

9.4 Adoption of Rural Tourism Policy

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| Reference: | 1900/1 |
| Report Author: | Senior Strategic Land Use Planner |
| Authoriser: | Coordinator Strategic Land Use Planning |
| Link to Community | |
| Strategic Plan: | Ensure tourism balances the economic benefits with impact on environment and community |

PURPOSE

The purpose of this report is to present to Council outcomes from public consultation regarding the draft Wingecarribee Rural Tourism Policy.

RECOMMENDATION

1. **THAT** the draft Rural Tourism Policy as attached, be adopted.
2. **THAT** a Planning Proposal be prepared for a Gateway Determination to amend WLEP 2010 to:
 - a) increase the maximum number of bedrooms in *Farm Stay Accommodation* from three (3) to five (5)
 - b) increase the maximum number of bedrooms in *Bed and Breakfast Accommodation* from three (3) to five (5)
 - c) permit *Artisan Food and Drink Industry* with consent in the following zones:
 - 1) RU1 Primary Production,
 - 2) RU2 Rural Landscape,
 - 3) RU4 Primary Production Small Lots, and
 - 4) SP3 Tourist
 - d) permit *Function Centres* with consent in the RU Rural Landscape zone
 - e) insert a new 'Heads of Consideration' clause for *Function Centres*
 - f) exclude *Function Centres* from the operation of Clause 2.8 Temporary Use of Land.
 - g) insert a local definition *Equine Breeding or Training Establishment*
3. **THAT** Council write to the NSW Department of Planning, Industry and Environment requesting that *Artisan Food and Drink Industry* be permitted with consent in the E3 Environmental Management zone through whatever mechanism it determines to be most appropriate.

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VOTING ON THE MOTION

Councillors are required to record their votes on this matter.

REPORT

BACKGROUND

The South East and Tablelands Regional Plan (Regional Plan) identifies tourism as a key economic driver across the region and nominates tourism as the highest 'priority growth sector' in the development of a diversified regional economy (page 15). Council also recognises that tourism is a key economic driver for the Shire, estimated to generate some 2,300 full time equivalent jobs. Tourism is a key employer of young people offering 'first job' and 'part time' job opportunities as well as full time jobs across a broad age range and across a broad range of skill sets. One key advantage to the tourism base of the Shire is that it is capable of providing year-round, rather than seasonal opportunities.

The South East and Tablelands Regional Plan also recognises the significance of agricultural production to the regional economy and the importance of identifying and protecting "high environmental value" land.

With specific regard to tourism, the Regional Plan requires that Councils' tourism development align with the Sydney Surrounds South Destination Management Plan. It is noted that the Destination Management Plan identifies "*planning and development issues* and *community understanding of tourism benefits*" as the two key "*threats*" to achieving regional tourism priorities.

Council recognises the economic challenges that traditionally face rural communities and that rural based tourism provides the potential for a broader economic base in these communities. Council also recognises that there are community concerns associated with certain forms of rural tourism and recognises the need to seek a balance between the two.

The *Local Government Act 1993* requires all councils to adopt an Integrated Planning and Reporting (IP&R) Framework which provides the opportunity to work with the community to develop a long term plan for the Shire. Central to the IP&R framework is the Community Strategic Plan which reflects the community's aspirations and needs for the future.

The Wingecarribee Shire Community Strategic Plan, known as 'Wingecarribee 2031', is informed by relevant information relating to five key areas – Leadership, People, Places, Environment and Economy. Wingecarribee 2031 provides the core document which articulates the community's various priorities for future growth of the Shire.

As the NSW planning system shifts more strongly towards up-front strategic planning, as required through amendments to the *Environmental Planning and Assessment Act 1979* in March 2018, the Community Strategic Plan becomes a key foundation for development of the Local Strategic Planning Statements all Councils must finalise by June 2020.

Therefore, priorities and strategies articulated in the Community Strategic Plan need to be acknowledged and addressed in any strategic land use planning policy such as a Rural Tourism Policy.

Wingecarribee 2031 contains several relevant Strategies as follows.

- With regard to the Economy -

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- *5.1.2 - increase local employment opportunities for people in all stages of life*
- *5.1.4 - provide diversity in tourist attractions and experiences and*
- *5.1.5 - promote Southern Highlands' unique brand identity.*
- With regard to the Environment -
 - *4.1.1 – Protect and improve biodiversity*
 - *4.1.3 – Conserve the key natural resources of the Shire and minimise the impact of development*
 - *4.1.4 – Sustainably manage natural resources for broader community benefit*
- With regard to agricultural lands-
 - *5.3.1 – Manage development to ensure it does not impact on viable primary production and food security.*
- And finally, with regard to tourism itself –
 - *5.1.3 - Ensure tourism balances the economic benefits with impact on environment and community.*

It is noted that the South East and Tablelands Regional Plan aligns with Council's Community Strategic Plan. Page 66 of the Regional Plan specifically identifies the highest priorities for the Shire as including:

- *Protect high environmental value lands including regionally significant biodiversity corridors*
- *Protect the Sydney Drinking Water Catchment*
- *Protect important agricultural lands as a resource for food security*
- *Protect the shires valued heritage assets*

Rural Tourism sits at the interface of these regional priorities and the intent of a Rural Tourism Policy is to provide a strategic framework within which tourism, agriculture and environmental sensitivities can all coexist.

Previous research and consultation regarding the expansion of rural tourism across the Shire in the preparation of the Wingecarribee Local Planning Strategy identified the following key concerns:

- 1) *The extent of E3 Environmental Management zoned land across the Shire and the extent of mapped environmentally sensitive land.*
- 2) *The need to balance Regional Plan requirements to protect environmental and agricultural lands.*
- 3) *Community concerns regarding rural tourism activities and environmental, agricultural and amenity impacts.*
- 4) *The consideration of Planning Proposals to rezone E3 Environmental Management land to SP3 Tourist*
- 5) *Use of Clause 2.8 (Temporary use of Land) for Function Centres in the E3 zone*

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To address these issues and thereby provide a consistent framework which offers confidence to both businesses and the community in the support of rural tourism by Council across the Shire, a draft Rural Tourism Policy was developed and reported to Council on 28 November 2018.

Wingecarribee Rural Tourism Policy specifically provides a framework within which both Council and the tourism industry can address potential large scale rural tourism proposals at a strategic level, to ensure that any negative impacts can be identified and appropriately mitigated.

The objectives of the draft Policy are:

- *to provide a direct 'line of sight' between the South East and Tablelands Regional Plan, the Destination Management Plan, the Community Strategic Plan and Council's planning framework as it relates to rural tourism development .*
- *to outline a clear approval pathway for certain rural tourism related developments in the Wingecarribee Shire*
- *to provide greater certainty and consistency in the assessment of rural tourism related development proposals for both the industry and the broader community, and*
- *to set out criteria for determining when Council will consider a Planning Proposal to rezone land to SP3 Tourist.*
- *to limit opportunistic tourism development in rural locations.*

Therefore, in addition to the draft Policy, certain amendments to the Wingecarribee Local Environmental Plan (WLEP) 2010 were considered to further facilitate a range of small scale and boutique type tourism uses in our rural areas with the intent of achieving and maintaining the desired balance identified in the Community Strategic Plan.

