

**15.2 Endorse for public exhibition: Draft Development Control Plan - Chapter 13 - Agritourism**

CSP Objective: Outcome 2.1: We protect our people, our place, our flora and fauna through our planning and our actions.

CSP Strategy: 2.1.3 Protect and maintain our natural areas; conserve areas of natural significance.

Delivery Program: 2.1.3.1 Protect and maintain our natural areas.

**Summary**

The purpose of this report is to seek Council's endorsement for the public exhibition of the proposed Draft Amendment to Kiama Development Control Plan 2020 Chapter 13 – Agritourism (Draft DCP). The Draft DCP will introduce guidelines for farm gate premises and farm experience premises and replaces and consolidates Council's current DCP provisions for farm stay accommodation into Chapter 13 - Agritourism.

This approach ensures that Kiama Development Contral Plan 2020 (Kiama DCP) contains general controls and objectives for agritourism as well as specific controls for farm gate premises, farm experience premises and farm stay accommodation in the one chapter. The Draft DCP integrates the Department of Planning and Environment's Model DCP – Agritourism (Model DCP) into the existing development controls and objectives contained in the Kiama DCP.

**Financial implication**

Financial implications for this State-led reform package include staff resources and time. These can be accommodated under the existing Strategic Planning budget allocation.

**Risk implication**

The Model DCP has been provided by the Department of Planning and Environment (the Department) to assist Councils within NSW as part of the planning package introduced to promote agritourism. The Model DCP clauses for agritourism have been provided as guidance for local councils to prepare appropriate controls in their Development Control Plans (DCP) for development applications for farm stay accommodation, farm gate premises, roadside stalls and farm experience premises.

In the absence of a specific draft DCP there is a risk of Development Applications being lodged prior to any local development standards or guidelines being in place. Subsequently, without a specific Draft DCP outlining development guidelines and standards for agritourism uses the development assessment process must be conducted solely under Section 4.15 of the *Environmental Planning & Assessment Act, 1979*. This in turn may affect Council's ability to defend any development decision if challenged in the NSW Land and Environment Court.

Council has the option of delaying the preparation of a draft DCP for agritourism until it undertakes detailed environmental studies and a major strategic review of Kiama Local Environmental Plan 2011 (Kiama LEP 2011) and Kiama DCP 2020. This major strategic review will require significant resources. Given this, it is recommended that Council proceed with the Draft DCP at this time. There will be an opportunity to review

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the provisions and outcomes in any future strategic review of the environment planning instruments that apply to the local government area.

### Policy

The adoption of a DCP - Agritourism will ensure that Council has adequate development controls in place to assess development applications for farm gate premises and farm experience premises. The provisions relating to farm stay accommodation that exist in Chapter 10.2 of the existing Kiama DCP, 2020 have been reviewed and the Model DCP provisions that are relevant to the local area have either been integrated or inserted into the draft DCP provisions relating to farm stay accommodation.

A review of the provisions relating to rural lands, including agritourism, will form part of the Council's comprehensive strategic planning review of Council's local environmental plan and development control plan.

### Consultation (internal)

The attached Draft DCP - Agritourism incorporates the comments made during this internal consultation process with Council staff including Strategic Planners, Development Assessment Officers, (both Building and Planning), Environmental Officers, Engineer and Council's Economic Development Officer.

### Communication/Community engagement

It is proposed to exhibit the proposed Draft DCP - Agritourism, in accordance with the Council's Community Participation Plan and legislative requirements for a period of 28 days.

The draft DCP will be placed on Council's website and submissions will be invited to be made during this period.

Following the exhibition period and consideration of any written submissions received during the exhibition period, the matter will be reported back to Council for formal endorsement and adoption.

### Attachments

- 1 Draft - Chapter 13 - Agritourism [↓](#)

### Enclosures

Nil

## RECOMMENDATION

That Council

1. Endorse the Draft DCP Chapter 13 – Agritourism, Amendment No 22 for public exhibition for a period of 28 days in accordance with Council's Community Participation Plan.

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2. Following the closure of the formal exhibition process, make changes as necessary and report the final Draft DCP Chapter 13 – Agritourism, Amendment No 22 of the Kiama Development Control Plan 2020 back to the elected Council for formal endorsement and adoption.

### Background

Council was first informed of the Department of Planning and Environment's proposal to simplify the planning process for small business activities and low-impact agricultural development on NSW farms in 2021. At this time Council endorsed the proposed optional development controls contained in the draft *Standard Instrument (Local Environmental Plans) Amendment (agritourism) Order 2021*. These draft clauses related to 5.24 Farm stay accommodation and 5.25 Farm gate premises.

Subsequently, the *State Environmental Planning Policy Amendment (Agritourism) 2023* inserted clauses 5.24 and 5.25 into the Kiama LEP 2011. The amendment included a new definition of "agritourism". The definition includes farm gate premises and farm experience premises. The term 'Agritourism' has also been added to the definition of agriculture through the amending SEPP (Agritourism) 2023.

Agritourism is now permissible with consent within Zone RU1 Primary Production and Zone RU2 Rural Landscape of Kiama LEP 2011. In addition, changes to exempt and complying development have also been introduced with SEPP (Exempt and Complying Development Codes) Amendment (Agritourism) 2022 coming into effect on 1 December 2022.

Although Agritourism may occur under the Exempt and Complying Codes SEPP, there may be some instances where a proposed agritourism development is unable to be determined under that SEPP. In these instances, it may be appropriate for a Development Application to be submitted for consideration on its merit in accordance with Kiama LEP 2011 and Kiama DCP 2020.

It has been recognised by the Department of Planning and Environment that many Councils will need to develop amendments to their DCP's to accommodate the introduction of Agritourism as a permissible use in certain zones within their Local Environmental Plans. The department has released a Model Agritourism DCP for consideration and adoption by Councils within NSW. The Model has been integrated into the attached draft chapter.

