

FARM STAY ACCOMODATION – DEVELOPMENT STANDARDS | MARCH 2023

What is Farm Stay Accommodation?

Farm stay accommodation is defined within the *Standard Instrument (Local Environmental Plans) Order 2006* (the Standard Instrument), the document on which Wingecarribee Local Environmental Plan (WLEP) 2010 is based. 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.

Farm stay accommodation means a building or place

- (a) on a commercial farm, and
- (b) ancillary to the farm, and
- (c) used to provide temporary accommodation to paying guests of the farm, including buildings or moveable dwellings

It is noted that *Farm Stay accommodation* is a form of *Tourist and Visitor Accommodation* and is not a form of *Agritourism*.

Moveable dwelling means:

- (a) any tent, or any caravan or other van or other portable device (whether on wheels or not), used for human habitation, or
- (b) a manufactured home, or
- (c) any conveyance, structure or thing of a class or description prescribed by the regulations (under the [Local Government Act 1993](#)) for the purposes of this definition.

Manufactured home means:

a self-contained dwelling (that is, a dwelling that includes at least one kitchen, bathroom, bedroom and living area and that also includes toilet and laundry facilities), being a dwelling—

- (a) that comprises one or more major sections, and
- (b) that is not a motor vehicle, trailer or other registrable vehicle within the meaning of the [Road Transport Act 2013](#),

and includes any associated structures that form part of the dwelling.

It is noted that *short term rental accommodation* is not a form of *farm stay accommodation* if conducted in accordance with the STRA provisions. Further information on STRA may be found on the Department of Planning & Environment's website – [here](#).

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

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.

- (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.

The Local Government Act 1993 may be viewed here – <https://legislation.nsw.gov.au/view/html/inforce/current/act-1993-030>

The Income Tax Assessment Act 1997 may be viewed here – <https://www.legislation.gov.au/>

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>

In the absence of a property being categorised as farmland, it may be necessary, in the event of the need to make enquiries, for a property owner undertaking *agritourism* to be able to demonstrate to Council's satisfaction that the property operates as a *commercial farm* and that the agritourism activities are *ancillary* to that commercial operation. 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>

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>

What records should I keep?

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

Because, by definition under WLEP 2010, *farm stay accommodation* can only be undertaken on a *commercial farm*, is also recommended that any *farm stay* 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 following standards.

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 Farm Stay Accommodation

On 1 December 2022 the exempt and complying development provisions for the purposes of *farm stay accommodation* within *State Environmental Planning Policy (Exempt and Complying Development) 2008* (the Exempt & Complying SEPP) were amended.

The SEPP provisions relating to *Farm stay accommodation* as Exempt Development may be viewed here - <https://legislation.nsw.gov.au/view/html/inforce/current/epi-2008-0572#pt.2-div.1-sdiv.16E>

The SEPP provisions relating to *Farm stay accommodation* as Complying Development may be viewed here - <https://legislation.nsw.gov.au/view/html/inforce/current/epi-2008-0572#pt.9-div.4>

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.

Where can I undertake Farm Stay Accommodation as exempt or complying development?

Within Wingecarribee Shire, *farm stay accommodation* may operate as exempt or complying development in the following zones:

- RU1 Primary Production
- RU2 Rural Landscape
- RU4 Primary production Small Lots

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 farm stay accommodation (and agritourism) 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)
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
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
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
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)
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
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)
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)
The land is significantly contaminated	Development MAY NOT be undertaken under the <i>agritourism and farm stay accommodation complying development code</i> (no exceptions)
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)
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)
The land is in an EPI as a buffer area, a river front area, within an ecologically sensitive	Development MAY NOT be undertaken under the <i>agritourism and farm stay accommodation complying development code</i> (no exceptions)

area, on environmentally sensitive land (see clause 3.3 WLEP 2010) or in a protected area.	
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)
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 Farm Stay Accommodation?

Yes, a minimum area of 15 hectares (ha) is required in certain circumstances as described below.

