

AGRITOURISM – DEVELOPMENT STANDARDS | MARCH 2023

What is Agritourism?

On 1 December 2022 the *Standard Instrument (Local Environmental Plans) Order 2006* (the Standard Instrument), the document on which Wingecarribee Local Environmental Plan (WLEP) 2010 is based, was amended to introduce new land use definitions for *Agritourism*, *Farm experience premises* and *Farm gate premises*. WLEP 2010 may be viewed on the NSW Legislation website here –

<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2010-0245>. Under the Standard Instrument, and therefore, WLEP 2010, the following definitions apply. Council is unable to vary these in any way.

Agritourism means the following:

- (a) *Farm experience premises*
- (b) *Farm gate premises*

Farm experience premises means a building or place

- (a) **on a commercial farm, and**
- (b) **ancillary to the farm, and**
- (c) *used to provide visitors to the farm, on a commercial basis, with **small-scale and low-impact tourist or recreational activities**, including the following, but not including motor sports:*

- (i) *horse riding,*
- (ii) *farm tours,*
- (iii) *functions or conferences,*
- (iv) *farm field days*

Farm gate premises means a building or place

- (i) **on a commercial farm, and**
- (ii) **ancillary to the farm, and**
- (iii) *used to provide visitors to the farm, on a commercial basis, with agricultural products predominantly from the farm, supplemented by products from other farms in the region, or with services or activities related to the products, including the following:*

- (A) *processing, packaging and sale of the products, but not the processing of animals,*
- (B) *the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided, tastings or workshops,*
- (C) *the provision of information or education related to the products.*

- (iv) *includes cellar door premises.*

The NSW Department of Planning & Environment describes *agritourism* as:

A generally tourism-related experience that connects agricultural products, people or places with visitors to a farm. Agritourism has an important role in creating a more direct connection between the primary producer and the end consumer which allows regional economies to showcase what is special about a region and provides a connection for the visitors to the land.

Distinct from other commercial or tourism uses, agritourism has an essential connection with the agricultural use of the land. Although the agricultural use may be seasonal, the dominant purpose of the land must remain a commercial farm on which agriculture is undertaken. Agritourism must

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be ancillary (secondary) to the agriculture being undertaken on the farm. This is important to ensure agricultural land is retained in NSW. (Draft model DCP clauses for agritourism, December 2022)

What is a Commercial Farm?

The following definition of *commercial farm* is contained within the Standard Instrument dictionary, and therefore within the WLEP 2010 dictionary:

Commercial farm means a farm on which agriculture is undertaken that is—

- (a) on land categorised as farmland under the *Local Government Act 1993*, section 515, or
- (b) a primary production business within the meaning of the *Income Tax Assessment Act 1997* of the Commonwealth, or part of a primary production business, including a business that –
 - (i) was a primary production business, and
 - (ii) has temporarily ceased to be a primary production business because of a natural disaster, including a drought, flood or bush fire.

A property owner may apply to Council for farmland rating and this is strongly recommended. Details are available on Council's website at

<https://www.wsc.nsw.gov.au/Council/Corporate-Forms/Change-of-Categorisation-of-Land-as-Farmland-for-Rating-Purposes-Application>

Because, by definition under WLEP 2010, *agritourism* activities can only be undertaken on a *commercial farm*, is also strongly recommended that any *agritourism* operator assemble records which demonstrate eligibility. These records would support the legitimacy of the *agritourism* operation should there be any subsequent enquiry by Council. Such records would also be required if a DA is lodged for approval under WLEP 2010.

In the absence of a property being categorised as farmland, the Australian Tax Office *Taxation Ruling TR 97/11 (Am I carrying on a business for primary production?)* may provide relevance advice and may be viewed here - <https://www.ato.gov.au/law/view/document?DocID=TXR/TR9711/NAT/ATO/00001>

It is strongly recommended that property owners seek sound professional advice when considering the *agritourism* potential of their land.

What records should I keep?

It is strongly recommended that property owners seek sound professional advice when considering the *agritourism* potential of their land.

Because, by definition under WLEP 2010, *agritourism* can only be undertaken on a *commercial farm*, is also recommended that any *agritourism* operator assemble records which demonstrate eligibility. These records would support the legitimacy of the operation should there be any subsequent enquiry by Council. Such records would also be required if a DA is lodged for approval under WLEP 2010.

What is Ancillary Development?

