intensive animal production, poultry farm)			
Broiler farm (if not allowed without a permit due to number of animals)		Maximum of 10,000 chickens	
Primary produce sales			
Rural industry (other than abattoir and sawmill)			
Abattoir			
Intensive animal production			

### Green Wedge Zone<sup>8</sup>

	No permit required	Permit required	Prohibited
Agriculture (other than animal production, apiculture, rice growing)			
Grazing animal production			
Poultry farm	Maximum of 100 poultry (10 for emus or ostriches)		
Primary produce sales	Must be not be within 100 metres of a dwelling in		

<sup>7</sup> VPP, cl 35.03.

<sup>8</sup> VPP, cl 35.04.

	separate ownership		
Rural store	Must be used in conjunction with agriculture Must be in a building not a dwelling Building must have a gross floor area of less than 100 square metres Must be the only rural store on the lot		
Animal production (other than cattle feedlot, grazing animal production and poultry farm)			
Broiler farm (if not allowed without a permit due to number of animals)		Must meet further requirements set out in clause 53.09	
Cattle feedlot		Must meet requirements of clause 53.98 AND site must be located outside catchment area listed in appendix 2 of Victorian Code for Cattle Feedlots (August 1995)	
Host farm			
Rice growing			
Rural industry			

### Green Wedge A Zone<sup>9</sup>

	No permit required	Permit required	Prohibited
Agriculture (other than animal production, apiculture, rice growing)			
Poultry farm	Maximum of 100 poultry (10 for emus or ostriches)		
Primary produce sales	Must be not be within 100 metres of a dwelling		

<sup>9</sup> VPP, cl 35.05.

	in separate ownership Area used for display and sale used of primary produce must not exceed 50 square metres		
Rural store	Must be used in conjunction with agriculture Must be in a building not a dwelling Building must have a gross floor area of less than 100 square metres Must be the only rural store on the lot		
Animal production (other than intensive animal production and poultry farm)			
Broiler farm (if not allowed without a permit due to number of animals)		Maximum of 10,000 chickens	
Host farm			
Rural industry (other than abattoir and sawmill)			
Rice growing			
Rural store (if not allowed without a permit due to not satisfying the conditions)		Must be in a building not a dwelling Must be used to store equipment, goods, motor vehicles used in conjunction with the occupation of a resident of a dwelling on the lot	
Abattoir			
Intensive animal production			

## Rural Conservation Zone<sup>10</sup>

<sup>10</sup> VPP, cl 35.06.

	No permit required	Permit required	Prohibited
Poultry Farm	Maximum of 100 poultry (10 for emus or ostriches)		
Agriculture (other than apiculture, intensive animal production, poultry farm, rice growing)			
Broiler farm (if not allowed without a permit due to number of animals)	Maximum of 10K chickens		
Host farm			
Primary produce sales			
Rural industry (other than abattoir and sawmill)			
Rural store			
Abattoir			
Intensive animal production			
Rice growing			

#### Farming Zone<sup>11</sup>

	No permit required	Permit required	Prohibited
Agriculture (other than animal production, apiculture, rice growing)			
Cattle feedlot	Maximum of 1000 cattle to be housed Site must be located outside a special water supply catchment under the <i>Catchment and Land Protection Act 1994</i> Must also meet further requirements set out in clause 53.08		

<sup>11</sup> VPP, cl 35.07.

Grazing animal production			
Poultry farm	Maximum of 100 poultry Unless they are emus or ostriches, in which case, maximum of 10		
Primary produce sales	Must be no more than 100 metres of a dwelling in separate ownership Area used for display and sale of primary produce must not exceed 50 square metres		
Rural industry (other than abattoir and sawmill)	Many conditions apply — see clause 35.07-1		
Rural store	Must be used in conjunction with agriculture Must be in a building not a dwelling Must have a gross floor area of less than 10 square metres Must be the only rural store on the lot		
Abattoir			
Animal production (other than cattle feedlot, grazing animal production, and poultry farm)			
Broiler farm (if not allowed without a permit due to not satisfying the conditions)		Must meet the requirements of cl 53.09	
Cattle feedlot (if not allowed without a permit due to not satisfying)		Must meet the requirements of cl 53.08	
Host farm			
Rice growing			

## Rural Activity Zone<sup>12</sup>

	No permit required	Permit required	Prohibited
Agriculture (other than animal production, apiculture, rice growing)			
Cattle feedlot	<p>Maximum of 1000 cattle to be housed</p> <p>Site must be located outside a special water supply catchment under the <i>Catchment and Land Protection Act 1994</i> and outside a catchment area listed in Appendix 2 of the Victorian Code for Cattle Feedlots, August 1995</p> <p>Must meet also meet further requirements set out in clause 53.08</p>		
Grazing animal production			
Poultry farm	Maximum of 100 poultry (10 for emus or ostriches)		
Primary produce sales	<p>Must not be within 100 metres of a dwelling in separate ownership</p> <p>Area used for display and sale of primary produce must not exceed 50 square metres</p>		
Rural industry (other than abattoir and sawmill)	Many conditions apply — see clause 35.08-1.		
Rural store	<p>Must be used in conjunction with agriculture</p> <p>Must be in a building not a dwelling</p> <p>Must have a gross floor area of less than 100 square metres</p>		

<sup>12</sup> VPP, cl 35.08.

	Must be the only rural store on the lot		
Abattoir			
Animal production (other than cattle feedlot, grazing animal production and poultry farm)			
Broiler farm (if not allowed without a permit due to not satisfying the conditions)		Must meet further requirements set out in clause 53.09	
Cattle feedlot (if not allowed without a permit)		Must meet further requirements set out in 53.08 Site must be located outside a catchment area listed in Appendix 2 of the <i>Victorian Code for Cattle Feedlots (August 1995)</i>	
Host farm			
Rice growing			

#### 4 Overlays

The overlay(s) that apply to a property indicate whether a permit is required in order to construct a building or make other changes to that land. For example, if an environmental significance overlay applies, a permit is required to construct a building on that land, with some exceptions (as at 7 July 2024). The overlays that may apply are included in the VPP and listed below, with the most commonly relevant explained. The relevant overlay(s) and any Schedule to the Overlay (as relevant) in the relevant planning scheme must be reviewed in order to determine permit requirements. The overlay provisions are located from clause 40 onwards.

#### Environmental Significance Overlay<sup>13</sup>

This overlay aims to ensure that development is compatible with identified environmental values. Development must be in line with the stated environmental objectives found in the

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<sup>13</sup> VPP, cl 42.01.



Schedule of the Overlay for your property (if relevant). For example, an environmental objective may be to preserve habitat areas.

#### **Vegetation Protection Overlay<sup>14</sup>**

This overlay aims to protect areas of significant vegetation, and to ensure development minimises loss of vegetation. For example, native or other vegetation that is rare, supports rare species of flora or fauna or forms part of a wildlife corridor will generally be protected by this overlay.

#### **Significant Landscape Overlay<sup>15</sup>**

This overlay aims to identify significant landscapes, and to conserve and enhance the character of these.

