



New South Wales

# **State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Agritourism) 2022**

under the

Environmental Planning and Assessment Act 1979

Her Excellency the Governor, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979*.

ANTHONY ROBERTS, MP  
Minister for Planning

## **State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Agritourism) 2022**

under the

Environmental Planning and Assessment Act 1979

### **1 Name of Policy**

This Policy is *State Environmental Planning Policy (Exempt and Complying  
Development Codes) Amendment (Agritourism) 2022*.

### **2 Commencement**

This Policy commences on 1 December 2022.

### **3 Repeal of Policy**

This Policy is repealed at the beginning of the day following the day on which this  
Policy commences.

## **Schedule 1      Amendment of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008**

### **[1]    Clause 1.5 Interpretation—general**

Insert in alphabetical order in clause 1.5(1)—

***Agritourism and Farm Stay Accommodation Exempt and Complying Development Map*** means the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 Agritourism and Farm Stay Accommodation Exempt and Complying Development Map.

***annexe*** has the same meaning as in the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021*.

***campervan*** has the same meaning as in the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021*.

***caravan*** has the same meaning as in the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021*.

***human waste storage facility*** has the same meaning as in the *Local Government Act 1993*.

***significantly contaminated land*** has the same meaning as in the *Contaminated Land Management Act 1997*.

### **[2]    Clause 1.13 Savings provisions**

Insert after clause 1.13(5)—

- (6) A development application or an application for a complying development certificate submitted but not finally determined before the commencement of *State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Agritourism) 2022* must be determined as if the Policy had not commenced.

### **[3]    Clause 1.19 Land on which complying development may not be carried out**

Insert “, Agritourism and Farm Stay Accommodation Code” after “Rural Housing Code” in clause 1.19(1).

### **[4]    Clause 1.19(1)**

Insert “, the Agritourism and Farm Stay Accommodation Code” after “the Rural Housing Code”.

### **[5]    Clause 1.19(1)(c1)**

Omit the paragraph. Insert instead—

- (c1) significantly contaminated land, or

### **[6]    Clause 1.19(5)(d)**

Omit the paragraph. Insert instead—

- (d) significantly contaminated land, or

### **[7]    Clause 2.12 Development standards**

Omit clause 2.12(1)(e) and (o). Insert instead in appropriate order—

- (e) be located—
  - (i) if carried out in connection with farm experience premises or farm gate premises—more than 50m from a road, or
  - (ii) otherwise—behind the building line of a road frontage, and

**[8] Clause 2.12(3)**

Insert after clause 2.12(2)—

- (3) Subclause (1)(h) does not apply to development carried out in connection with a building used for the purposes of farm stay accommodation, farm gate premises or farm experience premises.

**[9] Part 2 Exempt Development Codes**

Insert after Part 2, Division 1, Subdivision 15A—

**Subdivision 15B Farm buildings damaged by natural disasters**

**2.30C Specified development**

The demolition of an existing farm building that has been significantly damaged or destroyed by a natural disaster and the erection of a new farm building is development specified for this code.

**2.30D Development standards**

The following standards are specified for the development—

- (a) the existing farm building must have been lawfully erected,
- (b) the development must not contravene an existing condition of the most recent development consent that applies to the landholding,
- (c) the development must be carried out in accordance with AS 2601—2001, *The demolition of structures*,
- (d) the new structure must be in the same location as the existing structure,
- (e) the new structure must be of the same building classification under the *Building Code of Australia* as the existing structure,
- (f) the new structure must not have a height or total footprint greater than the height or total footprint of the existing structure,
- (g) the new structure must be constructed of non-combustible material if it is located—
  - (i) on bush fire prone land, and
  - (ii) within 5m of a dwelling house,
- (h) the development must comply with the standards specified in the following provisions, except in relation to the location or height of the new structure or minimum distances other than a distance relating to a waterbody (natural)—
  - (i) for a farm building other than a stock holding yard, grain silo or grain bunker—clause 2.32,
  - (ii) for a stock holding yard—clause 2.32B,
  - (iii) for a grain silo or grain bunker—clauses 2.32D–2.32F.

**[10] Part 2, Division 1, Subdivisions 16C–16E**

Insert after Part 2, Division 1, Subdivision 16B—

## Subdivision 16C Farm experience premises

### 2.32G Specified development

- (1) The use of land for the purposes of farm experience premises is development specified for this code if taking place on a landholding—
  - (a) in Zone RU1, RU2 or RU4, or
  - (b) on which development for the purposes of one of the following is permitted with or without development consent under an environmental planning instrument—
    - (i) agritourism,
    - (ii) extensive agriculture,
    - (iii) intensive livestock agriculture,
    - (iv) intensive plant agriculture.
- (2) To be exempt development, the development must not take place on—
  - (a) significantly contaminated land, or
  - (b) land declared to be a special area under the *Water NSW Act 2014*, or
  - (c) land identified on the Agritourism and Farm Stay Accommodation Exempt and Complying Development Map.

### 2.32H Development standards

- (1) The following standards are specified for the development—
  - (a) the development must not involve the erection of a new building,
  - (b) the development must not result in a change of building classification under the *Building Code of Australia*, unless—
    - (i) the change is from a class 5 building to a class 6 building, or vice versa, and
    - (ii) the building complies with all the relevant provisions of the *Building Code of Australia* that apply to the new use,
  - (c) the development must not involve the use of more than 200m<sup>2</sup> of the gross floor area of an existing building,
  - (d) the total gross floor area of all buildings used for the purposes of farm experience premises and farm gate premises on the landholding must be no more than 500m<sup>2</sup>,
  - (e) a building used for the purposes of farm experience premises must not be located within—
    - (i) 50m of a property boundary or waterway, or
    - (ii) 250m of residential accommodation on neighbouring land, or
    - (iii) 250m of a property boundary for land used for the purposes of one of the following—
      - (A) forestry,
      - (B) intensive livestock agriculture,
      - (C) intensive plant agriculture,
      - (D) mines,
      - (E) extractive industries,
      - (F) rail lines,
      - (G) rural industries,

- (f) the activities visitors participate in must not be conducted within the areas referred to in paragraph (e)(ii) and (iii),
- (g) notice of the following must be given, at least 1 week before the premises open to visitors, to neighbours likely to be affected by the development—
  - (i) the location of the premises,
  - (ii) the date on which the premises will open to visitors,
  - (iii) the opening hours of the premises,
- (h) for premises located within 1km of residential accommodation or a building, including a stable, stock yard or poultry shed, used to house animals on neighbouring land—the development must not involve amplified noise,
- (i) the premises must not be open to visitors, excluding visitors participating in farm tours, horse riding tours and school groups, for more than 52 days each year, including no more than 4 events held on a Friday or Saturday after 6pm that involve amplified noise,
- (j) the premises must not be open to visitors outside the following hours—
  - (i) on Sundays, Mondays, Tuesdays, Wednesdays, Thursdays or public holidays—8am to 6pm,
  - (ii) on Fridays and Saturdays—8am to midnight,
- (k) the number of visitors, excluding visitors participating in farm tours, horse riding tours and school groups, to all farm experience premises on the landholding at any one time must not be more than 50,
- (l) the total number of visitors, excluding visitors participating in farm tours, horse riding tours and school groups, to all farm experience premises and farm gate premises on the landholding at any one time must not be more than 100,
- (m) a temporary structure erected at the premises is not required to comply with clause 2.118(a)–(c), (l), (m) or (o),
- (n) an evacuation diagram displaying the following must be located in a prominent position at or near the premises—
  - (i) directions to facilitate the safe evacuation of people from the site,
  - (ii) contact details for emergency services, including for a bush fire, flood or other natural disaster,
- (o) vehicular or pedestrian access to the accommodation must not be directly from a freeway, highway or tollway within the meaning of the *Roads Act 1993*,
- (p) a vehicular access point to a public road must comply with the lesser of—
  - (i) a clear sight distance for vehicles leaving the premises of at least 300m, or
  - (ii) the minimum car stopping sight distances set out in the *Guide to Road Design Part 3: Geometric Design*, Table 5.5, published by Austroads on 26 February 2021,
- (q) vehicles must be able to enter and exit the landholding in a forward direction,
- (r) car parking spaces must be located wholly within the boundaries of the landholding,
- (s) waste generated as a result of the development must be disposed of—

