



PUBLIC CONSULTATION OUTCOMES

## Submissions and Survey Analysis

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Agritourism and Small-Scale Agriculture Development

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## **Acknowledgements**

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## Executive summary

This report documents feedback raised in submissions to the Agritourism and Small-Scale Agriculture Development Explanation of Intended Effect (EIE). The EIE was exhibited by the Department of Planning, Industry and Environment (the department) from 9 March 2021 to 19 April 2021.

### Consultation on the EIE

Engagement during the public exhibition period included a request for submissions, surveys relating to both agriculture and agritourism, and an 'ideas wall' to generate informal, anonymous discussion about the proposals.

Participation in response to the EIE was as follows:

- 239 individual submissions were received, including 86 form submissions
- 157 participants completed Survey 1: Agricultural EIE – Agritourism
- 77 participants completed Survey 2: Agricultural EIE – Small-scale agricultural development
- 151 comments were posted on the ideas wall.

### Key proposal areas raised in stakeholder feedback

The majority of feedback received through the public exhibition process was focused on the agritourism proposals.

Feedback received on each of the 25 consultation questions and further comments are summarised below. Further details are provided in the report.

### Proposals to facilitate agritourism

Proposal area	Feedback on the EIE
Farm stay accommodation	<p><b>Feedback on the consultation questions</b></p> <p><i>Question 1: Are the proposed setbacks to pig farms, other intensive livestock, forestry and mines for exempt and complying development appropriate?</i></p> <p>Respondents broadly supported the proposed setbacks for exempt and complying development, with suggested amendments including requiring setbacks from farm dams, extending setbacks for high impact uses and including additional setbacks for camping.</p> <p><i>Question 2: Where a development application is required, should farm stay accommodation be permitted only on land that benefits from a dwelling entitlement?</i></p> <p>The majority of respondents argued that farm stay accommodation should only be permitted on land that benefits from a dwelling entitlement.</p>



*Question 3: For complying development, should there be a requirement that a new building or manufactured home for farm stay accommodation be within 300 metres (or some other distance) from the existing dwelling house to enable clustering together of sensitive land uses?*

Responses were divided on whether farm stay accommodation should be within a certain distance from the original dwelling to enable clustering of sensitive land uses.

*Question 4: Should there be different development standards for farm stay accommodation based on land size or location (such as whether the land is inland or east of Great Dividing Range)? If yes, please provide your suggestions and reasons.*

There was broad support among submissions for different development standards for farm stay accommodation based on land size or location. Suggestions for standards included considering tourist numbers, property sizes, densities, farming operations and environmental impacts. Views were more evenly divided among survey respondents, with just over half of survey respondents stating there should be different development standards for farm stay accommodation based on land size or location.

#### **Additional feedback**

Natural disasters were raised in multiple submissions in relation to farm stay accommodation, particularly from regional local government. Several regional councils submitted that farm stay developments should not occur on bush fire prone land.

The impacts of camping and potential neighbourhood disputes were other commonly raised concerns relating to farm stay accommodation.

#### **Farm gate activities**

#### **Feedback on the consultation questions**

*Question 5: How far do you think a roadside stall should be setback from the road?*

Suggestions for roadside stall setbacks ranged from 0-2 metres to 25 metres. Factors identified by stakeholders to be taken into consideration included the classification of the road, safety including visibility / sight lines and traffic volume and speed. Several submissions suggested setbacks be determined on a case by case basis.

*Question 6: What additional standards should be included for the exempt and complying development pathways for farm gate activities, if any?*

Additional standards suggested for farm gate activities related to clear lines of sight / road safety; operating hours; waste water management; providing off road parking; and health and food safety.

#### **Additional feedback**

Suggestions from the ideas wall relating to farm gate activities included using local produce beyond just produce from the individual farm, and for farmers to be able to engage in further activities, such as pop-up restaurants.

## Farm events

**Feedback on the consultation questions**

*Question 7: The proposed maximum number of people and events per day for exempt and complying development are:*

- a) 52 event days per year and up to 30 guests per event, or*
- b) 10 event days per year and up to 50 guests per event*

*Are these appropriate?*

In relation to the proposal for certain events to be carried out as exempt and complying development, responses were split on the appropriateness of the proposed maximum numbers of people and events. Some suggested fewer events per year and smaller guest numbers, with larger event sizes and numbers to require a development application.

*Question 8: What events, if any, do you think should be excluded from the definition of farm events?*

Suggested events to be excluded from the definition of 'farm events' included music festivals and concerts, weddings and motor sports events.

*Question 9: Should changes be made to the planning system to facilitate destination weddings under a development application? If so, in which zones should destination weddings be permitted? Please provide reasons for your selection.*

- a) RU1*
- b) RU2*
- c) RU4 zones*
- d) Other zones (please specify)*

Views were divided on whether the planning system should be changed to facilitate destination weddings. Views ranged from allowing them on any land where agriculture is permitted, to expressing concern about neighbour conflict and environmental issues.

*Question 10: Should the department prepare a model clause for destination weddings which councils can choose to adopt?*

Local government submissions were split on whether there should be a model clause for destination weddings. The majority of survey respondents (80%) were in favour.

*Question 11: Is there any rural land or areas in which agritourism activities should not be permitted?*

The majority of stakeholder submissions agreed that there is rural land where agritourism should not be permitted. Suggested zones included RU3, RU5, RU1 and RU2. However, two thirds of survey respondents (66%) indicated that agritourism activities should be permitted in any rural land or areas.

**Additional feedback**

Other feedback included concerns about the traffic, noise, pollution and waste generation impacts of farm events, as well as resourcing

impacts on councils and the challenges of notifying neighbours in advance of each event.

Suggestions from the ideas wall included that farm events be proportional to land size.

## Proposals to facilitate low impact agricultural activities

Proposal area	Feedback on the EIE
Small-scale processing plants	<p><b>Feedback on the consultation questions</b></p> <p><i>Question 12: Should any other agricultural produce industries be complying development? What standards should apply?</i></p> <p>Agricultural produce industries suggested for complying development included: wineries, distilleries, cheese and butter factories; beef, sheep, deer, goat, kangaroo and quail production; horticulture; and nurseries.</p> <p><i>Question 13: Is a maximum throughput of 1,000 carcasses per annum for other animals such as deer or kangaroo appropriate?</i></p> <p>The proposal for a maximum throughput of 1,000 carcasses per annum for other animals such as deer or kangaroo was regarded as appropriate by the majority of submitters who provided comment and by the majority of survey respondents.</p> <p><i>Question 14: Should any additional standards be included?</i></p> <p>Suggested additional standards included: a general setback to property boundaries of 200 metres; appropriate waste management facilities and processes; and compliance with the ANZ Food Standards Code.</p> <p><i>Question 15: Should the locational criteria that classify livestock processing industries as designated development be reviewed for small-scale processing plants to determine whether these plants could be approved:</i></p> <p><i>a) as complying development?</i></p> <p><i>b) through the standard DA process?</i></p> <p>The majority of survey participants suggested that the locational criteria that classify livestock processing industries as designated development should be reviewed for small-scale processing plants. In relation to the determination pathway for small -scale processing plants, stakeholder submission views were more divided, with 6 submitters commenting that applications should be through the development application (DA) process.</p> <p><b>Additional Feedback</b></p> <p>Some stakeholders, including regional councils, supported the proposal in principle, but raised concern about the potential environmental and amenity impacts of allowing small-scale processing plants as complying development.</p>

Rebuilding of farm infrastructure	<p><b>Feedback on the consultation questions</b></p> <p><i>Question 16: Will these provisions sufficiently enable the rebuilding of buildings lost to natural disasters in the same location of the same size and form?</i></p> <p>The majority of submitters and survey respondents agreed that the proposed provisions would sufficiently enable the rebuilding of buildings lost to natural disasters in the same location of the same size and form.</p> <p><i>Question 17: Should any additional standards be included?</i></p> <p>Additional standards included elimination of DA fees, flood planning controls, a planning approval pathway to encourage better design and sewerage management.</p>
Stock containment areas	<p><i>Question 18: What type of permanent infrastructure should be permitted for stock containment areas?</i></p> <p>A range of infrastructure for shelter, feeding and watering was suggested as permanent infrastructure that should be permitted in both the submissions and surveys.</p> <p><i>Question 19: What type of permanent infrastructure should not be permitted for stock containment areas?</i></p> <p>Submissions received suggested that for permanent infrastructure that should not be permitted included large scale hard stand areas and containment areas close to residential accommodation. There was also a view that no permanent infrastructure should be permitted without consent or as exempt development.</p>
Farm dams	<p><b>Feedback on the consultation questions</b></p> <p><i>Question 20: How could we simplify planning provisions for farm dams?</i></p> <p>Consistency and standardisation were common themes in submission feedback on farm dams. Suggestions for simplifying planning provisions for farm dams included: aligning terminology used for farm dams with Water NSW and standardising how to calculate the maximum size of a dam for the size of a lot. Survey suggestions included nominating a single authority for dam approvals.</p>
Biosecurity for poultry farms and pig farms	<p><b>Feedback on the consultation questions</b></p> <p><i>Question 21: Do the proposed provisions adequately provide for biosecurity between poultry farms and pig farms?</i></p> <p>Most submissions commented that the proposed provisions were not adequate to achieve biosecurity due to the proposed expansion of poultry farms that would be permitted without consent. Feedback included concerns for potential amenity impacts of poultry farms and pig farms as well as concerns about impacts other than biosecurity, including traffic, noise, odour and dust.</p>



	<p><i>Question 22: Should any additional standards be included?</i></p> <p>Suggestions from submissions received by the included a distance greater than 100 metres between intensive agriculture and natural water courses and introducing landscaping or vegetative buffers to manage visual impact.</p>
Rural dwelling setbacks from intensive livestock agriculture	<p><b>Feedback on the consultation questions</b></p> <p><i>Question 23: Should the setbacks for rural dwellings be increased from its current requirement to be 250 metres from the boundary (when done as complying development)?</i></p> <p>Submissions generally agreed that setbacks should be increased beyond 250 metres from the property boundary. Suggestions included 500 metres to protect existing intensive/mining/rural industries and more than 250 metres to protect from spray drift from intensive plant agriculture. However, three-quarters of survey participants disagreed that setbacks for rural dwellings should be increased.</p> <p><i>Question 24: From which point should the setbacks be measured?</i></p> <p>a) <i>From the proposed or existing intensive agricultural use</i></p> <p>b) <i>From the property boundary shared with land used for intensive agriculture</i></p> <p>c) <i>A combination of the above</i></p> <p>On the question of where the setback should be measured from, feedback was mixed. Suggestions included the property boundary and the location of the agricultural activity.</p>
Recreational beekeeping	<p><b>Feedback on the consultation questions</b></p> <p><i>Question 25: Are the proposed development standards appropriate and are any additional standards needed?</i></p> <p>General consensus in submissions was that the proposed amendments are not necessary as there is sufficient regulation of recreational bee keeping. However, a number of suggestions for additional standards were provided by councils, including that only docile strains of bees should be kept by recreational beekeepers, and that hives should not be located within the vicinity of public facilities such as schools.</p> <p><b>Additional feedback</b></p> <p>Suggestions from the ideas wall included the importance of encouraging recreational beekeeping to boost bee populations and enhance native flora.</p>

## Optional clauses for LEPs

Councils were given the opportunity to express an interest in adopting new optional clauses for farm stay accommodation and farm gate activities in their local environmental plan (LEP) and identifying zones to allow the new activities. Forty-one councils expressed interest in having further discussions with the department about opting-in to the clauses and identifying zones.

## Next steps

The department is currently working through the information provided to refine the proposals. It is proposed to progress the changes in stages.

Stage 1 will involve the department working with councils that have expressed an interest in making changes to their LEPs to adopt the new optional clauses for farm stay accommodation and farm gate activities and specify the zones for farm gate activities and farm events. The department will facilitate these changes through an amending State environmental planning policy, saving councils the time and resources required to progress individual planning proposals. Changes will also be made to definitions in the *Standard Instrument (Local Environmental Plans) Order 2006*.

Stage 2 will involve amendments to enable agritourism activities as exempt and complying development and the proposed changes to small-scale agriculture development, such as temporary stock containment areas and farm buildings.

# Consultation on the Explanation of Intended Effect

## Background

After the success of the first phase of the *Making Business Easier* (formerly *Easy to do Business*) program, which saw approval times for cafes, restaurants and small bars reduced, the NSW Small Business Commission in partnership with Service NSW began identifying new sectors for its expansion.

Agritourism was selected as one these sectors, as businesses, councils and other stakeholders identified it as a priority area.

The Agritourism Project commenced in 2018. It aims to simplify the processes to set-up and establish agritourism businesses.

The project has been informed by a broad-based working group, with representatives from relevant NSW Government agencies and industry including:

- Department of Primary Industries
- NSW Food Authority
- the Office of Local Government
- Destination NSW
- Department of Industry
- Department of Planning and Environment
- Service NSW
- NSW Farmers Federation
- Local Government NSW
- Australian Regional Tourism
- Regionality Pty Ltd.

The proposed agritourism changes in the EIE form part of this project, and were informed by:

- initial research conducted by Service NSW which involved 18 interviews in 11 local government areas
- a pilot program in 3 local government areas (LGAs) – Wollondilly Shire, Queanbeyan-Palerang Regional and Liverpool Plains Shire - which included 35 farm businesses.

In addition to the agritourism proposals, a number of changes were proposed regarding small-scale agriculture. This was based on feedback from stakeholders, primarily the Department of Primary Industries, on minor changes that could be made to the planning system to make it easier for NSW farmers to obtain approvals for small-scale agriculture developments.

By simplifying the planning system, the proposed changes aim to make agritourism more accessible to farming businesses and help farmers all over NSW with planning approvals needed for small-scale agriculture.

### What is Agritourism?

Agritourism is a tourism-related experience or product that connects agricultural products, people or places with visitors on a farm or rural land for enjoyment, education, or to participate in activities and events. Agritourism activities enable farmers to diversify their income from farming businesses while maintaining primary production on the land as the principal use.