#### **Heritage Overlay<sup>16</sup>**

This overlay aims to conserve and enhance heritage places of natural or cultural significance.

#### **Design and Development Overlay<sup>17</sup>**

#### **Incorporated Plan Overlay<sup>18</sup>**

#### **Development Plan Overlay<sup>19</sup>**

#### **Neighbourhood Character Overlay<sup>20</sup>**

**Erosion Management Overlay<sup>21</sup> (To protect areas prone to erosion, landslip or other land degradation processes, by minimising land disturbance and inappropriate development<sup>22</sup>.)**

#### **Salinity Management Overlay<sup>23</sup>**

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<sup>14</sup> VPP, cl 42.02.

<sup>15</sup> VPP, cl 42.03.

<sup>16</sup> VPP, cl 43.01.

<sup>17</sup> VPP, cl 43.02.

<sup>18</sup> VPP, cl 43.03.

<sup>19</sup> VPP, cl 43.04.

<sup>20</sup> VPP, cl 43.05

<sup>21</sup> VPP, cl 44.01.

<sup>22</sup>[https://www.planning.vic.gov.au/\\_\\_data/assets/pdf\\_file/0025/95173/08-Environmental-Management-Overlay-44\\_01.pdf](https://www.planning.vic.gov.au/__data/assets/pdf_file/0025/95173/08-Environmental-Management-Overlay-44_01.pdf)

<sup>23</sup> VPP, cl 44.02.

**Floodway Overlay<sup>24</sup>** (These apply to land that's identified as carrying active flood flows associated with waterways and open drainage systems. This overlay is categorised by depths in excess of one metre<sup>25</sup>.)

**Land Subject to Inundation Overlay<sup>26</sup>** (These are planning scheme controls that apply to land affected by flooding associated with waterways and open drainage systems. Such areas are commonly known as floodplains. These overlays require a planning permit for buildings and works.<sup>27</sup>)

**Special Building Overlay<sup>28</sup>**

**Bushfire Management Overlay<sup>29</sup>** (This applies to land that may be significantly affected by extreme bushfires. A planning permit is required for some types of development to ensure bushfire risk is considered and bushfire protection measures are in place<sup>30</sup>.)

**State Resource Overlay<sup>31</sup>**

**Buffer Area Overlay<sup>32</sup>**

**Public Acquisition Overlay<sup>33</sup>**

**Airport Environs Overlay<sup>34</sup>**

**Environmental Audit Overlay<sup>35</sup>**

**Restructure Overlay<sup>36</sup>**

**Development Contributions Plan Overlay<sup>37</sup>**

**City Link Project Overlay<sup>38</sup>**

**Melbourne Airport Environs Overlay<sup>39</sup>**

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<sup>24</sup> VPP, 44.03.

<sup>25</sup><https://www.melbournewater.com.au/building-and-works/flooding-information-and-advice/overlays-explained>

<sup>26</sup> VPP, 44.04.

<sup>27</sup><https://www.melbournewater.com.au/building-and-works/flooding-information-and-advice/overlays-explained>

<sup>28</sup> VPP, 44.05

<sup>29</sup><https://www.planning.vic.gov.au/guides-and-resources/guides/all-guides/building-in-the-bushfire-management-overlay>PP, cl 44.06.

<sup>30</sup><https://www.planning.vic.gov.au/guides-and-resources/guides/all-guides/building-in-the-bushfire-management-overlay>

<sup>31</sup> VPP, cl 44.07.

<sup>32</sup> VPP, cl 45.01.

<sup>33</sup> VPP, cl 45.02.

<sup>34</sup> VPP, cl 45.03.

<sup>35</sup> VPP, cl 45.04.

<sup>36</sup> VPP, cl 45.05.

<sup>37</sup> VPP, cl 45.06.

<sup>38</sup> VPP, cl 45.07.

<sup>39</sup> VPP, cl 45.08.

Parking Overlay<sup>40</sup>

Infrastructure Contributions Plan Overlay<sup>41</sup>

Infrastructure Contributions Overlay<sup>42</sup>

Specific Controls Overlay<sup>43</sup>

## Livestock Farming

### Pigs

All owners and keepers of pigs must, regardless of the intended use of the pigs (pets, breeders or commercial piggeries) must:

- register the property where pig/s are kept with a [Property Identification Code](#) (PIC) and a tattoo brand number
- tag or tattoo all pigs moving off their property
- register with [PigPass](#), and complete paperwork for all pigs moving on or off their property
- **refrain from feeding pigs swill:** meat products or food that has been in contact with meat products. See more information and penalties that apply [here](#).

More details can be found [here](#).

All pig farms require a planning permit in Victoria, regardless of the number of pigs, size of the land, or production model (e.g. pastured vs sheds). Certain overlays may preclude pig farming, so a conversation with your local council before commencing pig farming is advisable. Zones that permit pig farming include:

- Farming Zone
- Rural Activity Zone
- Green Wedge Zone
- Green Wedge A Zone
- Rural Conservation Zone
- Rural Living Zone
- Urban Growth Zone

However, AFSA advocated for several years and worked with the Victorian Government to achieve reforms, introduced in 2018, for a simplified permit application process for small-scale

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<sup>40</sup> VPP, cl 45.09.

<sup>41</sup> VPP, cl 45.10.

<sup>42</sup> VPP, cl 45.11.

<sup>43</sup> VPP, cl 45.12.

pastured pig farms that meet certain conditions. Eligible farms should apply as a [Low Density Mobile Outdoor Pig Farm](#) (LDMO). You will find both the [LDMO Guidelines and a template for a Development Plan](#) on the Ag Vic website. The threshold requirements for this application process include:

- a maximum of 150 sows or 1,000 Standard Pig Units (SPU)
- a maximum stocking density of 12 SPU/hectare of range available to the pigs
- mobile housing and feeding infrastructure that is relocated at least every three months, with rest periods of at least three months
- adequate separation from waterways, residential areas and sensitive uses
- a nutrient management plan in place and at least 50% ground cover maintained

**AFSA can provide examples of successful development applications to AFSA members.**

Health and welfare legislation and guidelines must be followed if you have pigs on your property. Please find detailed information on the Agriculture Victoria [website](#), including advice regarding feed, water, and shelter needs of pigs.

## Cattle, sheep and goats

Cattle, sheep and goat farmers and keepers must ensure that:

- the land on which their animals are kept has a Property Identification Code (PIC)
- their animals are identified in the right (offside) ear with an NLIS (Cattle) ear tag before leaving their property
- the arrival of livestock directly from another property is registered within 2 days on the NLIS database
- a National Vendor Declaration (NVD) form or similar movement document is supplied to the person receiving their animals.

More information can be found [here](#).

Livestock health and welfare legislation and guidelines must be followed if you have animals on your property. Please find detailed information on the Agriculture Victoria [website](#).

## Bees

Anyone who keeps one or more hives of bees is required to [register as a beekeeper](#) with the department. Registration must be renewed every 2 years.

All hives must be marked or branded with the beekeeper's registered number (brand) that is printed on the Certificate of Registration.

