

Anita Skinner

From: Planning Portal - Department of Planning and Environment
<noreply@feedback.planningportal.nsw.gov.au>
Sent: Monday, 15 March 2021 4:01 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Submitted on Mon, 15/03/2021 - 16:01

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

DOREEN

Last name

LYON

Council name

Wollondilly Shire Council

I would like my submission to remain confidential

No

Info

Email

dlyon1@bigpond.com

Suburb/Town & Postcode

Thirlmere 2572

Submission

I support the need for changes to the laws governing agri-businesses to allow for more diversity in agriculture which would allow for innovation to complement traditional farming. Wollondilly is experiencing significant changes to our villages and rural areas as well as coping with environmental challenges such as droughts and bushfires, so any encouragement in realising new ways to maximise the use of our beautiful lands is welcomed. Ideas such as farm gate and farm produce markets, farm stays small scale agriculture related projects. Such changes would also help to protect the agricultural lands from over development.

I agree to the above statement

Yes

Anita Skinner

From: Planning Portal - Department of Planning and Environment
<noreply@feedback.planningportal.nsw.gov.au>
Sent: Friday, 12 March 2021 5:05 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture
Attachments: the-honorable-paul-toole.doc

Submitted on Fri, 12/03/2021 - 16:40

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Toby

Last name

Jones

Council name

Bathurst Regional Council

Council email

tobyone.co@gmail.com

I would like my submission to remain confidential

No

Info

Email

toby@bathurstgrange.com.au

Suburb/Town & Postcode

Bewongle

Submission file

[the-honorable-paul-toole.doc](#)

Submission

I applaud the effort of the NSW Government to encourage agritourism it is truly an enormous opportunity to diversify a farming enterprise.

I have been undertaking such a journey since 2014 on our family farm outside of Bathurst to set up a distillery and Cellar Door. I am three and half years into complying with the Bathurst Council DA and the 37 conditions imposed. It has been a long, agonizing, and expensive exercise and there has been little support from Council. The strict adherence and inflexibility to Planning laws and complete unwillingness to allow some latitude for a start-up venture require a standard that defeats the venture before it can begin.

However, the biggest challenge has been the road improvements required by Transport NSW. I have commissioned an

independent traffic consultant and demonstrated that the scale of our venture was below the minimum threshold for the required condition to be required yet Traffic NSW has ignored their own rules and insisted we undertake this work. All justified on the basis of Safety to road users.

The condition will undoubtedly make our section safe but at considerable expense to us, as private developers, yet Traffic NSW is knowingly happy to allow non-compliant unsafe sections of our road to remain, presumably for lack of budget and therefore knowingly compromise on safety. This makes a mockery to their uncompromising stance as they apply a double standard.

In reviewing the planning laws the rigidity of the laws and complete lack of discretion of Council officers and demanding conditions makes no allowance that any new enterprise must walk before it can run. The excessive rules and regulation stifles enterprise and seeks to shift ALL the risk off the government and its officers and onto the people trying to have a go.

I agree to the above statement

Yes

Anita Skinner

From: Planning Portal - Department of Planning and Environment
<noreply@feedback.planningportal.nsw.gov.au>
Sent: Friday, 12 March 2021 8:43 AM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Submitted on Wed, 10/03/2021 - 12:39

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Nathan

Last name

Silm

Council name

Wollondilly Shire Council

Council email

cedarcreekcider@gmail.com

I would like my submission to remain confidential

No

Info

Email

cedarcreekcider@gmail.com

Suburb/Town & Postcode

Thirlmere 2572

Submission

To whom it may concern, My name is Nathan Silm and I live at Cedar Creek Orchard, have my entire life of 24 years and the orchard was purchased in 1937 by my great grandfather Hugo Silm.

This orchard is now 5 generations in on the same property as my two elder brothers have both had babies 9 months ago.

We have only ever known this farm to be home and we are all now part of the family business.

We can see massive value in the agritourism space at the orchard, my two brothers and I are all doing our part in making our current business bigger to support our future families and create more jobs on the farm.

we want to bring to life a venue that can host markets weddings and farm stays. We recently put a DA into council with there support to host markets only to be knocked back because of the LEP not allowing markets. this was very disappointing for us after a considerable amount of money had been put up for the plans.

We see markets being our first activity we can start doing right now with approval while we save up money to build a venue in the future.

If we were able to Id be building a cellar door on the Orchard and start doing farm tours, markets and weddings at the venue. But this would take a considerable investment which I do not have right now.

I'm hoping the LEP can be updated to support us in hosting markets on the land asap. and I'm hoping we can join this Pilot program.

I agree to the above statement

Yes

Anita Skinner

From: Planning Portal - Department of Planning and Environment
<noreply@feedback.planningportal.nsw.gov.au>
Sent: Thursday, 18 March 2021 2:22 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Submitted on Thu, 18/03/2021 - 14:21

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Blair

Last name

Briggs

Council name

Wollondilly Shire Council

Council email

blair@farmstayholidays.com.au

I would like my submission to remain confidential

No

Info

Email

blair@farmstayholidays.com.au

Suburb/Town & Postcode

Mowbray Park

Submission

Hello, I submit on behalf of an existing Agr-tourism operation.

4.1.1

- (1) Set backs are appropriate
- (2) No
- (3) No, the charm of farm stay is privacy and a type of isolation
- (4) Yes, peri urban LGA's have different viability models due to cost of land and size of farms.

4.1.2

- (5) 20m
- (6) Quality standards of roadside stall/ infrastructure

4.1.3

- (7) No these numbers are too small, 52 events should be 100, 10 events should be up to 200

(8) Multi day festivals

(9) No, complying up to 200 people. Yes DA beyond that, Permitted in RU1, 2 & 4

(10) Yes, provide latitude given differences between LGA's

(11) No

4.1.4 No contribution to these questions

4.1.5

(16) Yes

(17) no DA fee's

4.1.6 No contribution to this

4.1.7 determine size relative to Cat 1,2 or 3 streams.

4.1.8 No contribution to this.

(23) No, maintain 250m

(24) Boundary to closest edge of building (B)

4.1.10 No contribution

I agree to the above statement

Yes

Anita Skinner

From: Planning Portal - Department of Planning and Environment
<noreply@feedback.planningportal.nsw.gov.au>
Sent: Friday, 12 March 2021 9:19 AM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Submitted on Fri, 12/03/2021 - 09:18

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Grant

Last name

Emans

Council name

Shoalhaven City Council

Council email

grant@designerecotinyhomes.com.au

I would like my submission to remain confidential

No

Info

Email

grant@designerecotinyhomes.com.au

Suburb/Town & Postcode

Ulladulla

Submission

I am a manufacturer of tiny homes on wheels that are legally classed as caravans. These caravans are designed to look like a house. Why? Well, our business focuses on affordable housing using the age old ruling that you can have a caravan in the backyard for family etc. We have noticed over the years that some clients are buying these and instead of using it for the family member, they are also using them as short term accommodation purposes. Our clients are spread across the country and each state and each council seem to have different rules. Some are all for it, some require full DAs, and others allow it under the exemption rules.

My suggestion is that if you implement at a minimum a state wide rule. Allow the use of transportable dwellings or structures to be installed on properties for the use of short term accommodation. Currently the LGR 2005 Section 77 allows 2 caravans on any land for 2 days at a time, 60 days a year. But if you were to change that wording to say - 2 caravans on any land for the purposes of short term accomodation that would be much better. Don't put a restriction on the amount of time. This will allow more people to do this type of holiday offering as the economics of 2 day/60 in total is too restrictive. If you allow unlimited time for the year you will see an increase in the offerings available and bring more city money to the regional areas. It would also mean that you would have interstate visitors pulling other state money into NSW as the other states don't have a rule like this yet. I do think it should be a national rule, but as this is a NSW submission I assume you are looking to increase the economy of NSW over the other states

perhaps?

Hope that helps

I agree to the above statement

Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Tuesday, 23 March 2021 11:06 AM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Tue, 23/03/2021 - 11:06

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Ray

Last name

Cameron

Council name

Clarence Valley Council

Council email

council@clarence.nsw.gov.au

I would like my submission to remain confidential

No

Info

Email

raycameron70@bigpond.com

Suburb/Town & Postcode

Harwood

Submission

Yes it would be great if these planned changes take place. Farmers are struggling so any help to diversify would be great.

Thanks Ray

I agree to the above statement

Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Saturday, 27 March 2021 1:21 AM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Sat, 27/03/2021 - 01:21

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Tina

Last name

Edney

Council name

Wollondilly Shire Council

I would like my submission to remain confidential

No

Info

Email

tina@discoversouthwest.com.au

Suburb/Town & Postcode

Picton

Submission

This is a win/win situation for farmers in the area. So much opportunity wasted and tourism opportunities also wasted.

I agree to the above statement

Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Sunday, 28 March 2021 1:57 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Sun, 28/03/2021 - 13:56

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

[REDACTED]
[REDACTED]

Council name

Eurobodalla Shire Council

I would like my submission to remain confidential

Yes

Info

Email

[REDACTED]

Suburb/Town & Postcode

[REDACTED]

Submission

I was running a very successful low impact echo remote camping on my 10 hectares, only 5 camp sites on my farm, council closed me down yesterday. My long term plan was to create a market garden and build up my dorper stock to do paddock to plate as you describe. However, this plan would exclude me as a hobby farm. This begs the question, why knowingly restrict trade on land that is too small to be viable in any other way, as farm sizes are forever increasing just to be viable, farm sizes on the coast are generally small and far from sale yards etc. This is not a hobby to me, a derogatory term, it's my livelihood, my future. Why not encourage and assist me and others to make my property productive. It seems we are to be second class farm owners to be punished for being seen as such. Further council states that many restrictions are in place to encourage agriculture yet here is another counter intuitive example of destroying the only pathway for small land owners to do so. As to farm buildings, this one size fits all approach is draconian. It restricts building to a height that precludes interesting or even heritage style architecture that would compliment the surrounding environment, instead you encourage bland tin sheds with low pitch roofs. Please consider my submission as farms are being subdivided all the time and give everyone the opportunity to prosper not just large property owners.

I agree to the above statement
Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Monday, 29 March 2021 8:05 AM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Mon, 29/03/2021 - 08:05

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Loryn

Last name

Wessel

Council name

Wollondilly Shire Council

Council email

council@wollondilly.nsw.gov.au

I would like my submission to remain confidential

No

Info

Email

wwessel@bigpond.com

Suburb/Town & Postcode

Tahmoor NSW, 2571

Submission

We the tourism businesses of Wollondilly & the Wollondilly Tourism Association encourage Planning NSW & Wollondilly Shire Council to submit the recommendation for LEP changes to enable our farmers to enter the tourism industry without beaurocratic Red Tape of submitting a DA for small scale activities. Including but not limited to..... on farm small events (weddings, markets, field days, acoustic concerts) pick your own, tours, camping, dam fishing, B & B.

We applaud MP Nathaniel Smith, Mayor Robert Khan & councillors of Wollondilly for actioning these changes and trust that Executive & staff at council will follow through on the wishes of our community as their role dictates.

I agree to the above statement

Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Wednesday, 31 March 2021 7:58 AM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Wed, 31/03/2021 - 07:58

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Tegan

Last name

Douglas

Council name

Wentworth Shire Council

Council email

council@wentworth.nsw.gov.au

I would like my submission to remain confidential

No

Info

Email

tegantdouglas@gmail.com

Suburb/Town & Postcode

Wentworth 2648

Submission

Thank you for taking the time to undertake the amendment; I would like to see the event numbers raised from 30 and 50 to 60-100 given our rural and country location, I do not see how the proposal for a cap of 30 wedding guests or 50 for other events would be of any benefit to us.

Understanding should additional numbers be requested a DA would be required (to allow for guests and attendees greater than 100). Perhaps this could be considered on a Council by Council nature.

Kind regards
Tegan Douglas

I agree to the above statement
Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Wednesday, 7 April 2021 12:03 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture
Attachments: agritourismandagricultureeie-march2021.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Submitted on Wed, 07/04/2021 - 11:39

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Francis Joseph

Last name

Pearce

Council email

joe51pearce@gmail.com

I would like my submission to remain confidential

No

Info

Email

joe51pearce@gmail.com

Suburb/Town & Postcode

Raleigh 2454

Submission file

[agritourismandagricultureeie-march2021.pdf](#)

Submission

Hi,

My submission is very brief, having been a consultant to a large number of primary industries including Agriculture, Horticulture and Aquaculture I am fully supportive of anything that will facilitate opportunities for our primary production sector.

While I am supportive of these proposals I am also aware of the potential for unregulated farm stays, combined with the inclusion of an exemption for camping activities to impact on the Aquaculture industry which, I also consult to.

That is why I consider as vitally important, the inclusion, within the proposals, of a mandatory 100 metre setback of camping activities on farms from any form of waterway. Having responsibilities for both land and estuarine based production systems on the NSW Mid North Coast I am fully appreciative of the need for buffer zones to minimize conflict.

Regards,
Joe Pearce- Principal.
Mid North Coast Farm Advisory Services
0413645303.

I agree to the above statement
Yes

NSW Government, Explanation of Intended Effect.
Agritourism and small-scale agriculture development.
Proposed amendments to support farm businesses and regional economies.
March 2021

As an agritourism operator I welcome changes to the approval process but have some concerns with the proposed changes outlined in the document. My husband and I have run a small coffee farm in the Tweed hinterland for 26 years and are recognised as producing one of the best coffees in Australia. We would not be classed as a commercial farm within the definition of this document and our land holding is 7 to 8 hectares, not 15.

We currently sell our coffee as green bean and also have approval for farmstay on our property. The approval process for the farmstay took 2 years through Tweed Shire Council. One of the most difficult issues was not being able to expediate the process. The other was the inability of the Council to provide a step by step outline of what was happening and the relevant costs. It was only at the end of the process that we were informed of the cost of our road contribution. These steps and costs should be outlined at the beginning of an application where applicants can then decide if the cost and time is worthwhile.

My comments on relevant parts of the proposal are as follows:

In Part 3 – Proposed amendments;

“The changes are not intended to enable hobby farmers or other recreational farmers to establish agritourism businesses.”

“

My question to this is why not?

Our farm is small and some would class it as a hobby farm where we have always worked to establish a viable business here growing coffee. We have been impacted by drought and other weather events over the years and have now found that the addition of an agribusiness, farmstay, has finally allowed us to earn sufficient income to maintain the property, pay coffee pickers, and develop the business further.

Many small landholders have been the innovators in areas such as the Tweed and it would seem redundant to disadvantage people who are bring a creative approach to tourism.

Part 3.2.1.1

“...ensure a farmstay supplements an existing commercial farming business.”

“...a farm that is currently not producing goods because of drought or similar events”

Surely the addition of agribusiness to a property that is not currently commercial is still greater value to the community and the tourism spend in the region. These agritourism projects add product to that region in a manner sympathetic to the rural lifestyle. Perhaps the style of business proposed is more important than the existing commercial nature. Farmstay, farm gate and some small scale processing does not impact the existing road system or inconvenience neighbours.

The opportunity to develop agritourism takes the pressure off the operator to develop a farm product that must be profitable alone.

Part 3.2.1.2 and 3.2.1.3 Permissibility and Approval Pathways

This still leaves the local council able to choose whether exempt, complying or development application is applicable. The process in the Tweed Shire is extremely slow due to fire safety approval and road contribution assessments. The hardest part as an applicant is the uncertainty of time and cost at the outset of an application. The proposed changes seem to leave this still open to interpretation and delay.

3.2.1.3 Setbacks

The setbacks of 250 metres to 1,000 metres may suit large landholders in the west of the state but not smaller landholdings closer to the coast. These setbacks often result in additional cost relating to supply of electricity and road surfacing on properties.

3.2.1.3 Complying Development

“maximum one dwelling per 15 hectares”

This size excludes many properties that would currently be approved.

3.2.2 Farmstay Consultation Questions

1. No comment
2. It would benefit areas where a dwelling entitlement is not in place.
3. Why is necessary to specify a distance from an existing dwelling? Surely this should be best determined by the landowner and the type of farmstay being proposed.
4. Yes, as land sizes are often smaller and the type of farmstay will differ. Setbacks and distances from existing dwellings and minimum size holdings should be considered.

3.3.1.3 Farmgate

Again setbacks are large.

Gross floor area of 200 metres seems restrictive.

3.4.1 Proposed amendments.

3.4.1.1 The definition refers to this process being available “because of drought or similar events outside the landowner’s control”.

Should the amendments be considered anytime as a reasonable method to increase income on a farm as well as provide a positive impact on the community.

Zeta Grealy

Zeta’s Coffee & Origin House

113 Blissetts Road, Carool

NSW 2486

zetascf@gmail.com

www.zetascffee.com.au

Ph 0407 413339

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Wednesday, 14 April 2021 10:40 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Wed, 14/04/2021 - 22:39

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Peter

Last name

Saul

Council name

Shoalhaven City Council

Council email

council@shoalhaven.nsw.gov.au

I would like my submission to remain confidential

No

Info

Email

petersaul@outlook.com.au

Suburb/Town & Postcode

2535

Submission

I wish to support the Berry Forum's submission relating to the proposed changes to agritourism in our region. In particular, I think that agritourism developments should not be allowed on properties that do not earn the majority of their income from farming and which can easily be reached by day trip from a major urban centre.

I agree to the above statement

Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Thursday, 15 April 2021 6:46 AM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Thu, 15/04/2021 - 06:46

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

David

Last name

Blackett

Council email

david@bmplusg.com.au

I would like my submission to remain confidential

No

Info

Email

david@bmplusg.com.au

Suburb/Town & Postcode

Woollamia NSW 2540

Submission

We provide our submission in full support the recommendations contained in the Berry Forum Committee's submission in relation to the Agritourism Development Proposal.

I agree to the above statement

Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Thursday, 15 April 2021 7:23 AM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Completed

Submitted on Thu, 15/04/2021 - 07:22

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Ian

Last name

Parker

Council name

Shoalhaven City Council

Council email

council@shoalhaven.nsw.gov.au

I would like my submission to remain confidential

No

Info

Email

ianlindap@shoalhaven.net.au

Suburb/Town & Postcode

Jaspers Brush 2535

Submission

I am writing to support the submission by the Berry Forum Committee in its entirety. I am especially concerned about camping for up to 20 people being allowed without the provision of adequate toilet facilities. I can see agritourism development applications being primarily made in areas like our own that are close to Sydney rather than "locations that cannot be reached by day trip". Careful wording to avoid areas within say 250 kms or more of Sydney/Newcastle/Wollongong is required. Finally farm dams and tourism potentially creates risk for young children approaching the risk of unfenced swimming pools. Whilst not suggesting farm dams should all be fenced consideration needs to be given to minimising this risk, for example plastic dam linings that are impossible to climb out across. A careful definition is required for "small scale" processing especially of meat to ensure the killing of animals and any effluent off take are dealt with humanely and environmentally. I personally object to the inclusion of meat processing in this new legislation.

I agree to the above statement
Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Thursday, 15 April 2021 8:59 AM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Thu, 15/04/2021 - 08:58

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Mike and Rosie

Last name

Sprange

Council name

Shoalhaven City Council

Council email

council@shoalhaven.nsw.gov.au

I would like my submission to remain confidential

No

Info

Email

msprange@bigblue.net.au

Suburb/Town & Postcode

Woodhill NSW 25353

Submission

Our submission mostly aligns with views of the Berry Forum.

We are most concerned that the objectives of the agritourism proposals will have the potential to be misused by properties and businesses that are not truly agricultural operations but simply operating at the margin to establish greater freedom to exploit tourism facilities beyond the reasonable controls of the local councils.

Our specific recommendations for change to the Agritourism Development Proposal are as follows:

Recommendation 1:

The ATO's criteria and tests for eligibility for primary producer status

should be necessary to access the proposed planning changes. Further, this should be done in the context that access would be granted, and the focus of the enterprise will remain primary agricultural production.

Recommendation 2:

Supplementary income limits should be put in place in terms of the percentage (eg 25%) of total gross income earned by agritourism, with the proviso that income averaging provisions available to primary producers are allowed in the assessment. On granting access to the planning provisions, notification should be given to the ATO.

Recommendation 3:

Access to the proposed planning changes should be limited to family or limited partnership farms as opposed to corporate enterprises.

Recommendation 4:

Access to the proposed planning provisions should be extended to flood prone areas and perhaps other areas subject to extreme events or likely impact of climate change, such as rising sea levels.

Recommendation 5:

Consideration of NSW biodiversity and habitat objectives need to be maintained and potentially expanded. 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.

Recommendation 6:

Exempt development should not be permitted statewide. Over the last four years the Berry Forum has confronted several DAs seeking to exploit the planning provisions for tourist accommodation and had four meetings with NSW Planning Ministers.

Recommendation 7:

Allowing any number of people in tents, caravans, campervans to be allowed as exempt development is fraught with issues and should be reconsidered.

Recommendation 8:

Planning amendments should aim to spread the provision of wedding venues to other regional locations. Introducing exempt development for wedding venues in areas like Berry and Kangaroo Valley, at the expense of other regional communities, would be contrary to the core objectives of the Agritourism proposal.

Recommendation 9:

As the limits will inevitably be exceeded, they should be simplified to 20 events per year with a maximum of 40 guests per event, and allowed in targeted areas only.

Recommendation 10:

The proposed amendments should be contained to rural zones only. Planning changes to facilitate 'destination weddings' should not be considered as part of this proposal.

We thank you for the opportunity to make this submission.

Mike and Rosie Sprange 15 April 2021, Woodhill NSW 2535

I agree to the above statement

Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Thursday, 15 April 2021 9:13 AM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Thu, 15/04/2021 - 09:13

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Greg

Last name

Crisp

Council name

Shoalhaven City Council

I would like my submission to remain confidential

No

Info

Email

greg.crisp@bigpond.com

Suburb/Town & Postcode

Broughton Vale

Submission

I support the submission being made by the Berry Forum.

I agree to the above statement

Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Thursday, 15 April 2021 9:21 AM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Completed

Submitted on Thu, 15/04/2021 - 09:20

Submitted by: Anonymous

Submitted values are:

Submission Type
I am making a personal submission

Name

First name
Robin

Last name
McMurdo

Council email
gagamac2@gmail.com

I would like my submission to remain confidential
No

Info

Email
gagamac2@gmail.com

Suburb/Town & Postcode
BERRY

Submission
I have lived in Berry for about 20 years, and frequently drove through the district from the early 1970s. During this time I have seen a remarkable shift from a farming community to a tourist area. I am concerned about both the reduced agriculture and the increased commercialization of the district for the benefit of city landowners. This has reduced the quality of life for residents, and the staggering increase in house prices prevents local youngsters buying homes in the area.

I support the recommendations in the BERRY FORUM COMMITTEE'S submission.

I agree to the above statement
Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Thursday, 15 April 2021 9:41 AM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Submitted on Thu, 15/04/2021 - 09:40

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Robert

Last name

Hinkley

I would like my submission to remain confidential

No

Info

Email

rchinkley1711@gmail.com

Suburb/Town & Postcode

Berry 2535

Submission

With all due respect, the NSW Government will have to go some to beat this idea for duplicity. The idea that our farmers are suffering and that allowing them to open wedding centres without local council approval is the key to their salvation is unadulterated nonsense.

Even with needing to get local council approval, dozens of wedding centres are springing up in the Shoalhaven. But where are they springing up? Not in the southern portion of the district where the 2019-2020 bushfires were. They're springing up in the northern portion of the Shoalhaven where farmers are doing just fine.

The reason for the development in the north is simply because it is closer to Sydney. The people of the northern Shoalhaven need protection from being overrun by tourists and function attendees. They need local council input to keep a lid in this type of development. They don't need the Government on Macquarie Street eliminating the only recourse they have to protect the quiet enjoyment of their land and communities.

Eliminating the need for local council approval statewide will only exacerbate the problem of too many such venues in places like Berry and Kangaroo Valley. It will do nothing to improve the lot of farmers hurt by the bushfires in other parts of NSW or the Shoalhaven.

My suspicion is that the Government already knows this. Its sponsors want to fast track this kind of development for the benefit of developers. They decided to pave the way for developers by eliminating the need for local council review. The bushfires and helping farmers survive seemed like a plausible rationale. However, it is without merit.

Australian farmers have dealt with bushfires, floods and other natural climates for generations. It's part of being a farmer. Never once have they claimed their lot would be improved if the local council would just let them run a wedding centre. Moreover, since the fires, we've had more than our share of rain. Even in the autumn, the Shoalhaven is so green it looks like Ireland. Farmers here aren't hurting. They're thriving.

Even if they weren't thriving, there are plenty of more direct ways to help NSW farmers than to make it easier for them to become hoteliers, wedding hosts, unregulated campground operators or concert promoters. What a joke.

The push for eliminating local council approval appears not to be coming from Australia's farmers. It's coming from its developers and newly arrives seeking to make a fast dollar off the peace and tranquility of rural people and the local communities. People who make the choice to live rurally because they like life on the land and don't want the hustle and bustle of the city are entitled to have that choice protected. Now the Government seems to be saying we're going to turn rural NSW into tourist centres and local councils are no longer going to be able to oppose it.

The sad part is that it's a Coalition government that is leading the charge. Since when is the Coalition against local government input? When did it become the Coalition's position that rural people are no longer entitled to the peace and tranquility the country offers? Why did the Government decide the way to help NSW farmers is by allowing them to go into the hotel, conference centre and concert venue business?

Land use planning and laws are supposed to protect local communities when neighbours decide to do something with their property that adversely affects the nature of the community. Council approval is necessary for proper oversight. It provides a local forum for neighbours to settle their arguments and it keeps wealthy development happy neighbours from misappropriating their neighbours' peaceful use of their property. It should not be eliminated.

This is a really bad idea.

I agree to the above statement

Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Thursday, 15 April 2021 10:28 AM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Thu, 15/04/2021 - 10:28

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Kaye

Last name

Gartner

Council name

Shoalhaven City Council

Council email

kaye.gartner@shoalhaven.nsw.gov.au

I would like my submission to remain confidential

No

Info

Email

kayegartnerhealth@gmail.com

Suburb/Town & Postcode

Vincentia

Submission

I support the recommendations contained in the Berry Forum Committee submission.

As a local Councillor, I am swamped by community concerns about inappropriate tourism development throughout our LGA.

The recommendations of the Berry Forum allow actual farmers to increase income from their land and prohibit entrepreneurs from exploiting landscapes cared for by generations from being turned into party venues.

As a local resident, I have witnessed my once quiet seaside location turned into a Mecca for jet skis, dogs on beaches, and a swollen population of tourists who have paid for a product, who have no sense of custodianship for the natural beauty of the location.

People of the Shoalhaven, a high bushfire risk community, want meaningful controls on where tourists, unfamiliar with the hazards, gather, drink alcohol, and extend their city lifestyle expectations.

I agree to the above statement

Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Thursday, 15 April 2021 11:21 AM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Completed

Submitted on Thu, 15/04/2021 - 11:20

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Christopher

Last name

Wyatt

Council name

Newcastle City Council

I would like my submission to remain confidential

No

Info

Email

Wyattc119@gmail.com

Suburb/Town & Postcode

2300

Submission

There is a lack of clarity in these amendments for recreational beekeeping IN schools. The document outlines that hives must be 3m from a boundary that borders educational institutions and suggests that hives can only be kept on land zoned rural, residential or environmental. The independent school I teach at keeps hives on the premises for educational purposes. This would seem to require a DA under these changes which is, in my view, excessive and inappropriate. Such a requirement will adversely affect the viability of school educational beekeeping programs. Please ensure that the final changes to this document address this with greater clarity over what is permitted. Would this be an exemption given it is hives kept for educational purposes not technically 'recreational'?

I agree to the above statement

Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Thursday, 15 April 2021 12:21 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Completed

Submitted on Thu, 15/04/2021 - 12:21

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Louise

Last name

Brodie

Council name

Shoalhaven City Council

I would like my submission to remain confidential

No

Info

Email

brodie@aardvark.net.au

Suburb/Town & Postcode

2535

Submission

I submit my statement that I have read and fully support the recommendations contained in the Berry Forum Committee's submission.

It is necessary that all definitions of use and what is permitted are clearly defined. They should fully take into account the levels of usage acceptable by the current community.

I agree to the above statement

Yes

4.1 Consultation Questions

4.1.1 Farm stay accommodation

1. Are the proposed setbacks to pig farms, other intensive livestock, forestry and mines for exempt and complying development appropriate? - **WTAI is of the view that set backs are appropriate.**
2. Where a development application is required, should farm stay accommodation be permitted only on land that benefits from a dwelling entitlement? – **No, WTAI believes that a farm accommodation experience should be one that is a rural and peaceful experience, rather than being part of existing building structures.**
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? – **No, as mentioned in 4.1.2 a farm accommodation experience should be one that is a rural and peaceful experience.**
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. – **Yes, peri urban LGA's have different viability models due the size of the farms and the cost of land.**

4.1.2 Farm gate activities

5. How far do you think a roadside stall should be setback from the road? - **the setback from the road should be determined by the safety factor, which includes the amount of traffic on that road. There should be ample space for vehicles to pull over and clear the road. For a figure amount, it is suggested 20m.**
6. What additional standards should be included for the exempt and complying development pathways for farm gate activities, if any? – **The standards should be appropriate for the volume of traffic and the overall business model. It could be as simple as a cart of vegetables on the side of the roadway.**

4.1.3 Farm events

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? - **It is felt that these numbers are too small and at least quadrupled. Anything large could impact on surrounding businesses and would be suggested for an appropriate DA>**

8. What events, if any, do you think should be excluded from the definition of farm events? - **Large events over multiple days could create issues with the surrounding community. It is suggested these types of events would require a DA.**

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. – **It is WTAI's view that the existing arrangement be in place that complies with up to 200 persons in all the listed RU's. Anything larger would require a possible DA.**

a) RU1

b) RU2

c) RU4 zones

d) Other zones (please specify)

10. Should the department prepare a model clause for destination weddings which councils can choose to adopt? – **The model clause could be an issue of dispute with the Council and the destination wedding organisation. It would be difficult to design a clause that fits all and such a clause is open to varied interpretation.**

11. Is there any rural land or areas in which agritourism activities should not be permitted? – **No.**

4.1.4 Small scale processing plants – **WTAI does not have a position on 4.1.4.**

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

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

14. Should any additional standards be included?

Agritourism and small-scale agriculture development

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?

4.1.5 Rebuilding of farm infrastructure

16. Will these provisions sufficiently enable the rebuilding of buildings lost to natural disasters in the same location of the same size and form? – **It is believe so.**

17. Should any additional standards be included? – **Elimination of DA fees.**

4.1.6 Stock containment areas – WTAI does not have a position on 4.1.6.

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

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

4.1.7 Farm dams

20. How could we simplify planning provisions for farm dams? – This would have to be looked at on a case by case arrangement. For example the category of the streams, the impact on local environment and the restrictions of native or foreign fingerlings in the dam stock.

4.1.8 Biosecurity for poultry and pig farms – WTAI does not have a position on 4.1.8.

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

22. Should any additional standards be included?

4.1.9 Rural dwelling setbacks from intensive agriculture

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)? - No

24. From which point should the setbacks be measured? – From the closest edge of the existing structure.

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

4.1.10 Recreational Beekeeping – WTAI does not have a position on 4.1.10.

25. Are the proposed development standards appropriate and are any additional standard should the setbacks for rural dwellings be increased from its current requirement to be 250 metres from the boundary (when done as complying development)?

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Thursday, 15 April 2021 1:11 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Thu, 15/04/2021 - 13:10

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

James

Last name

Pyle

Council name

Shoalhaven City Council

Council email

bevispyle@gmail.com

I would like my submission to remain confidential

No

Info

Email

bevispyle@gmail.com

Suburb/Town & Postcode

BROUGHTON VALE

Submission

I should like to strongly support the Berry Forum's Submission re NSW DPIE – Agritourism Development Proposal.

Kind regards,

James

I agree to the above statement

Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Thursday, 15 April 2021 1:16 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Thu, 15/04/2021 - 13:15

Submitted by: Anonymous

Submitted values are:

Submission Type
I am making a personal submission

Name

First name
Jann

Last name
Walsh

Council name
Shoalhaven City Council

Council email
council@shoalhaven.nsw.gov.au

I would like my submission to remain confidential
No

Info

Email
janneewalsh@gmail.com

Suburb/Town & Postcode
2525

Submission
I should like to strongly support the Berry Forum's Submission re NSW DPIE – Agritourism Development Proposal.

Kind regards,

Jann

I agree to the above statement
Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Thursday, 15 April 2021 2:32 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Thu, 15/04/2021 - 14:31

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

John

Last name

Gandin

Council name

Shoalhaven City Council

I would like my submission to remain confidential

No

Info

Email

Johngandin@gmail.com

Suburb/Town & Postcode

Berry 2535

Submission

I would like to object the proposal due to its overly broad and readily circumvented provisions. The original document is fraught with loopholes that we have experienced already in Berry and surrounds by "developers" and primary producers turned developer. The aims of the proposal will all too easily be overrun by the quest for the dollar.

I would prefer this whole plan be rejected outright but if this ill-thought-out plan is to proceed I endorse the Berry Forum Committee and its proposal for amendments.

I agree to the above statement

Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Thursday, 15 April 2021 2:37 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Thu, 15/04/2021 - 14:37

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name
SANDRA

Last name
ELDRIDGE

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I would like my submission to remain confidential
No

Info

Email
icbsle@bigpond.com

Suburb/Town & Postcode
NOWRA

Submission

We are residents of the Shoalhaven City Council and wish to support the recommendations contained in the Berry Forum Committee's submission. For the past 30 year we have observed and objected to the manner in which some landowners and Developers use 'loopholes' in current legislation to their advantage having no concern whatsoever for the Environment, their Neighbours or the Community as a whole. Consequently we support The Berry Forum in their effort to ensure any new legislation acts for the greater good, not the greed of a few.
Sandra Eldridge and Irene Birks

I agree to the above statement
Yes

NAVIGATE PLANNING

50 Inglis Street

Mudgee NSW 2850

mark@navigateplanning.com.au

www.navigateplanning.com.au



15 April 2021

Executive Director
Local Government and Economic Policy
Department of Planning, Industry and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Dear Sir/Madam,

Submission to EIE for Agritourism and small-scale agriculture development

Navigate Planning is a town planning consultancy based in Mudgee, New South Wales. Many of our clients are rural producers seeking to diversify their businesses to include tourism developments. We also work with rural land owners who do not undertake any agricultural activity, but are interested in some form of tourism activity or accommodation on their land.

The Explanation of Intended Effects for Agritourism and small-scale agriculture development is welcomed by Navigate Planning and our clients as a positive way forward to streamline small-scale, low-impact development on rural land.

The proposals put forward by the NSW Government relate primarily to rural land on which some form of agriculture is undertaken. While the proposals for this type of rural land are generally positive, there is very little in the proposals for rural land where agriculture is not undertaken.

Tourism in rural areas is not just undertaken on farms.

This submission responds to the questions asked in the EIE and raises other important issues for the NSW Government to consider to further support economic growth in regional NSW.

Farm stay accommodation - Comments

- The proposed changes to the definition of farm stay accommodation to recognise seasonality in farming operations and to permit camping are supported.
- The inclusion of low-impact farm stay accommodations as exempt and complying development is supported.
- The EIE specifically refers to the change of use of an existing dwelling or part of a dwelling on rural zoned land. In some regional LGAs, extensive agriculture is permitted with or without consent in other zones, such as R5 Large Lot Residential, E4 Environmental Living and E3 Environmental Management. Exempt farm stay accommodation should also be permitted in these zones.

- The maximum number of guests for exempt farm stay accommodation refers to up to two persons aged over 12 per bedroom. For clarity, the final wording of the clause should also refer to the maximum number of persons under 12, or state there is no limit on the number of children allowed. There should also be a limit on the number of bedrooms for exempt farm stay accommodation. A maximum of two bedrooms is considered reasonable.
- For complying development, the proposed one dwelling per 15 hectares is too restrictive, particularly for R5 Large Lot Residential Land where an agricultural activity is being undertaken. In the Mid-Western Regional Council area, these lots are commonly 10 hectares in size. It is suggested that, for complying development, one development (rather than dwelling, as the farm stay accommodation could be in separate smaller cabins) per 10 hectares is a reasonable development standard. The maximum size of the development is proposed to be 60m². As all of this 60m² could be used as bedrooms, there is potential for up to 6 bedrooms to be provided. The EIE does not comment on the maximum number of persons per bedroom for complying development. At 3 per bedroom (2 adults and 1 child), there is potential for a maximum of 18 persons.
- For farm stay accommodation that requires development consent, the maximum number of bedrooms should be increased. Given what is proposed to be permitted as exempt or complying development (up to 20 persons in tents, etc, and potentially up to 18 in bedrooms), a restriction on the number of bedrooms for development that requires consent is considered unnecessary and all applications should be considered on their merits. Alternatively, the minimum number of bedrooms that a Council can specify should not be less than 15. With the number of people per bedroom to be three times the number of bedrooms, 15 bedrooms would provide for up to 45 persons to be accommodated at any one time. This is considered a reasonable minimum for the purposes of a merit assessment.

Note: It is also noted that the NSW Government is considering changes to clause 4.6 to allow variations to clause 5.4 (which restricts the number of bedrooms). Should the maximum number of bedrooms in clause 5.4 remain (at whatever number), the proposed change to clause 4.6 is supported.

Farm stay accommodation – Responses to Consultation Questions

1. Yes
2. No. This is a complex matter, given many agricultural properties are made up of a number of lots that may be defined as a holding, or where one of the lots has a dwelling entitlement. The principle should be one farm stay accommodation development per farm, irrespective of how many lots or dwelling entitlements (if any) that the farm has. The location of the farm stay accommodation should not be restricted to that lot that has the dwelling (or the dwelling entitlement).
3. No. The location of the farm stay accommodation should be assessed on the merits of each individual case.
4. The detailed comments I have provided above are considered appropriate for farm stay accommodation on land west of the Great Dividing Range.

Farm gate activities – comments

- The EIE states that “landholders are generally unable to process and sell retail products produced on a farm under existing planning requirements.” Yet there are existing definitions in the Standard Instrument LEP for such activities such as agricultural produce industry, artisan food and drink industry and cellar door premises. These definitions, and

how they apply or could be modified, are not mentioned in the EIE. While the concept of a new definition for farm gate activities is supported, the relationship between this new definition and the others mentioned above should be considered to avoid confusion.

- While the definition of agricultural produce industry should remain, a new similar definition could be drafted for an agricultural produce industry on the same site where the produce is grown. The two definitions could be agricultural produce industry (off-site) and agricultural produce industry (on-site), or something similar. The former is appropriate on industrial or rural land while the latter should be permitted with consent wherever agriculture is permitted, such as the R5 Large Lot Residential zone where agricultural produce industries are commonly prohibited.
- The definition of artisan food and drink industry was introduced with minimal consultation with Councils and was automatically applies as permitted with consent in commercial and industrial zones. This use, at an appropriate scale, should be permitted with consent in all zones where agriculture is permitted.
- The definition of cellar door premises should not be limited to only land on which grapes are grown and wine produced. For example, the definition should apply to land on which fruit or hops are grown and cider or beer is produced.
- Notwithstanding the above, the proposed inclusion of a definition for farm gate activities is supported.
- The proposal to make this use permitted wherever agriculture is permitted is supported.
- The inclusion of low-impact farm gate activities as exempt and complying development is supported.
- However, the proposal that exempt farm gate activities must not involve a change of building use effectively prevents most farm gate activities from being able to be undertaken as exempt development. Changing a building from a dwelling or a shed to a processing industry or a restaurant/café or a facility for holding tastings/workshops/etc, is likely to involve a change of building use. Further consideration of this matter is recommended.
- The EIE specifically refers to the use of land for farm gate activities on rural zoned land. In some regional LGAs, extensive agriculture is permitted with or without consent in other zones, such as R5 Large Lot Residential, E4 Environmental Living and E3 Environmental Management. Exempt farm gate activities should also be permitted in these zones.

Farm gate activities – Responses to Consultation Questions

5. No setback standard should be applied for a roadside stall. Compliance with the sight distance and parking requirements should be sufficient for exempt development. The exempt development provisions should include a minimum of 2 parking spaces.
6. For farm gate activities as exempt and complying development, there should be standards for car parking. The standard should be based on the proposed activity. If only processing of agricultural produce is proposed, only parking for staff would be required. However, for a restaurant/café or tasting facilities, additional parking should be required. Parking areas should not be required to be sealed.

Farm events – comments

- The proposed inclusion of a definition for farm events is supported.
- The proposal to make this use permitted wherever agriculture is permitted is supported.
- The inclusion of low-impact farm events as exempt and complying development is supported.

- The EIE specifically refers to the use of land for farm events on rural zoned land. In some regional LGAs, extensive agriculture is permitted with or without consent in other zones, such as R5 Large Lot Residential, E4 Environmental Living and E3 Environmental Management. Exempt farm events should also be permitted in these zones.

Farm events – Responses to Consultation Questions

7. Yes
8. None. However, some events have the potential to have a greater impact than others. For some farm events, it may be appropriate to include standards to protect the amenity of the local area. There should also be standards regarding car parking for certain events.
9. Destination weddings should be permissible on any land where agriculture is permitted. The proposal in the EIE would allow this, as a wedding is a “function” and functions are proposed to be a part of the new farm event definition. If the land owner seeks to provide for functions for more days and people than are permitted as exempt or complying development, then a development application can be submitted to the Council.
10. Yes. This clause can address the amenity and parking issues raised above.
11. No.

Small-scale processing plants - Comments

- The definition of agricultural produce industry includes much more than processing of meat, honey and dairy. The definition includes seeds, fruit, vegetables or other plant material, and includes wineries, flour mills, cotton seed oil plants, cotton gins, feed mills, cheese and butter factories, and juicing or canning plants.

Small-scale processing plants – Responses to Consultation Questions

12. Yes. All types of agricultural process industries should be able to be complying development if they are low impact.
15. Yes. Small-scale processing plants could be assessed through the standard DA process and not as designated development.

Farm dams – Response to Consultation Questions

20. Farm dams that are within the harvestable rights requirements should be exempt development.

Other Matters – Tourist Accommodation on rural land

As noted in my introduction, rural tourism is not limited to properties on which an agricultural activity is undertaken. There is currently an inconsistency across the State when it comes to how to define tourist accommodation on rural land where there is no agricultural activity.

In the Eurobodalla Shire, the group term Tourist and Visitor Accommodation is used (listed as permitted with consent with other inappropriate tourist accommodation types listed as prohibited), while in Mid-Western Regional Council, until recently, the definition of Serviced Apartments was used (listed as permitted with consent with the group term Tourist and Visitor accommodation prohibited). A legal challenge to the use of this definition has recently stopped any applications for cabins on rural land in the Mid-Western Region.

The definition for eco-tourist facility is usually not applicable and the clause relating to this use is very restrictive.

The NSW Government should provide consistent advice to Council's on this issue. I recommend the Eurobodalla approach, which is the most flexible approach and allows for appropriate tourist accommodation to be considered on its merits. The term tourist and visitor accommodation should be permitted with consent in all zones where agriculture is permitted, with inappropriate types of tourist accommodation, such as hotel or motel accommodation and backpackers accommodation listed as prohibited in those zones.

Regards,

Mark Hitchenson
Navigate Planning
0409 458 388

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Thursday, 15 April 2021 8:15 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Thu, 15/04/2021 - 20:15

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Nathan

Last name

Apps

Council name

Shoalhaven City Council

I would like my submission to remain confidential

No

Info

Email

nathan_b_a@yahoo.com

Suburb/Town & Postcode

2577

Submission

The proposed changes need more careful consideration of the negative affects of functions, weddings and conferences in rural zones. Firstly, these activities should be prohibited without DA approval if they occur in bush fire prone land. Further, they should be prohibited without DA approval in areas where there are no double lane roads, where there are dead end roads, where the roads are subject to flooding or in any other area where impacts to the road network will put the safety of permanent residents and inexperienced guests at risk.

Further, the negative impacts to the rural amenity need to be regulated. People do not chose to live in the country to have a function centre and associated loud music in their face every second weekend. A function centre, wedding venue or conference centre should be located sufficiently far (at least 1km) from existing neighbour dwellings.

Finally, this legislation seems to be more appropriate for farms west of the great dividing range, where tourism would bring tremendous benifit to some of the struggling country towns. Many of the prime rural lands close to Sydney have already been corrupted with rich developers buying but not operating proper rural enterprises but mowing the grass for example.

RU1 land should especially be reserved for Agriculture only and not corrupted by rich developers who dont intend on using the land for producing food.

I agree to the above statement

Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Friday, 16 April 2021 7:33 AM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Fri, 16/04/2021 - 07:32

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Denis

Last name

O'Shea

Council name

Shoalhaven City Council

I would like my submission to remain confidential

No

Info

Email

oshea.denis@bigpond.com

Suburb/Town & Postcode

BERRY

Submission

I support the recommendations contained in the Berry Forum Committee's submission.

I agree to the above statement

Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Friday, 16 April 2021 9:08 AM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Completed

Submitted on Fri, 16/04/2021 - 09:08

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

RICHARD

Last name

BAXENDALE

Council name

Shoalhaven City Council

Council email

council@shoalhaven.nsw.gov.au

I would like my submission to remain confidential

No

Info

Email

richard@baxengineer.net

Suburb/Town & Postcode

Broughton Vale 2535

Submission

I have read the Planning Departments proposal on agriculture developments and the proposed amendments to achieve the goals set out therein.

As a resident of Shoalhaven Shire I am amazed at the ease with which developers at present can circumvent the NSW Government rules.

For example:

1. Glamping even being considered as primitive camping.
2. Working farms with a handful of animals,.
3. Tourist cabins clearly designed for use as permanent residences.

4. Farm structures modified for use as function centres.

The current advertised agriculture proposal will in my opinion open a Pandora's Box for similar flaunting of the rules which will result in the destruction of historic rural environments.

I strongly suggest that any proposed rule changes should be unambiguous even to the most junior town planner or layman Councillor or for that matter the Land and Environment Court, so that "try on " development applications can be rejected out of hand.

I agree to the above statement

Yes

From: NSW Government <webforms@customerservice.nsw.gov.au>
Sent: Thursday, 8 April 2021 10:28 AM
To: Webform Stokes
Subject: New proposed agritourism & farm stays



Your details

Mr

Title

First name

Lawrence

Last name

Aubert

Phone

[0410325190](tel:0410325190)

Email

lawrence@tabledesign.com.au

Street address

100 Wharf Rd

Suburb

Berry 2535

State

New South Wales

Postcode

2535

Your enquiry

Subject

New proposed agritourism & farm stays

Type of enquiry

Comment

Message

Dear honourable Rob Stokes,

As a resident for 25 years in the beautiful & popular south coast town of Berry, we are very concerned with the Government's proposed changes to allow agritourism with a 1 size fits all approach.

We are particularly concerned that the local farmers being a minority will have a free reign to open up farm stays at will, and

there's nothing proposed in place to allow the Berry majority, being local residents to stop it.
With all due respect most farmers by nature are not concerned about the beautification & environment of a locality and the tourist town of Berry is all about it's beauty.

The large landholders in Berry are small families & "city" farmers who own very expensive cattle grazing land & they have not suffered the consequences of fires and drought in the same manner as ravaged NSW's towns.

I know I speak for the local community in that we have every reason to now worry about the effects of opportunistic developments installing visually appalling cheap caravan sites & erecting tents & port-a-loos on farms at will by those who don't need the income, yet will take advantage of the legislation because they can.

If this legislation continues in its current form, beautiful landscapes in many South coast towns will be fractured and the demographics will change .

The Berry majority do not want this proposal at all as it will change the face of the landscape as we know it.

Berry farmers are not suffering. Per capita there are very few yet their land and what they are allowed to do dominates the region.

The government's proposals are good for struggling rural towns, but inappropriate for thriving coastal towns like Berry

Trusting that Shoalhaven Council do not have to participate in this and will have the right to allow normal democratic DA objections to continue .

Kind regards
Lawrence Aubert

I would like a response

Yes

Submission re NSW DPIE – Agritourism Development Proposal

Context

There is no doubt that the intentions of the proposed agritourism initiative are laudable and in the Australian spirit of offering a hand up to help farmers rebuild and recover from the impacts of drought and bushfires. It is also gratifying to see that the pilot program has resulted in sixteen pilot participants starting farm tourism businesses.

However, the context for the agritourism initiative has changed quite dramatically since it commenced two years ago. The drought has finished, and agricultural production has recovered, as shown in Department of Agriculture reports for NSW -

- *Area planted to summer crops increased significantly in 2020–21 to 433,000 hectares, constrained by a lack of fallow land due to the excellent winter cropping season, particularly in northern NSW.*
- *Summer crop production is forecast to reach 1.7 million tonnes in 2020–21, nearly six times what was produced in 2019–20.*
- *Winter crop production is estimated to rise to a record high 18.7 million tonnes in 2020–21, 88% above the 10-year average to 2019–20.*

NAB Business Review April 2021

The Australian agriculture sector is capitalising on improved seasonal conditions and government incentives including the instant asset write-off scheme to invest in farm equipment, the latest data from NAB reveals.

Loans to NAB customers for agricultural equipment finance have increased 132 per cent year-on-year from 2019 to 2020, as agribusinesses recover from two years of challenging conditions including drought, fires, COVID-19 disruptions, and most recently, floods.

*NAB executive regional and agribusiness, **Julie Rynski**, said the trends in equipment finance were indicative of the strength in lending and the resilience and overall confidence of the agriculture sector.*

“Lending for tractors has increased 146 per cent, while lending for equipment such as sprayers and headers has risen 142 per cent,” Ms Rynski said.

“Farmers looking to boost their on-farm grain storage have also driven a 140 per cent increase in lending for grain silos.

“After a record breaking 2020-21 harvest and with subsoil moisture conditions looking good across much of the south-east and south-west of the country following summer rain, the figures are reflective of our customers’ intentions to capitalise on the turnaround in seasonal conditions.”

“With business confidence at an all-time high and businesses building on things they’ve learnt through the pandemic, I’m not surprised that equipment sales are so high. The majority of farmers and regional businesses have proven to be exceptionally resilient through two years of challenging conditions and are now poised to capitalise on new opportunities and brilliant market conditions.”

Pilot Program

No details have been provided about the pilot program, which is surprising as it is being used as justification for the far-reaching removal of multiple planning provisions and the elimination of local council involvement from an array of important planning decisions.

This is potentially a recipe for anarchy in relation to the introduction of entirely unrestricted and unsupervised activities across all rural land in NSW.

At a minimum, details should be provided of the experience of all pilot participants, including those that were not successful. The details should cover the numbers and types of agribusiness that were attempted in each area, the Liverpool Plains, Wollondilly and Queanbeyan-Palerang.

The size of the landholding should be provided for each pilot participant. In the case of the Windy Station pilot on the Liverpool Plains the landholding is 21,000 ha. It seems unlikely that this would be representative of farm sizes in coastal council areas.

It is disappointing that there does not appear to be a single mention of land size in any of the documents that have been distributed for comment. That is, all except for one indirect mention at the bottom of Page 23 of the Explanation of Intended Effect, under the heading of 'Building location and size' – *Maximum height: 7 metres for landholding 4000 square metres to 10 ha*

Objectives

The stated objectives of this submission are to ensure the proposed planning changes –

- Support agricultural producers who need to supplement their income to maintain the financial viability of their agricultural enterprise and quality of life in an increasingly difficult climatic and business environment.
- 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.

Intended Effect of Proposed Planning Amendments

- *The Department is proposing amendments to existing controls within the planning system to facilitate more agritourism, while balancing the need for individual councils to respond to different environmental and development settings.*
- *The proposed development standards are intended to mitigate undesired impacts by limiting the land on which the activities can occur and the scale of the use, as well as managing impacts such as noise and potential disruption to neighbouring land uses.*
- *The changes are not intended to enable hobby farmers or other recreational farmers to establish agritourism businesses.*

These statements are reassuring, however there is scant evidence in any of the documents that would suggest that they are more than mere window-dressing. The stating of intentions, that are not supported by meaningful definitions, controls or measurements suggests that very little attention is being paid to their implementation by the initiators of the proposed changes.

Eligibility

A key element that needs to be clearly identified and made extremely difficult to circumvent is the eligibility of the agricultural enterprise. This is addressed through two related criteria:

- the primary purpose of the property is agricultural production
- the income generated from agritourism is supplementary in nature.

The proposal recognises the need to avoid tying the criteria to farm income at a given point in time due to the highly variable nature of agricultural returns. The ATO addresses this issue in relation to the tax advantages offered to primary producers through the definition of a primary producer. Stated simply, the farm must have a business plan to maintain an ongoing and viable enterprise based on commercial agricultural production.

Recommendation 1: The ATO's criteria and tests for eligibility for primary producer status should be necessary to access the proposed planning changes. Further, this should be done in the context that access would be granted, and the focus of the enterprise will remain primary agricultural production.

The meaning of supplementary or ancillary income needs to be defined in exact terms and calculated in terms of gross income associated with the agricultural and non-agricultural income to avoid issues related to tax minimisation. To address the concern related to variability of farm income, income averaging should be allowed similar to that provided to farmers by the ATO.

Recommendation 2: Supplementary income limits should be put in place in terms of the percentage (eg 25%) of total gross income earned by agritourism, with the proviso that income averaging provisions available to primary producers are allowed in the assessment. On granting access to the planning provisions, notification should be given to the ATO.

The issue of maintaining the viability of farm enterprises and farm lifestyle depends on the ownership structure of the farm. These break in two categories, family or limited partnership farms and corporate farms. It does not appear that the spirit of the proposed changes is intended to support corporate owned farms.

Recommendation 3: Access to the proposed planning changes should be limited to family or limited partnership farms as opposed to corporate enterprises.

There are considerations that are not tied to commercial aspects of a property seeking access to the proposed planning provisions. These include threats to life and the costs and availability of emergency services.

Recommendation 4: Access to the proposed planning provisions should not be extended to flood prone areas and perhaps other areas subject to extreme events or likely impact of climate change, such as rising sea levels.

There is a need to avoid imposing additional costs and harm, under more adverse climatic conditions, in preserving adequate habitat and managing natural and man-made disasters such as bush fires.

Recommendation 5: Consideration of NSW biodiversity and habitat objectives need to be maintained and potentially expanded. 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.

Other Key Issues

The proposal to grant broad statewide exemptions for development will inevitably result in the benefits accruing to areas close to Sydney and the major coastal towns that have more amenities and take less time to drive to. Landowners in those areas, not in need of assistance, will be able to exploit the planning changes to generate significant profits.

Recommendation 6: Exempt development should not be permitted statewide. Over the last four years we have confronted several DAs seeking to exploit the planning provisions for tourist accommodation, so we know what to expect. We have had four meetings with NSW Planning Ministers.

Camping for up to 20 people will not be “minor and low impact”, with no access to sewers or town water. How will this be regulated and how will Councils deal with the myriad of issues?

At the other extreme in the Shoalhaven, DAs have been lodged for luxury glamping with semi-permanent structures seated on very large timber platforms using the ‘Primitive Camping’ description to circumvent safety and amenity regulations.

Recommendation 7: Allowing any number of people in tents, caravans, campervans to be allowed as exempt development is fraught with issues and should be reconsidered.

Planning provisions for camping grounds and primitive camping are a mess and ripe for further exploitation. This issue must be addressed before further changes are introduced.

Farm events - Over the last three years, Berry and Kangaroo Valley have been the target of wealthy developers seeking to construct wedding function centres in rural zones. Each DA is supported by consultants’ reports that attempt to disguise the dire adverse noise, traffic and amenity impacts. Councils accept the reports as they do not have the expertise to challenge them. However, independent peer reviews paid for by residents have identified serious deficiencies.

There is just a very brief reference to the temporary use of land clause in the Standard Instrument LEP Order (clause 2.8) to seek development consent. With developers ignoring genuine concerns of residents, rural communities have relied upon Justice Moore’s judgement in the *Marshall* 2015 case, which states that Council must be satisfied that the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood.

Those communities are now astonished by the proposal to allow function centres in rural zones as exempt development and are very angry that their distressing experiences could be repeated.

It’s stated that, *“Including a definition for events on farms will provide greater certainty around where such development can take place.”* The definition is irrelevant, when it’s proposed that wedding function centres can be built anywhere and adverse impacts on neighbours ignored.

Recommendation 8: Planning amendments should restrict the provision of wedding venues to less accessible regional locations “*that cannot be reached by day trip from major centres*”. This would also encourage the use of con-farm accommodation.

The proposed unrestricted siting of wedding function venues and removal of the current protection afforded to rural communities by Clause 2.8 is the most controversial aspect of the proposed amendments. It appears to be driven by the tourism lobby, with no thought given to the devastating effects that would follow its implementation. This is not an outcome that genuine farmers would want.

Based on the stated objectives for the proposed planning amendments, there can be no justification for relaxing current provisions applying to wedding venues in areas such as Berry and Kangaroo Valley.

Two sets of maximum event and guest numbers is confusing and open to exploitation. Realistically, it will be impossible to restrict the number of events and guests to the proposed limits.

Recommendation 9: As the limits will inevitably be exceeded, they should be simplified to 20 events per year with a maximum of 40 guests per event, and allowed in targeted areas only (see Recommendation 8).

If the focus is agriculture, why is it proposed “*Councils can then permit farm events in other (non-rural) zones*”, and why are ‘*destination weddings under a DA*’ being proposed?

Recommendation 10: The proposed amendments should be contained to rural zones only. Planning changes to facilitate ‘destination weddings’ should only be considered within the context of Recommendation 8. above

Conclusion

The elimination of Council involvement and the removal of all planning safeguards for wedding venues and camping would be destructive for rural communities in coastal council areas.

Rigorous controls around eligibility and significant limitation of exempt development are essential if benefits resulting from this proposal are to accrue to **real farmers** in **targeted regional areas**.

However, if these critical issues are not resolved, the benefits for real farmers will be marginal at best, the profits for lifestyle farmers and developers excessive, and the adverse ramifications for rural property owners extremely damaging.

The Berry Forum Committee

<http://berryforum.org.au/>

We have attached extracts from a submission prepared by a local farmer. We believe it provides a very succinct commentary on the proposal that is based on personal experience and exceptional clarity of thought. We strongly recommend it to you.

Extracts from Submission prepared by a local farmer.

My land is designated Rural. I knew this when I purchased and acted accordingly - choosing agricultural endeavours over trying to make my land use something it was not allowed to be.

I am an olive farmer. I planted my olives trees over a three-year period (2006-2009) and nurtured them for the requisite years until they began to produce harvest. Some years are better than others – I knew this when I undertook this proposition.

I am a table olive and extra virgin olive oil producer. I have a commercial processing facility with registered commercial kitchen and cellar door. I am able to conduct tours and tastings. I am able to do long lunches; and (although I do not choose to avail myself of the approval) run a café – all based around MY agricultural produce.

I am able to do all of this because I submitted a Development Application to Shoalhaven City Council in 2013. It was not costly, although there were the required professional reports. I was assigned an Assessment Officer and I dealt with him – resolving any issues – his knowledge of LOCALITY being site specific.

Part 1.2

- The NSW Government is seeking comment on proposals **recommended by stakeholders** to: Who are these stakeholders of whom we speak – tourism operators and the NSW Small Business Commission and Service NSW, or farmers???

Many of us, do not believe we need others who feel they know far better than we, of how to manage our land, or manage our livelihoods.

- **reduce land use conflict by providing clearer rules** and better managing environmental and social impacts,
There is no conflict – rules are clear and precise – it is those who seek to exploit any loophole; using (quite often) significant financial outlay to batter down those given the authority to make decisions on behalf of their constituents, by following the same set of clear and concise rules.
- **clarify current planning controls** and expand approval pathways for certain agricultural activities.
Clarification exists – before you purchase make sure the land is fit for the purpose you want; and then follow the rules set down in the relevant to your location LEPs, whether that includes a DA or complying/exempt development. Simple.
- The proposed amendments are **underpinned by the principle of no/ low environmental impact**.
Who decides what the level of this principle is going to be? Who enforces compliance?
Who do I call when, in my view, compliance is not be adhered to?

Please do not tell us to ring our local police – we have tried this – the police do not come, they are simply too busy to cater to neighbourly disputes, especially on a weekend evening. Please do not tell us to contact our local Council when the issues arise - there is no-one capable of dealing with an issue which occurs on weekend, especially of an evening. Council themselves say they simply do not have the resources or funds to do this type of activity.

Imagine, if there were 10 or 15 complaints for 10-15 venues located around a whole local government area – how many do you actually believe would elicit a timely response. Please do not tell us to wait until Monday morning at 9am to contact Council, when the events have been completed, everyone has gone home happy, the property's owners are counting their cash and we still have a headache.....but have to get up, put one foot in front of the other and continue our agricultural activity.

Part 1.3

- farm events – to **remove existing barriers** and support farm events amendments are proposed to introduce a **new definition for 'farm events'**

In essence, this relates to approval to operate large scale events such as weddings and conferences held on rural land.

- Fast track approval pathways, known as exempt and complying development, will also be established for these types of agritourism.

Again, providing a loophole, for developers and commercial operators to take advantage of this process to progress large scale events such as weddings/conferences held on rural land.

Part 2.1

- The planning system seeks to **protect agricultural land and secure it as a resource for food production for future generations.**

PROTECTING AGRICULTURAL LAND AND SECURING IT AS A RESOURCE FOR FOOD

PRODUCTION FOR FUTURE GENERATIONS is unlikely to be a consequence of this proposal. 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.

- There is scope for the planning framework to better support farmers' ability to innovate and diversify from purely primary production to other forms of value adding or **complementary agribusiness.**

I am not anti-tourism – of any sort – whether “agritourism” or other. I simply believe that certainty is eroded, when rules are not followed through. How large-scale events such as weddings and conferences held on rural land can be seen as complementary agribusinesses has eluded me since I first began my journey on local tourism boards in 2012 and my increased input into primary production. It eludes me still. Value-adding with genuine farm gate activities based on the crops / livestock etc which are located on the farm (as long as zoning permits), have nothing to do with this

- **Agritourism involves visiting a farm** or food related business for enjoyment and education or **to participate in activities and events.**

The broadness of this statement, the non-genuine value adding as the activities are not based on the crops / livestock etc which are located on the farm have nothing to do with this and is simply a means to an end to create the opportunity for large scale events such as weddings and conferences on rural zoned agricultural land.

Part 2.2

- The department has worked with the commission to identify simplified pathways to establish low impact agritourism businesses on farms, including farm stay accommodation, farm tours, roadside stalls, farm events and retail on farms. This work aligns with the department's commitment to reduce red tape and make the planning system easy to use.

It is good that the Service NSW worked with the NSW Small Business Commission. It would have been better had it included farmers and growers at the outset, rather than presenting a document for comment and not promoting the fact. Non-submission of comments by farmers and growers SHOULD NOT be taken as acquiescence or unbridled joy – most simply do not know this document exists.

Agri-tourism may be many of the things listed – but it is NOT a tourism-related experience that connects people with events solely based on “their scenic quality such as weddings” – your words.

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).

- Service NSW has conducted research that identified challenges in the current planning regime for **aspirational agri-entrepreneurs**.

And now we come to it – this document is about and for “aspirational agri-entrepreneurs” and not really for the poor farmers no matter how much it attempts to proffer as its *raison d'être* the supposed “support” for “farmers during times of hardship or following natural disaster events”.

Genuine agritourism is NOT about large scale events such as weddings and conferences on zoned rural land. These events contribute NOTHING to the furtherance of agricultural activity, rather they provide a perfect opportunity to destroy that very agricultural activity, which they profess to support.

Part 3.1

- **New land use terms: introducing two new land use terms for farm gate activities and farm events in the Standard Instrument LEP Order.**

Farm events should be events limited to farm activities; and NOT events held on a farm (whether it is actually a working farm or just a very big block of land, may be debatable).

- Proposed new development standards will ensure development is at a scale appropriate for the agritourism or agricultural activity with **minimal impacts** on the surrounding land and amenity. Where these standards cannot be met, a landowner can lodge a development application with the local council.

Who sets the standard or what is minimal or low impact?

NO impact is easy to understand, minimal and low are subjective.

And how is this to be enforced (not even going to bother with repeating the negation of the possible suggestion that impacted persons contact their under resourced own local police or Council).

3.4 Farm events

- The ability to hold **rural events** can allow farmers to diversify and value add to their agricultural business.
Rural events should NOT mean any events held on rural land.
- In addition to the direct benefits to agricultural business, rural events can have a far- reaching supply chain benefit to the surrounding economy. **For example, if a farm can host a wedding, beyond just the hiring of a venue on a farm, the event can result in hiring of local accommodation services, engagement of event services (such as photographers, stylists and transport), food and drink services, supporting services (gift shops, child minding) and facilities services (party hire, mobile toilet hire etc).**
In principle this sounds great for the local economy – however MANY brides (most significantly for high cost weddings) choose to bring in outside (read, from where the bride originates) operators to assist with planning their wedding. From a time perspective, with constant meet ups between the bride and the other party, it is logical that these would mainly occur where the bride resides.
The number of guests who are so disorganized that they need to use the services of a local gift shop to buy their wedding present would be minimal, if any. Simple logic.
- There are limited land use terms in the planning system that enable **rural events**. Applicants can rely on the definition in the Standard Instrument LEP Order for ‘function centre’ or use the temporary use of land clause in the **Standard Instrument LEP Order (clause 2.8)** to seek development consent. Including a definition for events on farms will **provide greater certainty** around where such development can take place.
Once again, rural events are NOT weddings or functions totally unrelated to the farm activity which is being conducted. This is simply a back door to host weddings and events, nothing more. To suggest it is an adjunct to raising cattle; or growing olives; or keeping of chickens and selling of eggs commercially is plainly ridiculous. There is ABSOLUTELY no correlation between the two.
Std Instrument LEP Order (clause 2.8) provides certainty – to both the applicant as well as to adjoining landowners; neighbouring properties; and the local community IF those orders are upheld.
- It is proposed to introduce a new land use term ‘**farm events**’ into the Standard Instrument LEP Order to allow **events, tours, functions and conferences** on land used for agriculture.
If the events, functions and conferences have NOTHING to do with the crop / livestock that is being grown / produced on the agricultural land then it is NOT related to FARM. FARM events are NOT weddings or functions totally unrelated to the farm activity which is being conducted. This is simply a back door to host weddings and events, nothing more. To suggest it is an adjunct to raising cattle; or growing olives; or keeping of chickens and selling of eggs commercially is plainly ridiculous. There is ABSOLUTELY no correlation between the two.
- Exempt and complying development pathways have been developed to allow streamlined approvals for low scale, **low impact** farm events.
Who sets the definition of low impact?

FRIDAY 16TH APRIL 2021

AGRITOURISM AND SMALL SCALE AGRICULTURE DEVELOPMENT
Proposed amendments to support farm businesses and regional economies.

The NSW Wine Industry Association is the industry body representing the interests of the Grape and Wine Industry in NSW. As a quick snapshot:

- NSW has 16 diverse wine regions.
- There are approximately 506 wineries, 378 Cellar Doors and 34,000 hectares under vine.
- NSW produces approximately 492 million bottles per annum.
- NSW crushes around 500,000 tonnes of wine grapes per annum.
- The NSW Wine Industry employs roughly 21,000 directly and 53,000 indirectly
- The Wine industry is worth \$1.6Bn which includes activity beyond the farm gate
- Exports of NSW wines totals more than \$500m, which makes it NSW's 4th largest primary industry export
- Over \$2Bn is spent on food and wine tourism in NSW.

NSW Wine is appreciative of the recent opportunity to discuss with senior NSW planning executives the relevant items in the proposed changes for agritourism and It acknowledges that the proposed changes to the NSW planning regulations are a rare opportunity to make a significant change in the agricultural and tourism landscape of NSW.

It is also acknowledged that this proposal for agritourism activities are targeted at farmers and producers to enable diversification of their income from farming businesses while maintaining primary production on the land and the changes are not intended to enable hobby farmers or other recreational farmers to establish agritourism businesses.

With the background and information supplied the NSW Wine Industry Association and after considered review of the proposal in its entirety we make the following comments and recommendations;

Key points of support:

The permissibility of agri-tourism activities is crucial to enabling sustainable tourism growth that also reinforces and educates the important role of agriculture in NSW.

The future sustainability and stability of agriculture in NSW can be assisted by an appropriate agritourism sector.

