

22 April 2021

Ballina Council to DPE

Re: Submission to Agritourism and Small-scale Agriculture Development EIE

As noted above, in general terms the amendment of the Standard Instrument Local Environmental Plan (SILEP) to better capture agritourism activities within the set of definitions is supported. In particular, farm gate retail activities and farm events that relate directly to agricultural production occurring on the land are currently not adequately addressed in the SILEP. Enabling local councils to consider such uses would (in principle) be an improvement to the SILEP and support the development of genuine agritourism opportunities. The provision for such uses through the land use table should, however, be at the discretion of local councils.

Notwithstanding, Council is concerned with the proposal to include a range of non-agriculture related activities as forms of 'agritourism' under the definition, and to include 'agritourism' as a form of 'agriculture' within the SILEP definition hierarchy. These aspects of the proposal have the potential to significantly undermine State and local planning objectives relating to agriculture.

The proposal to include a range of land uses that are currently captured under the definitions of 'tourist and visitor accommodation' (such as farm stays) and 'function centres' (such as wedding venues) as forms of 'agritourism' is ill-conceived. With reference to the dictionary definition of agriculture, it is noted that tourist accommodation and wedding venues do not relate (directly or indirectly) to the production of crops or raising of livestock in any sense, other than that they may occur on the same allotment of land. It would be incorrect and inappropriate to include these uses in the definition of agriculture.

Further, the inclusion of these 'agritourism' uses as forms of 'agriculture' in the SILEP would have the consequence of making these uses permissible without consent on all land subject to the RU1 Primary Production zone and RU Rural Landscape zone, unless Council's were to list agritourism as either permissible with consent or prohibited under the land use table.

The primary purpose of rural zoning, particularly in the case of the RU1 Primary Production zone, is the preservation of agricultural productivity. An important distinction should be made, therefore, between those rural land uses that support and add value to agricultural production (such as tastings, farm tours, and modest retail sales in association with on-farm rural production) and those higher-impact activities that do not directly relate to the agricultural activity occurring on the land and which have a greater potential to complete or conflict with other legitimate rural activities and undermine the viability of agriculture.

Having regard to the above, should these reforms be implemented in their current form Council will need to give serious consideration to whether agritourism should be listed as a development activity that is prohibited on land zoned RU1 under the Ballina LEP 2012, in order to protect agricultural values consistent with the zone objectives. This would have the disadvantage of limiting opportunities for genuine agritourism in these areas.

In summary, Council is concerned with the following elements of the proposed reforms:

- The introduction of a new 'agritourism' definition that would include activities such as wedding venues, farm stay accommodation and restaurants and cafes, and the inclusion of agritourism as forming part of the LEP definition of 'agriculture', despite these activities not relating in any practical or real sense to agricultural production.

- Provision for 'small scale' wedding venues as a form of 'farm event', allowing 52 events annually of up to 30 guests per event or 10 events annually of up to 50 guests per event that could occur as forms of exempt or complying development or otherwise as development with consent on any agricultural land.
- Provision for restaurant or café development as a form of 'farm gate activity' that could occur as either exempt or complying development or development with consent on any agricultural land.
- Provision for the conversion of existing farm buildings or the erection of tents as forms of 'farm stay' accommodation that could occur as either exempt or complying development or development with consent on any agricultural land. This is particularly problematic given farm buildings can often occur without requiring development consent.
- The lack of appropriate exempt and complying development standards that explicitly address issues such as wastewater management, or the provision of appropriate setbacks from nearby rural residential uses and intensive horticulture.
- The failure to appreciate the impracticalities of undertaking compliance activities in relation to many uses and activities that would be enabled by the proposed reforms. The consequence of this being that the proposed exempt and complying development activities could be largely unregulated in a practical sense, or compliance will be limited to reactive efforts after impacts have occurred.

With respect to the exempt and complying development proposals, a key concern is that the framework put forward does not allow for an appropriate level of impact assessment and is reliant on compliance and enforcement when issues arise. It is arguable as to whether the proposed uses are low impact and it is suggested these types of uses are more suited to the merit assessment process so that the implications of the use relative to the local circumstances and characteristics of the land and surrounds can be properly examined and addressed (where they are permitted).

As noted above, the reforms should focus on genuine agritourism activities that have strong linkages with ongoing agricultural production occurring on the land. Examples of such uses might include farm gate retail activities (some of which although already provided for under the SILEP could be improved) and genuine 'farm events' such as 'paddock to plate' on-farm restaurant experiences, farm tours and tastings and food or agriculture-related workshop activities. Such uses would support ongoing farm production while catering to visitor demand for genuine on-farm experiences.

These uses should be distinguished, however, from uses that are not agriculture-related such as 'function centres' (wedding venues) and 'café and restaurant' development, which are already well-defined and have more significant land use implications. The widespread provision for these uses in rural areas has the potential to give rise to significant land use conflicts (such as by spray- drift and use of farm machinery) and further compete with agriculture by increasing rural land values.

The Department should also give careful consideration to the potential impacts of these reforms, beyond the narrow view of the benefits to individual landowners. For example, whilst these reforms are proposed to provide certainty to landholders regarding what they can do on their land, if implemented in their current form, the reforms could significantly increase uncertainty regarding what neighbours and competitors may do. Further, by reducing opportunities to ensure rural development is undertaken sensitively the reforms have the potential to erode the character and amenity of rural areas and thereby undermine the very features that attract tourists to regions in the first place.

Having regard to the above, the Department is encouraged to take a deeper and broader view of rural land use issues relating to this matter and focus its reforms on providing for genuine agritourism opportunities.