It is noted that there is ongoing debate about the introduction of the changes to the SEPP and the ability for agritourism to occur in rural zones. This debate is ongoing within the State Government and Council is being updated as this progress. Although Council is aware of this discussion, it is important that Council still seeks to implement guidance and support to both applicants and community for this land use. If the legislation does change in the future any controls can be reviewed and amended accordingly.

### Statewide changes to Agritourism

The Department has introduced a suite of legislative and policy documents including the Model DCP clauses for agritourism. These include an "Agritourism stakeholder

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toolkit”, “A guide to planning approvals for setting up an agritourism business” and “Frequently asked Questions” sheet as well fictional case studies.

### **Model Development Control Plan provisions**

The Model DCP provides the framework for councils to adopt local controls or development standards into their existing DCPs. The Model DCP provides for some specific modifications to be made to the Model DCP including the following:

- impact of farm experience premises, farm gate premises and farm stay accommodation at clause 1.2.3 on neighbouring land uses
- farm stay accommodation development controls at clause 2.4
- farm gate premises and farm experience premises at clause 3.4, and
- roadside stalls.

The Department has also issued draft standard conditions of consent for agritourism, which are being released in conjunction with the other standard conditions of development consent. The Department is currently consulting with Council staff on these proposed conditions.

### **Draft Development Control Plan – Agritourism**

The objectives and controls contained in the Model DCP relating to farm gate premises, roadside stalls and farm experience premises have been included in the Draft DCP. The controls have been modified to reflect local planning goals for rural lands in our local government area or to match the controls in the current Kiama DCP 2020.

The major amendments and inclusions made to the Model DCP relate to noise pollution control from farm gate premises and farm experience premises. Other amendments are relatively minor and reflect the planning controls and objectives already contained in Kiama DCP 2020.

In addition, it is proposed to combine the Model DCP controls and the existing provisions relating to farm stay accommodation. Combining the two sets of controls has contributed to a significant increase in the number of controls relating to this type of land use and development. These additional controls are warranted to ensure that the potential for land use conflicts between agritourism and agricultural uses are minimised. The controls set out at draft clause 1.2.3 Controls include minimum setback provisions to ensure that agritourism development does not restrict the day-to-day functions of adjacent farms.

Development applications for farm stay accommodation are currently assessed under Chapter 10, Topic 10.2 of Kiama DCP 2020. In this regard, the existing provisions were merged with those in the Model DCP and modified to reflect local environmental and planning objectives. This approach ensures appropriate controls are included in the Draft DCP, whilst providing for local objectives and development controls to also be included.

The additional controls contained in the Draft DCP reflect local strategic planning objectives and existing controls. An example is the minimum boundary setback of

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250m for intensive agribusinesses and quarries. It is worth noting that this additional control does not apply to dairy farming under the Kiama LEP 2011.

**Conclusion**

The proposed planning objectives and development guidelines will ensure that the scale and operation of developments assessed under the Draft DCP are in keeping with Council's overall environmental and strategic planning objectives. Without the Draft DCP, all development applications for farm gate and farm-experience premises will be assessed solely under the broad heads of consideration in Section 4.15 of the Environmental Planning and Assessment Act, 1979.

**Item 15.2**

# DRAFT Kiama Development Control Plan Chapter 13 - Agritourism

## Chapter 13. Agritourism

### 1. General controls

This section contains general provisions that apply to development for *roadside stall*, *farm experience premises*, *farm gate premises* and *farm stay accommodation*. Specific controls for each of these land uses are provided in the following sections.

The definitions for these land uses can be found in the [dictionary](https://legislation.nsw.gov.au/view/html/inforce/current/epi-2011-0680) to Kiama Local Environmental Plan 2011 <https://legislation.nsw.gov.au/view/html/inforce/current/epi-2011-0680>

#### 1.1 Site analysis and design

##### 1.1.1 Background

Development for farm experience premises, farm gate premises and farm stay accommodation can only be undertaken on a commercial farm and must be ancillary (secondary) to the agriculture being undertaken on the farm. These requirements are important to ensure agricultural land is retained in NSW. Any development application for these land uses should contain supporting information to demonstrate that the proposal is ancillary to the farm and will not adversely affect the existing farm operations on the landholding.

Across regional NSW and rural areas around metropolitan Sydney, there is a rich variety in the character and identity of rural areas, underpinned by diverse landscapes, stories and cultures to be acknowledged and preserved. The design of buildings, structures and landscape plays an important role in creating memorable experiences and places. The visual character of existing built form, especially historical built forms, together with the character of the surrounding landscape, contributes to a sense of place which is distinct and unique and essential to that place's identity.

##### 1.1.2 Objectives

- a) To allow for tourism development on farms that complements the agricultural use of the land.
- b) To ensure farm gate premises, farm experience premises and farm stay accommodation are secondary to a commercial farm and do not constrain the agricultural activities on the property from remaining the primary use of the land.
- c) To ensure farm gate premises, farm experience premises and farm stay accommodation are compatible with the rural character and heritage of the property and do not unnecessarily intrude on the landscape.
- d) To respond to environmental values, risks and constraints including environmentally sensitive lands that involve native vegetation and habitats, waterways and water sources.

##### 1.1.3 Controls

1. Development for farm experience premises, farm gate premises or farm stay accommodation is not to restrict the day-to-day functions of the farm from remaining the primary use of the land.
2. A site analysis plan for farm experience premises, farm gate premises or farm stay accommodation is to demonstrate how the existing attributes and constraints of the site and surrounds have been considered, including rural character, heritage, environment, landscape and scenic values.

*Note: Additional requirements for a site analysis plan are set out in Chapter 2.*

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3. The site design and layout for farm experience premises, farm gate premises or farm stay accommodation is to:
  - a. demonstrate how the design of buildings and structures, through the selection of materials and design quality, will enhance the sense of place, reinforce the rural character and complement and integrate with the existing landscape, including scenic values
  - b. demonstrate how the proposed number and size of buildings and structures will assist in retaining the visual character of the area
  - c. ensure the placement of buildings and structures are clustered on the property where possible, to minimise the area of land occupied by the development and minimise environmental impacts
  - d. ensure the proposed development does not detract from local amenity or the quality of the environment.
4. Development should complement the proportions and design features of existing buildings that contribute to the character of the rural locality.
5. Buildings and structures should not be placed on a ridgeline, peak of a hill or other visually prominent areas.