- (i) using a sewage reticulation system connected to the landholding, or
  - (ii) using a system of sewage management for which the approval of the council has been obtained under the *Local Government Act 1993*, section 68, or
  - (iii) at a waste or resource management facility,
  - (t) the on-site disposal of organic or putrescible waste must not have an adverse impact on the use of adjoining land,
  - (u) a human waste storage facility on the landholding must be emptied using—
    - (i) a sewage reticulation system connected to the landholding, or
    - (ii) a system of sewage management for which the approval of the council has been obtained under the *Local Government Act 1993*, section 68.
- (2) In this clause—  
***neighbouring land*** means—
- (a) adjacent land outside the landholding, or
  - (b) land outside the landholding that is separated from the landholding by a road.

## **Subdivision 16D Farm gate premises**

### **2.32I Specified development**

- (1) The use of land for the purposes of farm gate premises is development specified for this code if taking place on a landholding—
  - (a) in Zone RU1, RU2 or RU4, or
  - (b) on which development for the purposes of one of the following is permitted with or without development consent under an environmental planning instrument—
    - (i) agritourism,
    - (ii) extensive agriculture,
    - (iii) intensive livestock agriculture,
    - (iv) intensive plant agriculture.
- (2) To be exempt development, the development must not take place on—
  - (a) significantly contaminated land, or
  - (b) land declared to be a special area under the *Water NSW Act 2014*, or
  - (c) land identified on the Agritourism and Farm Stay Accommodation Exempt and Complying Development Map.

### **2.32J Development standards**

The following standards are specified for the development—

- (a) the development must not involve the erection of a new building,
- (b) the development must not result in a change of building classification under the *Building Code of Australia*, unless—
  - (i) the change is from a class 5 building to a class 6 building, or vice versa, and

- (ii) the building complies with all the relevant provisions of the *Building Code of Australia* that apply to the new use,
- (c) the development must not involve the use of more than 200m<sup>2</sup> of the gross floor area of an existing building,
- (d) the total gross floor area of all buildings used for the purposes of farm experience premises and farm gate premises on the landholding must be no more than 500m<sup>2</sup>,
- (e) a building used for the purposes of farm gate premises must not be located within—
  - (i) 50m of a property boundary or waterway, or
  - (ii) 250m of residential accommodation on—
    - (A) adjacent land outside the landholding, or
    - (B) land outside the landholding that is separated from the landholding by a road, or
  - (iii) 250m of a property boundary for land used for the purposes of one of the following—
    - (A) forestry,
    - (B) intensive livestock agriculture,
    - (C) intensive plant agriculture,
    - (D) mines,
    - (E) extractive industries,
    - (F) rail lines,
    - (G) rural industries,
- (f) services and activities related to the development must not be provided to visitors within the areas referred to in paragraph (e)(ii) and (iii),
- (g) the premises must not be open to visitors outside the following hours—
  - (i) on Sundays, Mondays, Tuesdays, Wednesdays, Thursdays, Fridays or public holidays—8am to 5pm,
  - (ii) on Saturdays—7am to 5pm,
- (h) the number of visitors to all farm gate premises on the landholding at any one time must not be more than 100,
- (i) the total number of visitors, excluding visitors participating in farm tours, horse riding tours and school groups, to all farm experience premises and farm gate premises on the landholding at any one time must not be more than 100,
- (j) a temporary structure erected at the premises is not required to comply with clause 2.118(a)–(c), (l), (m) or (o),
- (k) an evacuation diagram displaying the following must be located in a prominent position at or near the premises—
  - (i) directions to facilitate the safe evacuation of people from the site,
  - (ii) contact details for emergency services, including for a bush fire, flood or other natural disaster,
- (l) vehicular or pedestrian access to the accommodation must not be directly from a freeway, highway or tollway within the meaning of the *Roads Act 1993*,
- (m) a vehicular access point to a public road must comply with the lesser of—



- (i) a clear sight distance for vehicles leaving the premises of at least 300m, or
  - (ii) the minimum car stopping sight distances set out in the *Guide to Road Design Part 3: Geometric Design*, Table 5.5, published by Austroads on 26 February 2021,
- (n) vehicles must be able to enter and exit the landholding in a forward direction,
- (o) car parking spaces must be located wholly within the boundaries of the landholding,
- (p) waste generated as a result of the development must be disposed of—
  - (i) using a sewage reticulation system connected to the landholding, or
  - (ii) using a system of sewage management for which the approval of the council has been obtained under the *Local Government Act 1993*, section 68, or
  - (iii) at a waste or resource management facility,
- (q) the on-site disposal of organic or putrescible waste must not have an adverse impact on the use of adjoining land,
- (r) a human waste storage facility on the landholding must be emptied using—
  - (i) a sewage reticulation system connected to the landholding, or
  - (ii) a system of sewage management for which the approval of the council has been obtained under the *Local Government Act 1993*, section 68,

**Note—** The *Food Act 2003*, and the regulations under that Act, may contain additional requirements in relation to premises used by a food business in connection with the handling of food intended for sale.

## **Subdivision 16E Farm stay accommodation**

### **2.32K Specified development**

- (1) The following development, if carried out on a relevant landholding, is specified for this code—
  - (a) a change of use from residential accommodation to, or the use of a manufactured home for the purposes of, farm stay accommodation,
  - (b) a change of use from farm stay accommodation to residential accommodation, if—
    - (i) the farm stay accommodation was previously residential accommodation, and
    - (ii) the change of use is to the same type of residential accommodation,
  - (c) the use of land for the purposes of farm stay accommodation that accommodates guests in one or more of the following—
    - (i) campervans,
    - (ii) caravans,
    - (iii) tents, annexes or other similar portable and lightweight temporary shelters,
  - (d) the construction, installation or replacement of a deck, slab or other platform, whether roofed or not—

- (i) to be used as an area for preparing, cooking or serving food in connection with farm stay accommodation, or
  - (ii) on which either of the following will be installed—
    - (A) a moveable dwelling to be used for the purposes of farm stay accommodation,
    - (B) a shelter to be used for the purposes of preparing, cooking or serving food in connection with farm stay accommodation.
- (2) To be exempt development, the development must not be carried out on land—
  - (a) declared to be a special area under the *Water NSW Act 2014*, or
  - (b) identified on the Agritourism and Farm Stay Accommodation Exempt and Complying Development Map.
- (3) In this clause—

**relevant landholding** means a landholding—

  - (a) in Zone RU1, RU2 or RU4, or
  - (b) on which development for the purposes of one of the following is permitted with or without development consent under an environmental planning instrument—
    - (i) agritourism,
    - (ii) extensive agriculture,
    - (iii) intensive livestock agriculture,
    - (iv) intensive plant agriculture.