## Brief outline of proposals

The NSW Government recognises that farmers are facing many challenges, such as natural disasters, economic shocks from COVID-19 and changing land uses in rural and regional areas. The NSW Government is committed to supporting the recovery and resilience of regional communities and farming industries by:

- growing emerging industries based on agriculture such as agritourism to strengthen rural communities as travel restrictions ease
- facilitating farm businesses to diversify income to spread farmers' economic risk
- allowing for reasonable temporary development to assist farmers during times of hardship, including drought
- supporting opportunities identified by the NSW Government's Right to Farm policies to minimise land use conflict, such as providing clearer rules and better managing environmental and social impacts
- supporting the principles identified in the NSW Agriculture Commissioner's *NSW Agricultural Land Use Planning Strategy* options paper by supporting the growth of agriculture and regional economies
- clarifying planning controls to better account for specific uses such as dams, small-scale processing and recreational beekeeping.

The EIE outlined the changes that are proposed to the NSW planning system to make it easier for agritourism and small-scale agricultural development to be approved. It also seeks to respond to natural disasters such as droughts and bush fires, and to simplify planning approvals for development or activities that have no or low environmental impact.

The proposals in the EIE were informed by feedback from the wider agritourism project run by the NSW Small Business Commission and Service NSW, and feedback from the Department of Primary Industries. There were 10 proposal areas in the EIE. The 3 proposals to facilitate agritourism were:

- amending existing farm stay accommodation provisions
- introducing farm gate activities, and
- introducing farm events.

The 7 proposal areas to facilitate low-impact agricultural activities were:

- small-scale processing plants
- rebuilding of farm infrastructure
- stock containment areas
- farm dams
- biosecurity for poultry farms and pig farms
- setbacks for rural dwellings, and
- recreational beekeeping.

## Overview of consultation process

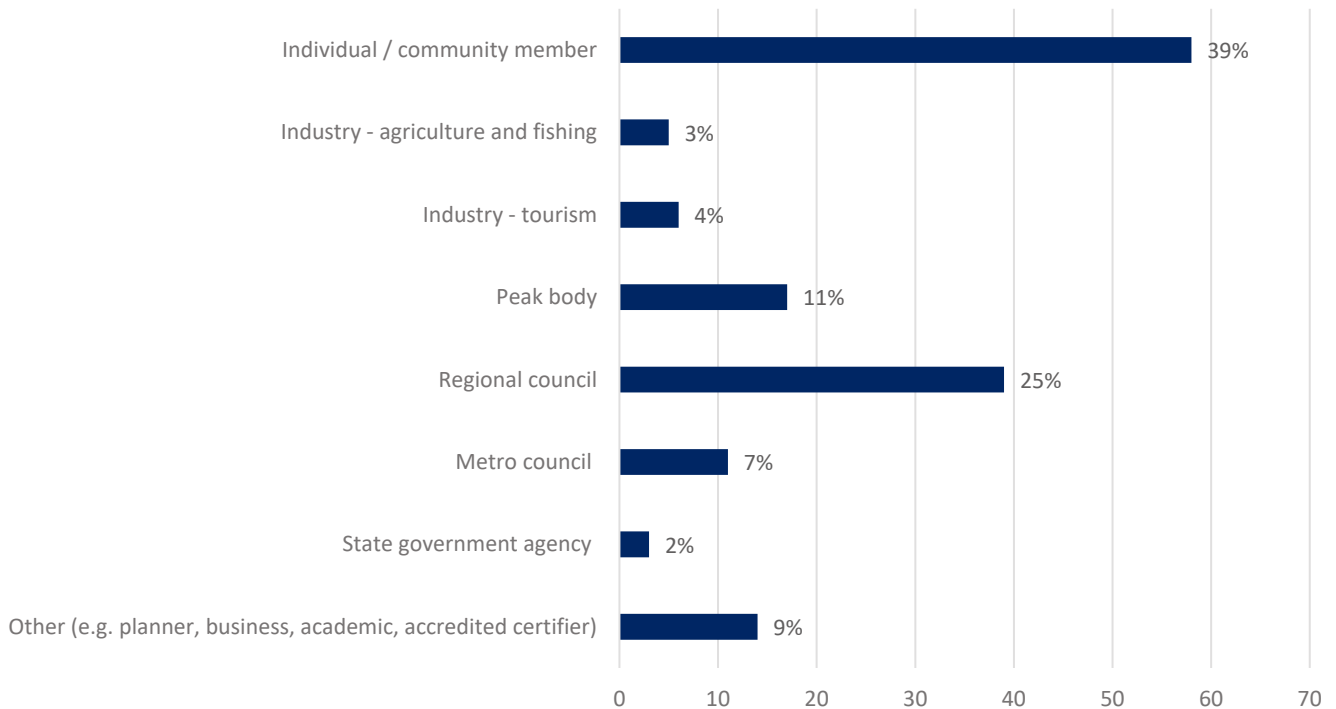
The department released the EIE outlining proposed changes relating to agritourism and small-scale agriculture development for public exhibition between 9 March and 19 April 2021 inclusive.

The consultation included a request for submissions, as well as surveys relating to both agriculture and agritourism. An 'ideas wall' was established to generate informal, anonymous discussion about the proposals. FAQs and case studies were also exhibited to inform feedback.

## Overview of participation

A total of 239 submissions were received in response to the EIE. Feedback was provided by a wide range of individuals and organisations from across NSW as shown in Figure 1. Individual community members were most represented in submissions with 39% of responses, followed by regional councils with 25% of responses.

**Figure 1: Submitter type (where form submissions are consolidated) n=153**



Feedback was also provided in two surveys and through an ideas wall – all available on the department's website. These activities attracted participation as follows:

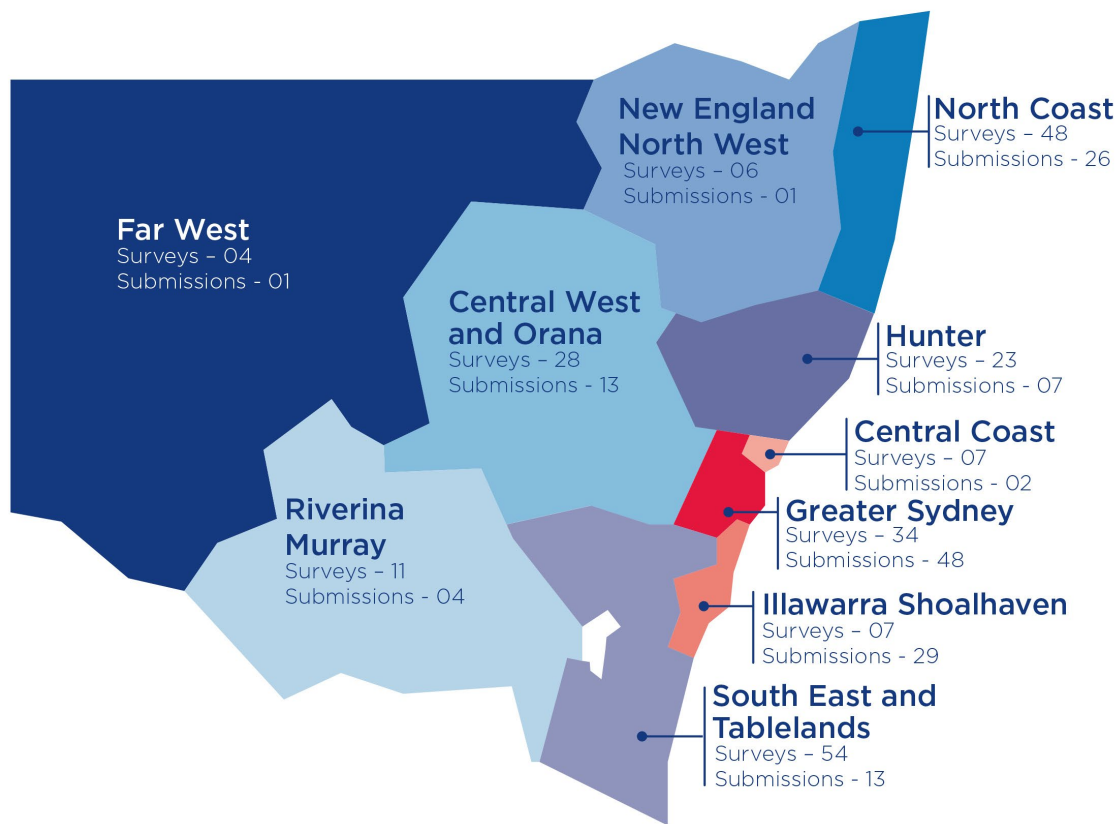
- Survey 1: Agricultural EIE - Agritourism – total of 157 participants
- Survey 2: Agricultural EIE - Small-scale agricultural development – total of 77 participants
- Ideas wall – total of 151 comments posted.

More than one-third of submissions (86, 36%) expressed support for the feedback provided in a submission by the Berry Forum (see details in the next section). These submissions are referred to in this report as 'form submissions'. This report discusses feedback raised in all submissions (i.e. n=239); and feedback raised in submissions where form submissions are consolidated (i.e. n=153).

In terms of geographical location of participants in both the surveys and submissions (excluding the form submissions), the most represented region by submitters was Greater Sydney (31%) and by survey participants was South East and Tablelands (23%) (refer Figure 2).



**Figure 2: Survey and submission responses by DPIE region (where form submissions are consolidated) n =153**



## Next steps

Feedback received in response to the EIE is being considered by the department to help understand the views of all stakeholders to refine the proposed changes.

## Consultation feedback

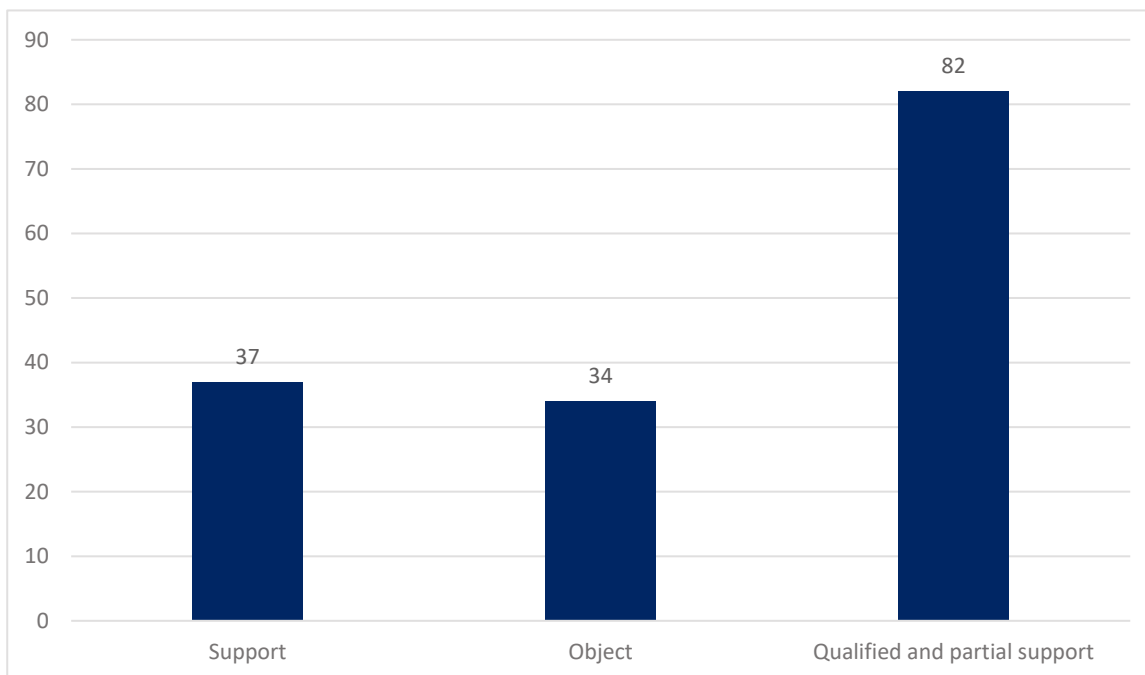
This section presents detailed feedback raised in the 239 submissions received by the department. It also includes a summary of survey responses.

Feedback provided in submissions is presented in this report by each of the 10 proposal areas identified in the EIE. Quotes have been used to illustrate the feedback received on each of the proposal areas. Where a person making a submission has requested confidentiality, the quote has been attributed to the type of submitter to protect their privacy.

Each submission was assigned a code for expressing whether they 'supported', 'objected to' or 'provided support on a qualified or partial basis to' the EIE. Submissions identified as providing 'qualified or partial support' include those submissions which supported the objective of the proposed changes but raised questions and concerns about certain elements. In some cases, stakeholders supported some of the changes relating to particular proposal areas but opposed changes in others.

When form submissions are consolidated, the majority of submissions (54%) expressed 'qualified or partial support' for the EIE, 24% of submissions were in support, and 22% objected (refer Figure 3). Almost half (48%) of submissions which expressed 'qualified or partial support' were from local government (metro and regional). There were 5 local councils that expressed full support for the EIE.

**Figure 3: Sentiment (when form submissions are consolidated) n=153**



The proposal areas that attracted the most feedback were those relating to agritourism – in particular, farm stay accommodation and farm events, and to a lesser extent farm gate activities (refer Figure 4). Most submissions provided feedback on more than one proposal area.