Branding of hives enables the department's apiary inspectors to:

- identify the owners of hives
- notify the owners of disease, vandalism, theft and other problems.

The Bees Registrar must be notified using this [form](#) within 7 days when a hive is:

- disposed of
- sold
- given away.

Health and welfare legislation and guidelines must be followed if you have bees on your property. Please find detailed information on the Agriculture Victoria [website](#).

## Horticulture

Currently in Australia, growing most fresh fruit and vegetables for direct sales does not require a licence and does not experience much regulatory burden. This, coupled with the smaller land size required, can make market gardening a more accessible and appealing avenue for young and emerging small-scale farmers, and can be a great way to begin your journey into agroecology and food sovereignty.

Please note that if you are growing for commercial purposes, you will require a water licence for commercial extraction in all states. More information can be found in the Water Rights and Licensing section.

The Australian Competition and Consumer Protection Commission (**ACCC**) is responsible for the Horticulture Code of Conduct under the *Competition and Consumer Act 2010* (Cth). The Code is designed to regulate trade between growers and wholesalers and to avoid conflicts of interest. The Code demands mandatory compliance (for example, entering into written trade agreements). For small-scale growers selling directly to eaters, the Code does not apply.

However, there are new standards that will come into effect Australia-wide on 25 February 2025 that introduce three new primary production and processing Standards that will affect growers of leafy vegetables, berries and melons. The Standards can be viewed here:

- [Standard 4.2.7 – Primary Production and Processing Standard for Berries](#)
- [Standard 4.2.8 – Primary Production and Processing Standard for Leafy Vegetables](#)
- [Standard 4.2.9 – Primary Production and Processing Standard for Melons](#)

As at April 2024, AFSA is working with state governments in the implementation of the new standards to ensure the burden on small-scale market gardeners is commensurate with their low risk, particularly around the costs that may be incurred in meeting any new requirements.

You can view AFSA's earlier submissions to FSANZ [here](#) (please note, this link will open as a ZIPfile containing a number of submissions, one of which was prepared by AFSA).

## Water Rights and Licensing

### Livestock farming

Most livestock farmers in Victoria do not need a water licence ('section 51 licence' under the [Water Act 1989](#)) to provide water to stock, whether via dams, rivers, creeks, or an existing bore, as 'domestic and stock use' is exempt from licensing requirements. Domestic and stock use refers to water usage for household purposes, watering of animals kept as pets, watering of cattle or other stock, irrigation of a kitchen garden, and in the case of a home paddock or outbuilding, watering an area not exceeding 1.2 hectares for fire prevention purposes with water obtained from a spring or soak of water from a dam.

Note that domestic and stock use does not include dairies, piggeries, feedlots, poultry, or any other intensive or commercial use. While you may not need a section 51 licence to take water for domestic and stock purposes, you may need a licence to construct and operate the works needed to access the water. This can include a private dam that is not on a waterway, a groundwater bore or pumps and pipes off a waterway. See below for details on obtaining a licence to construct and operate works.

### Market Gardening

If you are growing fruit or vegetables for commercial sale, you must hold a water-use licence to irrigate your crops, no matter what scale you are, or whether you access groundwater or surface water. Once you obtain a water-use licence, you can buy a water share (e.g. 5ML) at market price. Each year, the resource manager determines the allocation for your share depending on the water available in your catchment (e.g. 50% allocation of a 5ML share allows you to use 2.5ML that year).

If you intend to drill a bore to take and use groundwater for irrigation, you must:

1. Obtain a works licence from the water corporation to drill the bore;
2. Obtain a water-use licence from the water corporation;
  - a. Notify neighbours of your take and use application;
3. Drill the bore and install a pump; and
4. Obtain a water share from a broker.

In 2023, this process cost approximately \$30,000 for a 2ML water share for a 100 metre-deep bore. Approximately \$2500 was in licensing fees, \$20,000 for drilling and pump installation, and \$3200/ML for the water share.

## Works licence

A works licence is a licence to construct, operate, alter, decommission or remove works associated with the extraction of water (i.e. bores, pumps and dams). Whether you intend to drill a bore or dig a new dam, you may need a works licence, which you can obtain from your regional water corporation.

## Water-use licence

A water-use licence enables a person to irrigate a specific parcel or parcels of land. It sets out conditions for the usage of the water, including the amount that is to be used. If supplied with water from the Murray, Goulburn, Broken, Loddon, Campaspe, Bullarook, Werribee or Macalister systems, a water-use licence is required.

Water use licence applications can be lodged electronically via [‘My Water’](#) or the [Submit Applications form page](#) on the [Victorian Water Register](#) website. The application form to apply for a licence as well as the forms to vary or cancel a licence can be found on the [Victorian Water Register](#) website.

In obtaining a licence there can be various conditions attached by the Minister, these are outlined in Section 56 of Water Act. Conditions can relate to:

- the purposes for which the water may be used;
- the maximum amounts of water which may be taken in particular periods;
- payment for the amount of water used;
- the protection of the environment;
- the maintenance of the environmental water reserve;
- the conservation policy of the government;
- the efficient use of water resources;
- proper management of the waterway and its surrounds or of the aquifer;
- the drainage regime;
- the manner in which the licensee is to compensate any person whose existing water rights have been affected by the granting of the licence;
- the installation or use of measuring devices or pumps; and
- any other conditions which the minister thinks fit and specifies in the licence.

A water-use licence is valid for the period outlined in the licence. This period cannot exceed 15 years, however it can be suspended or cancelled under Section 60 or renewed under Section 58 of the Water Act.

# Food Licences

## Meat Processing

AFSA has long supported smallholders in reclaiming the means of production, including the infrastructure intrinsic to agroecology, such as abattoirs, boning rooms, grain mills, dairy processing facilities and more. For livestock farmers intent on building processing facilities on farm, this section outlines your responsibilities under legislation. You will be joining a growing movement of farmers with control of the value chain - a critical step in the struggle for food sovereignty.

The requirements are typically not overly onerous or expensive for meat processing, but can be confusing when you first start out. The principles small-scale farmers raising animals on pasture hold dear - to raise animals well and subject them to as few stresses as possible while respecting their natural instincts - carries through to facilities for slaughter, to then transform carcasses into delicious, nutritious, ethical, ecologically sound and socially just meat to nourish local communities. Meeting the standards just means translating these principles and an ethic of care into construction of safe and hygienic facilities, and implementing the same high standards you bring to farming to food safety.

In Victoria, all meat processing activities are regulated by PrimeSafe, under the *Meat Industry Act 1993* (Vic). A licence is required for the following activities:

- Smallgoods (excluding sausages)
- Abattoir (more information can be found [here](#))
- Prime tallow processing
- Further meat processing
- Retail butcher shop
- Game meat processing (more information can be found [here](#))
- Poultry processing

To get a PrimeSafe licence, you need to comply with the [Australian Standard for the Hygienic Production and Transportation of Meat and Meat Products for Human Consumption](#) (AS 4696:2007). The basic requirements to apply:

- Ensure your facility is fit for purpose, in a good state of repair, can be cleaned and sanitised effectively, and complies with the relevant standards.
- Develop a written food safety program.
  - See more information [here](#)
- Sign an agreement with a PrimeSafe approved auditor.
- Submit a [licence application](#).
- Pay the application fee.