**2.32L Development standards—change of use to, or use of manufactured home for, farm stay accommodation**

The following standards are specified for development referred to in clause 2.32K(1)(a)—

- (a) for a change of use from residential accommodation—the existing building must have been lawfully erected,
- (b) for the use of a manufactured home—the manufactured home must have been lawfully constructed,
- (c) the development must not contravene an existing condition of the most recent development consent that applies to the landholding,
- (d) the number of buildings and manufactured homes used for the purposes of farm stay accommodation on the landholding must be no more than 6,
- (e) the number of guests, not including guests under 12 years of age, accommodated in the building or dwelling at any one time must not be more than—
  - (i) for a building without a bedroom—2, or
  - (ii) otherwise—2 times the number of bedrooms,
- (f) each guest must not stay at the accommodation for more than 21 consecutive days,
- (g) an evacuation diagram displaying the following must be located in a prominent position at or near the accommodation—
  - (i) directions to facilitate the safe evacuation of people from the site,

- (ii) contact details for emergency services, including for a bush fire, flood or other natural disaster,
- (h) vehicular or pedestrian access to the accommodation must not be directly from a freeway, highway or tollway within the meaning of the *Roads Act 1993*,
- (i) a vehicular access point to a public road must comply with the lesser of—
  - (i) a clear sight distance for vehicles leaving the premises of at least 300m, or
  - (ii) the minimum car stopping sight distances set out in the *Guide to Road Design Part 3: Geometric Design*, Table 5.5, published by Austroads on 26 February 2021,
- (j) vehicles must be able to enter and exit the landholding in a forward direction,
- (k) car parking spaces must be located wholly within the boundaries of the landholding,
- (l) waste generated as a result of the development must be disposed of—
  - (i) using a sewage reticulation system connected to the landholding, or
  - (ii) using a system of sewage management for which the approval of the council has been obtained under the *Local Government Act 1993*, section 68, or
  - (iii) at a waste or resource management facility,
- (m) the on-site disposal of organic or putrescible waste must not have an adverse impact on the use of adjoining land.

**2.32M Development standards—change of use to residential accommodation**

The following standards are specified for development referred to in clause 2.32K(1)(b)—

- (a) the former use must have been a lawful use,
- (b) the development must not contravene an existing condition of the most recent development consent that applies to the landholding.

**2.32N Development standards—use of land for campervans, caravans and temporary shelters**

The following standards are specified for development referred to in clause 2.32K(1)(c)—

- (a) the development must not take place on significantly contaminated land,
- (b) the landholding must have an area of at least 15ha,
- (c) the number of campervans, caravans and other similar moveable dwellings, not including tents, annexes or other similar portable and lightweight temporary shelters, used for the purposes of farm stay accommodation on the landholding must be no more than 6,
- (d) the height of each moveable dwelling must be no more than 4.5m above ground level (existing),
- (e) the moveable dwellings must not be installed or placed within—
  - (i) 6m of—
    - (A) a building on the landholding, or

- (B) another moveable dwelling, other than a tent or other similar portable and lightweight temporary shelter, on the landholding, or
- (ii) 50m of a property boundary or waterway, or
- (iii) 250m of residential accommodation on—
  - (A) adjacent land outside the landholding, or
  - (B) land outside the landholding that is separated from the landholding by a road, or
- (iv) 250m of a property boundary for land used for the purposes of one of the following—
  - (A) forestry,
  - (B) intensive livestock agriculture,
  - (C) intensive plant agriculture,
  - (D) mines,
  - (E) extractive industries,
  - (F) rail lines,
  - (G) rural industries,
- (f) the gross floor area of a part of an existing building used to provide communal amenities or facilities to guests must be no more than 25m<sup>2</sup>,
- (g) the number of guests accommodated in moveable dwellings on the landholding at any one time must not be more than 20,
- (h) each guest must not stay on the landholding for more than 21 consecutive days,
- (i) an evacuation diagram displaying the following must be located in a prominent position on the site—
  - (i) directions to facilitate the safe evacuation of people from the site,
  - (ii) contact details for emergency services, including for a bush fire, flood or other natural disaster,
- (j) vehicular or pedestrian access to the accommodation must not be directly from a freeway, highway or tollway within the meaning of the *Roads Act 1993*,
- (k) a vehicular access point to a public road must comply with the lesser of—
  - (i) a clear sight distance for vehicles leaving the premises of at least 300m, or
  - (ii) the minimum car stopping sight distances set out in the *Guide to Road Design Part 3: Geometric Design*, Table 5.5, published by Austroads on 26 February 2021,
- (l) vehicles must be able to enter and exit the landholding in a forward direction,
- (m) car parking spaces must be located wholly within the boundaries of the landholding,
- (n) waste generated as a result of the development must be disposed of—
  - (i) using a sewage reticulation system connected to the landholding, or
  - (ii) using a system of sewage management for which the approval of the council has been obtained under the *Local Government Act 1993*, section 68, or

- (iii) at a waste or resource management facility,
- (o) the on-site disposal of organic or putrescible waste must not have an adverse impact on the use of adjoining land,
- (p) if there are no human waste storage facilities on the landholding as part of communal amenities or facilities, each moveable dwelling must contain a human waste storage facility,
- (q) a human waste storage facility on the landholding must be emptied using—
  - (i) a sewage reticulation system connected to the landholding, or
  - (ii) a system of sewage management for which the approval of the council has been obtained under the *Local Government Act 1993*, section 68.

### **2.32O Development standards—decks, slabs and other platforms**

The following standards are specified for development referred to in clause 2.32K(1)(d)—

- (a) the development must not be carried out on significantly contaminated land,
- (b) the number of platforms constructed or installed on the landholding must be no more than—
  - (i) 1 per 5ha, and
  - (ii) 6 in total,
- (c) the platform must have an area of no more than 25m<sup>2</sup>,
- (d) the height of the platform must be no more than 1m above ground level (existing),
- (e) the platform must not be constructed or installed within—
  - (i) 50m of a property boundary or waterway, or
  - (ii) 250m of residential accommodation on—
    - (A) adjacent land outside the landholding, or
    - (B) land outside the landholding that is separated from the landholding by a road, or
- (iii) 250m of a property boundary for land used for the purposes of one of the following—
  - (A) forestry,
  - (B) intensive livestock agriculture,
  - (C) intensive plant agriculture,
  - (D) mines,
  - (E) extractive industries,
  - (F) rail lines,
  - (G) rural industries,
- (f) a shelter installed on the platform must have an area of no more than 25m<sup>2</sup>,
- (g) a shelter installed on the platform must be no more than 4m tall.

### **[11] Part 2, Division 1, Subdivision 33AA**

Insert after Part 2, Division 1, Subdivision 33—

## Subdivision 33AA Roadside stalls

### 2.66AA Specified development

Development for the purposes of a single roadside stall is development specified for this code if carried out on a landholding that is—

- (a) privately owned, and
- (b) in Zone RU1, RU2 or RU4, and
- (c) not adjacent to a freeway, highway or tollway within the meaning of the *Roads Act 1993*.

