

19 February 2024

Contact: *Stuart Little*

Telephone: *0436 948 347*

Our ref: *D2024/10198*

Ms Susan Stannard
Coordinator Strategic Policy
Wingecarribee Shire Council
PO Box 141
MOSS VALE NSW 2577

Dear Ms Stannard,

Planning Proposal to Insert Clause 5.24 into Wingecarribee Local Environmental Plan 2010 (WLEP) (PP_2023_2689; REF 2653)

I refer to Council's Planning Proposal regarding farm stay accommodation and the introduction of clause 5.24 into the Wingecarribee Local Environmental Plan (WLEP) 2010. The Proposal also seeks to permit farm stay accommodation with consent within the RU4 Primary Production Small Lots zone. The amendments would operate as a Shire-wide provision for farm stay accommodation.

Water NSW is primarily interested in the implications of the proposed amendments for water quality within the Sydney Drinking Water Catchment (SDWC), noting that most of the Wingecarribee LGA occurs within the catchment.

WaterNSW is supportive of Council's proposed adoption of clause 5.24. Adoption of the clause would introduce specific considerations for farm stay accommodation where this use is permissible with consent. The proposed clause includes objectives that seek to balance the impact of tourism and related commercial uses with the primary production, the environment, scenic values, infrastructure and adjoining land uses. The clause also requires consent authorities to consider whether the development will have a significant adverse impact on water quality on or near the land. Other considerations also include land suitability and compatibility with nearby uses. These provisions operate to support water quality and catchment protection.

The Proposal also seeks to increase the opportunity for farm stay accommodation by making this use permissible with consent in the RU4 zone. As we understand it, farm stay accommodation is currently permissible in the RU1 Primary Production, RU2 Rural Landscape and C3 Environmental Management zones under the WLEP. The zones and locations where farm stay accommodation is currently permissible are likely to be unsewered. Land in the RU4 zone is also likely to be unsewered. New development would have to comply with Parts

6.2 and 6.5 of State Environmental Planning Policy (Biodiversity and Conservation) 2021. This includes the requirement for new development in the SDWC to have a neutral or beneficial effect (NorBE) on water quality. These provisions act as a key safeguard for water quality further to the intended adoption of new clause 5.24.

Our only concern in relation to the Proposal is that the community may be expecting greater access to the exempt and complying development pathways for farm stay accommodation than what is actually available. This includes for the RU4 land areas where new farm stay accommodation would be made permissible with consent. Further considerations of the exempt and complying development provisions along with a consideration of the Proposal's response to section 9.1 Ministerial Direction 3.3 Sydney Drinking Water Catchment are provided in Attachment 1.

In light of the above, the Proposal may benefit by:

- more comprehensively describing the provisions of clause 5.24 in the Proposal and explaining the scope and benefits of the provisions;
- explaining the current zones where 'farm stay accommodation' is permissible and contextualising the proposed RU4 zone in this regard.

Council may also wish to consider explaining the inter-relationship of the Proposal with the Codes SEPP, noting that complying development planning pathways are unlikely to be available for the reasons canvassed here.

If you have any questions regarding this letter, please contact Stuart Little at stuart.little@watensw.com.au.

Yours sincerely

A handwritten signature in black ink, appearing to read "Alison Kniha", with a long horizontal stroke extending to the right.

ALISON KNIHA
Environmental Planning Assessments & Approvals Manager

ATTACHMENT 1 – ADDITIONAL CONSIDERATIONS

Exempt and Complying Development

Complying Development

The RU1, RU2, C3 and new RU4 zones are likely to be unsewered. Under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the Codes SEPP), the complying development pathway is not available for farm stay accommodation in the SDWC if development increases the number of bedrooms in unsewered areas (see clause 1.19(1)(j) of the Codes SEPP).

The Codes SEPP also does not allow farm stay accommodation to pass as complying development if it is proposed in declared Special Areas (clause 1.19(1)(i)). The Special Areas occur predominantly in the NE and NW of the Wingecaribee LGA and immediately around the WaterNSW storages. Much of this land is owned and managed by WaterNSW or is in National Parks and Wildlife Estate. However, the Special Area designation does occur over some privately owned land. The main areas of private land affected are in the north-east of the Shire, around Kangaloon/ East Kangaloon, areas east of Renwick, Balaclava and Aylmerton and eastern parts of Yerrinbool. Areas in the north-west occur around the Bullio and Goodmans Ford localities and the northern parts of High Range.

In both these situations above, farm stay accommodation would require a full DA and development consent.

Exempt Development

The Proposal has no actual bearing on the operation of the 'exempt development' provisions of the Codes SEPP. However, we remind Council that the exempt development provisions for farm stay accommodation are not available for land that is designated 'Special Area'. (see clause 2.32K(2) of the Codes SEPP). Farm stay accommodation would again default to requiring a full DA for such areas as the complying development pathway is similarly unavailable (see above).

Direction 3.3 Sydney Drinking Water Catchment

The Planning Proposal gives consideration to section 9.1 Ministerial Direction 3.3 Sydney Drinking Water Catchment although the response needs to be updated to reflect the information provided in this correspondence. While Direction 3.3 is more suited to spot-rezonings, the objective of healthy catchments and protecting water quality remain relevant to this Proposal. Strategic Land and Water Capability Assessments are not relevant here as they are site specific. Similarly, the identification of water quality risks to waterways is more relevant to site specific rezonings.