## 1.2 Location and Neighbouring land uses

### 1.2.1 Background

Farm experience premises, farm gate premises and farm stay accommodation can potentially conflict with farming activities carried out on the farm and on adjoining properties, and with other activities on the farm. Conversely, visitors or operators of farm gate premises, farm experience premises or farm stay accommodation could complain about the effects of farming operations on their enjoyment of the farm. It is important to protect operating farms and the on-going viability of traditional agricultural uses. Some sites or localities on the farm may therefore not be appropriate for certain agritourism development.

Farm experience premises, farm gate premises or farm stay accommodation also have the potential to have impacts on nearby rural residents, particularly activities that generate significant traffic, create substantial noise, or operate at night.

Where a development proposal is likely to result in conflict with adjoining land uses, the development application should be accompanied by supporting information which identifies the potential for conflict and demonstrates how any associated environmental and amenity impacts have been mitigated. This could be achieved by taking advantage of the existing features of the land, adopting setbacks and buffer areas, or by other means.

### 1.2.2 Objectives

- a) To ensure farm gate premises, farm experience premises and farm stay accommodation are sensitive to adjoining land uses and minimise noise, odour and visual impacts, especially in areas close to residential development.
- b) To reduce land use conflicts by separating farm experience premises, farm gate premises or farm stay accommodation development from existing land uses on the property or on nearby land.

### 1.2.3 Controls

1. The development is not to restrict the day-to-day functions of adjacent farms or other existing activities or known future uses on adjoining land.
2. The design and placement of buildings, structures and moveable dwellings should minimise and mitigate any potential impact on the amenity of nearby residents.
3. A building, structure, moveable dwelling or activity for farm experience premises, farm gate premises or farm stay accommodation is to be located:

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- a. a minimum of 100 metres from agricultural land uses on the landholding
- b. a minimum of 100 metres from residential accommodation on adjacent land or on land that is separated from the landholding by a road

*Note: The Codes SEPP requires a minimum 250m setback for exempt and complying development*

- c. a minimum of 20 metres from a property boundary or road

*Note: The Codes SEPP requires a minimum 50m setback for exempt and complying development*

- d. a minimum of 100 metres from a waterway

*Note: The Codes SEPP requires a minimum 50m setback for exempt and complying development*

- e. a minimum of 250 metres from a boundary for land used for the purpose of forestry, intensive livestock agriculture, intensive plant agriculture, mines, extractive industries, railway lines or rural industries.

*Note: The Codes SEPP requires a minimum 250m setback for exempt and complying development.*

4. A development may be closer than the above distances to property boundaries and roads if it can be demonstrated that measures incorporated into the design, such as boundary planting, will appropriately mitigate impacts.

*Note: Consider the NSW Department of Primary Industries' Buffer Zones to Reduce Land Use Conflict with Agriculture: An Interim Guideline (2018) when setting distances between agriculture and sensitive receivers.*

### 1.3 Vegetation and landscaping

#### 1.3.1 Background

Over time, native vegetation has been modified and fragmented as land was developed for grazing and agriculture and by introduced plants and animals. Retaining a healthy mix of native vegetation is important for the health and long-term survival of ecosystems, farm productivity and human wellbeing. Native plants can provide sight and noise barriers, discourage access to unsafe areas and help define the space for an activity.

Development for the purposes of farm gate premises, farm experience premises and farm stay accommodation may result in higher building densities than an agricultural use which can sometimes constrain opportunities to achieve good landscaping outcomes. It is important that existing vegetation and desired future landscape outcomes are considered in detail at the development design stage, including within any parking areas for a proposed development.

#### 1.3.2 Objectives

- a) To avoid the clearing and removal of native flora and fauna, in particular threatened species and threatened ecological communities.
- b) To ensure buildings, structures and moveable dwellings are sited and designed to complement, enhance and protect existing native vegetation, features and landscapes.
- c) To minimise the impacts of a development on the environment, including existing vegetation, features, natural resources and biodiversity.
- d) To ensure landscaping is visually complimentary to the development.

#### 1.3.3 Controls

1. Existing mature trees and vegetation are to be retained. Where it is necessary to replace mature trees and vegetation, they are to be replaced with trees native to the region in an appropriate location on the property.

*Note: The replacement of trees and vegetation may need to be supported by a report prepared by a suitably qualified arborist.*



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2. A vegetation management plan is to demonstrate how existing native flora (including tree canopies and underground roots systems) and fauna will be protected and maintained during the construction or erection of any new buildings, structures, moveable dwellings or facilities for farm gate premises, farm experience premises or farm stay accommodation and during the ongoing operation of the premises or accommodation.
3. Landscaping should be used to minimise the physical and visual dominance of development for farm gate premises, farm experience premises or farm stay accommodation, including any car parking and vehicle circulation areas, and should include plants native to the local area.

#### 1.4 Water supply and management

##### 1.4.1 Background

The increased number of people on a rural property from a development may strain existing water supply to the site. Sufficient supply of safe drinking water without adverse environmental consequences is fundamental to the ongoing use of the land for farm gate premises, farm experience premises and farm stay accommodation. For properties that do not have access to town water, supporting information will need to be provided with a development application that demonstrates alternative solutions to service the needs of visitors and guests.

##### 1.4.2 Objectives

- a) To ensure adequate arrangements for water supply for visitors and guests to farm gate premises, farm experience premises and farm stay accommodation.
- b) To preserve water supply from contaminants generated by visitors and guests to farm gate premises, farm experience premises, farm stay accommodation and roadside stalls.