The Department of Planning & Environment describes 'ancillary' as:

a use that is subordinate or subservient to the dominant purpose. The concept is important when a development involves multiple components on the same land. To put it simply:

- *if a component serves the dominant purpose, it is ancillary to that dominant purpose;*

- if a component serves its own purpose, it is not a component of the dominant purpose, but an independent use on the same land, i.e. it is a dominant use in its own right. (Planning Circular PS13-001)

What is Neighbouring Land?

The term *neighbouring land* is referred to in the exempt and complying provisions discussed below.

Neighbouring land means:

- (a) adjacent land outside the landholding, or
- (b) land outside the landholding that is separated from the landholding by a road.

New Exempt and Complying Provisions for Agritourism

On 1 December 2022 *State Environmental Planning Policy (Exempt and Complying Development) 2008* (the Exempt & Complying SEPP) was also amended to include provisions for exempt and complying development for the purposes of *farm experience premises* and *farm gate premises*.

What is the difference between Exempt and Complying Development?

Exempt development is development that does not require Council approval provided it meets all of the relevant development standards set out in the Exempt & Complying SEPP (the SEPP). It is the responsibility of the property owner to satisfy themselves that their proposal meets all of the exempt requirements. Council does not verify or 'sign off' on any exempt development proposal.

Complying development enables a 'fast-track' approval, either through Council or a registered certifier, provided it all of the relevant development standards set out in the Exempt & Complying SEPP.

Each *agritourism* land use has its own section (subdivision) in the Exempt & Complying SEPP as summarised below. Because *Farm Experience Premises* and *Farm Gate Premises* are, by definition, a different form of land use, requirements which apply to one may not be relevant to the other.

Where can I undertake Agritourism as exempt or complying development?

Within Wingecarribee Shire, *farm experience premises* and *farm gate premises* may operate an exempt or complying development in the following zones:

- RU1 Primary Production
- RU2 Rural Landscape
- RU4 Primary production Small Lots
- C3 Environmental Conservation
- C4 Environmental Living
- SP3 Tourist

Are there any exclusion areas?

Yes, there are certain circumstances in which none of the exempt or complying codes apply, or apply with certain limitations, as set out below.

Exclusions for Exempt Development - No exempt development may be undertaken on land, if that land, or part of that land is:

- identified as declared area of outstanding biodiversity value under the *Biodiversity Conservation Act 2016*
- identified as critical habitat under Part 7A of the *Fisheries Management Act 1994*
- identified as, or on which there is, a heritage item that is listed on the State Heritage Register under the *Heritage Act 1977*, or that is subject to an interim heritage order under the Act.
- identified as land, or is part of, a wilderness area (within the meaning of *Wilderness Act 1987*).

Exclusions for Complying Development - The complying development provisions for agritourism (and farm stay accommodation) are also restricted, as follows:

Where the land is, or is part of, a wilderness area (within the meaning of <i>Wilderness Act 1987</i>)	Development MAY NOT be undertaken under the <i>agritourism and farm stay accommodation complying development code</i> (no exceptions)
Where the land comprises an item that is listed on the State Heritage Register under the <i>Heritage Act 1997</i>	Development MAY NOT be undertaken <i>under the agritourism and farm stay accommodation complying development code</i> UNLESS there is an exemption pursuant to section 57(2), 57(1A) or 57(3) of the Heritage Act 1977
Where the land is subject to an interim heritage order under the <i>Heritage Act 1997</i> or on which is located an item that is subject to an interim heritage order	Development MAY NOT be undertaken under the <i>agritourism and farm stay accommodation complying development code</i> UNLESS there is an exemption pursuant to section 57(2), 57(1A) or 57(3) of the Heritage Act 1977
Where the land is identified as an Item of Heritage in Schedule 5 WLEP 2010	Development MAY NOT be undertaken under the <i>agritourism and farm stay accommodation complying development code</i> UNLESS there is an exemption pursuant to section 57(2), 57(1A) or 57(3) of the Heritage Act 1977
Where the land is identified as a Draft Heritage Item	Development MAY NOT be undertaken under the <i>agritourism and farm stay accommodation complying development code</i> (no exceptions)
Where the land is identified as a Heritage Conservation Area (HCA) or draft HCA	Development MAY NOT be undertaken under the <i>agritourism and farm stay accommodation complying development code</i> UNLESS the development is a detached outbuilding or swimming pool only
Where the land is identified as an Environmentally Sensitive Area	Development MAY NOT be undertaken under the <i>agritourism and farm stay accommodation complying development code</i> (no exceptions)
Where the land is reserved for a public purpose by an Environmental Planning Instrument	Development MAY NOT be undertaken under the <i>agritourism and farm stay accommodation complying development code</i> (no exceptions)
Where the land is significantly contaminated	Development MAY NOT be undertaken under the <i>agritourism and farm stay accommodation complying development code</i> (no exceptions)

