



Response to Community – Stakeholder Submissions on Town Planning matters.

As at 30 November 2018 the Glenelg Shire Council (GSC) and Environment Protection Victoria (EPA) had received 335 submissions plus 3 petitions. Of the submissions received, 237 opposed and 98 were supportive of the development.

The focus of this assessment is to review the submissions opposing the development and to clarify where possible the policy intent or guidelines which facilitate the development.

Given the large number of submissions, the responses have been considered under nine themes of:

- Maintaining Amenity within the Rural Living Zone (RLZ)
- The proposed site for the development
- The defined use of the land being industrial
- Traffic generation
- Visual Impact/ Scale of the development
- Impact to tourism
- Glare from solar panels
- Noise
- Odour
- Impact to property values and rates

Issues in relation to the strategic context

A number of issues were raised in relation to the strategic context of the project and planning requirements involved. These are detailed below:

1. Maintaining Amenity within the Rural Living Zone (RLZ)

- i. The zone is included in the 'Rural' group of zones, which is an important distinction between the land included within a residential zone. Resident's expectations of amenity should be considered in the context of reasonable off-site amenity impacts that are caused as a result of permitted agricultural and commercial activities within what is a rural zone.
- ii. Previous VCAT decisions have identified the role and function of the Rural Living Zone (RLZ) as an '*active, working zone, and not only a residential zone*'. The RLZ is a zone, where agricultural uses are encouraged and other commercial activities may also occur, which will impact the standard of residential amenity to experienced. However, it is also acknowledged that appropriate agricultural uses are those which do not adversely affect the amenity of surrounding land uses, and efforts have been made by the proponent to reduce off-site impacts, through minimising traffic, noise, odour and visual impacts.
- iii. The use of land for permitted non-residential uses within the RLZ can, at times, result in offsite amenity impacts and the scheme seeks to protect legitimate activities from what could be construed as unreasonable amenity expectation from neighbours within a rural zone.
- iv. Amenity expectations from residents are high and it is reasonable that efforts are made by proponents to respond to reasonable concerns of amenity as they relate to potential offsite

amenity impacts (for example, noise, odour, traffic, visual etc). These potential impacts are addressed later within this response report or will be addressed as part of the Works Approval response.

2. The development would be better situated in another location

- i. A large number of submissions are not entirely opposed to the proposal, but raise concerns regarding the suitability of the subject site for the proposed development.
- ii. These submissions raise the issue that the proposed development may be better suited within another zone and different location within the municipality. Whether the proposed development is appropriate for the selected site is a matter for Council to be considered in the context of guidance provided by the Glenelg Planning Scheme. Whether there might be a different, more suitable site is not a relevant consideration in determining whether the proposal is suitable for the current site.

3. The use is Industrial

- i. A number of submissions refer to the proposed use as 'Industry' and nominate this as a reason for why the use is not appropriate for the RLZ. In 2004, the *Department of Primary Industries – Fisheries Victoria Management Report Series* provided Planning Guidelines for Land Based Aquaculture in Victoria (2004). The guidelines are included as a reference document in Clause 14.01 – 2 S (*Sustainable Agricultural land use*) within the Glenelg Planning Scheme. In relation to the definition of the use of the land, section 8.2 of the guidelines provide useful insight into how the use of land for aquaculture is distinct from use of land for industry.

Under the current Victorian Planning Position (VPP), aquaculture is defined as:

'Land used to keep or breed aquatic animals, or cultivate or propagate aquatic plants'.

This definition is incorporated within the broader definition of 'agriculture', which is separately defined as:

'Land used to:

- a) *Propagate, cultivate or harvest plants, including cereals, flowers, fruit, seeds, trees, turf, and vegetables.*
- b) *Keep, breed, board or train animals, including livestock, and birds; or*
- c) *Propagate, cultivate, rear, or harvest living resources of the sea or inland waters.*

It is important to note the current VPP definition of aquaculture does not include the "processing" of product, only the keeping, breeding, cultivation and/or propagation of such. "Processing" is separately defined as "Industry" under the VPP. Similarly, the VPP definition of aquaculture does not involve any tourist related activity, which would also be separately defined under the VPP (i.e. Leisure and Recreation).

- ii. Recently, the Victorian Government introduced Amendment C150 to make changes to the Victoria Planning Provisions (VPP) and all planning schemes. In 2015 the Victorian Government established the *Animal Industries Advisory Committee (AIAC)* to investigate how the planning system could better support Victorian animal industries, while balancing environmental outcomes and community expectations. The AIAC identified a broad range of significant issues that have affected Victoria's farmers, local government and the community in recent years.
- iii. A number of changes were made to support or restrict certain animal industries in appropriate contexts through clearer land use terms, as well as implement setback requirements for works and infrastructure to ensure amenity and environmental features are protected.
- iv. Importantly, through this review process, no changes were made to permit requirements for aquaculture and the use remains an agricultural use.

