



New South Wales

Standard Instrument (Local Environmental Plans) Amendment (Agritourism) Order 2021

under the

Environmental Planning and Assessment Act 1979

The following local environmental plan is made by the local plan-making authority under the *Environmental Planning and Assessment Act 1979*.

.....

DRAFT

Standard Instrument (Local Environmental Plans) Amendment (Agritourism) Order 2021

under the

Environmental Planning and Assessment Act 1979

1 Name of Plan

This Plan is *Standard Instrument (Local Environmental Plans) Amendment (Agritourism) Order 2021*.

2 Commencement

This Plan commences on the day on which it is published on the NSW legislation website.

3 Amendment of Standard Instrument (Local Environmental Plans) Order 2006

Land Use Table

Insert in appropriate order in Direction 5—

Agritourism;
Farm experience premises;
Farm gate premises;

Schedule 1 Amendment of Standard Instrument prescribed by Standard Instrument (Local Environmental Plans) Order 2006

[1] Clause 5.4 Controls relating to miscellaneous permissible uses [compulsory]

Omit “not less than 8” from clause 5.4(8). Insert instead “not less than 9”.

[2] Clause 5.18 Intensive livestock agriculture [compulsory if intensive livestock agriculture permitted with consent]

Omit clause 5.18(4)(b)(v). Insert instead—

- (v) for a poultry farm used for breeding poultry—within 5,000 metres of another poultry farm, or
- (vi) for a poultry farm not used for breeding poultry—
 - (A) within 5,000 metres of a poultry farm used for breeding poultry, or
 - (B) within 1,000 metres of a poultry farm not used for breeding poultry, or
- (vii) for a pig farm—within 3,000 metres of another pig farm.

[3] Clauses 5.23 and 5.24

Insert after clause 5.22—

5.23 Farm stay accommodation [optional]

- (1) The objectives of this clause are—
 - (a) to diversify the uses of agricultural land without adversely impacting the principal use of the land for a primary production business, and
 - (b) to balance the impact of tourism and related commercial uses with the use of land for primary production, the environment, scenic values, infrastructure and adjoining land uses.
 - (c) [set out other objectives of the clause]
- (2) Development consent must not be granted to development for the purposes of farm stay accommodation on a landholding unless the consent authority is satisfied that—
 - (a) the maximum number of guests accommodated in bedrooms at any 1 time will not be more than the greater of—
 - (i) 3 times the number of bedrooms permitted under clause 5.4(5), or
 - (ii) 20 guests, and
 - (b) the gross floor area of a building used to accommodate guests will not be more than [insert number no less than 60] square metres, and
 - (c) the maximum number of guests accommodated in moveable dwellings on the landholding will not be more than [insert number no more than 20] at any 1 time, and
 - (d) the maximum number of moveable dwellings used for the accommodation of guests will not be more than [insert number no more than 6], and
 - (e) all buildings or moveable dwellings used to accommodate guests will be—
 - (i) on the same lot as an existing lawful dwelling house, or

- (ii) on a lot—
 - (A) for which a minimum size is shown for a dwelling house on the Lot Size Map, and
 - (B) the size of which is not less than the minimum size shown.
- (3) Subclause (2)(b) does not apply if the development is the change of use of an existing dwelling to farm stay accommodation.
- (4) Development consent must not be granted to development for the purposes of farm stay accommodation on land unless the consent authority has considered—
 - (a) whether the development will result in noise or pollution that will have significant adverse impact on the following on or near the land—
 - (i) residential accommodation,
 - (ii) primary production operations,
 - (iii) other land uses, and
 - (b) whether the development will have significant adverse impact on the following on or near the land—
 - (i) the visual amenity, heritage or scenic values,
 - (ii) native or significant flora or fauna,
 - (iii) water quality,
 - (iv) traffic,
 - (v) the safety of persons, and
 - (c) whether the development is on bush fire prone land or flood prone land, and
 - (d) the suitability of the land for the proposed development, and
 - (e) the compatibility of the development with nearby land uses.