At its Ordinary Meeting of 28 November 2018, Council resolved to place the draft Rural Tourism Policy and draft WLEP 2010 amendments on public exhibition for a period of three (3) months. This report summarises the community consultation process and the submissions received. It also considers how best to proceed with regard to the management of rural tourism, particularly in the E3 Environmental Management zone and what other initiatives Council might explore to support rural tourism while also protecting high value environmental and agricultural lands.

REPORT

Community Consultation

Public Exhibition of the draft Rural Tourism Policy and draft WLEP 2010 amendments was undertaken from 28 November 2018 to 1 March 2019 in accordance with Council's Resolution of 28 November 2018. A total of 21 submissions were received, 10 from individual community members, a further four (4) from rural property owners with an expressed interest in potential rural tourism options, and seven (7) from organisations with an interest in rural tourism. Comments from submissions are considered below. An Information Session was held in the Civic Centre Theatre on 18 February 2019 with a public attendance of 27 and feedback from that forum has provided useful input to the recommended outcomes of this report.

SUBMISSIONS RECEIVED

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Submissions received during the exhibition period are summarised and addressed below, grouped under the following key headings:

- 1) General comments – intent, framework & operation of the draft Policy.
- 2) Draft amendments to WLEP 2010 – accommodation, retail and food & drink premises.
- 3) Draft amendments to WLEP 2010 – location and operation of Function Centres specifically, including options for rezoning of environmental protection land, especially E3 Environmental Management to SP3 Tourist.
- 4) Draft amendments to WLEP 2010 – other options not discussed elsewhere.

All submissions are available for Councillors to view in the Councillors' Room at the Civic Centre.

1. General Comments

Comment - The Draft Rural Tourism Policy does not accord with provisions of the *Environmental Planning & Assessment Act 1979* in that it does not promote the "orderly and economic use of land".

- One (1) individual submission

Council response – Some submissions were concerned that the draft Rural Tourism Policy and associated report is too focussed on zoning and land use. One submission opined that the draft Policy was contrary to the key objective of the *Environmental Planning & Assessment Act 1979*, the requirement to ensure the 'orderly and economic use of land.'

The Judgement of the Senior Commissioner in Allen v Cessnock City Council [2010] NSWLEC 1179 found that the "orderly and economic use and development of land is framed by the objectives of the zone".

Therefore the primary focus of the Draft Rural Tourism Policy, is on developing a mechanism by which Council can consider rezoning of land, particularly E3 Environmental Management land to SP3 Tourist, and that mechanism should be driven, at least in part, by the zone objectives.

The objectives stated in WLEP 2010 for the E3 zone are:

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.
- To provide for a limited range of development that does not have an adverse effect on those values.
- To encourage the retention of the remaining evidence of significant historic and social values expressed in existing landscape and land use patterns.
- To minimise the proliferation of buildings and other structures in these sensitive landscape areas.
- To provide for a restricted range of development and land use activities that provide for rural settlement, sustainable agriculture, other types of economic and employment development, recreation and community amenity in identified drinking water catchment areas.
- To protect significant agricultural resources (soil, water and vegetation) in recognition of their value to Wingecarribee's longer term economic sustainability.

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The Draft Rural Tourism Policy seeks to implement these objectives, both through the processes and criteria for considering any rezoning application, and through the proper application of the land use table associated with it.

Comment - The draft Rural Tourism Development Plan does not align with the State Government's Visitor Economy Industry Action Plan 2030, the Destination Sydney South Surrounds Destination Management Plan 2018-2022, or the local Destination Plan.

- o Illawarra Business Chamber

Council response – The Visitor Economy Industry Action Plan 2030 was considered in the preparation of the Draft Policy, as was the Sydney South Surrounds Destination Management Plan 2018-2022.

Council is fully mindful of the economic benefits which can be generated from tourism. The South East and Tablelands Regional Plan (Regional Plan) identifies tourism as a key economic driver across the region and nominates tourism as the highest 'priority growth sector' in the development of a diversified regional economy (page 15).

However, the Regional Plan also recognises the significance of agricultural production to the regional economy and the importance of identifying and protecting "high environmental value" lands.

To the extent that goals, directions and actions of the Regional Plan with regard to tourism can be met without compromising the goals, directions and actions of biodiversity or agricultural land protection, the draft Policy seeks to find a pathway to enable rural tourism opportunities to develop.

Comment - The draft Policy is too restrictive and does not provide adequate opportunities to develop tourism opportunities within the Shire. 'More appropriate' planning controls should be implemented to facilitate merit-based use of E3 zoned land for rural tourism.

- o Illawarra Business Chamber
- o Two (2) individual submissions

Council response – In keeping with the objectives of the E3 Environmental Management zone noted at 1.1 above, the zone is one of the most restrictive zones in terms of permitted land uses.

It is noted however that several key land uses which some submission makers and industry stakeholders sought to include in this zone, namely *retail premises* and *food & drink premises*, are land uses mandated prohibited by the Department of Planning, Industry and Environment under the Standard Instrument. For these specific land uses, there are no 'more appropriate' planning controls at Council's disposal with regard to the E3 zone.

Council must abide by the definitions contained in the Standard Instrument and mandated prohibitions. Opportunities to use other mechanisms such as Schedule 1 have been limited by the Department and would not generally be deemed appropriate for large scale developments within an environmental protection zone.

Any Planning Proposal which is prepared to rezone rural or environmental protection zoned land must address and demonstrate consistency with Directions issued by the Minister for Planning under section 9.1(2) of the Environmental Planning and Assessment Act 1979. One specific example is Direction 2.1 Environmental Protection Zones, the objective of

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which is to protect and conserve environmentally sensitive areas.

Council must be mindful of all strategies, goals, priorities and actions, not just those pertaining to tourism and economic development. However, this report does identify potential pathways which can be pursued should Council resolve to support the recommendations of the report.

Comment - The draft Policy gives preference to the 'perceived notion of community sentiment' rather than prioritising 'legitimate economic development'.

Council should develop a Rural Tourism Development Plan which aligns with the NSW Visitor Economy Industry Action Plan 2030 and the Destination Sydney South Surrounds Destination Management Plan 2018-2022.

More appropriate planning controls should be implemented to facilitate merit-based use of E3 zoned land for rural tourism.

- Illawarra Business Chamber
- One (1) individual

Council response – Following on from previous comments and as stated in the background to this report, the Sydney Surrounds South Destination Management Plan, to which the Regional Plan requires local tourism strategies to align, itself acknowledges that community 'perceptions' of tourism benefits and planning and development responses are the two key "threats" to achieving regional tourism priorities.

Community perceptions of tourism are clearly articulated in the Community Strategic Plan. Wingecarribee 2031 acknowledges the benefits of tourism, but also acknowledges the potential negative impacts on community amenity.

Wingecarribee 2031 aligns with the South East and Tablelands Regional Plan which acknowledges the importance of protecting high value environmental and agricultural lands as well as the Shire's valuable heritage assets as well as promoting appropriate rural tourism activities.

It is also important to recognise that the tourism plans are a 'whole of tourism' response addressing all manner of tourist opportunities. The Rural Tourism Policy addresses just one aspect of that whole, being the rural component and seeks to find a balance between community and businesses preferences.

