



Shellharbour City Council

Business Paper

13 December 2022

Item no. 10.3.1 - Attachment 1

Council Report from 5 April 2022

10.3 Community and Customers Directorate

10.3.1 Department of Planning and Environment proposed amendments to Shellharbour Local Environmental Plan 2013 to introduce Agritourism and small-scale agricultural development (11841473)

To the Chief Executive Officer

Directorate: Community and Customers
Group: City Planning

Manager: Geoff Hoynes – Group Manager City Planning
Author: Cheryl Lappin – Senior Strategic Planner

Summary

The purpose of this report is to provide Council with an overview of the NSW Department of Planning and Environment's (the Department) proposed reforms to support agritourism and small-scale agricultural development. The Department has invited Council to consider land use zones in which it may be appropriate to permit new land use terms and whether it is suitable to adopt new optional clauses for farm stay accommodation and farm gate premises in Council's Local Environmental Plan.

This report seeks Council's endorsement of a draft on-line submission prepared by Council staff) (**Attachment 1**) which responds to the invitation and provides land use zones in which it may be appropriate to permit or prohibit the new land use terms. The draft submission also nominates an opt-in for one of the two proposed new clauses intended to be inserted into the Standard Instrument Local Environmental Plan (SI LEP) by the Department.

While the intent of the proposed changes has merit, the controls prepared by the Department will have unintended consequences on adjoining landowners and the wider Shellharbour community and therefore not all of the changes are supported by Council staff. The problem is in part the way the amendments are structured with no flexibility or ability to tailor for local circumstances.

The reforms proposed have also highlighted the need for Council to commence the preparation of the Shellharbour Rural Strategy to ensure that Council is fully informed and confidently able to determine appropriate land-uses and limitations on its rural lands into the future. Preparation of a Rural Strategy is identified in the Shellharbour Local Strategic Planning Statement (LSPS) P14.1 *Council will develop a Rural Strategy* and is recommended that this commence with the aim of engaging a suitable consultant this financial year.

Background

The Department has proposed various reforms to the planning system to support agritourism and small scale agricultural development. The changes seek to make it easier for farmers to diversify their income from farming businesses whilst maintaining primary production as the principal use. It is understood that across the State, farmers have faced a number of challenges including bushfires and the economic impacts of the COVID-19 pandemic. The Government is seeking to support the recovery and resilience of regional communities and farming by growing emerging industries that are supplementary to agriculture.

Following exhibition of an Explanation of Intended Effect (EIE) in March 2021, the Department has now prepared draft amendments to the State-Wide Standard Instrument Local Environmental Plan (SI LEP) to include new definitions for 'agritourism' land uses ('farm gate premises' and 'farm experience premises'). The draft amendments also revise the definition for 'farm stay accommodation'. Council has been invited to nominate whether or not to permit these new and amended land-uses in additional land use zones within the City.

The Department's amendments also include optional clauses to control the scale of 'farm stay accommodation' and 'farm gate premises'. Council has also been invited to nominate whether or not to adopt the optional clauses.

This report recommends that Council opts-in to the inclusion of the new optional clause for 'farm stay accommodation' only, with suitable criteria to assist in the assessment of any development proposals and to mitigate any potential impacts on the character and amenity of the rural locality. It is also recommended that Council not opt-in to the inclusion of the new optional clause for 'farm gate premises' as these uses (as currently defined) are not considered appropriate in the nominated zones at this time, especially without appropriate development controls.

Should Council resolve to proceed with the recommendations of this report, the Department will be advised through the lodgement of the on-line submission (**Attachment 1**) and the changes to Council's Local Environmental Plan would then occur via an amending State Environmental Planning Policy (SEPP). This process facilitates the changes simultaneously across the State and negates the need for Councils to prepare individual planning proposals. Should Council choose not to take any action at this time, it does not preclude initiating a planning proposal process at some future time, which could be the subject of a briefing and further report to Council.

