

Agritourism and small-scale agriculture development- Proposed amendments to support farm businesses and regional economies, Explanation of Intended Effect

April 2021



**CENTRAL NSW
JOINT ORGANISATION**

- Bathurst
- Blayney
- Cabonne
- Cowra
- Forbes
- Lachlan
- Oberon
- Orange
- Parkes
- Weddin



Chair Cr John Medcalf OAM, Mayor, Lachlan Shire Council

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Reference: jm:jb 210416
Enquiries: Ms J Bennett: 0428 690 935

Executive Director
Local Government and Economic Policy
Department of Planning, Industry and Environment
Locked Bag 5022, Parramatta NSW 2124

To whom it may concern,

Re: Agritourism and small-scale agriculture development- Proposed amendments to support farm businesses and regional economies, Explanation of Intended Effect.

Local Government Regional Joint Organisations (JOs) were proclaimed in May 2018 under the NSW Local Government Act 1993. The Central NSW Joint Organisation (CNSWJO) represents over 200,000 people covering an area of more than 50,000sq kms comprising the Local Government Areas of Bathurst, Blayney, Cabonne, Cowra, Forbes, Lachlan, Oberon, Orange, Parkes, Weddin, and Central Tablelands Water.

Tasked with intergovernmental cooperation, leadership and prioritisation, JOs have consulted with their stakeholders to identify key strategic regional priorities. The CNSWJO Strategic Plan can be found here: https://docs.wixstatic.com/ugd/51b46b_31886650ecf546bc916f15e99a733b3e.pdf

We have the privilege of working closely with the Department of Planning through the development of the CWORP (Central West and Orana Regional Plan) where working on enabling agritourism has been an activity in region. This response includes advice from this consultation.

We welcome the opportunity to provide feedback on the Agritourism and small-scale agriculture development proposed changes to the NSW Planning System to better support farming businesses and rural and regional areas.

Please note that Councils in the region may provide responses that are different from the regional response and this is welcomed.

In the first instance, we note the following risk which will need to be carefully managed:

On the one hand this region supports as inexpensive a pathway as possible for farmers to explore their spare capacity for tourism purposes, however this needs to be done in such a way that does not lead to perverse outcomes. An example is erecting farmstay dwellings on a block separate to the home dwelling which could then be onsold in the future creating disaggregation of farmland.

It is concerns such as these that have leaders in this region suggesting that further work needs to be done. Unfortunately Councils in Central NSW are reporting significant time pressures particularly in planning as a result of staff shortages and a lot of development occurring at this time.

Members in region are reporting the Central NSW while stretched is still meeting its obligatory planning time frames and that overall the DA process is not onerous.

Additionally, with the new controls in the Exempt and Complying Code which agency has the regulatory responsibility? For example, is Council going to check that the persons in the farm stay are not under 12 yo? This is unachievable and put unnecessary resource burden on Council staff.

Concerns have been expressed that under an Exempt and Complying Code the farmer is going to have to come to Council or a consultant to work through all of these factors, which is generally what Council would do in any DA process. This may be more onerous on Council staff and the farmer.

CNSWJO would welcome the opportunity to slow the process down and get it right.

Our planners meet bimonthly and this would be a good opportunity to get in front of a number of planners and have a more in depth conversation.

Consultation Questions:

Farm stay accommodation

- 1. Are the proposed setbacks to pig farms, other intensive livestock, forestry and mines for exempt and complying development appropriate?**
- 2. Where a development application is required, should farm stay accommodation be permitted only on land that benefits from a dwelling entitlement?**
- 3. For complying development, should there be a requirement that a new building or manufactured home for farm stay accommodation be within 300 metres (or some other distance) from the existing dwelling house to enable clustering together of sensitive land uses?**
- 4. Should there be different development standards for farm stay accommodation based on land size or location (such as whether the land is inland or east of Great Dividing Range)? If yes, please provide your suggestions and reasons.**

Councils will have specific views in this regard however in principle this region supports flexibility and clarity in advice regarding farmstays.

It would be beneficial if DPIE can consult on the final wording of the proposed new definition of 'farm stay accommodation' noting only 4 dots points providing guidance on the general direction the new definition is included in the EIE.

It may also be beneficial to consider including for clarification that farm stay accommodation could be used by rural workers at times (including intermittent and seasonal workers).

It may also be beneficial to consider including for clarification that farm stay accommodation could be used on a short term basis by construction and/or mining contractors.

As stated above, the concern is the tension between aggregation of lots and the need to create simple and affordable pathways to enable agritourism.