### 2.66AB Development standards

The following standards are specified for the development—

- (a) the gross floor area of the stall must be no more than 9m<sup>2</sup>,
- (b) for a stall located on bush fire prone land—the stall must not be erected or installed within 6m of residential accommodation,
- (c) an evacuation diagram displaying the following must be located in a prominent position on or near the stall—
  - (i) directions to facilitate the safe evacuation of people from the site,
  - (ii) contact details for emergency services, including for a bush fire, flood or other natural disaster,
- (d) a vehicular access point to a public road must comply with the lesser of—
  - (i) a clear sight distance for vehicles leaving the premises of at least 300m, or
  - (ii) the minimum car stopping sight distances set out in the *Guide to Road Design Part 3: Geometric Design*, Table 5.5, published by Austroads on 26 February 2021,
- (e) vehicles must be able to enter and exit the landholding in a forward direction,
- (f) car parking spaces must be located—
  - (i) on a road verge, or
  - (ii) wholly within the boundaries of the landholding,
- (g) car parking spaces may only be located on a road verge if—
  - (i) the verge has a maximum average gradient of 1:20, and
  - (ii) there is no vegetation on the verge, and
  - (iii) the parking spaces are at least 3m from a lane of a road, and
  - (iv) the verge is adjacent to a road with a maximum speed limit of 60km/hr or less,
- (h) waste generated as a result of the development must be disposed of—
  - (i) using a sewage reticulation system connected to the landholding, or
  - (ii) using a system of sewage management for which the approval of the council has been obtained under the *Local Government Act 1993*, section 68, or
  - (iii) at a waste or resource management facility,
- (i) the on-site disposal of organic or putrescible waste must not have an adverse impact on the use of adjoining land.

**[12] Part 2, Division 2, Subdivision 14**

Insert after Part 2, Division 2, Subdivision 13—

**Subdivision 14 Agritourism signs**

**2.107A Specified development**

The construction or installation of a business identification sign related to one or more of the following, if located on the same landholding as the business to which it relates, is development specified for this code—

- (a) farm stay accommodation,
- (b) farm experience premises,
- (c) farm gate premises,
- (d) roadside stalls.

**2.107B Development standards**

The following standards are specified for the development—

- (a) the development must not cause there to be more than 2 business identification signs facing a road frontage,
- (b) the sign must not be attached to a building that is a heritage item or draft heritage item,
- (c) the sign must be no more than 2m above ground level (existing),
- (d) the sign must have an area of no more than 2m<sup>2</sup>,
- (e) the sign must be constructed or installed in accordance with—
  - (i) AS/NZS 1170.0:2002, *Structural design actions, Part 0: General principles*, and
  - (ii) AS/NZS 1170.2:2021, *Structural design actions, Part 2: Wind actions*,
- (f) no more than 1 sign on a landholding may be illuminated,
- (g) an illuminated sign must—
  - (i) have its means of illumination, including associated cables, concealed or integrated within the frame of the sign, and
  - (ii) not be animated, flashing or moving, and
  - (iii) comply with AS/NZS 4282:2019, *Control of the obtrusive effects of outdoor lighting*, and
  - (iv) only be illuminated—
    - (A) for a roadside stall—during the opening hours of the stall, or
    - (B) otherwise—between 7am and 10pm each day.

**[13] Part 9**

Insert after Part 8—

## **Part 9 Agritourism and Farm Stay Accommodation Code**

### **Division 1 Preliminary**

#### **9.1 Definition**

In this Part—

**footprint** means the area of the ground surface occupied by a building, including the walls, verandahs, balconies, footings, and roofing of the building, and extending to the perimeter of the foundations and other means of structural support to the building, excluding the area of access ramps, eaves and sunshade devices.

**neighbouring land** means—

- (a) adjacent land outside the landholding, or
- (b) land outside the landholding that is separated from the landholding by a road.

### **Division 2 General requirements for complying development under this code**

#### **9.2 Complying development on flood control lots**

- (1) Development specified for this code may be carried out on a flood control lot, other than the part of a flood control lot comprising one of the following—
  - (a) a flood storage area,
  - (b) a floodway area,
  - (c) a flow path,
  - (d) a high hazard area,
  - (e) a high risk area.
- (2) Before the issue of a complying development certificate for the development, the council or a professional engineer who specialises in hydraulic engineering must certify that the part of the flood control lot on which the development will be carried out is not an area referred to in subclause (1)(a)–(e).
- (3) If development specified for this code is carried out on a flood control lot, the following standards apply—
  - (a) the development must not result in increased flooding elsewhere in the floodplain,
  - (b) if there is a minimum floor level specified in a development control plan that applies to the landholding, the floor level of each habitable room must be no lower than the minimum floor level,
  - (c) a part of the building or manufactured home erected at or below the flood planning level must be constructed using flood compatible material,
  - (d) the building or manufactured home must be able to withstand the forces exerted during a flood by water, debris and buoyancy up to—
    - (i) if an on-site refuge is located on the lot—the probable maximum flood level, or
    - (ii) otherwise—the flood planning level,



- (e) the lot must have pedestrian and vehicular access to a readily accessible refuge at a level equal to or higher than the lowest habitable floor level of the building or manufactured home,
  - (f) vehicular access to the building or manufactured home will not be inundated by water at a level of more than 30cm during a 1:100 average recurrent interval flood event,
  - (g) open car parking spaces and carports must not be lower than the level of a 1:20 average recurrent interval flood event.
- (4) The standards specified in subclause (3)(a) and (d) are satisfied if a joint report by a professional engineer who specialises in hydraulic engineering and a professional engineer who specialises in civil engineering states that the standards are satisfied.
- (5) A word or expression used in this clause has the same meaning as in the *Floodplain Development Manual*, unless otherwise defined in this Policy.

### **9.3 Development standards for land near Siding Spring Observatory**

The following standards apply to development specified for this code—

- (a) for development carried out in the Coonamble, Gilgandra or Warrumbungle Shire local government area, or the part of the Dubbo Regional local government area formerly in the City of Dubbo—an outside light fitting on a building or manufactured home must be a shielded light fitting,
- (b) for development carried out in the Coonamble, Gilgandra or Warrumbungle Shire local government area—a building or manufactured home must not have more than—
  - (i) 5 shielded outside light fittings that do not operate automatically, and
  - (ii) 7 shielded outside light fittings in total.

## **Division 3 Farm experience premises and farm gate premises**

### **9.4 Specified development**

The following development, if carried out on a landholding in Zone RU1, RU2 or RU4, is development specified for this code—

- (a) the change of use of a building to farm experience premises or farm gate premises,
- (b) the erection or alteration of, or additions to, a building to be used for the purposes of farm experience premises or farm gate premises.