Comment - Properties which are Items of Heritage or located within a Heritage Landscape Conservation Area should also be excluded from consideration for rezoning to SP3 Tourist.

- Berrima Residents Association
- National Trust – Southern Highlands Branch
- Australian Garden History Society
- 8 individual submission makers

Council response – It is noted that the purpose of the Heritage Landscape Conservation Areas is to protect views and vistas and tourist development within such an area would most probably be contrary to the intent of those Conservation Areas. However, these concerns

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are noted and this report therefore recommends that the draft Rural Tourism Policy be amended to exclude these Areas from consideration for any tourist related development. This recommendation is reflected in the draft Rural Tourism Policy (for adoption) which forms the Attachment to this report.

Comment - Community and tourism interests need to be balanced. Existing rural lands should be preserved as they are and protected from future development potential. The existing rural lands should not be developed for intensive tourism. Rural roads are unsuited to the amount of traffic such development would bring. Small ventures tend to grow in increments over time. Why can't local produce be exhibited in local markets as in Orange, rather than at farm gates where access roads are poor?

The areas where Council will be obliged to consider rezoning to SP3 are not clearly identified and no consideration seems to have been given to the impact of these sites on neighbouring properties, especially with regard to noise.

Potential impacts from tourism on the 'green between' and heritage landscape conservation areas seem to have been ignored.

- 8 individual submission makers

Council response – Submissions were received expressing concern about the potential impacts on the rural environment from tourism development. Such concerns should not be dismissed as mere 'perceptions'. The Sydney South Surrounds Destination Management Plan itself recognises that managing community perceptions is essential for successful tourism development.

To receive community feedback at the strategic stage rather than at the DA stage is unusual, and therefore, significant. As discussed in the background to this report, it is also important to acknowledge that Wingecarribee 2031 speaks for the community on a broad range of matters. With specific regard to tourism, Strategy 5.1.3 states "*Ensure tourism balances the economic benefits with impact on environment and community*".

2. Rural Tourist Accommodation Options

Many submissions offered suggestions on how WLEP 2010 should or could be amended to enable a broader range of tourist related land uses within a broader range of zones. Each is considered in turn beginning with tourist accommodation options.

2.1 Farm Stay Accommodation

Comment - The proposed amendment to the definition of Farm stay accommodation to increase the maximum number of from 3 to 5 is supported.

- Southern Highlands Food & Wine Association

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| | <ul style="list-style-type: none">o One (1) individual submission |
| Comment - The proposed amendment to the definition of Farm stay accommodation should increase the number of bedrooms from 3 to 7 rather than 5. | <ul style="list-style-type: none">o Illawarra Business Chamber |
| Comment - The proposed amendment to the definition of Farm stay accommodation should increase the number of bedrooms from 3 to 10 rather than 5. | <ul style="list-style-type: none">o Destination Sydney South Surrounds |
| <p>Council response - The public exhibition of the draft Rural Tourism Policy included the proposal to amend WLEP 2010 to increase the maximum number of bedrooms in farm stay accommodation from three (3) to five (5).</p> <p>The current definition of farm stay accommodation is <i>a building or place that provides temporary or short-term accommodation to paying guests on a working farm as a secondary business to primary production</i>.</p> <p>Some submissions during the exhibition period supported this proposal, while others recommended that the number of bedrooms be increased to seven (7) or even (10).</p> <p>This report recommends that the maximum number of bedrooms for Farm Stay Accommodation, as defined in the Standard Instrument, be increased from three (3) to five (5), as exhibited.</p> <p>Some submissions were critical of the current procedure where the onus is on applicants to demonstrate that their business constitutes a 'working farm' and the consequent need assessment staff to somehow determine that the farm stay is, and will remain, 'a secondary business to primary production'.</p> <p>Council is aware of these inherent difficulties with the current farm stay definition, namely:</p> <ul style="list-style-type: none">a) Determining whether a business is a 'working farm'.b) Whether the farm stay constitutes a 'secondary business' at the time of assessment.c) Whether the farm stay will remain a 'secondary business' into the future. <p>Council will continue to work with industry advocates to seek a review of the Standard Instrument definition for farm stay accommodation to address the key concerns identified above.</p> | |
| 2.2 Bed & Breakfast Accommodation | |
| Comments - The current provisions of clause 5.4 that traditional Bed and Breakfast Establishments be limited to 3 bedrooms should be removed and that the maximum number be addressed through the DA process. | <ul style="list-style-type: none">o Illawarra Business Chamber |
| <p>Council response - The current provisions of clause 5.4 of WLEP 2010 provide a maximum of 3 bedrooms for Bed and Breakfast Accommodation which is defined as <i>an existing dwelling in which temporary or short-term accommodation is provided on a commercial</i></p> | |

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basis by the permanent residents of the dwelling and where—

- (a) meals are provided for guests only, and*
- (b) cooking facilities for the preparation of meals are not provided within guests' rooms, and*
- (c) dormitory-style accommodation is not provided.*

One submission recommended that the current three (3) bedroom limit be removed. However, rather than have no maximum number of bedrooms, this report recommends that the maximum number of bedrooms for Bed and Breakfast Accommodation, as defined in the Standard Instrument, be increased from three (3) to five (5).

This would maintain a low scale 'residential dwelling style' development rather than a larger commercial style enterprise.

3. Retail Premises in Rural Areas including Food and Drink

3.1 Roadside Stalls

Comment - The area of a Roadside stall should be increased from 20m² to 40m².

- Illawarra Business Chamber

Comment - No minimum area should be set for Roadside stalls.

- Southern Highlands Food & Wine Association

Council response - One submission recommends that the area of a Roadside Stall should be increased from 20m² to 40m² while another recommends that no minimum area should be set for Roadside Stalls.

Roadside stall is defined under the SI as a place or temporary structure used for the retail sale of agricultural produce or hand crafted goods (or both) produced from the property on which the stall is situated or from an adjacent property.

It is noted that the definition specifically states *a place, or temporary structure*. The Standard Instrument nominates a minimum area of 8m² under clause 5.4. The intent of a roadside stall would therefore appear to be a small scale retail premises which might actually only appear during times of seasonal surplus. While some producers would prefer that a roadside stall be much larger and provide a retail outlet for not only their own, but broader regional produce, the definition does not enable this to be accommodated.

It is therefore recommended that the current area for a *Roadside Stall* of 20m², be retained, rather than it become a de facto 'shop'.

This report concludes that amending the area of a roadside stall is not a solution to the larger issue of there being no mechanism in the Standard Instrument to enable a retail premises in the rural and environmental protection zones. One partial solution is available in the relatively new SI definition of *artisan food and drink industry* which is discussed below.

3.2 Food and Drink Premises

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Comments - The proposed amendment to WLEP to permit Artisan Food & Drink Industry with consent in the RU1, RU2, RU4, SP3 zones is supported. Artisan food & drink industry should also be permitted with consent in the E3 zone.

- Southern Highlands Food & Wine Association
- Illawarra business Chamber
- One (1) individual submission

Council response – The public exhibition of the draft Rural Tourism Policy included the proposal to permit the operation of an *Artisan Food and Drink Industry* with consent in the RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots, and SP3 Tourist zones.