Figure 4: Submission comments by proposal area (when form submissions are consolidated) n=153

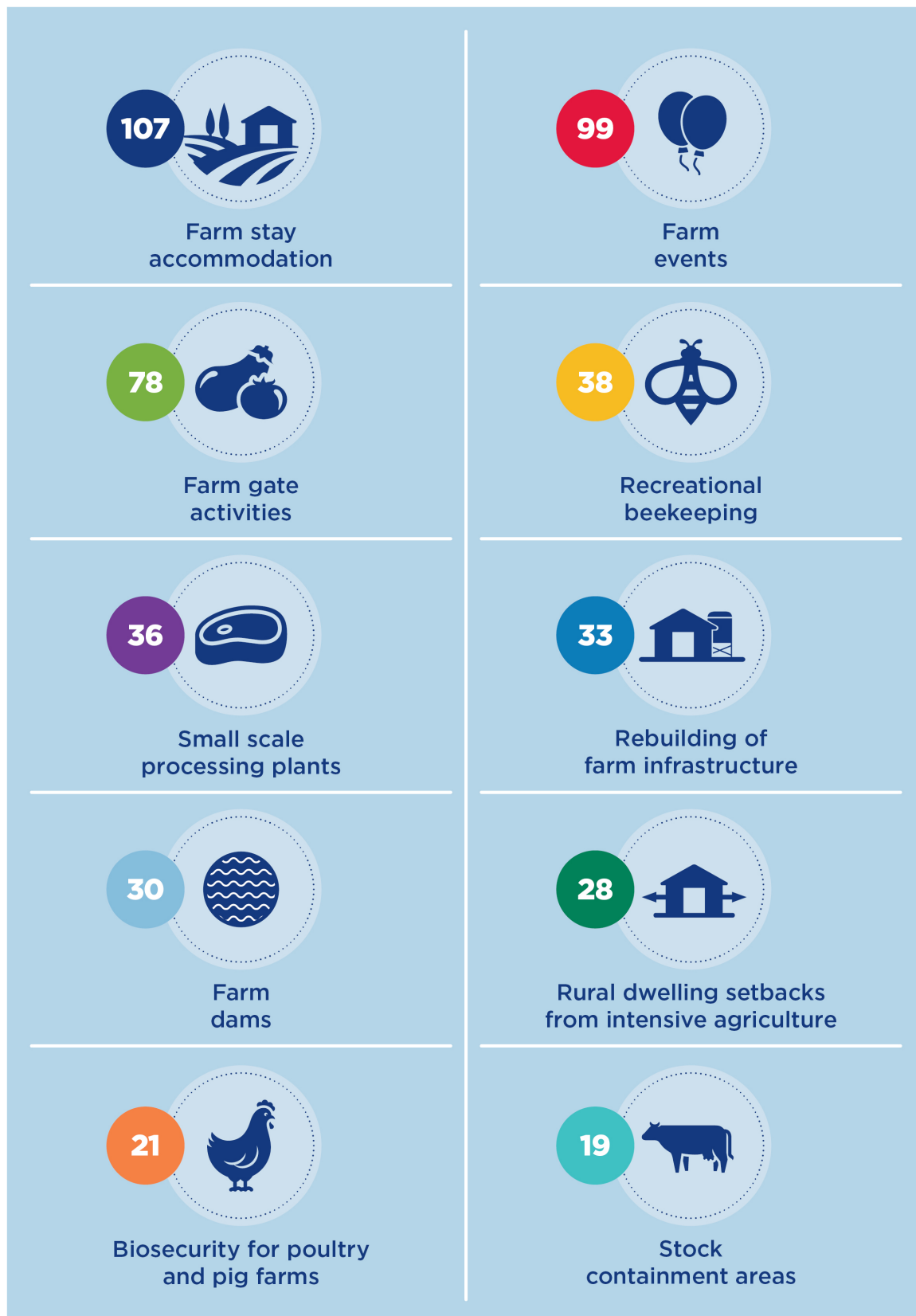


Table 1 below outlines the most common stakeholder types and locations of submitters for each proposal area when form submissions are consolidated. Due to the higher volume of responses for agritourism, the top two have been provided.

Regional councils were the most common stakeholder type for each proposal area. Other common submitter types included individual/community members and metro councils. In terms of locations, the most commonly represented region was Greater Sydney, followed by North Coast and Central West and Orana.

The agritourism-related proposal areas were most commonly commented on by individuals and community members and regional councils in the Illawarra Shoalhaven, North Coast and Greater Sydney. Submitters who commented on the small-scale agriculture proposal areas were most commonly from the North Coast and Greater Sydney, however also included regions such as Central West and Orana, South East and Tablelands and Hunter.

**Table 1: Submissions by proposal area – top stakeholder types and submitter locations for each proposal area (when form submissions are consolidated)**

Proposal area	Stakeholder type	Location
<b>Agritourism</b>		
<b>Farm stay accommodation (107)</b>	Regional councils – 36, 34%	Illawarra Shoalhaven – 21, 20%
	Individual/community member – 34, 32%	North Coast – 21, 20%
<b>Farm gate activities (78)</b>	Regional councils – 33, 42%	Greater Sydney – 29, 37%
	Individual/community member – 15, 19%	North Coast – 16, 21%
<b>Farm events (99)</b>	Regional councils – 34, 34%	Greater Sydney – 32, 32%
	Individual/community member – 33, 33%	Illawarra Shoalhaven – 24, 24%
<b>Small-scale agriculture</b>		
<b>Small-scale processing plants (36)</b>	Regional councils – 20, 56%	North Coast – 10, 28%
<b>Rebuilding of farm infrastructure (33)</b>	Regional councils – 22, 67%	Greater Sydney – 7, 21%
<b>Stock containment areas (19)</b>	Regional councils – 14, 74%	Greater Sydney – 4, 21%
<b>Farm dams (30)</b>	Regional councils – 18, 60%	Greater Sydney – 8, 27%

Proposal area	Stakeholder type	Location
<b>Biosecurity for poultry and pig farms (21)</b>	Regional councils – 12, 57%	Greater Sydney – 7, 33%
<b>Rural dwelling setbacks from intensive agriculture (28)</b>	Regional councils – 19, 68%	North Coast – 9, 32%
<b>Recreational beekeeping (38)</b>	Regional councils – 19, 50%	Greater Sydney – 14, 37%



## Agritourism

The majority of feedback on the EIE related to agritourism – farm stay accommodation, farm gate activities and farm events. This feedback commonly focused on amenity, waste, setback distances and provisions for the number of events and people permitted to attend. However, feedback was also received on land use conflict, destination weddings and the proposed definitions for agritourism activities.

### Submission by the Berry Forum

A total of 86 submissions were in support of the submission made by the Berry Forum. The Berry Forum submission was generally supportive of the objectives of the EIE. However, it raised a number of concerns and suggestions including:

- The need to better define a farm used for primary production purposes, with the suggestion to use the Australian Tax Office's criteria for primary producer status.
- The need to define supplementary or ancillary income to avoid issues relating to tax minimisation.
- Access to the proposed planning changes should be limited to family or limited partnership farms rather than corporate enterprises.
- Access to the proposed planning provisions should not be extended to flood prone areas and other areas subject to extreme events or likely impact of climate change, such as rising sea levels.
- Development needs to account for the impacts of building and the influx of tourists on the local habitat, including safe wildlife corridors and the offset, on or adjacent to the location, needs to be registered under the NSW Environmental Trust.
- Exempt development should not be permitted state-wide as landowners close to Sydney and major coastal towns will be able to exploit the planning changes to generate significant profits
- The lack of police and local council resources to investigate and address complaints raised by some members of the local community.

Several quotes from the Berry Forum submission are provided below.

“[Through our submission we seek to ensure] the proposed planning changes ...assist real farmers in targeted regional areas and do not allow the potential benefits to be crowded out by smaller lifestyle farms and developers seeking to exploit the opportunities the planning changes allow.”

“A supplementary business of large-scale events such as weddings and conferences held on rural land will soon overshadow any income (and the long hours, hard work and passion that goes with it). The land as an agricultural mecca will be lost in the mists of time. A story to tell our grandchildren and pass down to future generations of when we grew our own food, raised our own livestock – rather than became “producers” of large scale event venues.”

“And more broadly, true agritourism does allow for regional economies to showcase what's special about a region, its unique growing conditions and natural resources and provides a visitor drawcard for which other regional tourism businesses and experiences can benefit (including allowing large scale events such as weddings and conferences on appropriately zoned land).”

### The Berry Forum

## Farm stay accommodation

Farm stay accommodation was the proposal area that received the most comments, discussed in a total of 107 submissions. It was commonly raised by individuals/community members (29 submissions, or 27%) and local regional councils (26 submissions, or 25%).

While there was some support for the farm stay accommodation proposals, the submissions identified the following issues that required further consideration:

- Amenity and environmental impacts
- Waste management
- Provisions for camping and caravans
- Definition of and parameters around 'commercial use'
- Provisions around agriculture as the primary land use.

Comments on amenity were made by all stakeholder groups. Key issues raised included the impacts of noise, traffic and parking, odour and waste and impact on local amenity and rural character.

Several regional councils requested further information and clarity about addressing potential environmental risk if waste is not managed appropriately. For example, Richmond Valley Council was concerned that no standards for waste management (both solid waste and wastewater) have been proposed. Bega Valley Council noted that farm stay accommodation, including camping, is not considered to be 'low impact' if human waste is not managed.

Concerns were raised about the inclusion of camping in the farm stay accommodation definition. For example, several stakeholder groups, particularly regional councils and individual/community members, did not consider camping to be 'low impact'. These submissions also expressed concern about waste management and disposal and amenity impacts. However, it was suggested by an individual/community member (submission #3), who was supportive of allowing small-scale camping, that these issues could be mitigated by imposing camping limits based on the size of the property.

In relation to the proposal to allow for small-scale tourism and commercial uses that complement the agricultural use of the land, further clarification was sought by stakeholder groups about the meaning of 'commercial use' in that context. Concerns were raised about the potential for land use conflict with surrounding agricultural uses if 'commercial use' is not clearly defined and subsequently enforced.

While several stakeholders expressed support for maintaining agriculture as the primary use of land if farm stay accommodation was permitted, others indicated farm stay accommodation should only be permitted on 'unproductive' properties or hobby farms.

Several stakeholders responded to the specific consultation questions. Responses to the questions are summarised below.

### **Question 1. Are the proposed setbacks to pig farms, other intensive livestock, forestry and mines for exempt and complying development appropriate?**

The EIE proposed setbacks for farm stay accommodation as exempt and complying development as follows:

- *"the minimum following setbacks from any adjoining established or proposed:*
    - *pig farm, feedlot or poultry farm – 1,000 metres*
    - *other intensive livestock agriculture – 500 metres*
    - *intensive plant agriculture, forestry, mines and extractive industries, railway lines and rural industries – 250 metres*
- or 250 metres from the boundary with the other use, whichever is greater.*

- *if any existing dwelling has a setback from the other use that is less than these setbacks, or is less than 250 metres from the boundary, the farm accommodation may have the same setback*
- *a setback of 100 metres from any waterway.”*

### Submissions feedback

Among submissions, there were mixed views about the appropriateness of the proposed setback distances. Of the 28 stakeholders who responded to this question, a third indicated the setbacks were appropriate, almost half expressed mixed views, and 21% considered the proposed setbacks were not appropriate.

Submissions that supported the proposed setbacks included Wollondilly Tourism Association, local councils (Port Macquarie Hastings Council, Shoalhaven City Council, MidCoast Council, Tenterfield Shire Council and Wentworth Shire Council) and businesses such as Navigate Planning, Straight Forward Planning and Mid North Coast Farm Advisory Services.

**“The proposed setbacks are supported. The proposed setbacks should be consistently applied to farm stay accommodation and any other residential and tourism accommodation on rural lands to ensure consistency and minimise land use conflicts between accommodation and agricultural activities on rural lands.”**

### MidCoast Council

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Several submitters specifically commented on the proposed waterway setbacks. WaterNSW agreed with the proposed setback as appropriate to protect water quality. In its submission, the NSW Wine Industry Association commented that the proposed 100 metre setback from a waterway for exempt and complying development was excessive.

Submissions with mixed views on the proposed setbacks included regional councils (Byron Shire Council, Richmond Valley Council, Cabonne Council, and Shellharbour Council), the NSW Department of Primary Industries - Agriculture (DPI Agriculture), two peak bodies (NSW Wine Industry Association and Destination Sydney South Surrounds) and two individuals/community members. For example, Destination Sydney South Surrounds supported the need for setbacks but noted that some of the setback requirements may not be appropriate for high impact uses. Byron Shire Council considered that the land uses listed in question 1 are not relevant to the Byron Shire as those land uses are unlikely to occur.

Submissions that did not agree with the proposed setbacks included regional councils Central Coast Council, City of Wagga Wagga, Blayney Shire Council, Tweed Shire Council and Snowy Monaro Regional Council, as well as Our Future Shoalhaven and Farm Stay Holidays. Alternative suggestions from these submissions included:

- A setback of 50 metres from waterways would result in an improved visitor experience (The City of Wagga Wagga)
- Intensive plant agriculture, forestry, mines and extractive industries railway lines and rural industries should be increased to 500 metres to build in additional protection for existing lawful uses (Snowy Monaro Regional Council)
- All farm stay accommodation should be assessed under either a complying development application process or a development application process to ensure proper consideration can be given to matters such as adequate setback distances (Central Coast Council).

Individual/community member submission #26 commented that the proposed setbacks were not appropriate as they do not suit smaller landholdings, particularly those closer to the coast on the north coast. Blayney Shire Council suggested a minimum setback for exempt and complying development of 50 metres from a property boundary.

DPI Agriculture opposed varying the setbacks for exempt and complying development, stating that if a reduced setback is required, a development application (DA) should be required.

Several submitters commented specifically on setbacks for camping. For example, DPI Agriculture recommended a setback of 200 metres from the property boundary be included for camping farm stay accommodation which is conducted as exempt development.

“The provisions do not include a setback from property boundaries for exempt farm stay camping. The required setbacks only apply to waterways and intensive agricultural land uses. There are no proposed setbacks to the boundaries of properties which may undertake extensive agriculture such as cropping or grazing. This is a serious omission as the vast majority of farm stay accommodation is likely to occur on land adjoining land used for extensive agriculture and the absence of a setback requirement could adversely impact on a neighbouring property’s biosecurity management.