5.24 Farm gate premises [optional]

- (1) The objectives of this clause are—
 - (a) to allow for small scale tourism and related commercial uses on land used for primary production without adversely impacting the principal use of the land for primary production, and
 - (b) to balance the impact of tourism and related commercial uses with the use of land for primary production, the environment, scenic values, infrastructure and adjoining land uses.
 - (c) [*set out other objectives of the clause*]
- (2) Development consent must not be granted to development for the purposes of farm gate premises on a landholding unless the consent authority is satisfied that—
 - (a) the gross floor area of a building used for farm gate premises will not be more than [*insert number no more than 200*] square metres, and
 - (b) the maximum number of persons that will be permitted on the landholding at any 1 time for the purposes of the farm gate premises will not be more [*insert number not more than 50*] persons.
- (3) Development consent must not be granted to development for the purposes of farm gate premises on land unless the consent authority has considered—
 - (a) whether the development will result in noise or pollution that will have significant adverse impact on the following on or near the land—

draft

Standard Instrument (Local Environmental Plans) Amendment (Agritourism) Order 2021 [NSW]
Schedule 1 Amendment of Standard Instrument prescribed by Standard Instrument (Local Environmental Plans) Order 2006

- (i) residential accommodation,
- (ii) primary production operations,
- (iii) other land uses, and
- (b) whether the development will have significant adverse impact on the following on or near the land—
 - (i) the visual amenity, heritage or scenic values,
 - (ii) native or significant flora or fauna,
 - (iii) water quality,
 - (iv) traffic,
 - (v) the safety of persons, and
- (c) whether the development is on bush fire prone land or flood prone land, and
- (d) the suitability of the land for the proposed development, and
- (e) the compatibility of the development with nearby land uses.

[4] Dictionary

Insert after the definition of *agriculture*, paragraph (d)—

- (e) agritourism.

[5] Dictionary

Omit the definition of *farm stay accommodation*.

Insert in alphabetical order—

agritourism means the following—

- (a) farm gate premises,
- (b) farm experience premises.

Note— Agritourism is a type of *agriculture*—see the definition of the term in this Dictionary.

farm stay accommodation means a building or place—

- (a) on a farm —
 - (i) that is a primary production business, or
 - (ii) on land categorised as farmland under the *Local Government Act 1995*, section 515, and
- (b) used to provide temporary accommodation to paying guests of the farm including in buildings or moveable dwellings.

Note— Farm stay accommodation is a type of *tourist and visitor accommodation*—see the definition of the term in this Dictionary.

farm experience premises means a building or place—

- (a) on a farm that is—
 - (i) a primary production business, or
 - (ii) on land categorised as farmland under the *Local Government Act 1995*, section 515, and
- (b) that is ancillary to the farm, and
- (c) that is used to provide visitors to the farm with small scale and low impact tourist or recreational services on a commercial basis including the following—
 - (i) horse riding,

draft

Standard Instrument (Local Environmental Plans) Amendment (Agritourism) Order 2021 [NSW]
Schedule 1 Amendment of Standard Instrument prescribed by Standard Instrument (Local Environmental Plans) Order 2006

- (ii) farm tours,
- (iii) functions or conferences,
- (iv) farm field days.

Note— Farm experience premises is a type of *agritourism*—see the definition of the term in this Dictionary.

farm gate premises—

- (a) means a building or place—
 - (i) on a farm that is—
 - (A) a primary production business, or
 - (B) on land categorised as farmland under the *Local Government Act 1995*, section 515, and
 - (ii) that is ancillary to the farm, and
 - (iii) that is used to provide visitors to the farm with agricultural products predominantly from the farm or other farms in the region or with services or activities related to the products, including the following—
 - (A) processing, packaging and sale of the products, but not the processing of animals,
 - (B) a restaurant or cafe,
 - (C) a facility for holding tastings or workshops, or providing information or education, related to the products, and
- (b) includes cellar door premises.

Note— Farm gate premises is a type of *agritourism*—see the definition of the term in this Dictionary.

landholding means 1 or more lots of land that—

- (a) are constituted or worked as a single property, and
- (b) are contiguous or are separated only by a road or watercourse.

primary production business has the same meaning as in the *Income Tax Assessment Act 1997* of the Commonwealth and includes a business that—

- (a) was a primary production business, and
- (b) has temporarily ceased to be a primary production business because of a natural disaster, including a drought, flood or bush fire.

[6] Dictionary, definition of “cellar door premises”

Omit “*retail premises*” from the note. Insert instead “*farm gate premises*”.

[7] Dictionary, definition of “restaurant or cafe”

Insert “, but does not include a restaurant or cafe that is included as part of artisan food and drink industry or farm gate premises” after “provided”.

[8] Dictionary, definition of “retail premises”

Insert “farm gate premises,” before highway service centres”.

[9] Dictionary, definition of “retail premises”

Omit paragraph (b).