This report recommends that Council continue with the proposal to amend WLEP 2010 to permit *Artisan Food & Drink Industry* with consent in the RU1, RU2, RU4, SP3 zones. However, there is a reason why the E3 Environmental Management zone has been excluded.

The Standard Instrument definition of *Artisan Food and Drink Industry* is *a building or place the principal purpose of which is the making or manufacture of boutique, artisan or craft food or drink products only. It must also include at least one of the following:*

- (a) *a retail area for the sale of the products,*
- (b) *a restaurant or cafe,*
- (c) *facilities for holding tastings, tours or workshops.*

The Standard Instrument definition also notes that *Artisan Food and Drink Industry* is a type of *Light industry* and therein lies the problem. The Standard Instrument mandates *Light industry* as prohibited in the E3 Environmental management zone.

When draft provisions for *Artisan Food and Drink Industry* were on public exhibition Council made a submission requesting that the proposed land use not be connected to a group term such as *Light Industry* in order to provide the ability to permit such activities, with consent, in the E3 Environmental Management zone. Council was very disappointed to see that this recommendation was not supported by the Department.

This report recommends that Council once again request the Department to provide a mechanism whereby *Artisan Food and Drink Industry* can be considered in the rural and environmental protection zones.

There are two options to achieve this outcome. The first is to dis-connect *Artisan Food and Drink Industry* from the group term *Light Industry* so that it becomes a 'stand-alone' term. The Department has disconnected terms in the past, as when *Animal Boarding and Training Establishment* was removed from the *Agriculture* group term.

The second option is to permit *Artisan Food and Drink Industry* with consent in the E3 zone even though they are mandated prohibited in the Standard Instrument. There is a precedent for this. *Cellar Door Premises* is identified in the Standard Instrument as a form of *Retail Premises* and the SI mandates *Retail Premises* as prohibited in the E3 zone. And yet, despite this, the Department was prepared to permit *Cellar Door Premises* with consent in the E3 zone under WLEP 2010.

This previous concession on the part of the Department offers the opportunity for a similar concession for *Artisan Food and Drink Industry*.

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Submissions have also suggested that a new definition is needed similar to *Cellar door premises* for non-wine related businesses. In effect this is what Council expected the *Artisan Food and Drink* definition to achieve. If the Department were prepared to utilise one of the options discussed above to enable this land use to be permitted with consent it would overcome the need to seek a new definition.

4 Permissibility and Operation of Function Centres

Zoning Considerations

It is acknowledged that Function Centres can, and do, have an important role to play in the successful development of the weddings destination to which the Southern Highlands aspires. In fact, the management of Function Centres in the rural and environmental protection zones was the primary impetus for the drafting of a Rural Tourism Policy.

Previous discussion in this report has in part explored alternatives to Function Centres as a mechanism for facilitating development of the weddings component of rural tourism, including providing more options for restaurants. This section of the report focusses on suggestions made through submissions and options which might be pursued for enabling Function Centres themselves to be established.

A number of submissions suggested that Council circumvent the problem of function centres in the E3 zone through allowing function centres in other zones, especially the RU2 zone, or allowing only a portion of an E3 zoned site to be rezoned to SP3 Tourist. These options are now considered.

It is also noted that a number of submissions requested that Council not permit any Function Centres at all in the rural and environmental protection zones. Currently WLEP 2010 does not permit Function Centres in any of the rural or environmental protection zones.

It is noted that the RU2 zone includes the objective "*To provide opportunities for employment-generating development that is compatible with, and adds value to, local agricultural production through food and beverage processing and that integrates with tourism.*"

It is acknowledged that if Function Centres were permitted with consent in the RU2 zone, for example, a property currently zoned E3 Environmental Management may have the opportunity to seek a rezoning of all or part of it to RU2, rather than the more intensive SP3 Tourist zone, if it could be demonstrated that the area did not contain identified High Value Environmental or High Value Agricultural land, and was not located in a Heritage Landscape Conservation Area (as discussed previously in this report).

A second option could be to allow consideration of a rezoning of part of an E3 Environmental Management site to SP3 Tourist zone if it could be demonstrated that the area did not contain identified High Value Environmental or High Value Agricultural land, and was not located in a Heritage Landscape Conservation Area. It would not be Council's intention to allow subdivision of that rezoned portion and minimum lot sizes would be applied to ensure that no further subdivision potential was created.

There are currently nine (9) SP3 Tourist zones located across the Shire, many offering extensive function centre and/or restaurant capability. There are also wedding venues in the E3 Environmental Management and the R5 Large Lot Residential zones operating through permissibilities granted under WLEP 1989.

It is noted that WLEP 2010 currently provides for Function Centres with consent in the B2 Local Centre, B4 Mixed Use, the B5 Business Development and B7 Business Park zones, the IN1 General Industrial and IN2 Light Industrial zones and the RE1 Public Recreation and RE2 Private Recreation zones, as well as the SP3 Tourist zones. The current supply of, or potential for, wedding venues across the Shire under these permissibilities should not be overlooked.

However, this report does recommend that Council amend WLEP 2010 to permit Function Centres, with consent, in the RU2 Rural Landscape zone. In so doing, the report also recommends that the criteria for their assessment and controls for their operation be strengthened through the introduction of a specific 'Heads of Consideration' clause into WLEP 2010.

Draft Clause for Function Centres in WLEP 2010

A report recently prepared for Destination Sydney South Surrounds, advocates for the use of a local clause in the Local Environmental Plan to address the management of Function Centres in a rural or environmental protection zone.

Council supports this idea and has adapted the Destination Sydney South Surrounds report's draft clause to extend it to all zones where Function Centres are permitted with consent, and not just the rural or environmental protection zones.

The draft clause has also been adapted to adopt the same format as Clause 5.13 in WLEP 2010 which relates to *Eco-tourist Facilities*. This adaptation reflects Council's view that a 'cloned' clause would have a better chance of Departmental and Parliamentary Counsel support than one drafted without any reference to current LEP format or context. The draft clause follows:

5.14 Function centres

(1) The Objectives of this clause are as follows:

- (a) To provide appropriate development opportunities for functions and conferences, such as weddings and corporate retreats, and*
- (b) To ensure that function centres are sensitively located and designed so they do not adversely impact on the agricultural production, natural resources, ecological values or visual, scenic, environmental or residential amenity values of the land.*

(2) This clause applies if development for the purposes of a function centre is permitted with development consent under this Plan.