### DPI Agriculture

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However, there were calls for greater flexibility around the proposed setbacks. Factors such as regional vicinity and community impact were raised as important considerations, with one regional council (Byron Shire Council) suggesting that a local approach be taken to address any potential land use conflict which may arise due to the proposed setbacks.

It was also suggested that setbacks should be measured from the property boundary, instead of neighbouring dwellings, to ensure neighbours are able to undertake activities. Additional provisions were also suggested by a Cessnock City Council, including setbacks from quarries, vineyards and other visually significant areas.

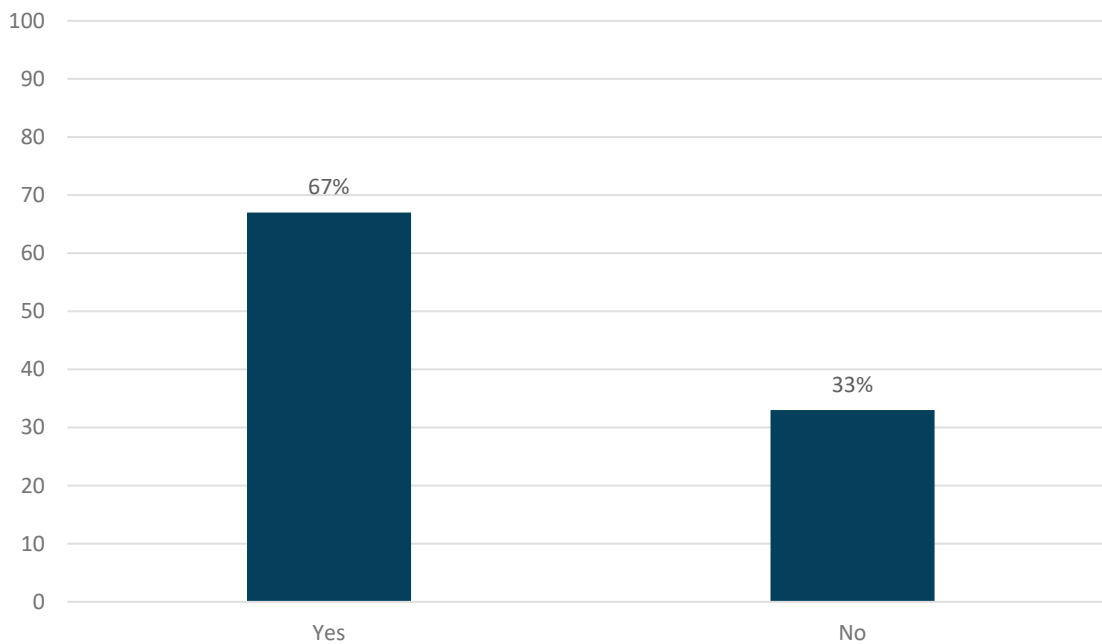
### Survey feedback

Close to two thirds of survey participants (61%) indicated the proposed setbacks for farm stay accommodation from intensive livestock, forestry and mines were appropriate for exempt and complying development, while the remainder (39%) did not.

**Question 2. Where a development application is required, should farm stay accommodation be permitted only on land that benefits from a dwelling entitlement?**

### Submissions feedback

Of the 29 submissions that responded to this consultation question, 67% answered yes and 33% answered no (see Figure 5 below).

**Figure 5: Should farm stay accommodation be permitted on land with a dwelling entitlement? (n=29)**

Those who responded 'yes' commented that restricting this use to land with a dwelling entitlement has the potential to:

- encourage landowners to consider amenity (individual/community submission #106)
- decrease the risk of "ad-hoc rural tourist accommodation" (Byron Shire Council)
- prevent future change of use either with or without consent (Tenterfield Shire Council)
- reduce the risk of proliferation of unauthorised dwellings on undersized lots across the region (Midwestern Regional Council)
- minimise likely compliance issues relating to the use of farm stay accommodation as permanent residences (Central Coast Council)
- allow future agritourism uses in line with the strategic rural planning undertaken by Council (Queanbeyan-Palerang Regional Council).

Those who responded 'no' commented that:

- farm stay accommodation should provide a "rural and peaceful experience" and should therefore not be required to be associated with existing buildings (individual/community submission #48).

An individual/community member commented that farm stay accommodation should be permitted both on land with and without a dwelling entitlement.

### Survey feedback

The survey feedback was similar to the above feedback. Close to two thirds of survey participants (61%) indicated that where a development application is required, farm stay accommodation should be permitted only on land that benefits from a dwelling entitlement. Those in support of farm stay accommodation being permitted in this circumstance commonly focused on the opportunity this would provide for landowners to generate income. Other survey respondents expressed a desire to ensure new farm stay development is consistent with DA requirements, to minimise potential amenity impacts.



**Question 3. For complying development, should there be a requirement that a new building or manufactured home for farm stay accommodation be within 300 metres (or some other distance) from the existing dwelling house to enable clustering together of sensitive land uses?**

### Submissions feedback

Of the 26 submissions that responded to consultation question 3, submission responses were split. 46% agreed with the proposed 300 metre (or some other distance) separation and 54% disagreed.

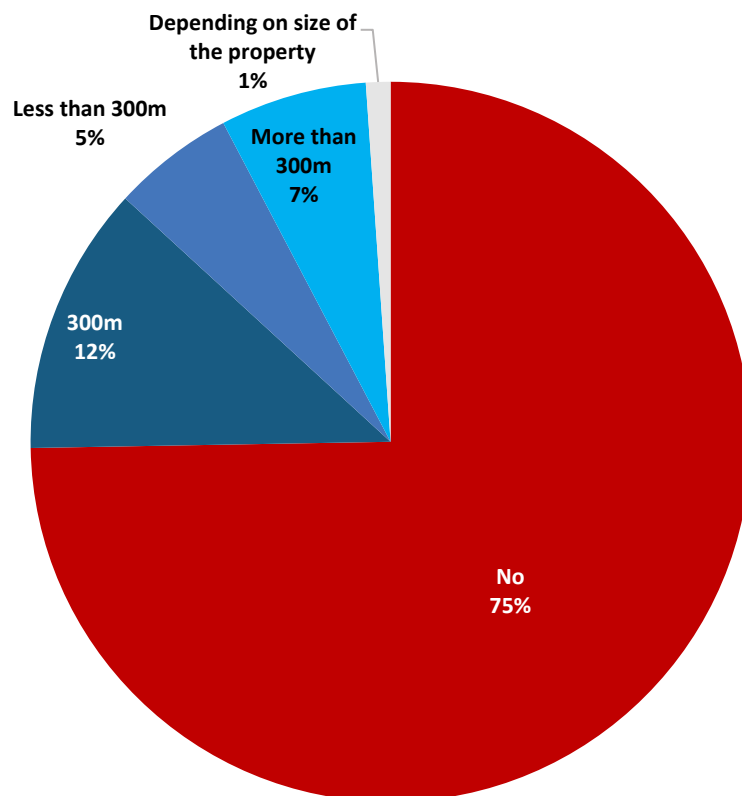
Stakeholders that agreed with the suggestion included Byron Shire Council and Bega Valley Shire Council. These submissions suggested 100 metres as an appropriate distance from an existing dwelling. While Richmond Valley Council suggested a distance of 100-199 metres and Cessnock City Council suggested 200 metres.

Several submissions suggested the distance be determined based on the nature of the area, e.g. regional or coastal. Other submissions considered it should be for the council to determine the appropriate separation distance to ensure it aligns with strategic planning in the area.

### Survey feedback

75% of survey participants suggested there should **not** be a requirement that a new building or manufactured home for farm stay accommodation be within 300 metres (or some other distance) from the existing dwelling to enable clustering of sensitive land uses. 12% of respondents agreed with the 300m setback while 5% believed that a setback of less than 300m was more appropriate. 1% of respondents stated that setback distance should be dependent on the size of the property.

**Figure 6: Should there be a requirement that a new building or manufactured home for farm stay accommodation be within 300m (or some other distance) from the existing dwelling house to enable clustering together of sensitive land uses? n=91**



**Question 4. Should there be different development standards for farm stay accommodation based on land size or location (such as whether the land is inland or east of Great Dividing Range)? If yes, please provide your suggestions and reasons.**

### Submissions feedback

Submissions were generally supportive of this proposal. A total of 21 submissions responded to consultation question 4. Among these, a significant majority (81%) agreed that there should be different standards for farm stay accommodation based on land size or location. 19% of submissions disagreed.

Key reasons stakeholders agreed included:

- location and size of landholding generally determine impacts on the local community and therefore different standards may be necessary
- different land sizes and locations mean farm stay accommodation will differ
- areas have different viability models
- a 'one size fits all' approach will not achieve positive results
- different development standards allow for the consideration of tourist numbers, property sizes, densities, farming operations and environmental impacts, as they vary between rural and coastal areas.

### Survey feedback

Just over half (53%) of survey participants indicated there should be different development standards for farm stay accommodation based on land size or location, while the remainder disagreed. Comments in support of different standards for farm stay accommodation commonly focused on:

- land size, with less onerous standards for farm stay accommodation on larger lots; and
- location, with less onerous standards for farm stay accommodation in less visited locations, to support communities in those locations to thrive.

### Other feedback

The issue of natural disasters was raised in multiple submissions in relation to farm stay accommodation, particularly from regional local government. Several regional councils noted that much of the land in their LGA is classified as bush fire prone land and farm stay developments should not occur in these areas.

Where development can occur, it was suggested further consideration be given to natural hazards and potential risks. Factors such as site access for emergency vehicles and evacuation procedures were other suggested considerations. It was suggested by Straight Forward Planning that farm stay accommodation be permitted on bush fire prone land if the development is "separated from the bush fire threat by at least 100 metres of managed land."

"Cumulative development can also amplify bushfire and flood risk, especially when they increase the amount of land that needs to be defended by emergency personnel or evacuated. The cumulative impact on bushfire and flood risk is another issue address [sic] through the planning system that is a direct risk to human life and safety."

Goulburn Mulwaree Council

“The change of use of dwellings on bushfire or flood prone land should require further consideration and should not be permitted as exempt development.”

#### Cabonne Council

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Camping was another topic that attracted commentary, in a total of 56 submissions. Key concerns for local government included the potential environmental and amenity impacts of camping in rural areas. Clarification was also sought about the proposed numbers of camping occasions and guests.

“Should the exempt development provision be applied, the proposed provision requires clarification regarding whether it applies to camping for 20 people for 14 days of a calendar year or for a maximum stay of 14 days”.

#### Bega Valley Shire Council

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Some submissions were opposed to farm stay accommodation being treated as exempt and complying development.

“The acceptance of temporary or moveable accommodation such as caravans, tents or other such temporary structures is not considered acceptable in a peri urban environment such as Penrith LGA, where cumulative impacts of essentially caravan park uses should be assessed more appropriately through a development application.”

#### Penrith City Council

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The potential for neighbourhood disputes was another concern related to farm stay accommodation. Lake Macquarie City Council suggested a code of conduct and list of prohibited and permitted activities are necessary to manage potential dispute resolution.

“Consideration should be given to management of noise and anti-social behaviour, as well as delineating clear responsibilities for provision of amenities. Visitors or operators need be aware if they are required to bring or provide waste facilities. These types of guidelines and expectations could be outlined in a code of conduct.”

#### Lake Macquarie City Council

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## Farm gate activities

Farm gate activities was the third most commonly raised proposal area in submissions. A total of 78 submissions commented on farm gate activities. Local regional councils were the most represented stakeholder group (42%).

Commentary on farm gate activities focused on retaining rural character, requirements around operating hours and safety and amenity impacts (relating to roads, traffic and parking).

### Question 5. How far do you think a roadside stall should be setback from the road?

#### Submissions feedback

Question 5 attracted mixed responses in submissions. A total of 23 submissions responded to this question, with submitters suggesting a variety of factors and distances for setbacks. Two thirds of these submissions were from local regional councils.

Factors identified by submitters to be taken into consideration include:

- classification of the road
- safety including visibility / sight lines
- traffic volume and speed
- size of the stall
- parking.

Specific setback distances suggested include:

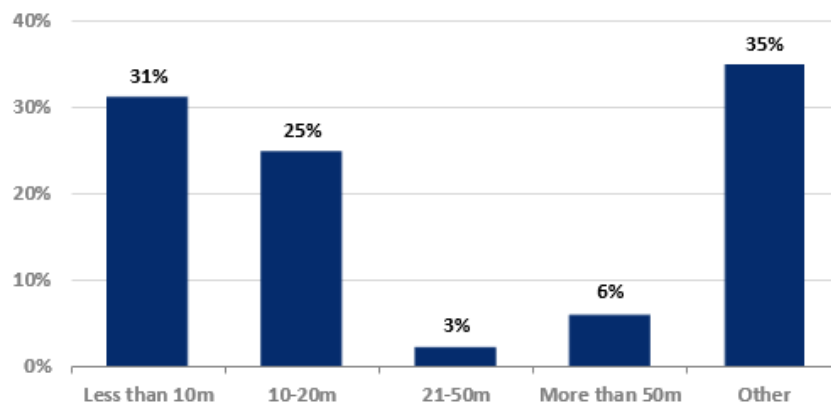
- 0-2 metres (Straight Forward Planning)
- no less than 1 metre inside the boundary of the property and clear of any services (individual/community member)
- wholly within the property boundaries but at least 3 metres from the site boundary (Kempsey Shire Council)
- larger roadside stalls should be setback 6 metres from the front boundary (DPI Agriculture)
- 20 metres (Wollondilly Tourism Association)
- 25 metres (Cessnock City Council).

Other submissions proposed that setbacks be flexible and determined on a case by case basis, commenting that there should not be a 'one size fits all' approach to setback distances.

#### Survey feedback

The majority of survey participants (56%) suggested roadside stalls should be setback from the road up to 20 metres. Around one in 10 (9%) considered the setback should be greater than 20 metres. As many as 35% of respondents selected 'other'.