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Where the land is subject to a biobanking agreement under the <i>Threatened Species Conservation Act</i> or property vegetation plan under the <i>Native Vegetation Act 2003</i>	Development MAY NOT be undertaken under the <i>agritourism and farm stay accommodation complying development code</i> (no exceptions)
Where the land is subject to a private land conservation agreement under the <i>Biodiversity Conservation Act</i> or set aside under 60ZC of <i>Local Land Services Act</i>	Development MAY NOT be undertaken under the <i>agritourism and farm stay accommodation complying development code</i> (no exceptions)
Where the land is in an EPI as a buffer area, a river front area, within an ecologically sensitive area, on environmentally sensitive land (see clause 3.3 WLEP 2010) or in a protected area.	Development MAY NOT be undertaken under the <i>agritourism and farm stay accommodation complying development code</i> (no exceptions)
Where the land is in a WaterNSW Special Area under the <i>Water NSW Act</i> , i.e. Bullio, parts of High Range, most of Alpine, Yerrinbool, some of Glenquarry, most of Kangaloon and all of East Kangaloon, and areas east of Mittagong. (mapped here).*	Development MAY NOT be undertaken under the <i>agritourism and farm stay accommodation complying development code</i> (no exceptions)
Where the land is unsewered land in the Sydney Drinking Water Catchment (mapped here).*	Development MAY NOT be undertaken under the <i>agritourism and farm stay accommodation complying development code</i> UNLESS the development does not result in the increase of bedrooms on the site or a site disturbance of more than 250sqm

* These two exclusions (view SEPP clause 1.19 [here](#)) significantly limit complying development under the Code.

Do I need a minimum area of land for Agritourism?

No minimum land holding size is required for agritourism. It is noted however, that Development Standard 2.32N(b) (view [here](#)) specifies that for the use of land for campervans, caravans and temporary shelters as farm stay accommodation, the land holding must have an area of at least 15 hectares.

What if I can't do what I want as either exempt or complying development?

Agritourism as such is currently not a permitted use in any zone under WLEP 2010, however, the Department of Planning & Environment is introducing an 'amending policy', expected by the end of May 2023 which will permit *agritourism* with consent wherever *extensive agriculture* is permitted, which will be in the RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots, C3 Environmental Management, C4 Environmental Living and the SP3 Tourist zones. It is noted that *cellar door premises* are already permitted with consent in these zones.

Although *agritourism* does enable *functions*, subject to the exempt and complying controls, these are expected to be low scale and ancillary to the main commercial activity of the farm. Anything more intensive or permanent would require approval for a *function centre* under WLEP 2010 and could only be considered where *function centres* are permitted under WLEP 2010, the relevant 'rural' locations being in the RU2 and SP3 zones.

Where can I read the Exempt & Complying Development Standards for Agritourism and Roadside stalls for myself?

The State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 provisions for *Agritourism* may be found using the following links:

- The SEPP provisions relating to *Farm experience premises* as Exempt Development may be viewed here - <https://legislation.nsw.gov.au/view/html/inforce/current/epi-2008-0572#pt.2-div.1-sdiv.16C>
- The SEPP provisions relating to *Farm gate premises* as Exempt Development may be viewed here - <https://legislation.nsw.gov.au/view/html/inforce/current/epi-2008-0572#pt.2-div.1-sdiv.16D>
- The SEPP provisions relating to *Agritourism Signage* as Exempt Development may be viewed here - <https://legislation.nsw.gov.au/view/html/inforce/current/epi-2008-0572#pt.2-div.2-sdiv.14>
- The SEPP provisions relating to both *Farm experience premises and Farm gate premises* as Complying Development may be viewed here - <https://legislation.nsw.gov.au/view/html/inforce/2022-12-16/epi-2008-0572#pt.9-div.3>

A summary of the provisions contained in these documents follows.