Relevant Information

The following information is provided to assist Council and the Community to understand the proposed changes.

a) Standard Instrument (Local Environmental Plans) Order 2006

A standard form and content for local environmental plans is prescribed across the State under the Standard Instrument (Local Environmental Plans) Order 2006. It comprises the following key features:

- **Standard Definitions:** The standard instrument includes definitions relating to land uses and other terms relevant to the interpretation of LEPs. It streamlines LEPs across NSW to ensure they use the same planning terminology. In some circumstances Council is able to define terms for the purposes of a local provision. Councils are not able to directly add new definitions to the Dictionary.
- **Standard Zones:** The standard instrument currently sets out standard zones that Councils are able to select from as appropriate to meet the needs of their local areas, taking into account any relevant State or regional planning guidance. Councils may not add new zones or change the name of a standard zone.
- **Core zone objectives:** Each standard zone has one or more core objectives for development in the zone. The core objectives ensure consistency between how zones are applied in different areas. Councils may prepare additional local objectives to supplement core objectives where appropriate, provided that these are not inconsistent with the core objectives and mandated land uses, and do not conflict with any relevant State or regional planning guidance.
- **Permitted and prohibited land uses:** The land use table mandates certain permitted and prohibited land uses in zones. For each zone, mandated uses may be set out as either 'Permitted without consent,' 'Permitted with consent' or 'Prohibited'. In addition to the mandated uses, Councils are required to determine for each zone whether to permit (with or without consent) or prohibit all other land uses defined in the dictionary but not specified in the standard instrument mandated uses.
- **Group Terms:** Group terms encompass a number of permissible land uses. When considering permissible uses, detailed consideration is required prior to the use of a group term to ensure an inappropriate land use is not introduced into a zone. When group terms are used there is no need to list the individual uses in the land use table that are defined under the group term, unless there is a need to treat an individual use differently to the remainder of the uses covered by that group term.
- **Standard clauses:** There are a number of mandatory clauses that are required to be adopted by every Council in the State without amendment or alteration. There are also optional clauses that Councils may elect to include in their LEP, however if a council wishes to include the clause, the standard wording must be used. Councils can add local clauses that address specific local circumstances where justified.

b) Council rural lands policy settings

Recent community engagement held during the development of the Shellharbour Local Strategic Planning Statement confirmed that the City's rural lands are highly valued by the community. Rural lands and the adjoining Illawarra escarpment provide an identifiable, scenic backdrop to our City, as well as cultural and landscape values for our community. Maintaining this outlook and amenity that our rural lands provide, will ensure they remain a positive aspect of Shellharbour's landscape and identity.

Council's LSPS was made on 19 May 2020 and sets out planning priorities and corresponding actions for the next 5 years. The statement identifies the need for Council to undertake work to identify the future of our rural areas. In this regard, the LSPS specifies: Planning Priority No 14: *Protect and enhance our rural lands*

Action P14.1: *Council will develop a Rural Strategy as a short-term action.*

The proposed Department reforms and Draft LEP amendments have highlighted the need for Council to commence the preparation of the Shellharbour Rural Strategy.

The Rural Strategy will help guide future land use planning decisions on and adjacent to rural zoned land to ensure that rural lands are managed and protected as an important local and regional feature. The Strategy will identify the future of rural and environmental lands, and what will be appropriate and viable for the future of these areas of the LGA. It is proposed that the Rural Strategy will also investigate potential complementary land uses to provide additional opportunities to improve the viability of our rural lands.