Regarding development standards:

- Development Standards (in particular for exempt as there is no occupation certificate because no change of use) for a dwelling (BCA class 1a) going to short term accommodation (BCA class 1b) results in additional smoke alarm requirements under 3.7.5.4 of Building Code of Australia,
- Waste management focuses on solid waste, there is not great detail and requirement for s68 Local Government Act approvals, in particular an effluent systems ability to cater for an additional 20 persons (although only originally designed for a house with 6 people). Would be beneficial to require an approval to operate off Council for effluent system prior to farm stay accommodation use commencing.
- Concern has been expressed over the policing of children under 12.
- There is no reference to minimum amount of water required, nor any reference or requirement for a Water Quality Assurance Program to be in place
- Flood Prone land is not an exclusion and perhaps should be or available only for transportable or temporary accommodation.
- Camping is separately defined and is also permissible with consent and this is controlled by the Local Government Regulations 2005. Members have expressed concern that 'Tents, caravans or similar' being exempt development as there are implications to neighbours etc and what happens to the Local Government Regulations and the definition of 'camping'?

More clarity and further consultation is sought around the operating conditions of on farm accommodation, for example:

- The operational requirement of "at any one time on the landholding for up to 14 days" is this in succession?, per month, per year?
- "unoccupied caravans, campervans and tents are not to remain on the land after 24 hours" Is this once a guest leaves that within 24 hours the land owner has to put the caravan back in the shed?
- Regarding the 20 person maximum, there needs to be a maximum number of; Caravans, Campervans and Tents allowed, maybe 6? (you technically could end up with 20 caravans on a property with 1 person in each) surely the intent of this legislation is not to cripple caravan parks, but facilitate low impact accommodation in a rural setting.
- There is no background on where the one dwelling per 15 hectares comes from? (I note though the size limitation of 60sqm), should it read "six x 60sqm new buildings **or** three x 120 sqm new buildings" as an this would enable better 2 bedroom buildings (targeting and accommodating for families).

Farm gate activities

5. **How far do you think a roadside stall should be setback from the road?**
6. **What additional standards should be included for the exempt and complying development pathways for farm gate activities, if any?**

Safety should be the primary criteria for the location of roadside stalls. Set backs will vary depending on the road itself.

To some extent the DA process would be the simplest and easiest way to manage what would require quite some guidance in the exempt and complying framework. It should be noted that no Councils in Central NSW are running over on their times for development assessment despite staff shortages and significant development pressure.

Consultation in region provided feedback that farmgate development should be allowed to occur in stages and not have to bear the cost of expensive entry way treatments, parking arrangements etc in early stages of their development. An example is a “pick your own” farmgate experience. Please find attached relevant dot points on agritourism.

What is the definition of ‘major road’ should this be the same as ‘classified road’ later in the document? Are any of these a food premise? There is a significant difference between selling surplus produce, to running a restaurant or education facility this needs more exploration. These uses have significant differences in terms of safety for road users, amenity, parking, building code implications, food safety etc. Again what about potable water and septic management etc why is there a focus on waste only.

Parking on Council’s road reserve/verge is not permissible and would require at least a s138 of the Road Act. Council would not permit any works associated with car parking on the verge.

Again further consultation would be helpful.

Farm events

- 7. The proposed maximum number of people and events per day for exempt and complying development are:**
- a) 52 event days per year and up to 30 guests per event, or**
 - b) 10 event days per year and up to 50 guests per event Are these appropriate?**

This will accommodate smaller wellness and cooking class type events.

It will not however accommodate weddings, music events and forage events which are all very popular in this region.

Weddings in particular should be enabled, even if only a small number on a farm so this can be explored as an income stream for farmers.

- 8. What events, if any, do you think should be excluded from the definition of farm events?**

CNSWJO does not have advice in this regard but would welcome the opportunity to host DPIE staff at a meeting with the planners from our ten Councils.

- 9. Should changes be made to the planning system to facilitate destination weddings under a development application? If so, in which zones should destination weddings be permitted?**

Please provide reasons for your selection.

- a) RU1**
- b) RU2**
- c) RU4 zones**
- d) Other zones (please specify)**

CNSWJO does not have advice in this regard but would welcome the opportunity to host DPIE staff at a meeting with the planners from our ten Councils.

However, biosecurity should be the challenge that must be effectively managed.

- 10. Should the department prepare a model clause for destination weddings which councils can choose to adopt?**

Yes. Again this region would welcome the opportunity to work with the DPIE on this model clause.

11. Is there any rural land or areas in which agritourism activities should not be permitted?

Biosecurity would be the first consideration in permissibility of agritourism activities.

Secondly, some type of conflict assessment would need to be undertaken.

Small scale processing plants

12. Should any other agricultural produce industries be complying development? What standards should apply?

CNSWJO does not have advice in this regard but would welcome the opportunity to host DPIE staff at a meeting with the planners from our ten Councils.

13. Is a maximum throughput of 1,000 carcasses per annum for other animals such as deer or kangaroo appropriate?

CNSWJO does not have advice in this regard but would welcome the opportunity to host DPIE staff at a meeting with the planners from our ten Councils.

14. Should any additional standards be included? Agritourism and small-scale agriculture development NSW Department of Planning, Industry and Environment | IRF19 7296 | 35

CNSWJO does not have advice in this regard but would welcome the opportunity to host DPIE staff at a meeting with the planners from our ten Councils.