Exempt Development Standards for Farm Experience Premises

	Exempt Development Requirements for Farm Experience Premises
Can an existing building be reclassified?	Yes, but only if (i) the change is from a class 5 building to a class 6 building, or vice versa, and (ii) the building complies with all the relevant provisions of the <i>Building Code of Australia</i> that apply to the new use
Can a new building be erected?	No new building can be erected.
Can I erect a temporary structure?	A temporary structure may be erected provided it meets the requirements of clause 2.118 of the <i>Exempt & Complying SEPP</i> , with the exception of requirements (a)-(c), (l), (m) or (o) of that clause.
How large can the buildings be?	No more than 200m ² of the gross floor area of an existing building can be used as a <i>farm experience premises</i> Where a property is also operating as a <i>farm gate premises</i> , the total gross floor area of all buildings used for both purposes must be no more than 500m ²
What if I want a larger area for functions?	Any event proposed on a property would be categorised as a <i>farm experiences premises</i> if it meets the exempt or complying provisions of the SEPP, or a <i>function centre</i> if it does not. A DA could only be considered if <i>function centres</i> are a permitted land use under WLEP 2010. The only non-urban area where

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Exempt Development Requirements for Farm Experience Premises	
	<i>function centres</i> are permitted with consent is in the SP3 Tourist zone. <u>Clause 5.19A</u> of WLEP 2010 provides the applicable standards.
Where can the buildings be located?	<p>No building used as a <i>farm experience premises</i> can be located within—</p> <ul style="list-style-type: none"> (i) 50m of a property boundary or waterway, or (ii) 250m of residential accommodation on neighbouring land, or (iii) 250m of a property boundary for land used for one of the following purposes— <ul style="list-style-type: none"> (A) forestry (B) intensive livestock agriculture (C) intensive plant agriculture (D) mines (E) extractive industries (F) rail lines (G) rural industries <p>No activities related to a <i>farm experience premises</i> can occur within these areas.</p>
Is amplified noise allowed?	No amplified noise is allowed at a <i>farm experience premises</i> which is located within 1km of residential accommodation or a building, including a stable, stock yard or poultry shed, used to house animals on neighbouring land.
Are there specific operating limits?	<p>A <i>farm experience premises</i> must not be open to visitors for more than 52 days each year, including no more than 4 events held on a Friday or Saturday after 6pm that involve amplified noise, and only during the following times:</p> <ul style="list-style-type: none"> (i) on Sundays, Mondays, Tuesdays, Wednesdays, Thursdays or public holidays—8am to 6pm (ii) on Fridays and Saturdays—8am to midnight <p>This restriction does not apply to visitors participating in farm tours or horse-riding tours and school groups.</p>
What notification do I need to give my neighbours?	At least 1 week before a <i>farm experience premises</i> commences operation, notice of the following must be given to neighbours likely to be affected by the development—

Exempt Development Requirements for Farm Experience Premises	
	<ul style="list-style-type: none"> (i) the location of the premises (ii) the date on which the premises will open to visitors (iii) the opening hours of the premises
Is there a limit on the number of visitors at any one time?	<p>A maximum of 50 visitors to a <i>farm experience premises</i> may be on the landholding at any one time.</p> <p>The total number of visitors to all <i>farm experience premises and farm gate premises</i> on the landholding at any one time must not be more than 100.</p> <p>These limits exclude visitors participating in farm tours or horse-riding tours and school groups</p>
What emergency information is required?	<p>An evacuation diagram displaying the following information must be located in a prominent position at or near each farm experience premises</p> <ul style="list-style-type: none"> (i) directions to facilitate the safe evacuation of people from the site (ii) contact details for emergency services, including for a bush fire, flood or other natural disaster
What access and parking are required?	<p>Vehicular or pedestrian access to accommodation must not be directly from a freeway, highway or tollway within the meaning of the Roads Act 1993</p> <p>A vehicular access point to a public road must comply with the lesser of—</p> <ul style="list-style-type: none"> (i) a clear sight distance for vehicles leaving the premises of at least 300m, or (ii) the minimum car stopping sight distances set out in the Guide to Road Design Part 3: Geometric Design, Table 5.5, published by Austroads on 26 February 2021 <p>Vehicles must be able to enter and exit the landholding in a forward direction .</p> <p>Car parking spaces must be located wholly within the boundaries of the landholding, i.e. can't be parked on road verges.</p>
What waste facilities are required?	<p>Even though the development may be exempt, it will still be necessary to obtain Council approvals as indicated at (ii) below.</p> <p>Waste generated as a result of the development must be disposed of—</p>