It is envisaged that the Rural Strategy will consider the environmental and economic balance between extractive resource lands with surrounding rural land uses. Our rural, productive lands not only support local jobs, they play a role in boosting city resilience. Having produce close to their intended market reduces supply chain waste, reduces food miles and helps protect against potential fuel price shocks. Due to this, it is important that we work with rural landowners during the development of the Strategy to ensure the productivity and health of our rural lands.

c) Agritourism – Explanation of Intended Effect

An Explanation of Intended Effect (EIE) was publicly exhibited by the Department for comment from 9 March 2021 to 19 April 2021, which proposed reforms to the planning system to facilitate increased agritourism and small-scale agricultural developments. In particular, the EIE identified the following proposed changes:

- Amending the existing definition for farm stay accommodation to support more farm stays.

- Introducing two (2) new land use terms ('farm gate activities' and 'farm events') in the Standard Instrument LEP Order, and in turn all Standard Instrument LEPs.
- Introducing new optional clauses for 'farm stay accommodation' and 'farm gate activities' that Councils can apply where a development application is required.
- Providing exempt and complying development approval pathways for agritourism activities where certain development standards are met.
- Allowing the establishment of small-scale processing plants as complying development for meat, dairy and honey where certain development standards are met.
- Allowing the reconstruction of farm buildings and other structures as exempt development following natural disaster, where constructed to the same size and contemporary building standards including the Building Code of Australia and relevant Australian Standards.
- Updating and rationalising existing controls for stock containment lots to reflect current practice, and ensuring stock containment areas used temporarily, such as during drought, do not impact negatively on surrounding uses.
- Clarify terminology for farm dams used in the planning system and provide a consistent approval process across the state.
- Updating development standards for poultry farms and pig farms to align with separation distances required under biosecurity standards.
- Updating controls that allow dwellings on rural lots as complying development to ensure enough separation from adjacent primary production enterprises.
- Providing exempt development pathway for recreational beekeeping to improve certainty.

An officer-level submission was provided in response to the exhibition material in April 2021.

Within the context of Council's rural lands policy settings (item b) above), the overall intent of proposed changes outlined in the EIE was supported in-principle.

The submission did however raise various matters requiring further consideration including the suitability of proposed changes in environmentally sensitive rural

contexts; clarity of definitions; permissibility of farm stay accommodation, clarification of new optional clauses and proposed exempt and complying development pathways.

The submission also expressed an interest in ‘opting in’ on the potential optional LEP clauses.

d) State Significant Agricultural Land Use Planning (SSALUP)

In November 2021, the NSW Agriculture Commissioner released a report, ‘Improving the Prospects for Agriculture and Regional Australia in the NSW Planning System.’ The Commissioner made a number of recommendations within this report aimed at ensuring the NSW planning system supports the growth agenda for agriculture and regional NSW. Two key recommendations of the report were:

- *The NSW Government should take a phased approach to adopting a statutory State Significant Agricultural Land Use Planning Policy (SSALUP Policy). Initially a policy should be released, following a public comment process.*
- *The statutory SSALUP Policy should be supported by a map of State Significant Agricultural Land (SSAL).*

It is understood that a State Significant Agricultural Land Use Policy (SSALUP), as recommended within the NSW Agriculture Commission’s report, would aim to improve decisions on the use of State Significant Agricultural Land (SSAL) through all levels of legislated strategic planning. It would guide planning decision makers on what arrangements should apply to land identified and mapped as SSAL (and any other land that may become subject to these arrangements) and implemented through legislated strategic planning. A draft copy of such a Policy has not been made public for comment.

The State Government did however subsequently exhibit draft mapping in late-2021, referred to as the draft State Significant Agricultural Land (SSAL) Map. These were still in the early phases of development, with the mapping still in draft and preliminary form. An officer-level submission was provided in December 2021 regarding the mapping, raising concerns with the accuracy of the mapping and its suitability to inform the statutory and strategic planning framework.

A draft SSALUP Policy would focus on promoting the growth of regional economies and protecting the availability of productive land for agriculture. This is a separate policy matter distinct from the Department of Planning and Environment’s Agritourism Reforms, which are the subject of this report and are focused more on increasing the opportunities for rural activities to expand their potential income streams through agritourism activities.

