

Agritourism and the Imminent Fragmentation of Productive Farmland in NSW

We believe the State Government's Agritourism initiative has been hijacked by a group of developers who have persuaded the Planning Minister to overturn the legitimate decisions by councils, such as Ballina, Byron and Shoalhaven, to prohibit the new Agritourism land uses in their LEPs. No explanation was given, for the intervention, or for the revoking of other key DPE assurances provided to councils and the public.

We believe there is a strategy to exploit the lucrative Sydney 'destination weddings' market by using the Agritourism provisions to circumvent current legislation, which permits function centres in prohibited rural zones 52 days a year only if there is no adverse impact on amenity of the neighbourhood.

New exempt and complying development 'pathways' for tourist development in rural areas will remove council scrutiny of regulations (eg biosecurity) and neighbours' ability to object (eg road access and safety, loss of amenity, etc.). Construction of 200sqm function centres ('farm experience premises') will be allowed as complying development or obtained via a 'shed' description as exempt development.

Background

In April last year, many councils raised serious issues with the proposed Agritourism provisions, and the attached Ballina Council letter to the DPE on 21 April 2021 provides an accurate summary of their concerns.

In March this year, many councils chose to prohibit the new Agritourism land uses in their LEPs, based on DPE assurances in its 'Explanation of Intended Effect', its Planning Portal and email confirmation that "councils could decide to amend their LEPs to prohibit these new uses in all zones."

On 6 April, the DPE Director State & Regional Economy confirmed that, following extensive feedback – "development standards proposed for exempt and complying development are being set at a limit to ensure that activities remain small scale and low impact, and ancillary in nature. In relation to the 'farm experience premises' use, a farming business would only be able to erect a new building or convert an existing building that is up to 100sqm in floor area, including balconies and verandas."

Intervention

However, on 5 October the DPE announced that the new provisions were being mandated and that councils' requests to make the new land use terms prohibited were rejected. We understand DPE staff have indicated that the decision to reverse the DPE assurances was the Planning Minister's call.

Proposed development standards were also weakened and the option to reduce the maximum allowable numbers of visitors, caravans and campervans had been removed. The DPE also reneged on its assurance that the proposed maximum complying new building size would be reduced from 200sqm to 100sqm, "following further consultation with industry and farmers."

Local Government Response

The President of Local Government NSW informed the Planning Minister of serious issues (letter attached) and NSW councils voted unanimously on 24 October that the State Government should "revert back to allowing each council to make their own determination on whether or not to opt into the new controls".

Intent of the Agritourism Initiative has been Subverted

There is a critical unannounced change buried in the 5 October FAQs that states landowners can "earn more income from their agritourism business than their primary production business". This fundamental concession contradicts, and makes meaningless, the following DPE assurances -

- *A key objective is to ensure primary production remains the principal use of farmland*
- *The agritourism land uses must complement agricultural production rather than detract from it*
- *The use of the land for agritourism must be ancillary to agricultural use of the land.*

This [article in the Byron Echo](#) provides an accurate independent perspective. The developers have now mounted a scare campaign claiming that, if the Agritourism proposals are not implemented, farmlands will be bought up for large scale residential developments.

Development Standards for Farm gate premises and Farm experience premises

- Use of up to 200sqm of an existing building /marquee (exempt development) or construct a new building maximum 200sqm (complying development).
- Max 500sqm for all farm gate premises and farm experience premises buildings
- Farm gate premises – max 100 visitors at any one time; 8am to 5pm every day of the week. If the average visit was one hour, up to 900 people could visit in a day.
- Farm experience premises – max 50 visitors any one time; max 52 days pa; 8am to 12am (Fri/Sat)
- Maximum total 100 guests at any one time for all farm gate premises and farm experience premises

Development Standards for Farm stay accommodation

- Minimum landholding of 15ha, and maximum 21 consecutive days of stay
- Use of up to 60sqm of existing residential accommodation or manufactured home (exempt development) or a new building (complying development) – maximum of 6 buildings
- Maximum 20 guests in tents, and 6 caravans and campervans (exempt development)

Concerns Expressed by Farmers in Kangaroo Valley

- The attached extracts from a farmer’s submission provide clarity around what agritourism activities are already being carried out and debunks the rationale provided for the proposed changes.
- Real farmers have **not** been consulted. Productive farmland will be fragmented as absentee owners with no interest in farming use ‘agritourism’ businesses to generate the primary income.
- Road safety and maintenance - lack of 2-way all weather access roads to accommodate very large increases in traffic; who will be responsible for road repair costs?
- Introducing alcohol into rural areas where drivers are unfamiliar with the roads.
- Increased numbers of people, potentially alcohol affected, in bushfire and flood prone areas.
- Significant loss of amenity in rural areas and acoustic and traffic impacts. There will be no avenues for complaints by residents about excessive late-night noise or drunken behaviour as councils are excluded from development approvals and police have no resources to check rural areas.
- The ‘development standards’, meant to limit the numbers of guests attending function centres and the number of campers/caravans, cannot be monitored and are therefore unenforceable.

No Genuine Community Engagement

- In October 2021 the DPE Director claimed there had been extensive consultation with the community. When asked what engagement methods were used to seek community comments, *the response was –*
 - *a joint media release from three Ministers in March 2021*
 - *a Facebook campaign targeting those with interest in agriculture related activities*
 - *a message on the DPE Planning Portal.*
- The Berry Forum only became aware of the Agritourism initiative via a random copy of the media release. The success of the DPE’s extensive community consultation can be gauged from the fact that of the 150 submissions received by the DPE from individuals across NSW, 90 were from Berry and Kangaroo Valley in the Shoalhaven, and 60 from the other 127 councils.

Illawarra Shoalhaven Regional Plan 2041

In June last year, the regional Plan referred to “Agritourism development representing a diverse and unique tourism offering, including food and wine trails, farm stays, farmers markets, and farm gate experiences”. There was no mention of function centres or ‘farm experience premises’.