Once the application and the relevant fee has been received, your facility will need to be inspected by PrimeSafe to ensure it complies with the relevant standards. The cost of your application for a meat processing facility will vary depending on your activity and the volume of meat that is being processed. The schedule of licensing fees can be found on the [Primesafe website](#).

### Third Party Audits

Auditing schedules vary depending on the type of licence you have and processes you undertake. For example, domestic abattoirs and retail butcher's shops that manufacture smallgoods are required to have two third-party audits per annum, while retail butcher's shops that do not manufacture smallgoods require one. Audits are conducted for a fee by third party auditors approved by PrimeSafe.

PrimeSafe also conducts unannounced inspections to ensure compliance with food safety standards is maintained at all times.

## Eggs

If you have less than 50 egg-producing birds, you do not need to register your flock with Agriculture Victoria. However, if you would like an egg stamp you can register your flock and get a free stamp.

If you have 50 or more poultry and you sell or give away eggs, you must also:

- get a poultry Property Identification Code (PIC) (NB: if you have 50 or more poultry you must get a PIC regardless of whether you sell or give away eggs)
  - See [Livestock Farming: Poultry](#) for more information.
- stamp every individual chicken egg with a unique stamp (you don't need to stamp duck and quail eggs)
- have and follow a food safety management statement, or be part of an approved industry or commercial quality assurance (QA) program

Agriculture Victoria is the governing body for egg production in Victoria. All egg producers must comply with [Standard 4.2.5 — Primary Production and Processing Standard for Eggs and Egg Products](#) by Food Standards Australia New Zealand (FSANZ).

## Dairy Production & Processing

### Production (Farming)

Dairy farming is the keeping of any animals for the purpose of producing milk for profit or sale (as defined by the Dairy Act). Dairy production in Victoria is regulated by Dairy Food Safety Victoria (DFSV), under the [Dairy Act 2000](#) (**the Dairy Act**). To produce dairy on your property, you are required to obtain a licence from DFSV.

To get a DFSV dairy production licence, you need to:

- ensure your facility is fit for purpose, in a good state of repair, can be cleaned and sanitised effectively, and complies with the relevant standards; develop a written food safety program - see more information [here](#);
- ensure you and staff have the relevant training to manage all food safety aspects in production;
- submit a licence application; and
- pay the application fee.

The DFSV website has a number of useful resources to help applicants for licences understand the process and the regulatory requirements. There is an [Information Pack](#) and a [list of common application terminology](#), plus a [Victorian Dairy Licence Handbook](#).

Once you are confident that your facility complies, you must complete an application form for your relevant activity. Application forms can be found [here](#).

Once the application and the relevant fee has been received, you will be contacted within seven business days to confirm receipt of your application. Once this has occurred, you will be requested to complete a new farm remote inspection checklist.

Your licence will be approved or denied within 30 business days of your application.

You may be subject to random audits of your facility and product.

There is also a dairy farmer licence fee, which is calculated per litre of milk supplied from the farm - \$0.0001667 per litre. Direct Pay dairy farmer licence fees are paid every two years, in line with the farm licence renewal period, based on the volume of milk supplied from the farm over a 24-month period. A renewal application will be emailed to you prior to the end of the licence period. An administration fee is also charged for Direct Pay Farms.

### Processing (Manufacturing)

Dairy processing in Victoria is regulated by Dairy Food Safety Victoria, under the [Dairy Act 2000](#). To produce dairy on your property, you are required to obtain a licence from DFSV.

To get a DFSV dairy production licence, you need to:

- Ensure your facility is fit for purpose, in a good state of repair, can be cleaned and sanitised effectively, and complies with the relevant standards.
  - [Standard 3.2.3](#) of the Australia New Zealand Food Standards Code. Additional information can be found in the DFSV [Hygienic design: guidelines for dairy food manufacturing premises](#).
  - You may also need to obtain local council planning approval for new or modified premises
- Develop a written food safety program - see more information [here](#).
  - The Food Standards Code requires dairy manufacturing businesses to control potential food safety hazards by implementing a documented food safety program based on Codex HACCP principles as outlined in Codex Alimentarius, Basic Texts on Food Hygiene, [Annex Hazard Analysis and Critical Control Point \(HACCP\) System and Guidelines for its Application](#).
  - Microbiological testing program must be included in your food safety program. Please refer to the [Compendium of Microbiological Criteria for Food](#) for guidance.
- Ensure you and staff have the relevant training to manage all food safety aspects in production.
- Submit a licence application.
- Pay the application fee.

Before applying for a licence, it is important that you understand the standards and guidelines your facility must adhere to, which can be found on the DFSV [website](#). Dairy manufacturer licence holders must also comply with all relevant provisions of the [Food Act 1984](#) and the [Australia New Zealand Food Standards Code](#) in the conduct of the dairy business and the processing, handling, packaging and storage of dairy food.

The DFSV website has a number of useful resources to help applicants for licences understand the process and the regulatory requirements. There is an [Information Pack](#) and a [list of common application terminology](#), plus a [Victorian Dairy Licence Handbook](#).

Once you are confident that your facility complies, you must complete an application form for your relevant activity. Application forms can be found [here](#).

Once the application and the relevant fee has been received, you will be contacted within seven business days to confirm receipt of your application. Your licence will be approved or denied within 90 business days of your application.

To monitor ongoing compliance, dairy manufacturer licensees are required to be audited every

six months, with the first audit of a new licensee conducted within 30 days of the commencement of operations.

**PLEASE NOTE:** DFSV has, under the power at Section 22A(1) of the *Dairy Act 2000* (Vic), exempted proprietors of food businesses that manufacture ice cream and/or frozen yoghurt from pasteurised milk for direct retail sale to consumers for consumption on the premises, or to take away for immediate consumption, from the requirement to hold a dairy industry licence.

### Raw Milk/Cheese

In Victoria, the sale of raw (unpasteurised) milk for human consumption is illegal. It is also illegal to package, deliver or provide raw milk for consumption.

Raw milk can be used to manufacture cheese if:

- You hold a dairy producing licence with DFSV (if producing the milk on your property); and/or
- You hold a dairy manufacturing licence with DFSV; and
- You have addressed the requirements in the Primary Production and Processing Standard for Dairy ([Standard 4.2.4](#))

Please find more information on the DFSV website [here](#).

## Food Sales

### Farm gate/On-site

In Victoria, the sale of eggs, honey, fruit and vegetables from a farmgate stall or directly from your residence does not require a licence or permit.

The Agriculture Legislation Amendment Bill 2022 (passed in 2022) has expanded the *Meat Industry Act 1993* to allow for the retail sale of fresh meat that is of 'low risk'. This allows farmers from 1 January 2023 to sell packaged meat that has been processed at a PrimeSafe licensed facility at their farmgate stall.

