

Agritourism and small-scale agriculture development

This document answers your questions about changes to planning rules for agritourism and small-scale agriculture development

Overview

What is agritourism?

Agritourism is a tourism-related experience or product that connects agricultural products, people or places, with visitors to a farm.

Agritourism allows farmers to showcase what's unique about their region, offers an additional source of income, and gives people more reasons to visit rural and regional NSW.

Why are we changing planning rules to support agritourism?

We are changing planning rules to support the resilience and recovery of regional and rural communities from natural disasters and unexpected events. The changes make it easier for farmers to use their land for agritourism to complement their existing businesses.

We heard that farmers wanting to set up an agritourism business were facing hurdles, including the complexity and cost of obtaining planning approvals.

The new agritourism policy gives landowners the option to undertake various agritourism activities without having to get a development application from their local council.

Simplifying the planning rules will help landowners add value to their existing agricultural businesses and encourage the next generation to farm the land.

Before this policy, there were no clear land uses and no exempt and complying development pathways to easily allow agritourism activities such as 'pick your own fruit' on rural zoned land.

What is the new agritourism policy?

The NSW Government is making changes to planning rules to make it easier for farmers to use their land for agritourism businesses for new income streams.

The agritourism policy introduces new land uses for on-farm activities under exempt and complying development if they meet development standards. This means landowners will have the opportunity to setup agritourism businesses without the complexity and cost of obtaining planning approvals.

Landowners will be able to run activities on their farms more easily, including farm experiences, on farm accommodation, cellar doors, cafes, retreats, roadside stalls, fruit picking and hosting small events or weddings.

Amendments have been made to a number of state planning policies to facilitate these changes.

When will the agritourism policy start?

The changes commenced on 1 December 2022.

We're now working with councils to make the necessary updates to their Local Environmental Plans.

Planning changes for agritourism

What are the changes?

The changes to planning policies introduces new land uses for on-farm activities under exempt and complying development if they meet development standards, or under a development application. They also make changes to facilitate small-scale agriculture development.

We are introducing clear definitions for agritourism in NSW:

- **Farm gate premises** – where visitors interact with produce from the farm, such as fruit picking, sales, tastings, workshops, and cafes.
- **Farm experience premises** – where visitors can experience life on a farm including tours, horse riding, weddings, functions, and retreats.
- **Farm stay accommodation** – where visitors can stay in buildings or moveable dwellings, including tents and caravans, on a farm.

For the full definition descriptions, read the [Standard Instrument \(Local Environmental Plans\) Amendment \(Agritourism\) Order 2022](#).

What are farm gate premises?

Farm gate premises are a way for landowners to showcase the agricultural produce of the land. This may include setting up a building or place to sell agricultural products such as a small restaurant or café, pick-your-own produce or running tastings and workshops. Other activities that meet the definition for farm gate premises can also be undertaken.

To understand more about what you can setup or run as farm gate premises, please see the [agritourism information sheet](#).

What are farm experience premises?

Farm experience premises allow a farmer to provide small scale and low impact tourist and recreational activities and events on their farm to visitors to experience the farm and farm life. They can include farm tours, school visits, retreats, weddings, conferences, horse riding and farm field days. Other activities that meet the definition for farm experience premises can also be undertaken.

To understand more about what you can setup or run as farm experience premises, please see the [agritourism information sheet](#).

What is farm-stay accommodation?

Farm stay accommodation includes erecting tents and having caravans or campervans on your land, changing the use of residential accommodation to farm stay accommodation or erecting a new building or modifying an existing building.

Landowners can also install a deck or other platform for glamping tents or cooking shelters for camping.

To understand more about what you can setup or run as farm stay accommodation, please see the [agritourism information sheet](#).

How do these changes help me?

Introducing these new definitions for agritourism land uses means that agritourism activities can be setup under simplified planning pathways – as exempt and complying development.

Rather than having to get a development application, landowners can set up agritourism opportunities with either faster approval (through complying development) or no planning or building approval (through exempt development) if they meet the requirements set out in the policy.

- Exempt development is minor, low-impact development that can be undertaken without planning or building approval if the work meets specified development standards.
- Complying development is a combined planning and construction approval for straightforward development that can be determined through a fast-track assessment by council or a registered certifier. Complying development must also meet specified development standards.

If an activity doesn't meet the standards for exempt or complying development, a development application can be lodged with council.

Are there other matters I need to consider in my council area?

In addition to the development standards, agritourism and farm stay accommodation can only be carried out as exempt or complying development in these zones in the council's Local Environmental Plan (LEPs):

- RU1 (Primary Production)
- RU2 (Rural Landscape)
- RU4 (Primary Production Small Lots).

For exempt development, in addition to these zones, farm stay accommodation, farm experience premises and farm gate premises can be carried out on other land where development for agriculture (excluding aquaculture), agritourism, extensive agriculture, intensive livestock agriculture or intensive plant agriculture is permitted with or without development consent under the council's LEP.

To carry out complying development, the land use – for example, farm gate premises – must be permissible with consent in the zone. This permissibility is set out in the council's LEP.