- Any changes in planning regulations for agritourism must crucially align with the [NSW Food & Wine Tourism Strategy & Action Plan](#), the [NSW Visitor Economy Industry Action Plan 2030](#) and the refreshed [20-Year Economic Vision for Regional NSW](#), that set out the Government's priorities and plans to achieve long-term social and economic success for regional communities across the state. We believe the proposed changes do align.
- Many of the agri-tourism products and activities that are desired by visitors to regional NSW are currently not able to be delivered as no appropriate land-use definitions exist and operators are often relying on temporary use approvals, which creates uncertainty for operators, communities and visitors to the area. Appropriate clearly defined pathways for primary producers to diversify into agritourism within the proposal are supported.

- ‘Cellar door premises’ are currently permitted across most rural areas and are largely supported and accepted by the community, the proposed changes for providing further pathways to establish cellar door premises via a complying development are supported.
- The definition of “CELLAR DOOR PREMISES” as a sub term within the Standard Instrument LEP is proposed to now sit within the group term AGRICULTURE and the new subset of AGRITOURISM – FARM GATE ACTIVITIES. If this results in new cellar door premises being permissible where agriculture is permissible and will not result in restricting new cellar door premises more than currently allowed, the change is supported.
- The provision of three planning pathways will enable primary producers to test markets through low-scale and low impact activities, with full development applications then being available to balance growth for successful operators is supported.
- Increasing opportunities to diversify farm income via tourism will increase the long term sustainability of agricultural businesses across NSW. Planning regulations and proposals that assist primary producers diversifying into agritourism are supported.
- Without the proposed changes, obtaining planning amendments e.g. rezoning, are cost prohibitive, inconsistently supported by councils and State agencies, and can result in the loss of investment in tourism products, so a clear and consistent planning pathway across the State is supported.
- The proposed changes should enable the market to respond to consumer desires – which benefits tourism providers, but also supports the important role of agriculture in NSW.

Areas of the proposed agritourism planning changes that require further review and/or amendments;

- Whilst the connection of ‘agri-tourism’ to ‘agriculture’ is supported, there are instances where agriculture (which includes forms of intensive agriculture such as vineyards) is not permitted in some zones. Application of ‘agri-tourism’ to any zone where ‘extensive agriculture’ is permitted would assist to overcome this anomaly.
- The E3 – Environmental Management zone is used extensively for agricultural purposes in many localities. These lands often include extensive agricultural activities and application of ‘agri-tourism’ activities to this zone should be enabled as well.
- The proposed definition for ‘farm events’ refers to the “principal use of the land is the production of agricultural goods for commercial purposes”. Whilst the use of the land for production of agricultural goods is supported, there are instances where the current principal use is for other than “commercial purposes”, such as environmental conservation or historically approved activities. Terminology similar to ‘farm gate activities’ which references “where associated with” agricultural production may be more appropriate.
- Many small rural holdings, often in isolated areas, may remain appropriate for ‘agri-tourism’. Ensuring that appropriate assessment can find a balance between various uses, including, but perhaps not principally, production of agricultural goods, should be considered in these instances. Terminology similar to ‘farm gate activities’ which references “where associated with” agricultural production may again be more appropriate.
- There is demand for a range of accommodation types that may not be picked up by the proposed changes – for example glamping tents and tiny homes. Allowing for the permanent placement or erection of these forms of accommodation will assist in providing the desired variety in the current and future market.
- Noting the intended use of the proposed changes is for primary producers, it should be considered that a primary producer be defined in some way, and that is not overly burdensome on producers. It is suggested that the system of recognition [as a primary producer by the ATO](#) be considered if appropriate to meet the larger objectives of the proposed changes.

‘Farm stay accommodation’ – Exempt and complying development provisions:

- Provision of setbacks relating to exempt and complying development is inconsistent. If there are no identified circumstances for a larger setback, the setback identified for ‘farm gate activities’ from the property boundary (50m) should be applied.
- A blanket 100m setback from a waterway for exempt and complying development would appear to be excessive. The DPI – Office of Water *‘Guidelines for riparian corridors on waterfront land’* which provides a basis for setbacks of between 10m and 40m depending on the stream classification. If a set number is required, a 40m setback would be appropriate in accordance with this industry and NSW government department standard.
- The erection of a new building for ‘farm stay accommodation’ must be within 300m of ‘the existing dwelling’. This is an arbitrary distance and requirement. Whilst most facilities may meet this anyway, it should not be a requirement and restricts the spread of facilities on larger properties which may be in the interest of users and land holders. No proximity requirements should be included as this is highly dependent on individual site requirements.
- The erection of a new building for ‘farm stay accommodation’ must have a maximum height of 6m. This provides for small two-storey development but does not provide for any innovation or ability to respond to local circumstances (such as the prevalence of steeply pitched roofs or sites). Whilst two-storey development is supported, the height limit should be 8.5m in line with industry standards as used extensively through the codes SEPP.

‘Farm gate activities’ and ‘Farm events’ - Exempt and complying development provisions:

- Given the potential for ‘farm gate activities’ to include a restaurant or café, the 7pm operational hours would seem very strictive. Whilst not needing to be much later, a 9pm restriction is considered to be more realistic.
- Setbacks from ‘adjoining established or proposed’ use identify appropriate setbacks to high impacts uses as identified. However, it is unclear why a 250m ‘from the boundary with the other use’ is required as in most instances there is no intensive use or land use risk. A lesser setback to a ‘neighbouring landholding’ of 50m may be more appropriate as identified for complying development.
- With a new proposed complying cellar door premises, they will have to be a minimum of 250 metres from both a vineyard (intensive plant agriculture) and a boundary fence. This is an overly restrictive proposal and does not reflect the current demand for tourism activities such a cellar doors premises that have a view/vista of agriculture or the large call for experienced based tourism offers (tours etc) that are better delivered in close proximity to actual agricultural activities. A lesser setback to a ‘intensive plant agriculture’ (vineyards) of 50m is more appropriate as identified for complying development.
- 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.

We make this submission with general support for the proposed changes, but believe that further review of the practical rural application of the proposal is required to take advantage of this once in a generation opportunity to make significant positive changes to regional NSW planning, and to truly make a significant change in the future of agriculture, tourism and the communities of regional NSW.

We remain committed to enacting significant changes for the good of regional NSW and the NSW wine industry and are available at any time to discuss the details of this submission.

Regards



Mark Bourne

President NSW Wine

president@nswwine.com.au

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Friday, 16 April 2021 3:49 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Submitted on Fri, 16/04/2021 - 15:49

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

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Terry

Last name

Mulligan

I would like my submission to remain confidential

No

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Suburb/Town & Postcode

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Submission

This submission by the Hilltops Grape growers Association is in response to the NSW Government's "Explanation of Intended Effect-Agritourism and Small Scale Agricultural Development".

In general, our members welcome the initiative and proposed changed definitions and fast track options as they hope the proposed changes will overcome previous experiences where members have found the process complicated, time consuming and expensive. In almost all cases previous attempts to engage in tourism based value added activities have not proceeded. Our members have been consistent over many years in complaining about the rigid interpretation and imposition of the "rules"; the time and cost involved in the whole process; the lack of any flexibility on addressing specific and historic local factors (gold mining, small soldier settlement blocks, rich soils suited to productive orchard, vineyard and horticulture on smaller rural land holdings). The "rules" prescribed by Council and NSW Government bodies have meant large financial expenditure which far outweigh the capacity of the farm business.

The majority of the "rules" causing these agritourism initiatives not to proceed are not covered by the two 'fast track' options in the Document. These are rules from other sections of the NSW Government, particularly those relating to liquor licencing; regulations relating to the production, serving and sale of food and products related to farm production; access to and from roads; and building and construction regulations.

Accordingly, the DA route is likely to remain the only route for progressing agritourism activities for grape and wine producers in the Hilltops GI region.

In addition, our members are concerned that the "Rules" in the two fast track options will also become the de facto rules in the DA process.

In relation to the proposals in the Document there is general agreement that the changed definitions to agriculture and agritourism are welcome.

There is a strong view that the definitions must apply to the actual land use (rural land used for Primary production) and not to the

definition used by the ATO to define a primary producer. In this context most wine producers are adding value to their own grapes, but the value of the wine so produced can exceed the value of the grapes used in the production of wine. This can result in the grape grower/wine producer losing their status as a "primary producer" since wine production is classified as "manufacturing". The "250 metre rule" in the fast track option has caused some concern and confusion within our membership. One aspect is that commercially viable vineyards and orchards are on small blocks reflecting richer soil types and historic factors. This means neighbouring properties are in close proximity or "just across the road" and are now well within 250 meters of existing buildings and boundaries proposed to be used in new agritourism projects. Our members are also concerned about the expense of providing water and electricity to a building 250m into a property when it already exists close to the boundary.

Another concern relates to whether vineyards and orchards are, or could be, included in "agriculture intensive" activities such as piggeries and feedlots. If this were to be so, then the removal of crop would be necessary and prohibitively expensive to meet the 250m rule.

The Hilltops region is well suited for agritourism with its rolling countryside, agricultural diversity and scenic variety. It is also close to centres of population (Canberra and Sydney) from which to draw more tourists. Attempts to encourage wine tourism by our members to add value to their operations and to the regional economy have largely been frustrated and have not eventuated. Accordingly, members do not believe the initiatives in the Document, regarding the two fast track options, will not apply in practice in the Hilltops region. This leaves the DA route as the only real option. Naturally we are willing to discuss the points made in this submission.

I agree to the above statement

Yes

April 16, 2021

NSW Department of Primary Industries

Proposed Agritourism and Small-Scale Agriculture Planning Reforms

Regional Development Australia Southern Inland (RDASI) would like to thank the Department of Primary Industries of the NSW Government for the opportunity to comment on the subject of agritourism and small-scale agriculture planning reforms for NSW farms.

RDASI is part of a national network of 52 Regional Development Australia Boards across Australia and one of 14 in NSW. RDASI is a Federally funded non-government body encompassing seven Local Government Areas – Wingecarribee, Goulburn Mulwaree, Yass Valley, Snowy Monaro, Hilltops, Queanbeyan-Palerang and Upper Lachlan.

Our role is to promote economic development in the region by identifying opportunities for business development and linking businesses and community organisations with government grants, programs and infrastructure investments, creating jobs and encouraging prosperity for the region's population.

RDASI welcomes recognition of the challenges facing commercial producers and farmers who want to set up an agritourism business to diversify their income streams to support the recovery and resilience of their landholdings and their regional economies. To this respect, diversification capabilities can be the critical safety-net for small scale producers during times of crisis.

Five of the seven Local Government Areas within the Southern Inland region were severely impacted by the 2019-20 bushfires.

The agricultural industry is key to our region, with wool, cattle and sheep contributing 57% of the total value of agricultural production in the Southern Inland region and 34% of NSW's cherry production coming from the region.

The agricultural industry also has a significant input into various other industries such as food manufacturing and freight, with the Southern Inland region having the busiest freight corridor in Australia.

The region's tourism industry has also been affected by the impact of COVID-19. From a tourism perspective, 4.7 million people visited the Southern Inland region in 2019-20 (pre COVID-19), spending more than \$1 billion through over 2,300 tourism businesses. Importantly, these businesses also add to the social and cultural fabric of the region that can be enjoyed by residents, so the impact of COVID-19 on tourism has been particularly felt.

Furthermore, whilst most of the region has benefitted from recent rain, many areas are still technically 'in drought' even as they recover from the drought of recent years. Therefore, it is hoped that the proposed changes to the planning system will contribute significantly to sustainable recovery and provide new contingencies against future weather events.

As a result of the combined impacts of drought, bushfires and COVID-19, RDASI believes that agritourism, the tourism-related experience that connects agricultural products, people or places with visitors to a farm and representing the confluence of agriculture and tourism, needs to be protected, supported and expanded in a sustainable and innovative manner.

We, therefore, welcome the proposed changes which aim to reduce the confusion involved in activity definitions (e.g. 'farm stay') and the complexity and cost of obtaining planning approval for agritourism and small-scale agricultural development and to increase consistency in new development approvals more broadly.

However, RDASI acknowledges that delivery of the proposed changes will take place at a local government level and the service delivery being provided to landholders in terms of facilitating an understanding of existing development standards, to enable exempt and complying developments to proceed, within the new approval pathways, will be critical.

To manage expectations at a local level, Councils will be required to explain their current Local Environmental Plans (LEPs) to landholders and advise, where necessary, that they are working with the Department to facilitate approvals through an amending State Environmental Planning Policy (SEPP).

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.

For its part, RDASI is committed to assisting business owners within its region to implement innovative activities on their farms, including agritourism, and stands ready to support the implementation of the proposed changes to the planning system through stakeholder liaison, business development, skills matching, job creation, facilitating access to funding, advocacy and communications support.

Yours sincerely,



Carisa Wells

CEO and Director of Regional Development

E carisa@rdasi.org.au

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Friday, 16 April 2021 7:36 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Completed

Submitted on Fri, 16/04/2021 - 19:36

Submitted by: Anonymous

Submitted values are:

Submission Type
I am making a personal submission

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I would like my submission to remain confidential
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Suburb/Town & Postcode
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Submission
I support the recommendations contained in the Berry Forum Committee's submission.

Regards
Carole Phillips.

I agree to the above statement
Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Saturday, 17 April 2021 7:22 AM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

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Flag Status: Flagged

Submitted on Sat, 17/04/2021 - 07:21

Submitted by: Anonymous

Submitted values are:

Submission Type

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I would like my submission to remain confidential

No

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Kurrajong 2758

Submission

The current proposal for recreational beekeeping proposes bees are only to be kept in a back yard. I live on a 1 acre battleaxe block with the house located at the rear of the property with the "front yard" being the predominant yard space (approx 75%). A hive is best located in the "front yard" (well over 50m from the public road) and is located farthest from all neighbouring animals & humans. The current limitation in the proposal for bees to be kept only in a backyard would in my case inadvertently increase the risk of adverse bee/human/animal interaction. Reduced adverse bee/human/animal interaction is best achieved by specifying minimum distances from boundaries - not a draconian requirement of a house required to be located between the hive and the public road. I propose battleaxe blocks to be exempt from the "backyard" recreational bee hive location requirement.

I agree to the above statement

Yes

Planning Amendments Agriculture.

April 2021

I wish to object to many of the amendments. The Byron Shire Council has first hand experience of some of these amendments and the serious affects they have on genuine primary production of food and fibre.

The explanation for these changes in many cases is based on turning farmers into developers. The ideas may seem sound but in practise they mean that farmland is purchased by non farmers who see the land as a way to make money from development and use the guise of primary production to get their plans passed. They personally don't even live on the land and have no intention of using it personally for primary production.

Your removal of the term "working farm" may in fact open up farmland for commercial purposes that have nothing to do with the production of food and fibre.

The section of allowing camping may have merit for large properties west of the Great Dividing Range but on small coastal holdings it will be abused.

No council can check on a properties compliance. Who is going to count 20 people, and see if they stay 14 days and check that unoccupied tents and vans are removed..... no one. In Byron Shire you will have small tent/van communities on many small holdings. Why would these people stay 100 metres from a watercourse. The watercourse is the most attractive place to be.

Farmstay that allows 1 dwelling/15 hectares to a maximum for 6 dwellings on 90 hectares if it was rigid and supported by the Land and Environment Court would be good. However, if Byron Shire is any indication, rural landowners ask for 6 and 8 cottages on 15 hectares and they get it. If the council objects they just go to court.

Please be sure that any changes will stand up in a court of law. The non farmer developers will try everything on. They make money through means other than agriculture.

Events have the same issues with compliance. Who checks there are events on just 52 days and there are only 30 guests? No one except the neighbours who face traffic issues, noise issues, being kept awake by amplified music, vehicle movements etc. Rural areas have no background noise unlike the city and noise is very disrupting. The time curfew is also only policed by badly affected neighbours. We faced a wedding event, sometimes twice a week in wedding season. The Byron Shire put a condition of notifying neighbours.... They never did. The owner of the land lived on the Gold Coast and all the events had no affect on him, just the farming neighbours.

The farmgate recommendations are more in line with value adding to farm production. I see no problem with them

In coastal shires and particularly Byron Shire please do not apply these recommendations.

Rural land was cleared and farmed for 100s of years for the production of food and fibre. Farmers care for their land and remove animal and vegetation pests, they rely on keeping their land productive to remain as farmers.

The camping , farmstay and events recommendations on small holdings(less than 30 hectares) turn rural land into commercial sites.Valuable land is turned into a play thing.

Encourage value adding of farm production not off farm activities that badly affect those who are trying to care for their land and produce for the community.

Submission re NSW DPIE – Agritourism Development Proposal

I am greatly concerned that the proposal to change State Environmental Planning policies and the Standard LEP to make it easier to establish agritourism businesses will have significant negative impact on the environment and amenity of rural land in the Shoalhaven.

I fully support the detailed submission prepared by the Berry Forum Committee outlined below. In particular I support recommendation 5 covering the impact on biodiversity and wildlife habitat. This recommendation states:

“Consideration of NSW biodiversity and habitat objectives need to be maintained and potentially expanded. 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.”

The objectives of the submission by the Berry Forum are to ensure the proposed planning changes –

- support agricultural producers who need to supplement their income to maintain the financial viability of their agricultural enterprise and quality of life in an increasingly difficult climatic and business environment.
- 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 key element that needs to be clearly identified and made extremely difficult to circumvent is the eligibility of the agricultural enterprise. This is addressed through two related criteria:

- the primary purpose of the property is agricultural production
- the income generated from agritourism is supplementary in nature.

The proposal also recognised the need to avoid tying the criteria to farm income at a given point in time due to the highly variable nature of agricultural returns. The ATO addresses this issue in relation to the tax advantages offered to primary producers through the definition of a primary producer. Stated simply, the farm must have a business plan to maintain an ongoing and viable enterprise based on commercial agricultural production.

Recommendation 1: The ATO’s criteria and tests for eligibility for primary producer status should be necessary to access the proposed planning changes. Further, this should be done in the context that access would be granted, and the focus of the enterprise will remain primary agricultural production. The meaning of supplementary or ancillary income needs to be defined in exact terms and calculated in terms of gross income associated with the agricultural and non-agricultural income to avoid issues related to tax minimisation. To address the concern related to variability of farm income, income averaging should be allowed.

Recommendation 2: Supplementary income limits should be put in place in terms of the percentage (eg 25%) of total gross income earned by agritourism, with the proviso that income averaging provisions available to primary producers are allowed in the assessment. On granting access to the

planning provisions, notification should be given to the ATO. The issue of maintaining the viability of farm enterprises and farm lifestyle depends on the ownership structure of the farm. These break in two categories, family or limited partnership farms and corporate farms. It does not appear that the spirit of the proposed changes is intended to support corporate owned farms.

Recommendation 3: Access to the proposed planning changes should be limited to family or limited partnership farms as opposed to corporate enterprises. There are considerations that are not tied to commercial aspects of a property seeking access to the proposed planning provisions. These include threats to life and the costs and availability of emergency services.

Recommendation 4: Access to the proposed planning provisions should not be extended to flood prone areas and perhaps other areas subject to extreme events or likely impact of climate change, such as rising sea levels. There is a need to avoid imposing additional costs and harm, under more adverse climatic conditions, in preserving adequate habitat and managing natural and man-made disasters such as bush fires.

Recommendation 5: Consideration of NSW biodiversity and habitat objectives need to be maintained and potentially expanded. 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.

Other Key Issues The proposal to grant broad statewide exemptions for development will inevitably result in the benefits accruing to areas close to Sydney and the major coastal towns that have more amenities and take less time to drive to. Wealthy landowners in those areas will be able to exploit the planning changes to generate significant profits.

Recommendation 6: Exempt development should not be permitted statewide. Over the last four years we have confronted several DAs seeking to exploit the planning provisions for tourist accommodation, so we know what to expect. We have had four meetings with NSW Planning Ministers. Camping for up to 20 people will not be “minor and low impact”, with no access to sewers or town water. How will this be regulated and how will Councils deal with the myriad of issues? At the other extreme in the Shoalhaven, DAs have been lodged for luxury glamping with semipermanent structures seated on very large timber platforms using the ‘Primitive Camping’ description to circumvent safety and amenity regulations.

Recommendation 7: Allowing any number of people in tents, caravans, campervans to be allowed as exempt development is fraught with issues and should be reconsidered. Planning provisions for camping grounds and primitive camping are a mess and ripe for further exploitation. This issue must be addressed before further changes are introduced. Over the last three years, Berry and Kangaroo Valley have been the target of wealthy developers seeking to construct function centres in rural zones. Each application has been accompanied by consultants’ reports that attempt to disguise the dire adverse noise, traffic and amenity impacts. The developers have invariably ignored the genuine concerns of rural communities, which has resulted in concerted opposition to the applications. Those communities are now astonished by the proposal to allow function centres in rural zones as exempt development and are very angry that their distressing experiences could be repeated.

Recommendation 8: Planning amendments should aim to spread the provision of wedding venues to other regional locations. Introducing exempt development for wedding venues in areas like Berry and Kangaroo Valley, at the expense of other regional communities, would be contrary to the core objectives of the Agritourism proposal. Two sets of maximum event and guest numbers is confusing and open to exploitation. Realistically, it will be impossible to restrict the number of events and guests to the proposed limits.

Recommendation 9: As the limits will inevitably be exceeded, they should be simplified to 20 events per year with a maximum of 40 guests per event, and allowed in targeted areas only. If the focus is agriculture, why is it proposed "Councils can then permit farm events in other (nonrural) zones", and why are 'destination weddings under a DA' being proposed?

Recommendation 10: The proposed amendments should be contained to rural zones only. Planning changes to facilitate 'destination weddings' should not be considered as part of this proposal.

Conclusion:

If the issues relating to eligibility and the pervasiveness of exempt development can be resolved appropriately, then the objectives of supporting agricultural producers who need to supplement their income, and ensuring benefits resulting from the proposed planning amendments accrue to real farmers in targeted regional areas can be achieved. However, if those critical issues are not resolved, the benefits for real farmers will be marginal at best, the profits for lifestyle farmers and developers excessive, and the adverse ramifications for rural property owners extremely damaging.

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Saturday, 17 April 2021 4:41 PM
To: Anita Skinner
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Follow Up Flag: Follow up
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Submitted on Sat, 17/04/2021 - 16:41

Submitted by: Anonymous

Submitted values are:

Submission Type

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Kangaroo Valley 2578(

Submission

I do not support these proposals as they are outlined.

The scope of the changes is too broad, often without detailed definitions (eg what is "low scale, low impact" when referring to streamlined approvals), and not really about agriculture at all. They deny local Councils the opportunity to apply their LEP provisions to the benefit of local communities and will be mis-used by wealthy property developers, to the detriment of the targeted farmers.

In Kangaroo Valley in the past 6 years there have been 5 wedding venue Development Applications on agricultural land. None has complied with Shoalhaven LEP 2014 and all have aroused intense community opposition. (Berry has had similar problems too.)

Shoalhaven Council placed stringent conditions on one applicant and he later withdrew. One was rejected outright. Another which was rejected ,went to Land and Environment Court and was won by Council. Two others were halted after the application of the Marshall decision in the L&E Court which stated that under the Temporary Use of Land provisions and Clause 2.8 (in the Standard Instrument) "amenity" must be given important consideration.

Despite this one of these applicants is now in the L&E Court.

Kangaroo Valley already has 13 wedding venues. All the new proposals involved major traffic problems (with Police submission against, in one case), noise, light issues,dust, fire risk etc. A wedding is NOT a farm event or agribusiness.

The proposed changes would allow these applications to succeed to the detriment of all residents and visitors to this tourism based town.

Rural Councils need stronger support for their LEPs. The costs of two L&E Court cases must represent enormous costs for Shoalhaven Council.

I urge the Government to reconsider that this proposal is too broad and takes decision making away from local communities and Councils.

I agree to the above statement

Yes



OUR FUTURE SHOALHAVEN

INC2000820
PO Box 129
Huskisson
NSW 2540

Comment on the Explanation of Intended Effect: Agritourism and small-scale agriculture development

General comment

Our Future Shoalhaven is an organisation concerned with the future of the Shoalhaven and aims to promote a future that is environmentally, economically and socially sustainable; with an economy that offers long-term and diverse jobs, promotes Indigenous rights to land and resources, and where each decision considers future generations.

We endorse the intent of the Agritourism and small-scale agriculture development proposal: “to support(ing) the recovery and resilience of our regional communities and farming” and “support farmers during times of hardship or following natural disaster events”.

We endorse exempt development for replacement of buildings and infrastructure post disaster, but for evaluation purposes consider that registration of the development should be required.

We note also that the policy is not intended to enable hobby farmers but it is not clear how this will be prevented.

We are concerned that the policy will likely have unintended consequences in areas such as the Shoalhaven, where tourism is already one of the dominant industries.

Supporting farmers and not hobby farmers

As we understand it the proposal will target RU1, RU2, RU4 zones.

In the Shoalhaven a significant proportion of property zoned RU1 and RU2 are zones where farming does not occur, and many properties are 2 hectares or smaller in this zone, as a result of subdivisions and land management processes in the 1960s and subsequent transfer of zones into the Local Environment Plan in 2014.

- The problem with the existing approach is that it is not clear as to how to determine that the land is currently a viable farm business.
- We recommend that the policy should target farmers more directly and that the policy not be based on zoning, as zoning is poorly correlated with primary production in the Shoalhaven and no doubt in other regions in the State. That is, there should be a requirement and evidence that the land is being used for primary production. The consequence of introducing these amendments as they stand will be to allow hobby farmers, or people who live on rural blocks for lifestyle reason to get more easily involved with agritourism. This is not the intended effect of the amendments. These landholders are still able to participate in agritourism through the usual mechanisms.
- Alternatively, there should be a minimum size of property before a property holder can legally use the exemptions or compliance rules.



OUR FUTURE SHOALHAVEN

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- It isn't explained how Clause 2.6 will be amended to prevent the fragmentation of prime agricultural land.

Infrastructure management

- Water supply and sewerage management is not adequately acknowledged and yet most of the proposed activities will greatly increase the supply needed to the farm. Camping, as with any accommodation, needs to have proper toilet facilities to prevent contamination of the farm land and water. As such, any accommodation, farm gate activities which involve stays of over 30 min (cafes, restaurants, workshops), or events should be removed as exempt development as these will require additional sewerage facilities, possibly as high as 25 times previous load and compliance should be confirmed (one farm with two people in residence now accommodating up to 50 at any one time).
- All proposed agritourism activities on bushfire land should be obliged to plan for visitor safety.

Impacts on neighbours

- There has been no reference to social impacts at all – tourist traffic on neighbours, tourist complaints about neighbouring farms such as machinery noises, farm smells and so forth. Neighbouring farmers should not have to curtail their work because someone has built accommodation. Non farming activities (e.g. accommodation, events) should not impose restrictions upon neighbouring farm activities.
- All setbacks must be defined from the property boundary, not neighbouring dwelling as the latter has the potential to prevent the neighbour from undertaking various activities.
- Existing neighbours must be notified of the development and given the right to veto the development as the activities may impinge on their legitimate farming activities e.g. disturbance of stock, concerns about polluted runoff, additional traffic and so on.
- Events, tour, functions and conferences are very loose terms, therefore approved events need to be listed, and compatible with the purpose of primary production, so for example, events around racing, or festivals should not be exempt or complying.
- On the whole the exempt and complying developments should be for activities and forms that will not create noise / disturbance for neighbouring farms/stock, visual disturbance for neighbouring farms / stock, harm to the environment; the proprietor must be a guarantee to repair roads that are impacted by extra traffic (by council); where landscape means that noise will be carried to neighbours e.g. the neighbour is above them some attempt at a sound barrier (planting, other) will need to be installed.
- Parking must not be on the road verge except for farm gate sales.
- Signs must be on landholder's property, not verge except at farm gate.



OUR FUTURE SHOALHAVEN

INC2000820
PO Box 129
Huskisson
NSW 2540

Further restrictions

- 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.
- No native trees or vegetation shall be removed in the development of any exempt or compliant agritourism / farmgate activity.
- Land that is considered biodiversity corridor, biodiversity significant vegetation and excluded land cannot have agritourism as exempt or complying developments.
- Farm gate activities should not be exempt in any bushfire prone land consistent with accommodation – these activities include cafes, workshops etc. where people will be inside for a period of time, and the buildings will need to be certified and safely built.
- Limit the size of a verandah that can be constructed as exempt development.

Final comments

- The document should not confuse 'ecotourism' with agritourism (p 6). Ecotourism is

"responsible travel to natural areas that conserves the environment, sustains the well-being of the local people, and involves interpretation and education" (TIES, 2015). Education is meant to be inclusive of both staff and guests. <https://ecotourism.org/what-is-ecotourism/>

Ecotourism is not agritourism. By its very nature, farming does not conserve the environment.

- We do not support the inclusion of other zones in this proposal.

Whilst the government is trying to fast track and make economic options easier for many people, what maintains Australians' quality of life is regulation and oversight of developments to ensure that standards around air quality, soil quality, water quality, habitat quality are maintained. Not to protect these resources will ultimately result in greater cost.

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Saturday, 17 April 2021 7:47 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Sat, 17/04/2021 - 19:47

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Colin

Last name

Booth

Council name

Shoalhaven City Council

I would like my submission to remain confidential

No

Info

Email

cpbooth@outlook.com

Suburb/Town & Postcode

2535

Submission

My wife and I strongly support the submission forwarded by the Berry Forum Committee.

Sincerely,

Colin P Booth

I agree to the above statement

Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Saturday, 17 April 2021 10:53 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Sat, 17/04/2021 - 22:53

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Keith

Last name

Learn

Council name

Shoalhaven City Council

Council email

keithbarb09@gmail.com

I would like my submission to remain confidential

No

Info

Email

keithbarb09@gmail.com

Suburb/Town & Postcode

Kangaroo Valley

Submission

I do not agree that zones Ru1, Ru2 and Ru5 should have exempt or complying conditions applied. Kangaroo Valley is made up of all Ru zones except for Environmental Zones on the upper perimeters of the enclosed rim. The Shoalhaven City Council SLEP has ample 'permissible with consent' farm development opportunities numbering over 20 covering structure, tourism developments for accommodations and alternate business opportunities. Eliminating Council and Community involvement is not acceptable.

The sloppy Standard Instrument provided for the establishment of the current LEP opened the area to developers which has destroyed the fabric of the community. SLEP 2014, clause 2.8 (Temporary use of land) availed itself to developers to run riot over the Council and our region.

The developers are mostly out of town businesses with no interest in the community. Your Department has made a mess of it and is about to repeat the farce.

A good example of recent planning errors is the short term rentals or Airbnb policy allowing self management. Kangaroo Valley is loaded with them and the government, council or the Airbnb organization haven't a clue who they are. Therefore no compliance for

safety, fire protection or building standards are applied. No housing is available to teachers, workers etc. under \$1,000,000 Well done!

Leave hard fought LEP's alone, allowing individual Councils to apply for modifications to their LEP's as their areas need change. Allow Councils to administer and the community to have input.

NO to your proposed changes

I agree to the above statement

Yes

Re: Agritourism Development Proposal

I write to object to the Agritourism Development Proposal as it stands now.

I appreciate that some farmers would benefit by diversifying their income, and low-scale camping and ecotourism¹ may be one way to do this. But the developments will not necessarily be low-scale or eco-friendly unless this is distinctly specified as part of the amendments. My concerns are about the potential impact on biodiversity, wildlife habitats and corridors, water availability and quality, sewage and waste management, noise, traffic safety, fire-safety, and conversion of agricultural land.

More specifically,

- The proposal's reference to *"existing commercial farming business"* (paragraph 3.2) is not specific enough. Eligibility should be established according to the implied intent of need.
- The proposal's statement in paragraph 3.4 that *"Initially, farm events will be permissible in all LEPS wherever 'agriculture' is currently permissible. Councils can then permit farm events in other zones"* contradicts the first dot point of paragraph 3.2 *"locations that cannot be reached by day trip from major centres"* as well as the suggestion that this is about agriculture and rural areas.
- 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 impacts listed above.
- Camping of 20 persons at any time in tents, caravans and similar portable shelters on individual landholdings throughout the year is listed as both exempt and complying development. This should not be exempt development. There must be some process of assessment regarding location, scale, frequency and how negative social and environmental impacts will be avoided. Additionally, it needs to be determined how many such arrangements can occur within a given spatial area or catchment. Impact cannot be determined individually, but also on a cumulative basis. The proposal should not apply throughout the state, but only to destinations that can accommodate such activities as a positive development in the local community and with provisos regarding the above potential impacts.
- The proposals for *"up to 52 events per year with a maximum of 30 guests"* should not be exempt development. If farmers want to run a high-intensity business as a supplement to their farming income, considerable planning, assessment for impact control and consultation with the local community must be required. Regular events of this scale, as well as weddings, should not be considered as part of any proposal about exemption or fast-tracking, but on a case-by-case basis under normal planning provisions.

As we know, the loss of biodiversity, water quality and prime agricultural land has commonly occurred through incremental development – taken together these decisions and actions change the face of communities and the resource base on which they/ we all depend. We regularly have scientists warning us about the enormous dangers faced as a result of degrading environmental conditions (Rockström et al. 2009; Bradshaw et al. 2021) – we can't keep ignoring these.

¹ Ecotourism is tourism, which is sensitively designed to avoid negative ecological impact; scaled and located to minimise physical footprint, noise and visibility; operates within the constraints of existing resources (e.g., water); and supports conservation of biodiversity and ecosystem services.

The idea for agritourism is good in theory, but in practice is not simple, and can only “mitigate undesired impacts” if prior good policy work and planning is invested. The baseline measure should be defined ecotourism qualifications with respect to location, scale, activities, resource consumption, recycling; and with provision for operations to be closed where these qualifications are breached. We have to start making the tough but required decisions.

Sandy Fritz
sfritz@westnet.com.au

Bradshaw et al. 2021, “Underestimating the Challenges of Avoiding a Ghastly Future”, Front. Conserv. Sci., 13 January 2021, <https://doi.org/10.3389/fcsc.2020.615419>

Rockström et al. 2009, “Planetary Boundaries: Exploring the Safe Operating Space for Humanity”, Institute for Sustainable Solutions. [Planetary Boundaries \(jstor.org\)](#)

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Sunday, 18 April 2021 6:58 AM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Sun, 18/04/2021 - 06:57

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Peter

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Shead

Council name

Shoalhaven City Council

Council email

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I would like my submission to remain confidential

No

Info

Email

peter@airtronics.com.au

Suburb/Town & Postcode

Berry 2535

Submission

Re: NSW DPIE - Agritourism Development Proposal

We write to express our serious concern against the proposal and fully support the submission by the BERRY FORUM COMMITTEE.

Our understanding is that very few farms and farmers could genuinely continue to be financially viable, as primary producers, unless supplemented by income from "agritourism".

The cost to the people of NSW, resulting from the bureaucracy required to responsibly oversee and control such development, would far exceed any financial or social benefit. More significantly, the resulting social and environmental detritus of the development would outweigh any actual benefit, being fundamentally opposed to the objective of

genuine primary production.

Yours faithfully

Peter and Margaret Shead
69 Parker Crescent
Berry
NSW 2535

I agree to the above statement

Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Sunday, 18 April 2021 8:53 AM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Completed

Submitted on Sun, 18/04/2021 - 08:52

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Neil

Last name

Baker

Council name

Tweed Shire Council

I would like my submission to remain confidential

No

Info

Email

neil@neilbaker.com.au

Suburb/Town & Postcode

Murwillumbah 2484

Submission

We are a family of 5 generations farming at the "The Bamboos" in the Tweed Shire since 1911.

We wish to strongly support the proposed amendments.

Many farmers, rural landholders and community members strongly advocated for secondary dwellings on local farms and properties in Tweed Shire to assist families stay together, generate additional income and allow the younger generations to care for our parents.

Our family are the perfect example. We are caring for my elderly father who is nearly 94 and lives nearby. We have a son who wants to build his own house on the farm and have his independence. With 240 acres to build on, Tweed Shire Council does not want us to have the flexibility to allow an additional dwelling for him.

Council does not even recognise the severe housing shortage on the Tweed.

The Shire is suffering severe housing stress so anything that assists to reduce the heavy demand for housing, lower the high rental costs and allows families to care for one another and stay as a family unit should be strongly supported.

Many feel Council only gave lipservice to the process preparing the Rural Land Strategy. There is substantial documentation to confirm the process was flawed.

In Council's own draft of the RLS it is stated that " whilst many submissions from farmers and landholders were submitted Council discounted them as they felt it was from only a small section of the community" (Copy can be supplied) Indeed, at a public Meeting where this was read out, Councillors were shocked that this statement was included in the document (The paragraph was subsequently removed).

We desperately need to be able to adapt to the changing economic and agricultural environment just as our family has continually evolved over the last 110 years.

I want to pass our family heritage on to the next generations.

We implore the State Government and our local representatives to listen to our concerns and assist our local farmers, rural landholders and families to survive and prosper.

I agree to the above statement

Yes

Submission re NSW DPIE – Agritourism Development Proposal

Objectives

The objectives of this submission are to ensure the proposed planning changes –

- support agricultural producers who need to supplement their income to maintain the financial viability of their agricultural enterprise and quality of life in an increasingly difficult climatic and business environment.
- 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.

Eligibility

A key element that needs to be clearly identified and made extremely difficult to circumvent is the eligibility of the agricultural enterprise. This is addressed through two related criteria:

- the primary purpose of the property is agricultural production
- the income generated from agritourism is supplementary in nature.

The proposal recognises the need to avoid tying the criteria to farm income at a given point in time due to the highly variable nature of agricultural returns. The ATO addresses this issue in relation to the tax advantages offered to primary producers through the definition of a primary producer. Stated simply, the farm must have a business plan to maintain an ongoing and viable enterprise based on commercial agricultural production.

Recommendation 1: The ATO's criteria and tests for eligibility for primary producer status should be necessary to access the proposed planning changes. Further, this should be done in the context that access would be granted, and the focus of the enterprise will remain primary agricultural production.

The meaning of supplementary or ancillary income needs to be defined in exact terms and calculated in terms of gross income associated with the agricultural and non-agricultural income to avoid issues related to tax minimisation. To address the concern related to variability of farm income, income averaging should be allowed similar to that provided to farmers by the ATO.

Recommendation 2: Supplementary income limits should be put in place in terms of the percentage (eg 25%) of total gross income earned by agritourism, with the proviso that income averaging provisions available to primary producers are allowed in the assessment. On granting access to the planning provisions, notification should be given to the ATO.

The issue of maintaining the viability of farm enterprises and farm lifestyle depends on the ownership structure of the farm. These break in two categories, family or limited partnership farms and corporate farms. It does not appear that the spirit of the proposed changes is intended to support corporate owned farms.

Recommendation 3: Access to the proposed planning changes should be limited to family or limited partnership farms as opposed to corporate enterprises.

There are considerations that are not tied to commercial aspects of a property seeking access to the proposed planning provisions. These include threats to life and the costs and availability of emergency services.

Recommendation 4: Access to the proposed planning provisions should not be extended to flood prone areas and perhaps other areas subject to extreme events or likely impact of climate change, such as rising sea levels.

There is a need to avoid imposing additional costs and harm, under more adverse climatic conditions, in preserving adequate habitat and managing natural and man-made disasters such as bush fires.

Recommendation 5: Consideration of NSW biodiversity and habitat objectives need to be maintained and potentially expanded. 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.

Other Key Issues

The proposal to grant broad statewide exemptions for development will inevitably result in the benefits accruing to areas close to Sydney and the major coastal towns that have more amenities and take less time to drive to. Landowners in those areas, not in need of assistance, will be able to exploit the planning changes to generate significant profits.

Recommendation 6: Exempt development should not be permitted statewide. Over the last four years we have confronted several DAs seeking to exploit the planning provisions for tourist accommodation, so we know what to expect. We have had four meetings with NSW Planning Ministers.

Camping for up to 20 people will not be “minor and low impact”, with no access to sewers or town water. How will this be regulated and how will Councils deal with the myriad of issues?

At the other extreme in the Shoalhaven, DAs have been lodged for luxury glamping with semi-permanent structures seated on very large timber platforms using the ‘Primitive Camping’ description to circumvent safety and amenity regulations.

Recommendation 7: Allowing any number of people in tents, caravans, campervans to be allowed as exempt development is fraught with issues and should be reconsidered.

Planning provisions for camping grounds and primitive camping are a mess and ripe for further exploitation. This issue must be addressed before further changes are introduced.

Over the last three years, Berry and Kangaroo Valley have been the target of wealthy developers seeking to construct function centres in rural zones. Each application has been accompanied by consultants' reports that attempt to disguise the dire adverse noise, traffic and amenity impacts.

The developers have invariably ignored the genuine concerns of rural communities, which has resulted in concerted opposition to the applications. Those communities are now astonished by the proposal to allow function centres in rural zones as exempt development and are very angry that their distressing experiences could be repeated.

Recommendation 8: Planning amendments should restrict the provision of wedding venues to less accessible regional locations *"that cannot be reached by day trip from major centres"*. This would also encourage the use of on-farm accommodation.

Based on the stated objectives for the proposed planning amendments, there can be no justification for relaxing current provisions applying to wedding venues in areas like Berry and Kangaroo Valley.

Two sets of maximum event and guest numbers is confusing and open to exploitation. Realistically, it will be impossible to restrict the number of events and guests to the proposed limits.

Recommendation 9: As the limits will inevitably be exceeded, they should be simplified to 20 events per year with a maximum of 40 guests per event, and allowed in targeted areas only (see Recommendation 8).

If the focus is agriculture, why is it proposed *"Councils can then permit farm events in other (non-rural) zones"*, and why are *'destination weddings under a DA'* being proposed?

Recommendation 10: The proposed amendments should be contained to rural zones only. Planning changes to facilitate *'destination weddings'* should only be considered within the context of Recommendation 8. above

Conclusion

If the issues relating to eligibility and the pervasiveness of exempt development can be resolved appropriately, then the objectives of supporting agricultural producers who need to supplement their income, and ensuring benefits resulting from the proposed planning amendments accrue to **real farmers in targeted regional areas** can be achieved.

However, if those critical issues are not resolved, the benefits for real farmers will be marginal at best, the profits for lifestyle farmers and developers excessive, and the adverse ramifications for rural property owners extremely damaging.

The Berry Forum Committee

<http://berryforum.org.au/>

As a hobbyist 'orchardist', living immediately adjacent to Fernhill in Mulgoa Valley, I have major issues with fruit flies. Systemic pesticides are not available to me, mostly because of its toxicity. And fruit fly baits are not totally effective and time consuming. It is my biggest pest problem with my stone fruit trees and several other soft skin fruit trees.

I have never harvested any decent grape and only once had a box of cherries after more than 20 years. When ripe, they are rapidly subjected to fungal attack when it gets wet in summer, even within a day. I wonder about the wisdom of planting grapes and stone fruits in an area where the summers are not dry like in a Mediterranean climate. The land will be drenched in fungicides, frequently.

Now in Mulgoa Valley, I have to contend with the most destructive wild deer and in the past with mice, birds, bats and possums which are still there. And for some fruits and vegetables, caterpillars, slugs and snails have to be controlled too.

The use of fertilisers have contributed to algae in our dam. And there are hazards for frogs when glyphosate is used regularly. All these chemicals will run off onto the waterways eventually.

The use of frames for netting is not consistent with a colonial facade for this area and I wonder how agritourism is going to defend against the pest I have mentioned above.

Mulgoa is mostly like a desert most years and summers are getting hotter (with occasional very cold nights in winter). My concern here is where is the water for irrigation going to be obtained to sustain a sizable agritourism project? Bore water and river water should never be tapped for tourism purposes. And how are the plants going to be protected against bushfires? We have had many trees uprooted by wild thunderstorms. For tourism, the planted areas will need to be mowed frequently. And there will also be snakes, spiders, bull ants and wasps for visitors to contend with.

Currently the massive dam at Fernhill is an illegal unapproved construction. I have warned Penrith City Council that the retaining wall is not being assessed nor monitored. If breached or leaking, we are at danger of a mini-tsunami when it breaks.

While agritourism sounds attractive and appealing, the effect on ecology will greatly outweigh its benefits. And how are the endangered and rare Regent Honeyeaters going to compete with other birds that are attracted to the crops/plants of the agritourism projects? Their native habitat should be preserved or even extended.

Biodiversity, heritage and scenic conservation should rate above agritourism development, considering Mulgoa Valley is the best preserved historical area near Sydney and the Aerotropolis. Do you plan to damage the ecology as well in the interest of business?

Dr Heng K Tey
1 Mayfair Road
Mulgoa NSW 2745

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Sunday, 18 April 2021 11:52 AM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Completed

Submitted on Sun, 18/04/2021 - 11:51

Submitted by: Anonymous

Submitted values are:

Submission Type
I am making a personal submission

Name

First name
Catherine

Last name
Barlow

Council name
Shoalhaven City Council

Council email
barlowpeach@gmail.com

I would like my submission to remain confidential
No

Info

Email
barlowpeach@gmail.com

Suburb/Town & Postcode
Berry 2535

Submission
I support the arguments in the Berry Forum submission.
Berry is 2 hours south of Sydney and is already reeling from development of all types that will destroy the Berry village. Berry's attraction as a day trip destination and wedding/ events venue relies on its heritage characteristics and rural setting. The viability of business in Berry and the local area is being destroyed by recent developments.
The almighty dollar is the only motivation and it is destroying the very local character that the government claims to want to protect. I have no confidence that these proposals will not be circumvented.

I agree to the above statement
Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Sunday, 18 April 2021 11:53 AM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Completed

Submitted on Sun, 18/04/2021 - 11:53

Submitted by: Anonymous

Submitted values are:

Submission Type
I am making a personal submission

Name

First name
Stephen

Last name
Lead

Council name
Shoalhaven City Council

Council email
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I would like my submission to remain confidential
No

Info

Email
stephen.lead@gmail.com

Suburb/Town & Postcode
BERRY

Submission
I support the recommendations contained in the Berry Forum Committee's submission

I agree to the above statement
Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Sunday, 18 April 2021 12:26 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Sun, 18/04/2021 - 12:25

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Lee

Last name

Hopperton

Council name

Shoalhaven City Council

I would like my submission to remain confidential

No

Info

Email

lee.hopperton@yahoo.com

Suburb/Town & Postcode

2535

Submission

I support the submission made by Berry Forum committee. I believe that as it stands the proposal will have a number of unintended consequences. In particular I think there will be significant unsympathetic development on hobby farms and rural properties where agriculture is not the primary function.

I agree to the above statement

Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Sunday, 18 April 2021 1:30 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Sun, 18/04/2021 - 13:29

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

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First name

Paul

Last name

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I would like my submission to remain confidential

No

Info

Email

andoshome@tpg.com.au

Suburb/Town & Postcode

Berry 2535

Submission

I support the recommendations contained in the Berry Forum Committee's submission. The northern Shoalhaven region has been subject to numerous attempts by developers to subvert the provisions of the Shoalhaven LEP to establish inappropriate back door short term tourist accommodation enterprises which would have a deleterious effect upon neighbours and adjoining property holders. The proposed Agritourism Amendments should take up the reasoned recommendations put forward by Berry Forum to ensure that any developments are not encouraging or fostering those developers and entrepreneurs who simply want to exploit and hold short term events without actually participating in the conduct of genuine agricultural productive activity. Thanks

I agree to the above statement

Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Sunday, 18 April 2021 1:37 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Sun, 18/04/2021 - 13:36

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Belinda

Last name

Reynolds

I would like my submission to remain confidential

No

Info

Email

orange.secretary@beekeepers.asn.au

Suburb/Town & Postcode

Cumnock 2867

Submission

Agritourism and small-scale agriculture development: Proposed amendments to support farm businesses and regional economies, item 3.12 Recreational Beekeeping

The Orange Amateur Beekeepers Club objects to the proposed amendment 3.12.1

"Must not contain any hive within 1m of any lot boundary, or within 3m of any boundary adjoining a public reserve, childcare centre, health services facility, educational establishment or community facility"

Our Club meetings are often held at the Environmental Learning Facility, Orange Showground, Orange and we have 2 Club hives situated in the garden area next to this facility which also includes a community garden. We use the hives to educate our members and provide hands on experience in the practicalities of beekeeping for our members including biosecurity and safety considerations for our members, other users of the facility and the general public.

A major purpose of the ELF is to provide a venue to support and foster environmental education and workshops for the local community so it would likely fall under the brackets of educational or community facility.

The proposed amendment as stated will, we believe, severely impact our Club's ability to have the hives located on their current site.

The DPI Code of Practice adequately covers responsible hive management and placement and having to submit a Development Application would be onerous to amateur beekeepers and create unnecessary work for Councils.

Has there been sufficient consideration of the impact of this proposed change to Amateur Beekeeper Clubs such as ours and also other educational facilities such as Schools who have hives on their grounds educating the next generations of beekeepers?

I agree to the above statement

Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Sunday, 18 April 2021 1:53 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Completed

Submitted on Sun, 18/04/2021 - 13:52

Submitted by: Anonymous

Submitted values are:

Submission Type
I am making a personal submission

Name

First name
Laurence

Last name
Wakelin

Council name
Shoalhaven City Council

I would like my submission to remain confidential
No

Info

Email
l.wakelin@unsw.edu.au

Suburb/Town & Postcode
BERRY

Submission
I support the recommendations contained in the Berry Forum Committee's submission.

I agree to the above statement
Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Sunday, 18 April 2021 1:59 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Completed

Submitted on Sun, 18/04/2021 - 13:59

Submitted by: Anonymous

Submitted values are:

Submission Type
I am making a personal submission

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First name
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Last name
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Council name
Shoalhaven City Council

I would like my submission to remain confidential
No

Info

Email
nualahig@gmail.com

Suburb/Town & Postcode
BERRY

Submission
I support the recommendations contained in the Berry Forum Committee's submission.

I agree to the above statement
Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Sunday, 18 April 2021 2:06 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Completed

Submitted on Sun, 18/04/2021 - 14:05

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

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I would like my submission to remain confidential

No

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Suburb/Town & Postcode

BERRY

Submission

We would like to support the submission by the BERRY FORUM on the new Agritourism proposals .
Having been small acreage landholders in the Berry area for about 25 years , we have witnessed many times , attempted very marginal developments which may benefit one landholder but adversely affect many surrounding properties .
When persons purchase property in this area they are , or should be , aware of provisions in planning documents . The Government , and Councils , should be very careful not to allow any relaxations in these Rules which might adversely affect other landholders . Max and Elaine CRISP

I agree to the above statement

Yes

AGRITOURISM

EIE:

“To respond to natural disasters, droughts and bushfires.....

Comment: *It is interesting to note that floods are not mentioned as a natural disaster given the impact recent floods have had on farmers and agriculture. DPIE needs to make the amendment because, as it stands, it may suggest a blind ideological view in the climate change debate.*

1.2 Background

- “Growing or emerging industries that are supplementary to or based on agriculture”.
- The underlying principle is that the proposed amendments have **no or low environmental impact**

Comment: The idea of having a one-size-fits-all Standard LEP is flawed. The nature of agricultural land holdings, their use, regional considerations and demographic makes it almost impossible to apply the same standards for serious agricultural businesses and holdings west of the Great Divide compared to (mostly) hobby farm land holdings within the Sydney Basin.

Further, the proposals can easily be applied to Greater Sydney Parklands by DPIE and, under the guise of agritourism, introduce commercial activities which are quite inappropriate and which can destroy not only the environmental qualities of an area but also compromise residents’ local amenity. One example where this could happen is the Fernhill Estate where government is looking at commercial activities in the Littlefields Road precinct to cover costs although it still has not done any financial modelling of potential activities.

Fernhill’s possible activities could easily be envisaged by DPIE as agritourism particularly if a small component is related to agriculture. The use of the Littlefields precinct for commercial activities would fly in the face of DPIE’s underlying principle and create an unfair playing field for other landowners in Mulgoa Valley who may have genuine small scale agriculture activities. I would like DPIE to give a wide range of examples as to what they see as genuine agricultural pursuits.

Two final questions: do the proposed amendments also apply to government owned parkland?

1.3 What is proposed

Comment: The proposed amendments supposedly apply to farmers where farming is their principal business. Any amendments should strictly exclude recreational landowners whose properties or activities do not meet the business test under the Tax Act and are not registered for GST in terms of carrying on an agricultural business. As the amendments stand it seems that the amendments may apply to hobby farms and anything in between particularly where recreational bee-keeping is referred to on a land holding as small as 300m². Such a proposal is almost laughable. Next a single hive will come under the proposed amendments where an apartment with a floor area and balcony $\geq 300\text{m}^2$ is permissible. Again, in the example given for the Fernhill Estate it could qualify for Agritourism by having token agricultural products such as honey or bottles of wines sourced off-property.

PART 2 – CONTEXT

2.1 Background

- “.....better support farmers’ ability to innovate and diversify from purely primary production to other forms of value adding or complementary agribusiness”.
- “.....Agritourism involves visiting a farm or food related business for enjoyment and education or to participate in activities and events”.
- “support investment in farms seeking supplementary incomes through other uses on the land

Comment: My view is that complementary agribusiness, activities and events should be restricted to operating farms which is the principal business of the farmer. The farming business should not be supplanted by non-agricultural related activities that are antithetic.

2.2 CONSULTATION AND COLLABORATION

2.2.1 Making Business Easier

- “The department has worked with the commission to identify simplified pathways to establish low impact agritourism businesses on farms, including farm stay accommodation, farm tours, roadside stalls, farm events and retail on farms. This work aligns with the department’s commitment to reduce red tape and make the planning system easy to use”.
- “.....Agritourism activities include direct shopfront outlets”.

Comment: “retail on farms” can have a wide and subjective meaning. For example, retail shops on the Littlefields precinct which may sell token agricultural products (eg bees wax) may be approved but has the effect of changing the entire rural and agricultural feel of the area. This could be an opportunity for other landowners to set up such roadside outlets or retail outlets within their property which may have little to do with agriculture. That is why any proposed changes should be restricted to working farms.

The principle of giving farmers the opportunity to supplement their income and decrease red tape is sound as long as the scale of the activity doesn’t affect other landowners/farmers or diminish the regional character. Therefore, scale, type of activity, the effect on local amenity (traffic and crowds) must be considered otherwise “aspirational agri-entrepreneurs” may soon metamorphose into opportunistic entrepreneurs. The Standard LEP is dangerous for the Sydney Basin where a mere 6% of Cumberland Plain Woodland remains thanks to poor state government planning over many years.

There is no doubt that Agritourism has strong appeal to the thousands of city dwellers seeking to escape the noise, pollution and traffic congestion of Sydney. However, the first question that DPIE needs to ask itself is why citizens seek out Agritourism experiences. It is the same reason why people go on holidays to other destinations. People go to these places because they offer a different experience. They are attracted to the natural environment, the open space and clean air and the cultural and historical richness of places. The last thing they want to do is go to a place which is a facsimile of the sad and monotonous suburbs they have come from. It is therefore incumbent on

DPIE to ensure the natural and agricultural qualities of these places are not compromised by over-commercialisation.

PART 3 – PROPOSED AMENDMENTS

3.1 Overview

The proposed changes include:

1. **Farm stay accommodation:** amending the existing definition for farm stay accommodation in the Standard Instrument LEP Order

Comment: How would the number of “farm stay” dwellings or any activities be policed and by whom? Councils can’t even currently monitor flagrant examples of LEP and DCP abuse by opportunistic landowners.

2. **New land use terms:** introducing two new land use terms for farm gate activities and farm events in the Standard Instrument LEP Order. Including the new term in the Standard Instrument LEP Order will automatically introduce the term into all Standard Instrument LEPs

Comment: This would need to be carefully considered because Councils will have to comply even if the amendments compromise areas they may wish to protect. The standard LEP is not appropriate for the Sydney metropolitan area.

3. **New optional LEP clauses** - introducing new optional clauses for farm stay accommodation and farm gate activities that councils can apply where a development application is required

Comment: This may address concerns expressed in 2. above but we would need to see what powers Councils have to deny inappropriate developments.

4. **New approval pathways** - providing exempt and complying development approval pathways in the Codes SEPP for agritourism activities where certain development standards are met

Comment: Again, the devil is in the detail

5. **Small-scale processing plants** - allowing the establishment of small-scale processing plants as complying development for meat, dairy and honey where certain development standards are met

3.2 Farm Stay Accommodation

Current Definition (Standard Instrument LEP)

- ‘farm stay accommodation’ means a building or place that provides temporary or short-term accommodation to paying guests on a working farm as a secondary business to primary production

Comment: Under private certification and court challenges new definitions may be compromised.

3.2.1.1 Proposed definition

- It is proposed to amend the existing definition of farm stay accommodation in the Standard Instrument LEP Order to:
 - remove the references to working farm and secondary business as these requirements are restrictive for farms that operate on a seasonal basis and are not typically planning considerations

Comment: What is a non-working farm? The definition needs to be very tight. Aren’t the proposed amendments intended to support genuine farmers giving them alternative revenue sources to smooth out the hardship caused by natural disasters? Why would it even provide a sniff of opportunity for opportunistic hobby farmers whose income source is non-agriculture related?

- enable farm stay accommodation on a farm that is currently not producing goods because of drought or similar events outside the landowner’s control

Comment: a noble thought on the face of it but how is it policed to ensure the system is not being exploited.

- include accommodation in a building and camping (camping is currently not included under farm stay accommodation). It is proposed to amend the definitions of camping ground and caravan park to exclude tents, campervans and caravans erected on land for the purposes of farm stay accommodation. This is intended to facilitate small-scale camping being undertaken on a farm as exempt development (described below).

Comment: How small is small scale? Disparate hobby land holdings, even of 10ha or more, can affect an entire sensitive area and should not be allowed in the Sydney Basin.

- Amending the definitions in the Standard Instrument LEP Order will amend the definitions in all Standard Instrument LEPs.

Comment: Based on the new definition Fernhill and other properties in Mulgoa Valley should be safe. While camping/glamping is one of the possibilities for Fernhill other properties would fail the “secondary business to primary production” test

3.2.1.3 Approval Pathways

OK, but question the maximum height allowed of 6m. Restrictions on development in terms of scale seem reasonable but I question the maximum height of 6m. Is DPIE thinking of the construction of a large barn or the erection of indoor equestrian? Any height allowances must not run contrary to Councils’DCP

3.2.2 Farm stay accommodation - consultation questions

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

Comment: Possibly no, but should depend on overall land holding, regional vicinity and community impact.

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?

Comment: Probably would agree. It would force landowners to consider their own amenity.

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.

Comment: Yes. Location generally determines size of land holding and general impact on community. It may be necessary to provide sub-categories west of Great Divide (a big area) or simply use a land size model. There definitely should be different development standard east of the Great Divide given the small land holdings (many of which are hobby farms and not the primary source of income. Because of the smaller and disjointed land holdings and their use there is a far greater potential for undesired impacts on the wider community and impacts on remaining endangered vegetation communities.

3.3 Farm gate activities

It is proposed to introduce a new land use term ‘farm gate activities’ into the Standard Instrument LEP Order to provide greater opportunities for landowners to showcase the agricultural produce from their land or the surrounding area through retail sales, a small restaurant or café, or tastings and workshops.

Comment: Generally, and following on from the answers given to questions in 3.2.1.3 above I think it is dangerous to have a “Standard Instrument LEP” for land holdings whether they be east or west of the Great Divide. Depending on location, the impacts can be significantly different.

To ensure farm gate activities remain low intensity uses, an optional clause is proposed that councils can choose to adopt and tailor to suit local conditions.

Comment: This is an improvement but decisions can be made by Councils along political lines and subject to external coercion. So, not necessarily the right way forward.

Exempt and complying development pathways have also been developed to allow streamlined approval pathways for farm gate activities on certain land. This will allow some building works as complying development, changing the use of existing buildings to farm gate activities and erecting a roadside stall as exempt development.

Comment: Any changes to existing uses must have a very strong connection to the produce on the farm which should always be the major activity of the land holding even if, at times, the major source of income comes from related farm gate activities. If not, DPIE’s proposed Standard LEP is a smoke screen for other activities which may have a serious deleterious effect on the local area.

3.3.1.1 Proposed definition

It is proposed to introduce a new land use term in the Standard Instrument LEP Order for farm gate activities which includes:

- a. the processing, packaging and sale of agricultural produce, or
- b. a restaurant or café, or
- c. facilities for the holding of tastings, workshops or providing information or education to visitors for agricultural produce grown on the farm or predominantly grown in the surrounding area.

Comment: The section I have underlined is dangerous. This addition does not make it clear that the principal use of the land is the production of agricultural goods. Just the opposite! A land holding could not be used for agriculture at all but justify further development on the basis that it is utilising agricultural goods from the surrounding area. For example, the landowner could build a restaurant and sell a few jars of honey or bottles of wine. I would also like to see a tighter definition for “local area”.

The proposed definition will make it clear that the principal use of the land must be the production of agricultural goods for commercial purposes. The proposed new term will also enable farm gate activities where the farm is currently not producing goods because of drought or similar events outside the landowner’s control.

Comment: Regardless of drought, bushfires or flood farm gate activities will continue regardless of whether normal agricultural income resumes because it appears there is no time limit in these supplementary activities.

3.3.1.3 Approval pathways

Use of land for farm gate activities

It is proposed to allow the use of land for farm gate activities on rural zoned land as exempt development and introduce the following development standards:

Comment: I consider it a mistake to allow farm gate activities on rural zoned land regardless of land holding size or location. It is far too general and open to exploitation particularly east of the Great Divide.

Erection of a roadside stall

It is proposed to allow the erection of a roadside stall on rural zoned land as exempt development and introduce the following development standards:

Building use, location and size

- the use must be permissible with consent under council's local environmental plan
- maximum footprint 8 square metres
- the development must be located on private property
- the development must not be located adjacent to a classified road

Comment: There is no objection to roadside stalls as people generally know them but there must be stringent requirements that the produce is a product of the agricultural produce of that land holding. Otherwise, what is the real purpose of the proposed changes?

Change of use of an existing building

Erection, alteration or addition to a building for a farm gate activity

Comment: Comments are generally the same for the last two headings as for ***use of land for farm gate activities*** and road side stalls (see above).

Development application

Where a proposal for farm stay accommodation does not satisfy the requirements for exempt or complying development, a development application can be lodged with the local council. To appropriately consider the impact of farm gate activities where development consent is required, an optional clause that councils can adopt in their LEPs is proposed which will:

Comment: Such a clause will at least allow the community to object if the development application has a general negative impact. On the other hand, politicians can be meddlesome. I am thinking of Stuart Ayres in my own area.

3.3.2 Farm gate activities - consultation questions

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

Comment: No less than a metre inside the boundary of the property and clear of any services would work. The road side stall must have visibility to attract customers.

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

Comment: I would not outsource complying developments to private certifiers

3.4 Farm events

The ability to hold rural events can allow farmers to diversify and value add to their agricultural business. In addition to the direct benefits to agricultural business, rural events can have a far-reaching supply chain benefit to the surrounding economy. For example, if a farm can host a wedding, beyond just the hiring of a venue on a farm, the event can result in hiring of local accommodation services, engagement of event services (such as photographers, stylists and transport), food and drink services, supporting services (gift shops, child minding) and facilities services (party hire, mobile toilet hire etc). Yes, as long as the property is not used exclusively for weddings but has a principal use of agriculture.

Comment: Again, size of landholding is important otherwise an area can potentially become a busy tapestry of commercial activities that has little to do with agriculture and diminishes the ambience of the local area and community amenity.

The proposed definition will also enable farm events on a commercial farm that is currently not producing goods because of drought or similar events outside the landowner's control.

Comment: These words are cropping up regularly but farms are not always subject to natural events which prevents the production of agriculture. If the intention is for these changes to be permanent regardless of natural events then there is little point in repeating the words and little point in selling the argument that it is all about helping farmers in the event of natural disasters.

Exempt and complying development pathways have been developed to allow streamlined approvals for low scale, low impact farm events. The exempt development pathway will only be available for a limited number and scale of events per year and certain development standards must be met. Complying development pathways will allow some building works and a change of use of existing buildings for farm events. This sounds very similar to the restrictions placed on the occupants of the Fernhill Estate when it was under private ownership. It is generally sketchy on what additional infrastructure may need to be brought on-site to hold the event.

3.4.1.2 Permissibility

It is proposed to create a new land use term 'agritourism' in the Standard Instrument LEP Order and farm events will be a subset of this new term. It is further proposed that 'agritourism' will be a subset of the existing land use term 'agriculture' – see diagram at section 3.3.1.2 Permissibility. These changes mean that initially, farm events will be permissible in all local environmental plans wherever 'agriculture' is currently permissible. Councils can then permit farm events in any additional zones.

Comment: These changes are starting to sound like a land holding can do certain things, eg events, restaurants, roadside stalls, accommodation etc where there is going to be very little oversight or consideration of the principal use of the land which is agriculture. The danger is that there is the real potential to drive a bus through the Standard LEP so that it becomes tokenism.

Use of rural zoned land

It is proposed to allow the use of rural zoned land for a farm event that does not involve manufacturing food or drink as exempt development and introduce the following development standards: **OK**

Operational requirements

- the development must not involve a change of building use **OK**
- events must only take place during the following times:

- o 7.30 am to 11.00 pm on Monday, Tuesday, Wednesday or Thursday
- o 7.30 am to 12.00 am on Friday or Saturday
- o 8.00 am to 8.00 pm on Sunday
- maximum number of guests and event days per year:
 - o 52 event days per year and up to 30 guests per event, or
 - o 10 event days per year and up to 50 guests per event

Comment: This means a landowner can hold one event per week with 30 guests (say on Saturday) and one event on Sunday every 5 weeks with 50 guests. That may be appropriate in certain areas, eg Hunter region but not east of the Great Divide on small land holdings as it creates noise, traffic congestion and impact on neighbours. The noise factor can vary significantly depending on topography so 1,000m setback may be inappropriate.

- the event holder is to notify neighbours of an event at least one week before holding the event

Comment: West of the Great Divide a neighbour may be 3km away while east of the Great divide the neighbour may be 200m away. Currently written, this is not appropriate. Use of rural land for events should involve Council and a development application. One way forward would be for Council to give approval for certain events for, say one year, where it can be continually reviewed based on community feedback or complaints. Each event will be subject to a development application. This methodology was applied by Penrith City Council with the Fernhill Estate. I am sure the same approach would be used for, say, *'Jazz in the Vines'* in the Hunter Valley.

Complying development

Change of use of an existing building to farm event premises

Comment: This category should be subject to DA otherwise it will be open to abuse by landowners. I have already seen how certain landowners ignore the LEP and DCP in Mulgoa Valley.

Erection, alteration or addition to a farm event building

Building location and size

- maximum footprint of 200 square metres for each building and 500 square metres for all buildings used for farm gate activities and farm events

Comment: The same footprint applies for buildings on 10ha as a building on 1,000ha. It doesn't make sense to take a one size fits all approach.

- maximum height: o 7 metres for landholding 4000 square metres to 10 hectares
o 10 metres for landholding greater than 10 hectares

Comment: Why buildings need to be 7 or 10m high for farm events is puzzling unless they are thinking equestrian enclosures. However, the 10 ha reference brings Mulgoa Valley right into focus and the parameters set are not appropriate. Also, the idea of a 7-10m high building on a 4,000m² is ludicrous in the extreme. Again, this opens up the opportunity for commercial abuse by DPIE on the Littlefields Road precinct for the Fernhill Estate.

3.4.2 Farm events - consultation questions

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

Comment: A one-size-fits-all approach is not appropriate. The numbers of guests proposed and the frequency of events is appropriate in certain country regions (they are probably already holding such events, eg wineries) but not appropriate on small landholdings in the Sydney Basin as the disruptive nature of frequent events is inappropriate for the levels of traffic and development that now exists in the basin. Further, 99% of landholdings of 10ha are not reliant on agriculture for their living. The 1% may apply to market gardens and turf growing enterprises in the Hawkesbury Valley and that is just about it.

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

Comment: *'Jazz in the Vines'* is appropriate for the Hunter Valley. Rock concerts in the Sydney Basin are not appropriate nor are outlaw motor cycle club events which bring noise and inappropriate behaviour. Any event which may cause residual damage to the land, the environment or community unease should be disallowed.

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. [See my comments below](#)

- a) RU1
- b) RU2
- c) RU4 zones

d) Other zones (please specify)

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

Comment: This is a question which falls outside the purpose of this paper, ie to assist agriculture in times of non-production due to natural events. Therefore, any model clause for destination weddings should only refer to rural agricultural land but should exclude E2 and E3. Any residential land already has controls in place for weddings through the DA approval process..

11. Is there any rural land or areas in which agritourism activities should not be permitted? If yes, why?

Comment: Any Agritourism events in the Sydney Basin should be the subject of DA and where the principal business is agriculture, the business is registered for GST, a primary production tax return is lodged and it has a registered business name. Most land holdings in the Sydney Basin do not fall under these parameters except for a few that are in the Hawkesbury Valley as referred to above.

