

Our Ref: R22/0029#02 Out-35061

13 October 2022

The Hon Anthony Roberts MP
Minister for Planning and Minister for Homes

By email: office@roberts.minister.nsw.gov.au

Dear Minister Roberts

Serious concerns: Agritourism reforms commencing 1 December 2022

I write again about the changes to agritourism rules which the NSW Government last week announced will commence on 1 December.

This follows my letter in August outlining the local government sector's concerns around insufficient timeframes, compliance issues and other potential impacts of eleventh-hour changes to agritourism reforms. The response from the Department of Planning and Environment (the Department) on 14 September promised a "*delayed commencement*" which "*will be sufficient to enable councils to consider the impact of the reforms ...and make decisions about whether to amend LEPs or DCPs*". The fact that the changes have now been notified to commence in less than two months flies in the face of this commitment to give councils sufficient time.

The handling of consultation for these changes and the NSW Government's disregard of local government's concerns is unacceptable. The announcement has pre-empted yet-to-be completed updates to local environmental plans (LEPs) and does nothing to allay the concerns of councils who have been waiting for details from the Department to enable them to assess these impacts and comprehensively brief their elected representatives. It is not only disappointing that there is no appreciation of realistic timeframes needed for councils to respond to the changes, but also unreasonable to announce the policy when the Department is still working with councils to determine the zones that are appropriate for the new agritourism land uses in their local areas.

There is no question that tourism and economic development are priorities for regional and rural councils. They have worked constructively to support the agritourism proposals first exhibited by the Department last year. But this latest announcement includes provisions that by the Department's own admission are more permissive than what was first exhibited. The subsequent confusion and lack of detail is creating uncertainty for councils and community members who have been contacting councils seeking clarity.

Questions are being raised about the Department's definitions used to define the scope of these reforms, with concerns that the one-size-fits-all approach could see a reduction in primary production land used for actual farming, and increase agricultural land use conflicts. This broad definition opens up these provisions to a wide range of agricultural land and

places additional burden on councils to determine whether a farm is eligible to be able to use these provisions as a supplement to their primary agricultural income.

The significantly heightened potential for land use conflict will require attention and response from council officers. This will unfortunately divert council planning resources – already under extreme pressure – away from critically important development assessment functions – hampering the ability of councils to contribute to addressing the need for more housing, which is especially the case in communities severely affected by this year’s flooding.

As noted in my earlier letter to you, councils will also need time to consider issues such as lots without dwelling entitlements, compliance implications, unregulated clearing, risk to life in camping areas (from fires and floods) and other potential impacts.

Councils have also raised biosecurity concerns that may have serious impacts on our agricultural sector yet cannot be adequately considered or mitigated due to the one-size-fits-all approach to agritourism permissibility and especially in light of the Department’s timeframe for implementation.

While councils are supportive of initiatives to provide farmers with supplementary avenues of income, these changes must be introduced prudently with sufficient time and consideration to address potentially perverse outcomes. Unfortunately, the spectre of the rushed introduction of these broadened provisions is generating apprehension for some councils, which already face significant and underfunded compliance challenges. It is of great concern to these councils that if their issues are not addressed before the policy commences, their current compliance load will intensify and any unintended consequences will be difficult to wind back.

In light of these considerable concerns, it will be critical that from day one the Department has in place a system to collect data and monitor the rollout and effects (costs and benefits) of this policy. The information collected should inform a review of the policy after twelve months.

I trust you will appreciate that the degree of concern held by a considerable number of councils is sufficient to warrant postponement of commencement of the policy in these areas until their issues are addressed.

Minister, will you please commit to:

1. postponing the commencement of these reforms for any councils with concerns until such time as the Department fully completes its consultation with councils and all the details, including changes to LEPs are in place;
2. directing the Department to have in place from day one a monitoring system including costs and benefits of this policy;
3. reviewing the policy after twelve months, informed by data monitoring of the costs and benefits;
4. reconciling the compliance issues for councils and the adverse impacts on council planning teams’ core planning and development assessment functions by:
 - in the short term, setting up an agritourism hotline and team of compliance investigators within the Department to respond to complaints from the public; and

- more broadly, asking the Department to initiate a project with LGNSW and councils to consider mechanisms that could be introduced to help offset the cost to local government of expanding compliance and enforcement responsibilities.

For further information or to arrange a meeting, please have your office contact LGNSW Director Advocacy, Damian Thomas, at damian.thomas@lgnsw.org.au or on 02 9242 4063.

Yours sincerely



Cr Darriea Turley AM
President

Cc: The Hon. Paul Toole MP, Deputy Premier and Minister for Regional NSW
The Hon. Dugald Saunders MP, Minister for Agriculture
The Hon. Ben Franklin MLC, Minister for Tourism