- *Subclause (b) of 2.32N Development standards – use of land for campervans, caravans and temporary shelters*, (view [here](#)) specifies that for the use of land for campervans, caravans and temporary shelters, the land holding must have an area of at least 15 hectares.
- *Subclause (a) of 9.13 – Additional development standards for erection of buildings or alteration of, or additions to, buildings or manufactured homes* (view [here](#)) specifies that the land holding must have an area of at least 15 hectares if it is to be used for the following purposes:

the erection of a new building, or the alteration of, or additions to, an existing building or manufactured home, to be used for the purposes of farm stay accommodation

Where can I read the Exempt & Complying Development Standards for Farm Stay Accommodation for myself?

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

The SEPP provisions relating to *Farm stay accommodation* as Exempt Development may be viewed here - <https://legislation.nsw.gov.au/view/html/inforce/current/epi-2008-0572#pt.2-div.1-sdiv.16E>

The SEPP provisions relating to *Farm stay accommodation* as Complying Development may be viewed here - <https://legislation.nsw.gov.au/view/html/inforce/2022-12-16/epi-2008-0572#pt.9-div.4>

A summary of the provisions contained in these documents follows.

Exempt Development Standards for Farm Stay Accommodation

	Requirements for Exempt Development
<p>In what ways can farm stay accommodation be provided?</p>	<p>Facilities for Farm stay accommodation can be provided as exempt development in any of these ways:</p> <ul style="list-style-type: none"> (a) a change of use from residential accommodation to farm stay accommodation (b) The use of a manufactured home for farm stay accommodation (c) The provision of farm stay accommodation in <ul style="list-style-type: none"> (i) campervans, (ii) caravans, (iii) tents, annexes or other similar portable and lightweight temporary shelters (d) the construction, installation or replacement of a deck, slab or other platform, whether roofed or not— <ul style="list-style-type: none"> (i) to be used as an area for preparing, cooking or serving food in connection with farm stay accommodation, or (ii) on which either of the following will be installed— <ul style="list-style-type: none"> (A) a moveable dwelling to be used for the purposes of farm stay accommodation, (B) a shelter to be used for the purposes of preparing, cooking or serving food in connection with farm stay accommodation. <p>It is noted that the following can also be undertaken as exempt development:</p> <ul style="list-style-type: none"> (a) a change of use from <i>farm stay accommodation</i> to <i>residential accommodation</i>, if— <ul style="list-style-type: none"> (i) the <i>farm stay accommodation</i> was previously <i>residential accommodation</i>, and (ii) the change of use is to the same type of <i>residential accommodation</i>
<p>What development standards apply for the options listed above?</p>	<p>Except for Farm stay accommodation provided in campervans, caravans and temporary shelters (which is discussed below) any of the above forms of Farm stay accommodation or associated development can be done as exempt development, provided:</p> <ul style="list-style-type: none"> (a) If it is a change of use from <i>residential accommodation</i>, the existing building has been lawfully erected (b) for the use of a <i>manufactured home</i>, it has been lawfully constructed (c) the development does not contravene an existing condition of the most recent development consent that applies to the landholding

	Requirements for Exempt Development
	<ul style="list-style-type: none"> (d) the number of buildings and manufactured homes used for the purposes of farm stay accommodation on the landholding is no more than 6 (e) the number of guests, not including guests under 12 years of age, accommodated in a farm stay building or dwelling at any one time is not more than— <ul style="list-style-type: none"> (i) for a building without a bedroom—2, or (ii) otherwise—2 times the number of bedrooms (e) no guest stays at the accommodation for more than 21 consecutive days (g) an evacuation diagram is located in a prominent position at or near the accommodation & displays the following — <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 (h) vehicular or pedestrian access to the accommodation is not be directly from a freeway, highway or tollway within the meaning of the <u>Roads Act 1993</u> (i) any vehicular access point to a public road has at least <ul style="list-style-type: none"> (i) a clear sight distance for vehicles leaving the premises of at least 300m, or (ii) minimum car stopping sight distances as set out in the <u>Guide to Road Design Part 3: Geometric Design</u>, Table 5.5, published by Austroads on 26 February 2021 (j) vehicles are able to enter and exit the landholding in a forward direction (k) car parking spaces are located wholly within the boundaries of the landholding (l) waste generated as a result of the development is disposed of <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 <u>Local Government Act 1993</u>, section 68, or (iii) at a waste or resource management facility, (m) the on-site disposal of organic or putrescible waste does not have an adverse impact on the use of adjoining land.
<p>What are the development standards for campervans,</p>	<p>In the case of farm stay accommodation provided by campervans, caravans or temporary shelters, the following standards apply for exempt development:</p>