1. SUMMARY OF PROPOSED AMENDMENTS TO LOCAL ENVIRONMENTAL PLANS

A Draft Standard Instrument (Local Environmental Plans) Amendment (Agritourism) Order 2021 was released by the Department of Planning and Environment in mid-December 2021 as the first step in implementing the changes set out in the Explanation of Intended Effect. The Government intends to finalise these changes early in 2022.

The draft Order will introduce the following key changes to the Standard Instrument LEP:

- New land use terms (and definitions) for ‘agritourism’, ‘farm gate premises’ and ‘farm experience premises’.
- Changes to the definition of ‘farm stay accommodation’ to clarify the meaning of land used for primary production and to allow for accommodation in moveable dwellings (such as tents, caravans and manufactured homes) as well as in buildings.
- Change to the definition of ‘cellar door premises’ which is currently part of the group term ‘retail premises’ to instead transfer it to be part of the term ‘farm gate premises’.
- Change to the definition of ‘restaurant or café’ to clarify that it does not include a restaurant or cafe that is part of an ‘artisan food and drink industry’ or ‘farm gate premises’.
- New definitions for explanatory terms ‘landholding’ and ‘primary production business’.
- New optional clauses for ‘farm stay accommodation’ and ‘farm gate premises’.
- Amend clause 5.18 Intensive Livestock Agriculture (which is a compulsory clause if intensive livestock agriculture is a permitted use) to increase the distance requirements for poultry farms breeding poultry, provide separate requirements for poultry farms not breeding poultry and introduce requirements for pig farms.

*Note: The Department has slightly amended the names of ‘farm gate premises’ (previously ‘farm gate activities’) and ‘farm experience premises’ (previously ‘farm events’) in comparison to the terms contained within the Explanation of Intended Effect. A copy of the Draft LEP Order is provided as **Attachment 2** of this report. The key amendments are also further detailed below, along with comments on the proposed changes.*

2. NEW AGRITOURISM USES ('FARM EXPERIENCE' AND 'FARM GATE' PREMISES)

The LEP Order will introduce 'agritourism' as a form of 'agriculture' within the LEP definitions. The LEP Order outlines that 'farm experience premises' and 'farm gate premises' will be forms of 'agritourism' (refer to **figure 1** below).

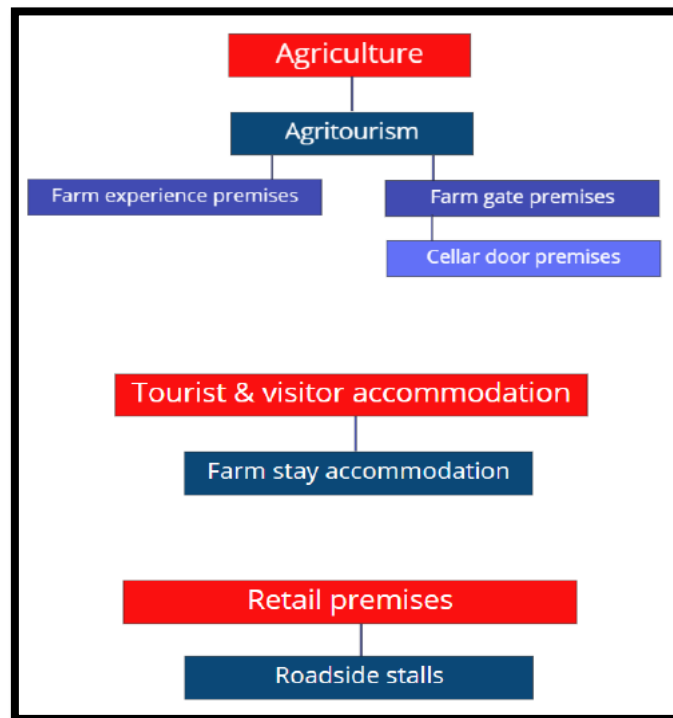


Figure 1: Hierarchy of landuses

The term '**agritourism**' means the following

- a) farm gate premises
- b) farm experience premises

Each of these are further defined in the Draft LEP Order as follows:

