



New South Wales

# **Standard Instrument (Local Environmental Plans) Amendment (Agritourism) Order 2022**

under the

Environmental Planning and Assessment Act 1979

MARGARET BEAZLEY, Governor

I, the Honourable Margaret Beazley AC KC, Governor of New South Wales, with the advice of the Executive Council, and under section 3.20 of the *Environmental Planning and Assessment Act 1979*, make the following Order.

Dated, this 28th day of September 2022.

By Her Excellency's Command,

ANTHONY ROBERTS, MP  
Minister for Planning

## **Standard Instrument (Local Environmental Plans) Amendment (Agritourism) Order 2022**

under the

Environmental Planning and Assessment Act 1979

### **1 Name of Order**

This Order is *Standard Instrument (Local Environmental Plans) Amendment (Agritourism) Order 2022*.

### **2 Commencement**

This Order commences on 1 December 2022.

## **Schedule 1      Amendment of Standard Instrument prescribed by Standard Instrument (Local Environmental Plans) Order 2006**

### **[1] Land Use Table**

Insert in appropriate order in Direction 5—

- Agritourism;
- Farm experience premises;
- Farm gate premises;
- Primitive camping grounds;

### **[2] Clause 5.4 Controls relating to miscellaneous permissible uses [compulsory]**

Insert “in buildings” after “bedrooms” in clause 5.4(5).

### **[3] Clause 5.4(8)**

Omit “*not less than 8*”. Insert instead “*not less than 9*”.

### **[4] Clause 5.18 Intensive livestock agriculture [compulsory if intensive livestock agriculture permitted with consent]**

Omit clause 5.18(4)(b)(v). Insert instead—

- (v) for a poultry farm used for breeding poultry—within 5km of another poultry farm, or
- (vi) for a poultry farm not used for breeding poultry—
  - (A) within 5km of a poultry farm used for breeding poultry, or
  - (B) within 1km of a poultry farm not used for breeding poultry, or
- (vii) for a pig farm—within 3km of another pig farm.

### **[5] Clauses 5.24 and 5.25**

Insert at the end of Part 5—

#### **5.24 Farm stay accommodation [optional]**

- (1) The objectives of this clause are as follows—
  - (a) to diversify the uses of agricultural land without adversely impacting the principal use of the land for primary production,
  - (b) to balance the impact of tourism and related commercial uses with the use of land for primary production, the environment, scenic values, infrastructure and adjoining land uses.

**Direction—** Additional objectives may be included.
- (2) Development consent must not be granted to development for the purposes of farm stay accommodation on a landholding unless the consent authority is satisfied all buildings or manufactured homes used to accommodate guests on the landholding will be—
  - (a) on the same lot as an existing lawful dwelling house, or
  - (b) on a lot of a size not less than the minimum lot size for a dwelling house to be permitted on the lot under an environmental planning instrument applying to the land.

- (3) Subclause (2) does not apply if the development is a change of use of an existing dwelling to farm stay accommodation.
- (4) Development consent must not be granted to development for the purposes of farm stay accommodation on land unless the consent authority has considered—
  - (a) whether the development will result in noise or pollution that will have a significant adverse impact on the following on or near the land—
    - (i) residential accommodation,
    - (ii) primary production operations,
    - (iii) other land uses, and
  - (b) whether the development will have a significant adverse impact on the following on or near the land—
    - (i) the visual amenity or heritage or scenic values,
    - (ii) native or significant flora or fauna,
    - (iii) water quality,
    - (iv) traffic,
    - (v) the safety of persons, and
  - (c) whether the development is on bush fire prone land or flood prone land, and
  - (d) the suitability of the land for the development, and
  - (e) the compatibility of the development with nearby land uses.

**Direction—** Additional development standards for farm stay accommodation may be included.

#### **5.25 Farm gate premises [optional]**

- (1) The objectives of this clause are as follows—
    - (a) to allow for tourism and related commercial uses on land used principally for primary production at a scale that does not adversely affect the principal use of the land for primary production,
    - (b) to balance the impact of tourism and related commercial uses with the use of land for primary production, the environment, scenic values, infrastructure and adjoining land uses.
- Direction—** Additional objectives may be included.
- (2) Development consent must not be granted to development for the purposes of farm gate premises on land unless the consent authority has considered—
    - (a) whether the development will result in noise or pollution that will have a significant adverse impact on the following on or near the land—
      - (i) residential accommodation,
      - (ii) primary production operations,
      - (iii) other land uses, and
    - (b) whether the development will have a significant adverse impact on the following on or near the land—
      - (i) the visual amenity or heritage or scenic values,
      - (ii) native or significant flora or fauna,
      - (iii) water quality,
      - (iv) traffic,
      - (v) the safety of persons, and

- (c) whether the development is on bush fire prone land or flood prone land, and
- (d) the suitability of the land for the proposed development, and
- (e) the compatibility of the development with nearby land uses.