### **9.5 General development standards**

The following standards are specified for the development—

- (a) a new building must have a gross floor area of no more than 200m<sup>2</sup>,
- (b) the part of an existing building used for the purposes of farm experience premises or farm gate premises must have a gross floor area of no more than 200m<sup>2</sup>,
- (c) the total footprint of all buildings on the landholding used for the purposes of farm experience premises and farm gate premises must be no more than 500m<sup>2</sup>,

- (d) for the change of use of a building, or alterations or additions to a building that involve internal alterations only—the building must not be located within—
  - (i) 250m of residential accommodation on neighbouring land, or
  - (ii) 250m of a property boundary for land used for the purposes of one of the following—
    - (A) forestry,
    - (B) intensive livestock agriculture,
    - (C) intensive plant agriculture,
    - (D) mines,
    - (E) extractive industries,
    - (F) rail lines,
    - (G) rural industries,
- (e) for the erection of a building, or alterations or additions to a building that involve external alterations—the building must not be located within—
  - (i) 6m of another building on the landholding, or
  - (ii) 50m of a property boundary or waterway, or
  - (iii) 250m of residential accommodation on neighbouring land, or
  - (iv) 250m of a property boundary for land used for the purposes of one of the following—
    - (A) forestry,
    - (B) intensive livestock agriculture,
    - (C) intensive plant agriculture,
    - (D) mines,
    - (E) extractive industries,
    - (F) rail lines,
    - (G) rural industries,
- (f) for a building on a lot for which the natural ground is, at a point within 100m of the ridgeline of a hill, at least 20m lower than the ridgeline—the highest point of the building, if located within 100m of the ridgeline, must be at least 5m below the ridgeline,
- (g) associated earthworks, retaining walls or structural supports must comply with clause 3D.61,
- (h) the total number of visitors, excluding visitors participating in farm tours, horse riding tours and school groups, to all farm experience premises and farm gate premises on the landholding at any one time must not be more than 100,
- (i) for farm experience premises located within 1km of residential accommodation or a building, including a stable, stock yard or poultry shed, used to house animals on neighbouring land—an event held at the premises must not involve amplified noise,
- (j) vehicular or pedestrian access to the accommodation must not be directly from a freeway, highway or tollway within the meaning of the *Roads Act 1993*,
- (k) a vehicular access point to a public road must comply with the lesser of—

- (i) a clear sight distance for vehicles leaving the premises of at least 300m, or
- (ii) the minimum car stopping sight distances set out in the *Guide to Road Design Part 3: Geometric Design*, Table 5.5, published by Austroads on 26 February 2021,
- (l) vehicles must be able to enter and exit the landholding in a forward direction,
- (m) car parking spaces must be located wholly within the boundaries of the landholding.

#### **9.6 Additional development standard for change of use**

For development referred to in clause 9.4(a), the current use must be a lawful use.

#### **9.7 Additional development standards for erection or alteration of, or additions to, buildings**

The following standards are specified for development referred to in clause 9.4(b)—

- (a) for development on land within 2km of an aerodrome or airport—
  - (i) the development must not be carried out on land for which a PANS-OPS surface is identified that may compromise the effective and ongoing operation of the aerodrome or airport, as shown on a Procedures for Air Navigation Services—Aircraft Operations Map prepared by the operator of the aerodrome or airport, and
  - (ii) the building must not penetrate an obstacle limitation surface shown on an Obstacle Limitation Surface Plan prepared by the operator of the aerodrome or airport and reported to the Civil Aviation Safety Authority,
- (b) for a landholding with an area of no more than 10ha—
  - (i) the height of a new building, or an existing building that was less than 7m tall before being altered or added to, must be no more than 7m above ground level (existing), and
  - (ii) the height of an existing building that is at least 7m tall must not increase as a result of the development,
- (c) for a landholding with an area greater than 10ha—
  - (i) the height of a new building, or an existing building that was less than 10m tall before being altered or added to, must be no more than 10m above ground level (existing), and
  - (ii) the height of an existing building that is at least 10m tall must not increase as a result of the development,
- (d) for a new building, or an existing building that is altered or added to, on land identified in an environmental planning instrument as “Land with scenic and landscape values” on a Scenic and Landscape Values Map or as “Scenic Protection Area” on a Scenic Protection Map or Scenic Protection Area Map—the height of the building must be no more than 7m above ground level (existing).

## Division 4 Farm stay accommodation

### 9.8 Specified development

The following development, if carried out on a landholding in Zone RU1, RU2 or RU4, is development specified for this code—

- (a) the change of use of a building to farm stay accommodation,  
**Note—** A change of use from residential accommodation to farm stay accommodation is exempt development under Part 2, Division 1, Subdivision 16E.
- (b) the change of use of farm stay accommodation to the previous lawful use of the building,  
**Note—** A change of use from farm stay accommodation that was previously residential accommodation to the same type of residential accommodation is exempt development under Part 2, Division 1, Subdivision 16E.
- (c) the erection of a new building, or the alteration of, or additions to, an existing building or manufactured home, to be used for the purposes of farm stay accommodation.

### 9.9 Complying development on bush fire prone land

The development may only be carried out on bush fire prone land if all of the following apply—

- (a) the development complies with the relevant requirements of *Planning for Bush Fire Protection*,
- (b) the landholding on which the development is carried out has direct access to a public road or a road vested in or maintained by the council,
- (c) the building or manufactured home is able to be connected to mains electricity,
- (d) reticulated or bottled gas on the landholding is installed and maintained in accordance with AS/NZS 1596:2014, *The storage and handling of LP Gas* and the storage and handling of LP gas on the landholding complies with the requirements of relevant authorities, including that metal piping is used,
- (e) for gas cylinders stored on the landholding within 10m of farm stay accommodation—
  - (i) the release valves are directed away from the farm stay accommodation, and
  - (ii) the cylinders are enclosed on the hazard side of the installation, and
  - (iii) the connections to and from the cylinders are made of metal,
- (f) there are no polymer sheathed flexible gas supply lines to gas meters adjacent to farm stay accommodation on the landholding,
- (g) for fire fighting purposes, the landholding—
  - (i) is connected to a reticulated water supply and a fire hydrant is located within 70m of each part of the development, or
  - (ii) for a landholding with an area of no more than 10,000m<sup>2</sup>—has a 10,000L capacity water tank, or
  - (iii) for a landholding with an area greater than 10,000m<sup>2</sup>—has a 20,000L capacity water tank,
- (h) for a water tank installed on the landholding in accordance with paragraph (g)—

- (i) the water tank has a 65mm metal Storz outlet with a gate or ball valve, and
- (ii) the gate or ball valve, pipes and tank penetrations are made of metal and designed to allow for a 50mm inner diameter water flow through the Storz outlet.

#### **9.10 General development standards**

The following standards are specified for the development—

- (a) the development must not be carried out on land identified on the Agritourism and Farm Stay Accommodation Exempt and Complying Development Map,
- (b) the development must not be development to which the *Rural Fires Act 1997*, section 100B(1) applies,
- (c) the development must not cause there to be more than—
  - (i) 1 building or manufactured home used for the purposes of farm stay accommodation per 5ha, and
  - (ii) 6 buildings and manufactured homes used for the purposes of farm stay accommodation on the landholding,
- (d) the same guests must not be accommodated at the premises for more than 21 consecutive days,
- (e) vehicular or pedestrian access to the accommodation must not be directly from a freeway, highway or tollway within the meaning of the *Roads Act 1993*,
- (f) a vehicular access point to a public road must comply with the lesser of—
  - (i) a clear sight distance for vehicles leaving the premises of at least 300m, or
  - (ii) the minimum car stopping sight distances set out in the *Guide to Road Design Part 3: Geometric Design*, Table 5.5, published by Austroads on 26 February 2021,
- (g) vehicles must be able to enter and exit the property in a forward direction,
- (h) car parking spaces must be located wholly within the boundaries of the landholding.