Farm experience premises means a building or place –

- a) on a farm that is –
 - i. a primary production business, or
 - ii. on land categorised as farmland under the Local Government Act 1995, section 515, and
- b) that is ancillary to the farm, and
- c) that is used to provide visitors to the farm with small scale and low impact tourist or recreational services on a commercial basis including the following –

- i. horse riding,*
- ii. farm tours,*
- iii. functions or conferences,*
- iv. farm field days.*

Note: Farm experience premises is a type of agritourism – see the definition of the term in this Dictionary.

Farm gate premises –

- a) means a building that is –*
 - i. on a farm that is –*
 - a. a primary production business, or*
 - b. on land categorised as farmland under the Local Government Act 1995, section 515, and*
 - ii. that is ancillary to the farm, and*
 - iii. that is used to provide visitors to the farm with agricultural products predominantly from the farm or other farms in the region or with services or activities related to the products, including the following –*
 - a. , packaging and sale of the products, but not the processing of animals,*
 - b. a restaurant or café,*
 - c. a facility for holding tastings or workshops, or providing information or education, related to the products, and*
- b) includes cellar door premises.*

Note: Farm gate premises is a type of agritourism – see the definition of the term in this Dictionary.

To assist interpretation and to allow for temporary development to assist farmers during times of hardship, the following explanatory term will also be included in the LEP dictionary:

primary production business *has the same meaning as in the Income Tax Assessment*

Act 1997 of the Commonwealth and includes a business that—

- a) *was a primary production business, and*
- b) *has temporarily ceased to be a primary production business because of a natural disaster, including a drought, flood or bush fire.*

(i) Consideration of permissibility

The new land uses of ‘farm experience premises’ and ‘farm gate premises’ will become permissible in zones where the ‘agriculture’ group term is currently permissible. For Shellharbour Local Environmental Plan 2013 (SLEP 2013) this is the RU2 Rural Landscape and E3/C3 Environmental Management zones.

Council has been invited to nominate any additional zones in SLEP 2013 to permit or prohibit the new land uses (being the overarching term ‘agritourism’ or the individual sub-terms ‘farm experience premises’ or ‘farm gate premises’).

The definitions provide a framework for ensuring the uses occur only where primary production is carried out (or has temporarily ceased due to hardship).

Notwithstanding this, further consideration needs to be given to managing the scale and impacts of the new land uses to continue to protect rural and scenic character and the amenity of nearby landowners including their ability to continue with normal legitimate farming operations. For example, the proposed land-use of ‘farm experience premises’ includes function and conference facilities with no specific development controls. In a location like Shellharbour there is the potential for these uses to proliferate without any overall strategy or planning. The same issue applies to ‘restaurants and cafes’ which are proposed to be permissible as part of the term ‘farm gate premises.’

Therefore, the inclusion of the new ‘agritourism’ land uses in the RU2 Rural Landscape and E3/C3 Environmental Management zones is considered inappropriate in their current form in these zones as they are not consistent with the zone objectives and currently permitted uses.

Farm gate premises

The Department has prepared an optional clause for ‘farm gate premises’ which enables parameters to be set for the scale of operations and sets out a number of considerations for development assessment (refer to comments below in Section 2 (ii) regarding the optional clause).

Given that it is not considered appropriate at this time to permit 'farm gate premises' in any zone in the City, there is no reason for Council to request to opt-in for the inclusion of this optional clause at this point in time. It is also worth noting that currently, uses ancillary to farming operations that are permitted in rural zones include roadside stalls and cellar door premises.

Farm experience premises

This new defined use is intended to allow development ancillary to a farm to provide visitors to the farm with small scale and low impact tourist or recreational services on a commercial basis including horse riding, farm tours, functions or conferences and farm field days. The inclusion of functions and conferences as part of the defined use is considered inappropriate. It is worth noting that the separately defined use, 'function centres', is not currently permitted in any of the rural zones.