	Exempt Development Requirements for Farm Experience Premises
	<p>(i) using a sewage reticulation system connected to the landholding, or</p> <p>(ii) using a system of sewage management for which the approval of the council has been obtained under, section 68 of the <u>Local Government Act 1993</u>, or</p> <p>(iii) at a waste or resource management facility</p> <p>The on-site disposal of organic or putrescible waste must not have an adverse impact on the use of adjoining land</p> <p>Any human waste storage facility on the landholding must be emptied using—</p> <p>(i) a sewage reticulation system connected to the landholding, or</p> <p>(ii) a system of sewage management for which the approval of the council has been obtained under the section 68 of the <u>Local Government Act 1993</u></p>
<p>What Signage can I display as Exempt Development?</p>	<p>For the construction or installation of a business identification sign related to one or more of the following:</p> <p>(a) farm stay accommodation,</p> <p>(b) farm experience premises,</p> <p>(c) farm gate premises,</p> <p>(d) roadside stalls.</p> <p>The following standards must be met—</p> <p>(a) no more than 2 business identification signs facing a road frontage,</p> <p>(b) the sign must not be attached to a building that is a heritage item or draft heritage item,</p> <p>(c) the sign must be no more than 2m above ground level (existing),</p> <p>(d) the sign must have an area of no more than 2m²,</p> <p>(e) the sign must be constructed or installed in accordance with—</p>

Exempt Development Requirements for Farm Experience Premises	
	<p>(i) AS/NZS 1170.0:2002, <i>Structural design actions, Part 0: General principles</i>, and</p> <p>(ii) AS/NZS 1170.2:2021, <i>Structural design actions, Part 2: Wind actions</i></p> <p>(f) no more than 1 sign on a landholding may be illuminated and it must-</p> <p>(i) have its means of illumination, including associated cables, concealed or integrated within the frame of the sign, and</p> <p>(ii) not be animated, flashing or moving, and</p> <p>(iii) comply with AS/NZS 4282:2019, <i>Control of the obtrusive effects of outdoor lighting</i>, and</p> <p>(iv) only be illuminated—</p> <p>(A) for a roadside stall—during the opening hours of the stall, or</p> <p>(B) otherwise—between 7am and 10pm each day.</p> <p>Any signage that exceeds these standards would require a Development Application.</p>

Exempt Development Standards for Farm Gate Premises

Exempt Development Standards for Farm Gate Premises	
Can an existing building be reclassified?	<p>Yes, but only if</p> <p>(i) the change is from a class 5 building to a class 6 building, or vice versa, and</p> <p>(ii) the building complies with all the relevant provisions of the <i>Building Code of Australia</i> that apply to the new use.</p>
Can a new building be erected?	No new building can be erected.
Can I erect a temporary structure?	A temporary structure may be erected provided it meets the requirements of clause 2.118 of the <i>Exempt & Complying SEPP</i> , with the exception of requirements (a)-(c), (l), (m) or (o) of that clause.

Exempt Development Standards for Farm Gate Premises	
How large can the buildings be?	<p>No more than 200m² of the gross floor area of an existing building can be used as a <i>farm gate premises</i></p> <p>Where a property is also operating as a <i>farm experience premises</i>, the total gross floor area of all buildings used for both purposes must be no more than 500m²</p>
Where can the buildings be located?	<p>No building used as a <i>farm gate premises</i> can be located within—</p> <ul style="list-style-type: none"> (i) 50m of a property boundary or waterway, or (ii) 250m of residential accommodation on neighbouring land, or (iii) 250m of a property boundary for land used for one of the following purposes— <ul style="list-style-type: none"> (A) forestry (B) intensive livestock agriculture (C) intensive plant agriculture (D) mines (E) extractive industries (F) rail lines (G) rural industries <p>No activities related to a <i>farm gate premises</i> can occur within these areas.</p>
What notification do I need to give my neighbours?	No notification is required for a <i>farm gate premises</i>
Is amplified noise allowed?	No amplified music controls are included in the <i>farm gate premises</i> provisions. If an event is to have amplified music, it would be categorised as a <i>farm experiences premises</i> , even if held within a space normally considered as <i>farm gate premises</i> , e.g. a <i>cellar door premises</i> .
Are there specific operating limits?	<p>A <i>farm gate premises</i> can only operate during the following hours—</p> <ul style="list-style-type: none"> (i) on Sundays, Mondays, Tuesdays, Wednesdays, Thursdays or public holidays—8am-5pm (ii) on Fridays and Saturdays -7am -5pm
Is there a limit on the number of	A maximum of 100 visitors to a <i>farm gate premises</i> may be on the landholding at any one time.