(3) The consent authority must not grant consent under this Plan to carry out development for the purposes of a Function Centre unless it is demonstrated to Council's satisfaction that:

- a) the location of the development does not impact on any environmentally sensitive land identified on the site, and*
- b) the construction of the development will not result in the removal of any native vegetation and will have regard to the management of biodiversity outcomes as set out in a Biodiversity Assessment Report prepared in accordance with the requirements of the Biodiversity Conservation Act 2016.*

- (4) *The consent authority must not grant consent under this Plan to carry out development for the purposes of a Function Centre unless the consent authority is satisfied that:*
- (a) the development will complement the rural or environmental attributes of the land and its surrounds, and*
 - (b) the development will not adversely affect the agricultural productivity of adjoining land, and*
 - (c) the development will not adversely affect neighbour amenity, and*
 - (d) the development is, or will be, serviced by adequate access roads taking into account the scale of the development, and*
 - (a) the development has, or will have, access to adequate wastewater systems to service the land without having any adverse impact on the water quality of the area, and*
 - (b) the location of the development does not impact on any environmentally sensitive land identified on the site, and*
 - (c) the construction of the development will not result in the removal of any native vegetation and will have regard to the management of biodiversity outcomes, and*
 - (d) the potential impacts of bushfire and/or flood have been addressed, and*
 - (e) the development will not create a land use conflict due to noise, traffic, privacy, visual and other amenity impacts, and*
 - (f) a management strategy will be prepared to minimise any impact on the natural environment or neighbour amenity which includes but is not limited to:*
 - (i) measures to remove any threat of serious or irreversible environmental damage, and*
 - (ii) mechanisms for monitoring and reviewing the effect of the development on the neighbour amenity including noise and traffic impacts, and*
 - (iii) any other matter deemed relevant by the consent authority.*

One further advantage of the draft local clause and applying it to all Function Centres regardless of zone or location is that it provides an LEP-based 'heads of consideration' development control mechanism rather than relying on the current Development Control Plan controls and the assessment criteria previously used to consider any rezoning request to SP3 Tourist. The current criteria are:

- 1) Covers an area of at least 20 hectares*
- 2) Has been operating as a tourist establishment for three (3) years*
- 3) Is within 2km of residential development*
- 4) Is adjacent to or near major access road*

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- 5) *Has access to adequate water and sewerage infrastructure (not necessarily reticulated)*
- 6) *Is free of extensive Endangered Ecological Community (EEC)*
- 7) *Is free of significant bushfire or flood threat which cannot be addressed through design considerations*
- 8) *Is free of any other environmentally sensitive constraints.*

Submissions to the draft Rural Tourism Policy identified the first three of the above criteria as being particularly objectionable.

With regard to Criterion (2) (the requirement that a tourist establishment must have been operating for at least three years before being considered for rezoning), it is noted that, in resolving to place the draft Rural Tourism Policy on public exhibition at its Meeting of 28 November 2018, Council specifically resolved that the Draft Rural Tourism Policy specifically reference that one key intent of the draft Policy is to “limit opportunistic tourism development in rural locations”. Therefore this requirement addresses a specific Council concern and has been inserted into the revised Rural Tourism Policy for adoption.

With regard to the other criteria, the draft local clause for Function Centres provides an alternative mechanism which effectively addresses those remaining issues, with the benefit of doing so within the Local Environmental Plan rather than the Development Control Plan.

The draft Rural Tourism Policy for adoption contains these same provisions to emphasise their importance, and to provide an interim measure until WLEP 2010 can be amended.

One of the principal foci of the draft clause addresses impacts of neighbour amenity. This is a consistent concern regardless of the zoning or location of the function centre and is generally associated with noise and traffic.

During public exhibition of the Draft Rural Tourism Policy, comment was received from Council's Environmental Health Officer with regard to the implications of noise impact from rural function venues. A copy of the full submission is provided for Councillors in the Councillor Room.

These comments are summarised below and emphasise the need for appropriate controls and enforcement procedures if Function Centres in rural areas are to be considered. The submission makes the following key points:

- a) *Function centres can emit noise that contrasts with rural acoustical environment. This contrast exacerbates the impact of that noise, especially in rural locations where ambient noise levels are low and 'soft'.*
- b) *The standard noise impact assessment of function centres has inherent flaws, including:*
 - o *no applicable NSW guideline;*
 - o *overreliance on operational and administrative noise controls;*
 - o *underestimating or ignoring noise from outdoor ceremonies and staff; and*
 - o *lack of consideration of non-human receptors, especially wildlife (birds and animals, and horses, the latter particularly relevant in an area which also seeks to promote itself as an area of 'equine excellence'.*

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- c) *Liquor & Gaming NSW may be unable to apply its standard noise conditions for licenced venues to function centres.*
- d) *The standard DA conditions may not be effective in preventing certain noise perceived as objectionable and/or nuisance by affected individuals. Examples are when noise levels spike such as during cheering and applause or sharp bursts of loud music.*

It is noted that many of these issues could apply just as equally to the operation of Function Centres in locations adjoining urban areas as to those located in rural settings.

One means of addressing these issues could be through a Local Clause within WLEP 2010 specifically related to Function Centres to ensure development does not adversely impact agricultural production, neighbour amenity or the scenic or environmental values of the land.

Clause 2.8 Temporary Use of Land

The draft exhibited provisions contained the proposal to exclude Function Centres in the E3 Environmental Management zone from the operation of Clause 2.8 Temporary Use of Land. Several submissions objected to this proposal arguing that it relieved the pressure on the need to rezone E3 land to SP3 Tourist.

Council's experience with the use of clause 2.8 to enable Function Centres in the E3 zone is that this approval pathway does not generally serve the best interests of either the proponent or Council. Reliance on this clause not only restricts activities and creates uncertainty for operators, it can also result in sub-standard outcomes with respect to mitigating measures for noise and visual impacts.

One further concern for Council is that the scale and frequency of events tends to grow and expand with each new approval renewal until it reaches a point where that approval pathway is no longer viable.

It is not intended to remove the E3 Environmental Management zone entirely from the operation of clause 2.8 as many temporary uses such as open gardens are in the E3 zone and this was one of the original intents of the clause. The exhibited draft amendments proposed excluding Function Centres only from the operation of the clause and only in the E3 zone. However, it is now proposed that Function Centres be excluded from the operation of clause 2.8 across all zones. It is noted that other opportunities as outlined in the report enable Function centres in the Rural zones.

It is also noted that clause 2.8 is an 'optional' clause under the Standard Instrument which provides the Direction that "*other specific exceptions to subclause (2) may be added*". It is therefore considered that Council may seek to amend the clause in the manner proposed.

5 Mechanism for Rezoning Land to SP3 Tourist

Several submissions argued that the proposed exclusion of high value environmental land and high value agricultural land from consideration for rezoning to SP3 Tourist was too restrictive and gave no opportunity for proponents to demonstrate that their proposal could avoid these sensitive areas and cause no adverse environmental impacts.

The provisions of the draft Rural Tourism Policy have been reviewed in response to these submissions. With regard to High Value Environmental Lands (HVEL), the provisions of the

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Biodiversity Conservation Act 2016 and published guidelines from the Department of Planning, Industry and Environment (the Department) have been considered.

It is noted that subclause 3 of the draft local clause for Function Centres (above) references a '*Biodiversity Assessment Report prepared in accordance with the requirements of the Biodiversity Conservation Act 2016*'.

The purpose of a Biodiversity Assessment Report (BDAR) is to address the environmental impacts of a development proposal to determine whether impacts on biodiversity values have been avoided, minimised and mitigated, and or whether there are any serious and irreversible impacts.

Although the legislation provides for a BDAR and the identification of any serious and irreversible impacts at the Development Application stage, through the Rural Tourism Policy Council could require the same assessments from a proponent at the Planning Proposal stage if seeking to rezone land to SP3 Tourist, particularly E3 Environmental Management land.