##### 1.4.3 Controls

1. Where the site is not connected to reticulated water, a water supply and management plan is to demonstrate adequate potable water supply, both quality and quantity, is available for the proposed use of a site for farm experience premises, farm gate premises or farm stay accommodation. This water supply is to be in addition to water required for firefighting purposes.
2. Development is not to adversely impact existing water supplies for residential and primary production uses on the landholding.

Note: Development within the Sydney Drinking Water Catchment is required to have a neutral or beneficial effect on water quality under *State Environmental Planning Policy (Biodiversity and Conservation) 2021*.

#### 1.5 Hazards

##### 1.5.1 Background

Most visitors and guests to farm gate premises, farm experience premises and farm stay accommodation will not be aware of the potential risks of bush fire and flooding and will not be familiar with the local area. They will need assistance on matters such as when to evacuate, where to go and how to get there when these types of events occur.

A bush fire and flood safety plan is vital to ensure the farm gate premises, farm experience premises or farm stay accommodation will be prepared for a natural hazard event and ensure the safety of visitors to the property. Restricting the use of high risk areas on the farm will decrease the risk further. Development on bush fire prone land is to consider the *Planning for Bush Fire Protection* prepared by the NSW Rural Fire Service. Development on a floodplain or on flood prone land is to consider the provisions of the *Floodplain Development Manual* and *Flood Risk Management Manual* as well as any relevant flood studies.

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Tourist accommodation, such as farm stay accommodation, is a 'special fire protection purpose' under section 100B of the *Rural Fires Act 1997* and requires a bush fire safety authority if it is to be carried out on bush fire prone land. A development application that requires a bush fire safety authority under section 100B is integrated development under the *Environmental Planning and Assessment Act 1979* and will be referred to the NSW Rural Fire Service.

Previous uses of rural land, including old farm sheds, may contain traces of chemicals that provide a risk to human health. *State Environment Planning Policy (Resilience and Hazards) 2021* requires consideration of whether the land is contaminated from past land uses, and whether the site is currently suitable for the proposed land use in its current state or can be made suitable after remediation. A development application for farm gate premises, farm experience premises or farm stay accommodation will need to demonstrate that past land uses have not left a legacy of contamination or provide evidence of any remediation of contaminated land.

Development near agricultural operations, whether on the landholding or on adjacent land, could also be exposed to risks from pesticides and chemical sprays and any associated drifting of chemicals.

### 1.5.2 Objectives

- a) To ensure development is located to minimise exposure to natural and environmental hazards, including bush fire, flooding, landslips, site contamination and chemical use.
- b) To protect any part of a development that could be affected by natural and environmental hazards.
- c) To ensure the safety of visitors who could be adversely affected by natural and environmental hazards for the duration of their stay or visit.
- d) To provide for safe evacuation assembly points and egress pathways.
- e) To ensure site contamination is identified and appropriately and effectively remediated before the land is used.

### 1.5.3 Controls

1. The design and placement of buildings, structures and moveable dwellings is to consider the existing features of the land and climate, including minimising risk from weather events and hazards, including from the existing farm operations, e.g. operation of machinery, movement of animals, and other farm operations.
2. Development is not to be located in proximity to areas of high bush fire, landslip or flooding hazards or where hazardous chemicals are used.
3. The development is to identify measures to ensure visitors do not access restricted areas.
4. For development for farm experience premises, farm gate premises and farm stay accommodation on bush fire prone land:
  - a. a water tank dedicated for firefighting purposes with a minimum volume as required by *Planning for Bush Fire Protection*, published by the NSW Rural Fire Service, must be provided on the property
  - b. a bush fire emergency management and evacuation plan is to be prepared in accordance with the NSW Rural Fire Service's requirements and identify when the premises will be on alert and will close, evacuation procedures and assembly points, proposed signage, measures to protect human life and property in the event of bush fire, any vegetation hazard clearing needed, contact details for emergency services and any bush fire maintenance measures required.

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5. For development for farm experience premises and farm gate premises, a flood evacuation plan is to identify when the facility will be on alert and will close, evacuation procedures and assembly points, proposed signage, measures to protect human life and property in the event of flooding, contact details for emergency services and any maintenance measures required.
6. Evacuation routes from the location of a development to a main road or alternate point of refuge are to avoid flood prone land and bush fire prone land where practicable.
7. Where a development is proposed on land where contamination is suspected or has been identified, Council's requirements in Kiama Development Control Plan 2020 apply.

Note: Development within the flood planning area, defined in the *Floodplain Development Manual* (April 2005), is to address the matters in clause 5.21 of Council's local environmental plan.

## 1.6 Waste management

### 1.6.1 Background

Waste generated during the development and the ongoing use of farm gate premises, farm experience premises and farm stay accommodation needs to be thoughtfully managed, and recycled where possible, to ensure waste does not contaminate the farm or the neighbouring and downstream environments.

An increased number of people visiting a farm for farm stay accommodation, farm experience premises or farm gate premises may strain existing effluent management on rural properties. Development applications for properties that do not have access to town sewerage connections will need to provide supporting information that demonstrates solutions to service the needs of visitors and guests. The safe management of effluent and trade waste without unreasonable adverse environmental consequences is fundamental to the ongoing use of the land.

Note: The *Local Government Act 1993* requires on-site effluent treatment and disposal systems to be approved by Council before being installed, constructed or modified.

### 1.6.2 Objectives

- a) To manage waste in an environmentally sensitive manner.
- b) To ensure management of effluent waste is not detrimental to the local environment

### 1.6.3 Controls

1. Development is to minimise any impacts on the natural environment and visitor safety caused by waste, effluent disposal and potential contaminants.
2. A waste management plan for the ongoing use of farm gate premises, farm experience premises or farm stay accommodation is to provide:
  - a. details of the business
  - b. waste types to be managed including through containment, recycling, re-use and landfill
  - c. waste collection and disposal details
  - d. waste minimisation measures
  - e. monitoring protocols to ensure compliance with the waste management plan.
3. All effluent waste generated by the development and its ongoing use is to be disposed:
  - a. to a reticulated sewerage system connected to the landholding; or
  - b. using a system of sewerage management for which the approval of Council is obtained under the *Local Government Act 1993*.
4. All other waste is to be disposed at an approved waste or resource recovery facility.