**Figure 7: How far do you think a roadside stall should be set back from the road? n=81**



## **Question 6. What additional standards should be included for the exempt and complying development pathways for farm gate activities, if any?**

### **Submissions feedback**

A total of 26 submitters suggested additional development standards for exempt and complying development pathways for farm gate activities. The majority of these submissions were local regional councils.

Suggestions for additional standards included:

- size of stall
- operating hours
- car parking
- traffic management
- food safety provisions
- wastewater management
- restrictions on allowing similar development within a certain proximity
- maximum size of the conversion of an existing building to a roadside stall
- minimum lot frontage requirements to ensure there is not a high density of farm gate activities along one road
- amenity issues
- maintaining rural character.

Byron Shire Council noted that the proposed provisions “allow a scale of development that has potential for significant environment and social impacts with no opportunity for the local council to assess”, and any additional standards would not address this issue.

Blue Mountains City Council recommended a “sliding scale” approach is used to apply any additional standards to “protect rural amenity, particularly in small lot rural areas.”

### **Survey feedback**

A number of survey participants (n=12) said there should be no additional standards for the exempt and complying development pathways for farm gate activities.

In other responses, additional standards for farm gate activities suggested focused on those relevant for: ensuring clear lines of sight / road safety; providing off road parking; ensuring health and food safety. It was commented that farm gate activities should be encouraged and not require overly onerous contributions, for instance to road upgrades.

### **Other comments and suggestions**

Several submitters also provided other comments and suggestions further to the consultation questions. Comments and queries raised include:

- further clarification is required on what is included within the ‘farm gate activities’ definition, including how ‘surrounding area’ is defined
- amend the requirements to allow locally made products from neighbouring farms to be sold
- mixed views about whether a restaurant or café should be included as a form of farm gate activity.

“The new term ‘farm gate activities’ is quite broad, encompassing restaurants and cafes, processing, packaging and sale of produce and facilities for tasting, workshops, information and education. The overlap of this term with current land use terms including roadside stall and cellar door premises could prove confusing for applicants and during the assessment of proposals”

The Hills Shire Council

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“Additional information is needed to clarify the criteria of activities that qualify, including what extent of the activity must be directly related to agricultural produce grown on the farm or predominantly grown in the surrounding area”

Lake Macquarie Council

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## Farm events

Farm events was the second most frequently raised proposal area in submissions. A total of 185 submissions discussed farm events (i.e. 99 submissions when the 86 form submissions are consolidated).

**Question 7. The proposed maximum number of people and events per year for exempt and complying development are:**

- a) 52 event days per year and up to 30 guests per event, or**
- b) 10 event days per year and up to 50 guests per event**

**Are these appropriate?**

### Submissions feedback

Thirty eight submissions responded to this question (or 125 when form submissions are included). Views were mixed on the number of events per year and guests per event.

Six submissions (16%) suggested the proposed maximum numbers of people per event and events per year are appropriate. These included two regional councils (Tweed Shire Council and Kiama Council) and two planning consultants.

Eighteen submissions (47%) indicated the numbers are not appropriate. This number of submissions rises to 104 submissions (83%) when form submissions are included. The form submissions suggested that planning amendments should restrict wedding venues to less accessible regional locations “that cannot be reached by day trip from major centres.”

DPI Agriculture’s submission suggested the number of events should be limited to 6 and a maximum of 50 people per event, with a greater number of events or attendees to be considered if a development application is submitted. This submission also suggested that separate exempt provisions be included for farm events being farm field days with a maximum guest number of 500 people and only one per year.

Some submissions considered the limits should be higher. An individual/community member (submission #175) suggested these proposed limits are too low: “52 events should be 100, 10 events should be up to 200.” Cessnock City Council submitted that for complying development, 52 event days per year and up to 50 guests per event and for exempt development, 12 event days per year and up to 75 guests per event is more appropriate.

Fourteen submissions provided mixed views. For example, a local regional council (Kempsey Shire Council) agreed that 10 event days per year with up to 50 guests per event is suitable as exempt or complying development. However, it suggested that 52 event days per year with up to 30 guests per event should require a development application.

The NSW Wine Industry Association suggested a sliding scale for frequency of events and number of guests per event:



“A sliding scale with respect to the number of guests is suggested. Exempt development could be 50 people as proposed, though this may be increased for complying development, suggested to be 75 people. Above this, a development application would then be required and is considered to be appropriate.

A sliding scale with respect to the frequency of guests is suggested. Exempt development could be 50 people up to 52 times per year, though this may be increased for complying development, then be required and is considered to be appropriate.”

NSW Wine Industry Association

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### Survey feedback

Survey participants were split on the appropriateness of the proposed maximum numbers of people and events for exempt and complying development. 53% of the 157 participants agreed with the proposed maximum number of people and events per day for exempt and complying development: The remainder did not consider this appropriate.

Survey respondents who were not in favour of the proposed maximum numbers discussed the importance of greater flexibility, particularly to enable a greater number of guests at events such as weddings (e.g. 100-200 guests). Participants commented that maximum numbers should reflect the size of the landholding; and should be relevant to support commercial outcomes for communities.

### **Question 8. What events, if any, do you think should be excluded from the definition of farm events?**

#### Submissions feedback

Twenty-two submissions responded directly to question 8. One in 5 of these stated that no events should be excluded from the definition of farm events.

The remaining submissions suggested certain events that should be excluded from the definition. Suggestions generally related to amenity and environmental impacts.

These included:

- weddings (Cessnock City Council, individual/community member submission #123, individual/community member submission #201, Shoalhaven City Council)
- horse riding events (Cessnock City Council, DPI Agriculture)
- any event which could cause environmental damage (Straight Forward Planning, individual/community member submission #106)
- motor vehicle or motor bike events (Tenterfield Shire Council, Shoalhaven City Council)
- concerts, festivals, or events with live or amplified music (Tenterfield Shire Council, individual/community member submission #123)
- conferences or other events that don't relate to agricultural production (Wollongong City Council).

DPI Agriculture's submission offered the following definition:

“DPI Agriculture suggests the definition for farm events is split in a manner similar to dual occupancy (attached) and dual occupancy (detached). It is suggested that the definitions be;

Farm Events - Agricultural – e.g. farm field days and horse riding – permitted in the RU1 Primary Production zone and other rural zones.

Farm Events – Non-agricultural – e.g. weddings, functions, events, conferences – prohibited in the RU1 Primary Production zone but permitted in other rural zones.”

### DPI Agriculture

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Shellharbour Council requested more clarity on defining farm events (e.g. what constitutes an event day) and monitoring of compliance with requirements.

### Survey feedback

One in 3 survey participants (33%) reported that no events should be excluded from the definition of farm events. However, close to a quarter (23%) commented that music festivals and concerts should be excluded, another 12% suggested weddings be excluded and 2% wanted overnight stays to be excluded. Key issues raised in relation to events were amenity impacts and impacts on the environment and agricultural pursuits (raised by 15% and 6% of survey respondents, respectively).

**Question 9. Should changes be made to the planning system to facilitate destination weddings under a development application? If so, in which zones should destination weddings be permitted? Please provide reasons for your selection.**

- a) RU1
- b) RU2
- c) RU4 zones
- d) Other zones (please specify)

### Submissions feedback

12 submissions agreed with consultation question 9. These included 8 councils (Cessnock City Council, City of Wagga Wagga, Tenterfield Shire Council, Wingecarribee Shire Council, Cabonne Council, Central Coast Council, Port Macquarie Hastings Council and Shoalhaven City Council) and a planning consultant (Navigate Planning).

“Destination weddings should be permissible on any land where agriculture is permitted.”

### Navigate Planning

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For the zones destination weddings should apply to, zone RU2 received the most support (8 submissions), followed by RU1 (7 submissions) and RU4 (two submissions). Other zones suggested were E3 Environmental Management; and other rural zones including RU5 Rural Village and RU6 Transition zone.

Several submissions expressed concern on the topic of destination weddings, identifying potential impacts relating to the environment, amenity and emergency management.

“Council would be reluctant to permit destination weddings without consent due to environmental sensitivities and constraints such as bushfire and flooding.

Council is well aware of the potential for neighbour conflict when rural locations are utilised for functions or wedding related activities on a regular basis.”

#### Wingecarribee Shire Council

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Eight submissions did not support changes to facilitate destination weddings. These were generally from local government submitters.

“It is unclear why destination weddings have been singled out, how they are different to any other type of function (i.e. baptism, funeral, wake) and why they would require separate provisions, especially under a DA.

If farm events are permissible (and this includes weddings) then an application for a wedding venue would be able to be assessed on its merits.”

#### Snowy Monaro Regional Council

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### Survey feedback

Three-quarters of survey participants suggested changes should be made to the planning system to facilitate destination weddings under a development application. The remaining quarter disagreed. Of those who responded to the question about appropriate zones (n=57), three-quarters thought that destination weddings should be permitted in RU1 and RU2 zones (77% and 75% respectively). Only one respondent nominated the RU4 zone.

Comments from survey participants commonly focused on:

- the value of destination weddings to regional and rural communities and economies;
- the low impact nature of weddings on large farms (i.e. in RU1 and RU2 zones);
- the suitability of extending the RU2 zone to weddings, as it currently permits restaurants, cafes etc;
- the importance of relevant standards for destination weddings rather than zoning.

Amenity impacts on surrounding neighbours (e.g. noise, traffic) were raised by those not in support of destination weddings, particularly on smaller land holdings.

### **Question 10. Should the department prepare a model clause for destination weddings which councils can choose to adopt?**

#### Submissions feedback

Fifteen submissions expressed the view that the department should prepare a model clause for destination weddings which councils can choose to adopt. These included 10 councils and a joint organisation (Cessnock City Council, Kempsey Shire Council, Kiama Municipal Council, City of Wagga Wagga, Tenterfield Shire Council, Wingecarribee Shire Council, Richmond Valley Council, Singleton Council, Central Coast Council, Shoalhaven City Council and the Central NSW Joint Organisation). Others included Farm Stay Holidays and Navigate Planning.

Eight submissions disagreed that the department should prepare a model clause for destination weddings.

Cabonne Council suggested an opt-in clause would be preferable to a model clause. Commentary included the suggestion that destination weddings should be considered separate to ‘farm events’ and that an opt in clause for destination weddings would be preferred. This would allow councils a chance to review the clause prior to its adoption.

### Survey feedback

Eight in 10 survey respondents (80%) expressed the view that the department should prepare a model clause for destination weddings which councils can choose to adopt, while the remainder disagreed with this proposal. Responses focused on the value of a model clause for all councils, the importance of a consistent and fair approach, and the importance of facilitating weddings rather than ‘discriminating’ against or limiting this event type. Local procurement policies were suggested to further support regional and rural economies.

Those not in support of a model clause highlighted the importance of tailored approaches for different council areas, and the importance of destination weddings only being allowed on landholdings of an appropriate size and with the relevant local infrastructure in place (such as road infrastructure).

### **Question 11. Is there any rural land or areas in which agritourism activities should not be permitted?**

#### Submissions feedback

A total of 13 submissions commented on whether there is rural land where agritourism should not be permitted (99 submissions including form submissions).

Snowy Monaro Regional Council suggested that the RU3 Forestry Zone and RU5 Village Zone would be inappropriate.

Cabonne Council suggested that water catchments, riparian areas and small lots less than 5 hectares would not be appropriate.

DPI Agriculture commented that agritourism should not be permitted on land where it will result in the cessation of agricultural activities on that land or lead to land use conflict with neighbouring agricultural land uses.

Shoalhaven City Council suggested that agritourism, particularly for farm stay and farm events, should only be permitted within the RU1 and RU2 zones.

Port Macquarie Hastings Council suggested that forestry, villages and R5 Large Lot residential would be inappropriate.

“Locations should be limited to sites that are not environmentally sensitive, areas where there is a distinct need, where current tourism loads are not already applying pressure on the local environment, and where the proponent has submitted a plan of management consistent with eligibility constraints to avert the potential negative impact.”

Individual/community member (submission #85)

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### Survey feedback

Two thirds of survey respondents (66%) suggested that agritourism activities should be permitted in any rural land or areas; while 34% considered there are rural lands or areas in which these activities should not be permitted.

Rural land and areas where agritourism activities should not be permitted as identified by survey respondents focused on: culturally and environmentally sensitive land; small-scale rural lots / farms; close to incompatible uses such as primary production, intensive uses, poisons/toxins; bush fire prone land; and areas not serviceable within standard emergency response times.

## Other feedback

Several submissions, including individuals/community members and local councils, raised concerns about the potential impact of activities such as weddings, functions and conferences. Impacts of key concern include traffic, noise, pollution, waste generation, event management, resourcing burden for councils and land use conflict.

“It is quite difficult to find the correct balance between allowing flexibility for farmers and rural land holders and protecting the rural amenity for residents. If a ‘one size fits all’ will clearly not work at our Shire level, how can it be expected to work across the State. The other key component relates to management of events, and we see nothing in the proposed provisions that will address this.”

Bryon Shire Council

“Tourism is good for local economies, but it must be overseen by councils which have the power to regulate its development and guide it to make it locally appropriate. The large number of patrons for “farm events” and wedding functions at exempt and complying developments will ensure that the complying developments will result in wide scale increases in wildlife road kill, and road car accidents as it will increase the numbers of people in regional areas driving at night on unfamiliar roads after a few alcoholic drinks, and cause disruption for neighbouring communities.”

Individual/community member (submission #170)

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Councils, including Bathurst Regional Council, suggested a requirement be implemented for event holders to establish a process of receiving and registering complaints. The NSW Small Business Commission noted that while the requirements for notifying neighbours of an event at least one week in advance might be appropriate for weddings.

“it may be onerous for an agritourism business running frequent low impact farm tours to be notifying neighbours in advance of each individual tour.”

NSW Small Business Commission

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## Additional proposed changes relating to agritourism

Additional feedback relating to agritourism was provided by several stakeholders. General feedback included:

- the need to clearly define what is meant by a ‘farm’ for agritourism purposes (individual/community member #110, Kiama Municipal Council and Penrith City Council)
- prior to amending the existing planning framework, it’s advisable that the department should conduct a thorough assessment of agritourism, including a cost benefit analysis and make the outcomes publicly available. These assessments should be carried out by independent experts (Animal Liberation)
- the NSW Government should support council staff through funding, resources, training to support farm owners seeking approval for agritourism business (LGNSW).

