



**Small
Business
Commissioner**

Small Business Commissioner
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Reference: TA21/965

Mr Luke Walton
Executive Director
Local Government and Economic Policy
Department of Planning, Industry and Environment
Locked Bag 5022
Parramatta NSW 2124
Email: Luke.Walton@planning.nsw.gov.au

Dear Mr Walton

Planning Amendments for Agriculture

The NSW Small Business Commission (the Commission) welcomes the opportunity to provide feedback on the *Explanation of Intended Effect – Agritourism and small-scale agriculture development: Proposed amendments to support farm businesses and regional economies* (the EIE).

The Commission recognises that the Department of Planning, Industry and Environment (DPIE) has been working with the Commission and Service NSW under the 'Making Business Easier' program to simplify the requirements for starting and running an agritourism business and thanks DPIE for seeking to support farmers to diversify into agritourism.

The Commission supports the proposed planning amendments in the EIE, especially the amendments to the existing definition of 'farm stay accommodation' and new definitions for 'farm events' and 'farm gate activities'.

Please find attached our comments in relation to the EIE. For further information, please contact Ms Arcadia Addams, Senior Advisor on 6885 9347 or email arcadia.addams@smallbusiness.nsw.gov.au.

Yours sincerely

A handwritten signature in blue ink that reads 'Chris Lamont'.

Chris Lamont
Commissioner
NSW Small Business Commission
29 April 2021

Appendix

Explanation of Intended Effect – Agritourism and small-scale agriculture development: Proposed amendments to support farm businesses and regional economies – April 2021

Section/Activity	Proposed amendment	Page No	Comment
Farm stay accommodation (Exempt and Complying Development)	<p>“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”</p> <p>“any structure constructed or converted for the purpose of farm stay accommodation cannot be used as a dwelling without consent”</p> <p>“maximum one dwelling per 15 hectares, to a maximum of six dwellings on a landholding”</p> <p>“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.”</p>	10-13	<p>The use of terminology like ‘reside’ and ‘dwelling’ in relation to farm stay accommodation suggests the use of farm stay accommodation for residential purposes. It is recommended that, with reference to farm stay visitors, ‘reside’ be replaced with ‘stay’ (or similar). With reference to dwellings for the purpose of farm stay accommodation, ‘dwelling’ should be replaced with ‘farm stay accommodation building’ (or similar).</p> <p>The Commission questions why a cap of six dwellings would be proposed as this would negate and/or restrict agritourism of sufficient scale on larger landholdings.</p> <p>The Commission does not support the proposed amendment to clause 2.6 of the Standard Instrument LEP Order to prevent the creation of a dwelling entitlement in relation to farm stay. Owners of agriculture land should be consulted on this proposal in more detail as the proposed amendment potentially discounts the value of their existing land holdings.</p>
Farm stay accommodation (Complying Development)	<p>“the erection of a new building or manufactured home for farm stay accommodation must be within 300 metres of the existing dwelling”</p>	12	<p>the Commission notes this proposed requirement may prevent primary producers from choosing the most appropriate and viable site for farm stay accommodation. The application of such a distance may restrict the construction of suitable accommodation for the disabled and elderly.</p>
Farm gate activities (3.3 overview)	<p>“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</p>	14	<p>The Commission supports the amendment and recommends investigation into whether home based food businesses could be permissible through exempt and complying pathways as some food-related agritourism activities may fall under home business definitions rather than small restaurant/café.</p>

	the agricultural produce from their land or the surrounding area through retail sales, a small restaurant or café, or tastings and workshops.”		
Farm gate activities (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”	15	While farm gate activities can include processing, packaging and sale of agricultural produce, it may be clearer to use ‘and/or’ so as not to suggest that these activities cannot occur in isolation of each other. For example, a roadside stall could sell fresh fruit that has not been processed or packaged in any way.
Farm events (3.4.1.1 Proposed definition) Consultation question 8. What events, if any, do you think should be excluded from the definition of farm events?	“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.” “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”	21-23	A more inclusive definition of farm events is proposed one that would include weddings and concerts. Further to this amendment consideration should be given to the need to limit low impact farm tours to 52 event days per year, as there may be agritourism businesses conducting several short tours per week as an ancillary activity and with no amenity issues. Another example is the proposed requirements for notifying neighbours of an event at least one week in advance of an event. While this would be an appropriate requirement for weddings, it may be onerous for an agritourism business running frequent low-impact farm tours to be notifying neighbours in advance of each individual tour.