In addition, the Department have not provided an optional clause for this use and have indicated that they propose to prepare model Development Control Plan (DCP) clauses to assist councils where further parameters are required. In the interim and notwithstanding that the use would only be allowed on land used for primary production or categorised as farmland, it is considered prudent to exclude the use from all Rural and Environmental zones at this time. Of primary concern is the uncertainty regarding the ability to manage and mitigate impacts such as noise, traffic, parking and visual impacts and their subsequent impacts on adjoining farming operations..

Once the Department establishes the DCP model clauses, further consideration could be given to permitting the use in specific zones as well as amending Council's DCP to assist assessment of any proposals.

Summary of proposed permissibility in Rural Zones and Environmental Zones

A summary of the recommended permissibility of the new and revised agritourism terms on Rural and Environmental land under Shellharbour Local Environmental Plan 2013 is set out in the **Table 2** below.

Table 2: Proposed permissibility of new and revised ‘agritourism’ land use terms in rural zones

Land Use	Permissibility					Development Controls
	RU1	RU2	RU6	E3/C3	E4/C4	
Agriculture (group term)	x	✓	✓	✓	x	
Agritourism (group term)	x	x	x	x	x	
Farm experience premises	x	x	x	x	x	No specific LEP criteria Note: The Department intend to provide model Development Control Plan clauses where further parameters are required.
Farm gate premises	x	x	x	x	x	NA
Farm stay accommodation	✓	✓	✓	✓	x	Maximum number of bedrooms - 3 Note: This is the current control under LEP clause 5.4(5) Maximum guests in bedrooms - 20 Note: this figure is fixed in the optional clause as the greater of 3 times the number of bedrooms permitted under clause 5.4(5) or 20 guests Maximum gross floor area - 60m2 Maximum number of moveable dwellings – 0 Maximum guests in moveable dwellings – 0

(ii) Consideration of Optional LEP Clause for Farm Gate Premises

As mentioned in Section 2 (i) above, the new land-use of ‘farm gate premises’ will allow for buildings ancillary to a farm that can provide visitors with agricultural products including processing, packaging and sale of the products (but not the processing of animals), a restaurant or café, a facility for holding tastings or workshops, or providing information or education related to the products. Council has the opportunity to ‘opt-in’ to a new local LEP clause 5.24 – Farm Gate Premises, as contained in the Draft Standard Instrument (Local Environmental Plans) Amendment (Agritourism) Order 2021 (**Attachment 2**).

The optional clause enables Council discretion to set the maximum gross floor area of a building used for ‘farm gate premises’ (which cannot be more than 200 square metres) and the maximum number of persons that will be permitted on the landholding at any one time (which cannot be more than 50 persons). This clause intends to provide some capacity for Council’s to be able to tailor the criteria and future scope of any such use to suit local circumstances.

However, under SLEP 2013 ‘restaurants and cafes’ are currently prohibited in the Rural and Environmental zones and given the visual and environmentally sensitivity of these lands, it is considered appropriate for this prohibition to continue.

Therefore, as ‘farm gate premises’ are proposed to be nominated as prohibited in all zones in SLEP 2013 it is not necessary for Council to opt-in on this clause.

If ‘farm gate premises’ were to be nominated as permissible in any zone and Council decides not to opt-in on the clause, this could potentially lead to unintended consequences, as development for this purpose would be guided by little to no development controls. Whilst it is open to Council to include additional provisions within Shellharbour Development Control Plan (DCP), this is a lengthy process that would take some months to develop, exhibit and adopt. Additionally, it would not offer the same weight as LEP controls, as the DCP is not a statutory document.

3. FARM STAY ACCOMMODATION

The term ‘farm stay accommodation’ will remain under the existing group term of ‘tourist and visitor accommodation’.