#### **9.11 Additional development standards for change of use to farm stay accommodation**

The following standards are specified for development referred to in clause 9.8(a)—

- (a) the current use must be a lawful use,
- (b) the development must not contravene an existing condition of the most recent development consent that applies to the landholding,
- (c) the part of the building used for the purposes of farm stay accommodation must not have a gross floor area of more than 60m<sup>2</sup>,
- (d) the building must not be located within—
  - (i) 250m of residential accommodation on neighbouring land, or
  - (ii) 250m of a property boundary for land used for the purposes of one of the following—
    - (A) forestry,

- (B) intensive livestock agriculture,
- (C) intensive plant agriculture,
- (D) mines,
- (E) extractive industries,
- (F) rail lines,
- (G) rural industries.

**Note—** A change of use from residential accommodation to farm stay accommodation is exempt development under Part 2, Division 1, Subdivision 16E.

**9.12 Additional development standard for change of use of farm stay accommodation**

For development referred to in clause 9.8(b), the development must not contravene an existing condition of the most recent development consent that applies to the landholding.

**Note—** A change of use from farm stay accommodation that was previously residential accommodation to the same type of residential accommodation is exempt development under Part 2, Division 1, Subdivision 16E.

**9.13 Additional development standards for erection of buildings or alteration of, or additions to, buildings or manufactured homes**

The following standards are specified for development referred to in clause 9.8(c)—

- (a) the landholding on which the building or manufactured home is located must have an area of at least 15ha,
- (b) the building or manufactured home must be located—
  - (i) on the same lot as a lawfully erected dwelling house, or
  - (ii) on a lot that is at least the minimum size permitted under the environmental planning instrument applying to the land,
- (c) for development on land within 2km of an aerodrome or airport—
  - (i) the development must not be carried out on land for which a PANS-OPS surface is identified that may compromise the effective and ongoing operation of the aerodrome or airport, as shown on a Procedures for Air Navigation Services—Aircraft Operations Map prepared by the operator of the aerodrome or airport, and
  - (ii) the building or manufactured home must not penetrate an obstacle limitation surface shown on an Obstacle Limitation Surface Plan prepared by the operator of the aerodrome or airport and reported to the Civil Aviation Safety Authority,
- (d) a new building must have a height of no more than 4.5m above ground level (existing),
- (e) an existing building or manufactured home with a height of less than 4.5m above ground level (existing) must have a height of no more than 4.5m above ground level (existing) after being altered or added to,
- (f) an existing building or manufactured home with a height of at least 4.5m above ground level (existing) before being altered or added to must not increase in height,
- (g) for a building or manufactured home on a lot for which the natural ground is, at a point within 100m of the ridgeline of a hill, at least 20m lower than the ridgeline—the highest point of the building or

- manufactured home, if located within 100m of the ridgeline, must be at least 5m below the ridgeline,
- (h) a new building must have a gross floor area of no more than 60m<sup>2</sup>,
  - (i) the part of an existing building or manufactured home used for the purposes of farm stay accommodation must have a gross floor area of no more than 60m<sup>2</sup>,
  - (j) for alterations or additions to an existing building or manufactured home that involve internal alterations only—the building or manufactured home must not be located within—
    - (i) 250m of residential accommodation on neighbouring land, or
    - (ii) 250m of a property boundary for land used for the purposes of one of the following—
      - (A) forestry,
      - (B) intensive livestock agriculture,
      - (C) intensive plant agriculture,
      - (D) mines,
      - (E) extractive industries,
      - (F) rail lines,
      - (G) rural industries,
  - (k) for the erection of a new building, or alterations or additions to an existing building or manufactured home that involve external alterations—the building or manufactured home must not be located within—
    - (i) 6m of another building or moveable dwelling on the landholding, or
    - (ii) 50m of a property boundary or waterway, or
    - (iii) 250m of residential accommodation on neighbouring land,
    - (iv) 250m of a property boundary for land used for the purposes of one of the following—
      - (A) forestry,
      - (B) intensive livestock agriculture,
      - (C) intensive plant agriculture,
      - (D) mines,
      - (E) extractive industries,
      - (F) rail lines,
      - (G) rural industries,
  - (l) the gross floor area of a building, or a part of a building, used to provide communal amenities or facilities to guests must be no more than 25m<sup>2</sup>,
  - (m) associated earthworks, retaining walls or structural supports must comply with clause 3D.61.

## **Division 5      Conditions applying to complying development certificates under this code**

### **9.14      Conditions specified in Schedule 11 apply**

A complying development certificate for development under this code must be issued subject to the conditions specified in Schedule 11.

**[14] Schedule 11**

Insert after Schedule 10—

**Schedule 11 Conditions applying to complying development certificates under the Agritourism and Farm Stay Accommodation Code**

**Note 1—** Complying development under the Agritourism and Farm Stay Accommodation Code must comply with the requirements of the Act, the *Environmental Planning and Assessment Regulation 2021* and the conditions listed in this Schedule.

**Note 2—** The *Environmental Planning and Assessment Regulation 2021*, Part 6, Division 5 specifies conditions to which certain complying development certificates are subject.

**Note 3—** In addition to the requirements specified for development under this Policy, adjoining owners' property rights, applicable common law and other legislative requirements for approvals, licences, permits and authorities still apply.

**Note 4—** If the development is in the proximity of infrastructure, including water, stormwater or sewer mains, electricity power lines and telecommunications facilities, the relevant infrastructure authority should be contacted before commencing the development.

**Note 5—** Under the Act, section 4.29, a complying development certificate lapses 5 years after the date specified on the certificate, unless the development has physically commenced on the land during the period.

**Part 1 General conditions**

**Division 1 Preliminary**

**1 Application of Part**

The conditions specified in this Part apply to complying development under the Agritourism and Farm Stay Accommodation Code.

**Division 2 Conditions applying before works commence**

**2 Protection of adjoining land**

- (1) A temporary hoarding or temporary construction site fence must be erected between the work site and adjoining land before works commence.
- (2) The temporary hoarding or temporary construction site fence must be kept in place until the works are completed if the works—
  - (a) could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or
  - (b) could cause damage to adjoining land by falling objects, or
  - (c) involve the enclosure of a public place or part of a public place.

**3 Toilets**

- (1) 1 toilet, plus 1 additional toilet for every 20 persons working at the work site, must be available at the site before works commence and maintained until the works are completed.
- (2) Each toilet must—
  - (a) be a standard flushing toilet connected to a public sewer, or
  - (b) have an on-site effluent disposal system approved under the *Local Government Act 1993*, or



- (c) be a temporary chemical closet approved under the *Local Government Act 1993*.

#### **4 Waste management**

- (1) A waste management plan for the works must be submitted to the principal certifier at least 2 days before works commence.
- (2) The waste management plan must specify the following—
  - (a) all waste, including construction, demolition and excavation waste, that will be generated by the works,
  - (b) the quantity of waste, in cubic metres and tonnes, that will be—
    - (i) reused on site, and
    - (ii) recycled on and off site, and
    - (iii) disposed of off site,
  - (c) if waste will be reused or recycled on site—how the waste will be reused or recycled on site,
  - (d) if waste will be recycled or disposed of off site—
    - (i) the person who will transport the waste, and
    - (ii) the waste or resource management facility to which the waste will be taken.
- (3) If the development will involve the disposal of liquid trade waste into a council sewer, an approval obtained under the *Local Government Act 1993*, section 68 must be given to the principal certifier before works commence.
- (4) At least 1 garbage receptacle must be provided at the work site before works commence and maintained until the works are completed.
- (5) Each garbage receptacle must—
  - (a) be suitable for the disposal of food scraps and papers, and
  - (b) have a tight-fitting lid.