3.5.1 Proposed amendments

Bush fire prone land: Apply existing complying development standards in the Codes SEPP for bush fire prone land to buildings used for farm activities or farm events as complying development. **OK**

Business identification signs: Amend clause 2.83 exempt development provisions of the Codes SEPP to allow business identification signs for farm stay accommodation, farm gate activities and farm events, limited to 4 per landholding and one sign every 2 kilometres.

Comment: This may be acceptable although government should be aware that any sign is visual pollution. They should take a moment and count the number of signs on any 1km stretch of land within the Sydney Basin.

f) only one sign may be illuminated and if illuminated must:

Comment: Illuminated could mean a neon sign. A light above showing signage below is better and it must be compatible with a rural landscape. Don't forget that the erection of a sign by any shop or business requires a development application.

It should not be animated, flashing or moving

ii. comply with AS 4282-1997 Control of the obtrusive effects of outdoor lighting

Comment: Yes, but needs to be policed which is problematic

g) if the hours of operation of the business identified on the sign have been approved, operate during those hours, or if the hours of operation of the business identified on the sign have not been approved, operate between 7.00 am and 10.00 pm on any day

Verandahs: Amend clause 2.12 of the Codes SEPP to allow decks, patios, pergolas, terraces and verandahs on the front of buildings in rural zones as exempt development if they are setback 50 metres from the road. This will allow farm gate businesses to provide an area for tastings. **OK. This means the main building will be further back than 50m.**

3.6 Small-scale processing plants

Amendments to the Codes SEPP are proposed to allow small-scale processing plants associated with agricultural produce industries that process meat, honey and dairy as complying development. The provisions would use the definitions of livestock processing industries and agricultural produce industries contained in the Standard Instrument LEP.

3.6.1 Proposed development standards

Small-scale processing plants would be complying development with the following development standards:

- maximum throughput per annum of: o 3 million litres for dairy
- 4,000 carcasses for pork
- 1,000 lamb carcasses
- 100 beef carcasses
- 4,000 carcasses for poultry
- 1,000 carcasses for other animals such as deer, kangaroo

- not be used for the processing of skins or wool of animals, or as knackereries, tanneries, woolscours or rendering plants
- must be setback a minimum of: o 100 metres from a natural waterbody or wetland

Comment: Distance should be considered with topography and RL's.

- o 500 metres from the nearest existing dwelling house other than the house located on the property
- o 5 kilometres from a residential zone

Comment: There is no mention of odours, neighbour impact. Again, the one-size-fits-all doesn't work.

3.6.2 Small scale processing plants - consultation questions

14. Should any additional standards be included?

Comment: 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.

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.

Comment: It makes good sense.

a) as complying development?

b) through the standard DA process? Yes

3.7 Rebuilding of farm infrastructure

Agree with proposals

3.7.2 Rebuilding of farm infrastructure - consultation questions

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

17. Should any additional standards be included?

Comment: The test should be to allow the landowner affected to return to their pre-disaster position as quickly as possible and as easily as possible taking into account current building standards and, possibly, insurance company requirements. If the proposals meet these tests then they are supported.

3.9 Farm dams

3.9.2 Farm dams - consultation questions

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

Comment: No approval to construct dams under a certain holding capacity, eg 1 million litres. DA required above 1 million litres.

3.11 Rural dwelling setbacks from intensive livestock agriculture

Comment: I am unable to comment on the distances proposed but any increase in distance would be positive in alleviating neighbour conflict.

3.12 Recreational Beekeeping

3.12.1 Proposed amendments

Amendments are proposed to the Codes SEPP to permit recreational beekeeping as exempt development if certain development standards are met. Where the development standards cannot be met a development application would be required.

The development:

- Must not be used for a commercial purpose.

Comment: Agree

- Must not consist of more than: o 2 hives for lots up to 300m2.

Comment: This is a ridiculously low lot size and I would delete.

o 4 hives for lots 300m² to 1000m²,

Comment: Delete 300m² and replace with 600m²

o 8 hives for lots above 1000m²,

Comment: So, 8 hives are permissible on a land holding (residential lot) of 1,001m² (1 acre). This does not make sense.

3.12.2 Recreational Beekeeping – Consultation Questions

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

Comment: As this is recreational beekeeping and not a commercial enterprise I have difficulty seeing the connection to assisting agriculture since it is not a major source of income and should not be the subject of this paper. Does this mean that the options of events, farm stays, restaurants, roadside stalls etc that is proposed for commercial agricultural producers is also on offer to recreational beekeepers? If so, this paper is a smoke screen. If the holding is more than 10ha then consideration could be given to a roadside stall and nothing else.

SUMMARY

The Standard LEP and proposed amendments seek to fudge the controls through the Standard LEP under the general pretext of assisting farmers through natural disasters. A Standard LEP should be resisted which takes in all land within NSW. What may be appropriate west of the Great Divide (and many of the things which are proposed) are totally inappropriate in the Sydney Basin where rural land is disjointed, non-commercial and subject to traffic congestion, environmental damage, community amenity and exploitation. Once government blurs the line between genuine agricultural businesses and opportunists within the Sydney Basin who will use the Standard LEP to commence an unrelated business on the basis they are selling agriculture then it is open slather. Government will then use the same Standard LEP for their parklands which directly impacts Fernhill and particularly the Littlefields precinct.

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Sunday, 18 April 2021 3:30 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Sun, 18/04/2021 - 15:29

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Bill and Karen

Last name

Rice

Council name

Shoalhaven City Council

I would like my submission to remain confidential

No

Info

Email

ricewm3@yahoo.com

Suburb/Town & Postcode

Jaspers Brush

Submission

We support the recommendations contained in the Berry Forum Committee's submission.

Although we support the intention of "supporting the recovery and resilience of our regional communities and farming" however we want to ensure there are not loopholes for developers or hobby farmers to over develop our beautiful part of the South Coast.

I agree to the above statement

Yes

SUBMISSION MADE ON BEHALF OF THE MEMBERS OF THE URBAN BEEKEEPERS OF THE INNER WEST INC. (UBIW)

SUBJECT: Agritourism and small-scale agriculture development: Proposed amendments to support farm businesses and regional economies.

3.12 RECREATIONAL BEEKEEPING

The question posed for discussion is:

“25. Are the proposed development standards appropriate and are any additional standards needed?”

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. UBIW has one hundred and fifty members.

In fact, the proposals appear to be tacked onto the end of a document which deals almost exclusively with **rural** farming activities. It is hard to imagine what recreational beekeeping has in common with such activities as ‘farm stays’ and ‘farm produce stalls’. It is also noted that the more restrictive conditions sought to be imposed on recreational beekeepers do not apply to bee hives kept in rural areas. The proposed provisions are specifically directed to approval processes for “Agritourism and small-scale agriculture development”. The proposals concerning beekeeping will predominantly affect urban beekeepers. It is difficult to see how recreational beekeeping fits within this legislative scheme at all.

In the preamble section of 3.12 it is **stated**

Commented [SH1]:

“While commercial beekeeping is defined as a form of extensive agriculture in the Standard Instrument LEP, recreational beekeeping is not defined. This has led to some confusion regarding whether development approval is needed for the activity.”

With respect, neither I, nor my colleagues in the Club, in our considerable collective years of beekeeping experience, have ever heard an issue raised as to whether development approval is required to keep recreational bee hives.

Requirements for the practice, or recreational pastime of beekeeping are presently found within the **NSW Beekeeping Code of Practice** and recommendations provided by the DPI guidelines for recreational beekeeping. DPI officers currently deal with complaints of non-compliance with those standards. These officers go armed with the authority to require beekeepers to move or remove hives and to enforce compliance with requirements regarding inspections along with disease and pest control. In undertaking these activities, they are also able to apply their discretion.

Addressing some specific proposals, there is no definition of “commercial purpose” provided. Does the sale of a dozen jars of honey at a school fundraising stall constitute commercial beekeeping? Does the sale of one hundred jars in a year to friends and neighbours constitute commercial beekeeping? Or is it where the sale of honey represents the beekeeper’s only, or primary, source of income?

The limitation of the number of hives based on the area of the lot is somewhat 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 upon such things as the placement of the residence, the type of vegetation etc.

The location and orientation of bee hives should not be predicated upon 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.

Who is to approve or refuse development applications? Presently the DPI officers have the training and expertise to decide whether, in a given situation, the number of, or placement of, hives should or shouldn’t be permitted. Is that function to devolve to people who have no training or experience of beekeeping? What standards will they be required to apply.

Recreational beekeepers are often requested by Local Councils and members of the public to remove bee swarms and colonies of bees living inside trees and buildings. This is done as a public service. The bees are placed in hive boxes. The hive boxes have to be kept somewhere until they can be re-homed. If the

beekeeper already has his or her full allocation of hives, will the temporary placement of the hive require a Development Application?

In closing, the UBIW submits that the current level of regulation of recreational beekeeping is quite sufficient and does not require the imposition of a development application process. To coin an old phrase, if it's not broken why fix it?

Stephen Higgins

President

Urban Beekeepers of the Inner West.

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Sunday, 18 April 2021 5:26 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Sun, 18/04/2021 - 17:26

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Paul

Last name

Johns

Council name

Shoalhaven City Council

Council email

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I would like my submission to remain confidential

No

Info

Email

pnjohns@outlook.com

Suburb/Town & Postcode

Berry 2535

Submission

I have fully reviewed the submission made by the Berry Forum Committee and would like to show my support for their recommendations.

I agree to the above statement

Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Sunday, 18 April 2021 5:38 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Sun, 18/04/2021 - 17:38

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Philip

Last name

Thorniley

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I would like my submission to remain confidential

No

Info

Email

philipthorniley@shoal.net.au

Suburb/Town & Postcode

BROUGHTON VALE

Submission

I have read and support the submission made by the Berry Forum , the community consultative body for this district. Whilst the various amendments to:

Standard Instrument (Local Environmental Plans) Order 2006 (Standard Instrument LEP Order),

State Environmental Planning Policy (Primary Production and Rural Development) 2019 (PPRD SEPP), and

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP).

are well intentioned and would support genuine farmers, there's a clear danger that they'll be taken advantage of by landowners who are not primary producers

I agree to the above statement

Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Sunday, 18 April 2021 5:40 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Completed

Submitted on Sun, 18/04/2021 - 17:39

Submitted by: Anonymous

Submitted values are:

Submission Type
I am making a personal submission

Name

First name
Mark

Last name
Johnson

Council name
Shoalhaven City Council

Council email
kiama@parliament.nsw.gov.au

I would like my submission to remain confidential
No

Info

Email
m.johnson@nucleus.net.au

Suburb/Town & Postcode
Berry 2535

Submission
I fully support the recommendations contained in the Berry Forum Committee's submission.

Further the quoteNSW Department of Planning, Industry and Environment | IRF19 7296 | 7"
The changes are not intended to
enable hobby farmers or other recreational farmers to establish agritourism businesses.....should be is sufficient to not proceed
Intention is a nice word but what happens if it becomes reality?

I agree to the above statement
Yes

210C Bong Bong Rd
Broughton Vale
NSW

Department of Planning
NSW Government
18 April 2021

Dear Sir/Madam

RE: Proposed Planning changes affecting Primary Producers NSW- Agritourism.

As a resident of a small rural community on the NSW South Coast, I write to endorse the document submitted by the Berry Forum.

I agree with NSW State Government measures to assist legitimate agricultural producers enduring economic hardship in the current and future uncertain business and climate environment.

However, below are my concerns

1. Primary Agricultural Production must remain the chief source of income and not change to tourism, accommodation or function centre /reception venue by applicants.
2. Proposed Agritourism changes should be restricted to family or small partnership properties and not to corporate commercial farming enterprises.
3. Biodiversity and habitat of local flora and fauna must be safeguarded- tourism and associated developments will damage this
4. Safety of existing rural residents and their families and any additional tourists must be ensured particularly as areas prone to natural disaster, such as fire and flood, may be involved in application for increased tourism in rural regions. The NSW South Coast in forested rural areas has an increased risk of fire and flood and often road access is only sufficient for local traffic and would not be safe in the event of an emergency with increased numbers of road users unfamiliar with local terrain in the stressful situation of an emergency evacuation.
5. I caution granting these Agritourism exemptions as unscrupulous land owners and developers may attempt to exploit planning changes as a loophole to authorise oversized and inappropriate development in sensitive rural areas with adverse implications for habitat, safety, amenity of local residents and the overall beauty and tranquillity of natural and rural areas in NSW. Function centres, wedding destinations and "glamping" developments are increasingly applied for by unscrupulous interests with no regard for local communities and the proposed Agritourism Planning changes present a further opportunity for such applications and the NSW State Government and local council areas should be aware of future attempts of exploitation of rules and deception.

As I said, I agree with the idea and think hard-working farmers need your help. This should, however, be targeted and in specific areas. The NSW Government and local councils should remain vigilant in recognising the potential abuse of the proposed planning changes by those seeking to promote inappropriate development and tourism in sensitive and fragile rural areas.

Alexandra Smith
210C Bong Bong Rd
Broughton Vale NSW 2535

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Sunday, 18 April 2021 6:37 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Sun, 18/04/2021 - 18:37

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Tim

Last name

Harvey

Council name

Shoalhaven City Council

I would like my submission to remain confidential

No

Info

Email

timh@timharvey.com.au

Suburb/Town & Postcode

Jaspers Brush 2535

Submission

Re: Planning Amendments for Agriculture

I own 171d Strong's Road, Jaspers Brush, and have recently been involved in the rejection of a function centre for the conducting of weddings in the Shoalhaven Council area.

My understanding is that:-

- The proposed development standards are intended to mitigate undesired impacts by limiting the land on which the activities can occur and the scale of the use, as well as managing impacts such as noise and potential disruption to neighbouring land uses.
- The changes are not intended to enable hobby farmers or other recreational farmers to establish agritourism businesses.

I can't understand how these statements will be implemented, given that there is scant evidence in the documents that makes them able to be policed in practice. If these "intentions" are not backed by legal definitions which can be clearly understood and enforced then I believe the same attempt to bend imprecise rules will occur as we have experienced. My concern is that our acceptance of these "sensible" guidelines without detail as to how (by whom and at who's cost) they would be enforced, suggests that little

attention has been paid to their implementation.

Which I believe would render them open to exploitation by people other than real farmers, and would therefore not benefit them or most other people living in regional and rural areas.

As a citizen of Australia, I am concerned that attempts to white-ant laws for what appears to be primarily money-making non-rural schemes are not just threatening to local people who bought their properties with the clear understanding that their local amenity would be guarded, but that these imprecisely policed schemes will inevitably erode the rule of law.

I state this with the experience of seeing similar processes in countries I have lived in in Africa which resulted in a breakdown of civil society.

Yours Sincerely

Tim Harvey

171d Strong's Road Jaspers Brush 2535

I agree to the above statement

Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Friday, 16 April 2021 3:49 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Submitted on Fri, 16/04/2021 - 15:49

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Terry

Last name

Mulligan

I would like my submission to remain confidential

No

Info

Email

lockwodvineyard@bigpond.com

Suburb/Town & Postcode

Young, 2594

Submission

This submission by the Hilltops Grape growers Association is in response to the NSW Government's "Explanation of Intended Effect-Agritourism and Small Scale Agricultural Development".

In general, our members welcome the initiative and proposed changed definitions and fast track options as they hope the proposed changes will overcome previous experiences where members have found the process complicated, time consuming and expensive. In almost all cases previous attempts to engage in tourism based value added activities have not proceeded. Our members have been consistent over many years in complaining about the rigid interpretation and imposition of the "rules"; the time and cost involved in the whole process; the lack of any flexibility on addressing specific and historic local factors (gold mining, small soldier settlement blocks, rich soils suited to productive orchard, vineyard and horticulture on smaller rural land holdings). The "rules" prescribed by Council and NSW Government bodies have meant large financial expenditure which far outweigh the capacity of the farm business.

The majority of the "rules" causing these agritourism initiatives not to proceed are not covered by the two 'fast track' options in the Document. These are rules from other sections of the NSW Government, particularly those relating to liquor licencing; regulations relating to the production, serving and sale of food and products related to farm production; access to and from roads; and building and construction regulations.

Accordingly, the DA route is likely to remain the only route for progressing agritourism activities for grape and wine producers in the Hilltops GI region.

In addition, our members are concerned that the "Rules" in the two fast track options will also become the de facto rules in the DA process.

In relation to the proposals in the Document there is general agreement that the changed definitions to agriculture and agritourism are welcome.

There is a strong view that the definitions must apply to the actual land use (rural land used for Primary production) and not to the

definition used by the ATO to define a primary producer. In this context most wine producers are adding value to their own grapes, but the value of the wine so produced can exceed the value of the grapes used in the production of wine. This can result in the grape grower/wine producer losing their status as a "primary producer" since wine production is classified as "manufacturing". The "250 metre rule" in the fast track option has caused some concern and confusion within our membership. One aspect is that commercially viable vineyards and orchards are on small blocks reflecting richer soil types and historic factors. This means neighbouring properties are in close proximity or "just across the road" and are now well within 250 meters of existing buildings and boundaries proposed to be used in new agritourism projects. Our members are also concerned about the expense of providing water and electricity to a building 250m into a property when it already exists close to the boundary.

Another concern relates to whether vineyards and orchards are, or could be, included in "agriculture intensive" activities such as piggeries and feedlots. If this were to be so, then the removal of crop would be necessary and prohibitively expensive to meet the 250m rule.

The Hilltops region is well suited for agritourism with its rolling countryside, agricultural diversity and scenic variety. It is also close to centres of population (Canberra and Sydney) from which to draw more tourists. Attempts to encourage wine tourism by our members to add value to their operations and to the regional economy have largely been frustrated and have not eventuated. Accordingly, members do not believe the initiatives in the Document, regarding the two fast track options, will not apply in practice in the Hilltops region. This leaves the DA route as the only real option. Naturally we are willing to discuss the points made in this submission.

I agree to the above statement

Yes

18 April, 2021

NSW Department of Planning, Industry and Environment

RE: Department reference IRD20/40921

Dear Sir/madam

I refer to the Planning Amendments for Agriculture currently advertised for comment.

Whilst the Explanation of Intended Effect document poses specific “consultation questions”, I trust that it is also appropriate to provide feedback in a more general content format.

In general I support the intent of formalising the terms and their definitions for ‘agritourism’, ‘farm events’, ‘farm gate activities’ and of amending the definition for ‘farm stay accommodation’.

I believe the use of any fast-track approval procedure should include cautionary steps. Even if a proposal is perceived as an uncontroversial formality, a proposal once implemented is both costly and difficult to reverse if unjustifiable. 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.

I agree with the principle that councils should be allowed opt in or opt out.

The paragraph concluding part 1.2 of the EIA document, that “proposed amendments are underpinned by the principle of no or low environmental impact” is an essential condition, though not supported by the text of the proposed amendments. The definitions of both “no environmental impact” and “low environmental impact” are not provided in any current legislation and there will inevitably be conflict arising from decisions made under these amendments.

Also absent in current legislation is recognition and emphasis on the term ‘cumulative impact’ which is ignored and, instead, the focus of legislative policy is envisaged as requiring control of pollution to a deemed-satisfactory level. The significance of these legislative omissions will be aggravated by decisions made under the proposed agritourism amendments.

The principles underlying the proposals described in section 1.3 are, in concept, entirely reasonable. Apparent risks that may lead to unintended effects include:

1. The qualification ‘small scale’ applying to the final paragraph of section 3.1 is subjective and requires improvement.
2. The qualification enabling activities to occur on ‘land where the primary use of the land is agriculture’ should be strengthened to ensure that the adjective ‘primary’ remains applicable including any effects arising from agritourism.
3. There is a significant risk of ambiguity over the use of the term ‘agriculture’ in the context of 3.1 by the later use of the same term in Figure 3. Figure 3 automatically qualifies agritourism as agriculture. I believe the term ‘productive agriculture’ should be considered as the basis for qualification of agritourism as a permissible use, not simply ‘agriculture’.
4. In relation to question 3.2.2.2 I believe the restriction on farm stay accommodation should be permitted only on land that currently benefits from a dwelling entitlement. It is possible that this qualification could be expanded after a trial period.
5. I am concerned that the introduction of ‘farm events’ in the context implied by section 3.4 will have very significant unintended consequences. The absence of terms in the current planning system having relevance to rural events is noted as is the use, made necessary by

that absence of terms, of the use of clause 2.8 in the standard instrument for temporary uses of land. Important legal interpretations of clause 2.8 have been identified through the Land and Environment Court (Marshall Rural Pty Limited v Hawkesbury City Council and Ors, NSWLEC 197, 2015) that provide guidance on the interpretation of impact control from such events in a manner that is not sufficiently noted in this EIA and, therefore, by these proposed amendments. The introduction of the term 'farm events' without classifying such use as equivalent to a temporary use, and therefore to the controls implied by clause 2.8, will render such farm events as potentially uncontrolled.

6. The implication that farm events may be classified as exempt or permissible uses without some form of traceable justification that environmental impact will be nil or low is unacceptable and irresponsible.
7. Large patronage events such as weddings permitted on either 10 or 52 occasions per year (it is unclear if these are cumulative or mutually exclusive) can not be considered as being of low or nil impact in many rural areas. The offset distances do not recognise the impacts from vehicular traffic at all, despite such impacts being one of the largest, and the impacting consequences associated with each event can extend over days.
8. Having regard to the activities mentioned in 3.4.1.1, functions and conferences represent potentially high impact activities, when all the rest linked to the productive agricultural activities are obviously of unlikely adverse consequences. There does not seem to be any justification given for linking function and conference agritourism activities as either exempt or complying development, having no association with the productive agricultural uses of the land, to the activities otherwise listed as 'farm events'.
9. In relation to 3.4.2 consultation questions, Q7 pre-empts the application of Q8. Functions, concerts, conferences and weddings should not be classified as 'farm events', which should attract a different or further classification and far more clearly defined controls. There are many rural land areas and other land areas where agritourism activities should not be permitted. These areas would be determined by their environmental sensitivity for which land-use classifications mentioned (RU1,2,4 etc) may not be a relevant basis.

Most of the issues discussed in 3.5 seem self-evidently sensible.

I implore the Department to consider the farm event issues far more carefully than has been applied in the current draft of the proposed amendments discussed in section 3.4 and of the structure and scope of questions 7 to 11 inclusive. Thank you for the opportunity to comment on the proposals.

Yours faithfully



Robert Fitzell B.Sc., M.Phil (arch)., MAAS
24 Coomonderry Ridge
Berry NSW 2535

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Sunday, 18 April 2021 7:40 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Sun, 18/04/2021 - 19:40

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Elizabeth

Last name

McWilliams

Council name

Shoalhaven City Council

Council email

council@shoalhaven.nsw.gov.au

I would like my submission to remain confidential

No

Info

Email

e.mcwilliams@bigpond.com

Suburb/Town & Postcode

Berry 2535

Submission

I am the owner of a property in Bundewallah Road, Berry and I support the recommendations of the Berry Forum Committee. I believe their submission is a well considered and practical response to the proposal.

I agree to the above statement

Yes



Submission on Behalf of the Mulgoa Valley Landcare inc.
regarding the

Planning amendments for agriculture

The Mulgoa Valley Landcare Group objects to the proposed amendments to 'simplify' the planning approvals and remove planning controls on Peri-urban / Metropolitan Rural Lands.

Despite the statement that these planning amendments are being proposed to "improve the resilience of regional NSW and support recovery from COVID and Bushfires" – these amendments will apply to **all rural land**.

Mulgoa Valley is located on the western fringe of the Cumberland Plain, occupies around 5500 Ha and comprises largely 'lifestyle' or 'hobby' farms with only a very small number of legitimate primary producers. We use the word 'legitimate' because there are a number of 'primary producers' which flaunt the criteria for consideration as a primary producer (eg they stock 20 cattle – but these cattle are frequently malnourished or agisted on adjoining properties because 10Ha lots do not support 20 head of cattle in a sustainable way). There are many examples in Mulgoa whereby 'lifestyle' acreage owners claim primary production benefits through this poorly monitored system.

Furthermore, the Mulgoa Valley is noted for its cultural landscapes and heritage values. Indeed, there is current consideration by the Heritage Council and the National Trust (supported by MVLG) for the listing of the Mulgoa Valley as a unique cultural landscape on the Cumberland Plain. Penrith Council's Rural Lands Strategy clearly sets out to protect the Mulgoa Valley stating that it is "*not suitable for accommodating significant development intensification ...particularly where this conflicts with biodiversity, heritage and scenic conservation measures.*" The significance of the cultural landscapes of the Mulgoa Valley is also noted by the Historic Houses Association, by the Australian Garden History Society, by the National Trust and the Australian Institute of Landscape Architects. The proposed amendments in the planning process for small business would decimate decades of

community efforts to preserve the rural, heritage and environmental values that remain intact in the Mulgoa Valley.

It is our understanding that

1. no approval will be required for

- Accommodation in existing dwellings
- Events - weekly until midnight most nights, amplified noise to be setback 1000 m from nearest dwellings (even these limitations are contained in exempt development, so impossible to enforce)
- Caravans & camping (glamping facilities) up to 20 people
- Poultry factories of < 10,000 birds

This would impact our rural landscapes with noise, destruction of visual amenity (eg tents and caravans in visually sensitive locations), fixed structures in any location, noise and traffic, impacts to existing septic and enviro-cycle systems which have not been designed to service an additional 20 people, construction of additional structures such as sheds, cabanas, covered areas, additional driveway access to main roads and parking lots – that will have no planning controls.

2. Newly complying development (private approval)

- Conversion of existing sheds to accommodation
- Building new accommodation dwellings up to 6 buildings per holding, minimum 15 hectares per dwelling (must be within 300 m of existing dwelling)
- Building new cafes/restaurants ('farm gate facilities') up to total 500 square metre and 3 stories (10 m)
- Reusing existing buildings (any size) as cafe's/restaurants for up to 50 guests.

The conversion of existing shed to accommodation will simply trigger a need for a new equipment/machinery shed at that property. We query how a three-story structure can possibly be an acceptable design within within **any** rural landscape – and question the NSW Governments motives behind this suggestion. We presume that this relaxation of planning controls is simply to benefit property owners in the peri-urban areas which still have a 'rural' zoning. This is blatant and wilful destruction of rural and scenic amenity and generates genuine scepticism that these proposed changes to the planning process has nothing to do with helping farmers and everything to do with permitting /expediting development within the peri-urban areas of Sydney.

Presently the Western Sydney Parklands (which govern Fernhill – located in Mulgoa Valley) are prevented from building new accommodation in the Parklands or at Fernhill because of zoning (LEP) limitations. However, we know that the Greater Sydney Parklands have a vision to do just that, under Part 3 (12) of the Western Sydney Parklands Act 2006.

If the LEP Standard Instrument changes come into effect, we anticipate a major program of new accommodation buildings all over Western Sydney Parklands land.

3. New developments this would allow include:

- Weekly events at Fernhill till Midnight most nights (outside Council control; effectively no conditions or compliance)
- 6 new accommodation buildings on Fernhill
- A new 3-story restaurant/event venue on Fernhill
- As many as 30 new accommodation buildings in Western Sydney Parklands
- Multiple new restaurants/cafes at Western Sydney Parklands

The result of these 'planning amendments' would negatively impact peri-rural areas of the Cumberland Plain such as Cawdor and Razorback and the Mulgoa Valley.

The Mulgoa Valley Landcare Group therefore strongly objects to this planning amendment being imposed upon the Sydney Metropolitan Rural Lands. We propose that all LGA's within the Greater Sydney region be excluded from these amendments if the NSW Government is genuine about the premise of these amendments being to *"improve the resilience of **REGIONAL** New South Wales"*.

Sincerely

Lisa Harrold
President
Mulgoa Valley Landcare Group Inc.

Submission re NSW DPIE – Agritourism and small-scale agriculture development.

In response to the proposed amendments to existing controls within the planning system to facilitate more agritourism and small-scale agricultural developments, we offer the following observations:

1. *The NSW Government is committed to supporting the recovery and resilience of our regional communities and farming by growing emerging industries that are supplementary to, or based on, agriculture.
Agritourism activities enable farmers to diversify their income from farming businesses while maintaining primary production on the land as the principal use.*

Agritourism, (as a growing sector of both the Australian and NSW economies) is expected to be worth \$18.6 billion in Australia by 2030, up from \$10.8 billion in 2018/ 2019.

That is, the existing controls already facilitate agritourism.

Despite this impressive growth, the document refers to challenges in setting up agritourism businesses, one of which is variations in how the planning system is applied across regional NSW.

- addressing these variations would be a preferred first-step option before seeking to introduce significant changes to the planning instrument.
- "**Complexity and cost of obtaining planning approvals**" have obviously not been obstacles to setting up those agritourism businesses included in the statistics, and, therefore, *complexity and cost of obtaining planning approvals*, are not sufficient reasons to introduce the proposed changes as they are presented in **Agritourism and small-scale agriculture development.**

2. Intended Effect of the proposed Planning Amendments

- *The Department is proposing amendments to existing controls within the planning system to facilitate more agritourism, while balancing the need for individual councils to respond to different environmental and development settings.*
- *The proposed development standards are intended to mitigate undesired impacts by limiting the land on which the activities can occur and the scale of the use, as well as managing impacts such as noise and potential disruption to neighbouring land uses.*

- *The changes are not intended to enable hobby farmers or other recreational farmers to establish agritourism businesses.*

The *intentions* of the changes are reassuring.

However, the changes are not supported by meaningful definitions, controls or measurements. Unless they are, the scope for unintended and detrimental outcomes far outweighs the benefits of the proposed changes.

The current controls are not so broken that they necessitate the imposition of such widespread and significant changes, nor is there sufficient research or evidence to support the changes. For example, no details or analysis of the Pilot Program have been provided and Councils, farmers and concerned citizens (and the environment) can place little confidence in unsupported claims of low intensity, no/low impacts on amenity and the environment. The likely benefits of the proposal to **real farmers** are marginal (given that they already can and are value-adding under the current provisions), whereas the scope for excessive profits to lifestyle rural landowners and developers is greatly enhanced.

The current controls are in place to ensure protection and appropriate management of development and land use.

The proposed amendments along with the elimination of local council involvement from important planning decisions, marks the introduction of unrestricted and unsupervised activities across all rural land in NSW.

Regional Strategic Plans for fostering agritourism and enabling opportunities for appropriate tourism development have been made in light of the provisions and associated land uses already afforded in local environmental plans.

Clear information to farmers outlining opportunities and approval pathways afforded by the current controls would be a much better way of supporting and encouraging agritourism, and would still remain under the control and supervision of the local Council.

3. Agritourism Activities

Agritourism activities enable farmers to diversify their income from farming businesses while maintaining primary production on the land as the principal use.

The inclusion of the proposed new land use term (e) agritourism should relate to the establishment of businesses associated with the farm's agricultural production activity only

(b) farm events should refer to events which directly relate to agriculture.

Weddings and Conferences are not part of agriculture and should not be included in (b) farm events.

Within the Shoalhaven, as in other regions, there are businesses whose core business is Weddings. These businesses are similarly vulnerable to natural disasters and Covid 19, as farmers.

It is not reasonable to disadvantage businesses which satisfied all requirements in the controls, and which make significant and valued contribution to the local economy, with competition that has not been subject to the same degree of scrutiny and control.

4. Biodiversity and Habitat

Insufficient consideration has been given to the impact of agritourists on habitat and ecosystems and their potential to unwittingly introduce or spread invasive species and diseases.

Camping gear has been the vehicle for the introduction of highly invasive Hawk Weed into the Monaro. Elimination of Hawk Weed in the Monaro is now a significant economic cost to the whole community.

A small economic gain for an individual farm should not be at the cost of the ecosystem and impact on the economy.

5. Support for Berry Forum Submission regarding Agritourism and small-scale agriculture development.

Berry Community Forum has submitted a comprehensive and detailed submission which considers the critical issues related to **Agritourism and small-scale agriculture development**.

Attached to Berry Forum's submission is a submission prepared by a local farmer, presenting a local farmer's lived experience.

We strongly support both these submissions

[Berry Forum Committee Submission](#)

Judith and David Ball

10 King Street Berry NSW 2535

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Sunday, 18 April 2021 8:44 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Completed

Submitted on Sun, 18/04/2021 - 20:44

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Georgina

Last name

Baker

Council name

Bellingen Shire Council

I would like my submission to remain confidential

No

Info

Email

baker@moonie.com.au

Suburb/Town & Postcode

Hydes Creek 2454

Submission

I completely support the proposal.

The amendments sound extraordinarily helpful to us - Primary Producers who have purchased rural land in a very popular lifestyle location in July 2019. The increased land value isn't supported in the primary production yields achievable on the land here. To add agritourism as a secondary income option (to our main primary production income of beef farming), including beef sales at a farm-gate shop (and possibly even small scale processing), farm workshops, on farm activities/events and farmstays would be so helpful, not only for our financial security, but it could/would boost local employment, community learnings & involvement in agriculture and add an element of agriculture to an already established and very strong tourism industry of the shire.

Although I have not yet applied for any DA to date, I have been in discussions with the local council about several of my agri-tourism ideas. The strategic planner has been very helpful and shared his knowledge on the processes and potential complications that could arise. Our property is subject to local heritage listing which currently prevents (and is likely to continue to prevent) accessing these new Agritourism proposed exempt & complying development provisions. I would advocate some leeway & explicit allowance is made in relation to this Clause 1.117A(d)(iii) of the SEPP.

<https://www.legislation.nsw.gov.au/view/html/inforce/current/epi-2008-0572#sec.1.17A>

I agree to the above statement

Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Sunday, 18 April 2021 8:57 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Sun, 18/04/2021 - 20:56

Submitted by: Anonymous

Submitted values are:

Submission Type
I am making a personal submission

Name

First name
Paul

Last name
Christie

Council name
Shoalhaven City Council

Council email
council@shoalhaven.nsw.gov.au

I would like my submission to remain confidential
No

Info

Email
christie.paul@me.com

Suburb/Town & Postcode
Berry 2535

Submission
I strongly support the recommendations provided in the submission by the Berry Forum.

I agree to the above statement
Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Sunday, 18 April 2021 9:05 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Completed

Submitted on Sun, 18/04/2021 - 21:05

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Katie

Last name

Gibson

Council name

Shoalhaven City Council

I would like my submission to remain confidential

No

Info

Email

katiegoerlach@gmail.com

Suburb/Town & Postcode

Berry NSW 2535

Submission

I would like to voice my concern regarding the DPIE Agritourism proposal.

Although I do see a definite need for supplementary income support for our farmers, who have suffered ongoing genuine hardship as a result of climate change, insufficient government funding and rising costs, I feel that this proposal is lacking an awful lot of detail and has the potential to open up a direct and easy avenue for exploitation.

I strongly urge the DPIE to consider seriously the recommendations contained in the Berry Forum submission.

Regards

Katie Gibson

I agree to the above statement

Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Sunday, 18 April 2021 10:17 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Sun, 18/04/2021 - 22:17

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Robert

Last name

Dicker

Council name

Shoalhaven City Council

I would like my submission to remain confidential

No

Info

Email

rbjt@shoalhaven.net.au

Suburb/Town & Postcode

Jaspers Brush

Submission

These planning amendments appear ill considered and are likely to lead to adverse outcomes for many rural communities. Over the last few years we have had to make numerous submissions to council to stave off developers trying to take advantage of loopholes in the planning laws and it appears that these proposals will now just make it easier for them to do so.

There are many detailed points that could be made but I will just draw your attention to the submission made by the Berry Forum, which has my full support.

Please reconsider these planning amendments.

I agree to the above statement

Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Sunday, 18 April 2021 10:21 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Sun, 18/04/2021 - 22:21

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Scott

Last name

Armstrong

Council name

Shoalhaven City Council

I would like my submission to remain confidential

No

Info

Email

armstrongscotta@gmail.com

Suburb/Town & Postcode

2535

Submission

I am objecting to the proposed planning amendments for agriculture as per the DPIE Agritourism Proposal. It smacks of "policy on the run" with the elimination of planning decisions by local council providing an opportunity for savvy developers to exploit loopholes. This is covered off in detail in the Berry Forum Committee's submission. The Forum has been involved in a number of cases in recent years where situations "not intended" have indeed eventuated and the outworking for neighboring properties is high impact noise, congestion, degradation of the local amenity and a poorer quality of life. This proposal should not apply to the Shoalhaven and similarly located coastal councils within close proximity to metro Sydney. The Explanation of Intended Effect document makes the following assertions, all of which I disagree with:

- The proposed amendments are underpinned by the principle of no or low environmental impact.
- Certainty, confidence and consistency in the planning framework will support investment in agritourism. A robust and flexible land use planning framework can provide strategic direction and a streamlined and efficient process for facilitating land uses that supplement agricultural industries

- Proposed new development standards will ensure development is at a scale appropriate for the agritourism or agricultural activity with minimal impacts on the surrounding land and amenity.

The Berry Forum Committee's submission outlines the shortcomings attached to the proposal and sets out 10 recommendations and provides a succinct and realistic conclusion. I am supportive of this viewpoint.

I agree to the above statement

Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Sunday, 18 April 2021 11:44 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Sun, 18/04/2021 - 23:43

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

William

Last name

Houston

I would like my submission to remain confidential

No

Info

Email

keith_houston@outlook.com

Suburb/Town & Postcode

FAR MEADOW;NSW

Submission

Submission re NSW DPIE – Agritourism Development Proposal

“ ... the far-reaching removal of multiple planning provisions and the elimination of local council involvement from an array of important planning decisions ... is potentially a recipe for anarchy in relation to the introduction of entirely unrestricted and unsupervised activities across all rural land in NSW.”

The proposed changes indicate, inter alia, a naivety with regard to the long term consequences, to the understanding of rural communities, to contamination of land and water, endangers public health, and exhibits deficient planning.

One must question for whom, by whom, and why these changes, especially the lack of controls, are being proposed.

In these respects, I support the recommendations contained in the Berry Forum Committee's submission.

I have made no political donations.

Dr K Houston

I agree to the above statement
Yes

Agritourism and small-scale agriculture development: Proposed amendments to support farm businesses and regional economies.

Proposed Amendment: 3.12 Recreational Beekeeping

In relation to the above proposed amendments 3.12 Recreational Beekeeping, we are strongly opposed to these amendments and believe the amendments as they stand will lead to absurdities even with routine and anticipated scenarios.

We challenge the amendment's supporting document, where it is claimed there is currently "confusion" as to whether recreational beekeeping requires planning approval. In our experience, the vast majority of councils echo the greater community at large, and are highly supportive of responsible recreational beekeeping.

This sector is currently overseen by the Department of Primary Industries (DPI), which uses the Beekeeping Code of Practice for NSW (COP) as a guide to both the department and beekeepers of what would constitute "reasonable" beekeeping. The DPI COP is a guide, and provides flexibility to account for individual situations so as to avoid absurdities. In contrast, the amendments as they stand are prescriptive and fail to provide any flexibility without resorting to a DA. A DA not only introduces, but only serves to magnify precisely the types of uncertainties these amendments claim to resolve.

Concerns surrounding each amendment individually:

Considering the recreational keeping of bees a "development" is an absurdity in itself, this may involve the keeping of a single bee hive in the backyard on private property, and to consider this a "development" is ridiculous. Beehives are small, portable, non-permanent boxes that are not normally fixed in any way to any footing etc. It makes no more sense to consider a beehive a "development" than it would a garden seat, a birdbath, or a wheelbarrow resting in the garden.

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. As a fledgling small business we already manage these hives at a significant financial loss, but do so as a service to our local community to educate and encourage best-practice beekeeping. These amendments would be completely untenable in seeking a DA for every hive in the community and we would have no alternative but to abandon this service.

The amendments prescribe the maximum number of beehives that may be kept on certain lot sizes, but (unlike the COP) does not differentiate between permanent and temporary hives. Many experienced beekeepers offer a swarm collection service, where they offer to collect (generally for no cost) swarms within the community and rehome the bees. This is a skilled

service requiring significant beekeeping experience, thus it is highly likely the beekeeper collecting the swarm would already have the maximum recommended hive numbers at their property. Under the proposed amendments the swarm collector would therefore need to apply for a DA in order to collect a swarm, which rests on location for only a few hours, so as to legally house it on their property after collection before sending it to its final location. This is clearly yet another absurdity, yet is routine every swarm season each year.

The amendments contain distances to boundaries which appear to have been lifted from other guidelines pertaining to genuine developments, however have no relevance in terms of the aims and objectives of responsible beekeeping. In fact we have found the proposed distance to a property boundary is likely counter-productive in terms of potential neighbour nuisance, where a hive hard up against a structure like a fence will force the bees to fly high over the fence. Meanwhile, the amendments are silent on desired bee flight paths, which are covered under the COP so as to avoid possible nuisance. The prescribed distances would also make the keeping of bees on many lots, particularly newer housing developments, impossible to satisfy due to the size, shape of the lots and house position, hence would require a DA; precisely the situation these amendments claim to avoid.

The amendments do not contain provision for the keeping of bees in commercially zoned land. The role and keeping of bees in inner city locations is understandably gaining significant media attention and public support with rooftop hives on commercial buildings. That support is not reflected within these amendments, which would require a DA for each of these rooftop hives. The 5m restriction on a beehive to a dwelling within a bushfire zone is a nonsense and has no relevance to beekeeping whatsoever. Again, a beehive is a non-permanent box containing insects, not a permanent structure.

The amendments conclude by stating that the beekeeper must also comply with the COP. This therefore makes the amendments themselves pointless as they simply prescribe some of the guidelines contained within the COP, remove flexibility and practicality, and require a DA to be obtained in many situations that could be otherwise be accommodated by best-practice COP guidelines. We therefore call for the entire Recreational Beekeeper amendments to be scrapped as they are clearly unworkable in many real-life scenarios and counterproductive to the stated aims. We have found local councils, while often well intentioned, do not generally have the necessary skills and experience to properly understand the specifics of beekeeping, even at a recreational level. We therefore feel the DPI, as a specialist provider, is in a much better position to oversee beekeeping within the community. We therefore propose the DPI continues to oversee this field, while relying on the COP to provide guidance.

We have a good relationship with the individual pursuing these amendments with the Department of Planning, and have discussed our concerns with him. While we acknowledge his good intentions, we are concerned that these amendments are being driven by a motivated, but invariably misdirected individual rather than the broader beekeeping community. The practical implications of these amendments were not properly considered before being proposed, some examples are included above but these examples are by no means exhaustive. The amendments are therefore not supported by the Amateur Beekeeping Association of NSW, our own organisation, nor myriad other beekeepers we have spoken with.

Regards

Peter Fleming
Your Local Honey

Peter Fleming is an experienced certified commercial beekeeper who manages commercial hives as part of his sole trader business. In addition he contracts his business' services to other beekeepers including the University of Sydney/Department of Primary Industries Plan-Bee Queen Breeding Program. He has completed his Cert III in Beekeeping at Tocal College NSW and holds a Bachelor of Business degree from Monash University. Peter is also a keen recreational beekeeper, and is a member of a number of local recreational bee clubs.

No reportable donations

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Monday, 19 April 2021 7:32 AM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Mon, 19/04/2021 - 07:32

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

anthony

Last name

pike

Council name

Tweed Shire Council

Council email

brizvegas@hotmail.com

I would like my submission to remain confidential

No

Info

Email

cudgeracreek@hotmail.com

Suburb/Town & Postcode

Cudgera Creek

Submission

Submission in suport of reduced on farm activity costs.

You identified that the purpose is to facilitate a simple and streamlined approach to gaining approval for uses supplementary to primary production. that is assist farmers to do new farming activities ins a cost effective / affordable manner.

you state

The department has worked with the commission to identify simplified pathways to establish low impact agritourism businesses on farms, including farm stay accommodation, farm tours, roadside stalls, farm events and retail on farms.

My response.

1. Farm stay accommodation

Governments across Australia have been ignoring the eco tourism needs of typical "grey nomads", as shires, councils states and indigenous corporations devised strategies better aligned with the term "glamping".

High cost tourism experiences aiming at wealthy clientele has excluded many of the lower income / pensioner travellers from eco tourism experiences.

The Cost of D.As has contributed to this problem.

The consequence is that a large cohort of travellers now have to free camp as travelling into a caravan park may cost the totality of their pension, let alone someone travelling on newstart!

The cost of red and green tape, i.e. Da fees for the myriad environmental reports plans and management strategies is now approaching \$150,000 to \$200,000 to do something as simple as create 6 affordable low cost unpowered rural campsite. Affordable rent for grey nomads at \$10 per night a person means you need to recover over 1500 nights of full occupation (at 10 persons a night), thats nearly 5 years just to pay the d.a. fees!

The consequence of shire mindsets in the Tweed and Byron area is such restricted development, that long term renting residents are now being forced to leave as wealthy people are moving from Sydney and overseas taking their rentals.

There are approximately 4400 farms in the Tweed Shire below 80 acres in size that are not even allowed as exempt development to have a granny flat / caravan.

2. Small-scale processing plants -

please expand you definition of activities to include drying and packaging on a small scale of herbs, native plants etc. A limit of production by kg / pa might be appropriate.

I have a small patch of native mountain peppers in my rainforest and would like to dry and package a maximum of 5 kg a year.

Small scale drying / packaging if not exempt should also be made exempt.

The key issue is exempt activities have "low environmental impact" or " no environmental impact". Shire should not be able to claim minor traffic increases on "ROADs", or increase need for rubbish removal is an impact that is NOT minor.

If a farm has a suitably assessed and effectively operation system for septic / stormwater, this should not also be used as a means to stop exempt and complying development.

A simple measure for noise impact and or air pollution could be devised so based on distance and normal noise levels from a farm exempt activity to the nearest adjacent residence could be developed. No specialist experts reports needed.

Let farmers get on with providing for the needs of our greater community to help their self sustainability , free from government overlords stopping activities by making them uneconomic by red and green tape.

Anthony Pike. B.Bus., B.A, M.Ed.

Retired lecturer in business.

I agree to the above statement

Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Monday, 19 April 2021 8:45 AM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Completed

Submitted on Mon, 19/04/2021 - 08:44

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Kerri

Last name

Russ

Council name

Shoalhaven City Council

I would like my submission to remain confidential

No

Info

Email

kruss@webone.com.au

Suburb/Town & Postcode

Berry, 2535

Submission

I strongly support the Berry Forum Committee submission. We bought a small block outside Berry about 10 years ago. We were looking for a peaceful and quiet country life. We have since had massive development (mostly unapproved) next door which is ruining what was a peaceful existence.

Our concerns, well articulated in the Forum submission is that the changes will be rorted and small blocks like that next door to us will become the norm and destroy the lives of those around them.

I agree to the above statement

Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Monday, 19 April 2021 8:52 AM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Mon, 19/04/2021 - 08:51

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Keith

Last name

Faassen

Council name

Shoalhaven City Council

I would like my submission to remain confidential

No

Info

Email

keith.faassen8687@gmail.com

Suburb/Town & Postcode

2535

Submission

I support the recommendations contained in the Berry Forum Committee's submission and add that the long term negative outcomes for the immediate and surrounding communities may be a detriment to the long term future of the area .

I agree to the above statement

Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Monday, 19 April 2021 8:57 AM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Mon, 19/04/2021 - 08:57

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Holly

Last name

Landgren

Council name

Shoalhaven City Council

I would like my submission to remain confidential

No

Info

Email

hollylandgren@icloud.com

Suburb/Town & Postcode

Berry 2535

Submission

PO Box 90
Berry NSW 2535

The Hon. Rob Stokes MP
NSW Department of Planning, Industry and Environment
GPO Box 5341
SYDNEY NSW 2001

By electronic submission

19 April 2020

RE: AGRITOURISM DEVELOPMENT PROPOSAL

Dear Mr Stokes,

I am writing to express my dismay at the proposal for widespread and unchecked agritourism across regional areas.

In particular I am concerned about the Shoalhaven district, where I am a resident of Berry. Farmers in our region have been mostly spared the effects of recent bushfires and floods, and as primary producers are unlikely to have been severely affected by Covid-19.

Of further concern is the dismantling of farming land by stealth; there have been numerous attempts by owners of rural lands to rezone and subdivide for housing. By allowing mixed use of zoned rural land I believe you are opening a door for accepted use other than primary production that cannot be shut.

The shocking lack of requirement of DA for any event leaves residents with the possibility of weekly events, with no apparent restrictions, and no parameters on what type of event is suitable for the site. I, like many rural residents, live surrounded by farming land. People in our position will be unprotected from the increased traffic, noise, and associated pollution created by transient attendees.

There appears to be no provision for the increased requirements of septic systems, run-off, waste generation, and degradation of land by unfettered access to rural properties. Local councils will be left to deal with many of the increased costs that will ultimately be passed onto residents.

This appears to be a hastily drawn up policy, aimed at assisting farmers who have been genuinely affected by recent events, but in its current form removes rational restrictions and guidelines for rural land use. I ask that the policy in its current form not be implemented, and liaison with relevant communities be undertaken before a more acceptable alternative be introduced.

Yours sincerely,

Holly Landgren

cc; The Hon. Gareth Ward
Member for Kiama

I agree to the above statement

Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Monday, 19 April 2021 9:30 AM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Mon, 19/04/2021 - 09:29

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Robert

Last name

Edgerley

Council name

Shoalhaven City Council

I would like my submission to remain confidential

No

Info

Email

rob.b.edgerley@gmail.com

Suburb/Town & Postcode

Berry, 2535

Submission

IRT the NSW DPIE I wish to record that I support the recommendations contained in the Berry Forum Committee's submission regarding this matter. Small hobby farms should remain as hobby farms, and not be made available for commercial tourism by unscrupulous developers.

I agree to the above statement

Yes

Executive Director
Local Government and Economic Policy
Department of Planning, Industry and Environment
Locked Bag 5022, Parramatta NSW 2124

Submission provided through the online portal:
<https://www.planningportal.nsw.gov.au/draftplans/exhibition/agriculture-changes>

16th April 2021

Dear Executive Director,

**Re. Submission - AGRITOURISM AND SMALL-SCALE AGRICULTURE DEVELOPMENT:
Proposed amendments to support farm businesses and regional economies**

Destination Sydney Surrounds South (DSSS) is one of six Destination Networks across regional NSW, established by the NSW Government to support its objective of growing the NSW regional visitor economy. We proactively engage stakeholders to identify, prioritise and facilitate opportunities for regional visitor economy growth. DSSS collaborates with industry, Local Government and State Government to deliver projects that drive visitation, increase visitor expenditure and support dispersal across our region.

The Sydney Surrounds South region encompasses 11,000 square kilometres and is home to over 525,000 people across the six local government areas of Kiama, Shellharbour, Shoalhaven, Wingecarribee (the Southern Highlands), Wollondilly and Wollongong.

Agritourism - Our Objective

There are three key areas of interest to DSSS with respect to agritourism:

- **DIVERSIFICATION** - To assist farmers to meet their own needs and stay in business. Farmers are a key component of many aspects of the visitor economy and play a vital role to our industry, including food tourism, agricultural outlooks and genuine experiences. Without diversification of opportunities, there are risks that rural properties will increasingly be 'locked-up' for personal use, disadvantaging both tourism and agriculture.
- **REINFORCEMENT** - With known market and industry demand for agritourism and genuine experiences, there are key opportunities to be enabled. Enabling these can assist in growing the extent and value of the agricultural offering whilst reinforcing activities and experiences that are core to sustainable growth of tourism. A genuine win-win situation.
- **INNOVATION** - To enable entrepreneurial spirit, multi-generation opportunities within a farming context and growth of business enterprise. There are many opportunities to meet modern farming needs and utilise other non-urban land (not necessarily just farms) in ways that assist to reinforce the importance and appreciation of agriculture. These opportunities can sit alongside existing farming enterprise without discernible impacts on agricultural production.

These key areas of interest are a recurring theme through DSSS's work and this submission. We have also included a number of case studies from our region that provide real life context to the current situation. These are referenced throughout this submission.

Overview

DSSS is extremely pleased to see that the Department recognises the need for changes around the definitions and workability of how tourism can and does interact with agriculture.

For many years, activities such as "cellar door premises" have successfully occurred in rural areas, on working farms and with generally high levels of community acceptance and public enjoyment. We look forward to the proposed changes opening up similar opportunities for a broader range of activities that can facilitate opportunities for agricultural producers, engage the appreciation and importance of agriculture for visitors to regional NSW, and to benefit the regional towns and economies where these occur. A clear example of this is *Darkes Glenburnie Orchard*, which offers many of the activities associated with 'cellar door premises', but as a grower of apples, peaches, nectarines and persimmons instead of grapes, currently operates without approval (see Case Study 4).

Background

DSSS has recognised the opportunities in this area for many years. An opportunity identified in the [DSSS Destination Management Plan](#) was for "Activity development: nature-based, agritourism and adventure". However, subsequent research and detailed review of this opportunity has shown that the current planning framework is a significant barrier. Existing land use terms and their application to non-urban land means that many opportunities are not possible, or only possible on a temporary use basis. This has created extreme high costs associated with rezoning and/or recurring approval processes – subsequently increasing risk, discouraging investment and innovation across this sector, and resulting in decisions that are increasingly about local politics rather than industry need or planning merit.

At the same time, there are continued risks of non-urban land being utilised for personal use, disadvantaging both agricultural activity and tourism. This undermines the extent, diversity and value of agricultural activity and introduces permanent residents from non-farming backgrounds to rural areas, creating even greater risks of land-use conflict. By enabling economic diversification and innovation within the farming context there is increasing opportunity to reinforce agricultural activity and tourism as key economic drivers into the future.

Key areas of support

DSSS believes that there are highly beneficial outcomes to achieve the areas of interest from the proposed changes – these are supported, in principle, by DSSS. These include:

- **NEW DEFINITIONS** - Provision of new definitions for 'farm gate activities' and 'farm events' will enable the types of tourism activities and products that are popular within the market, correlate with the aims of many destination / tourism strategies, and which support a diverse agricultural offering. The introduction of these new terms is critical.

- **BROADENING FARM STAYS** - Broadening of the definition of 'farm stay accommodation' will enable investment and returns for farmers that are commensurate with the effort to establish such enterprises. This effort and return for the current highly restrictive farm stay opportunities is not worthwhile for many. Opportunities for greater number of buildings/bedrooms is supported, alongside opportunities for small scale caravan and camping that addresses this balance.
- **FIT-FOR-PURPOSE PLANNING PATHWAYS** - Provision of new planning approval pathways enables small scale, low impact activities to be tested and explored by landholders. This can occur before more intensive approval processes, which are higher cost and higher risk, are undertaken. This is fundamental to enabling the market to respond to demands in a staged and progressive way. It is therefore critical that the development application pathway be as open as possible, to ensure effective merit-based assessments can occur on a site-by-site basis. Any restrictions enabled through a local clause should therefore avoid the types of fixed measures that are apparent and generally accepted for exempt and complying development.

These directions are all broadly supported, and the thrust of these directions should not be forgotten as the process evolves.

Key issues and desired outcomes

The following issues, suggested modifications and clarifications are identified by use type to highlight where improvement to the proposals is desired.

ALL USE TYPES

Operational management - There are opportunities to employ industry codes or similar, as a mechanism for managing operational risks and enforcement – as have been applied to Short Term Rental Accommodation for example. Penalising all operators, as often results through land-use planning framework, for the very small numbers of operators that cause or result in conflict is not realistic. DSSS and others would be able to deliver training and management guidance to further reinforce the need for careful and considered management approaches that minimise risks of conflict.

Inclusion of the E3 zone – There are a number of instances where the E3 – Environmental Management zone has been used across extensive localities that are predominantly rural and include rural uses – for example, in the Wingecarribee Shire which is part of the DSSS region. This zone has been used as a form of landscape protection where forms of 'agriculture', particularly 'extensive agriculture', are permitted (sometimes without consent). Given the use of the E3 zone for this purpose, it is important that the application of 'farm stay accommodation', 'farm gate activities' and 'farm events' are all included as 'permitted with consent' in the E3 zone wherever 'extensive agriculture' is not prohibited. A prime example of this situation is the *Mauger's Paddock to Plate Tours* operated by John and Vicki Mauger in Robertson – refer to Case Study 1.

FARM STAY ACCOMMODATION

Alternative accommodation types – Provision should be made for alternative accommodation types for uses associated with the definition of 'farm stay accommodation'. For example, tiny homes,

glamping tents and the like, provide unique experiences at a reduced cost to the provider and market. This means that opportunities can be provided at a range of price points / levels without the high costs of full dwellings or manufactured homes being developed. This capability should be permitted in both the complying development and development application pathways.

Setbacks – There are a number of setback requirements that are identified in exempt and complying development pathways. Whilst the need for these in general terms is understood and supported, where there are high impact uses in the area, some of these setback requirements are unlikely to be workable even where there is little or no risk of land use conflicts. Examples are highlighted below:

- With respect to setbacks from ‘adjoining established or proposed’ uses, it is appropriate for these to be larger for high impacts uses as identified. However, it is unclear why a 250m ‘from the boundary with the other use’ (EIE page 11 & 12) is required as in the vast majority of instances, there is no intensive use or land use risk? A lesser setback to a ‘neighbouring landholding’ of 50m may be more appropriate (i.e. the setback identified for ‘farm gate activities’ (EIE page 18/19) or ‘farm events’ (EIE page 22/23) from the property boundary).
- Similarly, side setbacks are identified at 200m for new buildings/manufactured homes (EIE page 12) under complying development, which would be more appropriate as a consistent 50m setback in line with the point above.
- With respect to setbacks from a waterway, rather than a blanket 100m setback, (which is well above the DPI – Office of Water ‘*Guidelines for riparian corridors on waterfront land*’ which provides a basis for setbacks of between 10m and 40m depending on the stream classification), and if a set number is required, a 40m setback would be appropriate in accordance with this industry standard.

Proximity – The ‘use, location and size’ requirements (complying development – EIE page 12) identifies that erection of a new building/manufactured home for ‘farm stay accommodation’ use must be within 300m of ‘the existing dwelling’. This is an arbitrary distance and requirement. Whilst most facilities would meet this setback anyway, it should not be a requirement as it restricts the spread of facilities on larger properties, and which may be in the interest of users and land holders. No proximity requirements should be included as this is highly dependent on individual site requirements.

Height – The ‘use, location and size’ requirements (complying development – EIE page 12) indicate that erection of a new building for farm stay accommodation must have a maximum height of 6m. This provides for small two-storey development, but does not provide for any innovation or the feeling of space which may be desired. Should two-storey development be supported, the height limit should be 8.5m in line with industry standards as used extensively through the codes SEPP.

Floor area – The floor area for buildings, under change of use - complying development, identifies the ‘maximum floor area of the development must be 60 square metres’ (EIE page 11). This is highly restrictive where re-use of an existing lawfully erected building is being proposed. No maximum floor area should be applied in this instance.

FARM GATE ACTIVITIES

Standard hours – Given the potential for farm gate activities to include a restaurant or café, the restriction of operation under exempt development to 7:00pm (Monday to Saturday) and 6:00pm (Sunday and public holiday) (EIE page 16) operational hours would seem very stricture. Whilst not needing to be much later, a 9:00pm restriction is considered to be more realistic.

Setbacks – There are a number of setback requirements that are identified in exempt and complying development pathways. Whilst the need for these in general terms is understood and supported, where there are high impact uses in the area, some of these setback requirements are unlikely to be workable even where there is little or no risk of land use conflicts. Examples are highlighted below:

- With respect to setbacks from ‘adjoining established or proposed’ uses, it is appropriate for these to be larger for high impacts uses as identified. However, it is unclear why a 250m ‘from the boundary with the other use’ (EIE page 16 & 18) is required as in the vast majority of instances, there is no intensive use or land use risk? A lesser setback to a ‘neighbouring landholding’ of 50m may be more appropriate (i.e. the setback identified for ‘farm gate activities’ (EIE page 18/19) or ‘farm events’ (EIE page 22/23) from the property boundary).

Number of guests – Is generally supported for exempt development (50 people), though this may be increased for complying development (suggested to be 75 people). Above this (as a form of sliding scale in assessment terms), a development application would then be required.

FARM EVENTS

Principal use – The proposed definition for ‘farm events’ refers to the “principal use of the land is the production of agricultural goods for commercial purposes”. Whilst the use of the land for production of agricultural goods is supported, there are a number of instances where the current principal use of the land is for other purposes, such as environmental conservation or historically approved event activities (under the ‘temporary use’ clause for example). These can include small rural holdings in isolated areas where appropriate assessment can find a balance between various uses, including, but perhaps not principally, production of agricultural goods. The desired language in the definition may more appropriately aligned with ‘farm gate activities’ which references “where associated with” agricultural production. As an example, Case Study 3 - *Merribee* in Numbaa near Nowra, has operated for 15 years with the main enterprise being tourism and event related activities. The scale of the land (2.71 hectares) means that traditional agricultural is not possible, though several agricultural enterprises (including cut flowers, nursery, and beekeeping) and the agricultural surrounds of the land are critical to the enterprise and setting. If Merribee does not operate as a principally tourism enterprise, it is likely to become a private residence / hobby farm, removing 12-14+ staff currently employed.

Alignment to cellar door premises – Whilst the incorporation of the existing ‘cellar door premises’ definition as a sub-set of the proposed ‘farm gate activities’ definition is supported, the application of the ‘farm gate activities’ definition may also be appropriately applied wherever ‘cellar door premises’ is currently permissible. For example, LEPs for Wingecarribee, Kiama and Shoalhaven all allow ‘cellar door premises’ in the E3 – Environmental Management Zone and this should be replaced on application of the agritourism changes with the broader use term of ‘farm gate

activities'. A similar situation exists for Kiama in that the RU2 – Rural Landscape zone does not allow 'agriculture' but does allow 'cellar door premises'. Without application of 'farm gate activities', opportunities such as The Pines Kiama, a boutique micro-dairy operation as highlighted in Case Study 2, are left without a planning pathway to enable growth of their value-adding business model.

Clarification

For clarity, it is agreed that a 'landholding' is the relevant measurement of agricultural land for the purposes of enabling the extent of uses. For example, we understand and agree that the provision of one dwelling per 15 hectares for 'farm stay accommodation' is across a landholding, not individual lots.

CONCLUSION

There are several key advantages to the proposed planning amendments that are integral to the work of Destination Sydney Surrounds South. Not only do we see these changes benefitting tourism opportunities in regional and rural areas, but we strongly believe that they are needed to sustain a healthy and progressive agricultural sector. Many of the visitors to the area seek these experiences and increasingly come to appreciate and support farming activities. In this way, we see the changes as being mutually beneficial to both the tourism and agricultural sectors.

We congratulate the Department on progressing this initiative and look forward to its introduction in the near future.

Yours sincerely,



Shannan Perry-Hall

General Manager

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CASE STUDY 1: Mauger's Paddock to Plate Tours & Laurel View Farm Stay

Current Use and Activities

Owned by John and Vicki Mauger, the farm at 'Laurel View' was originally run for cattle and sheep, to supply the [Mauger family's butchery](#). Now in the third generation, the Mauger's brand has been supplying quality meat to the Southern Highlands for over 50 years, specialising in locally grown, 100% grass-fed beef and lamb.

The farm and butchery were previously operated as a single business however the two aspects of the business were divided two years ago, to support succession planning. Their son, Mat Mauger, now runs and owns the two butchery stores, one in Burrawang and the other in Moss Vale, with John and Vicki running the farm. Since this time, the couple have experienced operating the farm as a stand-alone entity to be significantly less profitable and have found themselves needing to diversify to supplement their income.

John and Vicki have been operating a [Farm stay Accommodation on the property](#) for almost 12 years, utilising an existing three-bedroom self-contained farmhouse. The accommodation attracts both domestic (intrastate and interstate) visitors as well as international travellers.

In addition to the farm stay accommodation, the Maugers have been running [Paddock to Plate Farm Tours](#) on the property for three years. The experience has had a short pause due to COVID-19. The tours are generally run monthly and includes bus tour groups, educational interest and private groups. Interest and awareness of the tours continues to grow through social media marketing and word of mouth. Visitors are becomingly interested in the origin of their food, not only the health benefits, but also the way it is produced and the impact the farmer leaves on the land – these are all factors covered in the tour.

"There is a real thirst for knowledge on how our foods are produced and the people that work the land." – John Mauger

Current Situation

Both the farm stay accommodation and farm tours are conducted using buildings and infrastructure that already existed on the property. The couple have repurposed existing sheds to host the Paddock to Plate tours specifically. The two aspects of the Mauger's on farm activities positively promote the region, attract visitors, encourage increased visitor spend and support direct increased awareness of agriculture – both improved understanding and appreciation of the industry.

Planned Activities and Opportunities

The Southern Highlands is maturing and increasing in popularity as a key destination for visitors, yet there is limited supply of accommodation in the Robertson area. To support the growth of the visitor economy in their region and to provide themselves with a reliable source of income, John and Vicki would like to construct additional new buildings on the property to accommodate more visitors. They are, however, extremely apprehensive about the existing approval process and the associated costs involved in pursuing this opportunity.

The proposed amendments will directly benefit the Mauger's, in their efforts to diversify their farming operations to support the viability of the property and provide stability for themselves now and future generations after them.

Property Snapshot

Location	Robertson, NSW
Local Government Area (LGA)	Wingecarribee Shire Council
Zoning	E2 Environmental Conservation E3 Environmental Management
Land size	64.08 ha
Other planning considerations (if applicable)	Heritage: Item - Landscape (State) - Wingecarribee Swamp





CASE STUDY 2: The Pines Kiama

Current Use and Activities

Established in 1854, [The Pines](#) is a family owned and operated micro-dairy located in the hills above Kiama. Owners Kel & Mahlah Grey, manage all aspects of the farming and dairy product manufacturing with a concerted emphasis on quality and sustainability.

The couple have converted the dairy from a mainstream 'milk to market' dairy with a substantial herd to a 'value add' model, operating with a small herd (24 cows in total) and onsite processing of the milk into a select range of high-quality, gelato and cheeses with limited bottled milk and yoghurt delivered to the local area. The Pines has been operating as a micro-dairy for over seven years and is very focused on animal welfare and environmental considerations. This has allowed them to proudly operate a new type of dairy with the emphasis on manufacturing high-quality, award-winning dairy products.

The Pines current business model enables them to avoid the need to participate in the preferred dairy industry sale of milk to large scale processors at very low pricing structures. Milk from the cows is processed into premium dairy products within 15-20 minutes of milking, right alongside the milking area. The couple sell their products wholesale to various retailers around the area, and they operate direct sales to the public through the local market at Kiama. However, with the bushfires and COVID-19 impacting on market trading, this has most recently presented limited growth opportunity.

Current Situation

The Pines have all necessary food processing approvals with the NSW Food Authority for their dairy production. Their local council does not have a Farmgate Policy and due to the current planning framework, the business does not run any on farm offerings as they are unable to obtain approval to operate onsite experiences.

"There is a huge demand for on farm visitation and retail. We receive daily phone calls, emails and social media request to host families, groups, and executives on farm. People want to buy our product directly in a cellar door type experience." – Mahlah Grey

Planned Activities and Opportunities

The Pines have plan to develop a direct to the public sales farmgate on the dairy property which will not only allow the business to increase margin by selling direct, but it can also be a catalyst to commence a 'Food Trail' tourism cluster in the Kiama area as there are other boutique fresh food producers in meat, cheese, olive oil and fresh produce around the area. The Pines farmgate retail operation will be built directly in front of the dairy property's main homestead overlooking the spectacular coastline of Kiama. The building will be designed to complement the homestead and surrounding dairy farm buildings which date back to 1854 and will therefore become a major tourism drawcard for the area.

Property Snapshot

Location	Kiama, NSW
Local Government Area (LGA)	Kiama Municipal Council
Zoning	RU2 Rural Landscape
Land size	39.118 ha
Other planning considerations (if applicable)	Heritage: Item - General (Local) - The Pines Homestead





CASE STUDY 3: Merribee

Current Use and Activities

Established in 1850, [Merribee](#) is owned by Richard and Lucy Marshall and together they have run and successfully operated over ten different start-up businesses locally and internationally, for over 35 years.

The couple are innovative, with a focus on entrepreneurial business opportunities that bring economic growth, jobs and involve professional, business-like, and community-minded business administration.

Richard and Lucy purchased Merribee in 2000 and have been continuously investing in capital improvements for the property over the 21 years (over \$2 million to date). Today, Merribee is a thriving agritourism business on seven acres, east of Nowra, with extensive landscaped ornamental gardens, orchard and parkland. The business employs 12-14 staff during the year, plus an additional six to eight staff during their busy summer season, festivals and events. Their three to five year goal is to triple the size of their agritourism business.