The changes to the definition of ‘farm stay accommodation’ seek to clarify the application to farms that are primary production businesses or are on land categorised as farmland under s515 of the Local Government Act (consistent with the approach for new ‘agritourism’ land uses). The changes also expand the definition to allow for accommodation in moveable dwellings (such as tents, caravans and manufactured homes) to facilitate small scale camping on farms.

The term is defined as follows:

farm stay accommodation means a building or place—

- (a) on a farm —
 - (i) that is a primary production business, or
 - (ii) on land categorised as farmland under the Local Government Act 1995, section 515, and
- (b) used to provide temporary accommodation to paying guests of the farm including in buildings or moveable dwellings.

The associated term moveable dwelling has the same meaning as in the Local Government Act 1993.

Note— The term is defined as follows ***moveable dwelling*** means—

- (a) any tent, or any caravan or other van or other portable device (whether on wheels or not), used for human habitation, or
- (b) a manufactured home, or
- (c) any conveyance, structure or thing of a class or description prescribed by the regulations (under the Local Government Act 1993) for the purposes of this definition.

(i) Consideration of permissibility

Should Council choose not to review the existing permissibility, 'farm stay accommodation' will continue to be permissible under both the current group term ('tourist and visitor accommodation') and where the use is individually specified under SLEP 2013. The relevant zones where 'farm stay accommodation' is currently permissible are:

- RU1 Primary Production (individually specified)
- RU2 Rural Landscape (individually specified)
- RU6 Transition (individually specified)
- B2 Local Centre (mandated under group term 'tourist and visitor accommodation')
- C3/E3 Environmental Management (individually specified)

Council has been invited to nominate any additional zones in which to permit or prohibit 'farm stay accommodation' in SLEP 2013.

Ongoing permissibility in some Rural and Environmental zones is considered appropriate given the zone objectives that seek to encourage diverse and sustainable primary industry as well as provide for compatible land uses.

Notwithstanding this, consideration should be given to managing the scale and impacts of the re-defined land use to ensure the continued protection of rural and scenic character and the amenity of nearby landowners. In this regard it is noted that Council's LEP and Development Control Plan (DCP) specifically seek to confine the location of temporary housing structures to appropriate locations such as caravan parks, and manufactured homes estates. It is likely that a number of concerns could be raised by the community in relation to the expanded definition of 'farm stay accommodation' to include 'moveable dwellings'.

The Department has prepared an optional clause for 'farm stay accommodation' which enables parameters to be set for the scale of operations and sets out a number of considerations for development assessment.

(ii) Optional LEP clause for farm stay accommodation

The proposed changes provide Council with the opportunity to 'opt-in' to a new local LEP clause 5.23 – Farm Stay Accommodation, as contained in the Draft Standard Instrument (Local Environmental Plans) Amendment (Agritourism) Order 2021 (**Attachment 2**).

The optional clause enables Council discretion to set the maximum gross floor area of a building used for 'farm stay accommodation' (which cannot be less than 60 square metres), the maximum number of guests in moveable dwellings at any 1 time (which cannot be more than 20), and the maximum number of moveable dwellings (which cannot be more than 6). This provides some capacity for Council to tailor the criteria to suit local circumstances.

In order to ensure the local character and small-scale intent is maintained and protected, it is considered reasonable to opt-in to the clause, subject to maximum gross floor area of buildings being capped at 60 square metres. and the maximum number of moveable dwellings and associated guests being nominated as zero (0) moveable dwellings and zero (0) guests at any one time.

This would continue to prohibit 'moveable dwellings' which includes caravans, tents and manufactured homes from being used as farm stay accommodation in the City. This is considered appropriate at this point in time due to the potential proliferation of structures in these sensitive visual and environmental catchments, as well as the possible environmental impacts of associated infrastructure needed to service these 'moveable dwellings' such as access roads, effluent disposal and clearing for bushfire mitigation.