**Direction**— Additional development standards for farm gate premises may be included.

**[6] Dictionary, definition of “agriculture”**

Insert before paragraph (a)—

- (aaa) agritourism,

**[7] Dictionary, definition of “artisan food and drink industry”**

Omit paragraph (b). Insert instead—

- (b) the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided,

**[8] Dictionary**

Omit the definitions of *camping ground*, *caravan park* and *farm stay accommodation*.

Insert in alphabetical order—

***agritourism*** means the following—

- (a) farm gate premises,
- (b) farm experience premises.

**Note**— Agritourism is a type of ***agriculture***—see the definition of that term in this Dictionary.

***camping ground*** means an area of land, with access to communal amenities, used for the short term placement of campervans, tents, annexes or other similar portable and lightweight temporary shelters for accommodation and includes a primitive camping ground but does not include—

- (a) a caravan park, or
- (b) farm stay accommodation.

***caravan park*** means an area of land, with access to communal amenities, used for the installation or placement of caravans, or caravans and other moveable dwellings, but does not include farm stay accommodation.

***commercial farm*** means a farm on which agriculture is undertaken that is—

- (a) on land categorised as farmland under the *Local Government Act 1993*, section 515, or
- (b) a primary production business within the meaning of the *Income Tax Assessment Act 1997* of the Commonwealth, or part of a primary production business, including a business that—
  - (i) was a primary production business, and
  - (ii) has temporarily ceased to be a primary production business because of a natural disaster, including a drought, flood or bush fire.

***farm experience premises*** means a building or place—

- (a) on a commercial farm, and
- (b) ancillary to the farm, and

- (c) used to provide visitors to the farm, on a commercial basis, with small-scale and low-impact tourist or recreational activities, including the following, but not including motor sports—
  - (i) horse riding,
  - (ii) farm tours,
  - (iii) functions or conferences,
  - (iv) farm field days.

**Note—** Farm experience premises are a type of *agritourism*—see the definition of that term in this Dictionary.

***farm gate premises***—

- (a) means a building or place—
  - (i) on a commercial farm, and
  - (ii) ancillary to the farm, and
  - (iii) used to provide visitors to the farm, on a commercial basis, with agricultural products predominantly from the farm, supplemented by products from other farms in the region, or with services or activities related to the products, including the following—
    - (A) processing, packaging and sale of the products, but not the processing of animals,
    - (B) the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided,
    - (C) tastings or workshops,
    - (D) the provision of information or education related to the products, and
- (b) includes cellar door premises.

**Note—** Farm gate premises are a type of *agritourism*—see the definition of that term in this Dictionary.

***farm stay accommodation*** means a building or place—

- (a) on a commercial farm, and
- (b) ancillary to the farm, and
- (c) used to provide temporary accommodation to paying guests of the farm, including in buildings or moveable dwellings.

**Note—** Farm stay accommodation is a type of *tourist and visitor accommodation*—see the definition of that term in this Dictionary.

***landholding*** means an area of land—

- (a) constituted or worked as a single property, and
- (b) if comprising more than 1 lot—the lots are—
  - (i) contiguous, or
  - (ii) separated only by a road or watercourse.

***manufactured home*** has the same meaning as in the *Local Government Act 1993*.

***primitive camping ground*** means a camping ground approved under the *Local Government Act 1993*, Chapter 7, Part 1 as a primitive camping ground.

**Note—** Primitive camping ground is a type of *camping ground*—see the definition of that term in this Dictionary.

**[9] Dictionary, definition of “cellar door premises”**

Omit “*retail premises*” from the note. Insert instead “*farm gate premises*”.

**[10] Dictionary, definition of “restaurant or cafe”**

Omit “also provided”. Insert instead—

also provided, but does not include the preparation and serving of food and drink to people that occurs as part of—

- (a) an artisan food and drink industry, or
- (b) farm gate premises.

**[11] Dictionary, definition of “retail premises”**

Omit paragraph (b).

**[12] Dictionary, definition of “retail premises”**

Insert “farm gate premises,” before “highway service centres”.