Current Situation

Consistent with the new proposed definitions, Merribee currently offers and has full DA approval for activities and uses that are consistent with the farm stay accommodation, farm gate activities and farm events definitions. However, despite their 15 years of successful operation, this approval is as a 'temporary use' and under this current planning framework the business is required to undertake the costly process to renew their approval every four years. This creates significant uncertainty which leads to hesitation to invest in the business and property, as well as significant frustration, to the point where the couple placed the property on the market in recent years. The property did not sell, and fortunately Richard and Lucy have now regained their enthusiasm for their business and found new ways to move ahead.

The property aligns with the proposed definition of agritourism, the business is a family operation with multi-generational involvement in the agricultural/horticultural enterprise. Merribee grow cut flowers, nursery plans and keep bees. They are constantly innovating, looking for ways to diversify and grow, to keep their services and brand fresh and in touch with market demands.

Planned Activities and Opportunities

The proposed amendments will provide a clear pathway to seek longer term approval to operate their business, an option that is not available under the current planning framework. It will give the couple and their family confidence to continue their commitment to the business operations and certainty to continue their investment in the property.

"Merribee as a property and rural enterprise fits right in the sweet spot for the Government's proposed amendments." – Richard Marshall

Property Snapshot

Location	Numbaa, NSW
Local Government Area (LGA)	Shoalhaven City Council
Zoning	RU1 Primary Production
Land size	2.71 ha
Other planning considerations (if applicable)	Flood (LEP): Flood Planning Area





CASE STUDY 4: Darkes Glenbernie Orchard

Current Use and Activities

Owned by the Fahey family and currently in the sixth-generation, [Glenbernie Orchard](#) is a farm that has been operating at Darkes Forest, between Wollongong and Sutherland, since 1939. The business offers farm gate shop, pick your own fruit, farm-based tours. Available for sale at the farm gate shop are their apples, peaches, nectarines and persimmons grown on farm, as well as mead and award-winning apple cider made from honey and apples grown onsite. The farm tours are popular with families and seniors, with visitors keen to have an authentic farm experience. Visitors are attracted from across the Sutherland Shire, surrounding suburbs, and the Illawarra. When borders permit, the business also attracts international visitors, with the biggest markets being China, Korea, Malaysia and India.

Property Snapshot

Location	Darkes Forest, NSW
Local Government Area (LGA)	Wollongong City Council
Zoning	E3 Environmental Management
Land size	22.05 ha
Other planning considerations (if applicable)	SEPP (Sydney Drinking Water Catchment) 2011

The business employs three full time staff and depending on seasonality engage 12-20 casual employees. With greater certainty and opportunities presented by the proposed planning amendments, the business would have capacity to grow and increase their ability to employ additional permanent full-time and part-time staff.

Glenbernie Orchard has been innovative over the past 30 years and has had to pivot considerably due to wholesale fruit production and sale no longer being a viable activity on its own. If it weren't for the retail and tourism activities, in conjunction with the development of value-add products such as apple cider, the farm would no longer exist.

Current Situation

The current activities and operations at Glenbernie Orchard are not dissimilar to that of a vineyard/cellar door, however due to the restrictions of the current planning framework, the business is operating without approval. The on-farm retail shop has been carrying on at varying levels since 1939 and the current operations are conducted with business approvals that existed before the most recent zoning. Recognition of agritourism and the addition of the new definitions proposed through the new amendments will significantly benefit Glenbernie Orchard, providing the business with a clear pathway for obtaining approval to conduct their existing operations as well as options to grow their business and offerings.

"We are in a good position, in that our children are interested in continuing our business if we are able to continue down the on-farm tourism track. However, it is currently too difficult to operate and expand the facilities that we have on our farm." – Jo-Anne Fahey

Planned Activities and Opportunities

The business has plans to develop a new onsite purpose-built premise to house their farm gate store, offering apple cider tastings and retail sales. This space will likely include cafe or restaurant space that could host weddings, conferences, and events. In an outdoor context, the property has a natural amphitheatre which would be ideal for festival and events. Interest from the property owners to develop the site for these activities, to deliver facilities that meet visitor expectations and market demand is a goal that would be significantly assisted by the proposed amendments to the planning framework. By pursuing this through standard Development Application (DA) options, this will provide clarity and certainty for the family to invest and continue their business for future generations.





CASE STUDY 5: Narrawilly Farm

Current Use and Activities

Owned by the Miller family, [Narrawilly Farm](#) is a fifth-generation dairy farm, first established in 1859. In addition to being working dairy, the business has offered farm stay accommodation for over 25 years in specially built structures on the property.

Grown onsite is a range of seasonal produce, flowers and honey – the hives are managed and is honey produced by local apiarists. The family also works with a professional soap and candle maker to make hand-made soaps using cows' milk from Narrawilly Farm and beeswax candles made from the hives kept on the property. These products are all sold online and the business also operates a farm cart to sell direct to customers. The cart is parked on the side of the highway, generally between Christmas and May/June, depending on the availability and seasonality of produce. Narrawilly Farm does not currently have the facilities or commercial kitchen to produce their own value-add products on site, instead engaging local suppliers to assist with this process – owner, Rob Miller's goal is to work in partnership with local networks as much as possible.

Property Snapshot

Location	Milton, NSW
Local Government Area (LGA)	Shoalhaven City Council
Zoning	RU1 Primary Production
Land size	74.72 ha
Other planning considerations (if applicable)	Heritage: Item - General (Local) - "Narrawilly" Dairy Farm Complex, including Garden, Rainforest and Convict road

"Not every family has sons and agritourism has the opportunity to include more of the family, supporting greater diversification to provide viability to our business" – Rob Miller

Current Situation

The property owners have approval for their two existing farm stay accommodation buildings, as well as approval for a further two buildings (to provide four in total). The 2019-20 bushfires, which severely impacted the property and "really shook up" the property owners, highlighted to Rob the need to diversify. Since this time, Rob has been seeking approval from the local council for relocatable homes, to develop the farm stay accommodation rather than the (already approved) fixed buildings. This has been a challenging process and is quickly becoming cost prohibitive.

Planned Activities and Opportunities

Due to the location of the property, access from the Princes Highway is an ongoing concern of Council and the Roads and Maritime Services (RMS), and this significantly impacts the business' ability to develop on farm experiences at their existing property. To overcome this concern, Rob has purchased an additional property on which he aims to develop a farm gate experience that is more accessible from the major highway. The proposed amendments and new definitions for inclusion in the planning framework will directly support Rob's goal to developing this visitor experience. This will provide an approved outlet for him to sell his farm products direct to customers, supporting greater viability for his business.





CASE STUDY 6: Mali Brae

Current Use and Activities

[Mali Brae Farm](#) is a historic property located in the Southern Highlands, specialising in weddings, conferencing and events. The property has been operating as a venue for eight years and has an onsite restaurant that is currently open two days per week.

A popular wedding venue, Mali Brae attracts couples from across the Southern Highlands, Illawarra, South Coast, Canberra and Sydney. The average spend by these couples is \$50,000 including the venue, accommodation, transport, suppliers – florists, hair and makeup, etc. and there is significant demand from Sydney and Canberra visitors for intimate rural events. The property owners have grown the business into a successful venue employing two full-time, two part-time and ten casual staff.

Property Snapshot

Location	Moss Vale, NSW
Local Government Area (LGA)	Wingecarribee Shire Council
Zoning	E3 Environmental Management
Land size	34 ha
Other planning considerations (if applicable)	Heritage: Item - General (Local) - Mali Brae (Hatch Cottage) cottage and outbuildings <i>SEPP (Sydney Drinking Water Catchment) 2011</i>

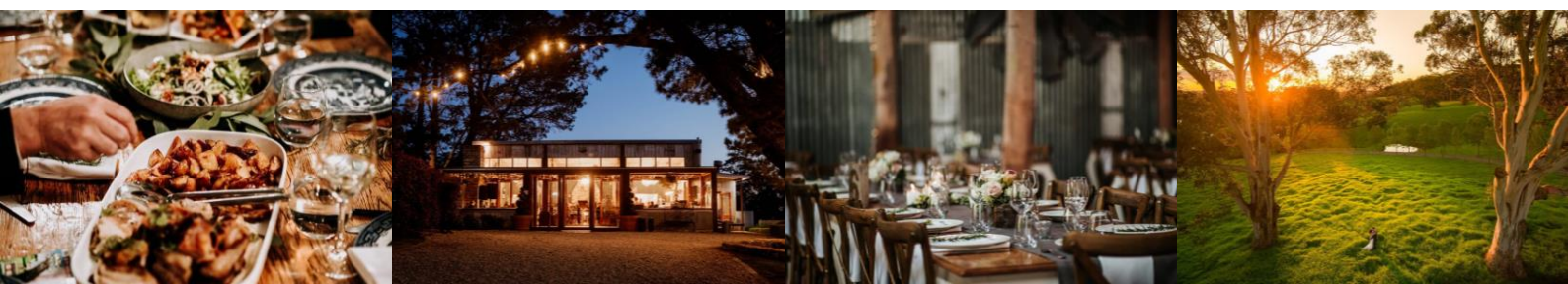
Current Situation

Mali Brae has the necessary development approvals to operate but has had to rely on the property's heritage buildings to receive approval for hosting of events on the site. The business owners have experienced endless challenges with the local council in securing these approvals, due to limitations of the existing planning framework.

Other venues in the region rely on temporary use approvals, for these businesses and as an industry this causes significant uncertainty. Business owners are hesitant to invest, with the unknown of their next temporary approval and this is typically a very costly process to undertake on an ongoing basis (generally every three to five years). With the added lead time and market demand for wedding bookings, this uncertainty of the venue can cause issues across the entire supply chain.

Planned Activities and Opportunities

Mali Brae have plans to extend their current building and would also like to operate the restaurant more regularly, however the current planning framework does not support these activities. The business already faces difficulties in finding and securing qualified staff, particularly chefs, due to industry-wide skills shortages and without the certainty to operate and ideally extend their existing offering, it simply is not viable for them to do so.



Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Monday, 19 April 2021 10:01 AM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Mon, 19/04/2021 - 10:00

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Brian

Last name

Warner

I would like my submission to remain confidential

No

Info

Email

btian@themwarners.com

Suburb/Town & Postcode

Berry Mountain 2535

Submission

I strongly support the recommendations contained in the Berry Forum Committee's submission. I am particularly interested in this matter since I own and live on a semi rural property on Berry Mountain where there have been several DAs submitted to our local Shoalhaven Council which, if approved and developed, would significantly have negatively impacted our amenity. It has cost us and many others in this area significant time and money opposing these DAs that were obviously intended to convert a quiet rural area into a commercial hub with all the attendant negatives. I implore the Department to please use common sense and heed the local resident's objections when modifying any development plans and PLEASE don't include huge loopholes in any legislation that will result in the continuation of the ongoing conflict between residents and councils when trying to assess obvious commercial developments.

I agree to the above statement

Yes



17 April 2021

Executive Director
Local Government and Economic Policy
Department of Planning, Industry and Environment
Locked Bag 5022, Parramatta NSW 2124

Submission provided through the online portal:

<https://www.planningportal.nsw.gov.au/draftplans/exhibition/agriculture-changes>

Dear Executive Director,

Re. Submission - AGRITOURISM AND SMALL-SCALE AGRICULTURE DEVELOPMENT: Proposed amendments to support farm businesses and regional economies

Destination North Coast (DNC) is one of six Destination Networks across regional NSW, established by the NSW Government to support its objective of growing the NSW regional visitor economy. DNC covers from the Queensland border in the north to Tea Gardens/Hawks Nest in the south and encompasses 14 local government areas being; MidCoast, Port Macquarie Hastings, Kempsey, Macksville/Nambucca, Bellingen, Coffs Harbour, Clarence Valley, Richmond Valley, Kyogle, Lismore, Ballina, Byron Bay, the Tweed and Lord Howe Island.

The North Coast Destination Management Plan 2018-2021 identifies food And local produce as one of seven key experience pillars which are seen as important opportunities for the region. We support projects that clearly demonstrate the ability to drive increased overnight visitation and/or visitor expenditure and which address an identified demand gap or seasonality.

We assess that the proposed amendments to support farm businesses and regional economies supports our goals of fostering producers whilst adding to the overall visitor economy for the North Coast.

Agritourism - Our Objective

Below are the key areas of interest to DNC with respect to agritourism:

- **Innovation** – Across our region we have a significant number of rural landholders who would like to introduce new product and experiences to their business. The current system is often seen as too big an encumberment to attempt new initiatives without undue financial risk. We believe the proposed amendments provide an opportunity for these operators to engage new sectors in a measured and sustainable way to assess their viability. In addition, they enable neighbouring properties and residents the ability to assess the types of impacts that such initiative will have. In turn both parties moving forward has a better understanding of the opportunity and impacts of the new initiative before any potential DA applications is lodged to increase the scale of the operations. These opportunities can sit alongside existing farming enterprise without discernible impacts on agricultural production.

We believe the amendments will greatly improve the willingness and capabilities of operators to attempt new and innovative initiatives their properties.

- **Diversification** – Recent drought, flood and pandemic crisis have highlighted the need for primary producers to have diversified opportunities to generate income. We believe the proposed amendments will greatly assist this endeavour for farmers and as a result will deliver greater financial security for the land owners. Without diversification of opportunities, there are risks that rural properties will increasingly be ‘locked-up’ for personal use, disadvantaging both tourism and agriculture.
- **Deliver Customer Centric Product and Attractions** – Demand for agritourism in general and for consumers to understand the origin of their food beverage and products we believe the proposed amendments will greatly assist landowners in delivering customer centric product and experiences.

Key areas of support

DNC believes that there are highly beneficial outcomes to achieve the areas of interest from the proposed changes – these are supported, in principle, by DNC. These include:

New and Broader Definitions – We believe the proposed amendments will provide greater clarity as to what landowners can undertake on their property and in turn deliver a greater range of products being sort by consumers

Greater Diversity of Farm Stays - Broadening of the definition of ‘farm stay accommodation’ will enable investment and returns for farmers that are commensurate with the effort to establish such enterprises. This effort and return for the current highly restrictive farm stay opportunities is not worthwhile for many. Opportunities for greater number of buildings/bedrooms is supported, alongside opportunities for small scale caravan and camping that addresses this balance.

More Flexible & Market Suitable Planning Pathways - Provision of new planning approval pathways enables small scale, low impact activities to be tested and explored by landholders. This can occur before more intensive approval processes, which are higher cost and higher risk, are undertaken. This is fundamental to enabling the market to respond to demands in a staged and progressive way. This amended methodology has the dual benefit of providing a more cost effective opportunity for landowners to launch new initiatives whilst still enabling council to have control over larger scale initiatives and developments.

Key issues and desired outcomes

The following issues, suggested modifications and clarifications are identified by use type to highlight where improvement to the proposals is desired.

FARM STAY ACCOMMODATION

Alternative accommodation types – Provision should be made for alternative accommodation types for uses associated with the definition of ‘farm stay accommodation’. For example, tiny homes, glamping tents and the like, provide unique experiences at a reduced cost to the provider and market. This means that opportunities can be provided at a range of price points / levels without the high costs of full dwellings or manufactured homes being developed. This capability should be permitted in both the complying development and development application pathways.

FARM GATE ACTIVITIES

Standard hours – Given the potential for farm gate activities to include a restaurant or café, the restriction of operation under exempt development to 7:00pm (Monday to Saturday) and 6:00pm (Sunday and public holiday) (EIE page 16) operational hours would seem very stricture. Whilst not needing to be much later, a 9:00pm restriction is considered to be more realistic.

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FARM EVENTS

Principal use – The proposed definition for ‘farm events’ refers to the “principal use of the land is the production of agricultural goods for commercial purposes”. Whilst the use of the land for production of agricultural goods is supported, there are a number of instances where the current principal use of the land is for other purposes, such as environmental conservation or historically approved event activities (under the ‘temporary use’ clause for example). These can include small rural holdings in isolated areas where appropriate assessment can find a balance between various uses, including, but perhaps not principally, production of agricultural goods. The desired language in the definition may more appropriately aligned with ‘farm gate activities’ which references “where associated with” agricultural production.

Alignment to cellar door premises – Whilst the incorporation of the existing ‘cellar door premises’ definition as a sub-set of the proposed ‘farm gate activities’ definition is supported, the application of the ‘farm gate activities’ definition may also be appropriately applied wherever ‘cellar door premises’ is currently permissible.

CONCLUSION

There are several key advantages to the proposed planning amendments that are integral to the work of DNC and its variety of stakeholders. Not only do we see these changes benefitting tourism opportunities in regional and rural areas, but we strongly believe that they are needed to sustain a healthy and progressive agricultural sector. Many of the visitors to the area seek these experiences and increasingly come to appreciate and support farming activities. In this way, we see the changes as being mutually beneficial to both the tourism and agricultural sectors.

Yours sincerely



Michael Thurston
General Manager

Ref: Strategic Planning
Contact: Crystal Atkinson

19 April 2021

Executive Director
Local Government and Economic Policy
NSW Department of Planning, Industry and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Dear Sir or Madam

RE: Explanation of Intended Effect – Agritourism and small-scale agriculture development

Council supports the proposed changes to the NSW Planning System to better support farming businesses and rural and regional areas and would also like to adopt the new optional clauses for farm stay accommodation and farm gate activities.

The following feedback / comments are provided in response to elements of the draft provisions:

Farm stay accommodation:

- A setback of 50m from a waterway would result in an improved visitor experience.

Farm gate activities:

Peak time for farmgate visitation is on weekends. The provisions should allow for farms to offer farmgate activities over weekends.

- Number of event days to be 104 per year.
- 30 guests per event.

Farm events:

- The classification/definition of the following items as 'events' should be defined as 'farm gate activities':
 - Tours
 - Horse riding / animal handling experiences
 - Motorbike tours
 - Fruit picking or foraging experiences
 - And other similar experiences
- These activities would be ongoing and are a critical part of creating the overall agritourism experience which ultimately supplements the operator's income. These activities would occur daily / weekly / seasonally and it would be difficult to limit by the caps applied to events

- Maximum guests for exempt and complying development should increase to **60 people** at any one time. This allows for businesses to conduct tours for coach groups (e.g. Holiday goers and school groups) with allowance for additional personnel.

Events can include the following:

- Social / community events such as harvest celebrations, hybrid events.
- Unique business / corporate events.
- Wellness events (yoga, fitness, health discussions).
- Workshops.
- Private events, such as weddings or other celebrations.

Destination weddings are supported as they allow opportunity for diversification to supplement farming incomes. These work best when provided with on farm accommodation and is consistent with the Riverina Murray Destination Management Plan 2018 where the region is identified as a growing destination wedding market.

Destination weddings within the Primary Production and Rural Landscape zones are supported as they currently occur within these zones in the Wagga Wagga Local Government Area under existing use rights. A model clause is supported to provide criteria for these to occur.

Optional clauses

Wagga Wagga City Council have resolved to adopt the optional clauses at the ordinary meeting of Council held on 12 April 2021, refer to minutes and agenda attached to this letter. The zones that the clauses will apply to include:

- RU1 Primary Production
- RU2 Rural Landscape
- RU4 Primary Production Small Lots
- RU6 Transition

I will be the contact person to liaise with the Department about implementation of the clause and look forward to progressing this project with you.

My contact number is 6926 9556 and I can be emailed at atkinson.crystal@wagga.nsw.gov.au

If you need any further information or clarification, please let me know.

Yours sincerely,



Crystal Atkinson
Senior Strategic Planner

**RP-3 AGRITOURISM AND SMALL-SCALE AGRICULTURAL
DEVELOPMENT**

Author: Crystal Atkinson
Director: Michael Keys

Summary:

The NSW Government is proposing amendments to the NSW planning system to streamline the approval of agritourism development and small-scale agricultural development.

The changes intend to reduce red tape and make it easier for farmers to get planning approval while managing environmental impacts.

Recommendation

That Council:

- a endorse the inclusion of optional local environmental plan clauses for farm stay accommodation and farm gate activities
- b notify NSW Government of council's decision

Report

NSW Government has identified that NSW farmers and farming communities have faced many challenges including prolonged drought, land fragmentation and declining terms of trade. This year, farming communities have had to deal with unprecedented bushfires and economic impacts arising from Covid-19 including travel and trade restrictions, cancellation of regional events, and temporary closure of local businesses.

In response, changes are proposed to support recovery and resilience of regional communities and farming by growing emerging industries that are supplementary to, or based on, agriculture. A fact sheet and explanation of intended outcomes is attached for reference.

The clause requires Council to indicate which zones the clause is to apply. Zones within the Wagga Wagga Local Environmental Plan 2010 that permit agriculture will be included. These zones are listed below:

- RU1 Primary Production
- RU2 Rural Landscape
- RU4 Primary Production Small Lots
- RU6 Transition

The increased flexibility for on-farm and rural activities is consistent with objectives and actions of the Wagga Wagga Local Strategic Planning Statement (LSPS). By adopting these provisions this will ensure our rural areas have similar flexibility to diversify and increase productivity as well as potentially increase tourism and visitor economy offerings. Adopting a state led provision also ensures Wagga Wagga is consistent with the broader NSW planning provisions, reducing complexity and inconsistency across the State.

By choosing to opt-in, this will remove the need for Council to prepare a Planning Proposal to amend the Wagga Wagga Local Environmental Plan 2010.

Financial Implications

Implementing the clause as part of the NSW Department of Planning, Industry and Environment's opt-in process will remove the need for a planning proposal to be prepared and the associated Council resourcing costs.

Policy and Legislation

Environmental Planning and Assessment Act 1979
Wagga Wagga Local Environmental Plan 2010

Link to Strategic Plan

The Environment

Objective: We plan for the growth of the city

Outcome: We have sustainable urban development

Risk Management Issues for Council



Adopting the clause will require Development Assessment to rely on the merit provisions of the EP&A Act to refuse DA's where the development is inconsistent with risks or environmental impacts identified under section 4.15 of the EP&A Act rather than the local provisions of the Wagga Wagga Local Environmental Plan 2010.

Internal / External Consultation

As the proposed changes are intended to support farmers to diversify their income stream or value-add to their core agricultural business to make it more resilient, profitable and attractive, no community consultation is proposed on top of the consultation undertaken by the NSW Government.

Council staff have had informal discussions with operators to encourage them to provide a submission direct to NSW Government.

Attachments

1.  Frequently Asked Questions - Agritourism and small-scale agriculture planning reforms
2.  Explanation of Intended Effect - Agritourism and small-scale agriculture development

**RP-3 AGRITOURISM AND SMALL-SCALE AGRICULTURAL
DEVELOPMENT**

21/095 RESOLVED:

On the Motion of Councillors K Pascoe and T Koschel

That Council:

- a endorse the inclusion of optional local environmental plan clauses for farm stay accommodation and farm gate activities**
- b notify NSW Government of council's decision**

CARRIED

RECORD OF VOTING ON THE MOTION

For the Motion

Y Braid OAM
G Conkey OAM
P Funnell
D Hayes
V Keenan
R Kendall
T Koschel
K Pascoe
D Tout

Against the Motion

RP-4 NET ZERO EMISSIONS TARGET was moved forward to follow the Public Discussion Forum.

RP-5 COVID-19 FAST TRACK EVENT SPONSORSHIP was moved into Closed Council to allow debate on Commercial in Confidence event proposals.

RP-6 NAMING OF JUBILEE PARK ATHLETICS FACILITY

21/096 RESOLVED:

On the Motion of Councillors K Pascoe and T Koschel

That Council:

- a note that no public submissions were received during the public exhibition period**
- b adopt the name change of the Athletics track at Jubilee Park to the Bill Jacobs Athletics Centre**

CARRIED

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Monday, 19 April 2021 11:03 AM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Mon, 19/04/2021 - 11:03

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Emma

Last name

Perham

Council name

Central Coast Council

I would like my submission to remain confidential

No

Info

Email

EMMA@WANDERINGGLIDER.COM.AU

Suburb/Town & Postcode

Lisarow

Submission

Destination Central Coast supports the proposed planning amendments for agriculture. Australian travellers seek authentic experiences that allow them to connect with local people, products and places. These proposed changes will encourage the development of new agritourism products, venues and experiences which in turn supports the appeal of a region and promotes visitation. The changes will assist farmers with new income streams and provide opportunities for both farmers and regional communities to better leverage the current boom in domestic tourism.

I agree to the above statement

Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Monday, 19 April 2021 12:03 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Mon, 19/04/2021 - 12:03

Submitted by: Anonymous

Submitted values are:

Submission Type
I am making a personal submission

Name

First name
Mark

Last name
Atkinson

Council name
Shoalhaven City Council

I would like my submission to remain confidential
No

Info

Email
markdatkinson1@gmail.com

Suburb/Town & Postcode
Drummoyne

Submission
210C Bong Bong Rd
Broughton Vale
NSW
Department of Planning
NSW Government
18 April 2021

Dear Sir/Madam

RE: Proposed Planning changes affecting Primary Producers NSW- Agritourism.

I write as a resident of a small rural community on the NSW South Coast and endorse the document submitted by the Berry Forum in relation to this matter.

I wholeheartedly agree with the NSW State Government measures to assist legitimate agricultural producers enduring economic hardship in the current and future uncertain business and climate environment.

I wish to make several cautionary points in relation to the proposed changes.

Primary Agricultural Production must remain the chief source of income and not change to tourism, accommodation or function centre /reception venue by applicants.

Proposed Agritourism changes should be restricted to family or small partnership properties and not to corporate commercial farming enterprises.

Biodiversity and habitat of local flora and fauna must be safeguarded against damage and destruction by potential increased tourist activities and accommodation requirements.

Safety of existing rural residents and their families and any additional tourists must be ensured particularly as areas prone to natural disasters, such as fire and flood, may be involved in the application for increased tourism in rural regions. The NSW South Coast in forested rural areas has an increased risk of fire and flood and often road access is only sufficient for local traffic and would not be safe in the event of an emergency with increased numbers of road users unfamiliar with local terrain in the stressful situation of an emergency evacuation.

I caution granting these Agritourism exemptions as unscrupulous landowners and developers may attempt to exploit planning changes as a loophole to authorise oversized and inappropriate development in sensitive rural areas with adverse implications for habitat, safety, the amenity of local residents and the overall beauty and tranquillity of natural and rural areas in NSW. Function centres, wedding destinations and “glamping” developments are increasingly applied for by unscrupulous interests with no regard for local communities and the proposed Agritourism Planning changes present a further opportunity for such applications and the NSW State Government and local council areas should be aware of future attempts of exploitation of rules and deception.

The support of legitimate agricultural producers as per the spirit of the proposed Agritourism changes is laudable and should be applied to genuine farmers in need and in targeted rural areas only.

The NSW Government and local councils should remain vigilant in recognising the potential abuse of the proposed planning changes by those seeking to promote inappropriate development and tourism within sensitive and fragile rural areas.

Mark Atkinson
210C Bong Bong Rd
Broughton Vale NSW 2535

I agree to the above statement

Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Monday, 19 April 2021 1:06 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Completed

Submitted on Mon, 19/04/2021 - 13:05

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Gregory

Last name

See

Council name

Shoalhaven City Council

I would like my submission to remain confidential

No

Info

Email

gregsee1@gmail.com

Suburb/Town & Postcode

Broughton Vale, 2535

Submission

I support the intentions of these proposals but have concerns that unless very clear definitions of terms used and what complies and what doesn't that it will be quickly abused.

I have read carefully the response of the Berry Forum to these proposals and state my full support for them.

Berry and it's surrounding rural areas, which comprises mostly hobby farms, has been under immense pressure from developers who use loop holes in legalisation, with no clear definition of a term or category, to try to force through developments(eg wedding function centre) without regards to the amenity of neighbours or the community. Hence the plea for clear definitions of terms, allowable and. not allowable.

I agree to the above statement

Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Monday, 19 April 2021 1:11 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Completed

Submitted on Mon, 19/04/2021 - 13:11

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Richard

Last name

Marshall

Council name

Shoalhaven City Council

I would like my submission to remain confidential

No

Info

Email

rmarshall@merribee.com.au

Suburb/Town & Postcode

Numbaa 2540

Submission

Merribee as a property and rural enterprise fits right in the sweet spot for the Government's proposed amendments.

We currently offer (and have full DA approval) for each of the following:

Farm stay accommodation
Farm gate activities
Farm events

We Fit the Definition of Agri-tourism.

We are a family business with multi-generational involvement in our business operations.

We are an agricultural/horticultural enterprise. We grow cut flowers, nursery plants and keep bees.

We are constantly innovating and looking for ways to diversify and grow, to keep our services and brand fresh and in touch with the market. We aspire to meet the needs of local, intrastate, interstate and international agro-tourism markets.

We are constantly frustrated by Council development red tape, delays, costly processes and officious bureaucrats.

The Merribee Story

Lucy and I together have run and successfully operated over 10 different start-up businesses locally and internationally, for over 35 years. We are innovative, we focus on entrepreneurial business opportunities, that bring economic growth, jobs and involve professional, business-like and community-minded business administration.

Lucy and I purchased our property in 2000 and have been engaged in continuously yearly investment in capital improvements in the 21 years since.

Today, we have a thriving Agri-tourism business on 7 acres, east of Nowra, with extensive landscaped ornamental gardens, orchards and parkland.

We employ 12-14 staff during the year, plus another 6-8 temporary staff during festivals and summer season.

Our 3-5 yr goal is to triple the size of our agri-tourism business.

In the past we have been so disappointed by the attitude shown by our local Council planners (in not supporting our efforts), that we lost hope and interest and placed our business and property on the market. I'm happy to say that we regained our enthusiasm for our business and did not sell it, and found other ways to move ahead — that did not involve Council planning decision-makers.

We support the proposed legislative changes to NSW Government's planning rules.

We like the emphasis on innovation and diversification of activities. We would also like to see provisions to further increase the designated options for diversification, beyond the ones specified -ideally to allow for more open thinking, innovation and development.

We applaud the focus on streamlining and reducing costs for DA applications. Our business has been severely impacted over the years by this costly process as the current rules require continued inefficient and costly processes that ONLY work for Government bureaucrats, but do not meet the common sense test that community uses and business NEEDS. Tens of thousands of dollars are currently wasted each year — on duplicated and unnecessary processes that do not help the community or business.

We would go further, and ask: where is the space to refine and create a new 'shared goals' model, between Government and business/community in planning and development?

The current 'one size fits all' model, is inefficient and unfair.

And whatsmore, it is totally responsible for the stifling of innovation and entrepreneurship.

May we suggest a process with more 'local level' innovation and development on a pilot basis, rather than following a directive 'one size fits all' system that fails to acknowledge the extraordinary differences between businesses and their requirements, and the industrious, creative and innovative opportunities that could flow from a more flexible planning tool? Restrictions and controls can still be applied to such a decentralised system. Such controls could focus more on 'shared goal' reviews (where the interests of the business/community enterprise are combined with the interests of Government bureaucrats). This would take the place of the existing directive-style and inflexible system. We see there is huge potential to develop new ways of working together, resulting in a huge number of jobs being created, innovative ideas being launched, and rural communities beginning to thrive once again.

The Biggest Issue for us with NSW Planning Rules

Unfortunately, under the current planning rules, we feel our business and livelihood is constantly under threat (of closure) due to the fact that we can only operate our venue as a 'temporary functions venue'. This is despite our 15 years of successful operation. For this full 15 years we have assiduously met the requirements of Planning, along with all our statutory obligations and responsibilities. We actively work to meet and exceed community standards in the operation of our business. We have invested AUD2 million+ in this business, provide substantial training and development of our staff and are known to be ".....one of the most impressive gardens in Australia."

But we are not happy that Council can still close us down upon a whim and that we do not have a permanent licence to operate. The current system under which we must operate affords us no financial security or protection. In our view, this kind of license which allows us to temporarily operate for 4 years at a time only, is both heavy-handed and punitive and does little to help bring out the finest (community results) for successful and well managed venues. There must be alternative ways to managing standards that are positive and win - win.

We would be happy to provide additional information.

Many thanks,

Richard & Lucy Marshall

Richard Marshall
Tel: 0411 308411

I agree to the above statement

Yes

Submission DPIE Agritourism Development Proposal

Authors: Jeffrey Peter Goodman & Suzanne Speck

Address: 6A Gwenda Avenue

Berry NSW 2153

Contact: 0412 11 99 36

We lodge our submission because of the likelihood of adverse unintended consequences of what is in essence a worthy proposal to assist genuine farmers in areas of need to obtain additional supplementary income to support themselves and their families following the recent “disasters” that have impacted on many genuine rural producers throughout most of NSW.

Firstly, we support, in their entirety, the submissions made by The Berry Forum Committee on behalf of the residents of Berry and its surrounding hinterland.

Berry, like many other similar areas, has seen a substantial increase in the number of short stay accommodation providers both within and surrounding the village. It is obvious that the majority of these accommodation providers are using the income generated from their “rural” accommodation as a primary source of income and are not using it as a supplement to income generated from genuine rural activities.

There have been any number of DAs submitted to Shoalhaven City Council in recent times in which this is evident. The adverse impact of many of these DAs, if approved, will fall on the owners of adjoining properties (mostly genuine farmers) and in the village itself as there are residential streets and communities which adjoin farmland.

The proposal, as currently framed, will only increase this trend.

Developers and so-called lifestyle farmers, many of whom do not reside in the area, will be quick to grab the opportunity to push the envelope, for their own personal profit, and the local community and genuine farmers who the proposal is seeking to assist will suffer.

The submission of The Berry Forum Committee provides a genuine attempt to establish a pathway to a solution which helps those farmers in genuine need and keeps the interests and needs of the community in focus.

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Friday, 16 April 2021 6:46 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Fri, 16/04/2021 - 18:46

Submitted by: Anonymous

Submitted values are:

Submission Type

By ticking this box, I confirm I am a representative of my council and agree to be contacted by the department about incorporating certain clauses in to our LEP.

Name

First name

Alex

Last name

Portnoy

Council name

All

I would like my submission to remain confidential

No

Info

Email

alex.portnoy@bondi.nsw.gov.au

Suburb/Town & Postcode

PO Box# 1048, Bondi Junction, NSW, 1355

Submission

Dear Madam/Sir,

PLEASE CONFIRM RECEIPT OF SUBMISSION BY POSTAL MAIL:

Dr. Alex Portnoy
PO Box# 1048
Bondi Junction
NSW, 1355

I am writing on behalf of Council.

It is important to change the law to allow the public to enter and use Stock-Routes, which are currently the remit of the NSW Crown Lands Act.

Farmers should never get rights over the use of Stock-Routes, because this denies the public & Councils rightful access to Crown Land.

This locks out legitimate bushwalkers and trampers to access to nature. This very bad.

Recently, the Australian Farmers Federation has used excuses of "biosecurity" and "COVID" to deny access to Farmers land and stock routes.

The NSW Government should resist these pressures and retain public access to all stock-routes and not let Farmers trample over these long-held rights.

Please reply BY POSTAL MAIL to:

Dr. Alex Portnoy
Private Box# 1048
Bondi Junction
NSW, 1355

Yours Sincerely,

Dr. Alex Portnoy

I agree to the above statement

Yes

EXPLANATION OF INTENDED EFFECT

Agritourism and small-scale agriculture development

We support the Berry Forum submission and the intention of this government initiative to help genuine farmers in need of a supplementary income. However, we feel that the wording of the EIE provides no safeguards against its exploitation by hobby farmers:

3.1 Overview

These changes will allow small-scale agritourism development and other small-scale agricultural activities to occur on land where the primary use of the land is agriculture...The changes are not intended to enable hobby farmers or other recreational farmers to establish agritourism businesses.

3.4.1.2 Permissibility

These changes mean that initially, farm events will be permissible in all local environmental plans wherever 'agriculture' is currently permissible. Councils can then permit farm events in any additional zones.

Of special concern is:

1. That "not intended" does not provide a clear prohibition on rural properties not entitled to agritourism. Conditions for eligibility are not outlined in the EIE.
2. Allowing Councils to "permit farm events in any additional zones" is an extraordinary loosening of the regulations around prohibited land use in rural zones.
3. Identifying wedding functions as "farm events" makes no sense in an agricultural production context. This category should read as farm-related events.

We are owners of a property in Berry in a residential zone adjoining a small rural zoned property, which in turn adjoins or is close to three other rural properties of varying size. One of the properties has an operating function centre (Temporary Use) and another is seeking approval for a permanent function centre under a heritage conservation incentive clause. The property adjoining is currently for sale, and it is quite plausible that it could resume some kind of farm activity with "farm events" (wedding functions) under the proposed agritourism changes.

It is of concern that our residential street could be in very close proximity to three function centres and that we would be subject to adverse noise, traffic and amenity impacts. Shoalhaven is especially attractive to function centre developers even though it already has over 20 medium/large wedding function centres. We are concerned that this EIE will open yet another backdoor to problematic development.

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Monday, 19 April 2021 2:23 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Mon, 19/04/2021 - 14:23

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name
BOB

Last name
WHEELDON

Council name
All

I would like my submission to remain confidential
No

Info

Email
bob@wheeldon.com.au

Suburb/Town & Postcode
2648

Submission

The proposed changes provide very modest changes to aid small scale from tourism. It is not harsh to say the changes are tokenistic.

If the NSW Government wants to encourage regional tourism it needs to change the standard instrument to make tourism activities to allowable with consent in all rural zones across NSW.

In reality tourism and visitor accomodation is illegal in most of NSW. In most Council areas most land is zoned RU1 and in most Councils "tourist and visitor accomodation" is prohibited. This reflects the position prior to introduction of the Standard LEP.

Kind regards
Bob Wheeldon
Chair
restofnsw inc.

I agree to the above statement
Yes

Agritourism and small-scale agriculture development- Proposed amendments to support farm businesses and regional economies, Explanation of Intended Effect

April 2021





Chair Cr John Medcalf OAM, Mayor, Lachlan Shire Council

Central NSW
Joint Organisation

PO Box 333

Forbes NSW 2871

Phone: 0428 690 935

Email: jenny.bennett@centraljo.nsw.gov.au

Website: www.centraljo.nsw.gov.au

16 April 2021

Reference: jm:jb 210416

Enquiries: Ms J Bennett: 0428 690 935

Executive Director
Local Government and Economic Policy
Department of Planning, Industry and Environment
Locked Bag 5022, Parramatta NSW 2124

To whom it may concern,

Re: Agritourism and small-scale agriculture development- Proposed amendments to support farm businesses and regional economies, Explanation of Intended Effect.

Local Government Regional Joint Organisations (JOs) were proclaimed in May 2018 under the NSW Local Government Act 1993. The Central NSW Joint Organisation (CNSWJO) represents over 200,000 people covering an area of more than 50,000sq kms comprising the Local Government Areas of Bathurst, Blayney, Cabonne, Cowra, Forbes, Lachlan, Oberon, Orange, Parkes, Weddin, and Central Tablelands Water.

Tasked with intergovernmental cooperation, leadership and prioritisation, JOs have consulted with their stakeholders to identify key strategic regional priorities. The CNSWJO Strategic Plan can be found here: https://docs.wixstatic.com/ugd/51b46b_31886650ecf546bc916f15e99a733b3e.pdf

We have the privilege of working closely with the Department of Planning through the development of the CWORP (Central West and Orana Regional Plan) where working on enabling agritourism has been an activity in region. This response includes advice from this consultation.

We welcome the opportunity to provide feedback on the Agritourism and small-scale agriculture development proposed changes to the NSW Planning System to better support farming businesses and rural and regional areas.

Please note that Councils in the region may provide responses that are different from the regional response and this is welcomed.

In the first instance, we note the following risk which will need to be carefully managed:

On the one hand this region supports as inexpensive a pathway as possible for farmers to explore their spare capacity for tourism purposes, however this needs to be done in such a way that does not lead to perverse outcomes. An example is erecting farmstay dwellings on a block separate to the home dwelling which could then be on sold in the future creating disaggregation of farmland.

It is concerns such as these that have leaders in this region suggesting that further work needs to be done. Unfortunately Councils in Central NSW are reporting significant time pressures particularly in planning as a result of staff shortages and a lot of development occurring at this time.

Members in region are reporting the Central NSW while stretched is still meeting its obligatory planning time frames and that overall the DA process is not onerous.

Additionally, with the new controls in the Exempt and Complying Code which agency has the regulatory responsibility? For example, is Council going to check that the persons in the farm stay are not under 12 yo? This is unachievable and put unnecessary resource burden on Council staff.

Concerns have been expressed that under an Exempt and Complying Code the farmer is going to have to come to Council or a consultant to work through all of these factors, which is generally what Council would do in any DA process. This may be more onerous on Council staff and the farmer.

CNSWJO would welcome the opportunity to slow the process down and get it right.

Our planners meet bimonthly and this would be a good opportunity to get in front of a number of planners and have a more in depth conversation.

Consultation Questions:

Farm stay accommodation

- 1. Are the proposed setbacks to pig farms, other intensive livestock, forestry and mines for exempt and complying development appropriate?**
- 2. Where a development application is required, should farm stay accommodation be permitted only on land that benefits from a dwelling entitlement?**
- 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?**
- 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.**

Councils will have specific views in this regard however in principle this region supports flexibility and clarity in advice regarding farmstays.

It would be beneficial if DPIE can consult on the final wording of the proposed new definition of 'farm stay accommodation' noting only 4 dots points providing guidance on the general direction the new definition is included in the EIE.

It may also be beneficial to consider including for clarification that farm stay accommodation could be used by rural workers at times (including intermittent and seasonal workers).

It may also be beneficial to consider including for clarification that farm stay accommodation could be used on a short term basis by construction and/or mining contractors.

As stated above, the concern is the tension between aggregation of lots and the need to create simple and affordable pathways to enable agritourism.

Regarding development standards:

- Development Standards (in particular for exempt as there is no occupation certificate because no change of use) for a dwelling (BCA class 1a) going to short term accommodation (BCA class 1b) results in additional smoke alarm requirements under 3.7.5.4 of Building Code of Australia,
- Waste management focuses on solid waste, there is not great detail and requirement for s68 Local Government Act approvals, in particular an effluent systems ability to cater for an additional 20 persons (although only originally designed for a house with 6 people). Would be beneficial to require an approval to operate off Council for effluent system prior to farm stay accommodation use commencing.
- Concern has been expressed over the policing of children under 12.
- There is no reference to minimum amount of water required, nor any reference or requirement for a Water Quality Assurance Program to be in place
- Flood Prone land is not an exclusion and perhaps should be or available only for transportable or temporary accommodation.
- Camping is separately defined and is also permissible with consent and this is controlled by the Local Government Regulations 2005. Members have expressed concern that 'Tents, caravans or similar' being exempt development as there are implications to neighbours etc and what happens to the Local Government Regulations and the definition of 'camping'?

More clarity and further consultation is sought around the operating conditions of on farm accommodation, for example:

- The operational requirement of "at any one time on the landholding for up to 14 days" is this in succession?, per month, per year?
- "unoccupied caravans, campervans and tents are not to remain on the land after 24 hours" Is this once a guest leaves that within 24 hours the land owner has to put the caravan back in the shed?
- Regarding the 20 person maximum, there needs to be a maximum number of; Caravans, Campervans and Tents allowed, maybe 6? (you technically could end up with 20 caravans on a property with 1 person in each) surely the intent of this legislation is not to cripple caravan parks, but facilitate low impact accommodation in a rural setting.
- There is no background on where the one dwelling per 15 hectares comes from? (I note though the size limitation of 60 sqm), should it read "six x 60sqm new buildings **or** three x 120 sqm new buildings" as an this would enable better 2 bedroom buildings (targeting and accommodating for families).

Farm gate activities

- 5. How far do you think a roadside stall should be setback from the road?**
- 6. What additional standards should be included for the exempt and complying development pathways for farm gate activities, if any?**

Safety should be the primary criteria for the location of roadside stalls. Set backs will vary depending on the road itself.

To some extent the DA process would be the simplest and easiest way to manage what would require quite some guidance in the exempt and complying framework. It should be noted that no Councils in Central NSW are running over on their times for development assessment despite staff shortages and significant development pressure.

Consultation in region provided feedback that farmgate development should be allowed to occur in stages and not have to bear the cost of expensive entry way treatments, parking arrangements etc in early stages of their development. An example is a “pick your own” farmgate experience. Please find attached relevant dot points on agritourism.

What is the definition of ‘major road’ should this be the same as ‘classified road’ later in the document? Are any of these a food premise? There is a significant difference between selling surplus produce, to running a restaurant or education facility this needs more exploration. These uses have significant differences in terms of safety for road users, amenity, parking, building code implications, food safety etc. Again what about potable water and septic management etc why is there a focus on waste only.

Parking on Council’s road reserve/verge is not permissible and would require at least a s138 of the Road Act. Council would not permit any works associated with car parking on the verge.

Again further consultation would be helpful.

Farm events

- 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?**

This will accommodate smaller wellness and cooking class type events.

It will not however accommodate weddings, music events and forage events which are all very popular in this region.

Weddings in particular should be enabled, even if only a small number on a farm so this can be explored as an income stream for farmers.

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

CNSWJO does not have advice in this regard but would welcome the opportunity to host DPIE staff at a meeting with the planners from our ten Councils.

- 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)**

CNSWJO does not have advice in this regard but would welcome the opportunity to host DPIE staff at a meeting with the planners from our ten Councils.

However, biosecurity should be the challenge that must be effectively managed.

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

Yes. Again this region would welcome the opportunity to work with the DPIE on this model clause.

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

Biosecurity would be the first consideration in permissibility of agritourism activities.

Secondly, some type of conflict assessment would need to be undertaken.

Small scale processing plants

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

CNSWJO does not have advice in this regard but would welcome the opportunity to host DPIE staff at a meeting with the planners from our ten Councils.

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

CNSWJO does not have advice in this regard but would welcome the opportunity to host DPIE staff at a meeting with the planners from our ten Councils.

14. Should any additional standards be included? Agritourism and small-scale agriculture development NSW Department of Planning, Industry and Environment | IRF19 7296 | 35

CNSWJO does not have advice in this regard but would welcome the opportunity to host DPIE staff at a meeting with the planners from our ten Councils.

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?

CNSWJO does not have advice in this regard but would welcome the opportunity to host DPIE staff at a meeting with the planners from our ten Councils.

Rebuilding of farm infrastructure

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

17. Should any additional standards be included?

4.1.6 Stock containment areas

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

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

CNSWJO does not have advice in this regard but would welcome the opportunity to host DPIE staff at a meeting with the planners from our ten Councils.

Farm dams

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

The challenge with introducing any more Council controls would be resourcing their compliance.

Biosecurity for poultry and pig farms

- 21. Do the proposed provisions adequately provide for biosecurity between poultry farms and pig farms?**
- 22. Should any additional standards be included?**

CNSWJO does not have advice in this regard but would welcome the opportunity to host DPIE staff at a meeting with the planners from our ten Councils.

Rural dwelling setbacks from intensive agriculture

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

A minimum setback for exempt and complying should be 50m from a property boundary.

P12 states “side setback of the existing dwelling on the land or 200 metres, whichever is less”. This should be altered to say a minimum setback of 50m, there are many existing house which are 10m off a property boundary, why would then allow potentially another 6 new buildings to be located 10m away from an active farm, say a broad cropping operation, which when harvesting will create significant land use conflict. If less than 50m is the ask, lodge a DA.

Recreational Beekeeping

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

There will be conflicts between bee keeping and for example pools and water features in farmstay and these will need to be managed.

Some support from the DPIE in this regard would be welcomed.

For information: Workshop notes from May 2018 - “Review of planning barriers for tourism development”

1. Regarding definitions for Temporary Use of Land – there are two schools of thought. On the one hand we are keen to ensure flexibility and use temporary use to support a variety of activities. On the other hand we can appreciate that developers might want some consistency. As a general rule, the more days the better. There was also a request for guidance on the application of temporary usage as there are a wide range of operations that seek to fall under this category ranging from circuses, camping associated with events through to emerging events such as VanFest.
2. Regarding ancillary development, feedback from this region is that better definitions for tourism development would be more useful while leaving ‘ancillary development’ flexible. For example Cellar Door Premises should also include other forms of production than wine and refer to a tourism enterprise that links production to tasting. Added to this was the idea of a tasting room which could be in rural and urban settings. This could include food such as honey and olive oil. There is also interest in having a “café” as distinct from restaurant to allow for more boutique food and beverage experiences including in residential areas as there is a demand for linking the wider accommodation offering through air b and b and other shared economy platforms to a more immediate café experience.

Being able to support “pop up” in bulky goods zones could enable market activities.

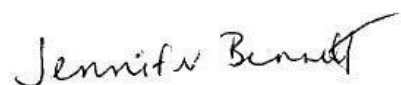
Finally there is interest in “farm gate” development to cover off on other forms of production and on farm experiences.

Guidance on “function centre” was also sought. There was also discussion about what constituted eco tourism.

3. In terms of barriers to investment, the dual occupancy/Bed and Breakfast/ Serviced apartments are not working in rural zones.
4. Attendees were of a view that there needed to be more thought around the concept of a “rural tourism facility.” Where there is a demand for small blocks of land to be developed and spare capacity on farm to be leveraged, the conflicts with ag land and the right to farm need to be preserved. A broader conversation about the best pathway for this type of development is welcomed.
5. Regarding expanding exempt development, it was suggested that community based, single day events on public land should be provided with guidance on parking, signage, traffic management, public safety, fire, hours of operation and toilets and then be exempt. There are a growing number of small community events that build the visitor economy ranging from markets to gardening expos and having to put these through an approvals process is a complete waste of everyone’s time. It is suggested the SEPP be amended to take this into account.
6. A review of TASAC should be recommended as part of this process. Consideration could be given to an automated signage process where the development is identified as a tourism facility.
7. Under definitions – more guidance on amenity would be welcomed in the rural setting.
8. The RMS parking requirements could be reviewed given Uber and the Shared economy.
9. Also reiterated the need for a lower level RMS design for access to rural properties.

Please feel free to contact Jennifer Bennett on 0428 690 935 should you wish to discuss further.

Yours sincerely,



Jennifer Bennett
Executive Officer
Central NSW Joint Organisation (CNSWJO)

Submission re NSW DPIE – Agritourism Development Proposal

Context

There is no doubt that the intentions of the proposed agritourism initiative are laudable and in the Australian spirit of offering a hand up to help farmers rebuild and recover from the impacts of drought and bushfires. It is also gratifying to see that the pilot program has resulted in sixteen pilot participants starting farm tourism businesses.

However, the context for the agritourism initiative has changed quite dramatically since it commenced two years ago. The drought has finished, and agricultural production has recovered, as shown in Department of Agriculture reports for NSW -

- *Area planted to summer crops increased significantly in 2020–21 to 433,000 hectares, constrained by a lack of fallow land due to the excellent winter cropping season, particularly in northern NSW.*
- *Summer crop production is forecast to reach 1.7 million tonnes in 2020–21, nearly six times what was produced in 2019–20.*
- *Winter crop production is estimated to rise to a record high 18.7 million tonnes in 2020–21, 88% above the 10-year average to 2019–20.*

NAB Business Review April 2021

The Australian agriculture sector is capitalising on improved seasonal conditions and government incentives including the instant asset write-off scheme to invest in farm equipment, the latest data from NAB reveals.

Loans to NAB customers for agricultural equipment finance have increased 132 per cent year-on-year from 2019 to 2020, as agribusinesses recover from two years of challenging conditions including drought, fires, COVID-19 disruptions, and most recently, floods.

*NAB executive regional and agribusiness, **Julie Rynski**, said the trends in equipment finance were indicative of the strength in lending and the resilience and overall confidence of the agriculture sector.*

“Lending for tractors has increased 146 per cent, while lending for equipment such as sprayers and headers has risen 142 per cent,” Ms Rynski said.

“Farmers looking to boost their on-farm grain storage have also driven a 140 per cent increase in lending for grain silos.

“After a record breaking 2020-21 harvest and with subsoil moisture conditions looking good across much of the south-east and south-west of the country following summer rain, the figures are reflective of our customers’ intentions to capitalise on the turnaround in seasonal conditions.”

“With business confidence at an all-time high and businesses building on things they’ve learnt through the pandemic, I’m not surprised that equipment sales are so high. The majority of farmers and regional businesses have proven to be exceptionally resilient through two years of challenging conditions and are now poised to capitalise on new opportunities and brilliant market conditions.”

Pilot Program

No details have been provided about the pilot program, which is surprising as it is being used as justification for the far-reaching removal of multiple planning provisions and the elimination of local council involvement from an array of important planning decisions.

This is potentially a recipe for anarchy in relation to the introduction of entirely unrestricted and unsupervised activities across all rural land in NSW.

At a minimum, details should be provided of the experience of all pilot participants, including those that were not successful. The details should cover the numbers and types of agribusiness that were attempted in each area, the Liverpool Plains, Wollondilly and Queanbeyan-Palerang.

The size of the landholding should be provided for each pilot participant. In the case of the Windy Station pilot on the Liverpool Plains the landholding is 21,000 ha. It seems unlikely that this would be representative of farm sizes in coastal council areas.

It is disappointing that there does not appear to be a single mention of land size in any of the documents that have been distributed for comment. That is, all except for one indirect mention at the bottom of Page 23 of the Explanation of Intended Effect, under the heading of 'Building location and size' – *Maximum height: 7 metres for landholding 4000 square metres to 10 ha*

Objectives

The stated objectives of this submission are to ensure the proposed planning changes –

- Support agricultural producers who need to supplement their income to maintain the financial viability of their agricultural enterprise and quality of life in an increasingly difficult climatic and business environment.
- 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.

Intended Effect of Proposed Planning Amendments

- *The Department is proposing amendments to existing controls within the planning system to facilitate more agritourism, while balancing the need for individual councils to respond to different environmental and development settings.*
- *The proposed development standards are intended to mitigate undesired impacts by limiting the land on which the activities can occur and the scale of the use, as well as managing impacts such as noise and potential disruption to neighbouring land uses.*
- *The changes are not intended to enable hobby farmers or other recreational farmers to establish agritourism businesses.*

These statements are reassuring, however there is scant evidence in any of the documents that would suggest that they are more than mere window-dressing. The stating of intentions, that are not supported by meaningful definitions, controls or measurements suggests that very little attention is being paid to their implementation by the initiators of the proposed changes.

Eligibility

A key element that needs to be clearly identified and made extremely difficult to circumvent is the eligibility of the agricultural enterprise. This is addressed through two related criteria:

- the primary purpose of the property is agricultural production
- the income generated from agritourism is supplementary in nature.

The proposal recognises the need to avoid tying the criteria to farm income at a given point in time due to the highly variable nature of agricultural returns. The ATO addresses this issue in relation to the tax advantages offered to primary producers through the definition of a primary producer. Stated simply, the farm must have a business plan to maintain an ongoing and viable enterprise based on commercial agricultural production.

Recommendation 1: The ATO's criteria and tests for eligibility for primary producer status should be necessary to access the proposed planning changes. Further, this should be done in the context that access would be granted, and the focus of the enterprise will remain primary agricultural production.

The meaning of supplementary or ancillary income needs to be defined in exact terms and calculated in terms of gross income associated with the agricultural and non-agricultural income to avoid issues related to tax minimisation. To address the concern related to variability of farm income, income averaging should be allowed similar to that provided to farmers by the ATO.

Recommendation 2: Supplementary income limits should be put in place in terms of the percentage (eg 25%) of total gross income earned by agritourism, with the proviso that income averaging provisions available to primary producers are allowed in the assessment. On granting access to the planning provisions, notification should be given to the ATO.

The issue of maintaining the viability of farm enterprises and farm lifestyle depends on the ownership structure of the farm. These break in two categories, family or limited partnership farms and corporate farms. It does not appear that the spirit of the proposed changes is intended to support corporate owned farms.

Recommendation 3: Access to the proposed planning changes should be limited to family or limited partnership farms as opposed to corporate enterprises.

There are considerations that are not tied to commercial aspects of a property seeking access to the proposed planning provisions. These include threats to life and the costs and availability of emergency services.

Recommendation 4: Access to the proposed planning provisions should not be extended to flood prone areas and perhaps other areas subject to extreme events or likely impact of climate change, such as rising sea levels.

There is a need to avoid imposing additional costs and harm, under more adverse climatic conditions, in preserving adequate habitat and managing natural and man-made disasters such as bush fires.

Recommendation 5: Consideration of NSW biodiversity and habitat objectives need to be maintained and potentially expanded. 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.

Other Key Issues

The proposal to grant broad statewide exemptions for development will inevitably result in the benefits accruing to areas close to Sydney and the major coastal towns that have more amenities and take less time to drive to. Landowners in those areas, not in need of assistance, will be able to exploit the planning changes to generate significant profits.

Recommendation 6: Exempt development should not be permitted statewide. Over the last four years we have confronted several DAs seeking to exploit the planning provisions for tourist accommodation, so we know what to expect. We have had four meetings with NSW Planning Ministers.

Camping for up to 20 people will not be “minor and low impact”, with no access to sewers or town water. How will this be regulated and how will Councils deal with the myriad of issues?

At the other extreme in the Shoalhaven, DAs have been lodged for luxury glamping with semi-permanent structures seated on very large timber platforms using the ‘Primitive Camping’ description to circumvent safety and amenity regulations.

Recommendation 7: Allowing any number of people in tents, caravans, campervans to be allowed as exempt development is fraught with issues and should be reconsidered.

Planning provisions for camping grounds and primitive camping are a mess and ripe for further exploitation. This issue must be addressed before further changes are introduced.

Farm events - Over the last three years, Berry and Kangaroo Valley have been the target of wealthy developers seeking to construct wedding function centres in rural zones. Each DA is supported by consultants’ reports that attempt to disguise the dire adverse noise, traffic and amenity impacts. Councils accept the reports as they do not have the expertise to challenge them. However, independent peer reviews paid for by residents have identified serious deficiencies.

There is just a very brief reference to the temporary use of land clause in the Standard Instrument LEP Order (clause 2.8) to seek development consent. With developers ignoring genuine concerns of residents, rural communities have relied upon Justice Moore’s judgement in the *Marshall* 2015 case, which states that Council must be satisfied that the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood.

Those communities are now astonished by the proposal to allow function centres in rural zones as exempt development and are very angry that their distressing experiences could be repeated.

It’s stated that, *“Including a definition for events on farms will provide greater certainty around where such development can take place.”* The definition is irrelevant, when it’s proposed that wedding function centres can be built anywhere and adverse impacts on neighbours ignored.

Recommendation 8: Planning amendments should restrict the provision of wedding venues to less accessible regional locations “*that cannot be reached by day trip from major centres*”. This would also encourage the use of on-farm accommodation.

The proposed unrestricted siting of wedding function venues and removal of the current protection afforded to rural communities by Clause 2.8 is the most controversial aspect of the proposed amendments. It appears to be driven by the tourism lobby, with no thought given to the devastating effects that would follow its implementation. This is not an outcome that genuine farmers would want.

Based on the stated objectives for the proposed planning amendments, there can be no justification for relaxing current provisions applying to wedding venues in areas such as Berry and Kangaroo Valley.

Two sets of maximum event and guest numbers is confusing and open to exploitation. Realistically, it will be impossible to restrict the number of events and guests to the proposed limits.

Recommendation 9: As the limits will inevitably be exceeded, they should be simplified to 20 events per year with a maximum of 40 guests per event, and allowed in targeted areas only (see Recommendation 8).

If the focus is agriculture, why is it proposed “*Councils can then permit farm events in other (non-rural) zones*”, and why are ‘*destination weddings under a DA*’ being proposed?

Recommendation 10: The proposed amendments should be contained to rural zones only. Planning changes to facilitate ‘destination weddings’ should only be considered within the context of Recommendation 8. above

Conclusion

The elimination of Council involvement and the removal of all planning safeguards for wedding venues and camping would be destructive for rural communities in coastal council areas.

Rigorous controls around eligibility and significant limitation of exempt development are essential if benefits resulting from this proposal are to accrue to **real farmers** in **targeted regional areas**.

However, if these critical issues are not resolved, the benefits for real farmers will be marginal at best, the profits for lifestyle farmers and developers excessive, and the adverse ramifications for rural property owners extremely damaging.

The Berry Forum Committee

<http://berryforum.org.au/>

We have attached extracts from a submission prepared by a local farmer. We believe it provides a very succinct commentary on the proposal that is based on personal experience and exceptional clarity of thought. We strongly recommend it to you.

Extracts from Submission prepared by a local farmer.

My land is designated Rural. I knew this when I purchased and acted accordingly - choosing agricultural endeavours over trying to make my land use something it was not allowed to be.

I am an olive farmer. I planted my olives trees over a three-year period (2006-2009) and nurtured them for the requisite years until they began to produce harvest. Some years are better than others – I knew this when I undertook this proposition.

I am a table olive and extra virgin olive oil producer. I have a commercial processing facility with registered commercial kitchen and cellar door. I am able to conduct tours and tastings. I am able to do long lunches; and (although I do not choose to avail myself of the approval) run a café – all based around MY agricultural produce.

I am able to do all of this because I submitted a Development Application to Shoalhaven City Council in 2013. It was not costly, although there were the required professional reports. I was assigned an Assessment Officer and I dealt with him – resolving any issues – his knowledge of LOCALITY being site specific.

Part 1.2

- The NSW Government is seeking comment on proposals **recommended by stakeholders** to: Who are these stakeholders of whom we speak – tourism operators and the NSW Small Business Commission and Service NSW, or farmers???

Many of us, do not believe we need others who feel they know far better than we, of how to manage our land, or manage our livelihoods.

- **reduce land use conflict by providing clearer rules** and better managing environmental and social impacts,
There is no conflict – rules are clear and precise – it is those who seek to exploit any loophole; using (quite often) significant financial outlay to batter down those given the authority to make decisions on behalf of their constituents, by following the same set of clear and concise rules.
- **clarify current planning controls** and expand approval pathways for certain agricultural activities.
Clarification exists – before you purchase make sure the land is fit for the purpose you want; and then follow the rules set down in the relevant to your location LEPs, whether that includes a DA or complying/exempt development. Simple.
- The proposed amendments are **underpinned by the principle of no/ low environmental impact**.
Who decides what the level of this principle is going to be? Who enforces compliance?
Who do I call when, in my view, compliance is not be adhered to?

Please do not tell us to ring our local police – we have tried this – the police do not come, they are simply too busy to cater to neighbourly disputes, especially on a weekend evening. Please do not tell us to contact our local Council when the issues arise - there is no-one capable of dealing with an issue which occurs on weekend, especially of an evening. Council themselves say they simply do not have the resources or funds to do this type of activity.

Imagine, if there were 10 or 15 complaints for 10-15 venues located around a whole local government area – how many do you actually believe would elicit a timely response. Please do not tell us to wait until Monday morning at 9am to contact Council, when the events have been completed, everyone has gone home happy, the property's owners are counting their cash and we still have a headache.....but have to get up, put one foot in front of the other and continue our agricultural activity.

Part 1.3

- farm events – to **remove existing barriers** and support farm events amendments are proposed to introduce a **new definition for 'farm events'**
In essence, this relates to approval to operate large scale events such as weddings and conferences held on rural land.
- Fast track approval pathways, known as exempt and complying development, will also be established for these types of agritourism.
Again, providing a loophole, for developers and commercial operators to take advantage of this process to progress large scale events such as weddings/conferences held on rural land.

Part 2.1

- The planning system seeks to **protect agricultural land and secure it as a resource for food production for future generations.**
PROTECTING AGRICULTURAL LAND AND SECURING IT AS A RESOURCE FOR FOOD PRODUCTION FOR FUTURE GENERATIONS is unlikely to be a consequence of this proposal. 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.
- There is scope for the planning framework to better support farmers' ability to innovate and diversify from purely primary production to other forms of value adding or **complementary agribusiness.**
I am not anti-tourism – of any sort – whether “agritourism” or other. I simply believe that certainty is eroded, when rules are not followed through. How large-scale events such as weddings and conferences held on rural land can be seen as complementary agribusinesses has eluded me since I first began my journey on local tourism boards in 2012 and my increased input into primary production. It eludes me still. Value-adding with genuine farm gate activities based on the crops / livestock etc which are located on the farm (as long as zoning permits), have nothing to do with this
- **Agritourism involves visiting a farm** or food related business for enjoyment and education or **to participate in activities and events.**
The broadness of this statement, the non-genuine value adding as the activities are not based on the crops / livestock etc which are located on the farm have nothing to do with this and is simply a means to an end to create the opportunity for large scale events such as weddings and conferences on rural zoned agricultural land.

Part 2.2

- The department has worked with the commission to identify simplified pathways to establish low impact agritourism businesses on farms, including farm stay accommodation, farm tours, roadside stalls, farm events and retail on farms. This work aligns with the department's commitment to reduce red tape and make the planning system easy to use.

It is good that the Service NSW worked with the NSW Small Business Commission. It would have been better had it included farmers and growers at the outset, rather than presenting a document for comment and not promoting the fact. Non-submission of comments by farmers and growers SHOULD NOT be taken as acquiescence or unbridled joy – most simply do not know this document exists.

Agri-tourism may be many of the things listed – but it is NOT a tourism-related experience that connects people with events solely based on “their scenic quality such as weddings” – your words.

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).

- Service NSW has conducted research that identified challenges in the current planning regime for **aspirational agri-entrepreneurs**.

And now we come to it – this document is about and for “aspirational agri-entrepreneurs” and not really for the poor farmers no matter how much it attempts to proffer as its *raison d'être* the supposed “support” for “farmers during times of hardship or following natural disaster events”.

Genuine agritourism is NOT about large scale events such as weddings and conferences on zoned rural land. These events contribute NOTHING to the furtherance of agricultural activity, rather they provide a perfect opportunity to destroy that very agricultural activity, which they profess to support.

Part 3.1

- **New land use terms: introducing two new land use terms for farm gate activities and farm events in the Standard Instrument LEP Order.**

Farm events should be events limited to farm activities; and NOT events held on a farm (whether it is actually a working farm or just a very big block of land, may be debatable).

- Proposed new development standards will ensure development is at a scale appropriate for the agritourism or agricultural activity with **minimal impacts** on the surrounding land and amenity. Where these standards cannot be met, a landowner can lodge a development application with the local council.

Who sets the standard or what is minimal or low impact?

NO impact is easy to understand, minimal and low are subjective.

And how is this to be enforced (not even going to bother with repeating the negation of the possible suggestion that impacted persons contact their under resourced own local police or Council).

3.4 Farm events

- The ability to hold **rural events** can allow farmers to diversify and value add to their agricultural business.
Rural events should NOT mean any events held on rural land.
- In addition to the direct benefits to agricultural business, rural events can have a far- reaching supply chain benefit to the surrounding economy. **For example, if a farm can host a wedding, beyond just the hiring of a venue on a farm, the event can result in hiring of local accommodation services, engagement of event services (such as photographers, stylists and transport), food and drink services, supporting services (gift shops, child minding) and facilities services (party hire, mobile toilet hire etc).**
In principle this sounds great for the local economy – however MANY brides (most significantly for high cost weddings) choose to bring in outside (read, from where the bride originates) operators to assist with planning their wedding. From a time perspective, with constant meet ups between the bride and the other party, it is logical that these would mainly occur where the bride resides.
The number of guests who are so disorganized that they need to use the services of a local gift shop to buy their wedding present would be minimal, if any. Simple logic.
- There are limited land use terms in the planning system that enable **rural events**. Applicants can rely on the definition in the Standard Instrument LEP Order for ‘function centre’ or use the temporary use of land clause in the **Standard Instrument LEP Order (clause 2.8)** to seek development consent. Including a definition for events on farms will **provide greater certainty** around where such development can take place.
Once again, rural events are NOT weddings or functions totally unrelated to the farm activity which is being conducted. This is simply a back door to host weddings and events, nothing more. To suggest it is an adjunct to raising cattle; or growing olives; or keeping of chickens and selling of eggs commercially is plainly ridiculous. There is ABSOLUTELY no correlation between the two.
Std Instrument LEP Order (clause 2.8) provides certainty – to both the applicant as well as to adjoining landowners; neighbouring properties; and the local community IF those orders are upheld.
- It is proposed to introduce a new land use term ‘**farm events**’ into the Standard Instrument LEP Order to allow **events, tours, functions and conferences** on land used for agriculture.
If the events, functions and conferences have NOTHING to do with the crop / livestock that is being grown / produced on the agricultural land then it is NOT related to FARM. FARM events are NOT weddings or functions totally unrelated to the farm activity which is being conducted. This is simply a back door to host weddings and events, nothing more. To suggest it is an adjunct to raising cattle; or growing olives; or keeping of chickens and selling of eggs commercially is plainly ridiculous. There is ABSOLUTELY no correlation between the two.
- Exempt and complying development pathways have been developed to allow streamlined approvals for low scale, **low impact** farm events.
Who sets the definition of low impact?

Department reference number: IRD20/40921

16/4/2021

Good afternoon,

I have attached my submission in relation to the proposed amendments (to support farm business and regional economies) in relation to “Agritourism and small-scale agriculture development”.