'Packaged meat' includes:

- Cryovac or vacuum packaged cuts of meat, mince, sausages and smallgoods
- Cuts of meat, mince, sausages and smallgoods in modified atmosphere packaging
- Canned or bottled meat products
- Meat and meat products packaged in other impermeable and hermetically sealed packaging

This does not include seafood.

Under the amended legislation, you are only allowed to sell your own and your neighbours' produce. You must use your premises (such as your farm gate) to retail the packaged meat.

If you sell packaged meat at markets from a vehicle or stall, you need local council registration for a temporary/mobile premises.

**Please note** that in most cases you will need to apply for a Class 3 Food Business Registration with your local council to sell packaged meat and dairy products on your property. For example, see the Hepburn Shire Council business registration requirements [here](#). See more information from the Department of Health [here](#). This is not a substitute for any licences requirements that still apply to you.

The Victorian Planning Scheme (Farming Zone 35.07-1) states that primary produce sales must not be within 100 metres of a dwelling in separate ownership and the area used for the display and sale of primary produce must not exceed 50 square metres.

**PLEASE NOTE:** licences must be obtained to process meat and dairy products for the purpose of sale - *see the section on Food Licences for more detail.*

#### Off-site/Farmers Markets

There is no PrimeSafe licence category that requires a licence to be obtained for the roadside sale of fresh meat and meat products from a vehicle or purpose built mobile facility. This includes sale of goods at farmers' markets. However, you will need a PrimeSafe licence to produce most of the products you may wish to sell at your stall, or else have your meat processed by a licensed butcher. In addition, your business may need a PrimeSafe Meat Transport Vehicle licence - see **Storage and Transport - Victoria** for more information.

Local councils are responsible for the regulatory oversight of farmers' markets and roadside sales in Victoria. Please use the [Foodtrader website](#) for guidance around registering a market stall and get approval to sell your products.

Please note that you will need to register as a food business with your local council before selling your produce. See more information [here](#).

Chapter 3 of the *Food Standards Australia & New Zealand Food Standards Code* sets out food safety objectives that apply to the sale of all food in Australia.

## Abattoirs

### On-Farm Slaughter

In Victoria, you do not need a PrimeSafe licence if you are slaughtering your own animals on your property for private consumption at home.

Section 5 of the *Meat Industry Act 1993* (Vic) states that the rules in the Act do not apply to the slaughter of an animal on a farm if:

- it is slaughtered for consumption on that farm; and
- it is not slaughtered for sale; and
- it is not slaughtered for use in the preparation of food for sale;
- it is not removed from that farm.

Please note that you do require a gun licence (if this is what you are using). Find gun licensing requirements [here](#).

There are specific animal welfare standards in Australia that must be followed when slaughtering animals, even if it is for private consumption. You can find more information [here](#).

### Abattoir

To operate an abattoir on your property, you will need to apply for a licence from PrimeSafe. Applications should be submitted **at least** ten days before you wish to commence activities at your facility.

To get a PrimeSafe licence, you need to:

- Ensure your facility is fit for purpose, in a good state of repair, can be cleaned and sanitised effectively, and complies with the relevant standards.
- Develop a written food safety program.
  - See more information [here](#)
- Sign an agreement with a PrimeSafe approved auditor.
- Submit a licence application.
- Pay the application fee.

An abattoir that processes cattle, sheep, pigs, deer, goats, camels and buffalo must comply with:

- [\*Australian Standard for the Hygienic Production and Transportation of Meat and Meat Products for Human Consumption \(AS 4696:2007\)\*](#)
- [\*A Guide to the Implementation and Auditing of HACCP\*](#)
- [\*Microbiological Testing for Process Monitoring in the Meat Industry Guidelines\*](#)

Poultry abattoirs follow a different set of standards and guidelines. You can find those on the PrimeSafe website [here](#).

Once you are confident that your facility complies, you must complete an application form for your relevant activity. Application forms can be found [here](#) - click on your relevant activity to access the application form.

Once the application and the relevant fee has been received, your facility will need to be inspected to ensure it complies with the relevant standards. This will be done by a third-party auditor who has been approved by PrimeSafe.

### Third Party Audits

Domestic abattoirs are required to have two third-party audits per annum. Audits are conducted for a fee by third party auditors approved by PrimeSafe.

PrimeSafe also conducts unannounced inspections to ensure compliance with food safety standards is maintained at all times.

The current cost of the application is \$1023. If your annual throughput is less than 15,000 units, the current annual fee is \$2045.

*Note: 1 cattle = 5 units, 1 rabbit = 0.2 units, 1 other stock = 1 unit*

AFSA has hosted several gatherings and online solidarity sessions regarding abattoirs. Drop us an email at [admin@afsa.org.au](mailto:admin@afsa.org.au) to find out more.

### Mobile Slaughter Unit

Licensing requirements for a vehicle-based slaughter unit in Victoria are the same requirements for an abattoir licence, as listed above.

The Primary Industries Legislation Amendment Bill 2019 expanded the definition of 'abattoir' to include 'a vehicle used for slaughter of consumable animals for human consumption'.

***MEAT INDUSTRY ACT 1993 - SECT 3 Definitions:***

*abattoir means—(includes):*

*(ab) a vehicle used for slaughter of consumable animals for human consumption.*

*(c) any structure, facility, vehicle or equipment (including equipment to deal with offal or condemned meat) used in connection with a place referred to in paragraph (a) or a vehicle referred to in paragraph (ab) whether before or after slaughter.*

*"vehicle" means a conveyance designed to be propelled or drawn by any means, whether or not capable of being so propelled or drawn, and includes cart, caravan, bicycle, railway carriage, tram-car, ship, boat, barge, vessel, aircraft and aircushion vehicle.*

Meat slaughtered using a mobile slaughter unit can leave the property on which it is slaughtered and is able to be sold for human consumption.

The processing of any waste generated on the land does not require Environment Protection Authority approval if it does not exceed thresholds for slaughtering and processing animals and that any organic waste generated on the site is processed and retained on-site under the following regulation.

***Environment Protection Regulations 2021 - Schedule 1***

Prescribed development activity and Prescribed operating activity:

- D01 (Abattoirs) *Slaughtering or processing animals (including poultry) at a designed throughput of more than 200 tonnes per year.*

Prescribed registration activity:

- A07b (Organic waste processing—small) *but not including, (c) operations processing organic waste generated on-site and that retain the processed organic waste on-site.*

## Game Meat

The licensing of game meat harvesters and processing facilities is regulated by PrimeSafe.

These activities include:

- A game meat field harvester is a person approved to conduct field harvesting of game.
- A game meat processing facility (harvest vehicle) is a vehicle used in the field harvesting of wild game animals to transport wild game animal carcasses to a game meat processing facility (premises), a game meat processing facility (field depot) or to a pet meat processing facility.
- A game meat processing facility (field depot) is a facility (vehicle or premises) in which wild game animal carcasses are held temporarily under refrigeration pending transport to a game meat processing facility (premises) or pet meat processing facility. This may also include the meat carrying compartment of a vehicle used to transport wild game



animal carcasses under refrigeration to a game meat processing facility (premises) or pet meat processing facility.

