

30 May 2022

Contact: *Stuart Little*
Telephone: *0436 948 347*
Our ref: *D2022/50441*

Susan Stannard
Senior Strategic Land Use Planner
Wingecarribee Shire Council
PO Box 141
MOSS VALE NSW 2577

Dear Ms Stannard,

RE: PP-2022-1055: Planning Proposal to amend clause 7.2 of the Wingecarribee Local Environmental Plan 2010

Thank you for your Planning Proposal referral of 12 May 2022 that seeks to amend clause 7.2 of the Wingecarribee Local Environmental Plan 2010 (WLEP) regarding the requirements for subdivision of dual occupancies. The amendment proposes to retain subdivision allowances for dual occupancies in the R2 Low Density Residential zone but replace reference to B1 Neighbourhood Centre zones with the R3 Medium Density Residential zone. It also seeks to overcome the current exclusionary nature of Clause 7.2 by removing the term '*only if*', enabling the clause to act in conjunction with clause 4.2F rather than operating to its exclusion. It also simplifies the provisions operating to protect the Berrima Conservation Zone from the subdivision of dual occupancies.

WaterNSW has no objection to the proposed amendment.

The Proposal improves consistency across approval pathways and the alignment of clauses 4.2F and 7.2 with respect to the subdivision of dual occupancy development. It also allows dual occupancy subdivision under clause development to occur under clause 7.2 as well as clauses 4.2E and 4.2F. As clauses 4.2E, 4.2F and 7.2 will now all relate to dual occupancy in R2 and R3 zones, Council may wish to later consider merging the provisions into one overarching clause for dual occupancies. This would provide a 'one-stop-shop' in the WLEP for such matters. Exploration of this approach should not, however, inhibit this proposed amendment from proceeding.

The Planning Proposal provides a reasoned consideration of the amendment and how it relates to s 9.1 Ministerial Direction 3.3 Sydney Drinking Water Catchment. The Proposal notes that it is justifiably inconsistent with the Direction on the basis that the demand for dual occupancy development may potentially increase when sewerage and stormwater infrastructure is at or near capacity in some locations. However, we also note that Proposal indicates that service upgrades are planned and that it is supported by Council's Local Housing Strategy, Local Strategic Planning Statement and the Housing SEPP. We also make the following observations:

- The proposed WLEP amendment is a pragmatic one, overcoming an unintended inconsistency between clause 7.2 and clause 4.2F of the WLEP. The inconsistency has arisen as LEP planning controls have tried to keep pace and respond to changes in the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the Codes SEPP) with respect to dual occupancy development.

- The water quality impacts from the amendment are indirect. The proposed changes to Clause 7.2 may increase the demand for dual occupancy development as stated. However, the Proposal will also enable applicants to access the development consent pathway more easily for the subdivision of dual occupancies, rather than being forced down the 'complying development' pathway. In a positive sense, this means that the Sydney Drinking Water Catchment provisions of Chapter 8 of State Environmental Planning Policy (Biodiversity and Conservation) 2021 (B&C SEPP) will be more readily applied. This includes the need for development to have a neutral or beneficial effect on water quality.
- Having regard to the requirements of Direction 3.3, the Proposal concerns a shire-wide clause and is not associated with a spot rezoning. Strategic Land and Water Capability Assessments are not relevant to this Proposal. However, we ask that the Proposal make brief mention of its consistency with Chapter 8 of the B&C SEPP taking into account our above comments.

Should you have any questions on the above matters, please contact Stuart Little (stuart.little@waternsw.com.au).

Yours sincerely

A handwritten signature in black ink, appearing to read 'Alison Kniha', with a stylized flourish extending to the right.

ALISON KNIHA
Catchment Protection Planning Manager