Your opening lines contained within the Executive Summary give much hope, that support from our NSW Government, through the Department of Planning, Industry and Environment (DPIE), Service NSW, and the NSW Small Business Commission for genuine farmers and producers, is being taken seriously, and ways are being sought to lower the high fences currently quagmired in red tape ie:

[The NSW Government is committed to supporting the recovery and resilience of our regional communities and farming by growing emerging industries that are supplementary to, or based on, agriculture. One such industry is agritourism, which will help to strengthen rural communities as travel restrictions ease across NSW.](#)

However, this hope, quickly went up in a puff of hot air as I read the proposed definition of what “Agritourism” is now seeking to be defined as ie:

[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.](#)

You see since 2014, I have become all too familiar with persons trying to circumvent local government LEPs to twist clauses contained within to make use of their land in ways which have nothing whatsoever to do with rural; with agriculture; with farming; with adherence to zoning; with community – except of course “views”.

I see the DPIE has now become a quasi-promoter of this way of doing “business”, albeit dressed up to assist the poor farming community to raise themselves above the poverty line.

I am a strong proponent of visitation and tourism related activity – welcoming visitors to experience the beauty of country towns; the slower pace of life; rural landscapes; crystal clear waters; mountain trails; local produce and local artisan products; often away from the hurly-burly of their city based lives. This is what makes us unique and different and this is what “city-dwellers” who come to partake of these activities get a taste of when they visit. Recreating events (such as weddings) in rural landscapes, but still with all the trappings of “city desires, standards and expectations” simply plays on our “natural beauty”, with no thought or connection to any other aspect of rural community.

This document, to me, seems to seek to simply “formalize” the exploitation of our natural beauty and in many cases our reasonably close proximity to “city” to bring the city to the country, rather than showcasing the country to the city.

I request acknowledgement of receipt of my submission – and would request that although a long and detailed submission, it is read fully – I have given of my time to write; I would expect others will give of their time to read.

Kind regards,

Brenda Sambrook
110 Cedar Springs Road
Barrengarry NSW 2577
Lot 20 – DP 1012440

Addendum 19/4/2021:

I hope you have all had a pleasant and fun weekend, in fact a pleasant and fun last two weeks. Me not so much. I am one of the farmers and commercial small scale producers who you are saying you are trying to help. For eleven months of the year, I nurture and care for my land, my soil, my olive trees, so that in April, our harvest will be plentiful and successful in quality, to carry us through from a commercial aspect to the following year. This is the nature of farming. And this is what a working farm is.

April 2021 looks to be a bumper crop – and we are working long hours harvesting – picking each olive by hand, to ensure the quality of the fruit we have cared for on our working farm, for the last eleven months, continues to be the best it can be. We start early – often the fog is still covering large swathes of the escarpment and land below our groves. We harvest throughout the day, and as the sun is setting, we wash and barrel the table olives in brine, documenting as we go; and then clean down the barrel room ready for the following day's harvest; along with any equipment we have used for the day's activities, so we are ready to start fresh once morning breaks again. Our oil olives are pressed within two hours of harvesting - a process which may see us working long into the night to produce the highest quality and freshest extra virgin olive oil we are capable of. And (in normal times), so it continues until harvest has ended.

This year, another call on our time... again. The “*opportunity*” to make a submission to DPIE on proposed changes which our NSW Government, through the DPIE, Service NSW, and the NSW Small Business Commission believes will enhance our farming capabilities by supplementing our activities with a number of “value add-ons” in the guise of hosting weddings and events and conferences (with no correlation to our olive growing activity); designed to carry us through the months of the year when we are not actually involved in the final stage of our whole process – where we are to find all the time to take on these extra activities (if we are to continue our actual farming endeavours), has not been included anywhere in the 39 page document provided for review. So, even though minimal hours are left in each 24 hour period, I found myself not rising at 4 or 5 am, but 3am, so I could work on my submission. When that wasn't enough, I sat at a computer during the daylight hours, typing, when I should have been harvesting. And harvest really doesn't like to wait – our olives ripen further each day, sometimes beyond optimal and the birds eagerly take advantage in any lapses on our part. And yet, in some ways, I am one of the fortunate – I became aware of this proposal through another hat I wear, in the tourism sector. Speaking with other farmers, growers, producers and rural landholders over the last few days did not garner one person who was aware of this proposal – although the amendments may very well affect the fabric of their own endeavours. It does not seem that submissions received will truly be representative of community – and I guess, most submissions will be glowing, gushing and positive – and will originate from people who are seeking to use their rural zoned land (whether already owned or not) to commence a different type of *farming business*; that of wedding venue grower/producer/provider.

By introducing two new land use terms in the Standard Instrument for farm gate activities and farm events, and re-defining Agritourism, so as to more broadly “cover any activity conducted on an agriculturally producing farm, as 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”, the doors are being thrown wide open – to encourage aspirational AGRI-ENTREPRENEURS to take on farming (with a small “f”) and then supplement our meagre income with (a definite big letter “E”) Events (even offering the carrot of not needing to have any correlation or connection to the farming activity normally associated with that particular farm). Attending a recent community meeting last week, I was so saddened to hear a local Government Councilor state, verbatim “Destination New South Wales does not care about the community here”. I would go further and state that our NSW Government, through the Department of Planning, Industry and Environment; Service NSW, and the NSW Small Business Commission also do not care about community. Their one-size fits all *modus operandi*; their corporate approach in seeking to destroy (although dressed up as a helping hand) a societal framework which has existed for eons; the benefits of which will flow to mainly non-genuine farmers; and the losses to be felt (eventually) by all. We are attractive because of our lands and rural outlooks and “views” – once our lands are full of exempt and complying developments, the rurality and views will be gone. And worse, our agricultural communities will also be gone.

So depleted and dispirited that my choices; my labour; my blood, sweat and tears; my energy; my commitment; and my perseverance (often in the face of adversity), mean so little in the large scheme of things, I took the weekend off. The whole weekend. I traveled to Sydney and spent time with family and friends and former colleagues. I spoke to them of my fears that (in my instance, Kangaroo Valley) would soon become simply an extension of Sydney and the encroachment of “city” on “country” would over the years see us morph into THE entertainment mecca and venue provider of the South Coast and our agricultural heartland would soon be only a memory. Dishearteningly, whilst most agreed with my fears; their overwhelming short-term response was that what we have in the “country” is there for the exploitation. My mother told me I was too old to continue to commit myself to many more years of back-breaking work in agricultural endeavours; my friends suggested this would be a means to “sit back” and make the land work for me, bringing me significant financial gain (with less work, because if the crops

fail, well I always have a supplementary income potential making use of my land for weddings and the like); and my former professional colleagues and those with whom I worked with voluntarily on numerous committees (educative; health related; fundraising) also took the view that, taking advantage of proposals put forward, would make for me personally a far easier life, and the land which I have loved and has given to me so much of itself; would be better off, being used to its “full financial potential” as a close proximity, short-term, rural idyll for “city-dwellers” and let someone else take care of genuine agricultural pursuits – whether that be in Australia or becoming more reliant on imports.

And with this, my demoralization was almost complete – you see, many “city dwellers” do not yet see the need for sustained, Australian agricultural activity; they do not yet see that true support of local farmers, growers, and producers will ensure that farming as a way of life continues to thrive; they do not yet see, it is a choice many of us make and that our contributions (however small) make up the very fabric of community rural living (and provide essential produce to those very same “city dwellers”).

As we continue to progressively become a society of intellectuals; a society of users rather than producers; moving away from the land to endeavours more financially appealing and less physically demanding such as the realms of technology and cryptocurrency; and following a hedonistic life path, living only for now; the farmers, growers and producers are seen as dinosaurs, not keeping up with times, not riding the gravy train when we are offered a free ride.

So, perhaps I and many other farmers should jump on this proposed “improvement to our way of living” – our generation and perhaps the next will enjoy First Class seating on the “train” and all the benefits and luxuries it provides; and we will not be here to see the desolation and havoc which will inevitably be the result of the demise of the “salt of the earth” farmer, grower and producer on our Australian way of life; my footnote in history, another statistic of the “benefits” of big picture theory.

After all, there is always China.....



EXPLANATION OF INTENDED EFFECT

Agritourism and small-scale agriculture development

Proposed amendments to support farm businesses and regional economies

March 2021



NSW Department of Planning, Industry and Environment | dpie.nsw.gov.au

Title: Agritourism and small-scale agriculture development Subtitle: Proposed amendments to support farm businesses and regional economies Department reference number: IRD20/40921

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Standard clause, I know, but we are already behind the eight ball....

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About this explanation of intended effect

This explanation of intended effect (EIE) has been prepared for the purposes of section 3.30 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

It is presented in four parts:

Part 1 – Executive summary

Part 2 – Context

Part 3 – Proposed amendments

Part 4 – Have your say



Part 1 – Executive summary

1.1 This document

This explanation of intended effect (EIE) proposes amendments to the NSW planning system to better enable ‘agritourism’ and small-scale agricultural development to be approved. **It also seeks to respond to natural disasters such as droughts and bushfires, and to simplify planning approvals for development or activities that have no or low environmental impact.**

Drought, bushfires, floods and torrential rains have been in existence since time immemorial – whilst it is a feel good intention to mitigate the ongoing effects that such natural disasters may have on “farming” communities who are the life blood of our agricultural food bowls (and the ludicrous scenes at numerous shopping centres and supermarkets in the early stages of the COVID-19 restrictions have reinforced the reliance we SHOULD place on true agricultural endeavours, rather than selling our souls overseas; and contributing to an overseas economy with our own little “pound of flesh”). It is interesting to me at least, that every single grower and farmer across much of the South Coast and Shoalhaven region, with whom I spoke, said they themselves had no mad rush on their produce available for sale, even though Armageddon was imminent, and bunkers were being filled.

Fighting “natural disasters such as droughts and bushfires” by allowing events such as weddings and conferences on agricultural land offers NO connection to the land, apart from more pretty pictures.

This document outlines the intended effect of proposed amendments to:
the *Standard Instrument (Local Environmental Plans) Order 2006* (**Standard Instrument LEP Order**),
the *State Environmental Planning Policy (Primary Production and Rural Development) 2019* (**PPRD SEPP**), and
the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (**Codes SEPP**).

1.2 Background In recent years, NSW farmers and farming communities have faced many challenges including prolonged drought, land fragmentation and declining terms of trade. This year alone, farming communities have had to deal with unprecedented bushfires and economic impacts arising from COVID-19 including travel and trade restrictions, cancellation of regional events, and temporary closure of local businesses.

The NSW Government is committed to **supporting the recovery and resilience of** our regional communities and **farming by growing** emerging **industries** that are **supplementary** to, or based on, **agriculture**. One such industry is agritourism, which will help to strengthen rural communities as travel restrictions ease across NSW. **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.

Genuine farmers and growers (whether generations old or those seeking alternative self-employment and self-sustainability) continue to make use of their agricultural land for agricultural purposes. You have asked key stakeholders you say, however how many genuine farmers and growers have you spoken with?

In Kangaroo Valley, with a relatively small population (879 at Census 2016), I contacted various dairy farmers; beef farmers; pig farmers; sheep farmers; olive growers; beekeepers; chicken and egg producers; and farms producing fruits and vegetables on a commercial basis. Not one had been contacted or asked for their views. In fact, not one was aware of this document, or of the ability to make a submission in relation to it. Nor they felt, did they have the time to take from actual farming activities.

A question to be answered is how does a farmer or grower going about their day-to-day business, working their land and it seems from your wording eking out an existence whilst battling the co-ravages of droughts and fires to provide for himself and his family, get to know about changes being proposed which possibly affect him, and certainly the agricultural focus of many regional towns. Perhaps by planting a field of lavender, cutting and trimming and then selling at a Sunday local market, this farmer previously involved in producing agricultural product for the wider community and contributing to the Australian food bowl, can now supplement this income by hosting large scale events such as weddings and conferences.

Agritourism activities enable farmers to diversify their income from farming businesses while maintaining primary production on the land as the principal use.

There is no explanation of “how long” this primary production must have been in existence; nor is there a condition imposed that those taking advantage of buying land, immediately sticking on a couple of head of cattle, or growing a field of lavender, and then qualifying for supplementary income justification, from using their land for large scale events such as weddings and conferences.

Of course, many of these older farming families who this document seeks to assist, would not have the first clue how to run large scale events such as weddings and conferences; nor promote them. So, two options: outsource or sell up – of course, this is fabulous for the incoming buyer – agricultural land with the added benefit of being able to be used for large scale events such as weddings and conferences.

I assume you can see where I am going with this recurring theme..... and I speak from experience here in our own back yard - not random, anecdotal gossip – we are physically here – living this life and having to deal with constant disruptions to our attempts to make a viable living.

Agritourism is NOT about large scale events such as weddings and conferences held on rural land which has as quoted in this document “views”. I have to assume that rural land without “views” is not covered in this proposal.

My land is designated Rural. I knew this when I purchased and I acted accordingly- choosing agricultural endeavours over trying to make my land use something it was not allowed to be.

I am an olive farmer. I planted my olives trees over a three-year period (2006-2009) and nurtured them for the requisite years until they began to produce harvest. Some years are better than others – I knew this when I undertook this proposition.

I am a table olive and extra virgin olive oil producer. I have a commercial processing facility with registered commercial kitchen and cellar door. I am able to conduct tours and tastings. I am able to do long lunches; and (although I do not choose to avail myself of the approval) run a café – all based around MY agricultural produce.

I am able to do all of this because I submitted a Development Application to Shoalhaven City Council in 2013. It was not costly, although there were the required professional reports. I was assigned an Assessment Officer and I dealt with him – resolving any issues – his knowledge of LOCALITY being site specific.

The NSW Government is seeking comment on proposals **recommended by stakeholders** to:
Who are these stakeholders of whom we speak – tourism operators and the NSW Small Business Commission and Service NSW, or farmers???

Many of us, do not believe we need others who feel they know far better than we, of how to manage our land, or manage our livelihoods.

- broaden the types of agritourism activities that can be undertaken and provide approval pathways tailored to the scale and types of activities,
- **support farmers during times of hardship or following natural disaster events,**

Rather than instigating proposals which will kill eventually off (both small scale and large scale) agriculture, perhaps a scheme similar to JobKeeper or Jobseeker which could be known as FundAFarmer could be initiated – give us the dollars (so many of us did not get any of the benefits associated with JobKeeper or JobSeeker – we simply ate into our rainy day nest egg and tightened out belts, as so many have done before; all the while continuing to contribute to society with our (very) hard earned dollars in the form of taxation.

- **reduce land use conflict by providing clearer rules** and better managing environmental and social impacts, and

There is no conflict – rules are clear and precise – it is those who seek to exploit any loophole; using (quite often) significant financial outlay to batter down those given the authority to make decisions on behalf of their constituents, by following the same set of clear and concise rules.

- **clarify current planning controls** and expand approval pathways for certain agricultural activities.

Clarification exists – before you purchase make sure the land is fit for the purpose you want; and then follow the rules set down in the relevant to your location LEPs, whether that includes a DA or complying/exempt development. Simple.

The proposed amendments are **underpinned by the principle of no or low environmental impact.**

Who decides what the level of this principle is going to be?

Who enforces compliance?

Who do I call when, in my view, compliance is not be adhered to?

Please do not tell us to ring our local police – we have tried this – the police do not come, they are simply too busy to cater to neighbourly disputes, especially on a weekend evening. Please do not tell us to contact our local Council when the issues arise - there is no-one capable of dealing with an issue which occurs on weekend, especially of an evening. Council themselves say they simply do not have the resources or funds to do this type of activity.

Imagine, if there were 10 or 15 complaints for 10-15 venues located around a whole local government area – how many do you actually believe would elicit a timely response. Please do not tell us to wait until Monday morning at 9am to contact Council, when the events have been completed, everyone has gone home happy, the property's owners are counting their cash and we still have a headache.....but have to get up, put one foot in front of the other and continue our agricultural activity.

1.3 What is proposed

Informed by the NSW Government's *Making Business Easier Program* and a wider agritourism project led by the NSW Small Business Commission and Service NSW, the following amendments are proposed to the NSW planning system to facilitate agritourism: farm stay accommodation – to support more farm stay accommodation **amendments** are proposed **to** the existing **definition of 'farm stay accommodation'**

The abuse of the current definition is unlikely to be resolved by changing it – farms are supposed to be just that – involved in agricultural production – not enormous “blocks” of land that could be / once were used for this purpose.

A couple of goats and a couple of cabins, does not, in my view, qualify.

A citrus orchard and a couple of cabins, does not in my view qualify.

Both of these examples exist here in Kangaroo Valley.

farm events – to **remove existing barriers** and support farm events amendments are proposed to introduce a **new definition for 'farm events'**

In essence, this relates to approval to operate large scale events such as weddings and conferences held on rural land.

The ability to offer a true farm gate experience; to make use of crops grown; to educate the general public about the importance of fresh and local produce; the ability to conduct cellar door sales exists – if you have the right zoning and if you lodge the appropriate DA.

This new definition proposes that regardless of the crop or livestock on any given piece of agriculturally zoned rural land – a “farm event” just means being held on a “farm”. So simplistic,

that we will see a resurgence in the number of new farms, to rival even the Sydney property market.

farm gate activities – to enable farm gate businesses to be established amendments are proposed to introduce a new definition for ‘farm gate activities’.

What is this new definition? How is it different from the current one? Wait, found it – way down this document.

Fast track approval pathways, known as exempt and complying development, will also be established for these types of agritourism.

And again, providing a loophole, for developers and commercial operators to take advantage of this process to progress large scale events such as weddings and conferences held on rural land.

Comment is also sought on the following proposals to facilitate or improve approval pathways for low-impact agricultural activities:

small-scale processing plants – allow establishment of these plants as complying development for meat, dairy and honey where certain development standards are met

rebuilding of farm infrastructure – allow reconstruction of farm buildings and other structures as exempt development following **natural disaster**, where constructed to same size and contemporary building standards

Is a natural disaster to be limited to fire (/ flood) and loss of building; or could this natural disaster take on alternate meanings, as per <https://www.ato.gov.au/Non-profit/Newsroom/General/COVID-19-declared-a-disaster/>

Will I now be able make upgrades and undertake a renovation of my current buildings to improve their aesthetics (having been severely impacted by the COVID-19 shutdowns and restrictions)? Once I have done this, could I then go for a change of use to operate large scale events such as weddings and conferences on my zoned rural land?

stock containment areas – update and rationalise existing planning controls to reflect current practice, and ensure stock containment areas used temporarily, such as during drought, do not impact negatively on surrounding uses

farm dams – clarify terminology used in the planning system and provide a consistent approval process across the state

biosecurity for poultry farms and pig farms – update development standards to align with separation distances required under biosecurity standards

setbacks for rural dwellings - review controls that allow dwellings on rural lots as complying development to ensure there is sufficient separation from adjacent primary production enterprises

recreational beekeeping – providing an exempt development pathway for recreational beekeeping to improve certainty.



Part 2 – Context

2.1 Background

With changes in markets, diminishing wholesale returns from traditional agricultural production and the seasonal nature of many agricultural industries, some traditional farms can no longer remain viable by simply producing food or fibre for wholesale markets. The planning system seeks to **protect agricultural land and secure it as a resource for food production for future generations.**

PROTECTING AGRICULTURAL LAND AND SECURING IT AS A RESOURCE FOR FOOD PRODUCTION FOR FUTURE GENERATIONS is unlikely to be a consequence of this proposal. 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.

There is scope for the planning framework to better support farmers’ ability to innovate and diversify from purely primary production to other forms of value adding or **complementary agribusiness.**

I am not anti tourism – of any sort – whether “agritourism” or other. I simply believe that certainty is eroded, when rules are not followed through. How large scale events such as weddings and conferences held on rural land can be seen as complementary agribusinesses has eluded me since I first began my journey on local tourism boards in 2012 and my increased input into primary production (following the death of my husband that year). It eludes me still. Value-adding with genuine farm gate activities based on the crops / livestock etc which are located on the farm have nothing to do with this (as long as zoning permits).

Agritourism involves visiting a farm or food related business for enjoyment and education or **to participate in activities and events.**

The broadness of this statement, the non-genuine value adding as the activities are not based on the crops / livestock etc which are located on the farm have nothing to do with this, and is simply a means to an end to create the opportunity for large scale events such as weddings and conferences on zoned rural agricultural land.

Agritourism is a growing sector of both the Australian and NSW economies, worth more than \$2 billion in NSW in 2014–15¹ and is expected to be worth \$18.6 billion in Australia by 2030, up from \$10.8 billion in 2018.² In 2019, Australians took 4.7 million trips to a farmgate, winery, brewery or distillery in a regional destination.³

Possibly the first accurate, non-biased statement so far – in that it deals with TRUE agritourism businesses, with no mention of large scale events such as weddings and conferences on rural land.

Farmers are increasingly seeking options to diversify their income stream or value-add to their core agricultural business to make it more resilient, profitable and attractive to a new generation of farmers.

Value-adding to a core agricultural business should be just this. In my case, I grow olives on trees (inedible until processed). There would not be much point in this endeavor, if there was not the ability make an end-product, and to sell this product. This process already exists – dependent on zoning and DA approval.

Is this new generation of farmers of whom you speak, going to be responsible for production of large scale events such as weddings and conferences on zoned rural land? Will our bodies evolve so that we can eat this?

The current regulatory and land use planning framework for these options can be complicated, costly and challenging for farmers to navigate.

Most farmers are not all dumb “hicks” as this statement suggests.... and most farmers, in this day and age can read and write. This statement is derogatory in its formation (if not intent).

So why? The rules to follow are clearly set out – read them, and if necessary engage a consultant to undertake the process for you. This is a cost of starting a new business or making changes to an existing business – it is nothing new.

Certainty, confidence and consistency in the planning framework will support investment in agritourism.

Really??? We all HAD confidence in our certainty. If the rules and regulations and clauses et al are upheld, then there should be no inconsistency. Simple.

A robust and flexible land use planning framework can provide strategic direction and a streamlined and efficient process for facilitating land uses that supplement agricultural industries. Your definition of agricultural industry supplementary activities is NOT all together agriculturally defined. If one is able to grow any crop, AND one is able to operate large scale events such as weddings and conferences on zoned rural land, AND the two do not have to be in way related, then this makes a farce of the term “agricultural industry supplementary activity”. The ability to operate large scale events such as weddings and conferences on zoned rural land will UNDERMINE the very fabric of using agricultural land for agriculture, and presents those who seek to erode this very fabric, yet another loophole to tie genuine local farmers and growers, the regional community and our elected representatives in ever tightening knots.

New industries in regional areas are always welcome, but not if they destroy what existed prior to their arrival.

In addition to agritourism, the department has identified other changes that could be made to reduce red tape and make it easier to use for farmers, particularly those running small-scale operations.

The NSW Government is committed to supporting economic development and job creation for NSW farms through a range of initiatives including simplifying land use definitions and development approval processes.

The proposed changes outlined below **recognise the significance of agricultural industries** and seek to:

Allowing large scale events such as weddings and conferences on zoned rural land is NOT the way to recognise the significance of agricultural industries. It is its death knell.

support investment in farms seeking supplementary incomes through other uses on the land
facilitate a simple and streamlined approach to gaining approval for uses supplementary to primary production

support farmers during times of hardship and following disaster events

I must comment on the inclusion of this heart-wrenching comment - the farmers and growers of NSW could use some actual \$\$\$ support from our State and Federal Governments –

FundAFarmer may be less costly; or better yet, perhaps the authors of this report, and the industry stakeholders involved could open their wallets and support farmers and growers by purchasing (and promoting) our products – it would make more of a difference, and it would reward hard work, long hours, lack of sleep and passion. Genuine farmers and growers tend to be tough and resilient – they want to **work their land**, rather than have their land work for them – they may need a hand up – but they do not need to see their years (and in some cases generations) of toil discarded and destroyed by their land becoming the new “best thing since sliced bread”. They want to FARM. This is why they stay on their land, why they work all hours, why they are proud of what they achieve.

reduce land use conflict.

No conflict – follow the rules, and uphold intent of legislation. Conflicts arise when people do not follow the rules, when they seek to benefit from “something extra” by invoking loopholes in law.

2.2 Consultation and collaboration

2.2.1 Making Business Easier

The NSW Small Business Commission in collaboration with Service NSW has undertaken a program to help farmers diversify as part of the NSW Government’s *Making Business Easier* program. Diversification is especially important **in times of drought** where land typically reserved for productive use is unable to generate enough income through its primary activities.

Please refer to Dorothea MacKellar’s “My Country” – she says it better than anyone.

It also supports the continued sustainability of agriculture in rural areas.

I believe this to be certainly true for GENUINE farm gate activities, production facilities; cellar doors and the like, however I fail to see how allowing large scale events such as weddings and conferences on zoned rural land will be of benefit to the continuance of farming.

The department has worked with the commission to identify simplified pathways to establish low impact agritourism businesses on farms, including farm stay accommodation, farm tours, roadside stalls, farm events and retail on farms. This work aligns with the department's commitment to reduce red tape and make the planning system easy to use.

It is good that the Service NSW worked with the NSW Small Business Commission. It would have been better had it included farmers and growers at the outset, rather than presenting a document for comment and not promoting the fact. Non-submission of comments by farmers and growers SHOULD NOT be taken as acquiescence or unbridled joy – most simply do not know this document exists.

Agri-tourism may be many of the things listed – but it is NOT a tourism-related experience that connects people with events solely based on “their scenic quality such as weddings” – your words.

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).

Service NSW has conducted research that identified challenges in the current planning regime for aspirational agri-entrepreneurs.⁴

And now we come to it – this document is about and for “aspirational agri-entrepreneurs” and not really for the poor farmers no matter how much it attempts to proffer as its raison d'être the supposed “support” for “farmers during times of hardship or following natural disaster events”.

Genuine agritourism is NOT about large scale events such as weddings and conferences on zoned rural land. These events contribute NOTHING to the furtherance of agricultural activity, rather they provide a perfect opportunity to destroy that very agricultural activity, which they profess to support.

Many regional businesses have experienced difficulties in setting up agritourism businesses as: there is a lack of guidance to understand the planning approvals required
Do some research yourself – not hard. Do not expect to be spoon fed everything.

it can be costly and time consuming to obtain approval

Everything can be costly and time consuming unless you do your research and don't ask for what you should not be able to get.

some requirements have not kept up with contemporary practices

a distinct possibility – however throwing the baby out with the bath water, gives NO certainty or confidence

some existing land use definitions and standards are inappropriate for the proposed use.

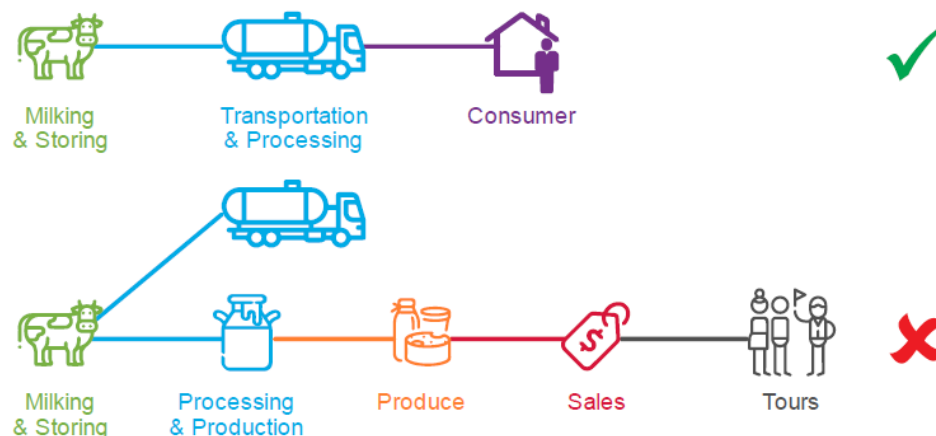
Of course they are - if you are seeking to turn agricultural land into a plethora of wedding and event venues, then zoning and standards are not going to be the ones you want to follow.

There is also variability in how the planning system is applied across NSW. This variation often relates to historical land use planning approaches and is not necessarily justified by regional differences or reflective of modern agricultural businesses.

Regional diversity is just that – a one size fits all doesn't work – pink bats should have taught all of us that.

Figure 1 illustrates the variation between the permissibility of a traditional supply chain compared with agritourism activities, approval for which may vary for land with the same zoning in adjoining local government areas. For example, two farmers can have cows, milk the cows and send the milk off site for processing, as intensive livestock agriculture is permitted. However, if they want to turn some milk into cheese, sell it on the property and provide tours, there may be different local environmental planning controls in place, which mean different rules apply to each farmer. On one side of the fence the farmer may be able to undertake the additional activities, but these may not be permitted on the other side because of local regulations. The activities could also be categorised, in planning terms, as covering a range of different uses including retail, artisan food and drink, light industry, eco- tourism, and information and education premises.

Figure 1 - Traditional supply chain compared with agritourism activities



Sorry are we talking about adhering to zoning here?? A lot of words, but effectively yes – ZONING. If you are in one local government area, then that is your lot. Don't like it, move or find something else to do that is permissible. Not everyone can have everything that their neighbour has – after all, it has long been written that "Though shalt not covet thy neighbour's house, nor his farm, nor his cattle, nor anything that is his".



Part 3 – Proposed amendments

3.1 Overview

The department is proposing amendments to existing controls within the planning system to facilitate more agritourism and small-scale agricultural developments, while **balancing** the need for individual councils to **respond to different environmental and development settings**.

NUTSHELL – individual councils (whilst they exist) are best placed to respond to locality specific environmental and development settings and concerns.

The proposed changes include:

1. **Farm stay accommodation:** amending the existing definition for farm stay accommodation in the Standard Instrument LEP Order

2. **New land use terms:** introducing two new land use terms for farm gate activities and farm events in the Standard Instrument LEP Order. Including the new term in the Standard Instrument LEP Order will automatically introduce the term into all Standard Instrument LEPs

Farm events should be events limited to farm activities; and NOT events held on a farm (whether it is actually a working farm or just a very big block of land, may be debatable).

New optional LEP clauses - introducing new optional clauses for farm stay accommodation and farm gate activities that councils can apply where a development application is required

New approval pathways - providing exempt and complying development approval pathways in the Codes SEPP for agritourism activities where certain development standards are met

Small-scale processing plants - allowing the establishment of small-scale processing plants as complying development for meat, dairy and honey where certain development standards are met

Rebuilding of farm infrastructure - allowing the reconstruction of farm buildings and other structures as exempt development following natural disaster, where constructed to the same size and contemporary building standards including the Building Code of Australia and relevant Australian Standards.

Stock containment lots - updating and rationalising existing controls for stock containment lots to reflect current practice, and ensuring stock containment areas used temporarily, such as during drought, do not impact negatively on surrounding uses.

Farm dams - clarify terminology used in the planning system and provide a consistent approval process across the state

Biosecurity - updating development standards for poultry farms and pig farms to align with separation distances required under biosecurity standards

10. **Rural dwelling setbacks** - updating controls that allow dwellings on rural lots as complying development to ensure enough separation from adjacent primary production enterprises.

11. **Recreational beekeeping** – providing exempt development pathway for recreational beekeeping to improve certainty

These changes will allow small-scale agritourism development and other small-scale agricultural activities to occur on land where the primary use of the land is agriculture.

There is absolutely no possible way that anyone could profess to being confused about weddings and large scale events as being small scale AGRItourism – not with a straight face, anyway.

Recognising the seasonal nature of some agricultural uses of land and the variability of the Australian climate, the proposals will also allow agritourism activities on farms that are not currently producing for reasons outside the landowner's control such as prolonged drought. This paragraph needs completion... I suggest adding, following the word "drought".... "an aversion to back-breaking work; a loss of passion for primary production; an overwhelming feeling of "why not make a quick buck"; and bugger the Australian food bowl."

The changes are not intended to enable hobby farmers or other recreational farmers to establish agritourism businesses.

What signifies a "hobby farmer" or "recreational farmer" – and how will this be assessed? For those poor farmers who have no ability to navigate the regulatory framework which of course may be too "complicated, costly and challenging" for them – to whom do they turn??? And how easy and non-time consuming will this process be?

3.1.1 Simplified planning pathways

As illustrated in Figure 2 below, exempt development is minor, low impact development that can be undertaken without the need for planning or building approval if the work complies with specified development standards. Complying development is a combined planning and construction approval for straightforward development that can be determined through a fast track assessment by a local council or a registered certifier. Complying development must also meet specified development standards.

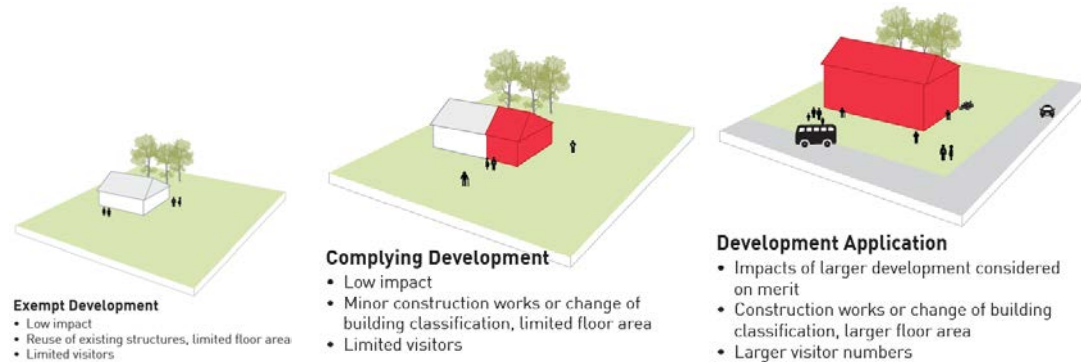
Some councils have already simplified their planning requirements at a local level. The new exempt and complying development will allow more activities and development of low environmental impact on farms to gain planning approval quickly across NSW. Proposed new development standards will ensure development is at a scale appropriate for the agritourism or agricultural activity with minimal impacts on the surrounding land and amenity. Where these standards cannot be met, a landowner can lodge a development application with the local council.

Who sets the standard or what is minimal or low impact?

NO impact is easy to understand, minimal and low are subjective.

And how is this to be enforced (not even going to bother with repeating the negation of the possible suggestion that impacted persons contact their under resourced own local police or Council).

Figure 2 - Illustration of development approval pathway thresholds (indicative only)



3.2 Farm stay accommodation

A key aspect of an agritourism business is the provision of on farm accommodation. It is also critical to the tourism industry in some regions. On farm accommodation:

encourages tourism to locations that cannot be reached by day trip from major centres

encourages longer stays

can utilise existing assets – such as farm workers' accommodation or large homesteads

can provide ancillary income for a business – particularly where the business is seasonal or

affected by weather conditions

allows visitors to understand and engage with the area in greater depth than can be offered by day visits. **It is often coupled with activities within the property**

Great in theory, minimal in practice. Not many farmers and growers who are cognizant of the standards required for commercial production want people traipsing all over their land creating havoc with their crops; that is if they are not too busy actually trying to make a living from farming to have time to take their visitors on joyrides.

facilitates recreation, entertainment and/or educational experiences to visitors

supports increased awareness of agriculture and an improved connection between food production and consumption.

This is only true if it is a genuine working farm, and the farmer has a whole heap of spare time on his hands to ferry visitors around...

“Businesses” who operate a dedicated farm-gate trail or cellar door have the increased facilities and man-power for these type of activities – most farmers do not.

3.2.1 Proposed amendments

The changes propose to amend the existing definition of farm stay accommodation to recognise that farming activities may fluctuate seasonally (particularly during periods of drought) and to

broaden the use to include camping.

Huh?? How on earth can the fact that farming activities may fluctuate seasonally have ANYTHING to do with camping?

To ensure farm stay accommodation remains a low impact use, an optional clause is proposed that councils can choose to adopt, with development standards councils can tailor to suit local conditions.

Exempt and complying development pathways have been developed to allow some building works, the change of use of existing buildings to farm stay accommodation and some camping opportunities without the need for a development application as long as the development standards are met.

3.2.1.1 Proposed definition

It is proposed to amend the existing definition of farm stay accommodation in the Standard Instrument LEP Order to:

remove the references to working farm and secondary business as these requirements are restrictive for farms that operate on a seasonal basis and are not typically planning considerations.

This is semantics at its absolute worst – a working farm is a working farm – even if it is seasonal and not much growth happens during winter (or even the odd weekend). There is ALWAYS farm work required, even if it does not appear to the outside layman that it is directly related to the agricultural crop / livestock business which is practiced on that farm. That is why most farmers work seven days a week, week in and week out, 365 (or 366 every so often) days a year.

replace these references with a requirement that the existing principal use of the land must be the production of agricultural/primary production goods for commercial purposes to ensure a farm stay supplements an existing commercial farming business

enable farm stay accommodation on a farm that is currently not producing goods because of drought or similar events outside the landowner's control

This may be the belief of the Pitt Street Farmers, however there is ALWAYS farm work required, even if it does not appear to the outside layman that it is directly related to the agricultural crop / livestock business which is practiced on that farm. Producing goods includes caring for and of the land, the soil, the grasses and weeds – that is what seasonality means.

include accommodation in a building and camping (camping is currently not included under farm stay accommodation). It is proposed to amend the definitions of camping ground and caravan park to exclude tents, campervans and caravans erected on land for the purposes of farm stay accommodation. This is intended to facilitate small-scale camping being undertaken on a farm as exempt development (described below).

Amending the definitions in the Standard Instrument LEP Order will amend the definitions in all Standard Instrument LEPS.

3.2.1.2 Permissibility Farm stay accommodation will continue to be permissible with consent wherever councils currently identify it as permissible with consent in their LEPS.

3.2.1.3 Approval Pathways The proposed approval pathways for farm stay accommodation are exempt development, complying development and lodging a development application. The approval pathway will depend on the type of development proposed, as shown in Table 1.

Exempt development

Change of use of an existing dwelling or part of a dwelling

It is proposed to allow the change of use of an existing dwelling or part of a dwelling (including rural workers dwelling and secondary dwellings) on rural zoned land as exempt development for the purpose of farm stay accommodation where it has been lawfully constructed and introduce the following development standards:

Maximum guests

- allow up to two persons aged over 12 per bedroom

Waste management

waste generated must be managed on the site and then disposed of at a waste management facility including the recycling of all recyclables

putrescible and organic waste may only be disposed of on-site if disposed in a managed composting system where odours and other pollutants are controlled and or managed.

Use of land for farm stay accommodation It is proposed to allow the use of land for farm stay accommodation as exempt development where visitors reside in tents, caravans, campervans or other similar portable and light weight temporary shelters on rural zoned land and introduce the following development standards:

Operational requirements

the use must be permissible with consent under council's local environmental plan

allow up to 20 persons in any tents, caravans, campervans or other similar portable and light weight temporary **shelters at any one time on the landholding for up to 14 days**

?? quasi campgrounds – rows and rows of tents and caravans and campervans or other similar portable light weight temporary shelters – definitely going for the scenic factor here – especially for adjoining landowners.

And even better if one was also hosting large scale events and weddings – built-in accommodation opportunity – no need to share the dollar love around the locality – everything on one site – how practical.

unoccupied caravans, campervans and tents are not to remain on the land after 24 hours

Location and size

a tent must not be installed closer than 6 metres to any building, caravan, annexe or campervan or closer than 3 metres to any other tent

the development cannot occur on land that is significantly contaminated land within the meaning of the *Contaminated Land Management Act 1997*

the development cannot occur on land that is bush fire prone land

Setbacks

the minimum following setbacks from any adjoining established or proposed:

- o pigfarm, feedlot or poultry farm–1,000metres
- o other intensive livestock agriculture–500metres
- o 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

Waste management

waste generated must be managed on the site and then disposed of at a waste management facility including the recycling of all recyclables

putrescible and organic waste may only be disposed of on-site if disposed in a managed composting system where odours and other pollutants are controlled and or managed if human waste storage devices are proposed, these devices must not be emptied on sites without reticulated sewerage.

Complying development

Change of use of an existing building or manufactured home

It is proposed to enable a change of use of an existing building or manufactured home to farm stay accommodation on rural zoned land as complying development under the Codes SEPP. The following development standards are proposed:

Use, number of buildings and size

the current use must be a lawful use

maximum one dwelling per 15 hectares, to a maximum of six dwellings on a landholding

the new use must not be carried out at premises that are a moveable dwelling or associated structure (except for a manufactured home), temporary structure, or tent

maximum floor area of the development must be 60 square metres

Bush fire prone land and flood control lots

the development must comply with the flood control lots requirements in the Codes SEPP (clause 3D.7) if the building is on this type of land

the development must not be a type that requires a bush fire safety authority under section 100B of the *Rural Fires Act 1997* because it is on bushfire prone land.

Setbacks

- the minimum setbacks from any adjoining established or proposed:
 - o pigfarm, feedlot or poultry farm—1,000metres
 - o other intensive livestock agriculture—500metres
 - o 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 an existing dwelling has a setback from another use that is less than these setbacks or is less than 250 metres from the boundary, the farm stay accommodation may have the same setback

Services

- if water supply or sewerage services (or both) is to be provided by a water utility, the applicant must obtain written advice that specifies the works or other requirements to be completed from the relevant water utility

Waste management

waste generated must be managed on the site and then disposed of at a waste management facility including the recycling of all recyclables

putrescible and organic waste may only be disposed of on-site if disposed in a managed composting system where odours and other pollutants are controlled and or managed.

Note: Farm stay accommodation is a type of 'tourist and visitor accommodation' under the SI LEP Order. Under the *Rural Fires Act 1997*, development for the purpose of tourist accommodation cannot be undertaken as complying development on bush fire prone land.

Erection, alteration or addition to a building or manufactured home

It is proposed to enable the **erection, alteration or addition to a building or manufactured home** as complying development on rural zoned land to be used for farm stay accommodation. The following development standards are proposed:

Use, location and size

any structure constructed or converted for the purpose of farm stay accommodation cannot be used as a dwelling without consent

the erection of a new building or manufactured home for farm stay accommodation must be within 300 metres of the existing dwelling, maximum height of 6 metres for a new building or manufactured home, a maximum floor area that is the greater of the standard in the relevant LEP or 60 square metres

maximum one dwelling per 15 hectares, to a maximum of six dwellings on a landholding
the development cannot occur on land that is significantly contaminated land within the meaning of the *Contaminated Land Management Act 1997*

Setbacks

side setback of the existing dwelling on the land or 200 metres, whichever is less

the minimum following setbacks from any adjoining established or proposed:

- o pigfarm, feedlot or poultry farm—1,000metres
- o other intensive livestock agriculture—500metres
- o 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 an existing dwelling has a setback from another use that is less than these setbacks or is less than 250 metres from the boundary, the farm stay accommodation may have the same setback

Services

- the development cannot occur on unsewered land to which *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011* applies, if that development will result in an increase to the number of bedrooms on the site or in a site disturbance area of more than 250 square metres or in any other drinking water catchment identified in any other environmental planning instrument

Waste management

waste generated must be managed on the site and then disposed of at a waste management facility including the recycling of all recyclables

putrescible and organic waste may only be disposed of on-site if disposed in a managed composting system where odours and other pollutants are controlled and or managed.

Development application

Where a proposal for farm stay accommodation does not satisfy the requirements for exempt or complying development, a development application can be lodged with the local council. To appropriately consider the impact of farm stay accommodation where development consent is required, an optional clause is proposed that councils can choose to include in their LEPs which:

- includes objectives to:
 - o allow for small scale tourism and commercial uses that complement the agricultural use of the land
 - o balance the impacts of tourism and commercial uses on the environment, infrastructure and adjoining land uses
- provides the following requirements for farm stay accommodation:
 - o allow the number of people accommodated in any buildings/manufactured homes to be **three times the number of bedrooms permitted under clause 5.4(5) of the council's LEP**, or the number the council specifies in its LEP

Even STHL can only have two adults over twelve years of age per bedroom, to a maximum of twelve. Seems all that fresh air and farm activity means no one cares about a little overcrowding, "cos we are all friends here".

- o allow the number of persons in any tents, caravans, campervans or other similar portable and light weight temporary shelters on the landholding to be 20 at any one time for up to 14 days
- o require the maximum floor area of any new building to be 75 square metres or the number the council specifies in its LEP (which must be not more than 75 square metres).

It is also proposed to **amend clause 2.6** of the Standard Instrument LEP Order to **prevent the creation of a dwelling entitlement** in relation to farm stay accommodation. This is intended to preclude the fragmentation of prime agricultural land.

At last, some real foresight into what potentially could happen, should all these fabulous short-term farm stay accommodations end up becoming permanent rentals or by squatter's rights taken over, or even so immensely popular that in their own right they become attractive parcels of land to sell for a profit.

3.2.2 Farm stay accommodation - consultation questions

1. Are the proposed setbacks to pig farms, other intensive livestock, forestry and mines for exempt and complying development appropriate? **Not knowledgeable on this issue to comment.**

2. Where a development application is required, should farm stay accommodation be permitted only on land that benefits from a dwelling entitlement? **Yes**
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? **Not necessarily**
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. **Not knowledgeable on this issue to comment.**

Photo courtesy of Smith and Tzannes Architecture and Urban Planning



3.3 Farm gate activities

Farm gate is a common term used where value is added to a farm's produce and there is an interaction with the farm by the purchaser of the goods. Farm gate activities may include appropriate infrastructure to enable on-farm dining or entertainment.

Farm gate activities are in keeping with the surrounding agricultural landscape, community and region. **These activities can also protect farming from encroachment by non-agricultural or conflicting uses by strengthening the value of the agricultural activity itself.**

How does this gel with large scale events such as weddings and conferences where they protect farming from encroachment and at the SAME time strengthen the value of the agricultural use (unless it is a resale value increase as approval to hold large scale events is now held)?

Landholders are generally unable to process and sell retail products produced on a farm under existing planning requirements.

The proposed changes will make it easier for farmers to gain approval and establish businesses associated with their agricultural production activity. Farm gate activities vary significantly, from selling apple pie on a farm where the apples are grown on the property, Not if their zoning permits – we do this, it was a case of submitting a DA for assessment, following the rules and receiving approval. to developing a cidery on a farm which uses ingredients predominantly grown in the surrounding area.

Well this of course is not YOUR farm gate activity, it simply purchasing someone else's hard earned produce, value adding and selling at a great profit margin. If you were a genuine farmer, then you would grow your own apples (using this example). If you simply wanted to go into the brewing industry, then surely this cannot be classified as FARM related (unless you include in the definition of "farm" the using of someone else's blood, sweat and tears all boiled down to the bucket load). If this is your only source of "fruit", how does that make for YOU being a farmer, grower or farm.

It is proposed to introduce a new land use term 'farm gate activities' into the Standard Instrument LEP Order to provide greater opportunities for landowners to showcase the agricultural produce from their land or the surrounding area through retail sales, a small restaurant or café, or tastings and workshops.

To ensure farm gate activities remain low intensity uses, an optional clause is proposed that councils can choose to adopt and tailor to suit local conditions.

Exempt and complying development pathways have also been developed to allow streamlined approval pathways for farm gate activities on certain land. This will allow some building works as complying development, changing the use of existing buildings to farm gate activities and erecting a roadside stall as exempt development.

3.3.1 Proposed amendments

3.3.1.1 Proposed definition

It is proposed to introduce a new land use term in the Standard Instrument LEP Order for farm gate activities which includes:

the processing, packaging and sale of agricultural produce, or
a restaurant or café, or
facilities for the holding of tastings, workshops or providing information
or education to visitors
for agricultural produce grown on the farm or predominantly grown in
the surrounding area.

The proposed definition will make it clear that the principal use of the land must be the production of agricultural goods for commercial purposes. The proposed new term will also enable farm gate activities where the farm is currently not producing goods because of drought or similar events outside the landowner's control.

We currently have DA approval to do all three – for what reason have you chosen to make each option an OR? Is it because option 2 will allow for the running of a restaurant or café even if the restaurant or café is not based on the produce on which the farm is run – to make this a complying/exempt development and it

is simply a way around DA approval process / or because option 3 will allow for tasting sessions of produce which is NOT produced on the farm on which it is run? Simply a “cellar door” promoting someone else’s goods – not really a farm gate activity then – or at least not YOUR farm gate.

3.3.1.2 Permissibility

It is proposed to create a new land use term ‘agritourism’ in the Standard Instrument LEP Order and farm gate activities will be a subset of this new term. It is further proposed that ‘agritourism’ will be a subset of the existing land use term ‘agriculture’.

Additional proposals include existing terms in the Standards Instrument LEP Order, ‘roadside stall’ and ‘cellar door premises’, to become subsets of the new ‘farm gate activities’ term.

Cellar door premises and tasting sessions of produce which is NOT produced on the farm on which it is run is simply a retail business promoting someone else’s goods – not really a farm gate activity then – or at least not YOUR farm gate.

These changes mean that farm gate activities will initially be permissible in all LEPs wherever ‘agriculture’ is currently permissible. Councils can then permit farm gate activities in additional zones, such as zones in which existing land uses, e.g. roadside stalls, are currently permitted. Roadside stalls and cellar door premises will continue to be permissible where they are currently permitted, as well as being permitted wherever ‘agriculture’ is permissible.

3.3.1.3 Approval pathways

The proposed approval pathways for farm gate activities are exempt development, complying development and lodging a development application. The approval pathway will depend on the type of development proposed, as shown in Table 2.

Exempt development

Use of land for farm gate activities

It is proposed to allow the use of land for farm gate activities on rural zoned land as exempt development and introduce the following development standards:

Operational requirements

the development must not involve a change of building use

standard hours of operation to apply – 7.00 am to 7.00 pm Monday to Saturday and 9.00 am to 6.00 pm on a Sunday or a public holiday

Setbacks

the minimum setbacks from any neighbouring established or proposed:

- o pigfarm, feedlot or poultry farm–1,000metres

- o other intensive livestock agriculture–500metres

- o intensive plant agriculture, forestry, mines and extractive industries, railwaylines 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 gate activity may have the same setback

Site location and access

where development utilises an existing access point to a road, that access point is to have a clear sight distance of 250 metres to an approaching vehicle along the major road or comply with the sight distance requirements of Austroads Guide to Road Design Part 3, Table 5.5
the development cannot be carried out on land in bush fire attack level-40 or the flame zone

Maximum guests

- maximum number of guests is 50 at any one time

Waste management

waste generated must be managed on the site and then disposed of at a waste management facility including the recycling of all recyclables
putrescible and organic waste may only be disposed of on-site if disposed in a managed composting system where odours and other pollutants are controlled and or managed.

Change of use to a roadside stall

It is proposed to allow a change of use to a roadside stall on rural-zoned land as exempt development subject to the existing development standards in clause 2.20B of the Codes SEPP (roadside stalls are currently excluded from these provisions), which include preventing an increase in gross floor area of the building, compliance with existing conditions of development consent relating to hours of operation, noise, car parking, waste management, etc.

Erection of a roadside stall

It is proposed to allow the erection of a roadside stall on rural zoned land as exempt development and introduce the following development standards:

Building use, location and size

the use must be permissible with consent under council's local environmental plan

maximum footprint 8 square metres

the development must be located on private property

the development must not be located adjacent to a classified road

Site access and parking

development must use an existing access point to a road and this access is to have a clear sight distance of 250 metres to an approaching vehicle along the road or comply with the sight distance requirements of Austroads Part 3, Table 5.5.

any parking accommodated on the verge:

- o must be at least 3metres from any carriageway

- o the verge must be graded

if parking is not provided on the verge, it must be provided within the boundary of the property and cars must be able to access and leave the property in a forward direction

maximum one roadside stall per land holding

Waste Management

waste generated must be managed on the site and then disposed of at a waste management facility including the recycling of all recyclables

putrescible and organic waste may only be disposed of on-site if disposed in a managed composting system where odours and other pollutants are controlled and or managed. Note: Approval from the roads authority is required for any new access driveway.

Complying development

Change of use of an existing building

It is proposed to allow the **change of use of an existing building** to a farm gate activity premises on rural zoned land as complying development and introduce the following development standards:

Use, location and size

the current use must be a lawful use

the new use must not be carried out at premises that are a manufactured home, moveable dwelling or associated structure, temporary structure, tent

maximum 200 square metre footprint for each building and 500 square metre footprint for all buildings used for farm gate activities and farm events

Maximum guests

- maximum number of guests is 50 at any one time

Setbacks

the minimum following setbacks from any adjoining established or proposed:

o pig farm, feedlot or poultry farm—1,000metres

o other intensive livestock agriculture—500metres

o intensive plant agriculture, forestry, mines and extractive industries, railwaylines 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 gate activity may have the same setback setback at least 50 metres from any other fence or otherwise marked property boundary

Services

- if water supply or sewerage services (or both) is to be provided by a water utility, the applicant must obtain written advice that specifies the works or other requirements to be completed from the relevant water utility

Waste management

waste generated must be managed on the site and then disposed of at a waste management facility including the recycling of all recyclables

putrescible and organic waste may only be disposed of on-site if disposed in a managed composting system where odours and other pollutants are controlled and or managed.

Erection, alteration or addition to a building for a farm gate activity

It is proposed to allow the **erection, alteration or addition to a building for a farm gate activity** on rural zoned land as complying development and introduce the following development standards:

Building location and size

maximum 200 square metres for each building and 500 square metre footprint for all buildings used for farm gate activities and farm events provide that a road setback is not required for structures with a floor area less than 12 square metres and height up to 3.5 metres and which are for the sale of goods or produce (roadside stalls)

maximum height:

- o 7 metres for land holding 4000 square meters to 10 hectares
- o 10 metres for land holding greater than 10 hectares

the development cannot occur on land that is significantly contaminated land within the meaning of the *Contaminated Land Management Act 1997*

Maximum guests

- maximum number of guests is 50 at any one time

Setbacks

- the minimum following setbacks from any neighbouring established or proposed:
 - o pig farm, feedlot or poultry farm—1,000 metres
 - o other intensive livestock agriculture—500 metres
 - o 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 gate activity may have the same setback
- setback at least 50 metres from any other fence or otherwise marked property boundary

Services

- the development cannot occur on unsewered land in the Sydney drinking water catchment if it will cause a site disturbance area of more than 250 square metres, or in any other drinking water catchment identified in an environmental planning instrument

Waste management

waste generated must be managed on the site and then disposed of at a waste management facility including the recycling of all recyclables

putrescible and organic waste may only be disposed of on-site if disposed in a managed composting system where odours and other pollutants are controlled and or managed.

Development application

Where a proposal for farm stay accommodation does not satisfy the requirements for exempt or complying development, a development application can be lodged with the local council. To appropriately consider the impact of farm gate activities where development consent is required, an optional clause that councils can adopt in their LEPs is proposed which will: introduce objectives:

- o to allow for small scale tourism and commercial uses that complement the agricultural use of the land
- o to balance the impacts of tourism and commercial uses on the environment, infrastructure and adjoining land uses

introduce the following standards:

the gross floor area must not exceed 200 square metres or the number the council specifies in its LEP (which must be not less than 200 square metres)

the maximum number of people is not to exceed 50 at any one time or the number the council specifies in its LEP (which must be not less than 50)

despite a., if a structure is a roadside stall, the maximum floor area must not exceed 8 square metres or the number the council specifies in its LEP (which must be not less than 8 square metres).

3.3.2 Farm gate activities - consultation questions

5. How far do you think a roadside stall should be setback from the road? Enough to not cause traffic disturbance / possible accidents – this is dependent on siting of access to the property and of the road side stall location.

6. What additional standards should be included for the exempt and complying development pathways for farm gate activities, if any? Not knowledgeable on this issue to comment.

Photo courtesy of Smith and Tzannes Architecture and Urban Planning



3.4 Farm events

The ability to hold rural events can allow farmers to diversify and value add to their agricultural business.

Rural events should NOT mean any events held on rural land.

In addition to the direct benefits to agricultural business, rural events can have a far-reaching supply chain benefit to the surrounding economy. For example, if a farm can host a wedding, beyond just the hiring of a venue on a farm, the event can result in hiring of local accommodation services, engagement of event services (such as photographers, stylists and transport), food and drink services, supporting services (gift shops, child minding) and facilities services (party hire, mobile toilet hire etc).

In principle this sounds great for the local economy – however MANY brides (most significantly for high cost weddings) choose to bring in outside (read, from where the bride originates) operators to assist with planning their wedding. From a time perspective, with constant meet ups between the bride and the other party, it is logical that these would mainly occur where the bride resides.

The number of guests who are so disorganized that they need to use the services of a local gift shop to buy their wedding present would be minimal, if any. Simple logic.

There are limited land use terms in the planning system that enable rural events. Applicants can rely on the definition in the Standard Instrument LEP Order for ‘function centre’ or use the temporary use of land clause in the Standard Instrument LEP Order (clause 2.8) to seek development consent. Including a definition for events on farms will provide greater certainty around where such development can take place.

Once again, rural events – are NOT weddings or functions totally unrelated to the farm activity which is being conducted. This is simply a back door to host weddings and events, nothing more. To suggest it is an adjunct to raising cattle; or growing olives; or keeping of chickens and selling of eggs commercially is plainly ridiculous. There is ABSOLUTELY no correlation between the two.

Standard Instrument LEP Order (clause 2.8) provides certainty – to both the applicant as well as to adjoining landowners; neighbouring properties; and the local community IF those orders are upheld.

It is proposed to introduce a new land use term ‘farm events’ into the Standard Instrument LEP Order to allow events, tours, functions and conferences on land used for agriculture.

If the events, functions and conferences have NOTHING to do with the crop / livestock that is being grown / produced on the agricultural land then it is NOT related to FARM. FARM events – are NOT weddings or functions totally unrelated to the farm activity which is being conducted. This is simply a back door to host weddings and events, nothing more. To suggest it is an adjunct to raising cattle; or growing olives; or keeping of chickens and selling of eggs commercially is plainly ridiculous. There is ABSOLUTELY no correlation between the two.

The proposed definition will also enable farm events on a commercial farm that is currently not producing goods because of drought or similar events outside the landowner’s control.

Drought? Flood? Fire? Torrential rain? Mudslides? COVID-19? (classified as a natural disaster); the list is possibly endless – so much can be outside the landowner’s control – this is part and parcel of running a business.

Exempt and complying development pathways have been developed to allow streamlined approvals for low scale, low impact farm events.

Who sets the definition of low impact?

And if we are impacted who do we contact when we have an issue (not the following Monday well after the issue has subsided? I draw your attention to the fact that the local police WILL NOT come, nor is it possible to contact local Council late of a Friday or Saturday evening – their resources do not stretch to this kind of staffing – so who do I call for immediate assistance????? Unless you also put in

place the ability to have an issue resolved when it occurs – either by funding extra police or local Council, then you need to come up with an alternative – the big picture approach doesn't work, when you are being impacted on a personal basis).

The exempt development pathway will **only be available for a limited number** and scale of events per year and certain development standards must be met.

How many? What localities? What zonings? First in (per year), first served?

Complying development pathways will allow some building works and a **change of use of existing buildings for farm events**.

All in.....

3.4.1 Proposed amendments

3.4.1.1 Proposed definition

It is proposed to introduce a **new land use term** in the Standard Instrument LEP Order to permit **events**, tours, **functions**, **conferences**, **fruit picking**, horse riding and **other similar experiences** on land for which the principal use of the land is the production of agricultural goods for commercial purposes.

Please, how can **EVENTS**, **FUNCTIONS** and **CONFERENCES** be compared to **FRUIT PICKING**? To place these **FOUR** together in one sentence, in **ONE** new land use term, must surely be a brainstorming session and “great big whiteboard” moment.

There is simply **NO SIMILARITY** between **EVENTS**, **FUNCTIONS** and **CONFERENCES** and **FRUIT PICKING**.

The definition will also enable farm events on a commercial farm that is currently not producing goods because of drought or similar events **outside the landowner's control**.

Drought? Flood? Fire? Torrential rain? Mudslides? COVID-19? (classified as a natural disaster); the list is possibly endless – so much can be outside the landowner's control – this is part and parcel of running a business.

3.4.1.2 Permissibility

It is proposed to create a new land use term '**agritourism**' in the Standard Instrument LEP Order and farm events will be a subset of this new term. It is further proposed that 'agritourism' will be a subset of the existing land use term 'agriculture' – see diagram at section 3.3.1.2 Permissibility.

AGRItourism is not about weddings, events or conferences on rural agricultural land where

(a) zoning does not permit; and

(b) the wedding, event or conference has absolutely **NO** correlation to that produce / livestock normally being the farming activity.

3.4.1.3 Approval pathways

The proposed approval pathways for farm events are exempt development, complying development and lodging a development application. The approval pathway will depend on the type of development proposed, as shown in Table 3.

These changes mean that initially, farm events will be permissible in all local environmental plans wherever 'agriculture' is currently permissible. Councils can then permit farm events in any additional zones.

Further detail about these proposed approval pathways and the proposed development standards for each pathway are explained below.

Exempt development

Use of rural zoned land

It is proposed to allow the use of rural zoned land for a **farm event** that does not involve manufacturing food or drink as exempt development and introduce the following development standards:

Operational requirements

the development must not involve a change of building use

events must only take place during the following times:

- o 7.30am to **11.00 pm** on Monday, Tuesday, Wednesday or Thursday

- o 7.30am to **12.00am** on Friday or Saturday

- o 8.00am to **8.00pm** on Sunday

NOT a lot of fruit picking taking place in the dark.....

maximum number of guests and event days per year:

- o 52 event days per year and up to 30 guests per event, or

- o 10 event days per year and up to 50 guests per event

the event holder is to notify neighbours of an event at least one week before holding the event

This is a quality addition – this does not occur now – it gives neighbours an opportunity to take any possible actions (eg not be on site during event, no conflicting activities) to assist with minimising disturbance and impact on themselves.

Setbacks

the minimum following setbacks from any adjoining established or proposed:

- o pig farm, feedlot or poultry farm – 1,000 metres

- o other intensive livestock agriculture – 500 metres

- o intensive plant agriculture, forestry, mines and extractive industries, railwaylines 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 gate activity may have the same setback setback at least 50 metres from any other fence or otherwise marked property boundary

events that have amplified music or voices, must be located at least 1,000 metres from the nearest existing dwelling house and any building which houses animals including stables, stock yards and poultry sheds, on an adjoining property

Waste management

waste generated must be managed on the site and then disposed of at a waste management facility including the recycling of all recyclables

putrescible and organic waste may only be disposed of on-site if disposed in a managed composting system where odours and other pollutants are controlled and or managed.

Complying development

Change of use of an existing building to farm event premises

It is proposed to allow a change of use of an existing building to **farm event premises** on rural zoned land as complying development and introduce the following development standards:

Farm event premises – means event related to FARMing (of crop / livestock on THAT land), not weddings, and other functions.

Operational requirements

the current use must be a lawful use

the new use must not be carried out at premises that are a manufactured home, moveable dwelling or associated structure, temporary structure, tent

events must only take place during the following times:

- o 7.30am to **11.00 pm** on Monday, Tuesday, Wednesday or Thursday
- o 7.30am to **12.00am** on Friday or Saturday
- o 8.00am to **8.00pm** on Sunday

NOT a lot of fruit picking taking place in the dark.....

maximum number of guests and event days per year:

- o 52 event days per year and up to 30 guests per event, or
- o 10 event days per year and up to 50 guests per event

WHY does the event holder not need to notify neighbours of an event at least one week before holding the event – it would seem courteous and possibly prevent issues -

it gives neighbours an opportunity to take any possible actions (not be on site during event, no conflicting activities) to assist with minimising disturbance and impact on themselves.

Use, location and size

- maximum 200 square metres for each building and 500 square metre footprint for all buildings used for farm gate activities and farm events

Setbacks

the minimum following setbacks from any adjoining established or proposed:

- o pig farm, feedlot or poultry farm–1,000metres
- o other intensive livestock agriculture–500metres

o 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 gate activity may have the same setback
setback at least 50 metres from any other fence or otherwise marked property boundary

Services

- if water supply or sewerage services (or both) is to be provided by a water utility, the applicant must obtain written advice that specifies the works or other requirements to be completed from the relevant water utility

Waste management

waste generated must be managed on the site and then disposed of at a waste management facility including the recycling of all recyclables

putrescible and organic waste may only be disposed of on-site if disposed in a managed composting system where odours and other pollutants are controlled and or managed

Erection, alteration or addition to a farm event building

It is proposed to allow the erection, alteration or addition to a building that is to be used for a farm event on rural zoned land as complying development and introduce the following development standards:

Operational requirements

maximum number of guests and event days per year:

o 52 event days per year and up to 30 guests per event, or

o 10 event days per year and up to 50 guests per event

events must only take place during the following times:

o 7.30am to 11.00 pm on Monday, Tuesday, Wednesday or Thursday

o 7.30am to 12.00am on Friday or Saturday

o 8.00am to 8.00pm on Sunday

NOT a lot of fruit picking taking place in the dark.....

the event holder is to notify neighbours of an event at least one week before holding the event

This is a quality addition – this does not occur now – it gives neighbours an opportunity to take any possible actions (not be on site during event, no conflicting activities) to assist with minimising disturbance and impact on themselves.

Why does an exempt development need to notify neighbours of an event at least one week before holding the event; and a for the Erection, alteration or addition to a farm event building need to notify neighbours of an event at least one week before holding the event; BUT NOT A COMPLYING DEVELOPMENT for change of use for an EXISTING Building.

Where is the logic in this????

Building location and size

maximum footprint of 200 square metres for each building and 500 square metres for all buildings used for farm gate activities and farm events

maximum height:

- o 7 metres for landholding 4000 square metres to 10 hectares

- o 10 metres for landholding greater than 10 hectares

- the development cannot occur on land that is significantly contaminated land within the meaning of the *Contaminated Land Management Act 1997*

Setbacks

the minimum following setbacks from any adjoining established or proposed:

- o pig farm, feedlot or poultry farm–1,000metres

- o other intensive livestock agriculture–500metres

- o intensive plant agriculture, forestry, mines and extractive industries, railwaylines 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 gate activity may have the same setback

setback at least 50 metres from any other fence or otherwise marked property boundary

Services

- the development cannot occur on unsewered land in the Sydney water catchment if it will cause a site disturbance area of more than 250 square metres, or in any other drinking water catchment identified in an environmental planning instrument

Waste management

waste generated must be managed on the site and then disposed of at a waste management facility including the recycling of all recyclables

putrescible and organic waste may only be disposed of on-site if disposed in a managed composting system where odours and other pollutants are controlled and or managed.

3.4.2 Farm events - consultation questions

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?

Let's call a spade a spade - 52 event days translates into minimum 156 days of disruption (based on best case scenario of bump in one day and bump out one day) regardless of number of guests. 52 events could cover every Saturday night in any one given year – no respite????

10 event days, best case scenario 30 days of disruption – is this livable with – maybe – IF adequate resources are given to local police or local Councils or ?????? (since this is your proposal, please let me know your

contactable Saturday evening 10pm or so details or who should I call with any issues as they occur and who will be able to attend to my issue in a timely and current fashion) to enforce compliance.

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

FARM events should relate to FARM activity ON THE LAND IN QUESTION. Permissible “events” would be FRUIT PICKING, cellar door (in principle, produce from farm); road side stall (in principle, produce from farm); tours and tasting sessions (in principle, produce from farm). Weddings (or other social events) on rural land have NOTHING to do with farming. Conferences related to the crop grown perhaps; otherwise as an example, a conference on “whaling” held on an “olive farm” does NOT qualify.

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.

Destination weddings are here to stay, especially if the destination is within 2-3 hours of a major capital city. Any land zoned for this type of activity is fair game. Any land NOT zoned for this type of activity IS NOT. Currently 2.8 offers some protection to adjoining landowners, neighbouring properties and the community (IF IT IS ENFORCED). If you currently own land and want to run events (such as weddings, other social events; conferences) on land which does not permit this, then sell; if you are interested in buying land and want to run events (such as weddings, other social events; conferences), don't buy this property. SIMPLE.

a) RU1 NO

b) RU2 NO

c) RU4 zones NO

d) Other zones (please specify) ZONES WHICH PERMIT THIS USE

If you are genuinely trying to help with AGRICULTURE, then spend money helping the farmers to PRODUCE – fresh fruit, vegetables, meat, eggs etc DO NOT come from the back of a supermarket – they start out on a FARM.

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

This would need to be very broad to allow for individual Councils to alter to meet their locality and population needs, but by being broad, it is open to abuse (2.8 abuse is rampant).

11. Is there any rural land or areas in which agritourism activities should not be permitted? If yes, why?

AGRItourism should NOT include events (such as weddings, other social events; conferences) or cafes' and/or restaurants on land which does not permit this – **remove this from the definition and keep only what is GENUINELY farmgate activity.**



3.5 Additional proposed changes relating to agritourism

The following additional changes are proposed to apply existing standards to the agritourism activities and amend existing exempt development standards to better facilitate these activities.