Council's willingness to review the current draft Policy position of total exclusion of land containing mapped environmentally sensitive land has been strongly influenced by recently issued revised guidelines from the Department of Planning, Industry and Environment to assist Councils in undertaking a critical review of a BDAR. Most importantly, the guidelines highlight the implications for impact assessment of an inadequate BDAR. With regard to serious and irreversible impact, the guideline states that "if the consent authority determines, after considering all relevant information, that a serious and irreversible impact is likely to occur, the development cannot be approved".

The revised guidelines provide a more detailed assessment tool and offer more confidence to Council that an accurate assessment of potential outcomes can be determined. If necessary, the BDAR can receive an independent review.

Therefore the report recommends that an 'exclusion' approach for high value environmental land be replaced with a 'pathway' which allows a proponent to submit a Planning Proposal to rezone land to SP3 Tourist as described below:

- 1) Council shall not consider a Planning Proposal for the purposes of rezoning land to SP3 Tourist if the subject land is within any Landscape Conservation Area mapped under Wingecarribee Local Environmental Plan 2010.
- 2) Council shall not consider a Planning Proposal for the purposes of rezoning rural land to SP3 Tourist without supporting evidence which demonstrates to Council's satisfaction that a tourist facility has been operating on the subject land for at least three (3) years. The intent of this restriction is to limit opportunistic tourism development in rural locations.
- 3) Council shall not consider a Planning Proposal for the purposes of rezoning land to SP3 Tourist unless accompanied by a Concept Master Plan which:
 - a) indicates the intended extent of the tourist development proposed for the subject site, and
 - b) is sufficient to allow consideration of the cumulative impacts of each land use type proposed for the site at the strategic planning level including assessments at (4) and (7) below.

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- 4) Any Planning Proposal for the purposes of rezoning land to SP3 Tourist shall demonstrate to Council's satisfaction that the development will not occur on land that:
 - a) contains any mapped Threatened Ecological Community, or
 - b) will not impact on any mapped Threatened Ecological Community.
- 5) Compliance with (4) above shall be by means of a Biodiversity Development Assessment Report (BDAR) prepared by an accredited assessor as required under the *Biodiversity Conservation Act 2016*. Where a Threatened Ecological Community is indicated on the subject land, the BDAR must demonstrate to Council's satisfaction how the proposal will avoid this area.
- 6) If Council determines that the proposed development will likely result in a serious and irreversible impact on any mapped Threatened Ecological Community, Council will not support the Planning Proposal.
- 7) Any Planning Proposal for the purposes of rezoning land to SP3 Tourist shall demonstrate to Council's satisfaction that any mapped High Value Agricultural Land on the subject land shall avoided in any proposed development.
- 8) Should a property contain either High Value Environmental Land or High Value Agricultural Land, this may result in only a portion of the subject land being considered by Council for rezoning to SP3 Tourist.
- 9) Any land supported for rezoning to SP3 Tourist in accordance with (7) above would also have a minimum lot size applied to it to ensure that only one principal dwelling, and one secondary dwelling, as permitted in the zone, could be constructed on the rezoned area. The purpose of this is to prevent further subdivision of the site for residential development.
- 10) Any Planning Proposal for the purposes of rezoning land to SP3 Tourist involving a Function Centre shall demonstrate to Council's satisfaction compliance with the following provisions, the intent of which is to ensure that any Function Centre is sensitively located and designed so it does not adversely impact on the ecological values, agricultural production, natural resources, or visual, scenic, environmental or residential amenity values of the land. The provisions are:
 - (a) the development will complement the rural or environmental attributes of the land and its surrounds, and
 - (b) the development will not adversely affect the agricultural productivity of adjoining land, and
 - (c) the development will not adversely affect neighbour amenity, and
 - (d) the development is, or will be, serviced by adequate access roads taking into account the scale of the development, and
 - (g) the development has, or will have, access to adequate wastewater systems to service the land without having any adverse impact on the water quality of the area, and
 - (h) the location of the development does not impact on any environmentally sensitive land identified on the site, and

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- (i) the construction of the development will not result in the removal of any native vegetation and will have regard to the management of biodiversity outcomes, and
- (j) the potential impacts of bushfire and/or flood have been addressed, and
- (k) the development will not create a land use conflict due to noise, traffic, privacy, visual and other amenity impacts, and
- (l) a management strategy will be prepared to minimise any impact on the natural environment or neighbour amenity which includes but is not limited to:
 - (i) measures to remove any threat of serious or irreversible environmental damage, and
 - (ii) mechanisms for monitoring and reviewing the effect of the development on the neighbour amenity including noise and traffic impacts, and
 - (iii) any other matter deemed relevant by the consent authority.

6 Remaining Matters

6.1 New land use definition – Equestrian Breeding & Training Establishment

Council continues to receive an increasing number of enquiries about, and applications for, horse establishments for the breeding, agistment and training of horses for thoroughbred racing or equestrian activities.

Wingecarribee Shire is ideally suited for the development of an equine industry due to its cool climate, clean rural environment and proximity to Sydney. It is understood that Racing NSW is keen to establish a 'Newmarket' style horse centre outside of Sydney and the Southern Highlands has been identified as an ideal location. Such a proposal would provide a significant investment into several areas of the local economy.

The location of animal boarding and training establishments is strictly controlled under WLEP 2010, as they are mainly associated dog breeding and barking is identified by both Council and the community as a major environmental concern. Furthermore, rural workers dwellings are prohibited in all zones under WLEP 2010, due to most rural enterprises not requiring workers to remain onsite overnight.

It is noted that the Wingecarribee Regional Economic Development Strategy (REDS) 2018-2022 recognises the potential for the development of the Shire's equestrian opportunities.

Therefore, Council does not have a planning mechanism by which to enable equine breeding and training establishments within the Shire, nor a mechanism to provide the onsite accommodation for workers and carers which are essential during foaling season and for the full time supervision of valuable horses that their owners expect.

To address these concerns, on 7 August 2019 Council wrote to the Secretary of the Department of Planning, Industry and Environment requesting that the Department consider the inclusion of a new definition in the Standard Instrument (Principal Local Environmental Plan) on which WLEP 2010 is based, specifically catering for equine breeding and training facilities. The new definition proposed by Council - equine breeding or training establishment – is based on the existing definition for animal boarding or training establishment:



***Equine breeding or training establishment** means a building or place used for the breeding, boarding, training, keeping or caring of horses for commercial or non-commercial purposes, and includes any associated onsite workers accommodation associated with horse breeding and/or training establishment or ancillary veterinary hospital or associated educational facilities.*

To date, no response has been received. This report recommends that Council continue to pursue this proposal by including the definition in the Planning Proposal resulting from this report.

6.2 Entertainment Facilities

Two (2) submissions included the suggestion that Entertainment Facilities be permitted in the RU1, RU2, E3 & E4 zones.

In response, it is noted that the Standard Instrument definition for *entertainment facility* is a *theatre, cinema, music hall, concert hall, dance hall and the like, but does not include a pub or registered club*.

Such land uses are high intensity uses, with potential adverse impacts on rural amenity, especially during evening and night. This report does not recommend support for this proposal.

However, it is noted that if a property were rezoned to SP3 Tourist, Entertainment Facilities would be permitted with consent.