Specific feedback was provided for signage, exempt and complying development and land use conflict. Feedback is provided below.

### Signage

Two local regional councils commented on signage. LGNSW provided a recommendation for the department to consult with the NSW Tourist Attraction Signposting Assessment Committee (TASAC) before making any changes to permissibility of signs for agritourism ventures.

“Any increase in business identification signage must consider the visual impact on the rural landscape and character of the area. Illumination of signage is not considered necessary as this form of signage does not preserve, enhance or positively contribute to the character of rural areas”.

Midwestern Regional Council

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### Exempt and complying development

Some submissions commented on exempt and complying development. Feedback included:

“RDASI believes that each Council will need to ensure clear access to planners who can clearly advise on exempt and complying development criteria and to nominate a dedicated agricultural support officer, someone who can provide detailed understanding and support for planners, advise them on agricultural matters and provide feedback back to the NSW Government about planning processes and improvements needed”.

Regional Development Australia Southern Inland (RDASI)

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“Exempt developments (of all types) across the State must be recorded so that there is some understanding and record of the effectiveness (or not) of these policies, and recognition when cumulative impacts may require a reconsideration of exemption”.

Our Future Shoalhaven

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From a simple good-management perspective it is desirable that local government should serve as a repository record of the notification and basis of approval for any exempt or complying development

Individual/community member

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“While it is appropriate that some low impact uses have exempt or complying development pathways opened, it is critical that compliance can be monitored effectively. The resourcing of compliance efforts in regional communities is already an issue and the addition of a new range of exempt and complying developments will add to this burden”.

PIA

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### **Land use conflict**

A number of submissions raised concerns with regard to potential land use conflicts resulting from agritourism uses. Some of these concerns included:

“In entering the simplified development pathway, landholders engaging in agritourism must be fully aware that the burden will fall on them if land use conflicts arise and be encouraged to make their own assessment of risks. This could involve a checklist for landholders so that they fully understand and explore the risks involved in the placement and operation of their potential project and communicate adequately with other nearby landholders from the outset”.

NSW Farmers Association

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“The reforms may need to expand to include rural activities on adjacent properties to manage potential land use conflicts and ensure an Agritourism does not diminish the future expansion or viability of primary production nearby”.

Hornsby Shire Council

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## Small-Scale Agriculture Development

Feedback was raised in submissions relating to all aspects of small-scale development, including:

- small-scale processing plants
- rebuilding of farm infrastructure
- stock containment areas
- farm dams
- biosecurity for poultry farms and pig farms
- rural dwelling setbacks from intensive livestock agriculture
- recreational beekeeping.

### Small-scale processing plants

Small-scale processing plants were discussed in 36 of 239 submissions (15%).

### **Question 12. Should any other agricultural produce industries be complying development? What standards should apply?**

#### Submissions feedback

There was mixed support for the proposal to make small-scale processing plants complying development. Some stakeholders, including regional councils, supported the proposal in principle, but raised concern about the potential environmental and amenity impacts of allowing small-scale processing plants as complying development.

In regards to question 12, 4 submissions commented yes, another 7 responded no, while the majority of submissions did not provide any comment. One stakeholder commented that all types of agricultural process industries should be able to be complying development if they are low impact. Another identified wineries, distilleries, cheese and butter factories as industries that should be regarded as complying development. Several commented that animal processing is not considered an agricultural produce industry.

In relation to the question of what standards should apply, stakeholders identified a number including those relating to waste and traffic, operating hours, gross floor area of the processing plant, size of retail space/cellar door, number of employees, and on-site parking. One submission commented that where processing plants are in the vicinity of wetlands or environmentally sensitive land then distance should be considered in conjunction with the topography of the land. Wollongong City Council commented that “small-scale processing plants should continue to require development consent. Different provisions should apply to different parts of NSW.”

An individual/community member (submission #140) commented that the definition of activities should be expanded to include drying and packaging on a small-scale of herbs and native plants. They commented that a limit of production by kilogram per annum might be appropriate. Key areas of concern identified by this submitter were environmental impacts, waste disposal, air pollution and noise impacts.

Tweed Shire Council commented on the need to recognise and plan for the changing nature of rural land use.

“The Tweed is seeing an increased interest from rural landowners to establish on-farm food and drink processing facilities. This has included distilleries, breweries, cheese processing etc. Also farm based food and drink premises (Café / restaurant / heat and serve) have also increased in popularity. These developments can become far more focused on their tourism components rather than on farm production. This shift should not be

considered as a temporary measure to assist farm productions, but rather a fundamental shift in demand for rural land uses.”

#### Tweed Shire Council

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Shoalhaven City Council commented on complying development.

“As such it is suggested that additional agricultural produce industries should not be included as complying development, so as not to create additional issues. Livestock processing industries are currently a form of designated development and require concurrence with the EPA. How will manage these requirements and at what cost? Development standards need to address amenity issues, as well as the numerous environmental concerns that are associated with abattoirs, for example.”

#### Shoalhaven City Council

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The NSW Farmers Association commented on setbacks, noting “for poultry and egg farmers, the biosecurity risk related to processing plants is similar to that of the farm and warrants the same setback requirements. In this way, the setback should be 1000m rather than 500m.”

#### Survey feedback

Agricultural produce industries suggested for complying development were: beef, sheep, deer, goat, kangaroo and quail production; food and drink production; horticulture and intensive plant agriculture for small commercial kitchens; nurseries; on farm butcheries; and commercial kitchens for secondary processing.

#### **Question 13. Is a maximum throughput of 1,000 carcasses per annum for other animals such as deer or kangaroo appropriate?**

##### Submissions feedback

In response to question 13, 7 submitters regarded the proposal as appropriate, while one disagreed, and the remainder did not provide comment.

One submitter commented that a limit of 0-500 carcasses may be more appropriate. Shellharbour Council commented that: “Unless those animals are farmed on the land containing the processing plant they should not be processed at all in the facility.”

##### Survey feedback

Two thirds of survey respondents (66%) found a maximum throughput of 1,000 carcasses per annum for other animals such as deer or kangaroo appropriate, while the remainder did not. The latter nominated 500 per annum to 5,000 per annum as a more appropriate limit. Responses about additional standards focused on those that apply to larger developments, or when culling is required.

#### **Question 14. Should any additional standards be included?**

##### Submissions feedback

Additional standards for inclusion focused on locational requirements, waste management, compliance with health and/or animal welfare legislation and amenity (such as odour and traffic impacts).

DPI Agriculture identified the following additional standards for inclusion:

- a general setback to property boundaries of 200 metres

- the processing facility should only be able to be established on land on which the animals are farmed or produce is grown
- appropriate waste management facilities and processes must be in place
- must utilise existing property access and provide parking for vehicles
- must demonstrate provision of appropriate sanitary facilities and services such as water and power
- compliance with the ANZ Food Standards Code.

Shoalhaven City Council commented that “all the current requirements associated with development approval need to be included within any development standards.”

DPI Agriculture and Queanbeyan-Palerang Regional Council commented on complying development.

“Other livestock processing industries that could be complying development include goats, alpacas, buffalo, and camels. There is potential overlap between this land use and farm gate activities. This may need to be addressed in the definitions which could specify the type of processing envisaged (livestock or plant).”

#### DPI Agriculture

“The introduction of these developments as complying development is concerning given that the private certification industry has not inspired confidence in the certification of residential development. This proposal may cause more issues for compliance follow ups by councils particularly in relation to numbers of animals slaughtered per annum.”

#### Queanbeyan-Palerang Regional Council

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### Survey feedback

There were no additional standards suggested by survey participants.

**Question 15. Should the locational criteria that classify livestock processing industries as designated development be reviewed for small-scale processing plants to determine whether these plants could be approved:**

**(a) as complying development?**

**(b) through the standard DA process?**

### Submissions feedback

A number of submitters responded to question 15 with support – with 5 commenting that approvals for small-scale processing plants should be through the DA process. 3 submitters commented that the locational criteria should not be reviewed for this purpose and the remainder did not provide comment.

Snowy Monaro Regional Council commented that the locational criteria identified for livestock processing facilities are considered appropriate to manage the risk of these uses in constrained locations. However, DPI Agriculture commented that the location requirements should be reviewed.

“The locational requirements that classify livestock processing industries as designated development should be reviewed for small scale processing

plants to simplify the approval system. A requirement for a local development application rather than designated development would remove expensive and time consuming requirements such as an environmental impact statement, advertising and third party appeal rights.”

### DPI Agriculture

Four councils stated that small-scale processing plants should be through the DA process.

Central Coast Council commented that approvals for small-scale processing plants should be through either the complying development or the DA process.

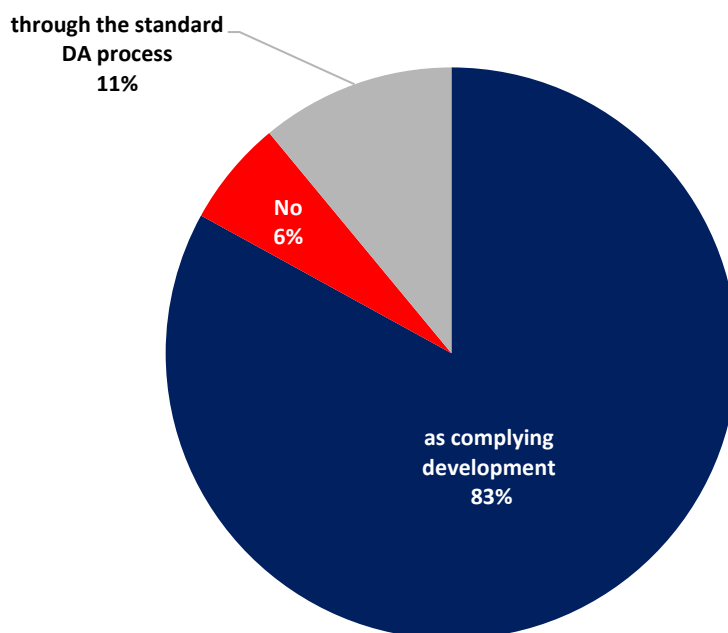
“The maximum throughput of carcasses should be assessed under either a complying development or development application process. If the land is classified as being land to which the SEPP for Exempt and complying development is applicable then the maximum number of carcasses per year would be acceptable as 1000, if adequate measures for environmental protection, waste disposal, traffic movement and food safety regulation were stringent.”

### Central Coast Council

### Survey feedback

More than 8 in 10 survey participants believed that the locational criteria that classify livestock processing industries as designated development should be reviewed for small-scale processing plants to determine whether these plants could be approved as complying development (83%). Another one in 10 (11%) thought these plants could be approved as complying development through the standard DA process, while the remaining 6% did not think the locational criteria should be reviewed.

**Figure 8: Consultation Question 15**



## Further comments from submissions

Bega Valley Shire, Muswellbrook Shire Council and Bathurst Regional Council expressed concern regarding environmental impacts. Key impacts of concern include noise, odour and effluent disposal. MidCoast Council also raised concerns about parking, access, egress, on-site sewerage management systems, waste management or building/facility requirements for these activities. Further suggestions included prohibition of abattoirs.

“It is noted that the proposed provisions do not expressly prohibit abattoirs or detail that the different kinds of processing facilities are mutually exclusive for the purposes of complying development approval. Council opposes these provisions their entirety.”

Muswellbrook Shire Council

"As such it is suggested that additional agricultural produce industries should not be included as complying development, so as not to create additional issues. Livestock processing industries are currently a form of designated development and require concurrence with the EPA. How will manage these requirements and at what cost? Development standards need to address amenity issues, as well as the numerous environmental concerns that are associated with abattoirs, for example."

Central Coast Council

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WaterNSW expressed concern from a water quality perspective and raised concern in relation to the potential water quality risks and believed that all agricultural processing activities within the Sydney Drinking Water Catchment (SDWC) should require development consent and attract the provisions of State Environmental Planning Policy (Sydney Drink Water Catchment) 2011 (SDWC SEPP), including the Neutral or beneficial Effect (NorBE) test.

Animal Liberation commented on the importance of a robust regulatory system.

“EP&A Regulations are not provided in the EIE but they contain provisions that classify designated development. The proposal generally mirror those set out in the Regulations. Assume they have been drafted with the Regulations in mind. Recent examples of livestock processing companies found in breach of environment protection licences indicate the need for a robust regulatory system underpinned by the existing planning framework.”

Animal Liberation

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## Rebuilding of farm infrastructure

A total of 33 submissions commented on rebuilding of farm infrastructure in their submissions. Of these submissions, 22 (67%) were from regional councils. Feedback is presented below under the consultation questions.

### **Question 16. Will these provisions sufficiently enable the rebuilding of buildings lost to natural disasters in the same location of the same size and form?**

#### **Submissions feedback**

Of the 17 submissions that responded to question 16, 11 answered 'yes.' These included Wollondilly Tourism Association, Snowy Monaro Council and Central Coast Council.

Six answered 'no', including Richmond Valley Council, Kiama Municipal Council and Shellharbour Council.

Reasons provided include:

- Rebuilding rural infrastructure in the same location that is subject to flooding would not seem wise (Tweed Shire Council)
- The development standards proposed state the new structure must comply with standards identified under existing provisions under the Code SEPP except for provisions relating to height and footprint. The existing provisions however include standards for setbacks which the structure being rebuilt would need to comply with. Given the age of some of these structures, it is likely they wouldn't be able to comply with the setback requirements, and therefore landowners would not be able to utilise these provisions to rebuild their farm infrastructure in the same location (Richmond Valley Council)

Submitters shared that the reasons they do not believe the provisions will be effective as the threat of natural disaster may still exist.