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Exempt Development Standards for Farm Gate Premises	
visitors at any one time?	<p>The total number of visitors to all <i>farm experience premises</i> and <i>farm gate premises</i> on the landholding at any one time must not be more than 100.</p> <p>These limits exclude visitors participating in farm tours or horse-riding tours and school groups.</p>
What emergency information is required?	<p>An evacuation diagram displaying the following information must be located in a prominent position at or near each farm experience premises</p> <ul style="list-style-type: none"> (i) directions to facilitate the safe evacuation of people from the site (ii) contact details for emergency services, including for a bush fire, flood or other natural disaster
What access and parking are required?	<p>Vehicular or pedestrian access to accommodation must not be directly from a freeway, highway or tollway within the meaning of the Roads Act 1993</p> <p>A vehicular access point to a public road must comply with the lesser of—</p> <ul style="list-style-type: none"> (i) a clear sight distance for vehicles leaving the premises of at least 300m, or (ii) the minimum car stopping sight distances set out in the Guide to Road Design Part 3: Geometric Design, Table 5.5, published by Austroads on 26 February 2021 (iii) Vehicles must be able to enter and exit the landholding in a forward direction (iv) Car parking spaces must be located wholly within the boundaries of the landholding, i.e. not on any road verges.
What waste facilities are required?	<p>Even as exempt development certain Council approvals will be required as indicated at (ii) below.</p> <p>Waste generated as a result of the development must be disposed of—</p> <ul style="list-style-type: none"> (i) using a sewage reticulation system connected to the landholding, or (ii) using a system of sewage management for which the approval of the council has been obtained under the Local Government Act 1993, section 68, or (iii) at a waste or resource management facility

Exempt Development Standards for Farm Gate Premises	
	<p>The on-site disposal of organic or putrescible waste must not have an adverse impact on the use of adjoining land</p> <p>Any human waste storage facility on the landholding must be emptied using—</p> <p>(i) a sewage reticulation system connected to the landholding, or</p> <p>(ii) a system of sewage management for which the approval of the council has been obtained under the <i>Local Government Act 1993</i>, section 68.</p>

Exempt Development Standards for Roadside Stalls

The 1 December 2022 *State Environmental Planning Policy (Exempt and Complying Development) 2008* (the Exempt & Complying SEPP) amendments also included standards for *roadside stalls premises*.

Roadside stall means 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.

While not a form of *agritourism*, *roadside stalls* do provide an alternative or even additional means of promoting and selling agricultural produce. Exempt provisions for *roadside stalls* follow those for *agritourism* below and may be viewed here - <https://legislation.nsw.gov.au/view/html/inforce/current/epi-2008-0572#pt.2-div.1-sdiv.33AA>

Exempt Development Standards for Roadside Stalls	
When can roadside stalls be erected as exempt development?	<p>Within Wingecarribee Shire, <i>Roadside stalls</i> may be erected as exempt development if carried out on a landholding that is—</p> <p>(a) privately owned, and</p> <p>(b) in Zone RU1, RU2 or RU4, and</p> <p>(c) not adjacent to a freeway, highway or tollway within the meaning of the <i>Roads Act 1993</i>, and</p> <p>(d) not in a floodway area within the meaning of the <i>Floodplain Development Manual</i>.</p>
What standards do I need to meet?	<p>The following standards apply—</p> <p>(a) the gross floor area of the stall must be no more than 9m²,</p> <p>(b) for a stall located on bush fire prone land—the stall must not be erected or installed within 6m of residential accommodation,</p>