A summary of all the above recommendations to this report is contained in the Conclusion to this report.

COMMUNICATION AND CONSULTATION

Community Engagement

Community engagement occurred as described in the body of the report.

Internal Communication and Consultation

Consultation has been undertaken with Environmental Sustainability, Development Assessment and Regulatory Services throughout the drafting of the Policy.

External Communication and Consultation

Consultation has been undertaken with the NSW Department of Planning, Industry and Environment and the Office of Environment and Heritage.

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SUSTAINABILITY ASSESSMENT

- **Environment**

The draft Policy seeks to balance the provision of tourist opportunities with the protection of high value environmental and agricultural land.

- **Social**

The draft Policy seeks to facilitate a range of tourism opportunities which can be enjoyed by the community as well as visitors and which enable the creation of varied employment opportunities.

- **Broader Economic Implications**

The draft Policy recognises the economic importance of rural tourism through enabling a broad range of tourist development opportunities

Culture
There are no cultural issues in relation to this report.

- **Governance**

There are no governance issues in relation to this report.

RELATED COUNCIL POLICY

There are no other Council Policies relevant to this report.

OPTIONS

The options available to Council are:

Option 1

Adopt the recommendations to this report.

Option 2

Adopt the draft Rural Tourism Policy as attached, but not adopt some or all of the draft amendments to WLEP 2010.

Option 3

Adopt some or all of the draft amendments but not adopt the draft Rural Tourism Policy as attached.

Option 1 is the recommended option to this report.

CONCLUSION

This report is the culmination of research, consultation and review over an extended period of time. The recommendations to this report are summarised in the following table,

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reflecting submissions received during the exhibition period, both in support of expanding rural tourism opportunities, but also addressing community concerns, especially with regard to protection of heritage landscape areas, ambient noise and traffic impacts.

The following table summarises exhibited proposals with those now recommended for adoption post-exhibition.

Draft WLEP 2010 Amendments

| | Proposed WLEP 2010 amendments as exhibited | Proposed WLEP 2010 amendments recommended for adoption |
|---|---|--|
| 1 | Amend WLEP 2010 to increase the maximum number of bedrooms in <i>Farm Stay Accommodation</i> from three (3) to five (5). | <u>Remains unchanged</u> - Amend WLEP 2010 to increase the maximum number of bedrooms in <i>Farm Stay Accommodation</i> from three (3) to five (5). |
| 2 | | <u>New recommendation</u> - Amend WLEP 2010 to increase the maximum number of bedrooms in Bed and Breakfast Accommodation from three (3) to five (5). |
| 3 | Amend WLEP 2010 to permit <i>Artisan Food and Drink Industry</i> with consent in the following zones: <ul style="list-style-type: none">○ RU1 Primary Production,○ RU2 Rural Landscape,○ RU4 Primary Production Small Lots, and○ SP3 Tourist | <u>Remains unchanged</u> - Amend WLEP 2010 to permit <i>Artisan Food and Drink Industry</i> with consent in the following zones: <ul style="list-style-type: none">○ RU1 Primary Production,○ RU2 Rural Landscape,○ RU4 Primary Production Small Lots, and○ SP3 Tourist |
| 4 | | <u>New recommendation</u> - Amend WLEP 2010 to permit <i>Function Centres</i> with consent in the RU2 Rural Landscape zone. |
| 5 | | <u>New recommendation</u> - Amend WLEP 2010 to insert a new 'Heads of Consideration' clause for <i>Function Centres</i> . |
| 6 | Amend WLEP 2010 to exclude <i>Function Centres</i> in the E3 Environmental Management zone from the operation of Clause 2.8 Temporary Use of Land. | <u>Changed recommendation</u> - Amend WLEP 2010 to exclude <i>Function Centres</i> from the operation of Clause 2.8 Temporary Use of Land. |
| 7 | | <u>New recommendation</u> - Amend WLEP 2010 to insert a local definition <i>Equine Breeding or Training Establishment</i> . |
| 8 | | <u>New recommendation</u> – that Council write to the NSW Department of Planning, Industry and Environment requesting that <i>Artisan</i> |

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| | Proposed WLEP 2010 amendments as exhibited | Proposed WLEP 2010 amendments recommended for adoption |
|--|---|---|
| | | <i>Food and Drink Industry</i> be permitted with consent in the E3 Environmental Management zone through whatever mechanism it determines to be most appropriate. |

Draft Rural Tourism Policy Amendments

Policy Objectives

- *to provide a direct 'line of sight' between the South East and Tablelands Regional Plan, the Destination Management Plan, the Community Strategic Plan and Council's planning framework as it relates to rural tourism development*
- *to outline a clear approval pathway for certain rural tourism related developments in the Wingecarribee Shire*
- *to provide greater certainty and consistency in the assessment of rural tourism related development proposals for both the industry and the broader community, and*
- *to set out criteria for determining when Council will consider a Planning Proposal to rezone land to SP3 Tourist.*
- *to limit opportunistic tourism development in rural locations. (New objective inserted)*

Policy Statement (final paragraph)

It is noted that the Wingecarribee Local Environmental Plan (WLEP) 2010 allows for a range of small scale and boutique tourism uses in our rural areas, and the Wingecarribee Development Control Plans (DCPs) contain controls to mitigate the impacts of these uses. this Policy provides an assessment framework for consideration and determination of large scale rural tourism uses that are not currently permissible under the WLEP 2010 requiring the rezoning of land.

Scope (inserted text) (deleted text)

The E3 Environmental Management zone accounts for some 49% of all land within the Shire. Development of the rural weddings tourist market is restricted in the E3 Environmental Management zone due to function centres, restaurants and cafes being prohibited in the zone. Council is not supportive of broad scale amendments to WLEP 2010 to permit function centres or those forms of tourist and visitor accommodation which are prohibited in the E3 zone. However, Council will consider site specific amendments to WLEP for rural tourism related proposals in accordance with the *Wingecarribee Community Strategic Plan, the South East and Tablelands Regional Plan, the Destination Management Plan* and this Policy.

