**Agritourism - Standard Instrument Local Environmental Plan Amendment**

**- Land Use Zones & Optional Clauses Nomination**

**Background**

* Contrary to DPE statements, there was no community engagement process. Based on a reading of a ministerial media release in March 2021, the Forum Committee informed the Berry and Kangaroo Valley communities and made a submission to the DPE.
* The DPE received 86 submissions from residents in Berry and Kangaroo Valley that referred to the Forum submission. Only 60 submissions were sent by individuals in the rest of NSW.
* The Forum has also sought information and clarification directly from the DPE over the last twelve months and raised concerns about key aspects of the proposals based on extensive experience of dealing with opportunistic DAs for temporary function centres.

**Concerns**

* The Agritourism proposals are driven by NSW tourism bodies seeking to remove the prohibited status of function centres in rural zones and to circumvent the protection provided by the LEC judgement on adverse impacts caused by temporary function centres.
* DPE staff do not comprehend the magnitude of legal and planning expertise that will utilised to search for loopholes in wording that can be exploited by opportunistic developers.
* The maximum size of a function centre that could be constructed as complying development is **200 sqm** for a single building and **500 sqm** for multiple buildings. The scale of these buildings bears no resemblance to the proposed token ‘limit’ of 50 guests.
* Under the proposals, a function centre could be obtained as Farm experience premises or via a ‘restaurant’ characterisation under Farm gate premises.
* The scale of Farm gate premises buildings can be restricted through numerical standards in the optional clause. However, there is no optional clause for Farm experience premises.
* Crucially, Council cannot apply any scale restrictions to complying or exempt development for Farm experience premises. We assume the optional clause (development consent) scale restrictions for Farm gate premises would also apply to complying development

**Our Proposals to DPE**

* Optional numerical standards for Farm experience premises should be provided.
* Only one building should be permitted for Farm experience premises and one building for Farm gate premises. Buildings should be a minimum of 100 metre apart.
* The maximum size of any building under complying development should be 75 sqm (including verandas) to ensure compliance with the 50-guest maximum.
* Functions, including wedding receptions, should not be permissible as exempt development.
* Functions on Fridays and Saturdays should finish by 11pm.

**Staff Recommendations**

**1.** Supported, subject to amending the numerical standard to ’75 sqm (including verandas)’.

**2.** Not supported. The scale of Farm experience premises buildings cannot be constrained, so this land use must be included under Prohibited Uses for RU1 and RU2 zones, in the same way that hotels are treated under the group term ‘tourist & visitor accommodation’.

**3/4/5** Supported.

**6**. Add an objective under Cl 5.24 – “to prioritize the protection and safety and amenity of adjacent landowners and the community”.