15. Should the locational criteria that classify livestock processing industries as designated development be reviewed for small-scale processing plants to determine whether these plants could be approved:

- a) as complying development?
- b) through the standard DA process?

CNSWJO does not have advice in this regard but would welcome the opportunity to host DPIE staff at a meeting with the planners from our ten Councils.

Rebuilding of farm infrastructure

16. Will these provisions sufficiently enable the rebuilding of buildings lost to natural disasters in the same location of the same size and form?

17. Should any additional standards be included?

4.1.6 Stock containment areas

18. What type of permanent infrastructure should be permitted for stock containment areas?

19. What type of permanent infrastructure should not be permitted for stock containment areas?

CNSWJO does not have advice in this regard but would welcome the opportunity to host DPIE staff at a meeting with the planners from our ten Councils.

Farm dams

20. How could we simplify planning provisions for farm dams?

The challenge with introducing any more Council controls would be resourcing their compliance.

Biosecurity for poultry and pig farms

- 21. Do the proposed provisions adequately provide for biosecurity between poultry farms and pig farms?**
- 22. Should any additional standards be included?**

CNSWJO does not have advice in this regard but would welcome the opportunity to host DPIE staff at a meeting with the planners from our ten Councils.

Rural dwelling setbacks from intensive agriculture

- 23. Should the setbacks for rural dwellings be increased from its current requirement to be 250 metres from the boundary (when done as complying development)?**
- 24. From which point should the setbacks be measured?**

A minimum setback for exempt and complying should be 50m from a property boundary. P12 states "side setback of the existing dwelling on the land or 200 metres, whichever is less". This should be altered to say a minimum setback of 50m, there are many existing house which are 10m off a property boundary, why would then allow potentially another 6 new buildings to be located 10m away from an active farm, say a broad cropping operation, which when harvesting will create significant land use conflict. If less than 50m is the ask, lodge a DA.

Recreational Beekeeping

- 25. Are the proposed development standards appropriate and are any additional standards needed?**

There will be conflicts between bee keeping and for example pools and water features in farmstay and these will need to be managed.

Some support from the DPIE in this regard would be welcomed.

For information: Workshop notes from May 2018 - "Review of planning barriers for tourism development"

1. Regarding definitions for Temporary Use of Land – there are two schools of thought. On the one hand we are keen to ensure flexibility and use temporary use to support a variety of activities. On the other hand we can appreciate that developers might want some consistency. As a general rule, the more days the better. There was also a request for guidance on the application of temporary usage as there are a wide range of operations that seek to fall under this category ranging from circuses, camping associated with events through to emerging events such as VanFest.
2. Regarding ancillary development, feedback from this region is that better definitions for tourism development would be more useful while leaving 'ancillary development' flexible. For example Cellar Door Premises should also include other forms of production than wine and refer to a tourism enterprise that links production to tasting. Added to this was the idea of a tasting room which could be in rural and urban settings. This could include food such as honey and olive oil. There is also interest in having a "café" as distinct from restaurant to allow for more boutique food and beverage experiences including in residential areas as there is a demand for linking the wider accommodation offering through air b and b and other shared economy platforms to a more immediate café experience.

Being able to support “pop up” in bulky goods zones could enable market activities.

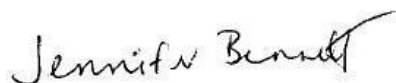
Finally there is interest in “farm gate” development to cover off on other forms of production and on farm experiences.

Guidance on “function centre” was also sought. There was also discussion about what constituted eco tourism.

3. In terms of barriers to investment, the dual occupancy/Bed and Breakfast/ Serviced apartments are not working in rural zones.
4. Attendees were of a view that there needed to be more thought around the concept of a “rural tourism facility.” Where there is a demand for small blocks of land to be developed and spare capacity on farm to be leveraged, the conflicts with ag land and the right to farm need to be preserved. A broader conversation about the best pathway for this type of development is welcomed.
5. Regarding expanding exempt development, it was suggested that community based, single day events on public land should be provided with guidance on parking, signage, traffic management, public safety, fire, hours of operation and toilets and then be exempt. There are a growing number of small community events that build the visitor economy ranging from markets to gardening expos and having to put these through an approvals process is a complete waste of everyone’s time. It is suggested the SEPP be amended to take this into account.
6. A review of TASAC should be recommended as part of this process. Consideration could be given to an automated signage process where the development is identified as a tourism facility.
7. Under definitions – more guidance on amenity would be welcomed in the rural setting.
8. The RMS parking requirements could be reviewed given Uber and the Shared economy.
9. Also reiterated the need for a lower level RMS design for access to rural properties.

Please feel free to contact Jennifer Bennett on 0428 690 935 should you wish to discuss further.

Yours sincerely,



Jennifer Bennett
Executive Officer
Central NSW Joint Organisation (CNSWJO)