3.5.1 Proposed amendments

Bush fire prone land: Apply existing complying development standards in the Codes SEPP for bush fire prone land to buildings used for farm activities or farm events as complying development.

Business identification signs: Amend clause 2.83 exempt development provisions of the Codes SEPP to allow business identification signs for farm stay accommodation, farm gate activities and farm events, limited to 4 per landholding and one sign every 2 kilometres.

Free standing signs: Amend the Codes SEPP to allow the construction of business identification signs as exempt development that are displayed on a free-standing structure, fixed to the fence adjacent the entry gate or the entry gate. Introduce the following development standards:

- a) the development must not result in more than 3 business identification signs of this type per property
- b) the development must be associated with a farm gate activity use, farm stay accommodation, or farm events use on the land
- c) the development must not be more than 2 metres above ground level (existing)
- d) each sign must not have an area greater than 2 square metres
- e) the development must be constructed and installed in accordance with Australian Standards:
 - i. AS/NZS 1170.0:2002, Structural design actions, Part 0: General principles
 - ii. AS/NZS 1170.2:2011, Structural design actions, Part 2: Wind actions
- f) only one sign may be illuminated and if illuminated must:
 - i. not be animated, flashing or moving
 - ii. comply with AS 4282-1997 Control of the obtrusive effects of outdoor lighting
- g) if the hours of operation of the business identified on the sign have been approved, operate during those hours, or if the hours of operation of the business identified on the sign have not been approved, operate between 7.00 am and 10.00 pm on any day
- h) a sign on rural zoned land advertising a roadside stall may only be located on the same landholding as the roadside stall.

Verandahs: Amend clause 2.12 of the Codes SEPP to allow decks, patios, pergolas, terraces and verandahs on the front of buildings in rural zones as exempt development if they are setback 50 metres from the road. This will allow farm gate businesses to provide an area for tastings.



3.6 Small-scale processing plants

Amendments to the Codes SEPP are proposed to allow small-scale processing plants associated with agricultural produce industries that process meat, honey and dairy as complying development. The provisions would use the definitions of livestock processing industries and agricultural produce industries contained in the Standard Instrument LEP.

3.6.1 Proposed development standards

Small-scale processing plants would be complying development with the following development standards:

maximum throughput per annum of:

- o 3 million litres for dairy
- o 4,000 carcasses for pork
- o 1,000 lamb carcasses
- o 100 beef carcasses
- o 4,000 carcasses for poultry
- o 1,000 carcasses for other animals such as deer, kangaroo

not be used for the processing of skins or wool of animals, or as knackerries, tanneries, woolscours or rendering plants
must be setback a minimum of:
o 100 metres from a natural waterbody or wetland
o 500 metres from the nearest existing dwelling house other than the house located on the property
o 5 kilometres from a residential zone
no more than one per property.
hours of operation 6am to 7pm Monday to Saturday, 8am to 5pm Sunday
must be a minimum of 500 metres from another existing or proposed poultry or pig production facility.
Note: There are provisions in the EP&A Regulation (Schedule 3) that classify livestock processing industries and agricultural produce industries as designated development by certain locational criteria. Designated development cannot be complying development.

3.6.2 Small scale processing plants - consultation questions

12. Should any other agricultural produce industries be complying development? What standards should apply? **Not knowledgeable on this issue to comment.**

13 Is a maximum throughput of 1,000 carcasses per annum for other animals such as deer or kangaroo appropriate? **Not knowledgeable on this issue to comment.**

14 Should any additional standards be included? **Not knowledgeable on this issue to comment.**

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? **NO**

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

3.7 Rebuilding of farm infrastructure

This year, farming communities were impacted by unprecedented bushfires. A range of amendments were made to planning controls in January and February 2020 to help people affected by the bushfires such as allowing certain activities without planning approval including **temporary** accommodation, **temporary** portable offices, **temporary** storage, and demolition and repair of damaged buildings.

To further assist in efficient recovery following future events, amendments to the Codes SEPP are proposed to allow farm buildings that have been damaged or destroyed by a natural disaster event to be rebuilt as exempt development, if built to a contemporary standard and in the same location. This will benefit farmers that are unable to use the existing exempt development provisions to rebuild farm buildings because of requirements such as minimum setbacks from boundaries. No issue (in principle).

3.7.1 Proposed development standards

Reconstruction of farm buildings is exempt development with the following development standards:

The structure must have been destroyed or significantly damaged in a natural disaster.

The structure must be of the same building class under the BCA.

The structure must have been a lawful structure.

The structure must be built to current BCA standards.

The new structure is to be located on the same building footprint as the former structure.

The height of the new structure must not be greater than the structure that was lost due to a natural disaster.

The new structure must comply with standards identified under the following provisions except for provisions relating to height and footprint. If it is:

- o a farm building (other than stock holding yards, grain silos, and grain bunkers) it must comply with clause 2.32 of the Codes SEPP

- o a stock holding yard it must comply with clause 2.32B of the Codes SEPP

- o a grain silo or grain bunker it must comply with clause 2.32D, 2.32E, 2.32F of the Codes SEPP.

3.7.2 Rebuilding of farm infrastructure - consultation questions

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

In principle, yes.

17. Should any additional standards be included? Not knowledgeable on this issue to comment.



3.8 Stock containment areas

These proposed amendments relate to the construction of stock containment areas to temporarily contain livestock to assist during and immediately after natural disasters, and for routine animal husbandry purposes:

amendments to implement locational requirements for all stock containment areas in response to impacts some containment areas have had on waterways and the oyster industry

amendments to simplify clauses 18(2) and (3) of the Primary Production and Rural

Development SEPP and update them to reflect current practice

currently the provisions for stock containment areas and feedlots are spread across the Primary Production and Rural Development SEPP and Standard Instrument LEP. To reduce complexity, options to locate these controls in one place are being explored.

Allow **minor permanent infrastructure** to be developed without consent for stock containment areas (**to contain livestock temporarily, not permanently**).

If the infrastructure is PERMANENT, why is the use, TEMPORARY?

3.8.1 Proposed development standards Development for the purpose of a stock containment area, or other feeding or housing arrangements, for any or a combination of the following purposes:

to manage stock during or immediately following a drought, flood, fire or similar emergency for temporary agistment or housing; or

for weaning, dipping, tagging, backgrounding or similar husbandry purposes may be carried out without development consent if:

a) development for the purpose of agriculture may be carried out with or without development consent on the land

b) there is currently an agriculture land use lawfully occurring on the land

c) it is not located in an environmentally sensitive area

d) it is not located within 100 metres of a natural watercourse

e) it is not located within 500 metres of a residential zone or an adjoining dwelling that is not associated with the development.

3.8.2 Stock containment areas - consultation questions

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

Allow minor permanent infrastructure to be developed without consent for stock containment areas (to contain livestock temporarily, not permanently).

If the infrastructure is PERMANENT, why is the use, TEMPORARY?

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

Not knowledgeable on this issue to comment.

3.9 Farm dams

Farm dams are minor development that is essential for agricultural purposes to provide water for stock, fire protection and irrigation. In areas of NSW (near the Murray River) small farm dams are permitted without consent while in other areas they are considered 'water storage facilities' that often need consent.

There is some inconsistency in terminology used around farm dams in the Standard Instrument LEP, the PPRD SEPP, and the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation).

Stakeholders have suggested the various planning terms and approval pathways that apply across the state could be consolidated to simplify the planning system.

3.9.1 Proposed amendments

Clarify terminology used in the SI LEP, PPRD SEPP and EP&A Regulation 2000 and consider providing a consistent approval process.

3.9.2 Farm dams - consultation questions

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

Not knowledgeable on this issue to comment.

3.10 Biosecurity for poultry farms and pig farms

Currently, the standards for biosecurity for poultry farms and pig farms in the Standard Instrument LEP (clause 5.18) and PPRD SEPP are not in line with industry standards such as the Best Practice Management for Meat Chicken Production in NSW produced by the NSW Poultry Meat Industry Committee in conjunction with the Department of Primary Industries and other government agencies.

Amendments are proposed to better address biosecurity for poultry farms and pig farms.

Biosecurity risks for poultry are negligible up to 10,000 birds, so it is proposed to raise the provisions allowing poultry farms to be developed without consent from 1,000 to 10,000 birds, subject to locational restrictions.

3.10.1 Proposed amendments

Clause 5.18 of the Standard Instrument LEP will be amended so that development consent is not required for poultry farms with less than 10,000 birds but only if they are not within:

1,000 metres of other poultry farms, or

5,000 metres of poultry farms used for the breeding of poultry

If it is a poultry farm used for the breeding of poultry – 5,000 metres of a poultry farm.

Development consent is not required for pig farms with fewer than 20 breeding sows, or fewer than 200 pigs (of which fewer than 20 may be breeding sows) but only if they are not within 3,000 metres of another pig farm.

Other locational restrictions in clause 5.18 will remain. The PPRD SEPP will be amended to align with these changes.

3.10.2 Biosecurity for poultry and pig farms - consultation questions

21. Do the proposed provisions adequately provide for biosecurity between poultry farms and pig farms? [Not knowledgeable on this issue to comment.](#)

22. Should any additional standards be included? [Not knowledgeable on this issue to comment.](#)

3.11 Rural dwelling setbacks from intensive livestock agriculture

Currently, the Codes SEPP requires a setback of 250m for rural dwellings from a boundary with adjoining land being used for any of the following:

(i) forestry (ii) intensive livestock agriculture (iii) intensive plant agriculture (iv) mines and extractive industries (v) railway lines (vi) rural industries.

There are concerns that these setbacks may not be large enough to minimise impacts from intensive livestock agriculture on new dwellings.

3.11.1 Proposed amendments

In addition to the existing setbacks from boundaries of properties being used for intensive livestock agriculture, the department proposes that rural dwellings have a setback of:

1,000 metres from any existing or proposed pig farm, feedlot or poultry farm

500 metres from any existing or proposed other intensive livestock agriculture development

The greater separation distance will apply. If these setbacks cannot be complied with, a development application will be required. These changes to setbacks seek to reduce potential land use conflict without significantly reducing the ability for rural landowners to develop new houses as complying development.

3.11.2 Rural dwelling setbacks from intensive agriculture - consultation questions

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

[Not knowledgeable on this issue to comment.](#)

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 [Not knowledgeable on this issue to comment.](#)



3.12 Recreational Beekeeping

Recreational beekeeping has grown in popularity in recent years, including in urban and metropolitan areas. It can be an interesting and rewarding hobby with minor impacts if managed appropriately.

While commercial beekeeping is defined as a form of extensive agriculture in the Standard Instrument LEP, recreational beekeeping is not defined. This has led to some confusion regarding whether development approval is needed for the activity.

In NSW, beekeepers who own honey bees for more than 3 months during a 12 month period, are required to hold a biosecurity registration under the *Biosecurity Act 2015*. The biosecurity registration requires information on the location, contact person and number of hives on a property and ensures that the Department of Primary Industries can effectively manage any disease outbreaks.

The proposed amendments will clarify that recreational beekeeping is exempt development and does not need planning approval if it complies with certain standards. These standards are in line with the NSW Beekeeping Code of Practice and are designed to avoid inappropriate development and minimise impacts related to such development.

3.12.1 Proposed amendments

Amendments are proposed to the Codes SEPP to permit recreational beekeeping as exempt development if certain development standards are met. Where the development standards cannot be met a development application would be required.

The development:

Must not be used for a commercial purpose.

Must not consist of more than:

- o 2 hives for lots up to 300m²,
- o 4 hives for lots 300m² to 1000m²,
- o 8 hives for lots above 1000m²,

o no limit for lots in a rural zone.

Must not contain any hive within 1m of any lot boundary, or within 3m of any boundary adjoining a public reserve, childcare centre, health services facility, educational establishment or community facility.

Must be located in a rural, residential, or environmental zone.

If it is in a residential zone, be located in the rear yard.

If it is located on bush fire prone land, not be within 5m of a dwelling.

Note: Beekeepers must also comply with the requirements of the *Biosecurity Act 2015*, the Australian Honey Bee Industry Biosecurity Code of Practice and the Beekeeping Code of Practice for NSW.

3.12.2 Recreational Beekeeping – Consultation Questions

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

Not knowledgeable on this issue to comment.

Part 4 – Have your say

This EIE outlines proposed changes to the NSW Planning System to better support farming businesses and rural and regional areas. The department welcomes your feedback during public exhibition.

Your feedback will help us better understand the views of the community, which will then inform the preparation of the proposed changes to the planning framework.

The department will publish all individual submissions and an assessment report on all submissions received, shortly after the exhibition period has ended.

To view the EIE and supporting documents, and to make a submission online, please follow the steps below:

www.planningportal.nsw.gov.au/exhibition

1) Read our privacy statement and decide whether to include your personal information in your submission.

2) Fill in the online submission form. Your submission can either be typed or uploaded as a PDF and should include:

the name of the proposal (Agritourism and small-scale agriculture development: Proposed amendments to support farm businesses and regional economies)

a brief statement on whether you support or object to the proposal

the reason why you support or object to the proposal.

3) Ensure you disclose reportable political donations. Anyone lodging submissions must declare reportable political donations (including donations of \$1,000 or more) made in the previous two years.

4) Agree to our online statement and lodge your submission.

You may also lodge your submission via post by sending it to:

Executive Director Local Government and Economic Policy Department of Planning, Industry and Environment
Locked Bag 5022, Parramatta NSW 2124

In your submission, you are encouraged to respond to the consultation questions at the end of each proposal.

Alternatively, you can respond to these questions via a survey on the department's website

www.planning.nsw.gov.au.

All submissions will be made public in line with our objective to promote an open and transparent planning system.

If you do not want your name published, please state this clearly at the top of your submission.

Call for expressions of interest from local councils

During exhibition of the EIE, councils are asked to consider whether they wish to adopt the new optional clauses for farm stay accommodation and farm gate activities and identify the zones in which they wish to allow the new farm events and farm gate activities. Councils who wish to make these changes to their LEPS are invited to provide an expression of interest and nominate a suitable contact(s) to liaise with the department about implementation.

Following exhibition, the department will work with councils that have submitted an expression of interest to facilitate amendments to their LEPs through an amending State environmental planning policy, saving the time and resources required to progress individual planning proposals.

To find out more, please visit www.planning.nsw.gov.au.

4.1 Consultation Questions

4.1.1 Farm stay accommodation

1. Are the proposed setbacks to pig farms, other intensive livestock, forestry and mines for exempt and complying development appropriate? [Not knowledgeable on this issue to comment.](#)
2. Where a development application is required, should farm stay accommodation be permitted only on land that benefits from a dwelling entitlement? [YES](#)
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? [NOT NECESSARILY](#)
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. [Not knowledgeable on this issue to comment.](#)

4.1.2 Farm gate activities

5. How far do you think a roadside stall should be setback from the road? [Enough to not cause traffic disturbance / possible accidents – this is dependent on siting of access to the property and of the road side stall location.](#)
6. What additional standards should be included for the exempt and complying development pathways for farm gate activities, if any? [FARM gate activities should relate to FARM activity ON THE LAND IN QUESTION. Permissible “events” would be FRUIT PICKING, cellar door \(in principle, produce from farm\); road side stall \(in principle, produce from farm\); tours and tasting sessions \(in principle, produce from farm. Weddings \(or other social events\) on rural land have NOTHING to do with farming. Conferences related to the crop grown perhaps; otherwise as an example, a conference on “whaling” held on an “olive farm” does NOT qualify.](#)

4.1.3 Farm events

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? [Let’s call a spade a spade - 52 event days translates into minimum 156 days of disruption \(based on best case scenario o bump in one day and bump out one day\) regardless of number of guests. 52 events could cover every Saturday night in any one given year – no respite???? 10 event days, best case scenario 30 days or disruption – is this livable with – maybe – IF adequate resources are given to local police or local Councils or ?????? \(since this is your proposal, please let me know your](#)

contactable Saturday evening 10pm or so details or who should I call with any issues as they occur and who will be able to attend to my issue in a timely and current fashion) to enforce compliance.

8. What events, if any, do you think should be excluded from the definition of farm events? AGRItourism and FARM EVENTS should NOT include events (such as weddings, other social events; conferences) or cafes' and/or restaurants on land which does not permit this – remove this from the definition keep what is GENUINELY farmgate activity.

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. Destination weddings are here to stay, especially if the destination is within 2-3 hours of a major capital city. Any land zoned for this type of activity is fair game. Any land NOT zoned for this type of activity IS NOT. Currently 2.8 offers some protection to adjoining landowners, neighbouring properties and the community (IF IS IT ENFORCED). If you currently own land and want to run events (such as weddings, other social events; conferences) on land which does not permit this, then sell; if you are interested in buying land and want to run events (such as weddings, other social events; conferences), don't buy this property. SIMPLE.

a) RU1 NO

b) RU2 NO

c) RU4 zones NO

d) Other zones (please specify) ZONES WHICH PERMIT THIS USE

If you are genuinely trying to help with AGRICULTURE, then spend money helping the farmers to PRODUCE – fresh fruit, vegetables, meat, eggs etc DO NOT come from the back of a supermarket – they start out on a FARM.

10. Should the department prepare a model clause for destination weddings which councils can choose to adopt? This would need to be very broad to allow for individual Councils to alter to meet their locality and population needs, but by being broad, it is open to abuse (2.8 abuse is rampant.)

11. Is there any rural land or areas in which agritourism activities should not be permitted? If yes, why? AGRItourism should NOT include events (such as weddings, other social events; conferences) or cafes' and/or restaurants on land which does not permit this – remove this from the definition keep what is GENUINELY farmgate activity.

4.1.4 Small scale processing plants

12. Should any other agricultural produce industries be complying development? What standards should apply? Not knowledgeable on this issue to comment.

Is a maximum throughput of 1,000 carcasses per annum for other animals such as deer or kangaroo appropriate? Not knowledgeable on this issue to comment.

Should any additional standards be included? Not knowledgeable on this issue to comment.

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? [No](#)
- b) through the standard DA process? [Yes](#)

4.1.5 Rebuilding of farm infrastructure

16. Will these provisions sufficiently enable the rebuilding of buildings lost to natural disasters in the same location of the same size and form? [Hopefully. In principle, yes.](#)

17. Should any additional standards be included? [Not knowledgeable on this issue to comment.](#)

4.1.6 Stock containment areas

18. What type of permanent infrastructure should be permitted for stock containment areas? [Not knowledgeable enough to comment. \(If the infrastructure is PERMANENT, why is the use, TEMPORARY?\)](#)

19. What type of permanent infrastructure should not be permitted for stock containment areas? [Not knowledgeable on this issue to comment.](#)

4.1.7 Farm dams

20. How could we simplify planning provisions for farm dams? [Not knowledgeable on this issue to comment.](#)

4.1.8 Biosecurity for poultry and pig farms

21. Do the proposed provisions adequately provide for biosecurity between poultry farms and pig farms? [Not knowledgeable on this issue to comment.](#)

22. Should any additional standards be included? [Not knowledgeable on this issue to comment.](#)

4.1.9 Rural dwelling setbacks from intensive agriculture

Should the setbacks for rural dwellings be increased from its current requirement to be 250 metres from the boundary (when done as complying development [Not knowledgeable on this issue to comment.](#)

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 [Not knowledgeable on this issue to comment.](#)

4.1.10 Recreational Beekeeping

25. Are the proposed development standards appropriate and are any additional standards needed [Not knowledgeable on this issue to comment.](#)

19.4.2021

ABA submission

Re: Agritourism and small-scale agriculture development: Proposed amendments to support farm businesses and regional economies

Department reference number: IRD20/40921

Our submission responds to the amendment pertaining to **recreational beekeeping** – providing an exempt development pathway for recreational beekeeping to improve certainty.

3.12 Recreational Beekeeping

Recreational beekeeping has grown in popularity in recent years, including in urban and metropolitan areas. It can be an interesting and rewarding hobby with minor impacts if managed appropriately.

While commercial beekeeping is defined as a form of extensive agriculture in the Standard Instrument LEP, recreational beekeeping is not defined. This has led to some confusion regarding whether development approval is needed for the activity.

In NSW, beekeepers who own honey bees for more than 3 months during a 12 month period, are required to hold a biosecurity registration under the *Biosecurity Act 2015*. The biosecurity registration requires information on the location, contact person and number of hives on a property and ensures that the Department of Primary Industries can effectively manage any disease outbreaks.

The proposed amendments will clarify that recreational beekeeping is exempt development and does not need planning approval if it complies with certain standards. These standards are in line with the NSW Beekeeping Code of Practice and are designed to avoid inappropriate development and minimise impacts related to such development.

3.12.1 Proposed amendments

Amendments are proposed to the Codes SEPP to permit recreational beekeeping as exempt development if certain development standards are met. Where the development standards cannot be met a development application would be required.

The development:

- Must not be used for a commercial purpose.
- Must not consist of more than:
 - 2 hives for lots up to 300m²,
 - 4 hives for lots 300m² to 1000m²,

8 hives for lots above 1000m²,
No limit for lots in a rural zone.

- Must not contain any hive within 1m of any lot boundary, or within 3m of any boundary adjoining a public reserve, childcare centre, health services facility, educational establishment or community facility.
- Must be located in a rural, residential, or environmental zone.
- If it is in a residential zone, be located in the rear yard.
- If it is located on bush fire prone land, not be within 5m of a dwelling.

Note: Beekeepers must also comply with the requirements of the *Biosecurity Act 2015*, the Australian Honey Bee Industry Biosecurity Code of Practice and the Beekeeping Code of Practice for NSW.

3.12.2 Recreational Beekeeping – Consultation Questions

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

The Amateur Beekeepers Association of NSW Inc (ABA) was established in 1954 to promote recreational beekeeping and improve the skills of non-commercial beekeepers. We currently have 33 affiliated clubs throughout NSW and beyond, from the Gold Coast and Northern Rivers in the north, to Bathurst and Mudgee in the west, and Bega Valley in the south, providing information and support to over 4,500 amateur beekeepers.

The ABA is the largest organisation of recreational beekeepers in Australia, providing members access to local clubs that meet regularly and offer a range of practical support. The ABA also lobbies for the interests of beekeepers in industry and government forums, with representation on the [Australian Honey Bee Industry Council](#), the State Advisory Group for Bee Biosecurity, and the Bee Industry Biosecurity Consultative Council.

The ABA supports the proposed development standards in principle. The ABA recommends some revisions and additions to the proposed standards and consultation question #25:

1. The ABA strongly recommends revision of the preamble statement “**In NSW, beekeepers who own honey bees for more than 3 months during a 12 month period, are required to hold a biosecurity registration under the *Biosecurity Act 2015***”. This is **not accurate** therefore the standard is not appropriate. It is the case that any person who keeps one or more hives of honey bees in NSW needs to be registered as a beekeeper with NSW Department of Primary Industries (DPI), even if already registered in another state or territory. The reference to “3 months in a 12 month period” refers to migratory beekeeping practices whereby the beekeeper does not

need to hold a registration in NSW so long as they have a registration in another state or territory:

“you don't have to be registered as a beekeeper in NSW if **all** of the following apply:

- you're registered in another state or territory
- you bring your bees into NSW for no more than 3 months in any 12-month period
- you notify the DPI on [1800 808 095](tel:1800808095) within 7 days of bringing your hives into NSW, and provide your name, address and contact details
- your interstate registration number is displayed on each beehive”.

The ABA recommends removing the erroneous clause “for more than 3 months during a 12 month period”.

2. The ABA recommends removing the statement “**Must not be used for a commercial purpose**” so that councils are not involved in deciding whether beekeeping activities constitute a business. “Commercial” is not defined by current planning legislation and is classified differently by various authorities and government departments. For planning purposes, the intent of a beekeeping activity is not relevant, whereas intensity is. Further, the proposed amendments and Expression of Intent is aimed towards encouraging and simplifying agrotourism and related practices, which are by nature, matters of commerce. The ABA's position is that beekeeping is beekeeping and the definition of intent (recreation or commerce) is not pertinent to interpretation of the standard or the defining of exemptions.
3. The ABA very strongly recommends the addition of clarification to the standard. To avoid any confusion regarding the interpretation of the standard, the species of bee in question must be identified. The standard should be clear that it applies to **managed colonies of European honeybees, *Apis Mellifera***. As per the Biosecurity Act 2015 No. 24: “*bee* means a managed bee of the species *Apis mellifera* L. or any other species of managed bee prescribed in the regulations for the purposes of this definition”.
4. The ABA recommends deletion of the statement “**within 3m of any boundary adjoining a public reserve, childcare centre, health services facility, educational establishment or community facility**” from the proposed standard. The DPI's *Beekeeping Code of Practice for NSW* (December 2017, PrimeFact 893, 2nd edition) states “Hives should not be located within the vicinity of schools, child care centres, hospitals or other public facilities”. The proposed standard is therefore in contradiction to the existing NSW Code of Practice. Beekeepers must comply with the Beekeeping Code of Practice for NSW, which states that colonies of honeybees should not be located in the vicinity of such establishments. It is the position of the ABA that beekeeping activities adjacent to public facilities, child care centres, education facilities etc should be assessed on their individual merits and therefore it is not

appropriate to include a standard for considering such activities as exempt developments.

5. The ABA recommends deletion of the reference to “**rear yard**” in the proposed standard as this is an imprecise distinction for planning purposes. The positioning of hives, management of honeybees and amelioration of flight paths is dealt with adequately by other codes that beekeepers must comply with. For example, from 1 July 2020, all NSW beekeepers will need to adhere to the Australian Honey Bee Industry Biosecurity Code of Practice as a condition of registration. For more information, visit the [Department of Primary Industries website](#). The wording “rear yard” in the proposed standard would, in the ABA’s view, result in additional development applications and introduce the potential for contradictions with the Biosecurity Code of Practice.
6. The position of the ABA is that the suggested numbers of hives are reasonable, but they are not hard limits: if someone wants to keep more hives, they can apply for DA to do so. However, further clarity in the proposed standard would be desirable to ensure consistent interpretation of the standard ie: What about land size greater than 1000m²? The ABA would suggest the standard wording be changed to: “No limit for lots greater than 1000m²”, rather than specify “*in a rural zone*”.
7. The ABA suggests a need to clarify whether the proposed standard would mean that every beekeeper who does not meet the requirements for exempt development would need to lodge a DA? We recommend further consultation to be conducted to determine whether there are other conditions that might be exempt.

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Monday, 19 April 2021 4:02 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Completed

Submitted on Mon, 19/04/2021 - 16:01

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Deborah

Last name

Wordsworth

Council name

Shoalhaven City Council

I would like my submission to remain confidential

No

Info

Email

dwordsworth@bigpond.com

Suburb/Town & Postcode

Berry 2535

Submission

Submission re Agritourism Development

We have owned a farm in the .Berry district for 20 years.

We totally endorse the Berry Forum's Submission on the above issue.

What use is a Pilot Program if we don't know the outcomes?

The proposed concessions should only be given to working agricultural farms with Primary Producer status.

Company run farms should be excluded.

Environmental impacts must be taken into account.

What areas of NSW to include in this proposal, should be carefully considered.

Our District, (Berry/Shoalhaven) is close to Sydney and is already suffering from being a destination for 'farm' weddings, glamping, Airbnb rentals etc.

Noise is a major issue. Noise in the open country carries further and louder than in the city as there are fewer buildings which tend to block it out.

Having no restrictions on the above types of venues is going backwards!

When there are problems with these venues, it virtually impossible to get police, Council etc to act in a timely fashion.

There are loopholes with current legislation, but with this proposal there will be even more.

Unless there is a provision that only a certain percent of income can be derived from 'agritourism', we will see productive farms turn into entertainment venues for city folks.

How will the scale and impact of activities be judged and enforced?

We are concerned that most farmers are not aware of this proposal. We only found out through the Berry Forum.

As a result, many farmers (stakeholders) will not make a submission.

We are concerned that the proposal is for 'agri-entrepreneurs'...whatever that means!

In conclusion, we are not sure this proposal is really driven by much input from farmers or is to assist farmers doing it tough.

I agree to the above statement

Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Monday, 19 April 2021 4:09 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Completed

Submitted on Mon, 19/04/2021 - 16:08

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Wendy

Last name

Gray

Council name

Shoalhaven City Council

Council email

wendysee21@gmail.com

I would like my submission to remain confidential

No

Info

Email

wendysee21@gmail.com

Suburb/Town & Postcode

2535

Submission

Dear Sir/ Madam,

I do understand that the NSW government is attempting to help the agricultural sector recover from the disastrous bushfires, and for some areas of NSW the ongoing drought. However, whilst well intentioned, the Agritourism Development Proposal has many hidden loopholes that will readily be exploited by greedy developers. In the Shoalhaven, a lucrative tourism, and "Destination wedding" area, we are constantly battling developers who seek to find loopholes around planning laws in order to establish wedding function centres, glamping, and overdevelopment of tourist cabins. Such facilities are putting enormous pressure on the rural environment that attracted many people to the area originally. In addition, the constant year round noise and crowding of this overdevelopment makes life very stressful for permanent residents.

The people who mostly avail themselves of the opportunities afforded by these initiatives in the Shoalhaven, will mostly be wealthy investors who reside primarily in Sydney or Canberra.

I have carefully read the detailed submission by The Berry Forum, and I agree entirely with their careful analysis of the impact of these changes to the legislation, well intended though it is. I think that this is a good case for the importance of subsidiarity, since different regions face quite disparate economic issues and attendant solutions.

I agree to the above statement

Yes

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Monday, 19 April 2021 4:13 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Completed

Submitted on Mon, 19/04/2021 - 16:12

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

anne

Last name

lelleton

Council name

Shoalhaven City Council

I would like my submission to remain confidential

No

Info

Email

anne.lelleton@hotmail.com

Suburb/Town & Postcode

Bellawongarah

Submission

I would like to add my support to the submission made by the Berry Forum.

The proposed planning amendments have potentially major adverse ramifications for every rural property around Berry /Kangaroo Valley.

The elimination of Council and neighbourhood involvement and the removal of all planning safeguards for wedding and camping would be destructive for the rural and coastal communities but also destroy the ambience and the farming environment of our area which we all love and people come to our area for it.

I agree to the above statement

Yes

19 April 2021

Department of Planning, Industry and Environment

Via online portal

PIA Submission to Agritourism and Small-Scale Agriculture Development EIE

Thank you for the opportunity to provide feedback on the exhibited Explanation of Intended Effects (EIE) for amendments relating to agritourism and small-scale agriculture development. The Planning Institute of Australia (PIA) NSW Division appreciate the complexity at play when balancing support for productive agricultural lands, rural scenic values and the diversification of rural and regional economies.

PIA has recently made detailed submissions on agricultural land use policy in response to the work of the Agricultural Commissioner – a [submission to the Issues Paper](#) and a [submission to the Options Paper](#). These submissions, as well as the [PIA Rural and Regional Planning Policy](#), provide some higher-level guidance relevant to these proposed amendments.

It is important that these reforms acknowledge the diversity of rural land across the state - peri-urban, inland and coastal – and allow for a tailoring of approaches to suit these circumstances. Decisions about diversifying uses on rural lands must be grounded in a place-based strategic policy, which allows community input into how they want their region to grow or change.

For this reason, PIA raises the follow matters for consideration in finalising the amendments:

KEY ISSUE	COMMENT
Council opt-in model	The ability to allow Councils to opt-in to amendments is seen as a positive and cost-effective way to facilitate LEP change. The possibility of opting in should remain open beyond the EIE stage, when finer grain detail is provided to Councils.
Farmstay accommodation	The density of farmstay accommodation dwellings permissible under the complying provisions is excessive in some contexts (particularly coastal and peri-urban rural lands) and will not allow for adequate assessment of the cumulative impacts. For additional detail, particularly in relation to rural subdivision impacts, please note PIA's submission to the Primary Production & Rural Development SEPP EIE.

KEY ISSUE	COMMENT
Farm events	Changes to approvals pathways for farm events must include provisions to preserve amenity for surrounding land uses, particularly relating to traffic, parking and noise. More detailed consultation with local government and proponents should be undertaken to understand what development standards should be applied.
Compliance	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. This issue is particularly acute for exempt camping development (relating to waste management) and complying small-scale processing plants (relating to operational amenity impacts).
Buffer zones	The buffering of land uses cannot be considered in isolation. This issue is multi-faceted and is currently subject to detailed consideration by the Agricultural Commissioner. PIA's submission on this matter can be reviewed here . It is possible that the changes proposed in these amendments could have significant land use conflict impacts if not appropriately managed.

PIA supports expediting development in rural lands to ensure the ongoing productivity of agriculture assets, particularly in rural locations where this change is supported by community and reflected in local strategic plans.

PIA is concerned however that the imposition of a one-size-fits-all approach to these reforms may have unintended consequences and undermine local strategic planning. These reforms should not be blind to unresolved policy discussions by the Agricultural Commissioner on buffer zones, compliance monitoring and the assessment of land use conflicts.

If you would like to discuss any element of our feedback further, do not hesitate to contact me by phone on 0431 019 989 or by email at audrey.marsh@planning.org.au.

Yours sincerely



Audrey Marsh
Senior Policy and Campaigns Officer

Executive Director
Local Government and Economic Policy
Department of Planning, Industry and Environment
Locked Bag 5022, Parramatta NSW 2124

Dear Executive Director,

RE: Agritourism and small-scale agriculture development: Proposed amendments to support farm businesses and regional economies

1. Introduction

Thank you for the opportunity to provide feedback on the “*Agritourism and small-scale agriculture development: Proposed amendments to support farm businesses and regional economies*” (Department reference number: IRD20/40921).

The intent of the proposed amendments to the NSW planning system is to simplify planning approvals for development or activities on agricultural land that have no or low environmental impact. Primarily, this shall be achieved through the introduction of new land use terms and approval pathways.

The proposed changes include:

- **Farm stay accommodation:** amending the existing definition for farm stay accommodation in the Standard Instrument LEP Order
- **New land use terms:** introducing two new land use terms for farm gate activities and farm events in the Standard Instrument LEP Order. Including the new term in the Standard Instrument LEP Order will automatically introduce the term into all Standard Instrument LEPs
- **New optional LEP clauses** - introducing new optional clauses for farm stay accommodation and farm gate activities that councils can apply where a development application is required.
- **New approval pathways** - providing exempt and complying development approval pathways in the Codes SEPP for agritourism activities where certain development standards are met.
- **Small-scale processing plants** - allowing the establishment of small-scale processing plants as complying development for meat, dairy and honey where certain development standards are met.

- **Rebuilding of farm infrastructure** - allowing the reconstruction of farm buildings and other structures as exempt development following natural disaster, where constructed to the same size and contemporary building standards including the Building Code of Australia and relevant Australian Standards.
- **Stock containment lots** - updating and rationalising existing controls for stock containment lots to reflect current practice, and ensuring stock containment areas used temporarily, such as during drought, do not impact negatively on surrounding uses.
- **Farm dams** - clarify terminology used in the planning system and provide a consistent approval process across the state.
- **Biosecurity** - updating development standards for poultry farms and pig farms to align with separation distances required under biosecurity standards.
- **Rural dwelling setbacks** - updating controls that allow dwellings on rural lots as complying development to ensure enough separation from adjacent primary production enterprises.
- **Recreational beekeeping** – providing exempt development pathway for recreational beekeeping to improve certainty.

To achieve the intended effect of the above-mentioned planning reforms, the department is proposing amendments to the following legislation:

- *Standard Instrument (Local Environmental Plans) Order 2006* (**Standard Instrument LEP Order**),
- *State Environmental Planning Policy (Primary Production and Rural Development) 2019* (**PPRD SEPP**), and
- *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (**Codes SEPP**).

2. Statement of Support/Objection

The introduction of an efficient, uncomplicated framework for farmers to diversify their income stream and showcase produce, particularly during times of hardship such as drought, is generally supported. However, the Explanation of Intended Effect (EIE) raises several questions and concerns as outlined in the following sections.

3. General Comments

- The exemption for agritourism on a farm that is currently not producing goods because of drought or similar events outside the landowners control is extremely vague.
Will there be restrictions or time limits to ensure that agriculture remains the principal use?
How will this be maintained to ensure that agritourism does not become the principle use over time?

- Development should have a setback of at least 40m from the bank of any perennial watercourse identified on a 1:50,000 topographical map published by Spatial Services in the Department of Finance, Services, and Innovation.
- Given that a significant portion of rural land is mapped as bushfire prone, should the development standards facilitate farm stay on bushfire prone land (undertaken as complying development) provided it meets the standards in the Codes SEPP for bushfire prone land. Alternatively, farm stay accommodation could be permitted on bushfire prone land for development that is separated from the bushfire threat by at least 100m of managed land.
- Typically, there is not a standard one-size-fits-all approach to working out an appropriate buffer. The distance between pork and poultry processing works should be 1000m in accordance with the proposed buffer distances for other agritourism.
- The processing of honey, which has minimal by-products, seems unfairly grouped with meat processing.
- The provisions should allow the re-use of farm buildings for low impact uses that are not permitted under the zone and that do not require additional infrastructure to support the new use? For instance, the use of an unused farm shed or chicken shed (which is often set back and out of site) could be used to store caravans and boats. The standards could define the limit and types of storage permissible (for example, excluding storage of flammable or potentially dangerous/toxic materials).

4. Consultation Questions

a) Farm stay accommodation

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

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

No.
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?

No.

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.

No.

b) Farm gate activities

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

5m.

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

None.

c) Farm events

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?

Yes.

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

Events that have potential to cause environmental impacts.

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)

This question is unclear as the EIE indicates that the use of land for a farm event would include a destination wedding provided the number of event days and guests are met. To diversify, a farmer may want to provide an entire package which includes both farm stay and event hire. It is unclear why destination weddings would be considered any different to a conference?

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

Given most weddings include greater than 50 guests, perhaps there could be an additional clause allowing more people to attend destination weddings?

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

Provided agricultural activities are permissible on the land, agritourism should be supported.

d) Small scale processing plants

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

Fruit/vegetable processing.

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

Yes.

14. Should any additional standards be included?

What about water supply and disposal of waste? Should small-scale processing plants involving livestock carcasses be excluded on flood prone land?

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?*

They should be reviewed for potential approval through the DA process.

e) Rebuilding of farm infrastructure

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

Yes.

17. Should any additional standards be included?

The provisions should allow the re-use of farm buildings for low impact uses that are not permitted in the zone and do not require additional infrastructure to support the new use? For instance, the use of an unused farm shed for commercial storage. The

standards could define the limit and types of storage permissible (for example, flammable or potentially toxic materials would be excluded).

f) Stock containment areas

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

Fencing, feed troughs.

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

Permanent shelters.

g) Farm dams

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

Allow the construction of dams through the complying development pathway for dams that do not require exceed the harvestable rights.

h) Biosecurity for poultry and pig farms

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

An increase from 1000 to 10000 birds seems excessive. Especially considering the proposed amendment to setbacks for rural dwellings to 1000m from any poultry or pig farm.

22. Should any additional standards be included?

Yes

i) Rural dwelling setbacks from intensive agriculture

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

Extending the separation distance to 1000m for poultry/pig farms and to 500m from intensive livestock agriculture has potential to significantly reduce the ability of landowners to develop new dwellings.

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*

A combination of the above

j) Recreational Beekeeping

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

For the most part, yes. However, 1m distance from boundary for small-residential lots has potential to create land conflict with neighbours. Setbacks should be increased for residential lots.

Please feel free to contact the undersigned should you wish to discuss the proposed development application.

Regards,

Nicole Gerrard

Environmental Town Planner (BSc., MEnvLaw)
nicole@straightforwardplanning.com
16 Main Road, Boolaroo
0497463258



19 April 2021

Department of Planning, Industry and Environment,
Locked Bag 5022,
Parramatta NSW 2124

RE: Agritourism and small-scale agriculture development

Our planning system has an important role in overseeing sustainable development and encouraging the right land uses in the right places. However, it can also make certain opportunities prohibitive. There are instances where primary producers could be utilising agritourism or value adding activities to diversify their income but the process to have such developments approved is often too complex, time consuming and costly. Unfortunately, the planning system has also been unnecessarily onerous for families and businesses wanting to rebuild after major natural disasters such as the 2019-2020 Black Summer Bushfires. Planning in NSW needs to be agile enough to support these re-building activities and other low impact agricultural centred developments, whilst protecting existing agricultural land use.

We are supportive of farmers taking up agritourism opportunities, but recognise the difficulties that may arise with new land uses that do not always complement agriculture. The coexistence of intensive agriculture and lifestyle properties in particular can yield some problematic situations. In this way, any changes to make agritourism easier should aim to prevent land use conflict, but in the case it does occur, routine agricultural activities must have precedence over any other new land uses. This type of provision may be best embedded through the work the NSW Agriculture Commissioner is undertaking around agricultural land use.

We generally support the setback distances specified for developments adjoining different types of farming operations. These setbacks, as well as other specifications around size and location are important in setting initial thresholds, however individual situations will vary and may require further distances. As such, the delivery of the changes must incorporate a strong educative focus for those considering developments. 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.

Another concern with changes to the planning system to make agritourism easier, is that it could incentivise other land uses at the expense of agriculture. That is, by reducing red tape around these type of activities, there will be more interest in pursuing them as a full business, not an ancillary activity. Such changes risk reducing and fragmenting the pool of land used for agriculture in NSW. The Explanation of Intended Effect makes clear that the proposed changes are not intended to apply to hobby farmers, rather to land where the primary operation is agriculture. The limitations around the number of 'event days' per year may encourage this, making venues non-viable as a standalone business but ideal for generating a subsidiary income alongside a farming operation. However, we seek further assurance of how the intention to exclude proposals from non-farming landholders will be embedded into the proposed planning changes.

NSW Farmers' Association

ABN 31 000 004 651 PO Box 459 St Leonards NSW 1590 Level 4 154 Pacific Highway St Leonards NSW 2065
Member Service Centre 1300 794 000 T 02 9478 1000 F 02 8282 4500 www.nswfarmers.org.au

Proximity to 'bush fire prone areas' and waterways

We note some impracticalities around proximity to 'bush fire prone areas' and waterways. Most campers want to set up near wooded areas and waterways, however almost all vegetated land is classified as 'bush fire prone areas' in the NSW Government's mapping. Even small, isolated parcels of timber of medium density are covered in this mapping. This will effectively switch off the use of the simplified pathway to the majority of camping suitable farming land. We believe more work is required to create a pathway that accurately understands and accounts for fire and flooding risks rather than a broad brush approach which excludes vast amounts of the state. For example, an RFS Certificate and emergency plan could be required for bushfire prone land and different thresholds could exist for flood prone riparian land.

Wear and tear on roads

Increasing tourism in rural and regional areas may see increased wear and tear on already neglected rural road infrastructure. In simplifying and streamlining the approvals process through the use of exempt and complying development pathways, it will be important to consider this impact as councils will not have the same level of oversight as through a development application.

Horticulture

We note that the EIE does not consider the interaction between horticulture and agritourism as closely as some of the intensive livestock industries. Both farming and processing activities have a high risk of disruption to non-farming neighbours. During harvest, packing houses can run almost around the clock to get orders out and trucks loaded. This involves forklifts beeping, machinery noises, trucks and dust.

During the summer months on farm, spraying is mostly done in the late evenings til early mornings. This can involve issues with noise, spray drift and lights. At any time of the year there can be issues with manure dust, smells and noise from machinery and pumps. During the winter frost fans can be a major issue for non-farming neighbours. Some horticulturalists also use helicopters for frost mitigation or need to burn fires.

We believe the risks of agritourism activities near existing horticulture needs to be explored further by the Department.

3.6 Small-scale processing plants

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. We also note that references to horticulture related processing activities are not included in this section. We seek clarification of whether horticultural processing will be allowed under the proposed amendments.

3.10 Biosecurity for poultry farms and pig farms

NSW Farmers disagrees with the statement that 'biosecurity risks are negligible up to 10,000 birds' (3.10.1). Development consent should be maintained for intensive farms above 1000 birds. We do not support the threshold being increased to 10,000 birds

Overall, NSW Farmers commends the NSW Government's commitment to opening up regional NSW to tourism and reducing barriers for primary producers looking to undertake agritourism activities. We are generally supportive of the suggested approach, however we must ensure all of the proposed amendments strike the right balance between protecting existing use and reducing barriers to new, complimentary uses.

Yours sincerely



James Jackson
PRESIDENT

NSW Farmers' Association

ABN 31 000 004 651 PO Box 459 St Leonards NSW 1590 Level 4 154 Pacific Highway St Leonards NSW 2065
Member Service Centre 1300 794 000 T 02 9478 1000 F 02 8282 4500 www.nswfarmers.org.au

To: Dept of Planning, Industry and Environment

Re: **Agritourism and Small-Scale Agriculture Development**

2021, April 19

Thank you for the opportunity to make a submission.

1. We agree with, and support, the submission made by the Berry Forum.
2. We have lived in the Shoalhaven for 45 years and have seen an increasing number of higher wealth people from Sydney introducing development proposals on land which was agriculture-based farmland and is now hobby-farm based. It has been estimated recently that 90% of all tourism related DAs in the Shoalhaven are in the Berry/Kangaroo Valley area. This is having a detrimental effect on the amenity of the area and in very few cases is it helpful to the genuine farmers.
3. Developers/entrepreneurs have, and will seek, to exploit loopholes in LEPs and DCPs to do what was not intended by them. For example, calling something Primitive Camping when Camping is prohibited; or seeking to have function/wedding centres approved under exemptions provided to assist heritage conservation where financial incentives are not needed or where local amenity is seriously affected.
4. Our concern is that however well intentioned the changes appear to be, that is, helping genuine farmers supplement their farm income, the result will be non-farmers exploiting the provisions (with the help of professional planning firms) to the detriment of everyone but themselves.
5. How will the proposals be supervised? Councils change in their composition over the years. Some are aware of impacts on amenity and the environment; some are fully in favour of development.
6. Unless there are safeguards to ensure that the proposal only helps genuine farmers; is restricted to certain areas; and has concrete safeguards to prevent exploitation, then we believe the proposals will fail to have their stated effect.

Yours sincerely

David A. Z. and Mary J. Woinarski

CC: Gareth Ward, MP Kiama

SUBMISSION OF DR SARAH WADDELL

19 APRIL 2021

I am making this submission as a resident of the Wattamolla area in Kangaroo Valley of the Shoalhaven City Council. In recent years, there have been a number of contentious development applications in and around Kangaroo Valley and Berry relating to development applications for the establishment of wedding venues and conference centres that have met with strong community opposition due, in part, to the impact of bulk and size, noise, and increased traffic on unsuitable country roads. If similar developments are to be defined as complying development it will deny the community the right to object and have their concerns taken into account.

DEFINITION OF FARM EVENTS IS TOO BROAD

An overall observation is that the proposed definition of Farm Events is very broad as it will allow for 'events, tours, functions and conferences' (EIE 3.4). It is clear from the EIE that 'functions' are intended to include weddings. Weddings and conferences fall far outside 'farmers doing business' regarding their primary business of farming and, for this reason, should not be included in the definition of Farm Events. The importance of a narrow definition becomes clear in light of the flow on effects from proposals being classed as exempt and complying.

I note that at 3.4.1.1 it is stated that the proposed definition will include 'events, tours, functions, conferences, fruit picking, horse riding and other similar experiences on land'. There is no cohesion within this definition and no specific mention of 'wedding venues'. Indeed, functions such as weddings and conferences are not 'experiences on land' in that they do not relate to the land itself or an understanding of farming practices and are in a category all of their own compared to, for example, horse riding and fruit picking.

If the government wants to fast track the approval of activities such as weddings and conferences on rural land then they should be more up front about it and not hide this intention behind vague terminology of 'Farm Events'. I would also like to make the point that these activities do not strictly speaking amount to Agritourism as the focus of the activity is likely to be one location related to the event itself – that is the wedding or the conference. Many of us have experienced going to conferences and never stepping outside the door of the hotel to experience the local life.

THE APPROVAL PATHWAY

I note that a proposal for a Farm Event development will be regarded as a Complying Development where there will be a change of use of an existing building or the erection, alteration or addition to a farm event building (3.4.1.3) and that a fast-track approval process can be instigated by Council or a registered certifier can be the relevant decision-maker if certain development standards are met.

Exempt and Complying Development - operational requirements

There are identical operational requirements for exempt and complying developments and I submit that they are far too broad taking into account the rural environment and the amenity provided to residents living in rural areas.

52 event days per year may mean that neighbours are subjected to noise and major influxes of traffic every week of the year. This is clearly untenable, even for a maximum of thirty guests. It leaves undetermined as to how to calculate an event day – if a wedding is on a Saturday, will the Friday night and Sunday morning be counted as event days or just the Saturday? Could neighbours be subjected to such events every weekend? In addition, the timing of the event going to midnight

on Friday and Saturday and 11 pm Mon-Thurs is far too late considering that rural people usually like to go to bed early and get up early to work and may be disturbed by noise from music, cars, and even voices (sound can travel great distances in the country).

I note that no noise requirements have been set out.

Complying Development

Use, location and size

The development standards allow for developments which are too large and need to be reduced. The use, location and size allows for up to 200 square metres for each building and 500 square metres in total which may be inappropriate for the site and will need full public scrutiny.

Erection, alteration or addition

It is proposed to allow a maximum height of 7 m (landholding 4000 sq m to 10 h.a.) or 10 metres (greater than 10 h.a.). This is far too high and does not allow for such buildings being possibly completely inappropriate for the particular landscape.

SUMMARY

1. Definition of Farm Events should exclude weddings and conferences and should be tied to events that truly do provide 'experiences on land'.
2. No changes should be made to the planning system to facilitate destination weddings as complying development as the history of such development applications in the Shoalhaven area shows that they will need a full assessment with community input given likely impacts such as noise, traffic, and loss of amenity.
3. Reduce the number of Farm Events (more narrowly defined) to 26 events per year with guests up to 30 people (maximum every fortnight) and 10 events per year with guests up to 50 people, with the clarification that days counted include both before and after the actual event.
4. Significantly reduce the height and size requirements for complying development to ensure that larger developments will need to go through the full development approval process.

Anita Skinner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Monday, 19 April 2021 7:08 PM
To: Anita Skinner
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Planning Amendments for Agriculture

Follow Up Flag: Follow up
Flag Status: Completed

Submitted on Mon, 19/04/2021 - 19:07

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Michael and Vicki

Last name

Quigley

Council name

Shoalhaven City Council

I would like my submission to remain confidential

No

Info

Email

mpfquigley@gmail.com

Suburb/Town & Postcode

Bundewallah, 2535

Submission

Dear Madam/Sir,

I wish to register my support for the comments and recommendations provided in the Berry Forum Committee's submission.

In particular, we are very concerned about:

1. the removal of both the planning protections and Council participation in the approval of functions such as weddings. The elimination of these safeguards appears to be wholly inappropriate for locations such as Kangaroo Valley and the Berry vicinity.
2. allowing camping for up to 20 people in locations which do not have access to town water or sewerage services. We fear that this would have the potential to significantly degrade the local environment including a deleterious impact on neighbours.

Yours Sincerely,
Vicki and Michael Quigley.

I agree to the above statement

Yes

Summary

This submission supports the recommendations contained in the submission by the Berry Forum Committee - <http://berryforum.org.au/>

In addition, this submission makes several additional points as outlined below, with reference to the EIE Sections.

Ref: 3.1.1 Simplified planning pathways

While the EIE states that the proposed ...*changes are not intended to enable hobby farmers or other recreational farmers to establish agritourism businesses*", the proposal to grant statewide exemptions for development will, without doubt, result in greater benefits to areas close to Sydney and major coastal towns which have more amenities and are easier to access, both from time and transport perspectives. Landowners in these areas will, inevitably, try to exploit the planning changes to generate significant profits.

Exempt development should not be permitted statewide, but should be limited to outside of areas close to Sydney, and major coastal zones.

Ref: 3.2 Farm Stay Accommodation

Over the last few years, in the Shoalhaven, there have been a number of DAs seeking to exploit the planning provisions relating to tourist accommodation under the 'tourist & visitor accommodation' and 'primitive camping' land use descriptions.

In particular, the proposal in the EIE for exempt development for camping for up to 20 people for up to 14 days, will not be "minor and low impact" in rural areas where there is usually no access to sewers or town water infrastructure. How will the associated waste and water management, and inevitable noise issues be regulated?

Allowing numbers of people in tents, caravans, and campervans to be allowed as exempt development is fraught with issues and should be reconsidered. Current planning provisions for camping grounds and primitive camping should be addressed before further changes are introduced.

Ref: 3.4 Farm Events

Over the last three years, a number of development applications have been lodged in Berry and Kangaroo Valley in the Shoalhaven by developers aiming to construct wedding / function centres in rural zones.

The proposal to introduce a 'farm events' land use, which will allow function centres in rural zones as exempt development, flies in the face of genuine concerns of these, and other rural communities, which have faced the same situation with regard to genuine adverse noise, traffic, safety and amenity impacts.

The EIE states that "*events that have amplified music or voices, must be located at least 1,000 metres from the nearest existing dwelling house and any building which houses animals including stables, stock yards and poultry sheds, on an adjoining property*".

As an example of the impacts of such events in rural zones, a 'temporary function centre' that was operating without consent in our area was on a hill, and approximately 1.2 km in a straight line from our property. Even at this distance we were able to hear the amplified music from this property loudly and clearly until late at nights for many weekends until the activity was stopped by Council.

Allowing 'Destination Weddings' and similar events under this Agritourism proposal in areas that are readily accessible from Sydney, and where there are already many function centres, would be contrary to the overall intent of the proposal, to the detriment of rural living, and at the expense of other regional areas of the State.

Anne Weinert & David Walker

Proprietors, Yellow Dog Cottage, 421 Strongs Rd, Jaspers Brush NSW 2535
info@yellowdogcottage.com.au



OUT21/4735

Mr Jim Betts
Secretary
Department of Planning Industry and Environment
Locked Bag 5022,
Parramatta NSW 2124

Dear Mr Betts

Submission to Explanation of Intended Effects for Agritourism and Small Scale Agriculture Development

Thank you for the opportunity to comment on the Explanation of Intended Effects for Agritourism and Small-scale Agriculture Development (the 'EIE').

The NSW Department of Primary Industries (DPI) Agriculture is committed to the protection and growth of agricultural industries, and the land and resources upon which these industries depend.

DPI Agriculture appreciates the opportunity to be involved in the development of land use planning policy that relates to rural land and agriculture and is supportive of initiatives to strengthen rural communities.

I note that DPI Agriculture has provided advice in the development of this EIE. While some of the issues with the proposed agritourism provisions raised by DPI Agriculture in this process have been addressed, there remain some proposed controls which have the potential to increase the risk of land use conflict with agricultural land uses in rural areas of the State. It is considered that this risk should be further mitigated with amendments to the proposed development standards. It is also important that the agritourism land uses proposed in the EIE are integrated with the continued use of the land for productive commercial agriculture and do not displace agriculture as the primary use of the land.

DPI Agriculture has included detailed comments on the EIE in Attachment 1 to this letter and has also provided responses to the consultation questions posed in the EIE in Attachment 2.

DPI Agriculture is available to provide further assistance and advice in the finalisation of the proposed amendments to planning controls relating to agritourism and small scale agricultural developments. Should you require clarification on any of the information contained in this response, please contact Paul Garnett, Agricultural Land Use Planning Officer, on 0429 864 501 or by email at landuse.ag@dpi.nsw.gov.au

Yours sincerely

Dougal Gordon
A/Deputy Director General
DPI Agriculture

Attachment 1 - DPI Agriculture Detailed Comments on EIE

General Comments on Agritourism Land Uses

It is suggested that, to ensure agricultural production remains the primary use of the land, only one agritourism activity should be permitted as exempt development on a lot. Where multiple agritourism ventures are proposed, a development application should be required to allow a thorough analysis of the impacts of the change in land use.

To ensure clarity of the development standards for the proposed agritourism land uses, such as setbacks and waste disposal requirements, the development standards for each land use should be consistent to avoid confusion and simplify the interpretation of the provisions.

It is recommended that consideration be given to including provisions in the model clauses which require demonstration of a nexus between the agritourism development and the ongoing use of the land for agricultural production.

Farm Stay Development

Definition

The definition of 'farm stay accommodation' does not confirm what is meant by 'commercial use', nor that the intended future use of the property must continue to be primary production. This leaves open the real possibility that farm stay accommodation on hobby farms will become the dominant use of the land once established, leading to potential land use conflict with surrounding agricultural land uses. The final drafting of the definition and provisions needs to address this issue to ensure that agritourism land uses do not have an adverse impact on agricultural production on neighbouring land.

Exempt Development

Rural Workers Dwellings - The provisions allow a rural worker's dwelling (RWD) to be changed to farm stay accommodation as exempt development. This is not supported. Rural worker accommodation is currently at critical supply levels in various regions as we come into harvest time. Further erosion of that critical infrastructure could undermine labour dependent industries. If this provision is retained it should also be clarified that if a RWD is to be used for farm stay purposes, no further RWD will be permissible on the land. This is essential to avoid multiple residential or tourism based land uses being developed in a rural setting.

Setbacks - 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. It is recommended that a minimum setback of 200m from the property boundary be imposed for camping as farm stay accommodation when conducted as exempt development.

Effluent management - The provisions do not include a requirement to manage human effluent from the campers. The development standards should ensure that appropriate facilities are in place to manage effluent without causing adverse impacts on the environment or neighbouring properties.

Other approvals - The EIE does not mention the requirements for an approval to operate a camping ground under the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.

Complying Development

The standards reference "...one dwelling per 15 hectares..." it is recommended this be changed to "...one farm stay accommodation building..." as the proposed provisions are not intending to permit multiple dwelling houses in rural areas.

Setbacks for Exempt and Complying

The provisions enable setbacks to nearby intensive agriculture to be reduced if the existing dwelling is at a lesser setback. This is not supported. The visitors to farm stay accommodation are likely to be less tolerant of normal impacts from neighbouring farm activities and more complaints may be received if an agritourism business is impaired because of neighbouring farm activities. It is strongly recommended that setbacks are not able to be varied for exempt and complying development and should a reduced setback be proposed a development application should be required.

Draft Clause

The draft clause should enable councils to add other development controls, such as setbacks, maximum number of farm stay buildings, or performance measures related to minimising land use conflict with agricultural land uses and maintaining the primary use of the land for agriculture.

Clause 2.6 amendment

The EIE notes that there will be an amendment to clause 2.6 'Subdivision – consent requirements' of the Standard Instrument Principal LEP to prevent the creation of a dwelling entitlement in relation to farm stay accommodation and preclude the fragmentation of prime agricultural land. This is strongly supported by DPI Agriculture. This clause should be carefully drafted to ensure it remains a prohibition and not a development standard capable of variation under clause 4.6.

Farm Gate Activities

Definition

It is considered that the definition should include fruit picking as an example as it is directly related to produce grown on the farm similar to the other examples proposed for the definition.

Exempt development

Setbacks - It is considered that a side boundary setback must be specified for exempt farm gate activities to minimise the potential for land use conflict and to mitigate biosecurity impacts. A 50m setback is considered to be appropriate if a biosecurity risk assessment is undertaken and the neighbouring properties are informed.

Conversion of buildings to roadside stalls - Where an existing large building is converted to a roadside stall a limit on the area of that building for that use should be specified. The EIE does not propose a limit on the size of a building which can be converted to a roadside stall and this has the potential to result in large commercial operations, especially since the proposed definition may allow sale of produce grown in the "surrounding area". It is suggested that where an existing large building is converted to a roadside stall, the area of that building used as a roadside stall should not exceed 8m² if it is to be established as exempt development. Also, similar provisions for site access and parking should apply to the conversion of an existing building to a roadside stall.

Setbacks

As previously advised for farm stay accommodation, setbacks from intensive agricultural land uses should not be reduced simply because the existing dwelling has a setback less than the development standard. There is significant potential for land use conflict or biosecurity issues to arise if setbacks are reduced for exempt or complying development.

Maintaining the setbacks will not prohibit the farm gate activity but will require development consent which is appropriate in that it will enable a rigorous assessment of the proposal if setbacks are to be reduced.

Draft Clause

The draft clause for farm gate activities should enable councils to add other development controls, such as setbacks, maximum number of farm gate activities, or performance measures related to minimising land use conflict with agricultural land uses and maintaining the primary use of the land for agriculture.

Farm Events

Definition

The definition of farm events relates to agriculture only in that the land on which the event is held is '*...principally used for the production of agricultural goods for commercial purposes.*' A wedding is used as an example in the EIE. Since the actual event does not have to be related to the agricultural use, farm events may not be generally suitable as exempt or complying development on land in the RU1 Primary Production zone.

DPI Agriculture suggest that fruit picking should be excluded from the farm events definition and added to the farm gate activities definition as it is directly related to the produce grown on the land.

DPI Agriculture does not support horse riding being included in the definition of farm events. Horse riding is a typical rural pursuit well suited to rural areas and generally compatible with other agricultural land uses whereas the other examples included in the proposed farm events definition may be incompatible with agricultural land uses and could equally be undertaken on commercial or tourist zoned land.

Neither the Farm Gate Activity nor Farm Events definitions include "farm field days", though it would appear these would be more appropriately considered as a farm event. The restrictions placed on event days and number of guests for other farm events are not likely to be relevant to farm field days.

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;

1. *Farm Events - Agricultural* - eg farm field days and horse riding – permitted in the RU1 Primary Production zone and other rural zones
2. *Farm Events – Non-agricultural* - eg weddings, functions, events, conferences – prohibited in the RU1 Primary Production zone but permitted in other rural zones.

Exempt Development

The proposed setback of 50m for exempt development is considered to be insufficient to mitigate potential land use conflict. DPI Agriculture suggests a setback of 200m for farm events as exempt development (especially for non-agricultural events). Smaller setbacks could be considered where a development application is required to enable a rigorous assessment of the potential impacts on neighbouring properties.

Number of Guests and Event Days

The provisions relating to the permitted number of guests/event days is considered to be confusing and complicated. It is unclear if a land owner can hold 9 events for 45 people as well as 50 events for 25 people, both of which are less than the maximum scenarios but cumulatively exceed the maximum limits.

It is considered that 52 events a year is excessive for exempt development if these events are unrelated to the agricultural use of the land, such as a wedding. It is suggested for exempt development the number of events should be limited to 6 and a maximum of 50 people. A greater number of events or attendees could be considered if a development application is submitted.

It is suggested that separate exempt provisions are included for farm events being farm field days with a maximum guest number of 500 people and only 1 per year.

It is suggested that separate exempt provisions be included for farm events being horse riding businesses with a maximum of 10 horses and 10 guests and no limit on the number of days per year.

Complying development

Rural workers' dwellings - DPI Agriculture recommends that RWD should be excluded from being able to be converted to farm event buildings.

Amplified Music - It is recommended that the same setbacks for amplified music and voices (1000m) as exempt also be applied to complying development as complying development does not undergo a rigorous assessment. A reduced setback could be considered if a development application is required.

Setbacks - The proposed setback of 50m from the property boundary to the farm event is considered to be insufficient for complying development which does not undergo a rigorous assessment process. DPI Agriculture suggests a setback of 200m for farm events as complying development, especially for non-agricultural events.

Draft clause

It is strongly recommended that a draft heads of consideration clause is prepared for farm events that require a DA.

Small Scale Agricultural Developments

DPI Agriculture generally supports provisions which reduce the regulatory burden for farmers to establish value adding facilities on their farms or to undertake normal farming practices or install necessary farm infrastructure. The proposed provisions relating to the various small scale agricultural development are considered to be positive for agricultural businesses. The following are comments on the various proposals which have arisen from further consultation and consideration within DPI.

Small Scale Processing Plants

There is potential overlap of these facilities with the proposed farm gate activity land use. The definitions will need to be clear as to the difference between the two land uses. It is suggested that small scale processing plants could relate to animal processing while the farm gate activities could capture processing of horticultural produce.

Small scale processing plants should only be permitted as complying development on land on which the animals to be processed are farmed. Where a processing plant is proposed on a lot or property unrelated to the farming of the animals a development application is considered appropriate.

The definition should also include goats, alpacas, buffalo, and camels and similar maximum throughput established.

It is considered necessary to clarify whether the development standards for a 500m setback from a poultry or pig "production facility" means a poultry or pig farm or a poultry or pig processing facility or both. DPI Agriculture suggest it should be both a farm or a processing facility. Additionally, the 500m distance should be increased to reflect those distances proposed for amendments to clause 5.18 to address biosecurity concerns between intensive livestock agriculture operations.

DPI Agriculture is prepared to provide additional advice on this land use should it be progressed after public exhibition.

Rebuilding Farm Infrastructure

The proposed development standards should also exclude a requirement to comply with current setbacks in the Codes SEPP clauses as these could prevent rebuilding as exempt development. It is considered that the current reference to 'footprint' does not relate to setbacks as they are addressed separately in the relevant clause in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP).

It is important that the rebuilding of farm infrastructure does not replicate or continue adverse impacts on the environment.

Stock Containment Areas

The EIE states that the amendments will:

Allow minor permanent infrastructure to be developed without consent for stock containment areas (to contain livestock temporarily, not permanently).

This approach may not be workable for the use of stock containment areas for backgrounding etc because separate groups of animals may be continuously transitioned through the containment area and therefore even though their stay is temporary, the use of the facility for backgrounding will be permanent.

It is suggested that if the stock containment areas satisfy the locational requirements then they should be able to be used permanently.

Farm Dams

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.

Additionally, changes to the Part 3 of the State Environmental Planning Policy (Primary Production and Rural Development) 2019 should be made to permit artificial waterbodies to be carried out without development consent if:

- a. it is on rural zoned land outside of the area of operations of an irrigation corporation;
- b. it is only for stock or domestic needs and not irrigation of orchards, vineyards or other commercial plant or intensive livestock agriculture;
- c. it is below the Maximum Harvestable Rights Dam Capacity for the property; and
- d. it is not within 40m of a public road, natural waterbody, environmentally sensitive area, or tree clearing operations.

Biosecurity for Poultry Farms

After discussion with industry, DPI Agriculture advises that the limit on the number of birds in a poultry farm which is permitted as exempt development should be retained at 1000 birds. The proposed increase in the number of birds (to 10,000) which can be undertaken as exempt development is no longer supported.

The proposed locational requirements for exempt development which seek to establish greater separation distances from other poultry farms for biosecurity reasons is supported.

Recreational Beekeeping

The proposed provisions for recreational beekeeping are not supported as it then implies that where recreational bee keeping 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.

Attachment 2 - DPI Agriculture Responses to Consultation Questions

Farm stay accommodation - consultation questions

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

The proposed setbacks to intensive agricultural operations are considered appropriate for exempt and complying development. Where the setbacks cannot be met there is still the opportunity for a development application to be lodged and a rigorous assessment of the reduced setback undertaken.

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

Farm stay accommodation should only be permitted on a lot which has a dwelling eligibility whether or not a development application is required. Consideration also needs to be given to circumstances where dwelling eligibilities are related to “existing holdings” to ensure that agritourism land uses are not located on lots which do not contain a dwelling and are then sold off.

- 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?*

New complying development farm stay accommodation buildings should be clustered within a certain distance of the existing dwelling house. The proposed 300m distance is considered to be acceptable for Inland local government areas (LGAs) if a setback to the property boundary of 200m is also required. A distance of 100m is considered to be more appropriate in Coastal LGAs if an equivalent setback to the property boundary is also included.

It is noted that the farm stay provisions relating to change of use of an existing building or camping are not required to be located within 300m of the existing dwelling and no setback to a property boundary is proposed. This should be changed to be consistent with the requirement for new buildings so as to minimise the potential for land use conflict.

- 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 should be different development standards for farm stay accommodation as exempt or complying development in inland areas compared to coastal areas, as factors such as tourist numbers, property sizes, farming operations and environmental impacts are very different between the inland and coastal areas of the state.

Farm gate activities - consultation questions

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

A roadside stall of 8m² does not need to be setback from a front boundary in a rural area providing it does not obstruct the view of traffic using the road network. Larger roadside stalls should be setback 6m from the front boundary.

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

A side boundary setback development standard and a standard for the maximum size of the conversion of an existing building to a roadside stall are recommended.

A requirement that the facility comply with the ANZ Food Standards Code is also considered to be necessary.

The farm gate activity must utilise the existing property access and provide adequate parking on site.

The farm gate activity should only be permitted when it is integral to the agricultural production being undertaken on the land. Farm gate activities should not be allowed on lots in rural areas where the lot is not being used for agricultural production.

Farm events - consultation questions

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?

This matter is addressed in DPI Agriculture's detailed comments in Attachment 1.

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

Land uses which should be excluded from the farm event definition include horse riding, fruit picking and farm field days. Alternatively these land uses should have separate exempt development standards as discussed in DPI Agriculture's detailed comments in Attachment 1.