- A game meat processing facility (premises) is a facility that processes or packages game meat and/or game meat products.

Licensed abattoirs, further meat processing facilities and poultry processing facilities can also be licensed to use the same facility as a game meat processing facility (premises) provided:

- A game meat processing facility licence is issued;
- Construction and equipment requirements are complied with;
- No game meat processing occurs during the processing of non-game meat; and
- A total clean and sanitation of all process equipment takes place between processing game and non-game animals.

To obtain a PrimeSafe approval as a **game meat field harvester**, you will need to include with your application:

- Certificate of Attainment for Wild Animal Field Harvesting (or equivalent) from an approved Registered Training Organisation (RTO);
- Evidence of shooting proficiency certification;
- [DELWP Authority to Control Wildlife](#) (ATCW) and /or written proof of access to private land;
- Current firearms licence;
- Nominate a licensed Game Meat Harvest Vehicle (GMHV) to use when harvesting; and
- Payment of the appropriate fee.

To obtain a PrimeSafe licence to operate a **game meat processing facility** (harvest vehicle, field depot or premises), you will need to:

- Ensure your facility is fit for purpose, in a good state of repair, can be cleaned and sanitised effectively, and complies with the relevant standards.
- Develop a written Food Safety Program.
- Sign an agreement with a PrimeSafe approved auditor.
- Submit a licence application.
- Pay the application fee.

Before applying for a licence, it is important to ensure that you understand the standards and guidelines you and your facility must adhere to. PrimeSafe has released a [Wild Game Meat Harvesting Guideline](#) which should be referred to before applying for a licence.

The application form can be found [here](#) - please select the relevant activity on the form.

Once the application and the relevant fee has been received, your facility will need to be inspected to ensure it complies with the relevant standards. This will be done by a third-party auditor who has been approved by PrimeSafe.

- Audits are NOT required for game meat field harvesters.
- Game meat processing facilities (premises) are audited in the first week after opening and then every week until their Quality Assurance Program is fully implemented. Game meat processing facilities (premises) then have audits every six months.
- Harvest vehicles and field depots have one audit each year anytime in the licence period.
- Find out more about [Audits](#).

**PLEASE NOTE:** Game Meat Harvesters must fill out a [Game Meat Harvest Declaration](#) for each consignment of harvested wild game animal carcasses (except for kangaroos).

## Storage and Transportation

A meat transport vehicle (MTV) is a vehicle used for transporting meat or human consumption. Under the Meat Industry Act 1993, all such vehicles must be licensed by PrimeSafe.

To obtain a PrimeSafe licence to transport meat and/or seafood in your vehicle, you will need to:

- Ensure that your vehicle complies with the construction requirements of the relevant standard.
- Submit a licence application together with the applicable fee.
- Make arrangements for your vehicle to be inspected by PrimeSafe or a third party auditor to confirm that it meets the construction requirements of the relevant standard.

**Please note that as of 1 January 2023**, changes to the Meat Industry Act 1993 mean that if your vehicle is only used to transport packaged meat and that transport is incidental to retail sale of that packaged meat (e.g. you're delivering it to a retail customer or to a business that is going to retail the meat without it being repackaged), then the vehicle does not need to be licenced as an MTV with PrimeSafe. This is the case regardless of the other types of licence or registration you have (retail butcher licence vs food business registration). The key constraints are that:

- the transport of the packaged meat is incidental to the retail sale of that packaged meat; and
- the vehicle is not also used for the conveyance of meat outside of the scope of the exemption.

The relevant standard for a meat and seafood transport vehicle in relation to transportation is in Section 25, page 58 of the [Australian Standard for the Hygienic Production and Transportation of Meat and Meat Products for Human Consumption \(AS 4696:2007\)](#). You can find the construction and equipment requirements of a meat transport vehicle [here](#).

# Volunteer Agreements

Many people are familiar with [WWOOF](#) (World-Wide opportunities on Organic Farms): ‘a worldwide movement linking volunteers with organic farmers and growers to promote cultural and educational experiences based on trust and non-monetary exchanges, helping to build a sustainable global community.’ Whether through the WWOOF platform or other ways of linking small-scale farmers with farm-curious individuals, volunteering on farms is quite common. There are some things farmers should consider when bringing volunteers on, whether for a few days or a few months.

First, can your farm function without volunteers? If the answer is no, you probably need staff, not volunteers. While AFSA champions reciprocity and forms of value well beyond the financial, if a farm is only viable because of the unpaid labour of people who do not hold title to the land, there is a reasonable chance that the exchange may be exploitative. The Australian Government deems it an ‘employment relationship’ as opposed to a ‘volunteer relationship’ when workers are obliged to attend, rather than offering their voluntary services.

## The Fair Work Act - Interns

In accordance with the Fair Work Act 2009 (*Cth*), interns must be paid if they are performing duties undertaken by an employee. An ‘Employment Relationship’ is determined by an obligation to attend work or perform routine duties, and by expectations of pay for labour. If the volunteer is not under an obligation to attend work or perform, then that is more likely a volunteer arrangement. If the volunteer expected to be paid, then that is potentially deemed an employment relationship.

If your farm is viable without volunteers, and you want to share what you grow and know with others, hosting volunteers can be a great way to grow more farmers and people knowledgeable about the food system. For those hosting a residential experience for volunteers, you should have suitable accommodation with a private bedroom, and shared or private facilities. Most farmers will provide food, whether in shared or separate meals according to each household’s schedule and preferences. Shared meals are a great way to deepen relationships and remind everyone of what you are all working for up to three times a

day. Volunteers may be expected to join domestic rosters for cooking and cleaning at communal meals.

Farmers and volunteers will generally create a relationship built around a desire and willingness of the volunteer to learn from the farmer, and the farmer's willingness to share their knowledge and skills. It can be useful to develop a volunteer agreement to ensure shared understanding of roles, responsibilities, and what volunteers can expect to learn in return for volunteering their time. The agreement should also detail any room and board provided (if any), and sundry details volunteers need, such as appropriate footwear and clothing for farm jobs, or which phone provider they should sign up with to ensure decent reception while on the farm. It is important to establish the voluntary nature of the role, and both the farmer's and the volunteer's right to end the agreement early should the need or desire arise.

Farmers are advised to complete a risk assessment prior to the volunteer attending the farm, identifying any key risks associated with the volunteer role. The farmer should notify the volunteer of any potential risks that may occur at the property and document this in the volunteer agreement. Policies and procedures should be adopted by the farmer to ensure all identified risks are minimised or eliminated prior to the volunteer physically attending the farm. If these risks are identified and recorded, the farm's public liability insurance *should* cover the volunteers in the event of an accident.

### **What should the agreement include?**

**Nature of the role** – volunteers should understand that they are not an employee or contractor and will not receive remuneration for their work. Include details of what is included (accommodation, shared meals or food provided, any other amenities or services that will be provided by the farmer).

**Role Description** – identify what is expected of the volunteer. For example, expectations of behaviour, and typical activities and tasks.