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5. Organic waste may be disposed onsite if disposed in a managed composting system where odours and other pollutants are controlled and/or managed.
6. On site sewerage systems should be located in existing cleared areas and separated from activities on the farm.
7. Onsite waste storage facilities are to have sufficient capacity for the waste generated and be emptied regularly. For an existing onsite sewerage system, an effluent report is to be prepared by a suitably qualified person and submitted to Council which confirms the system is adequate for the additional number of users.
8. All recyclables should be separated from other waste before disposal.

Note: Development within the Sydney Drinking Water Catchment is required to have a neutral or beneficial effect on water quality under *State Environmental Planning Policy (Biodiversity and Conservation) 2021*.

## 1.7 Biosecurity

### 1.7.1 Background

Increased visitation to a farm will increase the risk of pests and diseases being introduced, potentially threatening the viability of the farm, nearby farms, other industries, the environment and the economy. On-farm biosecurity plays a critical role in reducing these risks by protecting the community from the negative impacts of pests, diseases, weeds and contaminants.

It is important that biosecurity risks are considered and there are reasonably practical measures to prevent, eliminate or minimise potential impacts of a development on natural and built environments, social and economic impacts in the locality, and the public.

### 1.7.2 Objectives

- a) To manage biosecurity risks from pests, disease, weeds and contaminants by effectively minimising impacts, through robust management arrangements, if they cannot be eliminated.
- b) To ensure the general biosecurity duty is met.

### 1.7.3 Controls

1. The planning and assessment of development proposals is to consider the NSW Department of Primary Industries' *Managing biosecurity risks in land use planning and development guide* (2020) to ensure biosecurity is appropriately addressed, including in relation to:
  - a. buffer zones
  - b. wash down facilities
  - c. designated parking areas
  - d. location to major potable water supply storages and watercourses – poultry production
  - e. dumping and burying rubbish on site.
2. A biosecurity plan for the ongoing use of farm stay accommodation, farm experience premises or farm gate premises should be prepared in accordance with the NSW Department of Primary Industries' requirements, including the *Farm Biosecurity Action Planner*.

Note:

- (a) Under the *Biosecurity Act 2015*, there is a general obligation on people to be aware of their surroundings and take action to prevent the introduction and spread of pests, diseases, weeds and contaminants. In addition, where a biosecurity plan has been developed at places of commercial or educational activities for intensive or extensive agriculture or horticulture, subject to certain conditions, a person including any visitors must comply with the biosecurity plan.
- (b) Council will consider relevant biosecurity guidelines to assess a development proposal and determine relevant conditions of consent for the operation of the development.

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## 1.8 Traffic, access, and parking

### 1.8.1 Background

Rural roads are often soft shouldered and with high maximum speed limits. Turning in and out of a farming property in these circumstances creates a safety risk that must be managed. Traffic movements and insufficient onsite parking can affect adjoining and neighbouring residents.

The driveways of many existing rural properties may be in locations that are safe for use by the owners of the land who are familiar with the road conditions but may not be suitable for visitors unfamiliar with the local roads.

Note: New vehicle access from a road to a property will require approval from the relevant road authority under the *Roads Act 1993*.

### 1.8.2 Objectives

- a) To ensure the safety of vehicle movements associated with farm gate premises, farm experience premises or farm stay accommodation, including entry, egress and movement within a property.
- b) To minimise the impact of traffic on local roads associated with farm gate premises, farm experience premises or farm stay accommodation.
- c) To ensure adequate parking is available on the property for visitors and employees to farm gate premises, farm experience premises or farm stay accommodation and to deter overflow parking on local roads.
- d) To ensure safety of pedestrians on a property visiting farm gate premises, farm experience premises or farm stay accommodation.

### 1.8.3 Controls

For development for farm experience premises, farm gate premises or farm stay accommodation:

1. A vehicle access point to the property is to demonstrate compliance with the sight distance requirements of AS 2890.1 *Off-street car parking* and should be adequate to service the development.  

Note: Where access to the property is via a shared private road, the point of access is the point where the private road meets a public road. This may not be at the boundary of the landholding. [deleted if required]
2. Where possible, access should be shared with any existing access to the farm to minimise further environmental impact.
3. Only one driveway is permitted on a property unless the property has a frontage of greater than 100m and can accommodate an additional access and egress to improve:
  - a. traffic management on the property or on and off the road
  - b. separation between the farming operations and the development, or
  - c. resident, employee and visitor safety.
4. All vehicles (including trucks) should be able to enter and exit the property in a forward direction.
5. All parking and loading or unloading of vehicles is to occur within the property boundary.
6. The minimum number of car parking spaces to be provided is:
  - a. 1 space per farm stay accommodation room or cabin, and
  - b. 1 space per moveable dwelling or tent site, and
  - c. 1 space per 2 employees, and

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- d. 1 space per 25m<sup>2</sup> gross floor area of a building or structure for farm gate premises or farm experience premises, and
  - e. 1 space per 3 visitors for any outdoor farm gate premises or farm experience premises activity, and
  - f. 1 space for persons with disability or limited mobility.
7. A parking and access plan can demonstrate alternative parking ratios to the above minimum numbers that includes safe separation between visitors and heavy vehicles and farming operations.
  8. Car parking areas should not form a visually prominent element of the rural landscape or be highly visible from the road frontage and should be located behind the front building line.
  9. Car parking areas should be finished in a surface that will allow for vehicle movements in all weather conditions.