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)*

Destination weddings do not need their own planning controls. They can be undertaken where function centres are permissible with consent. They should not be permitted in the RU1 Primary Production zone.

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

A model clause for destination weddings is not necessary. A clause for farm events is considered to be necessary and of greater priority.

11. Is there any rural land or areas in which agritourism activities should not be permitted? If yes, why?

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.

Small scale processing plants - consultation questions

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

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).

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

The 1000 carcass/year for deer and kangaroo is considered to be appropriate.

14. Should any additional standards be included?

Additional standards that may be considered could include:

- 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; and
- compliance with the ANZ Food Standards Code;

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?*

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.

Rebuilding of farm infrastructure - consultation questions

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

The proposed development standards should also exclude a requirement to comply with current setbacks in the Codes SEPP clauses as these could prevent rebuilding as exempt development. It is considered that the current reference to 'footprint' does not relate to setbacks as they are addressed separately in the clause in the Codes SEPP.

17. Should any additional standards be included?

The proposed development standards should also exclude a requirement to comply with current setbacks in the Codes SEPP clauses as these could prevent rebuilding as exempt development. It is considered that the current reference to 'footprint' does not relate to setbacks as they are addressed separately in the clause in the Codes SEPP.

Stock containment areas - consultation questions

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

Permanent infrastructure which should be permitted for stock containment areas includes fencing, loading ramps, and shade structures.

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

Nil comment.

Farm dams - consultation questions

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

Detail on how the planning provisions relating to farm dams should be simplified is addressed in DPI Agriculture's detailed comments in Attachment 1.

Biosecurity for poultry and pig farms - consultation questions

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

The proposed separation distances detailed in the EIE are considered to be appropriate to address biosecurity issues.

22. Should any additional standards be included?

No additional standards are considered to be required for this matter.

Rural dwelling setbacks from intensive agriculture - consultation questions

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

The setbacks for rural dwellings to intensive livestock developments should be increased when proposed as complying development, in accordance with increased setbacks suggested in the EIE.

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*

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.

It is recognised that this approach may not be possible in all situations and therefore it is appropriate for rural dwellings to be considered through the development application process when the setback cannot be achieved. This enables a rigorous assessment of the proposed dwelling to be undertaken.

Recreational Beekeeping – Consultation Questions

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

The proposed development standards for recreational beekeeping are considered to be unnecessary as the proposal to establish recreational beekeeping as exempt development is considered to be inappropriate. This matter is addressed in DPI Agriculture's detailed comments in Attachment 1.

Submission in response to the proposed NSW agritourism and small-scale agriculture development planning changes

April 2021

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Opening

Local Government NSW (LGNSW) is the peak body for local government in NSW, representing NSW general purpose councils and related entities. LGNSW facilitates the development of an effective community-based system of local government in the State.

LGNSW welcomes the opportunity to make a submission on the NSW Government's Explanation of Intended Effect for the proposed agritourism and small-scale agriculture development planning changes. LGNSW consulted with councils to help inform the content of this submission.

This is a draft submission awaiting review by LGNSW's Board. Any amendments will be forwarded in due course.

Background to the local government role in agritourism

The role of councils in tourism

Tourism is a priority for many local governments especially as it relates to promoting economic development and local jobs.

Councils engage in tourism in many ways and councils' direct tourism roles can include¹:

- Tourism owner-operators such as caravan parks and camping areas;
- Marketing, promoting and capability building of many of the small to medium sized businesses in their areas;
- Owner/manager of visitor information centres;
- Creators/funders of destination marketing campaigns;
- Planning and delivering local events such as festivals, sporting and arts and culture;
- Assessing and monitoring tourism and accommodation developments and proposals;
- Investing in vital local infrastructure and its maintenance to support tourism such as parks, public spaces and amenities, rubbish collection, local roads and signage; and
- Consulting and engaging with local communities, business, community representatives and elected representatives on future development for their communities.

A 2016 survey of councils across Australia undertaken by the Australian Regional Tourism Network² revealed that:

- In 2015/16 local government contributed an estimated \$373m on the operation of visitor information centres, events, festivals, promotion, marketing and development of tourism;
- Two thirds of this spending was undertaken by councils located in regional and remote areas;
- 8/10 councils directly employ staff that have a tourism role, equating to 1672 FTE across Australia;
- 9/10 councils agreed that tourism offers economic development opportunities in their local areas;
- 8/10 councils have tourism actions and outcomes identified in their current long-term strategic plans; and
- 7/10 councils contribute financially to Regional Tourism Organisations.

¹ Australian Local Government Association, *Submission to the Beyond Tourism 2020 Report*, February 2019

² Australian Regional Tourism Network and DBM Consultants, *Local Government and Tourism, The Contribution of Local Government to the Australian Tourism Industry*, January 2017

The role of councils in agriculture

Councils acknowledge the significant contribution of agriculture to their local and regional economies and also to the national economy. Councils are also cognisant of the importance of agriculture in the fabric of their rural and regional communities, providing direct employment and employment through service industries and contributing to the lifestyle that draws many people to live in our rural areas.

Through the planning system, councils have a direct role in planning for and protecting agricultural land and balancing different or sometimes competing land use activities in their local government area (LGA). Councils also have a regulatory role in managing land use activities and complaints, and are mostly the first port of call for complaints triggered by land use conflicts.

Local government recognises the importance of protecting agricultural land. Councils are also mindful that any new policy or strategy to protect agricultural land should be an enabler for development and investment in agriculture, not a barrier.

LGNSW position on the proposed amendments

Current proposals

The NSW Government has published an Explanation of Intended Effect (EIE) for proposed amendments to support agritourism and small-scale agriculture development. The changes include proposed amendments to the Standard Instrument (Local Environmental Plans) Order 2006, State Environmental Planning Policy (Primary Production and Rural Development) 2019 and State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

The EIE identifies amendments or new planning controls for:

1. Farm stay accommodation
2. Farm gate activities
3. Farm events
4. Other ancillary matters – generally non-core to tourism.

These include proposed changes to small-processing plants, re-building farm infrastructure, stock containment areas, farm dams, biosecurity for poultry and pig farms, dwelling setbacks from intensive agriculture, and recreational beekeeping.

The proposed amendments to definitions and new approval pathways for exempt and complying development are state-wide and would be imposed on all local government areas. In addition, the Department of Planning, Industry and Environment (DPIE) is also asking for expressions of interest from councils which may choose to adopt optional clauses into their Local Environmental Plan (LEP) that would introduce development standards councils can tailor to suit local conditions, where development would not satisfy requirements for exempt or complying development and would require a development application (DA).

LGNSW position

One of the twelve fundamental principles of LGNSW, the overarching values that guide advocacy on behalf of the local government sector, sets our position on economic development. It states:

Local government promotes local and regional economic development and employment growth.

Councils are keen to support their farmers to diversify, maintain agricultural land in each LGA and attract tourists to boost local economic development. LGNSW recommends that to compliment any planning changes, the NSW Government should promote to councils the opportunities of agritourism and how agritourism supports farmers and the community.

However, LGNSW **does not** support a blanket expansion of development that is permissible as exempt and complying development.

LGNSW's fourth fundamental principle sets our position on planning processes. It states:

Local government is best placed to lead and influence local and regional planning processes according to the needs and expectations of local communities.

Furthermore, position 9.6 of the LGNSW Policy Platform states:

LGNSW advocates for complying development to be limited to low risk or low impact development, with clearly defined parameters.³

LGNSW advocates for a planning system that ensures the voice of local communities is heard through local government retaining control over the determination of locally appropriate development. It is a long-held position of the local government sector that local planning powers must not be overridden by State plans and policies.

While some councils may welcome the opportunity to streamline agritourism approval pathways in parts of their LGA to encourage economic development, for others there may be highly adverse impacts on environment, infrastructure, adjoining land uses and the local community. Exempt and complying development also precludes councils and communities determining important location and design consideration for development. The proposed changes amount to an intensification of use that could lead to increased amenity issues and councils have the option of addressing these through the development assessment pathway.

The EIE is proposing a one-size-fits-all approach to exempt and complying development across the state. While some kinds of land use may be low impact in some areas, in other contexts they will be high impact. The one-size-fits all approach removes the ability of councils and communities to plan for, consider and permit what's best for their communities, and disregards councils' strategic land use plans, including LEPs and Local Strategic Planning Statements, that are developed in consultation with their communities as a mandatory and important part of the state's planning system.

³ Local Government NSW, *Policy Platform*, April 2021, available at: https://www.lgnsw.org.au/Public/Policy/Policy_Platform.aspx

As an example, the proposals would permit as **exempt development**:

- **Up to 20 people housed in caravans or campervans on a site every day** in environmental management, rural forestry, primary production and landscape zonings that currently permit farm stay accommodation with consent.
- **Restaurants and cafes with up to 50 guests at a time** in land that currently permits an agriculture land use (and complying development if a change of building use is required).

These are just two examples of the kinds of development intensification that may have severely adverse impacts if local government does not retain the ability to consider the appropriateness of the development for its local context. Some LGAs are already grappling with the impacts of congestion and land use conflicts that come from rapid increases in tourist numbers and these impacts may be exacerbated with these proposed changes. LGNSW considers the new draft provisions have gone too far and will result in outcomes incompatible with the desired future of agriculture and the use of rural land in some areas. As will be mentioned below, recent Service NSW research with farmers who run agritourism businesses shows that the majority are content with small-scale ventures and thus the proposed state-wide conditions could be scaled back.

If and when agritourism industries grow, councils want to ensure that the growth does not lead to poor planning and social outcomes as we have seen, for example, with the rapid proliferation of the Short Term Rental Accommodation (STRA) industry. LGNSW supports planning regulations which enable safe and sensible economic growth.

A fundamental role of a council is to determine the kinds and scale of development that is appropriate in each part of an LGA. While provisions in State Environmental Planning Policies may suit the specific needs of some parts of some LGAs, a one-size-fits-all approach to planning fails to recognise or account for the specific needs and local context of diverse communities. For example, there are different pressures facing coastal NSW communities compared with inland LGAs, where larger properties in central and western NSW may comfortably accommodate these proposed changes without adverse impacts, while they could be counterproductive in the more intensively-developed coastal fringe and other peri-urban locations.

Rather than imposing statewide exempt and complying agritourism development pathways for all council areas, the NSW Government should instead invite councils to opt-in parts or the whole of their LGA for these pathways where it is appropriate for the local context. This opt-in arrangement would ensure councils can opt out of the proposed amendments entirely where the council and community determine that the adverse impacts on the environment, amenity, infrastructure or adjoining land uses would be too great, and a development assessment pathway would be appropriate.

Recommendation 1: It is recommended the NSW Government not impose statewide exempt and complying agritourism development pathways for all councils, in recognition that a one-size-fits-all approach may have adverse impacts on local environment, amenity, infrastructure or adjoining land uses where the development is not appropriate for the local context.

Recommendation 2: The NSW Government should instead invite councils to opt-in parts or the whole of their LGA for these pathways where the council determines it is appropriate for the local context, via variations to the Exempt and Complying Development Codes SEPP.

Recommendation 3: In advance of inviting councils to opt-in, the NSW Government including DPIE, the NSW Small Business Commission, Service NSW and Destination NSW should together coordinate an information package specifically for councils that would highlight the benefits for agritourism and economic development and also how councils that opt-in can seek to remedy any potential adverse impacts.

LGNSW Annual Conference Resolutions

Relevantly, councillors from across NSW have raised concerns with the operation of Exempt and Complying Development Codes through resolutions of the LGNSW Annual Conference. The 2021 resolutions, which inform this submission, include:

73 SEPP (Exempt and Complying Development Codes)

That Local Government NSW advocates to the NSW Government to amend the State Environmental Planning Policy (Exempt and Complying Development Codes) to provide more discretion for Councils to amend a SEPP when applying it in their Local Government Area.

74 SEPP amendments to address farm shed loophole

That Local Government NSW requests the NSW Government to amend the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 to ensure that large scale earthworks on rural properties cannot be undertaken without a full development assessment process to properly consider and condition potential environmental, social and traffic impacts.

Related LGNSW submission: NSW Agricultural Land Use Planning Strategy

In March 2021 LGNSW made a submission in response to the NSW Agricultural Land Use Planning Strategy Options Paper. The options paper was released as part of the newly appointed Agriculture Commissioner's investigation of a land use planning strategy to build on the Right to Farm Policy.

LGNSW positions in our submission to the Agriculture Commissioner, which are relevant to these proposed agritourism amendments, include:

- Councils have indicated their general support for improvements to the planning framework for agricultural land use across the state.
- A one-size-fits-all blanket approach to the policy framework will not work – local government needs a flexible approach to implementing planning controls relating to rural land protection, to ensure that responses are tailored to and proportionate to the local land use context.
- Councils are under-resourced in general, and this is particularly acute in rural and regional areas. The practical reality of this is that any new proposals that would require councils to take on additional responsibilities or tasks would need to be accompanied by more resources and support.

- Strategic objectives in regional, district and local plans to protect valuable agricultural land are often overridden by other priorities, particularly urban development and housing pressures.
- Councils recognise that mapping of State Significant Agricultural Land (SSAL) would provide valuable assistance to their planning and allow them to implement more specific local controls where necessary.
- The definition of significant agricultural land needs to allow for a variety of factors that may vary across NSW.
- Resolution of disputes between neighbours on agricultural land is often difficult and can involve significant time and resources. Councils would therefore welcome assistance to reduce land use conflicts and facilitate resolution of farming/residential disputes.
- Local government has a key role in managing land use conflict and greater consideration must be given to how local government could be supported in its regulatory role.
- LGNSW recommends that the Agriculture Commissioner implement a program of complementary measures to address land use conflict related to agricultural operations.
- Due to the diversity across NSW, LGNSW advocates that planning requirements need to be flexible and allow for local decision making in response to the local context and conditions. Further, planning must cater for the continued diversification and evolution of agricultural uses (for example, as producers continue to innovate and introduce 'value-adds' or niche on-farm enterprises). Too stringent application of controls and limited zoning will inhibit this diversity.
- Similarly, blanket state-wide approaches to planning provisions may present barriers to the establishment of agricultural uses and be inappropriate to local circumstances across NSW. However, at the same time, LGNSW recognises that certainty in the status of agricultural land and clarity around planning requirements such as buffer zones etc would assist agricultural businesses have the confidence to invest and set up in an area.

Recommendation 4: In recognition that a NSW Agricultural Commissioner has been appointed, and that a consultation process by the Commissioner is ongoing, that DPIE work in conjunction with the Commissioner to ensure any proposals are considered alongside planning for and implementation of the NSW Agricultural Land Use Planning Strategy.

Research project and pilot

In 2018 and 2019, the NSW Government undertook an agritourism research and pilot project about farmers' experiences and needs in starting and running an agritourism business. The agritourism project was a partnership between Service NSW, the NSW Small Business Commission (NSWSBC), with support from DPIE. The continuing objective from the project is to make it easier for farmers to start, run and grow an agritourism business.

The three streams of the project were⁴:

1. Exploring regulatory reform of state planning regulations (i.e. the proposed planning changes to which this submission responds).
2. Business development support workshops offered to selected farmers in three local government pilot areas: Liverpool Plains, Queanbeyan-Palerang and Wollondilly (the pilot councils) via a series of workshops.
3. Service NSW mapping the experience of farmers, through a series of interviews trying to start, run and grow agritourism businesses to identify key pain points and potential solutions.

As part of this project, NSWSBC established a working group of government agencies and peak bodies. LGNSW was a member on this working group and attended the initial 'kick-off' meetings that the Small Business Commission ran with council staff in each of the three pilot LGAs. The meetings ensured council staff in both planning roles and tourism roles understood the project and were ready to assist farmers if they were to come to council with questions about starting a farm business. LGNSW was also invited to attend a combined regulatory mapping workshop with the three councils, where council staff documented the process for approving three different proposals in their LGAs: farm accommodation, roadside stalls, and farm tours.

Some of the findings from the Service NSW project mapping the experience of a small sample of 18 farmers include:

- Many agritourism businesses are very small
- Businesses typically develop over many years
- Some businesses have a somewhat unplanned start
- Almost half of the farm owners interviewed started the tourism side of their business because they were already voluntarily hosting people on their property or running visitor activities for free
- Most agritourism owners have little desire to grow their tourism business.

Councils have a key role in supporting economic development but limited resources to directly support businesses, including agritourism enterprises. The NSW Government could assist councils and businesses by funding business liaison officers in each council to act as a constructive entry point for farmers and others in the community who wish to establish businesses to discuss their ideas prior to seeking planning approval.

⁴ Service NSW and NSW Small Business Commissioner, *Starting and running an agritourism business: Farmers' experiences and needs*, December 2019.

Recommendation 5: The NSW Government should support council staff (through an injection of funding, training and resources) to effectively support farm owners seeking approval for agritourism businesses, in recognition that farmers have limited time and resources to develop their tourism venture. The NSW Government should fund a business liaison officer in each NSW council to act as an entry point for farmers and other potential business owners to discuss their ideas with the council.

The research project also identified some barriers to diversifying into agritourism ventures, including:

- Regulatory compliance such as:
 - Insurances
 - Bushfire and biosecurity risk
 - Building standards
 - Access and road issues
 - Water and waste management
 - Food safety and responsible service of alcohol
 - Heritage
 - Business management (e.g. ABN and GST requirements, Fair Work requirements)
 - Marketing/promotion and technology
- Poor roads, internet and phone service affect some operators.
- Difficulty in managing the safety of visitors on working farms and around animals
- Uncertainty around required studies and requirements for submitting a DA.

The NSW Government, with industry and council collaboration, should develop codes and guides to assist operators to address and respond to regulatory and operational matters. Improved guidance and support would also address the potential for tourism businesses to partner or collaborate with farm businesses to increase destination desirability. As stated in the NSW Government's Right to Farm Policy Review, many industry and council participants have called for broader community awareness of accepted farm practices. Ongoing community awareness programs provided by the NSW Government would assist councils in their role of managing land use conflicts.

LGNSW would like to see more proactive and innovative solutions, outside of the planning system, to support farm diversification, based on the results of the pilot project undertaken in three local government areas. LGNSW also calls for the NSW Government to release more detailed information that can be shared with our member councils about that pilot project, its outcomes and broader sense of how the pilot project contributed to these planning proposals.

Recommendation 6: The NSW Government should commit to proactive and innovative solutions outside of the planning system, to support farm diversification. Due to the broad range of barriers reported by farmers in establishing agritourism businesses, the NSW Government should provide broader support including:

- workshops for farmers looking to establish an agritourism business,
- access to a tailored agritourism business concierge service through Service NSW, and
- guidance material which maps the range of requirements that farm tourism operators will need to meet.

Recommendation 7: The NSW Government publicly release detailed information on the agritourism pilot project, its outcomes, and how this project contributed to the planning proposals outlined in the EIE.

Response to the proposed amendments

Farm stay accommodation

The EIE proposes to:

- **Broaden the definition** of farm stay accommodation to include accommodation in a building and camping.
- **Permit as exempt development**, subject to certain conditions:
 - Change of use of an existing dwelling or part of a dwelling on rural zoned land for the purpose of farm stay accommodation
 - Use of land for farm stay accommodation in tents, caravans, campervans etc on rural zoned land for up to 20 persons at any one time for up to 14 days (so long as the use is permissible with consent under the council's LEP)
- **Permit as complying development**, subject to certain conditions:
 - Change of use of an existing building or manufactured home to farm stay accommodation on rural zoned land (conditions incl. a maximum of one dwelling per 15 hectares and a maximum of six dwellings per landholding)
 - Erection, alteration or addition to a building or manufactured home on rural zoned land for farm stay accommodation (conditions incl. maximum height of 6 metres, maximum one dwelling per 15 hectares, maximum of six dwellings per landholding).
- **Allow councils to opt-in for tailored development standards** for farm stay accommodation that does not meet the exempt and complying requirements.

As highlighted above, the EIE is proposing a one-size-fits-all approach to farm stay accommodation across the state, and LGNSW does not support this approach as detailed earlier in this submission.

Up to 20 people housed in caravans, campervans or tents on a site every day in environmental management, rural forestry, primary production and landscape zonings have the potential for serious impacts on local amenity, environment and infrastructure, particularly in areas already popular with tourists. Councils that have permitted farm stay accommodation *with consent* in their LEP have done so with the expectation that these potential impacts can be properly considered and evaluated through the development assessment pathway.

Certainly, some feedback from councils is positive about the benefits that can flow to a region from an increase in farm accommodation. Not only will the landowner experience income diversification of their business, but the surrounding region also has the potential to benefit from new off-season visitors. However, it is essential that the location and context must be appropriate and locally determined.

Broad expansion of exempt and complying development pathways also poses the risk for a significant increase in land use conflicts and disputes which councils are not resourced to investigate and regulate. Investigating the number of guests and duration of stay for camping and caravans is labour intensive and imposes added regulatory burden on councils that are already stretched. Council oversight of appropriate locations for farm stay accommodation through locally-approved plans and policies helps to minimise conflict and subsequently reduce the need for regulatory inspection and intervention.

Councils have approval, inspection and regulatory powers for camping and caravan parks under the *Local Government Act 1993* and *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005*. Distinct from planning regulations, section 68 of the *Local Government Act* prohibits a person from operating a caravan park or camping ground without the prior approval of the council. The Regulation further sets a number of mandatory considerations for councils and conditions that should be met by the proponent. A breach of any of these conditions or an approval is an offence under the *Local Government Act*. An unchecked expansion of permissibility for camping and caravans may significantly increase the regulatory responsibilities for councils with no additional resources to meet these.

In terms of the proposal to broaden the definition of farm stay accommodation, LGNSW again supports councils being able to choose whether to adopt the broadened definition within their own LEPs. Council community consultation for strategic planning documents (such as LEPs and Local Strategic Planning Statements) was predicated on land uses encompassed with the existing definitions. While some councils may choose to adopt the new definition, for others the new land uses will run counter to community and strategic planning expectations and likely lead to an increase in land use conflict and adverse impacts.

Councils would also welcome more explanation on whether the farm stay definition applies to working farms, those that are currently in operation, are seasonally in operation and/or farms which are the secondary business. The proposal would also benefit from clarification as to how farm stay accommodation camping differs from the 'camping' land use which is separately defined.

Finally, more clarification is needed as to how the farm stay accommodation definition interacts with the Visitor and Tourism Accommodation definition and also how it interacts with Short Term Rental Accommodation (STRA) regulations which the State Government has recently announced.

Recommendation 8: That all proposed changes to farm stay permissibility be made opt-in for councils to apply to parts or all of their LGA and DPIE work with councils to enable the revised definition in their LEP only if councils want to adopt it.

Recommendation 9: That more clarification is provided on how the farm stay accommodation definition will interact with other planning controls including STRA regulations, and Camping and Visitor and Tourism Accommodation definitions.

Farm gate activities

The EIE proposes to:

- **Introduce a new land use term** ‘farm gate activities’, which will sit under a new term ‘agritourism’, which will itself sit under the existing term ‘agriculture’ in the Standard Instrument LEP Order. ‘Farm gate activities’ will include:
 - Processing, packaging and sale of agricultural produce
 - A restaurant or café
 - Facilities for tastings, workshops, information or education for visitors for agricultural produce grown on the farm or grown predominantly in the surrounding area.

The proposed definition will make it clear that the principal use of the land must be the production of agricultural goods for commercial purposes. The proposed new term will also enable farm gate activities where the farm is currently not producing goods because of drought or similar events outside the landowner’s control.

These changes will mean that farm gate activities will initially be permissible in all LEPs wherever ‘agriculture’ is currently permissible.

- **Permit as exempt development**, subject to certain conditions:
 - use of land for farm gate activities on rural zoned land (conditions incl. standard hours, setbacks and location and maximum 50 guests at any one time)
 - change of use to a roadside stall on rural zoned land
 - erection of a roadside stall (conditions incl. must be permissible with consent under the LEP, maximum 8 square metre footprint, must be on private property and not adjacent to a classified road and one roadside stall per landholding).
- **Permit as complying development**, subject to certain conditions:
 - Change of use of an existing building to a farm gate premises on rural zoned land (conditions incl. max. 200 square metre footprint, max. 50 guests at any one time, setbacks, and water, sewerage and waste management requirements).
 - Erection, alteration or addition to a building for a farm gate activity on rural zoned land ((conditions incl. max. 200 square metre footprint, max. 50 guests at any one time, maximum height of 7 to 10m, setbacks, and water, sewerage and waste management requirements).
- **Allow councils to opt-in for tailored development standards** for farm gate activities that do not meet the exempt and complying requirements.

Again, the EIE is proposing a one-size-fits-all approach to farm gate activities across the state, which as stated earlier in this submission, LGNSW does not support. While a restaurant or café with up to 50 guests at any one time may be low impact in some areas, in other contexts this will have significant impacts on local amenity, environment, traffic and road safety in areas zoned for agricultural use. In addition, councils are concerned that when applied as a blanket state-wide provision what appears as support for farmers may end up with the perverse outcome of incentivising non-agricultural use of rural land.

LGNSW supports the addition of a new ‘farm gate activities’ term that would permit councils to, where appropriate, more nimbly allow for these small scale agritourism ventures. The NSW

Government's Right to Farm Policy Review refers to the submission by the River Riverina Joint Organisation of Councils which states that:

the inclusion of the definition in the Standard Instrument LEP of 'Artisan food and drink industry' into the 'light industry' group term prevented the use in certain rural and environmental zonings across the state. In many instances it is appropriate for artisan food and beverage industries (such as a meadery or distillery) to be located in rural areas as a niche manufacturing and tourism activity that can provide an important value-add to on-farm primary production.

The new definition addresses this issue by being available for agricultural land use, rather than industrial land use as per the artisan food and drink definition.

Nevertheless, councils and communities must retain control over when and where these activities are appropriate to occur. The benefit of a DA process is that council can consider the potential for conflict to occur when land uses such as tourism and agriculture combine. Similarly, the possibility for councils to opt-in to exempt and complying approval pathways for all or parts of their LGAs will mean local knowledge can help to avoid land use conflicts while appropriately encouraging and diversifying the economic development of agricultural regions.

LGNSW would support a mechanism for councils that permits them to retain the existing definition of agriculture for their LEPs, or alternatively permit them to opt-in for the revised definition of agriculture (encompassing farm gate activities) for their LGA where it is appropriate.

<p>Recommendation 10: That all proposed changes to farm gate activity permissibility, and the application of the new definition, be made opt-in for councils to apply to parts or all of their LGA.</p>
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Farm events

The EIE proposes to:

- **Introduce a new land use term** ‘farm events’, which will sit under a new term ‘agritourism’, which will itself sit under the existing term ‘agriculture’ in the Standard Instrument LEP Order.
 - ‘Farm events’ will permit events, tours, functions, conferences, fruit picking, horse riding and other similar experiences on land for which the principle use is the production of agricultural goods for commercial purposes.
 - The proposed new term will also enable farm events where the farm is currently not producing goods because of drought or similar events outside the landowner’s control.

These changes will mean that farm events will initially be permissible in all LEPs wherever ‘agriculture’ is currently permissible. Councils could then also permit farm events in any additional zones.

- **Permit as exempt development**, subject to certain conditions:
 - use of land for farm events on rural zoned land (conditions incl. standard hours, setbacks, maximum numbers of guests and event days per year)
- **Permit as complying development**, subject to certain conditions:
 - Change of use of an existing building to farm event premises on rural zoned land (conditions incl. standard hours, setbacks, maximum numbers of guests and event days per year)
 - Erection, alteration or addition to a farm event building (conditions incl. standard hours, setbacks, max. 200 square metre footprint, maximum height of 7 to 10m, maximum numbers of guests and event days per year)

Again, a one-size-fits-all approach to farm events across the state is not a planning approach that will be suitable for all local contexts. To avoid land use conflicts, and foreseeable impacts on local amenity, environment, congestion and infrastructure in areas zoned for agricultural use, it is important that councils are empowered to choose to opt-in to changes to farm event permissibility in their LGAs.

This imperative is supported by the diversity of views from councils on the proposed changes to allow farm events.. For example, one council cited examples where farmers had diversified under the current planning framework. This is because the council had amended its LEP to include ‘function centres’ as permissible with consent in RU1 zones and RU4 zones. On the other hand, another council viewed the changes as positive but argued that restricting events such as tours to 52 times a year or 50 people for an event does not allow for a return on investment for the marketing and promotion required to attract participants, and therefore farmers would likely need to pursue a DA.

LGNSW would support a mechanism for councils that permits them to retain the existing definition of agriculture for their LEPs, or alternatively permit them to opt-in for the revised definition of agriculture (encompassing farm events) for their LGA where it is appropriate.

LGNSW supports the proposal that councils can *choose* to permit farm events in additional zones. This is because some rural land which is not used as primary agricultural land may be ideal to be used for agritourism, for example hobby farms with a small selection of animals and

plants for guests to view. Some rural land holdings may too small for farming, but have alternative tourism use opportunities that can be linked to the agricultural theme.

Recommendation 11: That all proposed changes to farm event permissibility, and the applicability of the new definition, be made opt-in for councils to apply to parts or all of their LGA.

Recommendation 12: That DPIE conduct further consultation with councils on how the farm event definition may be applied and whether it will be useful for farm tourism operators.

Small-scale agricultural development changes

The EIE also proposes changes to a variety of other agricultural activities which have been deemed 'small scale'. These are:

- i) Signs and verandahs
- ii) Small-scale processing plants
- iii) Rebuilding of farm infrastructure
- iv) Stock containment areas
- v) Farm dams
- vi) Biosecurity for poultry farms and pig farms
- vii) Rural dwelling setbacks for intensive livestock agriculture
- viii) Recreational Beekeeping

It is LGNSW's position, as emphasised throughout this submission, that councils should retain approval authority to determine what is locally appropriate. LGNSW further supports guidance, information sessions and other resources to assist councils and proponents understand the planning options available to them.

LGNSW refers DPIE to submissions from individual councils on these proposals, and requests that the above listed proposed changes to non-agritourism related agricultural activities warrant further consideration and consultation with councils by DPIE, with more detailed proposals for change. Councils will have feedback on specific setback distances and LGNSW, while not commenting on specifics, reiterates the integral role of buffers to guard against land use conflict in rural areas where agritourism is proposed to take place. DPIE should consult further about rural dwelling setbacks with the NSW Intensive Agriculture Consultative Committee which was established as part of the NSW Right to Farm Policy.

Recommendation 13: DPIE should provide more detailed proposals and justifications for agricultural planning amendments for activities deemed 'small scale', for consultation with councils and communities. Feedback about rural dwelling setbacks should also be sought from the NSW Intensive Agriculture Consultative Committee.

LGNSW has provided preliminary comment below on selected changes.

Signs

Destination NSW and Transport for NSW (formerly Roads & Maritime Services) have an established Tourist Signposting policy for state roads. The State-wide Tourist Attraction Signposting Program has been operating since 1990. Responsibility for the policy and its implementation rests with the Tourist Attraction Signposting Assessment Committee (TASAC). It is recommended that DPIE consult with TASAC about any proposed changes to the permissibility of signs for agritourism ventures.

Recommendation 14: DPIE should consult with the NSW Tourist Attraction Signposting Assessment Committee (TASAC) before making any changes to permissibility of signs for agritourism ventures.

Farm dams

The EIE proposes consolidating and simplifying planning terms and approval pathways for farm dams in the Standard Instrument LEP, the Primary Production and Rural Development SEPP, and the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation), but does not provide detail on how this might be done.

In LGNSW's view there do not appear to be any significant obstacles to building farm dams with capacity up to the Maximum Harvestable Rights limit (10% in the Central and Eastern Divisions of NSW), with licensing only required beyond that level.

There are important reasons for controls beyond that level as damming larger quantities of water on farms will deplete flows into town water storages (for which councils are frequently responsible), downstream irrigation and environmental flows.

In the absence of clear proposals and supporting evidence addressing potential adverse impacts, LGNSW is firmly of the view that it is not in community interests to relax existing regulation of farm dam approvals.

Recommendation 15: LGNSW is strongly opposed to the relaxation of existing regulation of farm dam approvals.

Other relevant matters

Surrounding issues potentially impacting agritourism

A member council has raised the issue that State Government should amend the Standard Instrument LEP provisions for home industries and home businesses to make those provisions more tailored for rural zones. The reforms could amend the Standard Instrument Local Order to enable councils to nominate different maximum floor areas for home industries and home businesses in rural areas to support this trend.

This is because the Standard Instrument currently does not enable councils to distinguish between home industries and businesses in urban areas and these businesses located in rural areas. In some rural areas, enabling a larger floor area would facilitate home businesses and industries that are suited to rural areas (e.g. a farrier business).

Recommendation 16: At the same time as the proposed amendments in the EIE, that the NSW Government should consider amendments to the Standard Instrument LEP provisions for home industries and home businesses to enable councils in rural and regional areas to nominate different maximum floor areas.

Recommendations

In summary, LGNSW makes the following recommendations:

Recommendation 1: It is recommended that the NSW Government not impose statewide exempt and complying agritourism development pathways for all councils, in recognition that a one-size-fits-all approach may have adverse impacts on local environment, amenity, infrastructure or adjoining land uses where the development is not appropriate for the local context.

Recommendation 2: The NSW Government should instead invite councils to opt-in parts or the whole of their LGA for these pathways where the council determines it is appropriate for the local context, via variations to the Exempt and Complying Development Codes SEPP.

Recommendation 3: In advance of inviting councils to opt-in, the NSW Government including DPIE, the NSW Small Business Commission, Service NSW and Destination NSW should together coordinate an information package specifically for councils that would highlight the benefits for agritourism and economic development and also how councils that opt-in can seek to remedy any potential adverse impacts.

Recommendation 4: In recognition that a NSW Agricultural Commissioner has been appointed, and that a consultation process by the Commissioner is ongoing, that DPIE work in conjunction with the Commissioner to ensure any proposals are considered alongside planning for and implementation of the NSW Agricultural Land Use Planning Strategy.

Recommendation 5: The NSW Government should support council staff (through an injection of funding, training and resources) to effectively support farm owners seeking approval for agritourism businesses, in recognition that farmers have limited time and resources to develop their tourism venture. The NSW Government should fund a business liaison officer in each NSW council to act as an entry point for farmers and other potential business owners to discuss their ideas with the council.

Recommendation 6: The NSW Government should commit to proactive and innovative solutions outside of the planning system, to support farm diversification. Due to the broad range of barriers reported by farmers in establishing agritourism businesses, the NSW Government should provide broader support including:

- workshops for farmers looking to establish an agritourism business,
- access to a tailored agritourism business concierge service through Service NSW, and
- guidance material which maps the range of requirements that farm tourism operators will need to meet.

Recommendation 7: The NSW Government publicly release detailed information on the agritourism pilot project, its outcomes, and how this project contributed to the planning proposals outlined in the EIE.

Recommendation 8: That all proposed changes to farm stay permissibility be made opt-in for councils to apply to parts or all of their LGA and DPIE work with councils to enable the revised definition in their LEP only if councils want to adopt it.

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Recommendation 14: DPIE should consult with the NSW Tourist Attraction Signposting Assessment Committee (TASAC) before making any changes to permissibility of signs for agritourism ventures.

Recommendation 15: LGNSW is strongly opposed to the relaxation of existing regulation of farm dam approvals.

Recommendation 16: At the same time as the proposed amendments in the EIE, that the NSW Government should consider amendments to the Standard Instrument LEP provisions for home industries and home businesses to enable councils in rural and regional areas to nominate different maximum floor areas.

* * *

LGNSW would welcome the opportunity to assist with further information during this review to ensure the views of local government are considered.

To discuss this submission further, please contact LGNSW Senior Policy Officer at elizabeth.robertson@lgnsw.org.au or on 02 9242 4028.

29 April 2021

Contact: *Stuart Little*
Telephone: *0436 948 347*
Our ref: *D2021/48564*

Department of Planning, Industry and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Dear Sir/ Madam

RE: Planning Amendments for Agriculture

I refer to the public exhibition of the proposed Planning Amendments for Agri-tourism and small-scale agriculture development as provided in the exhibited Explanation of Intended Effect (EIE) and the associated Frequently Asked Questions (FAQ) circular. WaterNSW understands that the proposed planning amendments seek to simplify approval pathways for small agritourism business activities and low-impact agricultural development on NSW farms.

WaterNSW is responsible for protecting water quality in the Sydney Drinking Water Catchment (SDWC) and for the management and maintenance of 42 dams across NSW. The SDWC covers an area of 1.6 million hectares, with about 38% of the catchment occupied by grazing or other agricultural uses.

The SDWC also include buffer areas around the water storages known as Special Areas where additional controls apply under the Water NSW Regulation 2020. WaterNSW also has responsibilities under State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 (SDWC SEPP) and section 9.1 Direction 5.2 to protect water quality and impose water quality considerations and requirements upon new development and Planning Proposals within the catchment. This includes requiring new development to have a neutral or beneficial effect (NorBE) on water quality

During our review of the proposed amendments, we identified two key issues that are relevant to our statutory role in catchment protection:

- Animal management in the Special Areas – there are inconsistencies between the animal management provisions of the *Water NSW Regulation 2020*, which apply to Special Areas, and the land use zoning controls for livestock that apply under relevant local environmental plans (LEPs).
- Pasture-based dairies – pasture-based dairies are permissible without consent across a number of rural and environmental protection zones within the Special Areas and across the wider SDWC. This is of concern given that livestock activities such as dairies can be a major source of nutrients and pathogens. Without the requirement for development consent, the provisions of the SDWC SEPP do not apply including the NorBE test.

We suggest a number of recommendations to address these two key issues. To assist the above and to better protect water quality in the SDWC, we also ask for some amendments to the exempt development provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP) to better protect the Special Areas and the water quality of waterways more generically.

With regard to the EIE, we are generally supportive of DPIE's intent to support agritourism and agribusiness ventures but have identified several areas where greater water quality considerations and controls may be needed. Our main concerns are with respect to requirements for on-site sewerage systems for camping and new cafes and restaurants. We also believe that the water quality risks associated with the processing of livestock and dairy products warrant development consent for these activities when proposed in the SDWC to ensure that they have a NorBE on water quality. We are generally supportive of the proposal to improve consistency with the way in which farm dams are regulated through planning controls. Given its responsibility for Water Supply Work Approvals, WaterNSW asks that a meeting be convened with DPIE to discuss the farm dam regulation issue in more detail, before settling on a preferred planning control approach.

Our comments on the relationship between the *Water NSW Regulation 2020* and the land use zoning controls for Special Areas and the regulation of dairies are provided in **Attachment 1**. Our comments on the EIE are provided in **Attachment 2**. Relevant Special Area maps are provided in **Attachment 3**.

We would be happy to meet with DPIE to discuss our suggestions in more detail.

If you have any questions regarding the issues raised in this letter, please contact Stuart Little at stuart.little@waterNSW.com.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Clay Preshaw'.

CLAY PRESRAW
Manager Catchment Protection

ATTACHMENT 1 – Improved Agricultural Controls for the Sydney Drinking Water Catchment (SDWC)

Animal Management - WaterNSW Regulation and Council LEP Controls

WaterNSW has identified an incongruity between the land use zoning controls of Councils and clause 30 of the *Water NSW Regulation 2020*, which provides controls on animal management in Special Areas including private lands. The Special Areas occupy about 364,778 hectares of land and operate as buffer areas to protect key water supply reservoirs in the Sydney Drinking Water Catchment (SDWC), with about 52,000 ha of the Special Areas occurring on private land (see **Attachment 3**, Map 1).

Clause 30 of the *Water NSW Regulation 2020* prohibits buildings and structures associated with aquaculture, intensive livestock agriculture and animal boarding and training establishments (ABTEs) in Special Areas, including the private lands. However, a number of Council zoning controls allow these uses with development consent (see Table 1). Further, section 51(2) of the *Water NSW Act 2013* states that ‘A regulation made under this Division prevails to the extent of any inconsistency with an instrument made under another Act (*other than a State environmental planning policy under the Environmental Planning and Assessment Act 1979*)’.

WaterNSW would like to work with DPIE to better align clause 30 of the Regulation with the controlling land use zoning provisions of Councils. Clause 30(1) and (2) of the Water NSW Regulation 2020 currently states:

30 Animal management on land identified in Schedule 1 or Schedule 2

(1) This clause applies to all land identified in Schedule 1 or Schedule 2 (including private land) other than land that is identified in Schedule 1 as excluded land¹.

(2) A person must not, on land to which this clause applies, erect, maintain or use a building or structure for the purposes of any of the following—

- (a) aquaculture,
- (b) intensive livestock agriculture,
- (c) an animal boarding or training establishment.

Maximum penalty—400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

The respective Council areas, land use zones, and the land use controls for the agricultural uses specified above for the Special Area private lands are presented in Table 1.² The green coloured cells highlight where the zoning controls prohibited the stated use and therefore align with clause 30. The orange coloured cells highlight where the land use planning controls allow consent for the uses above which is inconsistent with the provisions of clause 30. Land use zones of the Special Areas locations are shown for key areas in **Attachment 3**.

From Table 1, the main land use of concern is the permissibility of aquaculture, with pond-based aquaculture being the highest risk from a water quality perspective. This is due to the potential risk of pond overflows releasing phosphorus, nitrogen, pathogens, dead fish, and other contaminants into waterways and nearby reservoirs. The permissibility of intensive livestock agriculture in the RU1 and RU2 zones of the Wollondilly LEP is also a significant concern as feedlots and other intensive animal uses can present significant nutrient, pathogen and other contamination risks.

For Animal Boarding and Training Establishments (ABTEs), the main point of concern is permissibility within the RU1, RU2 and RU4 zones of the Wollondilly LEP, and to a lesser extent the E3 zone of the Wollongong LEP. Our main concern here is in relation to horse establishments.

Our current view is that these uses should be made to require development consent thereby ensuring their effectively regulation through the SDWC SEPP and the requirements for a neutral or beneficial effect (NorBE) on water quality, conformity with WaterNSW’s current recommended practices (CRPs) and our concurrence.

Table 1. Land Use Zone Permissibility for Animal Management structures regulated by Clause 30 of the Water NSW Regulation 2014.

¹Excluded land’ includes a part of the townships of Nattai Village, Yerrinbool and Medlow Bath.

² The analysis excluded public land including: NPWS Reserve, State Forests, Crown Land, Road Corridors, Railway Corridors, Waterway Corridors, Unidentified Parcels, and Water NSW Owned Land.

LGA	EPI Land Zone	Land Use Zone Name	Total		Clause 30 Water NSW Reg Uses				
			Hectares	Lot Count	ABTEs	Aquaculture			Intensive Livestock Agriculture
						Oyster-based (not relevant to SDWC) (delete)	Pond-based	Tank-based	
BLUE MOUNTAINS			744	2203					
	RU4	Primary Production Small Lots	21	2	Consent		Consent		Prohibited
	R2	Low Density Residential	1	23	Prohibited	Consent	Consent	Consent	Prohibited
	R3	Medium Density Residential	2	12	Prohibited	Consent	Prohibited	Consent	Prohibited
	B1	Neighbourhood Centre	1	15	Prohibited	Consent	Prohibited	Consent	Prohibited
	B2	Local Centre	0	6	Prohibited	Consent	Prohibited	Consent	Prohibited
	SP2	Infrastructure	23	126	Prohibited		Consent		Prohibited
	SP3	Tourist	3	20	Prohibited		Consent		Prohibited
	RE1	Public Recreation	3	16	Prohibited		Consent		Prohibited
	E1	National Parks and Nature Reser	56	44	Prohibited		Prohibited		Prohibited
	E2	Environmental Conservation	378	341	Prohibited	Consent	Prohibited	Prohibited	Prohibited
	E3	Environmental Management	67	92	Prohibited	Consent	Consent	Consent	Prohibited
	E4	Environmental Living	190	1499	Prohibited	Consent	Consent	Consent	Prohibited
	(blank)		0	7					
CAMPBELLTOWN			126	1					
	SP2	Infrastructure	126	1	Prohibited		With consent		Prohibited
FAIRFIELD			0	1					
	(blank)		0	1					
OBERON			17	1					
	E1	National Parks and Nature Reser	17	1	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
SHOALHAVEN			19	20					
	SP2	Infrastructure	19	12	Prohibited		Consent		Prohibited
	E2	Environmental Conservation	1	4	Prohibited	Consent	Prohibited	Prohibited	Prohibited
	E3	Environmental Management	0	3	Consent	Consent	Consent	Consent	Prohibited
	W1	Natural Waterways	0	1	Prohibited		Consent		Prohibited
SUTHERLAND SHIRE			12	10					
	SP2	Infrastructure	12	10	Prohibited		Consent		Prohibited
UPPER LACHLAN SHIRE			2742	29					
	E1	National Parks and Nature Reser	0	3	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
	E3	Environmental Management	2742	26	Prohibited	Consent	Consent	Consent	Prohibited
WINGECARRIBEE			30567	1412					
	RU2	Rural Landscape	0	2	Consent		Consent		Prohibited
	RU4	Primary Production Small Lots	47	67	Prohibited		Consent		Prohibited
	R2	Low Density Residential	31	297	Prohibited	Consent	Consent	Consent	Prohibited
	R5	Large Lot Residential	7	11	Prohibited	Consent	Consent	Consent	Prohibited
	IN1	General Industrial	6	10	Consent	Consent	Prohibited	Consent	Prohibited
	SP1	Special Activities	1	3	Prohibited	Consent	Consent	Consent	Prohibited
	SP2	Infrastructure	22	46	Prohibited	Consent	Consent	Consent	Prohibited
	RE1	Public Recreation	1	2	Prohibited	Consent	Consent	Consent	Prohibited
	E1	National Parks and Nature Reser	244	63	Prohibited		Prohibited		Prohibited
	E2	Environmental Conservation	3557	55	Prohibited	Consent	Prohibited	Prohibited	Prohibited
	E3	Environmental Management	26651	847	Prohibited	Consent	Consent	Consent	Prohibited
	(blank)		0	9					
WOLLONDILLY			15709	2742					
	RU1	Primary Production	5156	694	Consent		Consent		Consent
	RU2	Rural Landscape	3715	234	Consent		Consent		Consent
	RU4	Primary Production Small Lots	257	197	Consent		Consent		Prohibited
	R2	Low Density Residential	85	714	Prohibited	Consent	Consent	Consent	Prohibited
	R3	Medium Density Residential	2	17	Prohibited	Consent	Prohibited	Consent	Prohibited
	R5	Large Lot Residential	15	38	Prohibited	Consent	Consent	Consent	Prohibited
	B1	Neighbourhood Centre	4	11	Prohibited	Consent	Prohibited	Consent	Prohibited
	B2	Local Centre	1	19	Prohibited	Consent	Prohibited	Consent	Prohibited
	IN2	Light Industrial	1	6	Prohibited	Consent	Prohibited	Consent	Prohibited
	SP2	Infrastructure	2297	215	Prohibited		Consent		Prohibited
	RE1	Public Recreation	21	18	Prohibited		Consent		Prohibited
	RE2	Private Recreation	4	3	Prohibited		Consent		Prohibited
	E1	National Parks and Nature Reser	38	190	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
	E2	Environmental Conservation	457	70	Prohibited	Consent	Prohibited	Prohibited	Prohibited
	E3	Environmental Management	3628	294	Prohibited	Consent	Consent	Consent	Prohibited
	E4	Environmental Living	27	14	Prohibited	Consent	Consent	Consent	Prohibited
	UD		2	5					
	(blank)		0	3					
WOLLONGONG			2019	242					
	RU2	Rural Landscape	1	11	Consent		Consent		Prohibited
	B6	Enterprise Corridor	0	2	Prohibited	Consent	Prohibited	Consent	Prohibited
	SP2	Infrastructure	50	37	Prohibited		Consent		Prohibited
	RE2	Private Recreation	0	3	Consent		Consent		Prohibited
	E1	National Parks and Nature Reser	1	6	Prohibited		Prohibited		Prohibited
	E2	Environmental Conservation	1871	156	Prohibited	Consent	Prohibited	Prohibited	Prohibited
	E3	Environmental Management	89	26	Consent	Consent	Consent	Consent	Prohibited
	(blank)		6	1					
Grand Total			51957	6661					

Note: Some public lands have been included such as Council Reserves, infrastructure and National Parks Estate where zoning boundaries do not align with the tenure boundaries.

Note: Totals in bold are for the total area of private land in designated Special Area.

Recommendation

We recommend the following approach to reconcile the incongruity between the land use zoning controls and clause 30 of the Water NSW Regulation:

1. Amend the Water NSW Regulation so that buildings and structures for the agricultural uses listed only attract penalties issued by WaterNSW *if they have been unlawfully constructed*.³
2. Seek for pond-based aquaculture to be prohibited in the Special Areas due to its water quality risk.
3. Seek for the Wollondilly LEP to be amended so that intensive livestock agriculture is prohibited from RU1 and RU2 zones in the Special Area due to the water quality risk of this use.
4. Address ABTEs through the Water NSW Regulation 'lawfulness' provision above with additional controls on horse establishments delivered through:
 - a. Amendments to the WaterNSW Current Recommended Practice (CRP) (to be done in-house by WaterNSW), and
 - b. Amendments to exempt provisions within the Codes SEPP (discussed separately below under 'Exempt Development - Animal housing and related uses').

Dairies (Pasture-based)

Within the Special Areas that occur on private land, there are significant areas of land where dairies (pasture-based) are allowed without development consent (see Table 2). This is largely due to the due 'extensive agriculture' being permitted without consent and the fact that dairy (pasture-based) is included within that definition (see Standard Instrument—Principal Local Environmental Plan, dictionary). This includes significant areas of rural and environmentally zoned land (RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots, E3 Environmental Management and E4 Environmental Living) within the designated Schedule 2 Special Area in the general vicinity the Oaks and Oakdale.

The adoption of Standard Instrument definitions by clause 30 of the *Water NSW Regulation 2020* has also meant that pasture-based dairies are currently excluded from our controls, something that we are also seeking to rectify.⁴

The above matters are of significant concern to WaterNSW as new dairies, or the intensification of existing dairies, can generate significant pathogen and nutrient loads from effluent and manure solids, particularly in the vicinity of the milking shed. Such contaminants can readily find their way into watercourses if they are not managed correctly.

In situations where development consent is not required for dairies, the SDWC SEPP does not apply and requirements for a NorBE on water quality, conformity with WaterNSW current recommended practices, and the need for concurrence from WaterNSW, become bypassed. Existing dairies already occur in Wollondilly within the Schedule 2 lands of the Warragamba Special Area and in Wingecarribee within the Schedule 1 lands associated with the Upper Nepean catchment of the Metropolitan Special Area. It is not unreasonable to expect that these dairies might be intensified in the future or that new or nearby dairies relocate into these areas.

Further to the above, our concern over dairies being permissible without development consent also extends to other areas in the wider SDWC, predominantly in the Southern Highlands (Wingecarribee LGA) and Kangaroo Valley (Shoalhaven LGA) where existing dairies are located. The WaterNSW pollution Source Assessment Tool (2016) identifies intensive animal production (particularly dairies) as a high risk in the eastern Wingecarribee and Kangaroo valley areas.

Some land use zones in these areas also allow pasture-based dairies to occur without development consent. This includes land zoned RU2 and RU4 in Wingecarribee Shire (see Table 2) and land zoned RU1 and RU2 within the Shoalhaven LGA. All dairies in the Kangaroo Valley drain into the Kangaroo River which provides the source water for Kangaroo Valley village as well

³ The proposed amendment to Clause 30(2) regarding lawfulness could be based on a similar provision under cl 12(2) of the Water NSW Regulation whereby a person does not commit an offence for interfering with water in Special Areas by reason of anything done with lawful authority. In the case of cl 30(2), relevant approvals such as development consent under the *Environmental Planning and Assessment Act 1979* or licence under the *Protection of the Environment Operation) Act 1997* could be specifically referenced.

⁴ Clause 30(2) of the Water NSW Regulation 2020 includes 'intensive livestock agriculture' which by definition only includes 'dairy (restricted)' uses, not 'dairy (pasture-based)'.

as acting as a secondary source of water for Sydney, the Southern Highlands, and Illawarra through the Shoalhaven Scheme. As any new dairy is likely to be located in these areas, we are also seeking to make dairies (pasture-based) require development consent in the relevant rural and environmental zones of the outer catchment.

Table 2. Land use zones in Special Areas where dairies (pasture-based) are permissible without development consent.

LGA	EPI Land Zone	EPI Zone Name	Total		Dairies (Pasture-based)
			Hectares	Lot Count	Permissibility
UPPER LACHLAN SHIRE		Total Special Area Private Land	2742	29	
	E3	Environmental Management	2742	26	Without consent
WINGECARRIBEE		Total Special Area Private Land	30567	1412	
	RU2	Rural Landscape	0	2	Without consent
	RU4	Primary Production Small Lots	47	67	Without consent
WOLLONDILLY		Total Special Area Private Land	15709	2742	
	RU1	Primary Production	5156	694	Without consent
	RU2	Rural Landscape	3715	234	Without consent
	RU4	Primary Production Small Lots	257	197	Without consent
	E3	Environmental Management	3628	294	Without consent
	E4	Environmental Living	27	14	Without consent
WOLLONGONG		Total Special Area Private Land	2019	242	
	RU2	Rural Landscape	1	11	Without consent

Recommendation

In light of the above WaterNSW seeks to work with DPIE to introduce the following requirements:

1. Amend Clause 30 of the *Water NSW Regulation 2020* to list '(d) dairies (pasture-based)' under clause 30(2). With the other proposed amendment to clause 30, regarding lawfulness, new dairies passing through the development consent process will not attract penalties. We assume that existing structures would also be lawful under continuing and existing use rights.
2. Introduce requirements for dairies (pasture-based) to be 'permissible with consent' across the following zones for the Sydney Drinking Water Catchment:
 - RU1, RU2, RU4, E3 and E4 zones across the Wollondilly LGA where the LGA occurs within the SDWC (NB. All Wollondilly LGA land that overlaps with the SDWC is designated Special Area land). Note also, as 75% of the entire Wollondilly LGA lies within the SDWC, it may be simpler to introduce the requirement for the stated zones across the whole Wollondilly LGA).
 - RU2 and RU4 zones across the entire Wingecarribee LGA (97% of the Shire resides within the SDWC)
 - RU1 and RU2 zones in Shoalhaven LGA where the LGA occurs within the Sydney Drinking Water Catchment
 - E3 zone for Upper Lachlan LGA where the LGA overlaps with the SDWC.

Exempt Development - Animal housing and related uses

In canvassing the above issues, we have identified that State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the Codes SEPP) allows certain animal structures as exempt development within Special Areas, which is inconsistent with clause 30 of the Water NSW Regulation. We are therefore seeking to bring those structures within the ambit of requiring development consent. We have also observed that some agricultural related structures have no setback requirements from waterways, and that water quality and waterways in general would benefit if such setbacks were applied.

Recommendation

In light of the above, WaterNSW requests that the following suggested Amendments (Table 3) be added to Part 2 Exempt Development Codes under the Codes SEPP:

Table 3. Suggested Amendments to Exempt Development Codes for Water Quality Protection.

Exempt Development Type	Subdivision	clause	Issue	Suggested Amendment
Animal shelters	3A	2.6B(2)	No provision for 'animal shelters other than for stable for keeping of horses' to be setback from waterways	Add – 'the development must be located at least 50 m from a waterbody (natural)' (see Subdivision 16A).
As above	As above	As above	At cross-purposes with cl 30(2) of WaterNSW Regulation	Exclude application of the clause from 'Special Area' as defined under the WaterNSW Act [or to the area identified under cl 30(1) of the Water NSW Regulation 2020].
Animal shelters	3A	2.6B(3)	No provision for 'stable for keeping of horses' to be setback from waterways. WaterNSW has identified water quality issues regarding stabling of horses in areas around the Oaks and Oakdale which is private land Special Area (Schedule 2) land	Add – 'the development must be located at least 100m from a waterbody (natural)' (see Subdivision 16A).
As above	As above	As above	At cross-purposes with cl 30(2) of WaterNSW Regulation	Exclude application of the clause from 'Special Area' as defined under the WaterNSW Act [or to the area identified under cl 30(1) of the Water NSW Regulation 2020].
Farm buildings (other than stock holding yards, grain silos and grain bunkers)	Subdivision 16	cl 2.31	At cross-purposes with cl 30(2) of WaterNSW Regulation	Exclude application of the clause from 'Special Area' as defined under the WaterNSW Act [or to the area identified under cl 30(1) of the Water NSW Regulation 2020].
Stock holding yards not used for sale of stock	Subdivision 16A	cl 2.32	At cross-purposes with cl 30(2) of WaterNSW Regulation	Exclude application of the clause from 'Special Area' as defined under the WaterNSW Act [or to the area identified under cl 30(1) of the Water NSW Regulation 2020].
Fuel Tanks and Gas Storage (for agricultural activities)	21AA	2.42AA	Allows the construction or installation of an above ground fuel tank or gas storage facility for agricultural activity as exempt development if it is constructed or installed on a lot in a rural zone that is larger than 2ha and is not constructed or installed in an environmentally sensitive area. Potential water quality impacts if fuel leaks or impacts to catchment if such structures explode during a bushfire event.	Add – 'the development must be located at least 100m from a waterbody (natural)' (see Subdivision 16A).

Complying Development – Inland Code – Farm Buildings

WaterNSW seeks a minor amendment to the Inland Code for Farm buildings. Our concern here is that for the SDWC, a farm building on unsewered land may contain toilet facilities, such as for farm workers, or be used to house livestock without appropriate water quality or effluent management controls in place.

Recommendation

We would ask that provisions be included under 'Division 7 Development standards for farm buildings (other than stock holding yards, grain silos and grain bunkers) in Zones RU1, RU2, RU3, RU4, RU6 and R5' to default farm buildings to requiring development consent if located on unsewered land in the SDWC if the building is:

- a) To provide toilet facilities, or
- b) To house livestock where effluent management activities are required

ATTACHMENT 2 – WaterNSW Comments on Explanation of Intended Effect (EIE) for Agritourism and Small-scale agriculture development

Overview

The proposed amendments to the NSW planning system seek to streamline 'agritourism' and small-scale agricultural development approvals through new exempt and complying development provisions. They also seek to respond to natural disasters such as droughts and bushfires, and to simplify planning approvals for development and activities that have low environmental impact. While we are generally supportive of the intent of the proposal to help re-invigorate rural economies, rural lands are generally unsewered and thereby warrant greater controls for water quality protection.

Our main concern is that a number of proposed changes are directed to streamline approvals for livestock processing activities which we believe are not low impact and can have adverse impacts on water quality and human health. This includes farm gate activities that include 'processing' which is undefined, and the provisions proposed for small scale processing plants.

Due to potential water quality risks, we believe that all agricultural processing activities within the Sydney Drinking Water Catchment (SDWC) should require development consent and attract the provisions of SDWC SEPP, including the NorBE test. Our other concern is that the fast-track approvals for agritourism ventures such as farm stay accommodation, farm gate activities and farm events do not take due account of the need for on-site sewerage systems and for these to be designed based on peak use.

We have structured our specific comments below based on the order of issues as they appear in the EIE.

Proposed Water Quality Standards

In preparing our response, we have attempted to develop additional development standards for water quality protection. As these standards apply across a suite of proposed agricultural uses, we have prepared a Table (Table 4) and identified the relevant standard with a water quality standard (WQS) number (see below). This is also to assist the ease of referencing. Where appropriate, we refer to the relevant WQS number and associated standard we believe needs to be assigned to the exempt or complying development provision. The relevant standards of this Table should be referred to wherever the term 'WQS' is used. The detailed examination of the provisions is provided in Table 5.

Table 4. Key to Water Quality Standards (WQS) referred to in this Attachment.

Water Quality Standard (WQS) No.	Standard
Sewage Management	
WQS 1	Sewage is to be managed via appropriately designed on-site wastewater management systems with wastewater collection and storage capacity based on peak wastewater loading and built to contemporary standards. ⁵
WQS 2	Effluent Management Areas (EMAs) for on-site sewerage systems are to be located 100m from waterways including intermittent watercourses and 40 m from farm dams and drainage lines

⁵ Depending upon the type, scale and frequency of the site use, the treatment capacity of the wastewater and sizing of effluent management area can be designed based on average wastewater loading to allow wastewater treatment and effluent disposal of greater than average loads to occur slowly over time.

Water Quality Standard (WQS) No.	Standard
WQS 3	Within the Sydney Drinking Water Catchment, on-site sewerage systems are to be consistent with WaterNSW's current recommended practices.
WQS 4	Human waste must be managed either via portable facilities and disposed of off-site into Council's reticulated sewerage system or via appropriately designed on-site wastewater management system with wastewater collection and storage capacity based on peak wastewater loading. ⁶
Use, number of buildings and size	
WQS 5	For the purposes of farm stay accommodation, the number of bedrooms shall not exceed the number of bedrooms permitted under cl 5.4 of the LEP.
Setbacks	
WQS 6	Set back at least 100 m from waterways including intermittent watercourses and 40 m from farm dams and drainage lines.
Number and types of agriculture processing allowed under farm gate activities	
WQS 7	Include upper limiting numbers be specified for the types of animals that can be considered as processing within the definition of 'farm gate activities'.
Agricultural waste processing	
WQS 8	All livestock carcasses to be disposed of in accordance with DPI publication 'Animal carcass disposal (March 2021, Primefact PUB21/202, Second edition)' including requirements for on-farm burial sites (if used) to be setback 200 m from waterways and farm dams.
WQS 9	All effluent from processing of agricultural produces is to be managed via appropriately designed on-site wastewater management systems with wastewater collection and storage capacity based on peak wastewater loading. Waste streams for such processing are to be kept separate from any waste streams required for the treatment of human waste (sewage).
WQS 10	Effluent Management Areas (EMAs) for agricultural effluent management systems are to be located 100m from waterways including intermittent watercourses and 40 m from farm dams and drainage lines and to be separated from the effluent management areas required for on-site sewerage systems by at least 20 m.

⁶ Depending upon the type, scale and frequency of the site use, the treatment capacity of the wastewater and sizing of effluent management area can be designed based on average wastewater loading to allow wastewater treatment and effluent disposal of greater than average loads to occur slowly over time.

Table 5. Detailed Analysis on Explanation of Intended Effect (EIE) for Agritourism and Small-scale agriculture development

Section	Topic	Issue	Recommendation
3.2 Farm stay accommodation	Overview	The proposed reforms seek to increase the number of persons that can be accommodated through farm stay accommodation without requiring development consent, and to broaden the use to include camping. We do not have any issues with the proposed definitional change but note that camping can introduce its own range of environmental impacts which would need to be controlled.	Not applicable
	Permissibility and approval pathways	We agree with the intent of not changing the permissibility requirements within Council LEPs. However, we do hold concerns over the proposed approval pathways through new complying and exempt development provisions and the implications this may have for water quality within the unsewered rural lands of the SDWC. The amendments also need to align with clause 1.19(1)(j) of the Codes SEPP which states that for the SDWC, complying development cannot occur on unsewered land if the development will result in an increase to the number of bedrooms on the site or result in a site disturbance area of more than 250m ² .	General need for amendments to align with cl 1.19(1)(j) of the Codes SEPP.
	Change of use of an existing dwelling or part of an existing dwelling	The proposed change of use of an existing dwelling or part of an existing dwelling will allow up to 2 persons aged over 12 years per bedroom as 'exempt development'. There is no ceiling on the number of bedrooms that are allowed to be converted under this 'change of use' provision. We request DPIE to include an upper limit on the number of guest bedrooms and suggest that this be half the number of bedrooms allowed under clause 5.4(5) of the council's LEP	Use, number of buildings and size The number of bedrooms allowed shall be no more than half the bedrooms allowed under clause 5.4(5) of Council's LEP
		For the SDWC, the 'change of use' provisions appears to be at cross-purposes with clause 1.19(1)(j) of the Codes SEPP which, for unsewered areas in the SDWC, defaults development with additional bedrooms to requiring development consent. This then enables a neutral or beneficial effect (NorBE) test on water quality to be undertaken under the SDWC SEPP to help inform the nature and capacity of the on-site sewerage systems required	To keep consistency with cl 1.19(1) of the Codes SEPP, we request that this proposed 'exempt development' provision for a 'change of use' not apply to the SDWC if it involves the conversion of existing non-bedroom rooms to bedrooms.
		The waste management provisions (page 10) do not explicitly include provisions for on-site sewerage management. It is unclear whether reference to 'putrescible and organic waste' is intended as a 'soft' reference to sewage or is made in reference to kitchen waste, in which case sewage management is currently unaddressed. For the change of use to occur as 'exempt development' we ask that additional provisions be included for sewage management.	Sewage management Apply controls WQS 1, WQS 2 and WQS 3
	Use of land for farm stay accommodation	The 'Use of land for farm stay accommodation' provisions will allow accommodation of up to 20 persons in any tents, caravans or other portable or temporary structure for up to 14 days to pass as 'exempt	Sewage management Apply controls WQS 4, WQS 2 and WQS 3.

Section	Topic	Issue	Recommendation
		development'. This is a large number of persons being accommodated on unsewered rural land. Again, WaterNSW holds concerns that the provisions for sewage are not strong enough and rely on human waste being taken off-site. To protect water quality and human health, we suggest the inclusion of specific provisions for the management of human waste (sewage).	
		The EIE indicates that tents, caravans, campervans etc, must be setback 100 m from any waterway. We agree with this setback as it will help protect water quality. We also believe such sites should be setback from farm dams and other artificial water structures which may hold water for stock and other uses.	The setback from waterways be extended to include a 'waterbody (artificial)' (i.e. for farm dams) or that an additional separate buffer distance of 40 m be listed for farm dams
	Change of use of an existing building or manufactured home	It is proposed to enable a change of use of an existing building or manufactured home to farm stay accommodation on rural zoned land as complying development under the Codes SEPP. This appears to relate to buildings that are not currently used as dwellings (previously discussed under exempt development) to make them habitable for farm-stay purposes. In effect, this is adding new bedrooms for temporary residential uses in buildings that are unlikely to have an existing on-site wastewater system. Three issues arise here (see below).	Not applicable.
		First, while there is a cap on a maximum number of six dwellings on a landholding, there is no upper limiting threshold on farm stay accommodation in terms of the number of bedrooms specified in Councils LEP under clause 5.4. We believe there needs to be a cap on the number of bedrooms allowed as per the LEP.	Use, number of buildings and size Apply control WQS 5
		Second, the provisions seem at cross-purposes with cl 1.19(1)(j) of the Codes SEPP. WaterNSW believes that for the SDWC, if the area is unsewered and new bedrooms are being created in buildings that were not previously used as dwellings, then the proposal should default to requiring a full development application and attract the provisions of the SDWC SEPP.	For the SDWC, any change of use of an existing building or manufactured home in unsewered areas should not pass as complying development, if that development will result in an increase to the number of bedrooms on the site or in a site disturbance area of more than 250m2.
		Third, the waste management provisions for the 'change of use' do not specifically reference on-site sewerage systems and development standards for services are based on sewerage services being provided by a water utility, on the assumption that the site can be connected to the reticulated sewer. WaterNSW recommends additional provisions be included for sewage management.	Sewage management Apply control WQS 1 and WQS 2.
	Erection, alteration or addition to a	It is proposed to enable the erection, alteration or addition to a building or manufactured home for farm stay accommodation to pass as complying development on rural zoned land. Most rural land will be unsewered. While	Use, location and size Apply control WQS 5.

Section	Topic	Issue	Recommendation
	building or manufactured home	there is a cap on a maximum number of six dwellings on a landholding, there is no upper limit on the number of bedrooms. The provision should tie to the number of bedrooms allowed for farm stay accommodation as stated in Councils LEP under clause 5.4.	
		We note that there is a proposed development control for services which specifically applies to the SDWC. Under 'services', the EIE states 'The development cannot occur on unsewered land to which State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 applies, if that development will result in an increase to the number of bedrooms on the site or in a site disturbance area of more than 250 square metres or in any other drinking water catchment identified in any other environmental planning instrument'. WaterNSW strongly supports this provision as it reflects the content of clause 1.19(1)(j) of the Codes SEPP.	Support and retain current development standard for services which reflects the provisions of clause 1.19(1)(j) of the Codes SEPP.
		For areas outside the SDWC, or for more generic operation across the State, DPIE may wish to consider adding additional development controls for sewage management.	Sewage management Apply control WQS 1 and WQS 2.
		There are no setbacks from waterways required for new buildings.	Setbacks Apply control WQS 6.
	Development Application	The EIE (p 13) proposes an optional clause for farm stay accommodation presumably to be included in the Standard Instrument. The proposed clause includes allowing the number of people accommodated in any buildings/manufactured homes to be three times the number of bedrooms permitted under clause 5.4(5) of the council's LEP, or the number the council specifies in its LEP. WaterNSW does not support this provision due to risks to water quality likely to arise from additional pressures on sewage treatment systems. Water NSW believes that the provision should be consistent with the number of bedrooms permitted under cl 5.4(5) rather than allowing the flexibility for Councils to increase this threefold.	WaterNSW believes that the proposed optional clause for farm stay accommodation should not allow three times the number of bedrooms allowed by the relevant LEP but be consistent with the number of bedrooms permitted under clause 5.4(5) of the LEP.
		We note that it is intended to amend cl 2.6 of the Standard Instrument LEP Order to prevent the creation of a dwelling entitlement as a result of farm stay accommodation. WaterNSW is supportive of this approach in order to minimise the intensity of on-site sewerage systems occurring across the rural landscape. We would also ask that consideration be given to not allowing changes in minimum lot sizes on rural properties based on the presence and availability of farm stay accommodation. The Department may wish to include a provision in clause 4.1 of the Standard instrument or include an additional consideration under clause 4 of Ministerial s 9.1 Direction 1.5 Rural Lands to give this effect.	The Department may wish to include a provision in cl 4.1 of the Standard Instrument or include an additional consideration under cl 4 of Ministerial s 9.1 Direction 1.5 Rural Lands to ensure that increased farm stay accommodation is not used as leverage to reduce minimum lot sizes in rural areas.