**Risks** - identify key risks on the farm and ensure they are recorded in the agreement.

### **Insurance**

Before the volunteer commences any work on the property, the farmer should ensure that the farmer and the volunteer have insurance that meets any potential risks that may occur during

the course of the volunteer agreement. As discussed above, the insurance held by both parties must cover both the farmer and the volunteer if someone sustains an injury on the property. It may be beneficial to complete a formal risk assessment before the commencement of the volunteer relationship. This will illuminate what the farmer(s) are and are not covered for. Noting, if certain risks are not covered under the insurance policy this may open up the farmer to the possibility of a negligence claim.

In Australia, there are [two types of insurance](#) that farmers or employers should take out to ensure volunteers are protected:

1. **Public Liability Insurance** protects organisations up to a stated amount if a third party sues the organisation for personal injury (including death), or damage to property as a result of an occurrence in connection with the organisation.
2. **Volunteer Personal Accident Insurance** can be taken out similarly to Worker's Compensation for volunteers. It can provide cover for people who become sick or injured whilst providing volunteering services for an organisation. It may cover a portion of a person's salary if they cannot attend their usual paid work as a result of an injury while volunteering or more broadly provides financial compensation in the event that a volunteer unfortunately has an accident or becomes ill.

Further, it is advised that all volunteers have their own medical/ accident and/or travel insurance. Volunteers need to understand the areas their insurance policy covers and any excess requirements.

## Land Sharing Agreements

### What are land sharing agreements?

Land sharing agreements are a type of arrangement where a person who holds title to unceded Aboriginal Land makes a part or whole of it available to another party for the purposes of farming. These can be useful for landholders who are wishing to offer their property for farming, farmers wishing to bring others into their operations, or those wishing to support vertically stacked enterprises in addition to their own. Parties' relationships and obligations to the Land and each other should be clearly articulated, as should how or whether the risks and profits are to be shared, and resources they each bring to the arrangement should be outlined in the agreement itself.

## Guidelines for a Land Sharing Agreement:

For an idea of what should be included in a land sharing agreement, check out AFSA's [free guide](#). Please note that the information in this guide is for general purposes only and should not be taken as legal advice. Contact the AFSA Legal Defence Fund at [legal@afsa.org.au](mailto:legal@afsa.org.au) for tailored advice on land sharing agreements.

## Requirements for a land sharing agreement:

States have differing requirements and regulations when it comes to land sharing agreements. Outlined below, aspects of land sharing agreements are summarised and listed by state in order to assist you with any related issues or questions.

## Improvements to the shared land:

*Blessed are those who plant trees knowing they shall never sit in the shade of their foliage.*

Agroecology-oriented farmers often plant trees whose shade they will never enjoy as they plant for future generations of microbes, plants, animals and farming communities. In land sharing arrangements, it is very likely that the landholders and the land sharers will make improvements to the land, whether through perennial plantings or permanent infrastructure. Depending on a variety of factors including the intent, cost, length of tenure, consent, and which party made the improvement, different philosophies and rules apply to the question of whether financial compensation is payable to the party that improved the land. Ensuring decisions are made collectively and transparently is key to managing expectations about whether any financial reimbursement for improvements is appropriate for either party.

Below are state-based rules regulating land improvements.

	<b>Improvements made by the landsharer</b>	<b>Improvements made by the landholder</b>
VIC	In Victoria, there are no laws that regulate land sharing agreements beyond the law	In Victoria, there are no laws that regulate land sharing agreements beyond the law

	of contracts.	of contracts.
NSW (governed by the <i>Agricultural Tenancies Act 1990</i> )	<p><b>With the consent</b> of the landholder, any improvements to the land can be made by the landsharer. They are to be compensated the fixed amount if specified in the agreement unless it is an unfair price or if there is no specified amount, fair compensation is to be granted. The time limit to give this compensation is the end of the agreement period.</p> <p><b>Without the consent</b> of the landholder, landsharers may only make an improvement if the improvement is:</p> <ul style="list-style-type: none"> <li>● mentioned in Schedule 1; or</li> <li>● a work or thing of a kind prescribed by the regulations; or</li> <li>● first determined by the Tribunal to be suitable and desirable in the circumstances.</li> </ul> <p><u>Schedule 1 improvements:</u></p> <ol style="list-style-type: none"> <li>1. Drainage.</li> <li>2. Making or improvement of necessary roads or bridges.</li> <li>3. Clearing and removal of stumps and logs.</li> <li>4. Destruction or control of pests.</li> <li>5. Destruction of prickly pear and control of weeds on land.</li> <li>6. Making of permanent subdivision fences.</li> <li>7. Laying down of</li> </ol>	<p><b>With the consent</b> of the landsharer, any improvements to the land can be made by the landholder.</p> <p>The landholder is to be compensated the fixed amount if specified in the agreement unless it is an unfair price or if there is no specified amount, fair compensation is to be granted.</p> <p>The compensation can be paid in instalments together with the rent or in any other consideration payable in respect of the tenancy.</p> <p><b>Without the consent</b> of the landsharer, landholders can only make improvements if it is determined by the tribunal to be suitable and desirable in the circumstances.</p> <p>If compensation is determined to be payable by the tribunal, the landsharer must pay fair compensation to the landholder.</p> <p>The compensation can be paid in instalments together with the rent or in any other consideration payable in respect of the tenancy.</p>

	<p>pastures.</p> <p>8. Application to land of fertilisers, liming materials, and trace element products.</p> <p>9. Repairs to buildings other than repairs which the tenant is under an obligation to carry out repairs referred to in item 10</p> <ol style="list-style-type: none"> <li>a. before beginning to carry out the repairs, the tenant gives notice to the owner of the tenant's intention, together with particulars of the repairs, and</li> <li>b. the owner fails to carry out the repairs within a reasonable time after receiving the notice.</li> </ol> <p>10. Repairs to or re-erection of buildings to meet the particular requirements of the <i>Food Act 2003</i> or any other Act.</p> <p>11. Repairs to and the cleaning of silt from wells, bores, dams, reservoirs and ground tanks.</p>	
QLD		
TAS		



	Legal requirements of land sharing agreements	Relevant Legislation
VIC	In Victoria, there are no laws that regulate land sharing agreements beyond the law of contracts.	
NSW	<p><b>In writing:</b></p> <ul style="list-style-type: none"> <li>- Each party has the right to have a written and signed land sharing agreement.</li> <li>- For <b>terminating</b> the agreement, if it is for a fixed term there is no notice required to be given to the other party. If it does not have a fixed date but renews, 6 months is required for termination.</li> </ul>	
QLD		
TAS		

## Grounds For Review

### Memorandum of Information: Grounds for Review

There are many cases in which government decisions go against farmers' interests, particularly for smallholders dealing with the burden of scale inappropriate policies, regulation and legislation. If you're a farmer who is faced with an unfair decision, you are entitled to dispute this under Grounds for Review.

In this section, we will explain how to proceed with Grounds for Review in each state, including the relevant authorities that will be responsible for handling disputes and final decisions, as well as case studies for common disputes raised by AFSA members.