	Requirements for Exempt Development
<p>caravans and temporary shelters?</p>	<p>(a) the landholding must have an area of at least 15ha</p> <p>(b) they must not be located on significantly contaminated land</p> <p>(c) no <i>moveable dwelling</i> can be located within—</p> <p>(i) 6m of—</p> <p>(A) any building on the landholding, or</p> <p>(B) another moveable dwelling, other than a tent or other similar portable and lightweight temporary shelter, on the landholding, or</p> <p>(ii) 50m of a property boundary or waterway, or</p> <p>(iii) 250m of residential accommodation on—</p> <p>(A) adjacent land outside the landholding, or</p> <p>(B) land outside the landholding that is separated from the landholding by a road, or</p> <p>(iv) 250m of a property boundary for land used for the purposes of one of the following—</p> <p>(A) forestry</p> <p>(B) intensive livestock agriculture</p> <p>(C) intensive plant agriculture</p> <p>(D) mines</p> <p>(E) extractive industries</p> <p>(F) rail lines</p> <p>(G) rural industries</p> <p>d) No more than 6 campervans, caravans and other similar moveable dwellings can be used for farm stay accommodation on the landholding. This does not include tents, annexes or other similar portable and lightweight temporary shelters</p> <p>(e) The height of each moveable dwelling must be no more than 4.5m above existing ground level</p> <p>(f) The number of guests accommodated in moveable dwellings on the landholding at any one time must not be more than 20</p> <p>(g) No guest may stay on the landholding for more than 21 consecutive days</p> <p>(h) The gross floor area of a part of an existing building used to provide communal amenities or facilities to guests must be no more than 25m²</p> <p>(i) An evacuation diagram must be located in a prominent position on the site displaying the following —</p> <p>(i) directions to facilitate the safe evacuation of people from the site</p> <p>(ii) contact details for emergency services, including for a bush fire, flood or other natural disaster</p>

Requirements for Exempt Development	
	<ul style="list-style-type: none"> (j) Vehicular or pedestrian access to the accommodation must not be directly from a freeway, highway or tollway within the meaning of the <u>Roads Act 1993</u> (k) A vehicular access point to a public road must provide at least <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 <u>Guide to Road Design Part 3: Geometric Design</u>, Table 5.5, published by Austroads on 26 February 2021 (l) Vehicles must be able to enter and exit the landholding in a forward direction (m) Car parking spaces must be located wholly within the boundaries of the landholding (no roadside verge parking) (n) Waste generated as a result of any farm stay accommodation must be disposed of— <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 <u>Local Government Act 1993</u>, section 68, or (iii) at a waste or resource management facility (o) The on-site disposal of organic or putrescible waste must not have an adverse impact on the use of adjoining land (p) If there are no human waste storage facilities on the landholding as part of communal amenities or facilities, each moveable dwelling must contain a human waste storage facility (q) A human waste storage facility on the landholding must be emptied using— <ul style="list-style-type: none"> (i) a sewage reticulation system connected to the landholding, or (ii) a system of sewage management for which the approval of the council has been obtained under the <u>Local Government Act 1993</u>, section 68.
<p>What are the development standards for decks, slabs and other platforms?</p>	<p>The following standards apply to the provision of decks, slabs and other platforms in association with farm stay accommodation:</p> <ul style="list-style-type: none"> (a) the development must not be carried out on significantly contaminated land (b) the number of platforms constructed or installed on the landholding must be no more than— <ul style="list-style-type: none"> (i) 1 per 5ha, and (ii) 6 in total, (c) the platform must have an area of no more than 25m², (d) the height of the platform must be no more than 1m above ground level (existing),