Function Tourism in the E3 Environmental Management zone

| As exhibited | As amended for adoption |
|---|---|
| <p>The SP3 Tourist zone allows for more intensive land uses that can impact on environmentally sensitive lands and can place unacceptable pressure on the Shire's rural roads network, much of which is unsealed. Council is also mindful that such development has the potential to create land use conflicts across the Shire.</p> <p>The Wingecarribee Local Planning Strategy sets out key criteria against which applications for rezoning to SP3 Tourist have been, and are, currently assessed, being:</p> <ol style="list-style-type: none"> 1) Covers an area of at least 20 hectares 2) Has been operating as a tourist establishment for three (3) years 3) Is within 2km of residential development 4) Is adjacent to or near major access road 5) Has access to adequate water and sewerage infrastructure (not necessarily reticulated) 6) Is free of extensive Endangered Ecological Community (EEC) 7) Is free of significant bushfire or flood threat which cannot be addressed through design considerations 8) Is free of any other environmentally sensitive constraints. <p>However, the reliance on these</p> | <p>The SP3 Tourist zone allows for more intensive land uses that can impact on environmentally sensitive lands and can place unacceptable pressure on the Shire's rural roads network, much of which is unsealed. Council is also mindful that such development has the potential to create land use conflicts across the Shire.</p> <p>Therefore, with regard to a Planning Proposal to rezone land to SP3 Tourist, this Policy only enables such a Proposal to be considered within the following pathway framework:</p> <ol style="list-style-type: none"> 1) Council shall not consider a Planning Proposal for the purposes of rezoning land to SP3 Tourist if the subject land is within any Landscape Conservation Area mapped under Wingecarribee Local Environmental Plan 2010. 2) Council shall not consider a Planning Proposal for the purposes of rezoning rural land to SP3 Tourist without supporting evidence which demonstrates to Council's satisfaction that a tourist facility has been operating on the subject land for at least three (3) years. The intent of this restriction is to limit opportunistic tourism development in rural locations. 3) Council shall not consider a Planning Proposal for the purposes of rezoning land to SP3 Tourist unless accompanied by a Concept Master Plan which: <ol style="list-style-type: none"> a) indicates the intended extent of the tourist development proposed for the subject site, and b) is sufficient to allow consideration of the cumulative impacts of each land use type proposed for the site at the strategic planning level including assessments at (4) and (7) below. 4) Any Planning Proposal for the purposes of rezoning land to SP3 Tourist shall demonstrate to Council's satisfaction that the development will not occur on land that: <ol style="list-style-type: none"> a) contains any mapped Threatened Ecological Community, or b) will not impact on any mapped Threatened Ecological Community. 5) Compliance with (4) above shall be by means of a Biodiversity Development Assessment Report (BDAR) prepared by an accredited assessor as |

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criteria alone creates a zone which operates in response to applications rather than as a prescriptive zone based on strategic land use planning principles. A stronger strategic framework, underpinning the assessment criteria, would provide more clarity around where more intensive rural tourism development would be supported, and where it would not, thereby providing greater investment certainty and community confidence and removing opportunistic rezoning proposals.

Therefore, with regard to the E3 Environmental Protection zone, this Policy requires that Council only consider a Planning Proposal to rezone such land to SP3 Tourist if:

- the land is located outside of the high value environmental land 'exclusion area'
- the land is located outside of the high value agricultural land 'exclusion area'.

If it is determined that the location of the subject site enables a Planning Proposal to be considered by Council, the Planning Proposal must:

- demonstrate to Council's satisfaction that the site meets all the assessment criteria listed in the relevant DCP, and
- provide a Concept Master Plan, outlining the intended extent of the tourist development proposed for the subject land to allow Council to

required under the *Biodiversity Conservation Act 2016*. Where a Threatened Ecological Community is indicated on the subject land, the BDAR must demonstrate to Council's satisfaction how the proposal will avoid this area.

- 6) If Council determines that the proposed development will likely result in a serious and irreversible impact on any mapped Threatened Ecological Community, Council will not support the Planning Proposal.
- 7) Any Planning Proposal for the purposes of rezoning land to SP3 Tourist shall demonstrate to Council's satisfaction that any mapped High Value Agricultural Land on the subject land shall avoided in any proposed development.
- 8) Should a property contain either High Value Environmental Land or High Value Agricultural Land, this may result in only a portion of the subject land being considered by Council for rezoning to SP3 Tourist.
- 9) Any land supported for rezoning to SP3 Tourist in accordance with (7) above would also have a minimum lot size applied to it to ensure that only one principal dwelling, and one secondary dwelling, as permitted in the zone, could be constructed on the rezoned area. The purpose of this is to prevent further subdivision of the site for residential development.
- 10) Any Planning Proposal for the purposes of rezoning land to SP3 Tourist involving a Function Centre shall demonstrate to Council's satisfaction compliance with the following provisions, the intent of which is to ensure that any Function Centre is sensitively located and designed so it does not adversely impact on the ecological values, agricultural production, natural resources, or visual, scenic, environmental or residential amenity values of the land. The provisions are:
 - a) the development will complement the rural or environmental attributes of the land and its surrounds, and
 - b) the development will not adversely affect the agricultural productivity of adjoining land, and
 - c) the development will not adversely affect neighbour amenity, and
 - d) the development is, or will be, serviced by adequate access roads taking into account the

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| | |
|---|--|
| <p>consider and address the cumulative impacts of each land use type proposed for the site at the strategic planning level. Particular attention should be given in the Planning Proposal to amenity impacts, anticipated on site infrastructure requirements and potential traffic impacts on rural roads.</p> <p>This High Value Lands filter approach provides an easily accessible, consistent and independent, assessment tool to identify an 'exclusion area' of E3 Environmental Management land where rezoning to SP3 Tourist could be considered. It provides an approach to the management of the E3 zone which meets both the tourism and the sensitive lands protection priorities of the Regional Plan, the relevant Tourism Destination Plan and the values and priorities reflected in the Community Strategic Plan.</p> | <p>scale of the development, and</p> <ul style="list-style-type: none">e) the development has, or will have, access to adequate wastewater systems to service the land without having any adverse impact on the water quality of the area, andf) the location of the development does not impact on any environmentally sensitive land identified on the site, andg) the construction of the development will not result in the removal of any native vegetation and will have regard to the management of biodiversity outcomes, andh) the potential impacts of bushfire and/or flood have been addressed, andi) the development will not create a land use conflict due to noise, traffic, privacy, visual and other amenity impacts, andj) a management strategy will be prepared to minimise any impact on the natural environment or neighbour amenity which includes but is not limited to:<ul style="list-style-type: none">(i) measures to remove any threat of serious or irreversible environmental damage, and(ii) mechanisms for monitoring and reviewing the effect of the development on the neighbour amenity including noise and traffic impacts, and(iii) any other matter deemed relevant by the consent authority. |
| <p>Council's proposed tourism objectives and strategic framework are intended to provide this certainty for both future investment and the community. Community values and priorities, as reflected in the Community Strategic Plan 2017 and listed below, are also supported through the application of high value land mapping to E3 zoned land proposed for rezoning to SP3 Tourist.</p> | <p>The Wingecarribee Rural Tourism Policy is intended to provide this certainty for both future investment and the community. Community values and priorities, as reflected in the Community Strategic Plan 2017 and listed below, are also supported through this Policy.</p> |

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The draft Rural Tourism Policy for adoption (Attachment 1) has been amended to remove the automatic exclusion of properties which have high value environmental land or high value agricultural land. In its place is a pathway for consideration of a Planning Proposal to rezone land to SP3 Tourist which utilises current assessment procedures for Development Applications to confirm that no adverse ecological or agricultural impacts will result from the proposed development.

This approach may result in rezoning of only a portion of a site for SP3 Tourist. It is noted that the draft Policy states that 'If Council determines that the proposed development will likely result in a serious and irreversible impact on any mapped Threatened Ecological Community, Council will not support the Planning Proposal'.

A key draft amendment to WLEP 2010 is a local clause with specific provisions for consideration of Function Centres. The draft Policy for adoption incorporates these.

The draft policy and draft amendments to WLEP 2010 seeks to provide a balance between the preferences of rural tourism advocates and community preferences as articulated in the Community Strategic Plan.

ATTACHMENTS

1. Draft Rural Tourism Policy for adoption