“Depending on the constraints that resulted in any natural disaster, it may not be appropriate to relocate the structure in its original location e.g. flood affected land or unstable land. It is appreciated that the recent bushfires have resulted in losses of farm buildings, but the appropriate location of any replacement building should consider the constraints of the land to avoid any avoidable future losses.”

Shoalhaven City Council

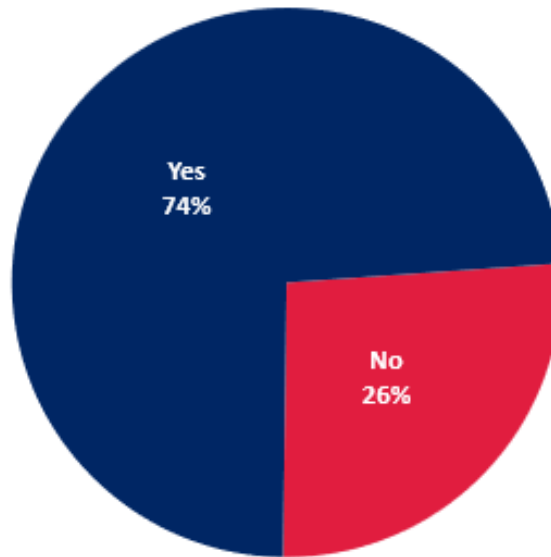
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#### **Survey feedback**

Close to three-quarters of survey respondents (74%) thought that the above provisions would sufficiently enable the rebuilding of buildings lost to natural disasters in the same location of the same size and form. However, the small number of people who responded to this question is noted (n=19).

Those who thought the provisions may not be effective commented that if existing structures were older in age then new buildings may need to be larger due to modern standards and requirements.

**Figure 9: Will these provisions sufficiently enable the rebuilding of buildings lost to natural disasters in the same location of the same size and form? n=19**



### **Question 17. Should any additional standards be included?**

#### **Submissions feedback**

A total of 16 submissions responded to consultation question 17. Of these, 5 do not believe any additional standards are necessary. However 11, most of whom are regional councils (9), suggested additional standards, including:

- flood planning controls
- to define the limit and type
- limit on floor area of a building to be rebuilt
- relating to known constraints on the land
- sewerage management
- exclude a requirement to comply with current setbacks in the Codes SEPP clause as they would prevent rebuilding as exempt development.

Other suggestions included the removal of DA fees and developing a planning approval pathway to encourage better design.



## Stock Containment Areas

19 submissions discussed the topic of stock containment. 12 of these submissions were from regional councils.

The proposed changes were generally supported by stakeholders, with 5 regional councils specifically expressing support for the changes. However, Straight Forward Planning, Blue Mountains City Council and WaterNSW raised the following suggestions and concerns:

- Exempt development for animal shelters for horses being allowed within 100m of waterways. WaterNSW suggested that similar 100m thresholds are introduced for stock containment structures.
- Consideration should be given to proximity to environmentally sensitive land and setback distance from neighbouring properties.
- Concern about animal welfare and that enabling stock containment areas to be development without consent may encourage their use but not for the reasons outlined in the EIE. This may result in minimal measures implemented to protect animals.

### **Question 18. What type of permanent infrastructure should be permitted for stock containment areas?**

#### **Submissions feedback**

In response to question 18, councils suggested a range of infrastructure for shelter, feeding and watering.

Specific suggestions included:

- Both permanent and temporary stock containment yards, not including intensive livestock agriculture feedlot containment yards (Wentworth Shire Council).
- Shade structures (Tenterfield Shire Council).
- Fencing, loading facilities, water supply (pumps) and grain silos (Cessnock City Council).

#### **Survey feedback**

Only 4 survey participants responded to this question. Permanent infrastructure that participants thought should be permitted included:

- cattle yards without hard stands
- water tanks and troughs
- various sizes of sheds
- appropriate feeding, fencing and shelter facilities
- appropriate loading and unloading facilities.

### **Question 19. What type of permanent infrastructure should not be permitted for stock containment areas?**

#### **Submissions feedback**

Suggestions for question 19 included:

- Large scale hard stand areas due to potential environmental impacts.
- Any containment area close to residential accommodation on adjoining properties, because often these yards are used to house weaned cattle that can generate 24/7 offensive noise (Richmond Valley Council).

Several councils submitted that *no* permanent infrastructure should be permitted without consent or as exempt development, as the proposed amendments relate stock containment areas to temporarily contain livestock to assist during and immediately after natural disasters (Kempsey Shire Council and Shellharbour City Council).

### Survey feedback

Only 3 survey participants responded to this question. Suggestions included multi-storey large-scale set ups and feedlots.

## Farm dams

A total of 26 submissions discussed farm dams. Regional councils were the most represented stakeholder group, with 18 submissions.

### Question 20. How could we simplify planning provisions for farm dams?

#### Submissions feedback

Consistency and standardisation were common themes in the feedback received on farm dams. Suggestions for question 20 included:

- providing a sub definition for farm dams, as opposed to larger dams (Kiama Municipal Council)
- alignment with NSW Industry & Investment PrimeFact 781 to provide a consistent approach to the development and expansion of farm dams (Kempsey Shire Council)
- terminology used for farm dams aligns with WaterNSW and NRAR (Goulburn Mulwaree Council)
- defining farm dams (Bathurst Regional Council)
- specifying numerical standards/criteria for exempt farm dams (Port Macquarie Hastings Council)
- developing a standardised way to calculate the maximum size of a dam for the size of a lot (Cabonne Council).

Several comments related to planning approvals, such as:

- a suggestion that no approval be required to construct dams under a certain holding capacity, such as one million litres (Individual submission #106)
- changing the approval authority to WaterNSW (Tenterfield Shire Council)
- allowing the construction of dams through the complying development pathway for dams that do not exceed the harvestable rights (Straight Forward Planning).

“Consistent terminology across the State would be beneficial and should be established, as well as consolidated provisions. The planning provisions currently in place for farm dams requiring consent help ensure the protection of existing waterways and should remain. This is particularly relevant on the coast, where the overflow from dams can seep into natural waterways and have the potential to contaminate oyster catchments.”

Shoalhaven City Council

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“The EIE does not provide an explanation as to how the terminology for farm dams will be standardised. It is suggested that the farm dam terminology in the Standard Instrument LEP be amended to clarify which land use term should be used for farm dams. If ‘artificial waterbody’ is adopted as the preferred term it should be allowed to be listed as a land use in the land use table of LEPs.”

DPI Agriculture

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“Council supports the introduction of exempt development provisions for small farm dams by having a certain minimum size of dams as exempt or complying development provided they are not close to a natural or artificial waterbody.

Appropriate sizes for exempt or complying farm dams should be set in consultation with relevant agencies such as Soil Conservation Service and Local Land Services.”

Bega Valley Council

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### Survey feedback

Opportunities to simplify provisions for farm dams identified by survey respondents focused on:

- removing the requirement for a development application/approval particularly where a dam complies with the standard or for dams within the harvestable rights provisions;
- nominating a single authority for dam approvals;
- removing water metering requirements; and
- simplifying provisions in areas where water is not scarce.

## Biosecurity for poultry farms and pig farms

A total of 18 submissions commented on biosecurity. The most represented stakeholder group was regional councils with 7 submissions.

### Question 21. Do the proposed provisions adequately provide for biosecurity between poultry farms and pig farms?

#### Submissions feedback

Almost all the submissions received were **not** in favour of increasing the current limit to 10,000 birds. Specific feedback on the number of birds included:

- Concerns about potential environmental and amenity impacts on surrounding dwellings or residential land of increasing the number of birds to 10,000 as exempt development (Snowy Monaro Regional Council).
- Concerns about the potential amenity impacts 10,000 birds could have on surrounding dwellings and on the environment, and whether the proposed 500 metre setback would ameliorate adverse impacts in all contexts (Snowy Monaro Regional Council).
- Suggesting that development consent be maintained for intensive farms above 1,000 birds and taking issue with the statement that biosecurity risks are negligible up to 10,000 birds (NSW Farmers Association).
- A suggestion to reduce poultry limits to 6,000 birds (Australian Food Sovereignty Alliance).
- Querying the rationale for the 10,000 birds limit, and suggesting that smaller operations can cause larger biosecurity issues because smaller farms don't have the resources to control biosecurity issues (Goulburn Mulwaree Council).

There were minimal comments on the proposed changes to setbacks. However, Snowy Monaro Council commented that "the required 500m setback to a dwelling or residential land may not be suitable in all situations to satisfactorily ameliorate adverse impacts". Council suggested setbacks are considered on a 'site by site' basis.

Additional feedback included:

- Concerns about impacts of poultry farms and pig farms other than biosecurity, including traffic, noise, odour and dust impacts (Richmond Valley Council and Penrith Council).
- A view that consent should be required to ensure alignment with best practice and industries standards is sufficient and conflict with adjoining land uses does not occur (Kempsey Shire Council).
- The separation of 1,000 metres between poultry farms does not appear sufficient to ensure adequate biosecurity measures (Cabonne Council).

**"NSW Farmers disagrees with the statement that 'biosecurity risks are negligible up to 10,000 birds.' Development consent should be maintained for intensive farms above 1,000 birds. We do not support the threshold being increased to 10,000 birds."**

**NSW Farmers Association**

#### Survey feedback

Close to 90% of survey respondents commented the proposed provisions adequately provide for biosecurity between poultry farms and pig farms, however noting that only 9 people responded to this question. One respondent commented that the provisions would not enable small-scale free range poultry farms to operate adjacent to one another, and proposed a smaller second tier for poultry farms with less than 5,000 birds with a reduced buffer requirement.

**Question 22. Should any additional standards be included?**

In response to question 22, the submissions included the following suggestions:

- A distance greater than 100 metres between intensive agriculture and natural water courses (Snowy Monaro Regional Council).
- Introducing landscaping or vegetative buffers to manage visual impact and nutrient load (Snowy Monaro Regional Council).
- Including additional setbacks in line with the NSW DPI Living and Working in Rural Areas Handbook, such as separation distances between dwellings, tourist accommodation and other rural industries (Richmond Valley Council).
- Including standards relating to drinking water catchments, traffic movements, odour, sanitation and dust (Richmond Valley Council).
- Ensuring private certifiers have sufficient information to make an appropriate assessment to approve rural dwellings as complying development (Bathurst Regional Council).

DPI Agriculture's submission does **not** support the proposed increase in the number of birds to 10,000 which can be undertaken as exempt development. However, it **does** support the proposed locational requirements for development that does not require consent which seek to establish greater separation distances from other poultry farms for biosecurity reasons.

## Rural Dwelling Setbacks

Rural dwelling setbacks from intensive livestock agriculture A total of 28 submissions discussed intensive livestock agriculture. 14 of these were submissions by councils. In terms of location, 14 of the submissions received were from stakeholders in regional areas.

**Question 23. Should the setbacks for rural dwellings be increased from its current requirement to be 250 metres from the boundary (when does as complying development)?**

### Submissions feedback

In response to question 23, submissions generally suggested that setbacks should be greater than 250 metres from the property boundary, with some suggesting that setbacks should be up to 1,000 metres where particular uses are concerned. For instance, to protect existing intensive agricultural use or other uses such as mining and forestry. Feedback included:

- support for an increased setback (Richmond Valley Council)
- increasing the distance to a minimum of 500m to protect existing intensive/mining/rural industries (Snowy Monaro and Port Macquarie Hastings Council)
- rural dwellings should be setback 1,000 metres from any existing or proposed pig farm, feedlot or poultry farm and 500 metres from any existing or proposed other intensive livestock agriculture development (Kempsey Shire Council)
- greater than 250 metres because spray drift can affect properties more than 250 metres away from intensive plant agriculture (Cessnock City Council)
- clarification on what land uses 'other uses' in the development standard refers to (Bellingen Shire Council)
- the 250m setback should be reduced for smaller sized lots or where buildings are located across from an agricultural use (Submission #121).

Other views included concern that extending the separation distance to 1,000 metres for poultry/pig farms and to 500 metres from intensive livestock agriculture has potential to significantly reduce the ability of landowners to develop new dwellings. (Straight Forward Planning)

**“Any increase in distance would be positive in alleviating neighbour conflict.”**

**Individual/community member (submission #106)**

### Survey feedback

Just over three-quarters of survey participants (77%) disagreed that setbacks for rural dwellings should be increased. However, feedback was limited as only 13 people responded to this question.

**Question 24. From which point should the setbacks be measured?**

- (a) From the proposed or existing intensive agricultural use**
- (b) From the property boundary shared with land used for intensive agriculture**
- (c) A combination of the above**

There was mixed feedback received in response to question 24. Specific suggestions, concerns and issues included:

- A suggestion to measure from the property boundary, to ensure the greatest protection and most cautious approach (Snowy Monaro Regional Council)
- A note that it is dependent on where the intensive livestock agriculture is being undertaken on the adjoining property in relation to where the rural dwelling is proposed
- A suggestion of a combination of the land use and property boundary (Kempsey Shire Council)



- A suggestion to measure from the closest edge of the existing structure (individual/community member #47).

“Setbacks should be measured from the property boundary of the land used for intensive agriculture to enable the intensive agricultural industry to expand within its property if necessary. It is necessary that the setbacks don’t just apply when a proposed dwelling adjoins an intensive livestock property. This would prevent the scenario of a complying development dwelling being constructed on a small rural lot which may not adjoin the property containing the intensive agriculture operation (maybe due to an access handle or road etc) but may be less than the nominated distance to the boundary of the lot containing the intensive agriculture industry.”

DPI Agriculture

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## Recreational Beekeeping

38 submissions discussed the topic of recreational beekeeping. This included 3 submissions by peak bodies; Amateur Beekeepers Association, Hunter Amateur Beekeepers Association and Urban Beekeepers of the Inner West.

