

Mr Mark Arnold
General Manager
Byron Shire Council
PO Box 219
MULLUMBIMBY NSW 2482

Attention: Mr Sam Tarrant

PP-2022-2959 Rural Tourist and Visitor Accommodation

Dear Mr Arnold

Thank you for your correspondence of 7 March 2023 and the opportunity to provide comment on Planning Proposal PP-2022-2959 for Rural Tourist and Visitor Accommodation.

The NSW Department of Primary Industries (DPI) Agriculture collaborates and partners with our stakeholders to protect and enhance the productive and sustainable use and resilience of agricultural resources and the environment.

NSW DPI has reviewed the planning proposal and considered the potential impacts on agricultural land and agricultural operations in Byron local government area (LGA). I note the planning proposal intends to introduce a 15-hectare minimum lot size for tourist and visitor accommodation in the RU1 Primary Production and RU2 Rural Landscape zones and to reduce the number of bedrooms permitted in farm stay accommodation from 12 to 8.

NSW DPI supports the proposed reduction in the number of permitted bedrooms for farm stay accommodation. The reduction from 12 bedrooms to 8 will reflect tourist accommodation which is more in keeping with a scale appropriate for a working farm.

The proposal to apply a 15-hectare minimum lot size (MLS) for tourist and visitor accommodation in rural zones is likely to have some benefits for agriculture including:

- less tourist accommodation in the rural landscape which is not related to agricultural production.
- greater opportunity for the tourist accommodation development site to provide buffers to mitigate against impacts from surrounding farms.
- reduced impacts on rural infrastructure (less traffic on roads and bridges).
- reduction in potential for land use conflict enabling retention of the agricultural capability of the rural areas of the LGA.

NSW DPI is however concerned that the proposed MLS requirement will have unintended implications for small farms seeking to establish new farm stay accommodation facilities.

Farm stay accommodation is a subset of tourist and visitor accommodation. Some forms of farm stay accommodation can be done as exempt or complying development subject to the provisions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the 'Codes SEPP'). However, there is a 15 hectare minimum land holding size for the use of land for campervans/caravans/tents as exempt farm stay accommodation (Clause 2.32N of the Codes SEPP), and the establishment of new buildings for farm stay accommodation as complying development (Clause 9.13 of the Codes SEPP).

Under the current provisions of the Byron Local Environmental Plan (LEP) 2014, if a new farm stay accommodation building cannot be erected as complying development on a landholding of less than 15ha the landowner could lodge a development application to undertake the farm stay accommodation based on a merit assessment.

However, the proposed changes to the Byron LEP would mean that tourist and visitor accommodation (and therefore farm stay accommodation) would not be permitted on lots less than 15ha even with a development application. Therefore, if farm stay accommodation is not permitted as exempt or complying development on a landholding less than 15ha and that landholding comprises a lot or lots less than 15ha then farm stay accommodation would be prohibited and no merit assessment would be available for such a proposal.

By definition farm stay accommodation can only be undertaken on and ancillary to a commercial farm, limiting the potential for inconsistent land uses. Consequently NSW DPI requests that farm stay accommodation be excluded from the 15 hectare MLS applied to other tourist and visitor accommodation in the RU1 and RU2 zones.

Council is also requested to ensure that the drafting of the MLS development standard does not have unintended consequences for other agritourism land uses such as farm gate premises and farm experience premises. It is understood these are not intended to be prohibited on lots less than 15ha and like farm stay accommodation, by definition, must be established on a commercial farm.

Should you require clarification on any of the information contained in this response, I have arranged for Paul Garnett, Agricultural Land Use Planning Officer to assist you. Paul can be contacted on
or by email at

Sincerely

Tamara Prentice
Manager, Agricultural Land Use Planning

4 April 2023



NSW RURAL FIRE SERVICE

Byron Shire Council
PO Box 219
MULLUMBIMBY NSW 2482

Your reference: (REF-2044) PP-2022-2959
Our reference: SPI20230309000036

ATTENTION: Sam Tarrant

Date: Friday 21 April 2023

Dear Sir/Madam,

**Strategic Planning Instrument
LEP Amendment**

Minimum lot size for tourist and visitor accommodation in the rural zones and reduce the number of farm stay accommodation bedrooms permitted.

I refer to your correspondence dated 07/03/2023 inviting the NSW Rural Fire Service (NSW RFS) to comment on the above Strategic Planning document.

The NSW RFS has considered the information submitted and subsequently raise no concerns or issues in relation to bush fire.

For any queries regarding this correspondence, please contact Alan Bawden on 1300 NSW RFS.

Yours sincerely,

Allyn Purkiss
**Manager Planning & Environment Services
Built & Natural Environment**