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	<p>(e) the platform must not be constructed or installed within—</p> <ul style="list-style-type: none"> (i) 50m of a property boundary or waterway, or (ii) 250m of residential accommodation on— <ul style="list-style-type: none"> (A) adjacent land outside the landholding, or (B) land outside the landholding that is separated from the landholding by a road, or (iii) 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, <p>(f) a shelter installed on the platform must have an area of no more than 25m²,</p> <p>(g) a shelter installed on the platform must be no more than 4m tall.</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> <ul style="list-style-type: none"> (a) farm stay accommodation, (b) farm experience premises, (c) farm gate premises, (d) roadside stalls. <p>The following standards must be met—</p> <ul style="list-style-type: none"> (a) no more than 2 business identification signs facing a road frontage, (b) the sign must not be attached to a building that is a heritage item or draft heritage item, (c) the sign must be no more than 2m above ground level (existing), (d) the sign must have an area of no more than 2m², (e) the sign must be constructed or installed in accordance with— <ul style="list-style-type: none"> (i) AS/NZS 1170.0:2002, <i>Structural design actions, Part 0: General principles</i>, and (ii) AS/NZS 1170.2:2021, <i>Structural design actions, Part 2: Wind actions</i> (f) no more than 1 sign on a landholding may be illuminated and it must- <ul style="list-style-type: none"> (i) have its means of illumination, including associated cables, concealed or integrated within the frame of the sign, and (ii) not be animated, flashing or moving, and (iii) comply with AS/NZS 4282:2019, <i>Control of the obtrusive effects of outdoor lighting</i>, and

	Requirements for Exempt Development
	<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>

Complying Development Standards for Farm Stay Accommodation

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 an increase in the number of bedrooms on the site or a site disturbance of more than 250sqm. These restrictions do limit farm stay accommodation as complying development within the Shire. Nonetheless, the complying development provisions of the Code are summarised here for information. Please [consult the Code directly](#) for more detail.

	Requirements for Complying Development
<p>What zones permit farm stay accommodation as complying development?</p>	<p>For the purposes of complying development, <i>farm stay accommodation</i> may currently operate in the following zones within Wingecarribee Shire</p> <ul style="list-style-type: none"> • RU1 Primary Production • RU2 Rural Landscape • RU4 Primary Production Small Lots
<p>How can farm stay accommodation be provided?</p>	<p>Facilities for Farm stay accommodation can be provided as complying development in any of these ways:</p> <p>(a) a change of use of a building for farm stay accommodation</p> <p>(b) Alteration of or additions to an existing building or manufactured home for the purposes of farm stay accommodation</p> <p>(c) The erection of a new building for the purposes of farm stay accommodation</p>
<p>What are the general development standards for farm stay accommodation to be complying development?</p>	<p>(a) There must be no more than 1 building or <i>manufactured home</i> used for <i>farm stay accommodation</i> per 5ha, and</p> <p>(a) no more than a total of 6 buildings and <i>manufactured homes</i> may be used for <i>farm stay accommodation</i> on the landholding.</p> <p>(b) the same guests must not be accommodated at the premises for more than 21 consecutive days</p> <p>(c) vehicular or pedestrian access to the accommodation must not be directly from a freeway, highway or tollway within the meaning of the <u><i>Roads Act 1993</i></u></p>