Some disputes will fall under the remit of state or local government, depending on the issue, so be sure to refer to the state guides below for accurate guidance. In all cases, AFSA members have access to our Legal Defence Fund (LDF), which can help farmers undergo the process of grounds for review in each state and territory. The LDF is supported by a steering committee that consists of both farmers and legal professionals who come together to help small-scale producers overcome common legal challenges and setbacks.

## Victorian Grounds for Review

If you're pursuing Grounds for Review in Victoria, here are the key authorities that will be responsible for reviewing your appeal and handing down the final decision:

Relevant authority	Key issues that can be addressed
<a href="#">Agriculture Victoria</a>	<ul style="list-style-type: none"> <li>● Feeding planning and pasture recovering</li> <li>● Supply feed and water to livestock</li> <li>● Land and farm water management</li> <li>● General technical information</li> <li>● Other assistance available and grants programs</li> </ul>
<a href="#">Victorian Ombudsman</a>	<ul style="list-style-type: none"> <li>● Issues or complaints with local councils</li> <li>● Fines</li> <li>● Human rights breaches</li> <li>● Worksafe</li> <li>● VicRoads</li> </ul>
<a href="#">Victorian Civil &amp; Administrative Tribunal (VCAT)</a>	<ul style="list-style-type: none"> <li>● Review a planning permit decision made by a responsible authority, including a failure to make a decision</li> <li>● To cancel or amend a permit</li> <li>● Enforce a planning scheme or 173 Agreement</li> <li>● A refusal or failure to extend time for a permit</li> <li>● Declarations</li> <li>● Planning Disputes including disputes under the:               <ul style="list-style-type: none"> <li>○ Gambling Regulation Act 2003</li> <li>○ Government Act 1989</li> <li>○ Subdivision Act 1998</li> <li>○ Heritage Act 2017</li> </ul> </li> </ul>
Local Government	

## Case study: Operating a small-scale livestock farm under rural industry and rural living zones

Alice is a small-scale livestock farmer operating in Victoria. She owns a property in a rural area classified as a residential living zone. Alice has been raising pastured livestock, primarily sheep and chickens, for several years on her property. However, recently, she has encountered challenges due to regulatory constraints and complaints from neighbouring residents regarding her farming activities.

### Challenges faced:

1. **Zoning regulations:** The residential living zone where Alice's farm is situated has specific regulations governing agricultural activities. These regulations may restrict the type and scale of farming operations permitted in such zones, despite the fact that such regulations are usually fit for large-scale industrial farms.
2. **Noise and odour complaints:** Neighbouring residents have lodged concerns about potential noise and odour that may come from having Alice's farm situated near their homes. This has led to tensions within the community and raised concerns about the compatibility of agricultural activities with residential living.
3. **Environmental concerns:** There are concerns about potential environmental impacts of Alice's farming practices, such as soil degradation, water pollution, and biodiversity loss. These concerns have prompted regulatory scrutiny and calls for stricter enforcement of environmental regulations.

### Relevant government and industry authorities involved:

1. **Local council:** The local council is responsible for administering planning regulations and zoning ordinances. They enforce land use policies and may issue permits for agricultural activities within residential zones.
2. **Department of Environment, Land, Water, and Planning (DELWP):** The DELWP is the state government department responsible for overseeing land use planning, environmental management, and natural resource protection. They may be involved in assessing the environmental impact of Alice's farming practices and providing guidance on compliance with environmental regulations.
3. **EPA Victoria:** The Environment Protection Authority (EPA) Victoria is tasked with regulating and monitoring environmental pollution and contamination. They may investigate complaints regarding environmental issues arising from Alice's farm, such as air and water quality concerns.
4. **Australian Food Sovereignty Alliance:** AFSA is a farmer-led organisation representing small-scale producers across Australia. AFSA's Legal Defence Fund has a long track record of working with farmers to overcome common legal challenges related to planning and regulation.

**Grounds for Review:** With the help of AFSA, Alice may seek a review of the regulatory decisions impacting her farming operation on various grounds, including:

1. **Compliance with zoning regulations:** Alice can review the zoning regulations

applicable to her property and assess whether her farming activities comply with the permitted land uses outlined in the residential living zone. Considering she is a small-scale farmer, she can build a case for exemptions due to the scale of her business having little to no impact on nearby residents.

2. **Mitigation measures:** Alice may propose mitigation measures to address the noise and odour concerns raised by neighbouring residents, such as implementing soundproofing measures and odour control systems.
3. **Environmental Management Plan:** Alice can develop an environmental management plan outlining the benefits of agroecological farming to mitigate potential environmental impacts usually associated with her farming activities. This may include soil conservation practices, water management strategies, and habitat restoration initiatives.
4. **Community engagement:** Alice can engage with the local community to address their concerns, provide information about the benefits of agroecological farming, and seek feedback on potential solutions to mitigate impacts and promote local food systems.

## Additional Resources

### **Mediation**

The power of Mediation should not be overlooked as an alternative dispute resolution mechanism in the context of farming and agricultural disputes. Depending on the appointed mediator's costs, and any pre-agreed mediation terms and conditions as to who pays the costs, a Mediation can be a cost effective tool that can save time and money in the event of a dispute where the parties are attempting to avoid court or tribunal litigation and are unable to resolve the dispute themselves or via representatives . Mediation in simplest terms is assisted negotiation. A mediator is an impartial third party who, if suitably qualified and experienced, works with both parties and their representatives to help them reach an agreement to resolve a dispute. Mediation is built upon the premise of impartiality and confidentiality. It is common for a Court and Tribunals such as VCAT to use mechanisms akin to Mediation prior to the submission of formal legal proceedings. As a result, mediation may be an effective tool in creating a "without prejudice" forum for the parties in dispute to try to reach a settlement agreement.

Mediation can be undertaken by appointing an accredited mediator (often a retired judge, barrister, or other suitably qualified practitioner). The Australian Mediator and Dispute Resolution Accreditation Standards (**AMDRAS**) manages a register of nationally accredited mediators. AMDRAS mediators are accredited under the national system and meet the minimum practice and approval standards. It is recommended that the parties contact AMDRAS or their state/territory law society to mutually appoint a suitable mediator or qualified alternative dispute resolution practitioner.

Readers should note that particular industries are required to engage in prescribed alternative dispute resolution processes. For example, members of Grain Trade Australia and industry participants should use the specialised arbitration process.

It is highly recommended that in all cases before commencing a dispute, that parties obtain legal advice, to determine their options and rights.

### **Australia Food Sovereignty Alliance ( AFSA)**

AFSA is commonly tasked with advising farmers on how best to solve legal issues in dispute or the best avenues for this process to occur. As a result, if you are unsure on which organisational body may best meet your needs. Please do not hesitate to reach out to AFSA directly and we can point you in the right direction. Over the years, AFSA has provided assistance and guidance on a large array of farming and agricultural related issues spanning across a significant number of practice areas. However, if we believe your issue would be best suited to a legal practitioner we can assist you in finding legal representation.