## 1.9 Signage

### 1.9.1 Objectives

- a) To ensure signage for farm gate premises, farm experience premises, farm stay accommodation or roadside stalls considers the visual impact on the rural character of the area and does not detrimentally affect the landscape or road corridor.
- b) To require appropriate signage within the property boundary to assist visitors and guests relating to:
  - i. the location of activities, facilities and interest points associated with farm gate premises, farm experience premises, farm stay accommodation or roadside stalls,
  - ii. essential safety information including evacuation procedures in a natural disaster or other emergency.

### 1.9.2 Controls

1. Signage for farm gate premises, farm experience premises, farm stay accommodation or roadside stalls should be in keeping with the rural character and the nature of the operations on the landholding.
2. All signage for farm gate premises, farm experience premises or farm stay accommodation should be located within the boundary of the landholding.
3. Business identification signs for farm gate premises, farm experience premises, farm stay accommodation or roadside stalls are limited to a maximum of two signs with one directional sign and one sign identifying the property name and agritourism use on the landholding facing a road frontage. The sign on the property facing the road frontages is to include a 24 hour-contact/management number that may be called if adjoining areas have impacts on amenity including noise complaints.

*Note: The Codes SEPP allows up to two business identification signs as exempt development. The Kiama DCO Eco-tourism performance criteria provide for one sign to identify the eco-tourism use and to advise of how noise pollution complaints are to be handled.*

4. Business identification signage should only promote the business activity and the goods and services offered on the landholding.

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5. Any sign must:
  - a. have a maximum height of 3 metres, and
  - b. have a maximum area of 3 square metres, and
  - c. illuminated signs are not permitted but sign lighting will be assessed on merit. Any proposed sign lighting shall avoid or minimise adverse impacts on adjoining properties and comply with AS/NZS 4282:2019 *Control of the obtrusive effects of outdoor lighting*.
6. Evacuation signage must be located near the farm gate premises, farm experience premises and farm stay accommodation, the property entrance and emergency assembly points and include contact details for emergency services.
7. Waypoint markers should be provided to assist visitors and guests traverse a property where farm gate premises, farm experience premises or farm stay accommodation operate.

#### 1.10 Ongoing operations

##### 1.10.1 Objectives

- a) To provide for the ongoing management of farm gate premises, farm experience premises and farm stay accommodation.
- b) To ensure farm gate premises, farm experience premises and farm stay accommodation minimise impacts on the natural environment and visitor safety.
- c) To ensure visitors and guests have access to important safety and operational information while on a property where farm gate premises, farm experience premises or farm stay accommodation operate.

##### 1.10.2 Controls

1. A management plan for the ongoing operation of farm experience premises, farm gate premises and farm stay accommodation is to include:
  - a. a description of the development
  - b. a map of where the development will be on the property, relevant dimensions and key features on the land
  - c. the proposed months, days and hours of operation of the premises or accommodation
  - d. the maximum number of visitors or guests at one time to the premises or accommodation, and how this will be monitored
  - e. emergency contact details, including for emergency services in the event of bush fire, flooding or other natural disasters
  - f. bush fire and flood safety measures to protect human life and property, e.g. bush fire and flood safety plans and procedures for closing the premises, such as when bush fire and flood warnings are in place
  - g. how visitors and guests will be:
    - i. advised to limit impacts to the operational farm,
    - ii. advised to preserve and protect existing native flora, fauna and waterways, heritage items and Aboriginal heritage located on the property,
    - iii. advised to minimise any biosecurity risk through dispersal of weeds, seeds, insects and contaminants,
    - iv. advised to manage their waste

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- v. alerted as to risks that may occur such as natural hazards or changing weather and procedures for responding to the risks, including evacuation measures
- h. measures to mitigate adverse environmental and amenity impacts, including how the business and water resources will be managed during drought
- i. the way vehicles will access the landholding and the premises or accommodation, including emergency vehicles
- j. any hazards on the property and how they will be managed to ensure the safety of visitors and guests
- k. procedures for receiving and managing complaints.

Note: The ongoing management plan may refer to other plans prepared with the development application, such as a bush fire emergency management and evacuation plan.

## 2. Farm stay accommodation

Note: The objectives and controls in the General section 1.1 to 1.10 also apply to farm stay accommodation.

### 2.1 Background

Farm stay accommodation is for short term stays by visitors and guests on a commercial farm and can include the conversion of an existing building, the construction of a new building and camping in tents, caravans and similar structures.

Farm stay accommodation is not a form of residential accommodation and does not create a dwelling entitlement on a landholding. Farm stay accommodation is only permissible on land holdings of 40 hectares or more and where the main use of the land is agricultural.

### 2.2 Objectives

- a) Provide general standards for Farm Stay Accommodation facilities within the Kiama Municipality .
- b) To diversify the uses of agricultural land for tourist-style accommodation without adversely impacting the principal use of the land for primary production.
- c) To ensure farm stay accommodation does not detract from existing environmental values, scenic landscape values, infrastructure and adjoining land uses.
- d) To protect the amenity and privacy of adjoining properties, including visual and acoustic privacy, from farm stay accommodation.
- e) To provide accessible farm stay accommodation suitable for people with disability or limited mobility.
- f) Achieve well-designed accommodation facilities which attract and meet the needs of visitors to the Municipality
- g) Preserve and complement any natural and/or cultural heritage characteristics of the area; and



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### 2.3 Controls

1. Farm stay accommodation that comprises moveable dwellings (tents, caravans, camper trailers, tiny houses) is to be on a landholding that is a minimum of 40 hectares.

*Note: The Codes SEPP requires a minimum 15ha landholding size for exempt development.*

2. A building or manufactured home for farm stay accommodation (except the use of existing residential accommodation or a manufactured home) is to be on a landholding that is a minimum of 40 hectares.

*Note: in accordance with our LEP a building or manufactured home for farm stay accommodation (except for the use of an existing dwelling for farm stay accommodation) must be:*

- a. on the same lot as an existing lawful dwelling house, or
- b. on a lot that is not less than the minimum lot size for a dwelling house permitted under Council's LEP.

3. Farm stay accommodation, including in moveable dwellings, is limited to:

- a. a maximum of 20 guests at any one time on a landholding, and
- b. a maximum stay for guests of 21 consecutive days.