4. Traffic

- i. A number of submissions raise concern with anticipated traffic movements from staff vehicle movements and other uses visiting the site.
- ii. During the review of the Traffic Impact Assessment and discussions with the client, it was considered that while Dutton Way is an approved B-Double route, there will not be regular B-Double access required to service the facility during operation. Furthermore, there is likely to be only minimal use of B-Doubles during the construction phase to deliver building materials.

Princes Highway

- iii. The Princes Highway is managed and maintained by VicRoads. VicRoads has provided in principle support for upgrades to access on the Princess Highway and that advice has taken into account the anticipated traffic movements for the proposal.
- iv. The proposed development is likely to generate up to 220 light vehicle movements per day, peaking around 20 – 30 vehicle movements per hour due to the staggered shift start and finish times.
- v. The existing turn treatments provided at Frank Lodge Scenic Lookout are considered suitable to accommodate the additional vehicle movements and no upgrade of Princes Highway is required as part of this development.

Dutton Way & Keillors Beach Road

- vi. Keillors Beach Road connects the Princes Highway and Dutton Way and is managed by the Glenelg Shire Council. It is approved for B-Double access. The nominal capacity is around 6,000 vehicles per day (600-900 vehicles per hour during peak times).
- vii. Dutton Way is a rural link road managed by Glenelg Shire Council. It is approved for B-Double access. The nominal capacity is around 6,000 vehicles per day (600-900 vehicles per hour during peak times).
- viii. Truck access will be restricted to Dutton Way and on average, the development would generate approximately two truck movements per day. It is anticipated that trucks will travel to and from the site from the east (Geelong/ Melbourne) via Princes Highway, Keillors Beach Road and Dutton Way.

- ix. The impact on Dutton Way will not be significant even though some vehicles will elect to use this road when arriving or departing the abalone farm.
- xi. Council issued a request for further information on 28 November 2018 seeking, amongst other matters:
 - Swept Path Analysis for heavy vehicles demonstrating the suitability of the following intersections, and demonstrating that heavy vehicles can access and egress the entrance from Dutton Way to Portland Beach Road.
 - *Princes Highway and Keillors Beach Road*
 - *Keillors Beach Road and Dutton Way*
 - *Dutton Way and Portland Beach Road*
- xii. Minor modifications to Portland Beach Road will be required to accommodate the use of semi-trailers. It is recommended the structural capacity of the existing pavement on Portland Beach Road be investigated and upgraded, if required, in order to accommodate the anticipated heavy vehicle loads and to minimise future maintenance requirements.
- xiii. Overall, the development can be supported on traffic and transport grounds.

5. Visual Impact/ Size

- i. Landscape objectives seek to ensure that buildings and structures sit within, rather than dominate, the landscape, and ensure that ridgetops and visually prominent hill faces are largely free from development. The development has largely kept the ridgeline free from development, except for the inclusion of an access track from the Princess Highway down to the staff amenities which serves to minimise vehicle movements along Dutton Way.
- ii. Furthermore, visual impact can also be influenced by whether the viewer is stationary (i.e. in a dwelling) or moving (i.e. in a motor vehicle). In this regard, from the Princess Highway, views to the subject site are confined to small sections when travelling west towards Portland and not visible when travelling east towards Warrnambool. Along Dutton way, the development will be viewed when heading west with oblique views through the existing vegetation and where the vegetation is required to be removed to allow access for the pipe easements. However, it is considered that simply because a development can be seen does not necessarily equate to a negative visual impact.
- iii. The scale and degree of visual impact must be put into perspective of the views offered to the development from the public realm. The topography of the landscape remains largely intact as the development is proposed to be constructed on the low-lying aspect of the site. Views to the site are limited by existing vegetation and landform.
- iv. It is acknowledged the development will change the outlook of private dwellings built along the ridge. However, the visual impact of the development needs to be considered in the context of decision guidelines which relate to the impact of the siting, design, height, bulk, colours and materials on the natural environment, major roads, vistas and water features. There is no decision guideline which relates to the visual impact of development on surrounding sensitive uses.
- v. However, given the number of submissions which raise visual impact of the development as an issue, the proponent is also reviewing whether changes could be made to the building

footprint to further increase setbacks of buildings from surrounding dwellings to address concerns regarding visual impact of building and increase opportunities for screening to minimise direct views to the development.

6. Adverse impact on Tourism

- vi. A number of submissions also raise that the development will have an adverse effect on tourism in the region.
- vii. The Glenelg Planning Scheme identifies areas and townships across the Municipality which are identified as tourism destinations. These include parts of:
 - Cape Bridgewater
 - Condah
 - Merino
 - Tyrendarra
- viii. Dutton Way is not recognised through the Planning Scheme as a tourist destination.