#### **5 Run-off and erosion controls**

Run-off and erosion controls must be implemented to prevent soil erosion, water pollution and the discharge of loose sediment on surrounding land by—

- (a) diverting uncontaminated run-off around cleared or disturbed areas, and
- (b) erecting a silt fence and using other necessary sediment control measures to prevent debris escaping into drainage systems, waterways and adjoining properties, and
- (c) preventing the tracking of sediment onto roads by vehicles, and
- (d) stockpiling top soil, excavated materials and construction and landscaping supplies and debris at the work site.

#### **6 Tree protection measures**

- (1) The tree protection measures specified in this clause must—
  - (a) be in place before works commence, and
  - (b) be maintained in good condition until the works are completed.
- (2) A tree guard must be installed around the trunks of—
  - (b) protected trees on the landholding that are within 10m of a new building or moveable dwelling, and

- (a) other trees that will be retained on the landholding that are within 6m of a new building or moveable dwelling.
- (3) The tree guard must be made of hardwood timber panels that are—
  - (a) at least 2m long, at least 75mm wide and at least 25mm thick, and
  - (b) spaced no more than 80mm apart, and
  - (c) secured, but not permanently fixed, to the tree.
- (4) A fence or barrier must be erected, in accordance with section 4 of the Standard, around the tree protection zone of each protected tree on the landholding that is within 6m of a new building or moveable dwelling.
- (5) An activity referred to in section 4.2 of the Standard must not be carried out within the tree protection zone of a tree on the landholding or adjoining land.
- (6) If temporarily installing or accessing scaffolding within the tree protection zone of a protected tree or other tree that will be retained on the landholding, the tree protection measures specified in sections 4.5.3 and 4.5.6 of the Standard must be implemented.
- (7) In this clause—

**tree protection zone** has the same meaning as in section 3.2 of the Standard.

**the Standard** means AS 4970—2009, *Protection of trees on development sites*.

**Note**— A separate permit or development consent may be required if the branches or roots of a protected tree on the landholding or adjoining land must be pruned or removed.

### **Division 3 Conditions applying during the works**

**Note**— The *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Noise Control) Regulation 2017* contain provisions relating to noise.

#### **7 Work hours**

- (1) Works may only be carried out between 7am and 5pm on Monday to Saturday.
- (2) Works may be carried out outside the hours specified in subclause (1)—
  - (a) if the noise generated is not louder than, in accordance with the document entitled *Interim Construction Noise Guideline* published by the Department of Environment and Climate Change NSW in July 2009—
    - (i) 5dB(A) above the rating background level at residential accommodation on adjoining land, and
    - (ii) the noise management levels specified in Table 3 of the guideline at other sensitive receivers, or
  - (b) in an emergency, to avert danger to life or to prevent damage to property or environmental harm.
- (3) Works must not be carried out on a Sunday or public holiday.

#### **8 Compliance with plans**

Works must be carried out in accordance with the plans and specifications to which the complying development certificate relates.

#### **9 Demolition**

Demolition must be carried out in accordance with AS 2601—2001, *The demolition of structures*.

## **10 Maintenance of site**

- (1) Materials and equipment must be stored wholly within the work site, unless stored elsewhere in accordance with an approval.
- (2) Waste, including construction, demolition and excavation waste, must be—
  - (a) managed on site, and
  - (b) recycled or disposed of at a waste or resource management facility, unless the waste is reused or recycled on site.
- (3) Run-off and erosion controls must be maintained until the works are completed.
- (4) The loads of vehicles entering or leaving the site must be covered.
- (5) All vehicles must, before leaving the site, be cleaned to remove dirt, sand and other material that could be tracked onto roads.
- (6) The site must be clear of waste and debris at the completion of the works.

## **11 Earthworks and structural supports**

- (1) Earthworks, including structural supports and other related structures for the purposes of the development, must not—
  - (a) cause a danger to life or property, or
  - (b) cause damage to a building on the landholding or adjoining land, or
  - (c) cause sediment to settle on adjoining land, or
  - (d) redirect the flow of surface or ground water.
- (2) Fill brought to the site must only contain—
  - (a) virgin excavated natural material, within the meaning of the *Protection of the Environment Operations Act 1997*, Schedule 1, Part 3, or
  - (b) material to which a resource recovery exemption applies under the *Protection of the Environment Operations (Waste) Regulation 2014*, or
  - (c) a combination of the materials referred to in paragraphs (a) and (b).

## **12 Drainage connections**

- (1) If a roof is being installed in connection with the erection or alteration of, or additions to, a building, the roof stormwater drainage system must be installed and connected to the drainage system before the roof is installed.
- (2) If an approval under the *Local Government Act 1993* is required to carry out the connection to the drainage system, the approval must be obtained before the connection is carried out.

## **13 Contamination discovered during works**

- (1) If the landholding is found to be contaminated, within the meaning of the *Contaminated Land Management Act 1997*, during the works—
  - (a) the works must stop immediately, and
  - (b) the Environment Protection Authority and the council must be notified.
- (2) For the purposes of this clause, the landholding is found to be contaminated if either of the following know or should reasonably suspect the landholding is contaminated—
  - (a) the principal certifier,
  - (b) the person having the benefit of the complying development certificate.

**Note**— Depending on the nature and level of the contamination, remediation of the land may be required before the works may continue.

#### **14 Archaeological objects discovered during works**

If an object having interest due to the object's age or association with the past is uncovered during the works—

- (a) the works carried out in the area must stop immediately, and
- (b) the Environment and Heritage Coordinator-General must be notified.

**Note**— Depending on the significance of the object, an archaeological assessment and excavation permit under the *Heritage Act 1997* may be required before the works may continue.

#### **15 Aboriginal objects discovered during works**

If an Aboriginal object, including evidence of habitation or remains, is discovered during the works—

- (a) the excavation or disturbance of the area must stop immediately, and
- (b) the person who made the discovery must notify the Secretary of the Department of Premier and Cabinet in accordance with the *National Parks and Wildlife Act 1974*, section 89A.

**Note**— If an Aboriginal object is discovered, an Aboriginal heritage impact permit may be required under the *National Parks and Wildlife Act 1974*.

### **Division 4 Conditions applying before the issue of an occupation certificate**

#### **16 Utility services**

- (1) If the works involve altering or relocating utility services on the landholding or adjacent land, the works are not taken to have been completed until the alteration or relocation is completed.
- (2) If the works are the subject of a notice of requirements for water supply or sewerage services, or both, by a local water utility or an entity authorised by a local water utility—
  - (a) the works must be satisfactorily completed, and
  - (b) monetary contributions required to be paid to the local water utility must be paid before the occupation certificate is issued.
- (3) If a compliance certificate is granted in relation to the works under the *Sydney Water Act 1994*, section 73—
  - (a) the works must be satisfactorily completed, and
  - (b) monetary contributions required to be paid to the Sydney Water Corporation must be paid before the occupation certificate is issued.
- (4) In this clause—  
*local water utility* has the same meaning as in the *Water Management Act 2000*.