*Note: The Codes SEPP allows a maximum 20 guests in moveable dwellings as exempt development and allows two guests over the age of 12 years in a building or manufactured home that does not have bedrooms, or guests over the age of 12 years that total two times the number of bedrooms in a building or manufactured home as exempt or complying development. The Codes SEPP also allows a maximum 21 consecutive days of stay for farm stay accommodation as exempt or complying development.*

4. The maximum number of buildings and manufactured homes used for farm stay accommodation on a landholding is 6.

*Note: The Codes SEPP allows a maximum six buildings and manufactured homes as exempt or complying development.*

5. The maximum number of moveable dwellings used for the purposes of farm stay accommodation on a landholding is 6.

*Note: The Codes SEPP allows a maximum of six campervans, caravans and other similar moveable dwellings on a landholding as exempt development.*

6. To address fire safety:

- a. buildings are to be separated from other buildings by a minimum 1.8 metres, and
- b. moveable dwellings are to be separated from buildings and other moveable dwellings (except tents and similar portable and lightweight temporary shelters) by a minimum 2.5 metres.

7. The gross floor area of a new building or manufactured home for farm stay accommodation must not be more than 60 square metres.

8. The gross floor area of part of an existing building or manufactured home used for farm stay accommodation must not be more than 60 square metres.

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*Note: The Codes SEPP allows a maximum 60m<sup>2</sup> gross floor area for a change of use of a building or part of a building, for a new building or for alterations and additions to an existing building or manufactured home as farm stay accommodation under complying development.*

9. The height of a moveable dwelling used for farm stay accommodation is not to exceed 4.5 metres.

*Note: The Codes SEPP allows a maximum height of 4.5m as exempt development.*

10. The height of a building or manufactured home for farm stay accommodation is not to exceed 4.5 metres.

*Note: The Codes SEPP allows a maximum height of 4.5m for a new building or for alterations and additions to an existing building or manufactured home that has a height less than 4.5m under complying development, and the height of an existing building or manufactured home that is over 4.5m cannot be increased.*

#### Siting of Development

11. Farm Stay Accommodation facilities are to be sited in order to reduce the impact on adjoining properties in terms of visual and acoustic privacy.

#### Services and Facilities

12. All necessary/appropriate facilities are to be provided for guests.
- a) Electrically wired smoke detectors are required to be installed in the bedrooms used as guest accommodation and must be approved by Council.
  - b) The method of effluent disposal, where sewer is not available, shall be determined having regard to criteria such as the size of the allotment, volume of waste produced, number of people occupying the dwelling, slope, and soil classification.
13. Where mains water is not available, a minimum of 200 kL of water per bedroom for daily use is to be provided in addition to that required for the dwelling house on the property and for firefighting purposes if on bush fire prone land.
14. One toilet per 10 staying guests in farm stay accommodation on the landholding is to be available in an accessible location. At least one toilet must be a unisex accessible toilet.

#### Parking & Access

15. Car parking complies with the requirements of Topic 3.6 of Chapter 3 and is located to have minimal impact on the streetscape and the rural landscape.
- a) One (1) car parking space is to be provided per bedroom provided for guests of the Farm Stay Accommodation facility.
  - b) Car parking spaces for the Farm Stay Accommodation are to be provided in addition to the parking required for the existing dwelling/s on site.

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- c) Car parking spaces are to be located behind the building line of any road frontage and are not to be located adjacent to sensitive areas in adjoining dwellings, such as bedroom windows and doors.
- 16. Private water supplies shall not harm the health of guests of the Farm Stay Accommodation
  - a) Farm Stay Accommodation that has private water supplies (i.e., not on town water) shall comply with NSW Health's NSW Private Water Supply Guidelines.

#### Operation of Accommodation Facility

- 17. Farm Stay Accommodation must be operated in such a way so as not to negatively interfere with the amenity of the surrounding neighbourhood.
- 18. Length of stay in Farm Stay Accommodation is limited to avoid use as permanent residential accommodation:
  - a) The maximum length of consecutive stay is 21 days.
  - b) Permanent residential occupancy of bedrooms, approved for Farm Stay Accommodation, will require separate development consent.
- 19. Farm Stay Accommodation must not adversely impact primary production on the site
- 20. The adaptive reuse of existing rural buildings such as barns, silos, stables, or dairies is encouraged.

#### Bushfire Requirements

- 21. Adequate bush fire protection measures are to be implemented for Farm Stay Accommodation facilities.
  - a) When located on bush fire prone land Farm Stay Accommodation requires approval under section 100B of the Rural Fires Act 1997.

#### Flood Liable Land

- 22. Farm Stay accommodation cannot be carried out on land that is flood liable including flood storage area, floodway area, flow path. A high hazard area or a high-risk area.

### 3. Farm gate premises and farm experience premises

Note: The objectives and controls in the General section 1.1 to 1.10 also apply to farm gate premises and farm experience premises.

#### 3.1 Background

Farm gate premises comprise a building or place on a commercial farm that is used to provide visitors to the farm with agricultural products predominantly from the farm, supplemented by produce from other farms in the region, or with services or activities related to the products, including processing, packaging, serving of food and drink in a café or restaurant, tastings and workshops. Cellar door premises are a type of farm gate premises.

Farm experience premises comprise a building or place on a commercial farm that is used to provide visitors with an experience on the farm, such as events, conferences, weddings, farm field days, farm tours or creative and skills classes such as photography, yoga or astronomy.

#### 3.2 Objectives

- a) To allow for tourism and related commercial uses at a scale that does not adversely affect the principal use of land for primary production.
- b) To ensure farm gate premises and farm experience premises do not detract from existing environmental values, scenic values, infrastructure and adjoining land uses.
- c) To protect the amenity and privacy of adjoining properties, including visual and acoustic privacy, from farm gate premises and farm experience premises.