Exempt Development Standards for Roadside Stalls	
	<p>(c) an evacuation diagram displaying the following must be located in a prominent position on or near the stall—</p> <ul style="list-style-type: none"> (i) directions to facilitate the safe evacuation of people from the site, (ii) contact details for emergency services, including for a bush fire, flood or other natural disaster, <p>(d) a vehicular access point to a public road must comply with the lesser of—</p> <ul style="list-style-type: none"> (i) a clear sight distance for vehicles leaving the premises of at least 300m, or (ii) the minimum car stopping sight distances set out in the <i>Guide to Road Design Part 3: Geometric Design</i>, Table 5.5, published by Austroads on 26 February 2021, <p>(e) vehicles must be able to enter and exit the landholding in a forward direction,</p> <p>(f) car parking spaces must be located—</p> <ul style="list-style-type: none"> (i) on a road verge, or (ii) wholly within the boundaries of the landholding, <p>(g) car parking spaces may only be located on a road verge if—</p> <ul style="list-style-type: none"> (i) the verge has a maximum average gradient of 1:20, and (ii) there is no vegetation on the verge, and (iii) the parking spaces are at least 3m from a lane of a road, and (iv) the verge is adjacent to a road with a maximum speed limit of 60km/hr or less, <p>(h) waste generated as a result of the development must be disposed of—</p> <ul style="list-style-type: none"> (i) using a sewage reticulation system connected to the landholding, or (ii) using a system of sewage management for which the approval of the council has been obtained under the <i>Local Government Act 1993</i>, section 68, or (iii) at a waste or resource management facility, <p>(i) the on-site disposal of organic or putrescible waste must not have an adverse impact on the use of adjoining land.</p>
What if I want a larger roadside stall?	A <i>Roadside stall</i> may be considered through as DA pathway up to a maximum area of 20 square metres in the RU1 Primary Production, RU2 Rural Landscape and RU4 Primary Production Small Lots zones.

Complying Development Standards for Agritourism (for both Farm Gate Premises and Farm Experience Premises)

The following standards apply under the Code, however, it is noted that there are circumstances in which complying development cannot occur, or is limited, most significantly not in a WaterNSW Special Area at all (mapped [here](#)) and not on unsewered land within the Sydney catchment ([mapped here](#)) unless the development does not result in the increase of bedrooms on the site or a site disturbance of more than 250sqm. Although the complying development provisions of the Code are summarised here for information it is strongly suggested that professional advice is obtained from an Accredited Certifier.

Complying Development Requirements for Agritourism (both Farm Experience Premises and Farm Gate Premises)	
In what zones can agritourism be undertaken as complying development?	<p>Within Wingecarribee Shire, complying development for <i>Agritourism</i> applies only to the following zones -</p> <ul style="list-style-type: none"> • RU1 Primary Production • RU2 Rural Landscape • RU4 Primary Production Small Lots <p>Flood control provisions do apply and the SEPP should be consulted directly for details.</p>
What about bush fire prone land?	<p>Land owners should consult the NSW Rural Fire Service Community resilience Practice Note 3/12 which provides a Bush Fire Attack Level (BAL) and Complying Development Checklist. This advises that complying development cannot be undertaken on land within BAL-40 or BAL-FZ areas.</p>
Can a new building be constructed?	<p>A new building may be constructed but must have a gross floor area of no more than 200m²</p>
What about existing buildings?	<p>If the current use of the existing building is a lawful use, a change of use for that building to <i>farm experience premises</i> or <i>farm gate premises</i> may occur. Additional controls apply and the SEPP should be consulted directly.</p> <p>The part of an existing building used for the purposes of <i>farm experience premises</i> or <i>farm gate premises</i> must have a gross floor area of no more than 200m²</p> <p>The total footprint of all buildings on the landholding used for the purposes of <i>farm experience premises</i> and <i>farm gate premises</i> must be no more than 500m²</p>

Complying Development Requirements for Agritourism (both Farm Experience Premises and Farm Gate Premises)	
What other building controls apply?	<p>For the change of use of a building, or alterations or additions to a building that involve internal alterations only, the building must not be located within—</p> <ul style="list-style-type: none"> (i) 250m of residential accommodation on neighbouring land, or (ii) 250m of a property boundary for land used for the purposes of one of the following— <ul style="list-style-type: none"> (A) forestry (B) intensive livestock agriculture (C) intensive plant agriculture (D) mines (E) extractive industries (F) rail lines (G) rural industries
Are their building height restrictions?	<p>If the natural ground level of a site is within 100m of the ridgeline of a hill, height restrictions will apply to new buildings to ensure that they sit well below that ridgeline.</p>
Is there a limit on the number of visitors at any one time?	<p>The total number of visitors, excluding visitors participating in farm tours, horse-riding tours and school groups, to all <i>farm experience premises</i> and <i>farm gate premises</i> on the landholding at any one time must not be more than 100.</p>
Is amplified noise permitted?	<p>No amplified noise is allowed at a <i>farm experience premises</i> which is located within 1km of residential accommodation or a building, including a stable, stock yard or poultry shed, used to house animals on neighbouring land.</p>
What access & parking provisions apply?	<p>Vehicular or pedestrian access to any accommodation must not be directly from a freeway, highway or tollway within the meaning of the <i>Roads Act 1993</i>. A vehicular access point to a public road must comply with the lesser of—</p> <ul style="list-style-type: none"> (i) a clear sight distance for vehicles leaving the premises of at least 300m, or (ii) the minimum car stopping sight distances set out in the <i>Guide to Road Design Part 3: Geometric Design</i>, Table 5.5, published by Austroads on 26 February 2021 <ul style="list-style-type: none"> • Vehicles must be able to enter and exit the landholding in a forward direction.