7. Glare from Solar Panels

- i. In relation to glint and glare from solar panels, it is noted that solar panels are designed to absorb light (not reflect it) and typically have a surface which is anti-reflective and diffusing.
- ii. In general, modern PV panels are designed to absorb as much sunlight as possible to enable efficient conversion into electricity.
- iii. The Clean Energy Council recently provided a submission to Victoria's Draft Solar Facilities Guidelines and include the following commentary in relation to glint and glare from PV cells (30 November 2018):
 - *Photovoltaic solar panels are designed to absorb light rather than reflect it, and as such they have relatively low-levels of reflectivity. They are constructed of dark, light-absorbing materials and many panels are also covered with an anti-reflective coating.*
 - *Glare can be found in both the natural environment (bodies of water, snow) and the built environment.*
 - *While the metal frames around the individual panels and the mounting frames may have glint impacts, this is limited to a very small surface area. In addition, some panels now have a dual glass frameless design and hence have zero glint.*
 - *Such is the low level of risk from the glint and glare associated with solar panels that solar arrays line the Tullamarine-Calder interchange (VicRoads project), have been placed on top of the Brisbane Airport, alongside the Darwin International Airport, at Kansai airport in Osaka (30MW), and along a number of freeways in Europe.*
- iv. It is considered the panels will not generate an unacceptable level of glare and glint on neighbouring vantage point.

8. Effect on Property values/ rates & financial guarantee

- i. The planning scheme does not consider impact on property values as a result of development.
- ii. Land value is not a matter that an authority is required to consider when determining the planning merits of a proposal.
- iii. A number of submitters also requested that the proponents provide a financial guarantee in relation to the development of the site. This is not a relevant matter when determining the planning merits of a proposal.

9. Noise

- i. Noise is a significant concern for residents that are closest to the facility. Noise criteria is not designed to achieve inaudibility. The aim is to ensure any noise, if audible, does not create nuisance within dwellings.
- ii. Assessment of the anticipated construction and operational noise impacts of the facility. Background noise monitoring has been completed in multiple locations around the proposed site.
- iii. The construction noise assessment was conducted for a number of construction scenarios. Results indicate that predicted noise levels during construction are not expected to be excessive for day time activities.
- iv. Relevant noise guidelines for the construction of the facility include:
 - *EPA Publication 1254, Noise Control Guideline, 2008*
 - *EPA Publication 480, Environmental Guidelines for major construction sites, Best Practice Environmental Management, 1996*
- v. There is potential for a marginal exceedance of non-mandatory day time noise criteria for piping works performed close to residential houses (western and central easements). This may be verified by periodic noise and/ or vibration monitoring during relevant construction phases.
- vi. The requirement for a Construction Environmental Management Plan (CEMP) can form a condition of planning approval for the development and be developed for each stage of the project to demonstrate how site activity will comply with *Environmental Guidelines for Major Construction Sites, EPA Publication 480*.
- vii. Relevant noise guidelines during operation of the facility include:
 - *State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade No. 1 (SEPP N-1) (Victorian Government, 1989)*
 - *Noise from Industry in Regional Victoria (NIRV): recommended maximum noise levels from commerce, industry and trade premises in regional Victoria (EPA publication 1411) (EPA, Victoria, 2011).*
- viii. The operational noise assessment considered two scenarios, being:
 - *noise generation during normal operation*
 - *noise generation in the event of use of emergency generators and pumps*

- ix. Subject to implementing the proposed noise mitigation measures, operational noise levels at sensitive receivers along Dutton Way are predicted to comply with the day, evening and night time criteria under the SEPP-N1.
- x. Noise levels at all rural receivers under the NIRV are predicted to comply with the day, evening and night time criteria following mitigation (as detailed in section 8.5 of the Odour and Noise Impact Assessment, October 2018).
- xi. Noise levels when the emergency generator and emergency pump station are in operation are predicted to comply with the day, evening and night time criteria following mitigation (as detailed in section 8.5 of the Odour and Noise Impact Assessment, October 2018).
- xii. There is no mandatory separation distance between the facility and surrounding dwellings.
- xiii. The suitability of the separation distances as proposed will maintain the amenity of surrounding land uses.

10. Odour

- i. The potential for off-site odour to occur from the site is also raised through a number of submissions.
- ii. There is no default odour buffer for land-based aquaculture or abalone farms under the Glenelg Planning Scheme or EPA guideline 1518 (*Recommended Separation Distances for Industrial Residual Air Emissions – Guideline*).
- iii. Odour from mortality management will be improved at the new Yumbah Nyamat facility with all mortalities being collected on a daily basis and placed in freezers inside the Abalone Mortalities and Storage Facility. Once freezers reach capacity, they will be transported offsite for disposal at a local municipal landfill or suitable rendering facility.
- iv. Management of mortalities in this manner is expected to reduce odour to a point where it is expected to not be noticeable beyond the property boundary.
- v. No significant odour was noted at the lagoons at the existing Narrawong facility, with minor inoffensive odour from waterfowl, which tend to defecate around the pond area.
- vi. Bird management will be improved at the new Yumbah Nyamat facility with all ponds and retention basins being covered in a bird mesh, preventing birds from settling onsite at these locations.
- vii. Management of birds in this matter is expected to reduce odour to a point where it is expected to be no more than a minor onsite odour not noticeable beyond the property boundary.

18 December 2018