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- d) To provide for the sale of locally grown and manufactured produce in appropriate rural locations.
- e) To adequately provide services and facilities for visitors and guests on the property, including accessible facilities.
- f) To manage the number of visitors to a landholding to address cumulative effects of traffic on roads.

### 3.3 General matters for consideration

1. Development should not result in noise or pollution that will have a significant adverse impact on the following on or near the land:
  - a. residential accommodation
  - b. primary production operations
  - c. other land uses.
2. Development should not have a significant adverse impact on the following on or near the land:
  - a. the visual amenity, heritage or scenic values
  - b. native flora or fauna, particularly threatened species and ecological communities
  - c. water quality
  - d. traffic
  - e. the safety of persons

Note: Development in the Sydney Drinking Water Catchment is required to have a neutral or beneficial effect on water quality under *State Environmental Planning Policy (Biodiversity and Conservation) 2021*.

### 3.4 Controls

1. The gross floor area of a building (or part of a building) for farm gate premises or farm experience premises is not to be more than 200 square metres.

*Note: The Codes SEPP allow up to 200m<sup>2</sup> for a building for farm gate premises or farm experience premises as exempt or complying development.*
2. The total footprint of all buildings used for farm gate premises and farm experience premises on the landholding is not to exceed 500 square metres.

*Note: The Codes SEPP allows up to 500m<sup>2</sup> for all buildings on the landholding for farm gate premises or farm experience premises as exempt or complying development.*
3. The height of a building for farm gate premises or farm experience premises is not to exceed 10 metres. The roofline of any new building should not protrude above an existing ridgeline and the design on the building shall minimise any visual impact of the development from adjoining property and public spaces.

*Note: The Codes SEPP allows a maximum height of 7m for a new building or for alterations or additions to an existing building as complying development for landholdings that are no more than 10ha, and up to 10m in height for landholdings that are greater than 10ha. The height of an existing building that is over 7m or 10m, respectively, cannot be increased.*
4. Buildings are to be separated by a minimum 2.5 metres to address fire safety.
5. The hours of operation for farm gate premises are:
  - a. 8am-5pm Sunday to Friday and public holidays, and
  - b. 7am-5pm on Saturdays

*Note: The Codes SEPP allows hours of operation of 8am to 5pm Sunday to Friday and public holidays and 7am to 5pm on Saturdays as exempt or complying development.*
6. The hours of operation of farm experience premises are:
  - a. 8am-6pm Sunday to Thursday and public holidays, and

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- b. 8am-10:30pm Friday and Saturday.

*Note: The Codes SEPP allows hours of operation of 8am to 6pm Sunday to Thursday and public holidays and 8am to midnight Friday and Saturday as exempt or complying development.*

7. The maximum number of visitors to farm gate premises is not to exceed 50 on a landholding at any one time.

*Note: The Codes SEPP allows a maximum of 100 visitors on a landholding at any one time for farm gate premises (excluding visitors participating in fruit and produce picking) as exempt and complying development.*

8. The maximum number of visitors to farm experience premises is not to exceed 100 on a landholding at any one time.

*Note: The Codes SEPP allows a maximum of 50 visitors on a landholding at any one time for farm experience premises (excluding visitors participating in tours and school groups) as exempt and complying development.*

9. The maximum number of visitors to all farm gate premises and farm experience premises is 150 on a landholding at any one time.

*Note: The Codes SEPP allows a maximum of 100 visitors on a landholding at any one time for all farm gate premises and farm experience premises (excluding visitors participating in fruit and produce picking, tours and school groups) as exempt and complying development.*

10. Farm experience premises are limited to 60 events per year, including a maximum of 4 events per year after 6pm that have amplified noise.

*Note: The Codes SEPP allows up to 52 events per year, which includes up to four events after 6pm if there is amplified noise.*

11. Adequate toilet facilities are to be provided. At least one toilet must be a unisex accessible toilet.

12. An Acoustic Assessment Report should be provided from a suitably qualified and/or experienced acoustical engineer (e.g. a member of the Australian Acoustical Society) to assess and consider the sources that will produce noise and the subsequent impacts they may have. The event organiser must provide written notification to surrounding residents prior to the event.

The stage, speakers, and associated equipment used to generate noise must be orientated and located away from the closest residences.

The use of the premises for weddings and functions shall be conducted in such a manner so as not to interfere with the amenity of nearby residents or the ambience of the locality by reason of noise, vibration or otherwise.

#### 4. Roadside stalls

Note: The objectives and controls in the General section 1.1 to 1.10 also apply to roadside stalls unless they are specified to apply only to farm experience premises, farm gate premises and farm stay accommodation.

##### 4.1 Background

A roadside stall is a place or temporary structure used for the retail sale of agricultural produce or hand-crafted goods (or both) produced from the property on which the stall is situated or from an adjacent property. Roadside stalls are generally small-scale structures or buildings and may be a courtesy or honesty box that is not serviced by the owner.

These objectives and controls for roadside stalls apply to stalls associated with a farm. Other controls may be provided in the DCP for roadside stalls on other land.

##### 4.2 Objectives

- a) To ensure roadside stalls are in keeping with the rural environment and do not distract road users from safe driving practices.
- b) To ensure access to and from roadside stalls occurs in a safe manner.

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#### 4.3 Controls

1. The design of a roadside stall should complement the natural landscape.
2. The maximum height of a roadside stall is 7 metres.
3. A roadside stall must be located within the boundaries of the landholding.
4. A vehicle access point from the property to a public road is to comply with AS/NZS 2890.1: 2004 *Parking facilities - Off-street car parking*.
5. Car parking spaces may be located on a road verge or fully within the boundaries of the property and should be provided for at least three vehicles.

Note:

1. The maximum gross floor area of a roadside stall is specified in clause 5.4(8) of the LEP.
2. Any work required in the road reserve will require approval of the relevant roads authority under the *Roads Act 1993*.
3. Carparking on the road verge for three or more cars is limited to roads that are not classified as State Roads or in areas which will impact the access to adjoining properties.