### **Division 5 Operational conditions**

#### **17 Waste**

- (1) Waste must be disposed of—
  - (a) using a sewage reticulation system connected to the landholding, or

- (b) using a system of sewage management for which the approval of the council has been obtained under the *Local Government Act 1993*, section 68, or
  - (c) at a waste or resource management facility.
- (2) The on-site disposal of organic or putrescible waste must not have an adverse impact on the use of adjoining land.
- (3) A human waste storage facility on the landholding must be emptied using—
  - (a) a sewage reticulation system connected to the landholding, or
  - (b) a system of sewage management for which the approval of the council has been obtained under the *Local Government Act 1993*, section 68.

## **Part 2 Conditions for farm experience premises**

### **Division 1 Preliminary**

#### **18 Application of Part**

The conditions specified in this Part apply to complying development under the Agritourism and Farm Stay Accommodation Code for the purposes of farm experience premises.

### **Division 2 Conditions applying before the issue of an occupation certificate**

#### **19 Mechanical ventilation systems**

If the works involve installing a mechanical ventilation system that is a regulated system within the meaning of the *Public Health Act 2010*, the relevant person must be notified in accordance with the *Public Health Regulation 2022* before an occupation certificate is issued.

#### **20 Food businesses**

If the works relate to a food business within the meaning of the *Food Act 2003*, the conduct of the business must be notified, if required, under the Act and a licence issued in accordance with the *Food Regulation 2015* before an occupation certificate is issued.

### **Division 3 Operational conditions**

#### **21 Notice to neighbours**

At least 1 week before the premises open to visitors, notice of the following must be given to neighbours likely to be affected by the land use—

- (a) the location of the premises,
- (b) the date on which the premises will open to visitors,
- (c) the opening hours of the premises.

#### **22 Opening hours**

- (1) The premises must not be open to visitors, excluding visitors participating in farm tours, horse riding tours and school groups, for more than 52 days each year, including no more than 4 events held on a Friday or Saturday after 6pm that involve amplified noise.

- (2) The premises must not be open to visitors outside the following hours—
- (a) on Sundays, Mondays, Tuesdays, Wednesdays, Thursdays or public holidays—8am to 6pm,
  - (b) on Fridays and Saturdays—8am to midnight.

**23 Number of visitors**

- (1) The number of visitors, excluding visitors participating in farm tours, horse riding tours and school groups, to all farm experience premises on the landholding at any one time must not be more than 50.
- (2) The total number of visitors, excluding visitors participating in farm tours, horse riding tours and school groups, to all farm experience premises and farm gate premises on the landholding at any one time must not be more than 100.

## **Part 3 Conditions for farm gate premises**

### **Division 1 Preliminary**

**24 Application of Part**

The conditions specified in this Part apply to complying development under the Agritourism and Farm Stay Accommodation Code for the purposes of farm gate premises.

### **Division 2 Conditions applying before the issue of an occupation certificate**

**25 Mechanical ventilation systems**

If the works involve installing a mechanical ventilation system that is a regulated system within the meaning of the *Public Health Act 2010*, the relevant person must be notified in accordance with the *Public Health Regulation 2022* before an occupation certificate is issued.

**26 Food businesses**

If the works relate to a food business within the meaning of the *Food Act 2003*, the conduct of the business must be notified, if required, under the Act and a licence issued in accordance with the *Food Regulation 2015* before an occupation certificate is issued.

### **Division 3 Operational conditions**

**27 Opening hours**

The premises must not be open to visitors outside the following hours—

- (a) on Sundays, Mondays, Tuesdays, Wednesdays, Thursdays, Fridays or public holidays—8am to 5pm,
- (b) on Saturdays—7am to 5pm.

**28 Number of visitors**

- (1) The number of visitors to all farm gate premises on the landholding at any one time must not be more than 100.

- (2) The total number of visitors, excluding visitors participating in farm tours, horse riding tours and school groups, to all farm experience premises and farm gate premises on the landholding at any one time must not be more than 100.

## **Part 4 Conditions for farm stay accommodation**

### **Division 1 Preliminary**

#### **29 Application of Part**

The conditions specified in this Part apply to complying development under the Agritourism and Farm Stay Accommodation Code for the purposes of farm stay accommodation.

### **Division 2 Conditions applying before the issue of an occupation certificate**

#### **30 Compliance with Short-term Rental Accommodation Fire Safety Standard**

A building used for the purposes of farm stay accommodation must comply with the relevant requirements of the *Short-term Rental Accommodation Fire Safety Standard* approved by the Planning Secretary and published on the Department's website, as in force from time to time.

### **Division 3 Operational conditions**

#### **31 Number of guests**

The number of guests, not including guests under 12 years of age, accommodated in a building used for the purposes of farm stay accommodation at any one time must not be more than—

- (i) if the building has no bedrooms—2, or
- (ii) otherwise—2 times the number of bedrooms.

#### **32 Length of stay**

Each guest must not stay at the accommodation for more than 21 consecutive days.

## **Schedule 2      Amendment of State Environmental Planning Policy (Housing) 2021**

### **Section 129 Definition**

Insert “, but does not include farm stay accommodation” after “placed” in the definition of *caravan park*.



## **Schedule 3      Amendment of State Environmental Planning Policy (Primary Production) 2021**

### **[1]    Section 2.6 Savings provision relating to development applications**

Insert at the end of the section—

- (2) A development application submitted but not finally determined before the commencement of *State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Agritourism) 2022* must be determined as if the Policy had not commenced.

### **[2]    Section 2.16 Certain development to temporarily contain livestock permissible without consent**

Omit section 2.16(2)–(4). Insert instead—

- (2) Development for the purposes of intensive livestock agriculture or extensive agriculture that involves the grazing of livestock may be carried out without development consent on land to which this section applies if—
  - (a) the development is for the purposes of—
    - (i) a stock containment area or other feeding or housing arrangements, or
    - (ii) temporary agistment or housing of the livestock for weaning, backgrounding, dipping, tagging or similar husbandry purposes, and
  - (b) for development referred to in paragraph (a)(i)—the development is carried out on land—
    - (i) being lawfully used for the purposes of agriculture, and
    - (ii) during or immediately after a drought, flood, fire or other emergency, and
  - (c) the development will not be carried out—
    - (i) in an environmentally sensitive area, or
    - (ii) in, or within 100m of, a special area within the meaning of the *Water NSW Act 2014*, or
    - (iii) within 100m of a natural watercourse, or
    - (iv) within 500m of a residential zone or residential accommodation on adjacent land.
- (3) Development for the purposes of goat depots may be carried out without development consent on land to which this section applies if the development is not carried out—
  - (a) in an environmentally sensitive area, or
  - (b) in, or within 100m of, a special area within the meaning of the *Water NSW Act 2014*, or
  - (c) within 100m of a natural watercourse, or
  - (d) within 500m of a residential zone or residential accommodation on adjacent and.

### **[3]    Section 2.16(6), definition of “stock containment area”**

Omit “restriction facilities, a feedlot or other permanent works or structures”.

Insert instead “a feedlot or a hardstand area”.

**[4] Schedule 4 Application of certain standard provisions relating to primary production and rural development to non-standard local environmental plans and other instruments**

Omit section 4(5)(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.