### **Question 25. Are the proposed development standards appropriate and are any additional standards needed?**

#### **Submissions feedback**

In general, submitters did not support the proposed amendments. Peak bodies raised various comments and concerns, including:

- A request for clarification on whether the proposed amendments apply to both *Apis mellifera* (European Honey Bees) as well as Australian native bees (*Tetragonula carbonaria* and *Austroplebeia*) since both are kept in hives by recreational beekeepers in NSW.
- A request for the term 'recreational beekeeper' to be clearly defined and further clarification provided about how it differs from commercial beekeeping.
- A view that the location and orientation of beehives should not be predicated on the distance from a boundary. The flight path of the bees is far more significant than the distance from the boundary. If there is to be any regulation it should relate to placing a hive to ensure that the flightpath will not interfere with, or cause danger to, neighbours.
- A view that limiting the number of hives based on lot area is arbitrary. It is often the case that hives in excess of the numbers proposed can be kept safely and without causing nuisance on land smaller than that proposed, depending on factors such as the placement of the residence, the type of vegetation, etc.
- A query as to who would assess and approve development applications and whether they would have the appropriate expertise of DPI officers.
- Request to define 'commercial purpose' in the EIE.
- Request to delete the phrase 'Must not be used for a commercial purpose' as it was suggested to be unnecessary since recreational bee keepers have fewer than 50 hives.

A sample of feedback from peak bodies is provided below.

"The annual costs of DPI registration/renewal and biosecurity compliance as well as the costs associated with hive parts, tools, protective clothing, extraction equipment and honey containers leaves little left over from the sale of honey and wax.

Recreational beekeepers should not be lumbered with additional red tape of having to prove, perhaps annually, that they are not engaging in a 'commercial purpose'."

Hunter Amateur Beekeepers Association

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"It is the considered view of the UBIW members that there is already sufficient regulation concerning recreational beekeeping and that to impose another layer of regulation, dressed up as planning conditions, is both unnecessary and unwanted."

Urban Beekeepers of the Inner West

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The Department of Primary Industries' submission suggested the proposed amendments were not necessary.

"The proposed provisions for recreational beekeeping are not supported as it then implies that where recreational beekeeping exceeds these standards development consent will be required. This is considered to be overly onerous as there are no existing state-wide standards for other recreational animal keeping such as poultry or horse keeping, and it would be generally accepted that development consent would not be required for these activities."

### DPI Agriculture

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22 local government submissions discussed recreational beekeeping. Lismore Council, Goulburn Mulwaree Council, Shoalhaven City Council and Port Macquarie Hastings Council supported the proposed changes relating to recreational beekeeping.

Reasons provided for support include:

- Provided that the relevant biosecurity measures are met, Council has no issue with the proposed standards for recreational beekeeping (Shoalhaven City Council)
- Council generally supports the proposed changes to simplify approvals for recreational beekeeping (Lismore City Council)

The City of Canterbury Bankstown's submission suggested that only docile strains of bees should be kept by recreational beekeepers, and that hives should not be located within the vicinity of schools, child care centres, hospitals or other public facilities. Further, Council's submission suggested that a hive must not be within one metre of any lot boundary, or within 3 metres of any boundary adjoining a public reserve, childcare centre, health services facility, educational establishment or community facility. Further, that bees should only be kept on detached and dual occupancy residences (not units or townhouses) to ensure adequate sized yards.

Blue Mountains City Council suggested that setbacks be required for residential lots.

Penrith Council suggested that roof top beehives be permitted.

"There may be scope to include business zones or mixed-use zones which could accommodate roof top beehives. Similarly, consideration should be given to permitting the use of beehives on roof tops in residential zones."

### Penrith Council

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The beekeeping business 'Your Local Honey's' submission was strongly opposed to the proposed recreational beekeeping amendments. This submission raised concern about the resources required to apply for Development Applications for hives and noted that the draft EIE did not differentiate between permanent and temporary hives.

"The importance of local agriculture, food security, and the role of bees within our modern ecosystem has gained immense media and public support within our communities. As a result, the number of people wishing to keep bees has significantly increased. However not all community members feel they have the physical means due to age, disability, time, or other reasons to adequately care for bees under the DPI guidelines. We operate a small beekeeping business, and among our activities we offer free bee hives to local residential property owners and offset our costs by selling the hive

products. This is understandably a very popular solution for people in the community as the bees are managed professionally by registered, certified and, qualified beekeepers under best practice conditions. The proposed amendments would mean, as a “commercial” operator we would need to seek a DA for every “development” ie backyard bee hive we maintain on behalf of the property owner.”

### Your Local Honey

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Comments made by community members in their submissions included concerns that European bees pose a threat towards native Australian bee species.

### Survey feedback

Survey respondents highlighted that the standards should make clear the need to register bees with DPI, so that hobby farmers and backyard beekeepers understand the requirements and do not pose a threat to the wider industry in terms of disease. One described the standards as too onerous.

## Further feedback

Councils were also given the opportunity to adopt new optional clauses for farm stay accommodation and farm gate activities and identify the zones where they wish to allow farm gate activities and farm events.

A total of 41 councils expressed interest in their submission or contacted the department for liaising with the department about these changes. Kiama Council commented that it considers this 'opt in' methodology to be "an efficient way of bringing any proposed amendments into local environmental plans."

Other councils made additional comments about the arrangements, with Hornsby Shire Council and Albury City Council requesting to be contacted regarding the opt in opportunity and Cabonne Council requesting the option to review the draft 'opt in' clauses prior to any determination being made.

Councils who did not wish to 'opt in' to the arrangements commented that:

- The current controls in the Lismore LEP (clauses 5.4 (5) and 6.11) and development control plan provide an appropriate level of control for farm stay accommodation (Lismore City Council).
- Blue Mountains Council will await the finalisation of the new definitions and relevant controls before investigating an amendment to the LEP to incorporate the changes.
- Bellingen Shire Council will determine whether to make farm gate activities and farm events permissible in other zones besides those in which agriculture is already permissible and whether to include two new clauses in the LEP to be used for DA assessment for farm gate activities and farm events if the proponent can't meet either of the exempt and complying provisions.

## Feedback relating to the engagement process

Some submissions suggested that further engagement with agricultural industries is required.

Several councils suggested additional consultation with local government is needed to further discuss key topics, determine whether there are other development types that might be exempt development and understand the development standards that should be applied, particularly for farm events.

Animal Liberation recommended that the Environment Protection Authority be consulted about the proposed amendments and WaterNSW requested to meet with the department to discuss the farm dam regulation in more detail.

LGNSW made further recommendations regarding engagement, including:

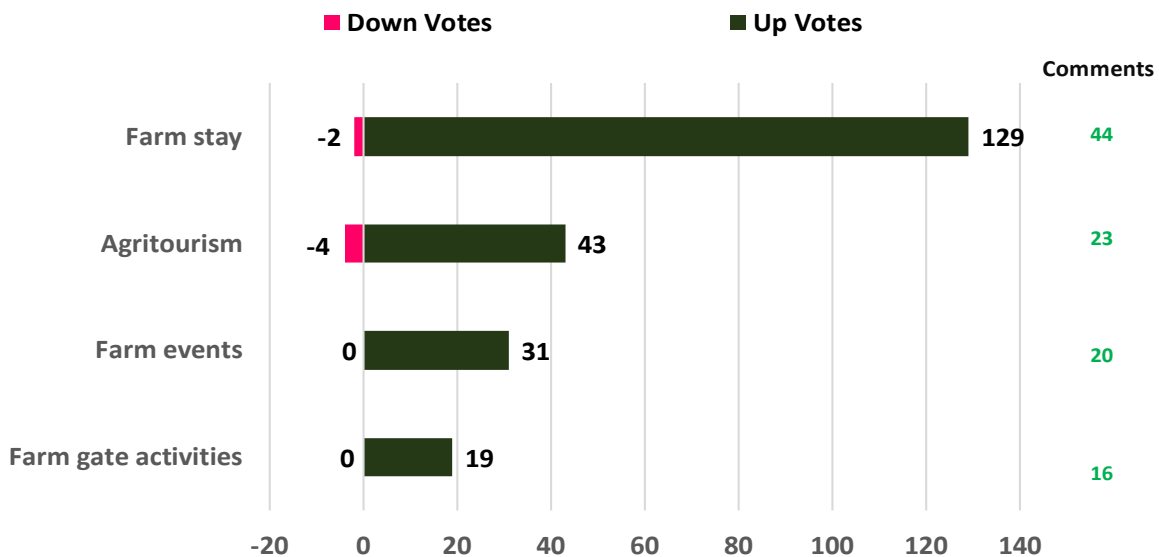
- the department to provide more detailed justifications for agricultural planning amendments for activities deemed 'small scale'
- the NSW Government to facilitate workshops for farmers looking to establish agritourism businesses to support farm diversification
- the NSW Government to publicly release detailed information on the agritourism pilot project, the outcomes and its contribution to the EIE.

## Ideas wall feedback

Community and stakeholder feedback was also obtained by an ideas wall on the department's website. The ideas wall attracted a total of **151 comments** from participants and considerable engagement. Feedback was received in relation to both the agritourism and small-scale agriculture development elements of the EIE.

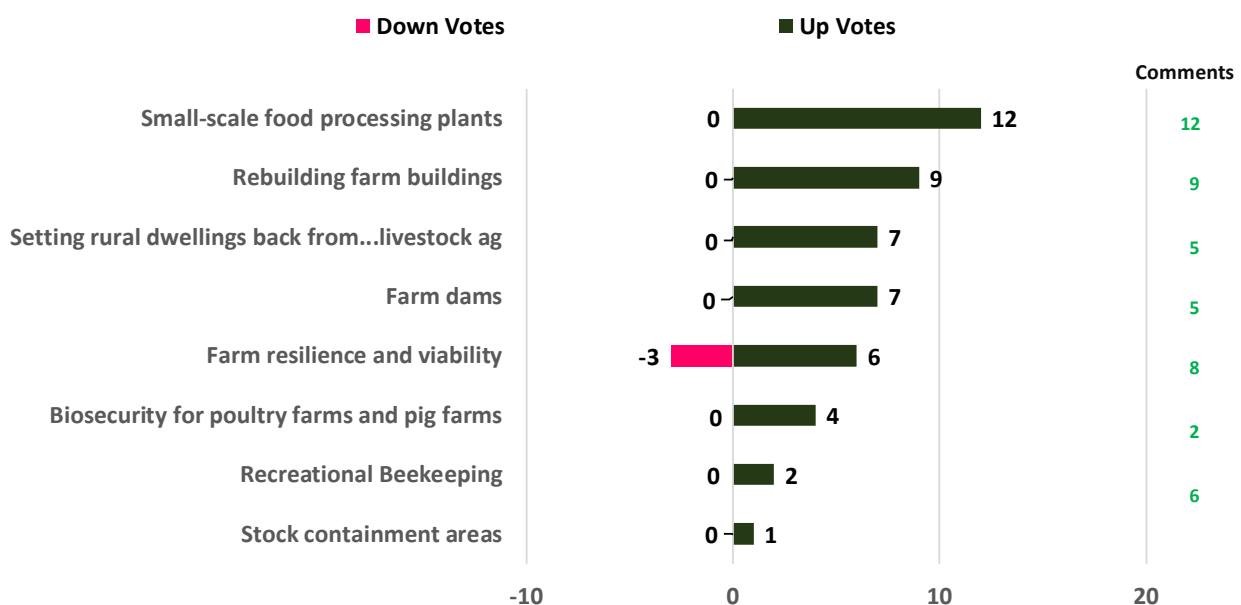
Under each proposal area, the comments that received 'up votes' (those that were most 'liked') or most frequently up voted are shown in the table below.

**Figure 10: Agritourism up and down votes**



Under agritourism, farm stay attracted the largest volume of feedback with 44 comments and 129 up votes. This was followed by general agritourism comments (n=23 and n=43 up votes), farm events (n=20 comments and n=31 up votes) and farm gate activities (n=16 comments and n=19 up votes).

**Figure 11: Small-scale agriculture up and down votes**



Under small-scale agriculture development, small-scale food processing plants attracted the largest number of comments (n=12) and the largest number of up votes by other participants (n=12). This was followed by rebuilding farm buildings (n=9 comments and n=9 up votes), and farm resilience and viability (n=8 comments and n=6 up votes).

The most commonly up voted comments for each proposal area are shown above. In summary these comments focused on:

- **Agritourism** – the importance of agritourism to the ongoing viability of farms; it was suggested that the provisions for events be expanded to ensure viability.
- **Farm stay accommodation** – a desire for streamlined processes to enable camping, glamping and potentially tiny homes.
- **Stock containment area** – the importance of managing stock in the context of flooding and bush fire risk.
- **Farm dams** – a desire for harvestable right allowances to be increased, and for farmers to be able to offer fishing experiences.
- **Farm gate activities** – the importance of farm gate activities as an opportunity for farmers to diversify and expand their income stream, a desire for farm gate activities to include *local* produce (beyond just produce from the individual farm), and for farmers to be able to engage in further activities (such as pop-up restaurants) and build the appropriate supporting infrastructure.
- **Biosecurity for poultry farms and pig farms** – a desire for intensive and extensive production to be clearly defined. The definition should be proportional to the land i.e. based on the area used and the intensity of the operation.
- **Farm events** – the importance of the requirements, e.g. parking, toilets, commercial venture, to be practical, that the compliance measures (such as the 50-person limit) do not impact on the financial viability of businesses and that farm events are proportional to the land size.
- **Setbacks from intensive livestock agriculture** – a desire for ‘extensive production’ and ‘conflict’ to be clearly defined and for individual circumstances to be considered when determining setbacks.
- **Farm resilience and viability** – a desire for land tax to be excluded when pursuing agritourism ventures and for land for wildlife to be incorporated within the primary production framework.
- **Small-scale food processing plants** – the importance of ensuring food standards are maintained while also making it easier for processing ventures to be established (i.e. reducing ‘red tape’).
- **Rebuilding farm buildings** – support for changing rebuilding of farm buildings impacted by bush fires to exempt development.
- **Recreational beekeeping** – the importance of encouraging recreational beekeeping to boost bee populations and enhance native flora. A registration and management process should be implemented.