Section	Topic	Issue	Recommendation
	Farm Stay Accommodation - Consultation Questions	Question 2 asks: 'Where a development application is required, should farm stay accommodation be permitted only on land that benefits from a dwelling entitlement?'. WaterNSW strongly encourages farm stays to be only allowed on a lot that contains a dwelling entitlement. This ensures that the farm stay uses are not used as future leverage to acquire dwelling entitlements on land where dwelling entitlements do not exist	WaterNSW strongly encourages farm stays to be only allowed on a lot that contains a dwelling entitlement.
3.3 Farm gate activities	Overview	The EIE proposes to introduce a new land use term 'farm gate activities' into the Standard Instrument to provide greater opportunities for landowners to showcase local agricultural produce through retail sales, a small restaurant or café, or tastings and workshops. To ensure farm gate activities remain low intensity uses, it is proposed to introduce an optional clause that councils can choose to adopt and tailor to suit local conditions. Exempt and complying development pathways are also proposed.	Not applicable.
		The definition of 'farm gate activities' will allow the establishment of a restaurant or café for agricultural produce grown on the farm or predominantly grown in the surrounding area. The creation of cafes and restaurants will also increase pressure on existing on-site sewerage treatment systems or require new systems to be installed.	Not applicable – discussed below.
	Permissibility	<p>A new land use term 'agritourism' is proposed for the Standard Instrument. 'Farm gate activities' will be a subset of this 'agritourism' which in turn will be a subset of the existing land use term 'agriculture'. Existing terms such as 'roadside stall' and 'cellar door premises' will become subsets of the new 'farm gate activities' term.</p> <p>The EIE (page 15) suggests an approach where 'farm gate activities' will be initially permissible in all LEPs by relying on the term 'agriculture', with the intention being that Councils could then refine their LEPs over time to permit 'farm gate activities'. For LEPs that distinguish between 'intensive livestock agriculture' and 'extensive agriculture' and 'intensive plant agriculture' and which bypass using the generic term 'agriculture', there is the risk that 'farm gate activities' will default to being prohibited. This is because the structure of some LEP land use tables for rural zones defaulting to prohibition of any uses not identified as being 'permissible without consent' or 'permitted with consent'. In such situations, 'farm gate activities' are likely to fall through the definitional cracks and default to being prohibited. Sample LEPs where this scenario might eventuate include Blue Mountains LEP 2015 (RU2 zone), Lithgow LEP 2014 (RU1, RU2 zones), Palerang LEP 2014 (RU1 zone). While not directly affecting water quality, this seems to counter the intent of the reforms. DPIE may want to explore this potential prohibition further.</p>	DPIE may want to explore approach to permissibility of 'farm gate activities' as it may inadvertently result in prohibition in some LEP zones.

Section	Topic	Issue	Recommendation
		<p>The proposed new provisions for 'farm gate activities' are likely to increase risks to water quality and human health if not carefully managed. WaterNSW holds a concern that the definition of 'farm gate activities' includes the 'processing' of agricultural produce (e.g. cider or meat production). The term 'processing' is not defined and no controls are proposed. Processing of crops for cider or beer production, or of animals for meat production, are likely to require specialised effluent treatment and management measures on unsewered land. Such activities can also carry human health risks.</p> <p>In terms of water quality risks, WaterNSW holds a concern that rural or other zones where 'agriculture' is permitted without consent, that consent would not be required for 'farm gate activities' which, by definition, would include the processing of agricultural produce. The production of milk into cheese, apples into cider, or livestock into meat, will require the disposal of liquid and solid wastes. There are no specific development controls currently listed to cater for the processing of domestic livestock and agricultural produce. For unsewered rural land, this is likely to require specially designed wastewater treatment systems and likely require the waste streams from agricultural and human wastes to be kept separate. The processing of agricultural produce can generate significant water quality risks and possibly human health risks.</p>	<p>WaterNSW strongly recommends that the definition of 'farm gate activities' be amended to exclude 'processing' due water quality and health risks.</p> <p>As a minimum, WaterNSW requests that 'farm gate activities' involving the processing of agricultural produce not be allowed to pass as exempt or complying development if proposed on unsewered land in the SDWC.</p>
	Exempt development	<p>It is proposed to allow use of land for farm gate activities as exempt development subject to certain development standards. The current development standards do not include standards to contain and treat effluent and solids waste from the processing of animals and plants. They also do not address the need for effluent management for on-site sewerage systems which may be required for restaurants and cafes in unsewered areas. To this end we note that the exempt development provisions allow a maximum number of 50 guests at any one time. To manage the sewage generated from cafes and restaurants, additional development controls should be added.</p>	<p>Sewage management Apply control WQS 1 and WQS 2</p>
		<p>The number and types of produce proposed to be allowed as 'processing' under 'farm gate activities' are not specified. There are also limited controls for the management of 'processing' wastes. Additional measures are required to protect water quality.</p>	<p>If processing of agricultural products is to be contemplated as 'exempt development', then we ask the following controls be added:</p> <p>Number and types of agriculture processing allowed under farm gate activities Apply control WQS 7</p>

Section	Topic	Issue	Recommendation
			Agricultural waste processing Apply controls WQS 8, WQS 9, and WQS 10.
	Complying development	It is proposed to allow the 'change of use of an existing building' to a farm gate activity premises on rural zoned land as complying development and introduce a range of development standards. Again, this does not contemplate the change of use of on building for agricultural processing and another for a café or restaurant. Both would require their own respective wastewater treatment systems. The consideration of services is currently limited to situations where 'water supply or sewerage services (or both) is to be provided by a water utility' in which case 'the applicant must obtain written advice that specifies the works or other requirements to be completed from the relevant water utility'. This does not cater for unsewered areas where effluent management will be required on-site	To manage the sewage generated from cafes and restaurants, we ask that the following additional development controls be added: Sewage management Apply controls WQS1 and WQS 2
		The number and types of produce proposed to be allowed as 'processing' under 'farm gate activities are not specified. There are limited controls for the management of 'processing' wastes. Additional measures are required to protect water quality.	WaterNSW asks for the following development controls to be added: Number and types of agriculture processing allowed under farm gate activities Apply control WQS 7 Agricultural processing waste Apply controls WQS 8, WQS 9 and WQS 10
		It is proposed to allow the erection, alteration or addition to a building for a farm gate activity on rural zoned land as complying development subject to development standards. For services, the proposed development control states that 'development cannot occur on unsewered land in the Sydney drinking water catchment if it will cause a site disturbance area of more than 250 square metres, or in any other drinking water catchment identified in an environmental planning instrument'. WaterNSW supports this provision	Support and retain current development standard for services which reflects the provisions of cl 1.19(1)(j) of the Codes SEPP.
		The proposed complying development provisions for the erection, alteration or addition to a building for a farm gate activity on rural zoned land does not cater for the management of waste generated by 'processing' activities nor the human waste (sewage) generated by cafes and restaurants. To manage the sewage generated from cafes and restaurants, additional development controls should be added	Sewage management Apply controls WQS 1 and WQS 2
		The proposed complying development provisions for the erection, alteration or addition to a building for a farm gate activity on rural zoned land does not cater for buildings that might be used for processing. Provisions need to be included for the management of waste generated by 'processing' activities.	If processing of agricultural products is contemplated as 'complying development', then we ask the following:

Section	Topic	Issue	Recommendation
			Number and types of agriculture processing allowed under farm gate activities: Apply control WQS 7 Agricultural processing waste Apply controls WQS 8, WQS 9 and WQS 10.
		There are no setbacks from waterways required for new buildings.	WaterNSW asks for the following development control to be added: Setbacks Apply control WQS 6
3.4 Farm events	Definition	It is proposed to introduce a new land use term 'farm events' into the Standard Instrument LEP Order to permit events, tours, functions, conferences, fruit picking, horse riding and other similar experiences on land for which the principal use of the land is the production of agricultural goods for commercial purposes. The definition will also enable farm events on a commercial farm that is currently not producing goods because of drought or similar events outside the landowner's control. Function centres and conferences will require appropriate management of sewage through on-site systems or portable toilets.	See below.
	Permissibility	'Farm events' would be a subset of the new term 'agritourism' in the Standard Instrument LEP which in turn would be a subset of the existing land use term 'agriculture'. These changes mean that initially, farm events will be permissible in all LEPs where 'agriculture' is currently permissible. As raised earlier, the risk with this approach is for those Council LEPs that don't use the term 'agriculture' but instead rely on more specific referencing of 'intensive livestock agriculture', 'intensive plant growing' and 'extensive agriculture', 'agritourism' could default to being prohibited due to the structure of the land use tables defaulting to prohibition for any works not directly referenced in the land use tables.	DPIE may want to explore approach to permissibility of 'farm events' and 'agritourism' as it may inadvertently result in prohibition in some LEP zones.
	Exempt development	It is proposed to allow the use of rural zoned land for a farm event that does not involve manufacturing food or drink as exempt development subject to certain development standards. This includes 52 event days per year and up to 30 guests per event, or 10 event days per year and up to 50 guests per event. Such events often rely on imported toilets. WaterNSW asks for the specific development controls to be added.	Sewage management Apply controls WQS 4, WQS 2 and WQS 3.
	Complying development	It is proposed to allow a change of use of an existing building to farm event premises on rural zoned land as exempt development. This includes 52 event days per year and up to 30 guests per event, or 10 event days per	Sewage management Apply controls WQS 4, WQS 2 and WQS 3.

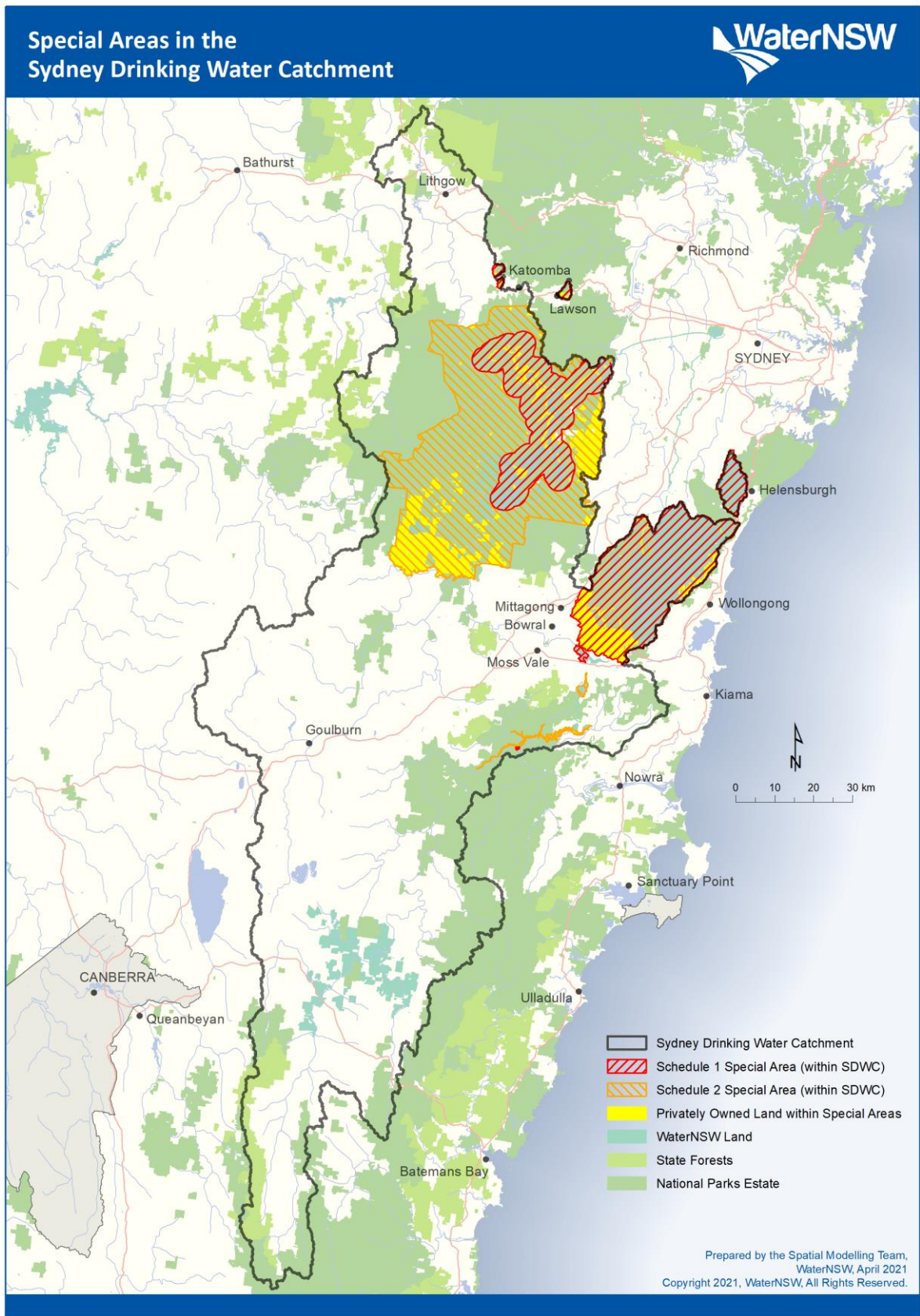
Section	Topic	Issue	Recommendation
		year and up to 50 guests per event. Such events often rely on imported toilets.	
		It is proposed to allow the 'Erection, alteration or addition to a farm event building' as complying development subject to certain development standards. We note that for services, the EIE (p. 24) states 'the development cannot occur on unsewered land in the Sydney water catchment if it will cause a site disturbance area of more than 250 square metres, or in any other drinking water catchment identified in an environmental planning instrument'. WaterNSW is supportive of this provision. WaterNSW is supportive of this provision. However, this does not address the risks arising from the human waste (sewage) generated by such events.	Support and retain current development standard for services which in part reflects the provisions of cl 1.19(1)(j) of the Codes SEPP. WaterNSW asks for the following development controls to be added. Sewage management Apply controls WQS 4 and WQS 2, and WQS
		There are no setbacks from waterways required for new buildings.	WaterNSW asks for the following development control to be added: Setbacks Apply control WQS 6
3.5 Additional Proposed changes to Agritourism		No issues.	
3.6 Small-scale Processing Plants		It is proposed to amend the Codes SEPP to allow small-scale processing plants associated with agricultural produce industries that process meat and dairy, so that these can pass as complying development. The complying development provisions would rely on the definitions of livestock processing industries and agricultural produce industries contained in the Standard Instrument. Apart from dairy (for which an upper limit of 3 million litres p.a. is stipulated), all throughputs are stated in terms of the number of animal carcasses allowed for different types of domestic livestock. WaterNSW does not support small-scale livestock processing plants passing as complying development in the SDWC due to the risk of waste products on water quality and human health. Processing of livestock can result in the release of pathogens, nutrients, and diseases. While setback distances of 100m are proposed for waterways, there are no provisions for the management of effluent and other animal wastes, or recognition that such works may require specialised waste treatment systems and associated effluent management areas. Complying development bypasses the requirements of State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 that apply to protect water quality in the SDWC. The proposal would therefore enable small-scale livestock processing	WaterNSW <u>strongly</u> requests that the SDWC be excluded from the proposed complying development provisions for small sale processing plants so that all such plants pass through the full development application and assessment process and attract the full provisions of the SDWC SEPP including requirements for a NorBE on water quality.

Section	Topic	Issue	Recommendation
		plants to bypass the need to have a NorBE on water quality, or to comply with any current recommended practices (CRPs), and any need to obtain concurrence from WaterNSW. We believe the potential contaminants and human health risks arising from small-scale processing of livestock are too great to warrant such proposals passing as complying development.	
3.7 Rebuilding of farm Infrastructure		To assist in efficient disaster recovery following future bushfire events, amendments to the Codes SEPP are proposed to allow farm buildings that have been damaged or destroyed by a natural disaster event to be rebuilt as exempt development, if built to a contemporary standard and in the same location. DPIE may want to explore whether it can allow an option to rebuild as exempt development if such structures are allowed to be reconstructed as exempt development if located further away from the bushfire hazard. This could be informed by a Bushfire Attack Level (BAL) assessment undertaken by an accredited bushfire consultant.	DPIE may wish to explore whether rebuilds can occur as exempt development if such structures are located further away from the bushfire hazard than the destroyed structure.
3.8 Stock containment areas		<p>It is proposed to allow minor permanent infrastructure (stock containment areas or other feeding or housing arrangements) to be developed without consent for temporary stock containment, to assist farmers during and immediately after natural disasters, and for routine animal husbandry purposes. We note that the amendments include introducing locational requirements for all stock containment areas in response to past impacts on waterways and the oyster industry.</p> <p>While we support the proposed setback of such structures from waterways, we have concerns over related exempt development for animal shelters for horses being allowed within 100 m of waterways and ask that similar 100 m thresholds be introduced for those structures (Codes SEPP, Part 2 Exempt Development Codes, Subdivision 3A, Animal Shelters, cl 2.6B(3)). This issue is canvassed under Attachment 1.</p>	<p>WaterNSW is supportive of the new proposed requirement of only allowing such structures to occur without development consent when they are not located within 100 metres of a natural watercourse.</p> <p>WaterNSW asks that similar 100 m thresholds be introduced for stabling of horses (Codes SEPP, Part 2 Exempt Development Codes, Subdivision 3A, Animal Shelters, cl 2.6B(3)). See also comments in Attachment 1 herewith.</p>
		Stock containment areas will naturally concentrate stock and therefore stock waste. We hold a concern that stock containment measures such as 'housing' might be created without effective effluent management measures in place. We also hold a concern that the proposed provisions might be used by farmers to create permanent horse stables and thereby over-riding any development consent requirement that might otherwise apply through provisions for 'animal boarding and training establishment' (ABTE) and 'intensive livestock agriculture'. We therefore suggest additional controls be added.	<p>To protect water quality, WaterNSW asks that the following additional control be added:</p> <ul style="list-style-type: none"> • That explicit provisions be included that prohibit long-term stock housing arrangements under this clause. This could be defined as use of temporary measures beyond a designated timeframe (say 6 or 12 months). • That, for the SDWC, any 'feeding' or 'housing' structures that generate liquid waste (i.e., require effluent management activities), not be allowed to pass as 'development without consent'.

Section	Topic	Issue	Recommendation
			<ul style="list-style-type: none"> That 'feeding' or 'housing' structures only be allowed where feed and manure solids are regularly collected and appropriately treated and/or disposed of.
		We note that the current provisions for stock containment areas and feedlots are spread across the Primary Production and Rural Development (PPRD) SEPP and Standard Instrument and that options to locate these controls in one place are being explored. We are supportive of rationalising the controls and associating them within one environmental planning instrument	WaterNSW supports the proposed rationalisation of controls for stock containment areas and feedlots.
3.9 Farm Dams		<p>WaterNSW supports the intention of simplifying and standardising the planning system with regard to the controlling provisions for new farm dams. The permissibility and consent requirements for farm dams needs to take into account approvals and controls under other Acts such as in relation to Water Supply Works approvals under the <i>Water Management Act 2000</i> and controls on farm dams with Special Areas under the <i>Water NSW Regulation 2020</i> (see clause 12).</p> <p>The permissibility or otherwise of farms dams varies significantly between LEPs and between different land use zones. This makes it time consuming for WaterNSW when it receives a Water Supply Works Approval application for a dam and needs to first determine if a DA is required.</p> <p>At this stage the EIE does not discuss in any detail how farm dams might be regulated. Matters that need to be considered include how farm dams are defined. For example, turkeys nest dams, which can be seen as minimal impact can in fact be very large and can have significant impacts. Dams used for irrigation are not minor works, whether it be a dam that captures or stores water. The definition may also need to distinguish between farm dams (for stock water, fire protection and crop or pasture irrigation purposes) as opposed to effluent ponds created for the primary purposes of effluent management (associated with Sewerage Treatment Plants, intensive livestock, dairies, etc).</p> <p>Planning controls for farm dams also need to be sensitive to zoning controls, environmentally sensitive areas. Controls may also need to differ between the eastern seaboard and the western areas of the State. The provisions may also need to have some exclusions from consent. For example the Department could consider not requiring consent when dams are proposed by a Government agency as part of gully erosion repair or other environmental protection works or purposes. Controls may also need to take into account situations involving a change of use, such as from a farm dam to a stormwater detention control measure.</p>	<p>WaterNSW asks that a meeting be held with DPIE to discuss the farm dam regulation issue in more detail before settling on a preferred planning control approach to farm dams.</p> <p>It may be helpful if DPI prepared a separate discussion paper on farm dams once planning control options are canvassed more fully.</p> <p>In considering regulatory options, it is suggested that DPIE explore definitional as well as permissibility issues with regard to farm dams.</p> <p>Consideration needs to be given to farm dam and related controls under other legislation.</p> <p>Consideration could be given to excluding consent requirements when dams are proposed by a Government agency as part of gully erosion repair or other environmental protection works or purposes.</p>

Section	Topic	Issue	Recommendation
		WaterNSW asks that a meeting be held with DPIE to discuss the farm dam regulation issue in more detail before settling on a preferred planning control approach.	
3.10 Biosecurity		<p>Amendments are proposed to cl 5.18 of the Standard Instrument to better address biosecurity for poultry farms and pig farms. This includes allowing poultry farms to be developed without consent from 1,000 to 10,000 birds, subject to locational restrictions. It is also proposed that development consent not be required for pig farms with fewer than 20 breeding sows, or fewer than 200 pigs (of which fewer than 20 can be breeding sows) but only if they are not within 3000m of another pig farm. We note that other locational restrictions in clause 5.18 will remain and that the PPRD SEPP will be amended to align with these changes.</p> <p>WaterNSW holds concerns that the increase in poultry production from 1,000 to 10,000 birds can increase demand on waste management including disposal of dead birds, and the management, treatment and disposal of poultry manure. We note that clause 5.18 only allows development small scale intensive agriculture without development consent if it is not in a drinking water catchment.</p>	WaterNSW does not object to the proposed changes to cl 5.18, provided that clause 5.18(4)(b)(iii) is not altered and remains applicable (i.e., the 'development without consent' provisions continue to not apply to land located in a drinking water catchment).
3.11 Rural dwelling setbacks from intensive livestock agriculture		WaterNSW has no objection to the larger proposed setbacks being proposed to separate rural dwellings from uses such as intensive livestock agriculture, intensive plant agriculture, rural industries etc. DPIE may wish to explore whether it also wants to introduce a distance requirement for dairies (pasture-based) as dairy sheds can also be a source of odour along with paddocks applied with effluent irrigation or sludge removed from dairy effluent ponds. The Department may wish to consider smaller buffer distances such as 250 m for these situations	DPIE may wish to explore whether it also wants to introduce a distance requirement for dairies (pasture-based) as dairy sheds can also be a source of odour along with paddocks applied with effluent irrigation or sludge removed from dairy effluent ponds. The Department may wish to consider smaller buffer distances such as 250 m for these situations.
3.12 Recreational Beekeeping		WaterNSW has no objections to the proposed amendments to clarify that recreational beekeeping is exempt development subject to certain standards being met	No comment.
Other – Oyster aquaculture		We have observed unusual situations where many inland councils have land use tables for rural and other zones that include oyster-based aquaculture, identifying this use as requiring development consent or being prohibited. It may be useful to only include oyster aquaculture provisions in those LEPs where the Council areas are on the coast or have estuaries and waterways with a tidal influence.	DPIE may wish to explore whether LEP zoning controls for oyster-based aquaculture could be removed from inland LEPs and only apply in those LEPs where the Council areas are on the coast or have estuaries and waterways with a tidal influence.

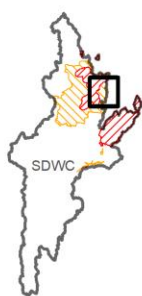
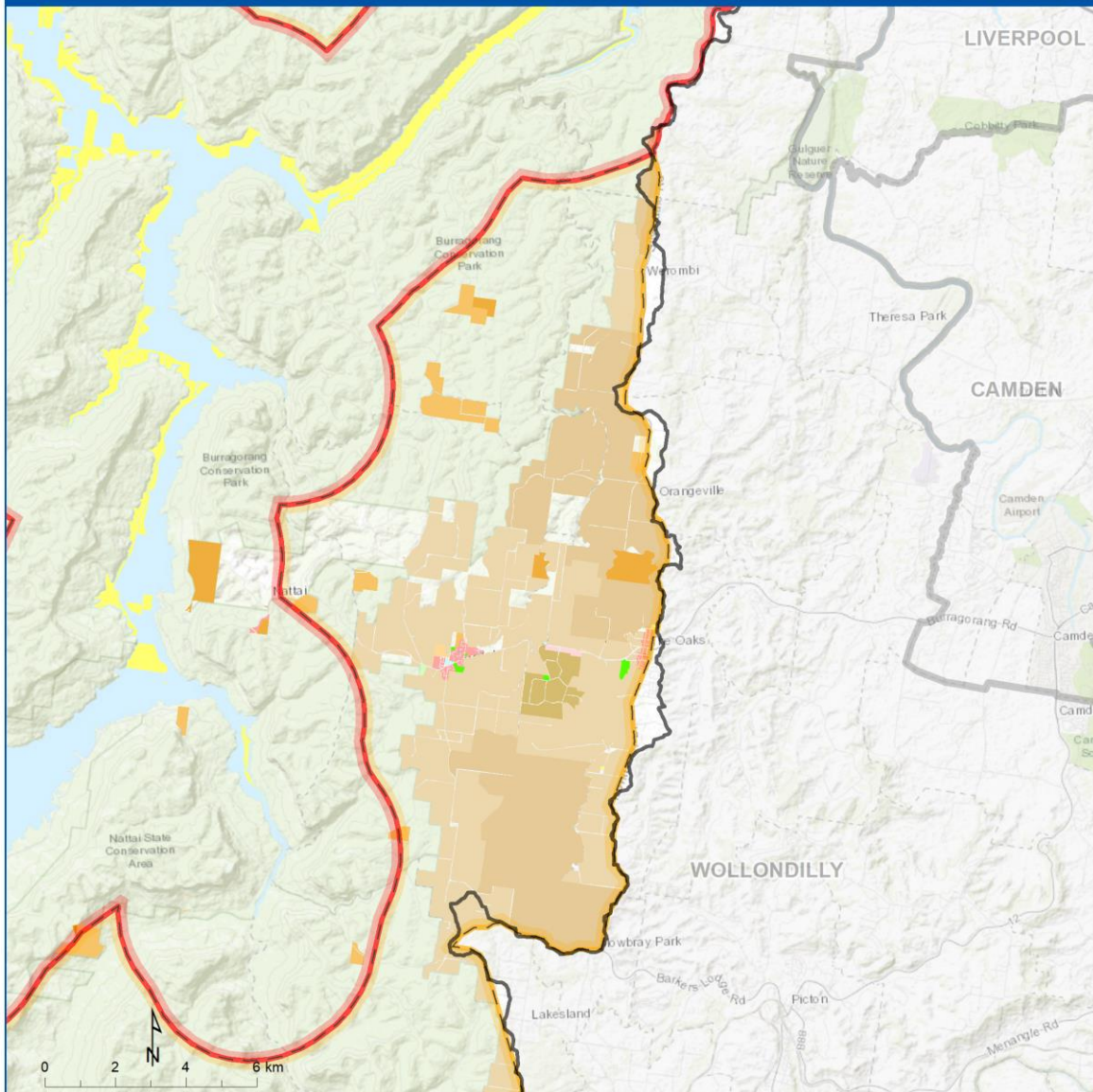
ATTACHMENT 3 – Special Area Private Land Maps



1. Location of Special Areas highlighting areas of private land within the Sydney Drinking Water Catchment.

Map

Main Areas of Private Land Special Areas and Associated Zoning: The Oaks/Oakdale



Land Use Zone for Private Land within Special Areas of Sydney Drinking Water Catchment

RU1 - Primary Production	B1 - Neighbourhood Centre	RE1 - Public Recreation
RU2 - Rural Landscape	B2 - Local Centre	RE2 - Private Recreation
RU4 - Primary Production Small Lots	B6 - Enterprise Corridor	E1 - National Parks and Nature Reserves
R2 - Low Density Residential	IN1 - General Industrial	E2 - Environmental Conservation
R3 - Medium Density Residential	IN2 - Light Industrial	E3 - Environmental Management
R5 - Large Lot Residential	SP1 - Special Activities	E4 - Environmental Living
	SP2 - Infrastructure	UD Urban Development
	SP3 - Tourist	W1 Natural Waterways

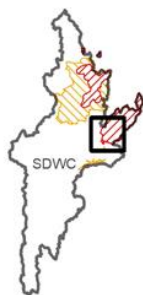
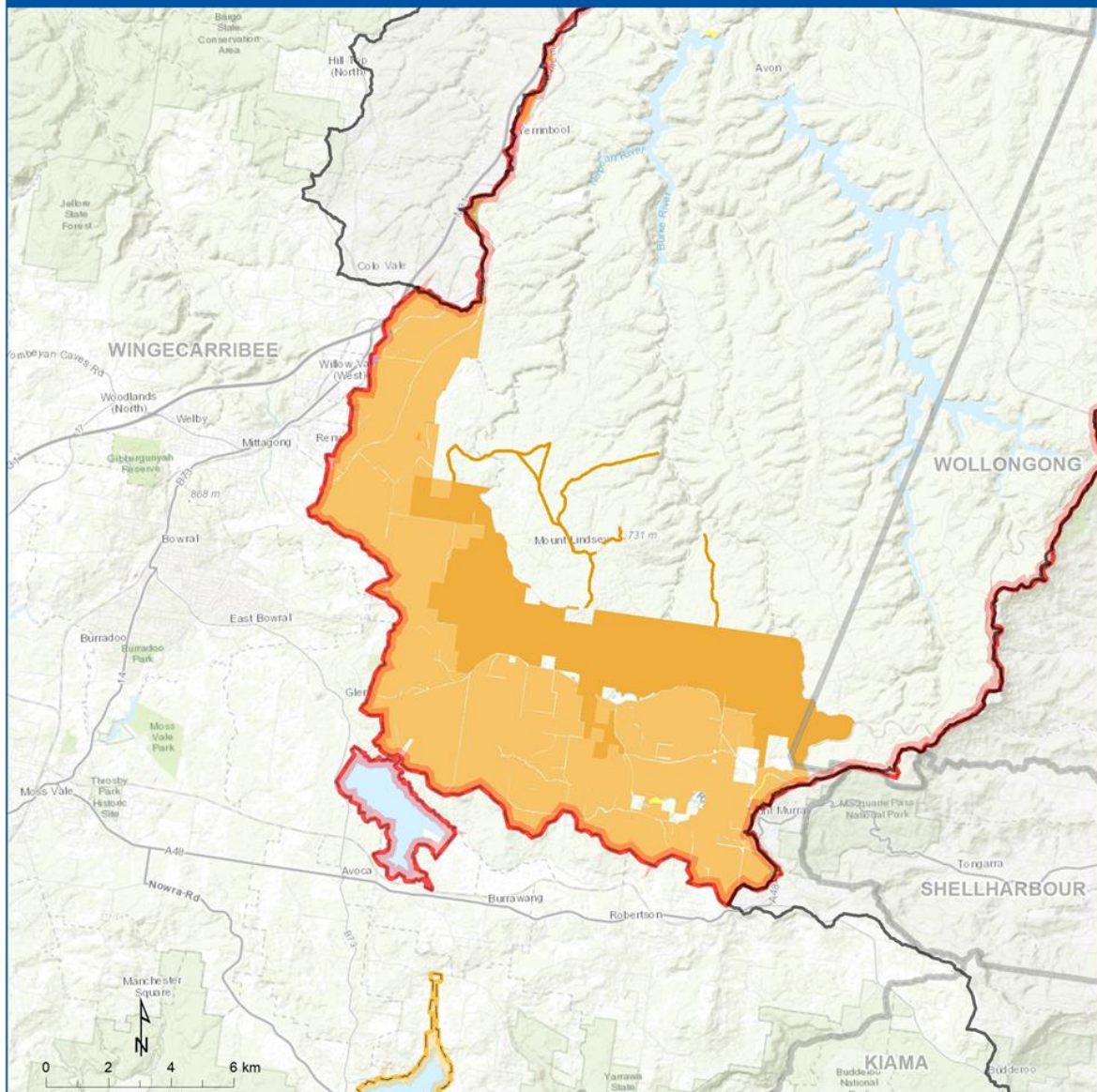
Sydney Drinking Water Catchment
 Local Government Area
 Schedule 1 Special Area (within SDWC)
 Schedule 2 Special Area (within SDWC)

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 WaterNSW, April 2021
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Map

2. Land use zones within private land Special Area in the vicinity of The Oaks and Oakdale.

Main Areas of Private Land Special Areas and Associated Zoning: Upper Nepean - Southern Highlands



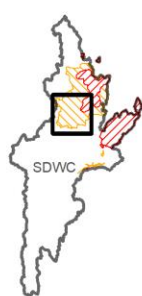
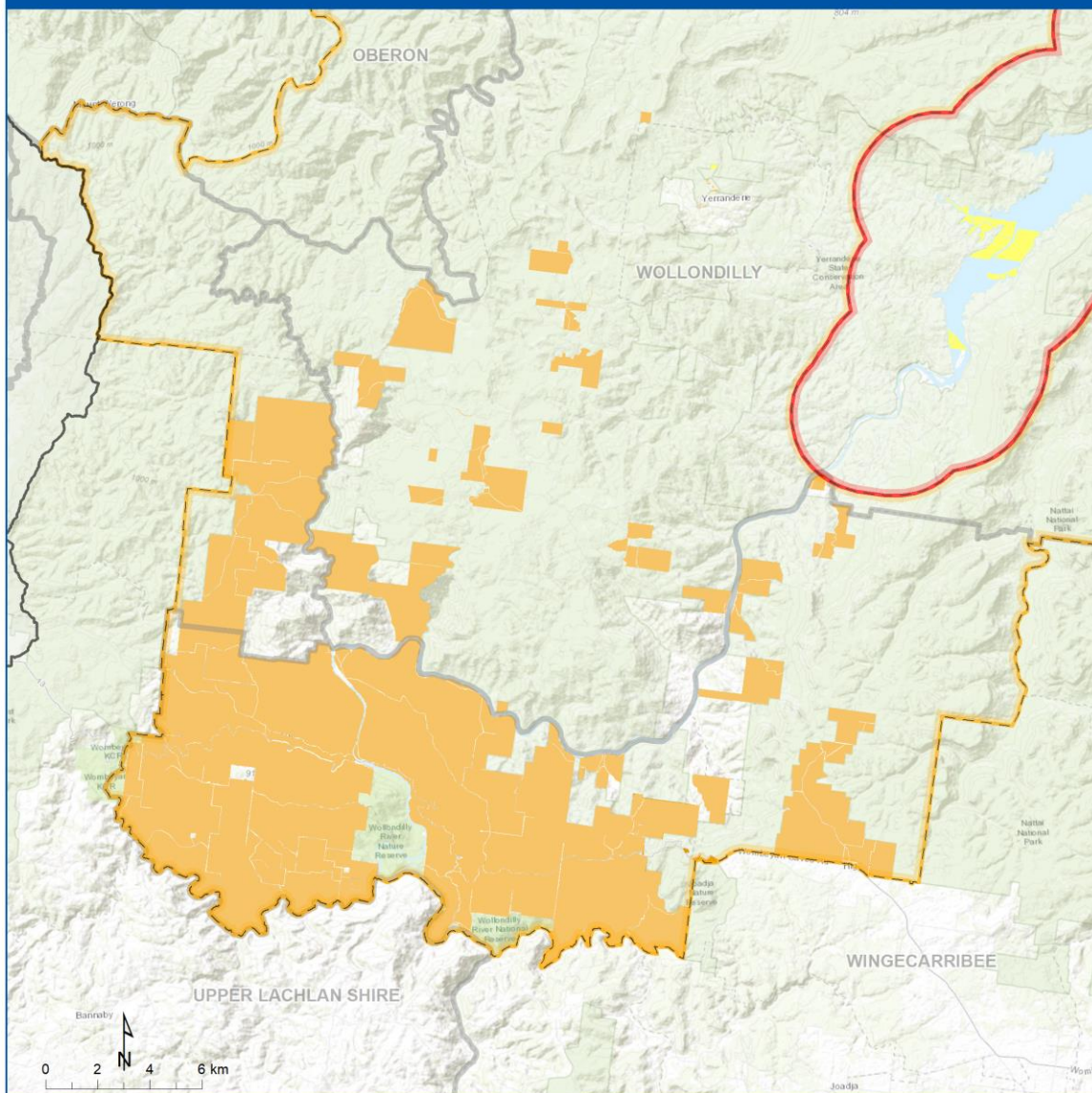
Land Use Zone for Private Land within Special Areas of Sydney Drinking Water Catchment

RU1 - Primary Production	B1 - Neighbourhood Centre	RE1 - Public Recreation
RU2 - Rural Landscape	B2 - Local Centre	RE2 - Private Recreation
RU4 - Primary Production Small Lots	B6 - Enterprise Corridor	E1 - National Parks and Nature Reserves
R2 - Low Density Residential	IN1 - General Industrial	E2 - Environmental Conservation
R3 - Medium Density Residential	IN2 - Light Industrial	E3 - Environmental Management
R5 - Large Lot Residential	SP1 - Special Activities	E4 - Environmental Living
	SP2 - Infrastructure	UD Urban Development
	SP3 - Tourist	W1 Natural Waterways
— Sydney Drinking Water Catchment		
— Local Government Area		
— Schedule 1 Special Area (within SDWC)		
— Schedule 2 Special Area (within SDWC)		

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Map 3. Land use zones within private land Special Area in the Upper Nepean Catchment, Southern Highlands.

Main Areas of Private Land Special Areas and Associated Zoning: Wollondilly River



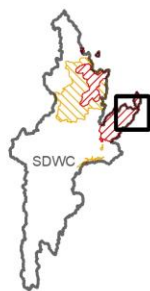
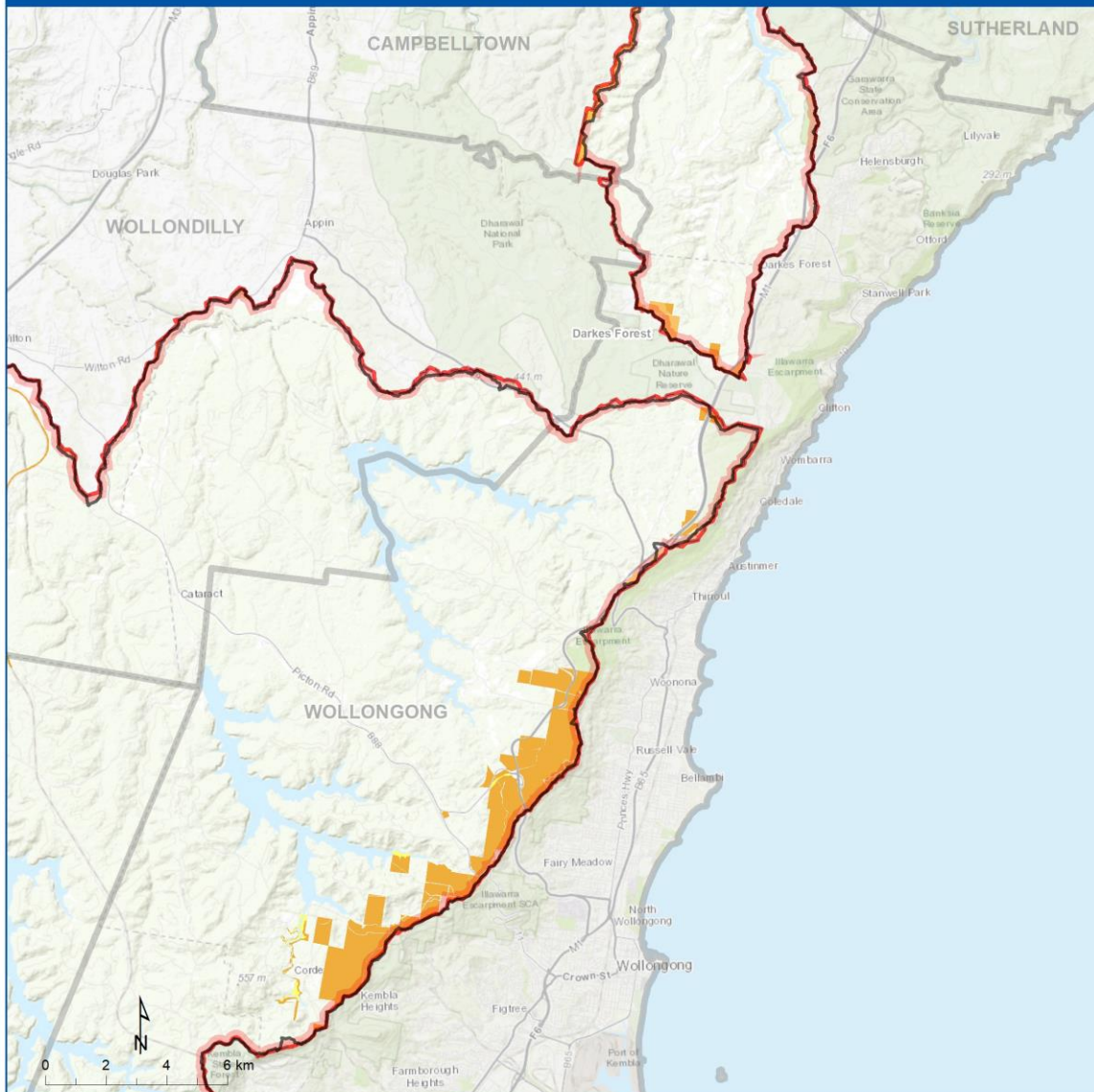
Land Use Zone for Private Land within Special Areas of Sydney Drinking Water Catchment

RU1 - Primary Production	B1 - Neighbourhood Centre	RE1 - Public Recreation
RU2 - Rural Landscape	B2 - Local Centre	RE2 - Private Recreation
RU4 - Primary Production Small Lots	B6 - Enterprise Corridor	E1 - National Parks and Nature Reserves
R2 - Low Density Residential	IN1 - General Industrial	E2 - Environmental Conservation
R3 - Medium Density Residential	IN2 - Light Industrial	E3 - Environmental Management
R5 - Large Lot Residential	SP1 - Special Activities	E4 - Environmental Living
	SP2 - Infrastructure	UD Urban Development
	SP3 - Tourist	W1 Natural Waterways
<div style="border: 1px solid black; width: 20px; height: 10px; display: inline-block;"></div> Sydney Drinking Water Catchment <div style="border: 1px solid grey; width: 20px; height: 10px; display: inline-block;"></div> Local Government Area <div style="border: 2px solid red; width: 20px; height: 10px; display: inline-block;"></div> Schedule 1 Special Area (within SDWC) <div style="border: 2px solid orange; width: 20px; height: 10px; display: inline-block;"></div> Schedule 2 Special Area (within SDWC)		

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Map 4. Land use zones within private land Special Area in Wollondilly River and Upper Lachlan Area.

Main Areas of Private Land Special Areas and Associated Zoning: Wollongong - Illawarra Escarpment



Land Use Zone for Private Land within Special Areas of Sydney Drinking Water Catchment

RU1 - Primary Production	B1 - Neighbourhood Centre	RE1 - Public Recreation
RU2 - Rural Landscape	B2 - Local Centre	RE2 - Private Recreation
RU4 - Primary Production Small Lots	B6 - Enterprise Corridor	E1 - National Parks and Nature Reserves
R2 - Low Density Residential	IN1 - General Industrial	E2 - Environmental Conservation
R3 - Medium Density Residential	IN2 - Light Industrial	E3 - Environmental Management
R5 - Large Lot Residential	SP1 - Special Activities	E4 - Environmental Living
Sydney Drinking Water Catchment	SP2 - Infrastructure	UD Urban Development
Local Government Area	SP3 - Tourist	W1 Natural Waterways
Schedule 1 Special Area (within SDWC)		
Schedule 2 Special Area (within SDWC)		

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WaterNSW, April 2021
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Map 5. Land use zones within private land Special Area in vicinity of the Illawarra escarpment.



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Telephone: 1300 66 00 87

21st April 2021

Our reference: 1038.3613

The Planning Secretary
Department of Planning, Industry & Environment
Submitted via the Planning Portal

Dear Sir

RE: Planning amendments for Agriculture - submission

We write to generally support the initiatives you have placed on exhibition in relation to planning amendments for Agriculture. We expect that the proposals for *Agritourism* outlined in the exhibition material might not be suitable for all areas of the State. Some localities like the Northern Rivers are already under stress from Agritourism type activities and these areas may not need or desire the additional intensity that the mooted Agritourism provisions might provide.

The main reason for this submission is to ask that when you tweak various Agricultural provisions you should also give consideration to adjusting Clause 4.2 of the Standard Instrument. As you know that clause provides as follows:

4.2 Rural subdivision [compulsory if clause 4.1 adopted and land to which Plan applies includes land zoned RU1, RU2, RU3, RU4 or RU6]

(1) The objective of this clause is to provide flexibility in the application of standards for subdivision in rural zones to allow land owners a greater chance to achieve the objectives for development in the relevant zone.

(2) This clause applies to the following rural zones—

(a) Zone RU1 Primary Production,

(b) Zone RU2 Rural Landscape,

(baa) Zone RU3 Forestry,

(c) Zone RU4 Primary Production Small Lots,

(d) Zone RU6 Transition.

(3) Land in a zone to which this clause applies may, with development consent, be subdivided for the purpose of primary production to create a lot of a size that is less than the minimum size shown on the Lot Size Map in relation to that land.

(4) However, such a lot cannot be created if an existing dwelling would, as the result of the subdivision, be situated on the lot.

(5) A dwelling cannot be erected on such a lot.

In our experience, many Councils rail against the ability to create primary production lots sometimes confusing them as some new form of 'concessional lot'. To make these provisions workable It needs to be made clear in the Standard Instrument Clause 4.2 that both the primary production lot and the residual lot need not comply with the minimum area specifications in the Instrument in which the clause is adopted.

Set out below is a little story about a property in Federal that is particularly telling in terms of the importance of this provision.

In 2011, we submitted a Development Application to Byron Shire Council for Coffee Union Pty Ltd (Coffee Union). The proposal was to create a "production lot" without any dwelling entitlement and

retaining the house erected on the parcel on a separate lot (see **Annexure A**). For the reasons explained further, our client saw this application as a “proof of concept” in terms of the ability to be able to “pull back” wasted agricultural land from parcels historically approved as “concessional lots”. If our client was able to “detach” good agricultural land from the concessional lot “dwelling entitlement” then the real agricultural land value would be applicable to the “production lot” and the land value would not be inflated with a dwelling entitlement value.

At the time, the Rural Lands SEPP contained provisions to enable the creation of production lots without dwelling entitlements and those provisions remain today in the Standard Instrument.

Coffee Union owned land on the other side of Federal Road, Federal. That land has an established coffee plantation with 54000 coffee trees and a \$750,000 coffee processing hub which has eliminated the need for any off farm transportation (see Map 6 in **Annexure A**). All solid waste was captured, composted and reused on the plantation. The onsite wastewater recycling is the most sophisticated and environmentally advanced within the Australian coffee industry. Coffee Union had major interests in local coffee production and worldwide coffee sales. It was the owner of the brand *Green Cauldron* and had established its first coffee shop in the United Kingdom under the name Green Cauldron which had just been voted best coffee shop in the UK and green beans from the Federal farm has just been included in a Fortnum and Mason Jubilee blend with the royal seal of approval.

Coffee Union’s business plan required it to elevate its existing production from 54,000 trees to 150,000 trees over the next 3 year period. To ensure quality in the growing, harvesting, roasting and production of coffee for the international market Coffee Union had developed a comprehensive coffee-growing manual and engaged the University of Queensland to investigate all aspects of coffee growing and quality alongside Intellectual Property rights for varieties with the goal of mimicking the success of the Australian wine industry. This research was funded by \$200,000 from Coffee Union and \$600,000 of government grants.

Coffee Union has undertaken to lease the proposed production lot (the lot with no dwelling entitlement) and use it for agriculture production. Coffee Union was also actively seeking out other properties in the Byron Bay hinterland to develop for coffee growing. Approval of this application would give Coffee Union the confidence to continue this search of additional agricultural land in the Byron Bay hinterland.

Coffee Union had chosen to locate its coffee-growing areas and processing plant in the Shire of Byron for very deliberate reasons. The deep red krasnozems; lack of frosts and the southern latitude and unique microclimate created by Mount Warning emulate the long ripening period and cooler growing conditions typical to the world’s best coffees. These characteristics make the locality of the Byron Bay Hinterland ideally suited to the production of coffee.

However, the available “farming land” in the Byron hinterland has been in very large part consumed by “lifestyle owners” many of whom do not use their land for commercial productive agricultural purposes. In many cases these lifestyle owners let their land become overrun with weed species (particularly Camphor Laurel). The key driver of the price for farmland in this area is not agricultural quality but the lawful permissibility of a “dwelling house entitlement” (see Maps 1-7 in **Annexure A** and look at the number of dwellings that have been built in the locality over the time period of the aerial photography).

To lease land for agricultural purposes in a rural area can only be for a maximum period of 5 years without the creation of a subdivision (see **Annexure B**). Coffee takes about 5 years to grow from seedling to harvestable state and then the minimum Return On Investment time is 12 years. Accordingly, un-subdivided lot leasehold use of land for coffee agricultural production is not plausible.

Council refused the development application mainly because it was of the view that *“the development application ... creates the equivalent of a concessional allotment”*.

“Concessional lots” were abandoned by Byron Shire Council with the making of the Byron LEP in 1988.

Concessional lots involved the creation of additional small dwelling lot(s) for family members or others. The Coffee Union subdivision sought to create a lot for agricultural use with no dwelling entitlement and no potential for an additional entitlement whatsoever arises from the proposed subdivision.

Proposed Lot 1 (the dwelling house lot) in the Coffee Union subdivision proposal was similar in size to the former “concessional lot”. Byron Shire Council regularly approves rural subdivisions with lots sizes similar to (and sometimes less) than proposed for Lot 1. A Land Use Conflict Risk Assessment was prepared in association with the primary production proposal which showed the suitability for proposed Lot 1 containing the dwelling house.

The matter was considered by the Land and Environment Court. Unfortunately (in my opinion), Councils advocacy was convincing and the Court refused the appeal.

On the sidelines of the Court proceedings, Council indicated that it would be happy to proceed with a boundary adjustment subdivision which set the existing dwelling house on a separate parcel and provided for the annexure of the residual land proposed by us as a production lot to the adjoining Coffee Union land. We submitted this application and it was approved. In our view this is a perverse outcome whereby Council argued in Court tooth and nail about the "creation of a concessional lot" but happily proceeded by way of boundary adjustment to in essence, create exactly the same circumstances.

Unfortunately, by proceeding in the manner it did and not approving the production lot approach, the "proof of concept" Coffee Union required to be able to proceed to approach others in the region to create "production lots" for the advancement of coffee growing and processing activity failed!

The outcome of the situation described above was that Coffee Union is not able to create a subdivision for rural production purposes and its "proof of concept" failed. Further, Coffee Union was not able to compete for rural land on a price-driven by "dwelling house entitlement". The upshot of all this is that Coffee Union abandoned their plans for coffee agricultural production and the 540,000 trees on the Coffee Union farm have been removed (see Maps 9 and 10 in **Annexure A**) and the former Coffee Union property is now a desolate paddock. The region has effectively been robbed of an emerging industry!

Should you require any additional information or wish to clarify any matter raised by this submission, please feel free to contact me at any time.

Yours faithfully,

PLANNERS NORTH



Stephen Connelly RPIA (Fellow)

PARTNERSHIP PRINCIPAL

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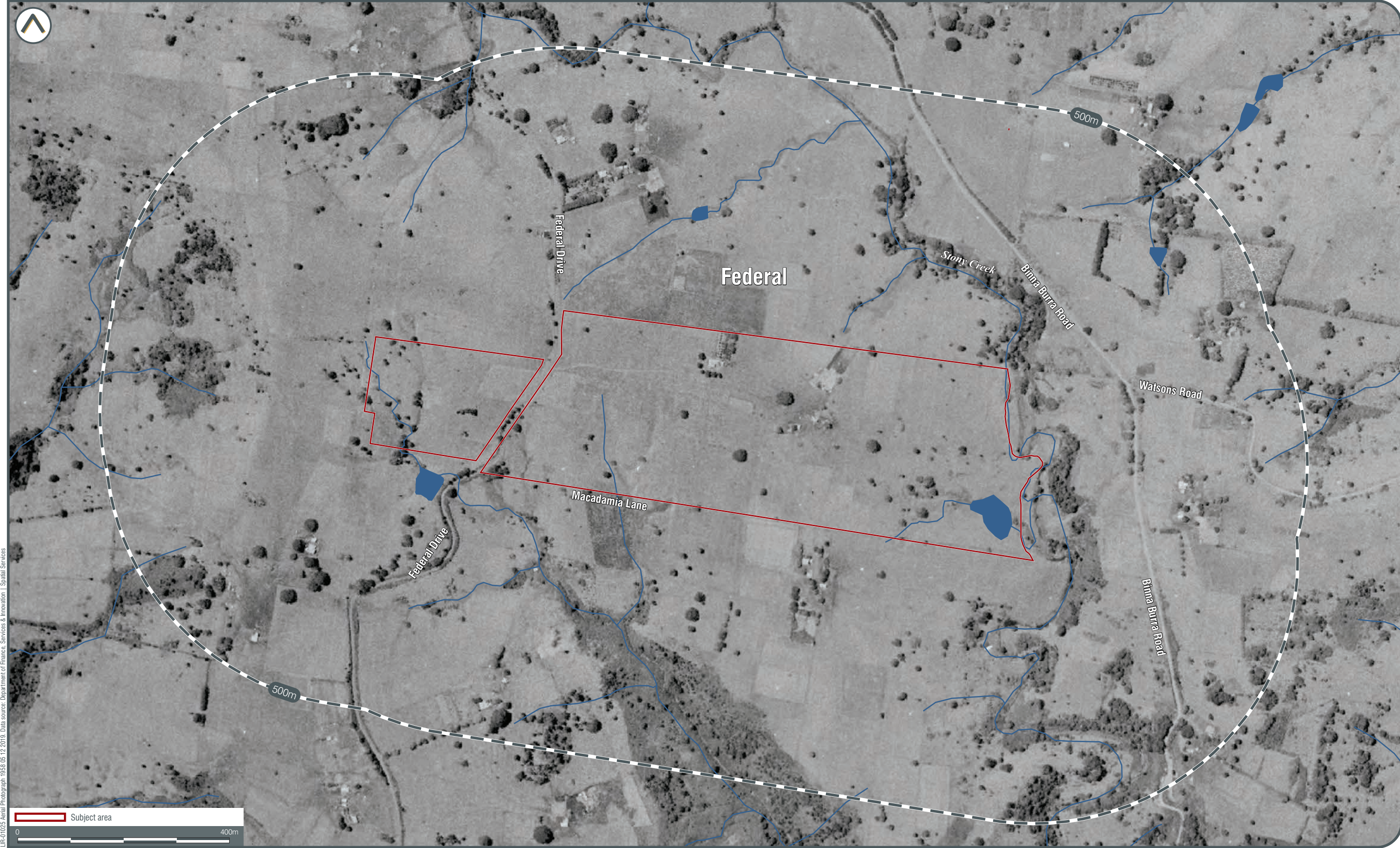
(e) steve@plannersnorth.com.au

Enclosed:

Annexure A Aerial photography

Annexure B Leasing land for agricultural purposes

Annexure A Aerial photography



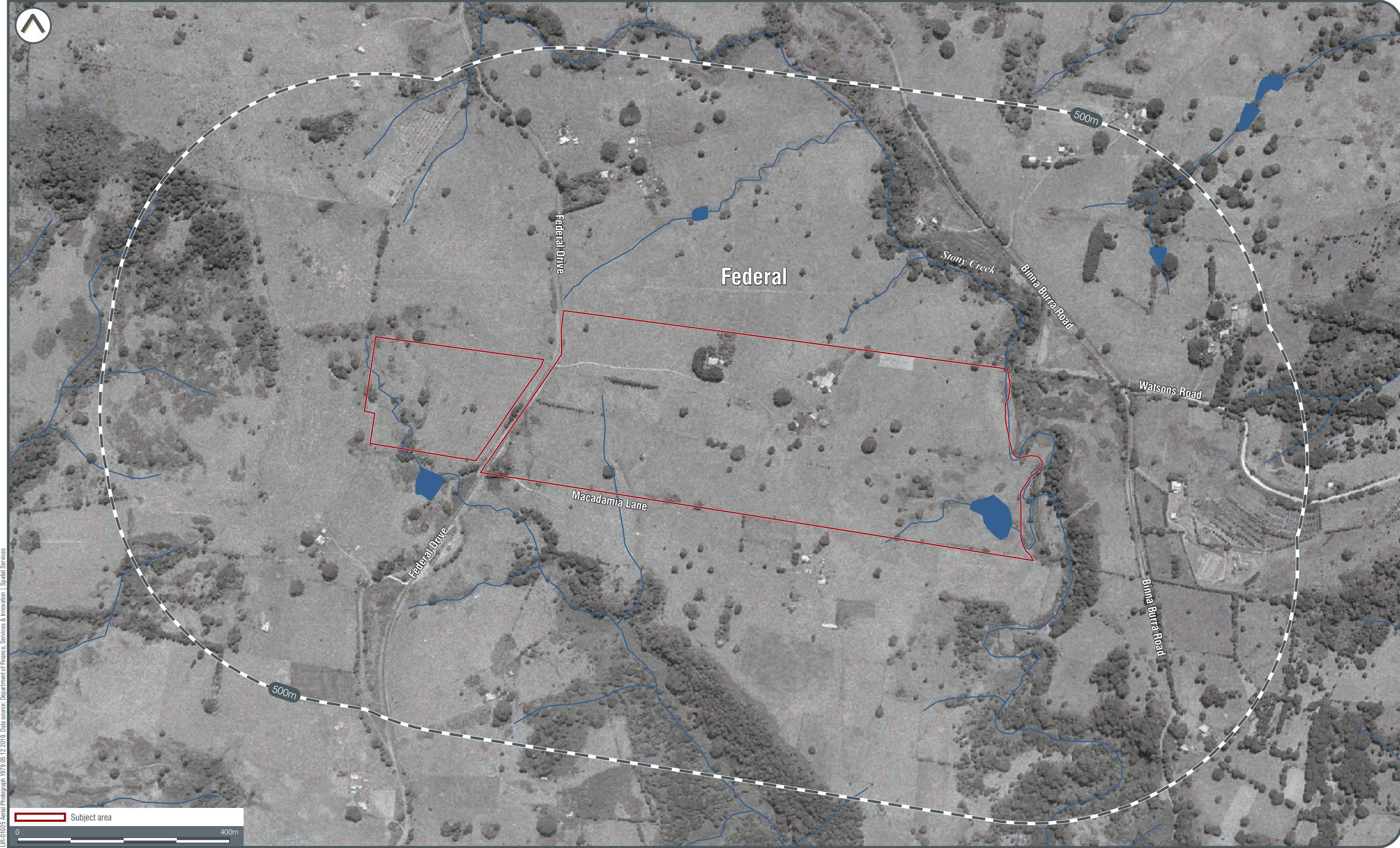
AERIAL PHOTOGRAPH - 1958





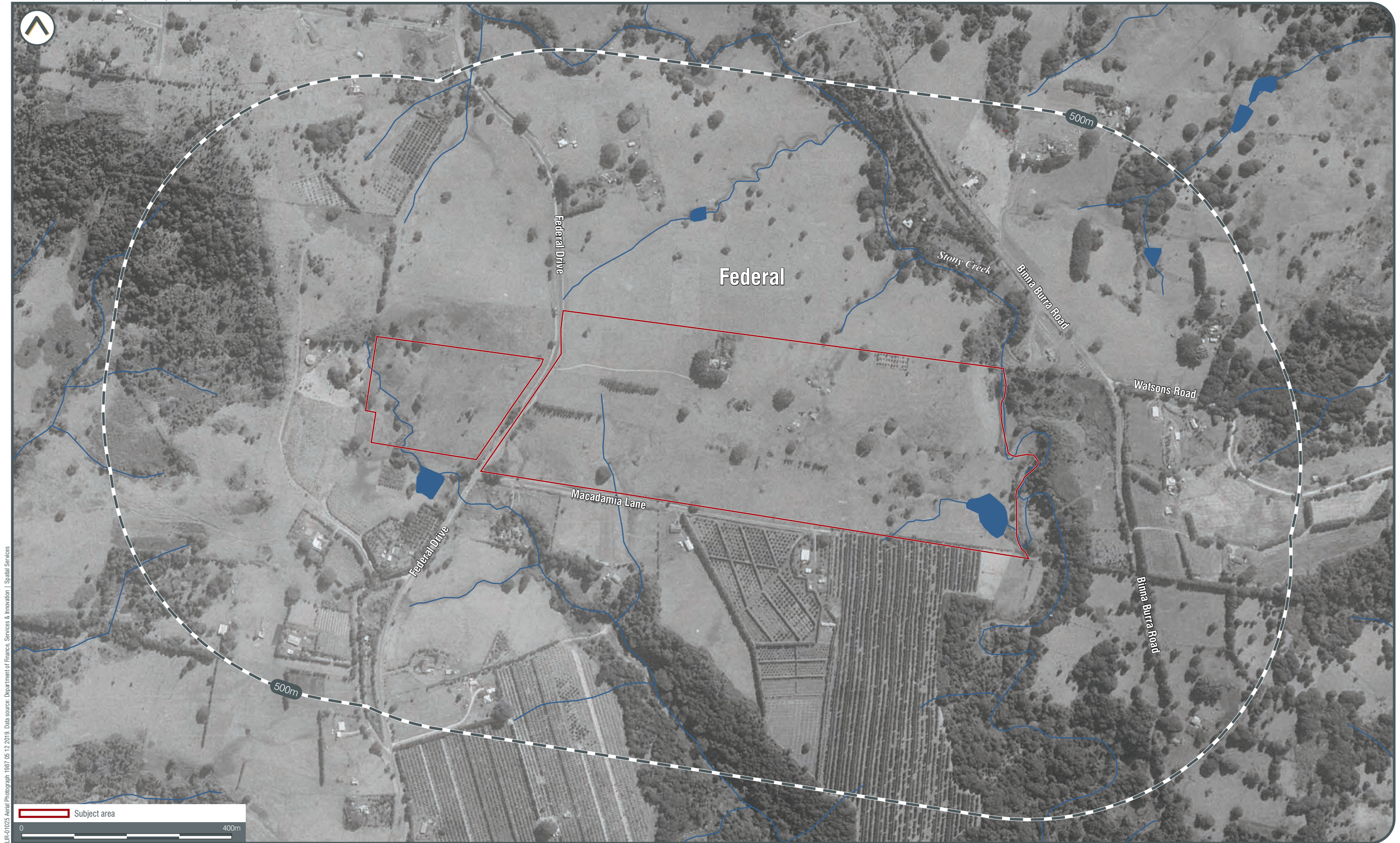
AERIAL PHOTOGRAPH - 1966





AERIAL PHOTOGRAPH - 1979





AERIAL PHOTOGRAPH - 1987



AERIAL PHOTOGRAPH - 1991



AERIAL PHOTOGRAPH - 2004



AERIAL PHOTOGRAPH - 2012



AERIAL PHOTOGRAPH - 2014



AERIAL PHOTOGRAPH - 2016





AERIAL PHOTOGRAPH - 2019

Annexure B Leasing land for agricultural purposes

Lease of land

A lease may be registered affecting whole or part of a current parcel.

If it is intended to lease a piece of land that comprises part of a current parcel, the site must be defined in either a deposited plan or a compiled sketch plan annexed to the lease. Any compiled plan must comply with the Registrar General's compiled plan policy.

The requirements for the plan and the associated lease document will depend on the length of the total term of the lease. The total term is the combination of the original term plus any option of renewal period. There are two periods to consider:

- total term of 5 years or less, or
- total term of more than 5 years.

Total term of 5 years or less

When the lease affects the whole of a lot in a current plan - the body of the lease will simply identify the area to be leased by reference to the lot and deposited plan number. A new plan is not required.

When the lease affects part of a lot or lots in a current plan - it will be necessary to provide a plan to define the land in the lease. The description in the body of the lease should adequately define the land by reference to:

- the unique way in which the land is designated in the plan, and
- the plan used to define the boundary of the land being leased.

Examples

- '... being part of the land in common property in Strata Scheme No. , situated at 345 Schemes Road, Strataville, hatched and designated A in the plan annexed to ', or
- '... being the part shown in Lot...DP...'

A plan used to define the part of the lot or lots in the current plan should comply with one of the following:

- a plan of compilation **(not survey)** [annexed to the lease](#).
- a plan of survey lodged as a deposited plan, where:
 - the plan must comply with normal plan preparation and lodgment requirements
 - the heading should state 'Plan of Part of Lot.....for lease purposes'
 - the plan purposes will be 'LEASE'
 - no residue lot will be shown
 - normal survey plan requirements must be adopted, or
- a plan which has already been lodged in NSW LRS and complies with one of the above standards.

Subdivision consent not required

A lease with a total term of 5 years or less does not constitute a subdivision in terms of Section 4B of the *Environmental Planning & Assessment Act 1979*. [see s.7A(3) *Conveyancing Act 1919*]. Consequently subdivision consent is not required.

However, any deposited plan for a lease with a total term of 5 years or less should bear a statement on the Administration Sheet e.g:

**THIS PLAN IS ONLY AVAILABLE TO DEFINE LAND FOR LEASE PURPOSES WHERE THE TERM PLUS ANY
OPTION FOR RENEWAL IS 5 YEARS OR LESS.**

IT IS NOT AVAILABLE FOR SUBDIVISION OR TITLE ISSUE PURPOSES.

Easements created by inclusion in a lease

Section 47(2)&(3) *Real Property Act 1900* provides for the grant or reservation of an easement by a lease. The lessor must be the registered proprietor of the servient tenement (land burdened) in the case of a grant of easement, or of the dominant tenement (land benefited) in the case of a reservation of easement. The reservation of an easement in favour of a third party is not authorised by s.47(3) *Real Property Act 1900*.

The approved Form of Lease [Form 07L](#) (PDF 234 KB) should be used, accompanied by an annexure stating all references to title affected by the easement and a plan (for which the prescribed fee is payable) setting out the terms and the site. The easement to be created must be included in the property leased panel of the lease form.

All relevant certificates of title should be lodged with the lease.

The easement will cease once the lease is terminated.

Total term for more than five years

A lease of land creates a subdivision under s.7A *Conveyancing Act 1919* (formerly s.327AA *Local Government Act 1919* now repealed) when the total of the original term of the lease, together with any option of renewal, is more than five years.

When the lease affects the whole of a lot in a current plan - the body of the lease will simply identify the area to be leased by reference to the lot and deposited plan number. A new plan is not required.

When the lease affects part of a lot or lots in a current plan - it will be necessary to provide a plan to define the land in the lease and the residue of any lot in a current plan affected by the leased area.

The plan must:

- be a deposited plan of subdivision
- bear a completed [subdivision certificate](#) and
- be a survey, complying with the normal requirements for plan preparation and lodgment.

Alternatively, the lease may refer to a plan which has already been lodged in NSW LRS and complies with the above standards.

Note A sub-lease with a term greater than five years will constitute a subdivision, even if the head lease affects the entirety of the parcel.