For both complying and exempt development, certain sensitive land is excluded, including significantly contaminated land, land declared to be a special area under the *Water NSW Act 2014* and land

identified on the [Agritourism and Farm Stay Accommodation Exempt and Complying Development Map](#). Building work must also be constructed in accordance with the Building Code of Australia.

You can read more about exempt and complying development at planningportal.nsw.gov.au.

If your development cannot meet the general requirements or development standards for exempt and complying development, you will need to lodge a development application with your council. Council is the best source for advice on whether you can lodge a development application and what information you need to provide.

There are also requirements under other legislation you may need to meet that are not related to the planning rules. For example, to serve food at an event you may have obligations under the *NSW Food Act 2003*.

I am already operating an agritourism business. How will these changes affect me?

Businesses that are operating lawfully before the changes commence can continue to operate and will not need to meet the new requirements.

Existing agritourism operations are considered to be lawfully operating if:

- the business is operating under a valid development consent or approval and complies with any conditions of that consent or approval
- the use is exempt development and complies with the requirements and development standards for that development
- the use is an ancillary development to another lawful use of the land and that other use has development consent or approval or does not require approval.

An ancillary use is a use that is secondary to the main purpose of the land and is not an independent land use in its own right. Ancillary uses may be relevant when a development involves multiple components on the same land.

If you are unsure whether you are operating lawfully, contact your council.

What type of agritourism is pick-your-own produce?

Pick-your-own produce activities may be undertaken as a farm gate premises if they involve providing agricultural products, or services or activities, on a commercial basis, related to agricultural products from the farm or other farms in the region. Pick-your-own activities can be undertaken as exempt development with up to 100 visitors to a farm at any one time. This will allow a large number of visitors across a day. For larger numbers of visitors, a development application must be submitted.

I have a hobby farm. Do the changes apply to me?

No. The new land use terms only apply where the main use of the land is the production of agricultural goods for commercial purposes.

A key objective of the agritourism proposals is to ensure primary production remains the principal use of farmland. The changes have been developed to achieve that objective. This includes by allowing agritourism only on a farm that is a primary production business under the *Income Tax Assessment Act 1997 (Cth)* or has been categorised as 'farmland' by the council under the *Local Government Act 1993*.

Could I set up multiple agritourism activities on my property?

Yes. You could set up multiple activities on your property provided each activity has the necessary planning approval in place (or in the case of exempt development, meets all the required development standards). The new land uses are intended to complement one another.

For example, you could have people staying at your property in farm stay accommodation and also allow visitors to buy produce from farm gate premises.

Can I earn more income from my agritourism proposal than from my agricultural business?

The agritourism land uses have been designed to complement agricultural production rather than detract from it. It is important to retain agricultural uses of farmland now and into the future.

While you can earn more income from your agritourism business than your primary production business, particularly during periods of drought or other temporary reasons outside your control, you must continue to have a commercial farm to run your agritourism business and the agritourism activities must be ancillary (secondary) to the farm.

Do I need approval to use my rural workers' dwelling for farm stay accommodation?

If a rural workers' dwelling on your land is an approved development, you can change the use to farm stay accommodation without further planning or building approval (exempt development). You must not contravene any of the conditions of the development consent that applies to the land.

Once the farm stay accommodation is no longer needed – for example at the end of school holidays – you can change the use of the building back to a rural workers' dwelling as exempt development. You will need to comply with the requirements of the development consent that was issued for the rural workers' dwelling.

This recognises agriculture can be seasonal and allows farmers flexibility in using existing buildings on their land.

Why are the provisions for temporary stock containment areas being updated?

Stakeholders have suggested that the provisions for stock containment areas could be simplified to make them easier to use. Some containment areas can have a negative impact on nearby areas because of their location due to runoff into waterways. The proposed changes will place restrictions on where stock containment areas can be located to minimise any impacts on the environment or neighbouring properties.

Why is the rebuilding of farm buildings allowed as exempt development?

We want to help farmers rebuild farm buildings after natural disasters such as the most recent floods affecting northern NSW. Allowing farm infrastructure such as farm buildings and grain bunkers to be rebuilt without the need for approval will make it easier for farmers to recover. Farmers will need to comply with any existing conditions of development consent for these buildings. The reconstructed building must have the same height and footprint as the previous building.

Why are the provisions for small-scale poultry farms and pig farms being updated to safeguard biosecurity?

We are increasing the distance between poultry and pig farms to respond to concerns from stakeholders that the distance required between farms is too small and does not meet best-practice standards for biosecurity. Farms that are proposed to be located closer than these distances must seek approval by lodging a development application with their council.

Did the department ask for feedback on these provisions?

In March-April 2021, we exhibited an explanation of intended effect about the agritourism and small-scale agriculture development proposals. The document detailed the proposed changes and asked the public to provide feedback through a series of questions. In addition, an 'ideas wall' and two surveys were also provided to capture feedback in various forms.

During the exhibition period, we received 239 submissions, 234 survey responses and 151 comments on the ideas wall. You can find out more about the submissions on our [website](#).

The feedback from the exhibition and further engagement with stakeholders informed the development of the final policy.

Further information

If you have questions about the changes, read our [agritourism information sheet](#), or contact the department via email information@planning.nsw.gov.au or our [contact form](#).

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