This information sheet is intended to assist primary producers and the broader community in understanding these new provisions. However, it should not replace independent research.

Complying Development Requirements for Agritourism (both Farm Experience Premises and Farm Gate Premises)	
	<ul style="list-style-type: none"> Car parking spaces must be located wholly within the boundaries of the landholding, i.e. not on any road verges.

Standards for Agritourism through the DA pathway

If your proposal can't be undertaken as exempt or complying development, a Development Application will be required. Please consult Council's [website](#) for relevant details.

DA Requirements for Farm Gate Premises	
<p>In what zones can I do agritourism under WLEP 2010?</p>	<p>Because <i>agritourism</i> is a form of <i>agriculture</i> under the Standard Instrument dictionary, and therefore, under the WLEP 2010 dictionary, <i>agritourism</i> may be undertaken wherever <i>agriculture</i> is permitted. Currently under WLEP 2010, these zones are:</p> <ul style="list-style-type: none"> RU1 Primary Production RU2 Rural Landscape <p>However, the Department of Planning & Environment will be making an amendment to the Standard Instrument (expected by the end of May 2023) which will permit, with consent, agritourism wherever extensive agriculture is permitted, which will broaden the permissibility zones to:</p> <ul style="list-style-type: none"> RU1 Primary Production RU2 Rural Landscape RU4 Primary production Small Lots C3 Environmental Management C4 Environmental Living SP3 Tourist <p>These zones align with the zones where exempt and complying provisions apply and where cellar doors are currently permitted with consent.</p> <p>To operate a <i>function centre</i> which would not be considered ancillary to an agricultural land use, a DA would be required. Apart from certain business zones, <i>function centres</i> are permitted with consent in the RU2 Rural Landscape and SP3 Tourist zones only.</p>
<p>Is there a specific clause in WLEP 2010 relating to agritourism?</p>	<p>Council has resolved to insert the following clause from the Standard Instrument into WLEP 2010 regarding farm gate premises: This amendment would occur when the additional <i>agritourism</i> permissibility zones are inserted, i.e. by the end of May 2023.</p> <p>5.25 Farm gate premises</p> <p>(1) <i>The objectives of this clause are as follows—</i></p>

	DA Requirements for Farm Gate Premises
	<p>(a) to allow for tourism and related commercial uses on land used principally for primary production at a scale that does not adversely affect the principal use of the land for primary production</p> <p>(b) to balance the impact of tourism and related commercial uses with the use of land for primary production, the environment, scenic values, infrastructure and adjoining land uses.</p> <p>(2) Development consent must not be granted to development for the purposes of farm gate premises on land unless the consent authority has considered—</p> <p>(a) whether the development will result in noise or pollution that will have a significant adverse impact on the following on or near the land—</p> <ul style="list-style-type: none"> (i) residential accommodation, (ii) primary production operations, (iii) other land uses, and <p>(b) whether the development will have a significant adverse impact on the following on or near the land—</p> <ul style="list-style-type: none"> (i) the visual amenity or heritage or scenic values, (ii) native or significant flora or fauna, (iii) water quality, (iv) traffic, (v) the safety of persons, and <p>(c) whether the development is on bush fire prone land or flood prone land, and</p> <p>(d) the suitability of the land for the proposed development, and</p> <p>(e) the compatibility of the development with nearby land uses.</p>
<p>Are there any Development Control Plan (DCP) controls?</p>	<p>In December 2022, the NSW Department of Planning & Environment issued draft model DCP provisions (provided separately) which would apply to the following land uses:</p> <ul style="list-style-type: none"> • Farm experience premises • Farm gate premises • Farm stay accommodation • Roadside stalls

	DA Requirements for Farm Gate Premises
	Council will be undertaking a review of the Rural Lands and Rural Living DCP provisions to incorporate the final model provisions and ensure that existing provisions remain relevant.

For further information please contact:

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Additional details are also provided on the [NSW Planning website](#).