Additionally, to reinforce the need for development to complement the rural character, it is appropriate that an additional local objective (in addition to the two mandated objectives) within the proposed 'farm stay accommodation' clause. The additional local objective should read 'To ensure that development does not have a detrimental impact on the rural character of the locality' and be included in any amendments to SLEP 2013.

These provisions strike an appropriate balance between providing flexibility and appropriately managing potential impacts on rural amenity. It is worth noting that this is not the only planning approval pathway available to landowners and farmers under SLEP 2013. There are other pathways available should they wish to pursue a more substantial development. For example, 'Eco-tourist facilities' are separately defined and are a permissible use in some rural and environmental zones.

The Department have also indicated they will establish the maximum number of consecutive days people can stay in *moveable dwellings* in model conditions of consent. It is unclear how these will relate to *manufactured homes*, which are a category of *moveable dwelling*.

Should Council decide not to 'opt-in' on the clause, this could potentially lead to unintended consequences, with no guidance or limitation on the parameters outlined above including the permitted number of 'moveable dwellings' associated with 'farm stay accommodation'.

4. POULTRY AND PIG FARM SETBACKS

The Order also proposes to amend clause 5.18 of the SI LEP to increase the setback requirements for poultry and pig farms permitted without consent, as proposed, to mitigate biosecurity risks.

No objection or comment is raised regarding this proposed amendment.

Financial / Resources Implications

Regarding the request for endorsement of the officers submission there has been no financial or resource implications other than Council staff's time to prepare this report. The proposed commencement of the Shellharbour Rural Strategy and initial engagement of a suitable consultant has been considered and allocated sufficient funds in the 2021-2022 budget. Further funding has been identified for the proposed 2022-2023 budget to enable completion of the project during that financial year.

Legal and Policy implications

Under normal circumstances, Council would be required to prepare and progress a planning proposal in order to introduce a new clause into Council's LEP. However, in this instance the Department has offered to progress the LEP amendment via an amending State Environmental Planning Policy (SEPP) provided there is a resolution of Council. This process also facilitates the changes simultaneously across the State and negates the need for Councils to prepare individual planning proposals.

Public / Social Impact

The proposed inclusions in the on-line submission outlined in this report as well as the commencement of the Shellharbour Rural Strategy will ensure that any future development of affected rural and environmental land in the City occurs in a considered and appropriate manner and that appropriate engagement occurs with the community, rural landowners and other impacted stakeholders. Ensuring that the proposed 'Agritourism' uses are not located in rural and environmental zones in the City without adequate controls in place will avoid any adverse impacts arising from this development type.

Link to Community Strategic Plan

This report supports the following objectives and strategies of the Community Strategic Plan:

Objective: 2.3 A city that is connected through places and spaces

Strategy: 2.3.2 Undertake land use planning in a socially, economically and environmentally responsive manner

It also supports the following priority and action identified within Council's Local Strategic Planning Statement

Priority No.14: *Protect and enhance our rural lands.*

Action P14.1: *Council will develop a Rural Strategy.*

Consultations

Internal

Acting Group Manager City Development
Manager Environment

External

Nil

Political Donations Disclosure

Not applicable

Recommendation

That Council:

- 1. Endorse the on-line submission prepared by Council staff (Attachment 1)**
- 2. Commence the preparation of the Shellharbour Rural Strategy and seek to engage a suitable consultant during the 2021-2022 financial year with completion to occur during the 2022-2023 financial year.**

Approved for Council's consideration: Geoff Hoynes
Group Manager City Planning

Date of Meeting: 5 April 2022

Attachments

- 1. On-line Council submission to Department of Planning and Environment on the Draft Standard Instrument (Local Environmental Plans) Amendment (Agritourism) Order 2021.**
- 2. Draft Standard Instrument (Local Environmental Plans) Amendment (Agritourism) Order 2021.**