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	<p>(e) 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>(d) vehicles must be able to enter and exit the property in a forward direction</p> <p>(g) car parking spaces must be located wholly within the boundaries of the landholding (no parking on road verges).</p>
<p>Are there additional standards for the change of use of a building to <i>farm stay accommodation</i>?</p>	<p>In addition to the general standards above, the following standards apply for a change of use of a building to <i>farm stay accommodation</i> as complying development —</p> <ul style="list-style-type: none"> (a) the current use must be a lawful use, (b) the development must not contravene an existing condition of the most recent development consent that applies to the landholding, (c) the part of the building used for the purposes of farm stay accommodation must not have a gross floor area of more than 60m², (d) the building must not be located within— <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.
<p>Are there additional standards for the erection of buildings or alterations & additions to buildings or manufactured homes?</p>	<p>In addition to the general standards above, the following standards apply</p> <ul style="list-style-type: none"> (a) the landholding on which the building or manufactured home is located must have an area of at least 15ha, (b) the building or manufactured home must be located— <ul style="list-style-type: none"> (i) on the same lot as a lawfully erected dwelling house, or (ii) on a lot that is at least the minimum size permitted under the environmental planning instrument applying to the land, (c) for development on land within 2km of an aerodrome or airport— <ul style="list-style-type: none"> (i) the development must not be carried out on land for which a PANS-OPS surface is identified that may compromise the effective and ongoing operation of the aerodrome or airport, as shown on a Procedures for

Requirements for Complying Development

Air Navigation Services—Aircraft Operations Map prepared by the operator of the aerodrome or airport, and

- (ii) the building or manufactured home must not penetrate an obstacle limitation surface shown on an Obstacle Limitation Surface Plan prepared by the operator of the aerodrome or airport and reported to the Civil Aviation Safety Authority,
- (d) a new building must have a height of no more than 4.5m above ground level (existing),
- (e) an existing building or manufactured home with a height of less than 4.5m above ground level (existing) must have a height of no more than 4.5m above ground level (existing) after being altered or added to,
- (f) an existing building or manufactured home with a height of at least 4.5m above ground level (existing) before being altered or added to must not increase in height,
- (g) for a building or manufactured home on a lot for which the natural ground is, at a point within 100m of the ridgeline of a hill, at least 20m lower than the ridgeline—the highest point of the building or manufactured home, if located within 100m of the ridgeline, must be at least 5m below the ridgeline,
- (h) a new building must have a gross floor area of no more than 60m²,
- (i) the part of an existing building or manufactured home used for the purposes of farm stay accommodation must have a gross floor area of no more than 60m²,
- (j) for alterations or additions to an existing building or manufactured home that involve internal alterations only—the building or manufactured home must not be located within—
 - (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—
 - (A) forestry,
 - (B) intensive livestock agriculture,
 - (C) intensive plant agriculture,
 - (D) mines,
 - (E) extractive industries,
 - (F) rail lines,
 - (G) rural industries,
- (k) for the erection of a new building, or alterations or additions to an existing building or manufactured home that involve external alterations—the building or manufactured home must not be located within—
 - (i) 6m of another building or moveable dwelling on the landholding, or
 - (ii) 50m of a property boundary or waterway, or
 - (iii) 250m of residential accommodation on neighbouring land,

	Requirements for Complying Development
	<p>(iv) 250m of a property boundary for land used for the purposes of one of the following—</p> <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>(l) the gross floor area of a building, or a part of a building, used to provide communal amenities or facilities to guests must be no more than 25m²</p>
<p>What are the requirements for bushfire prone land?</p>	<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 occur on land within BAL-40 or BAL-FZ areas.</p> <p>The development may only be carried out on bush fire prone land if all of the following apply—</p> <ul style="list-style-type: none"> (a) the development complies with the relevant requirements of <i>Planning for Bush Fire Protection</i>, (b) the landholding on which the development is carried out has direct access to a public road or a road vested in or maintained by the council, (c) the building or manufactured home is able to be connected to mains electricity, (d) reticulated or bottled gas on the landholding is installed and maintained in accordance with AS/NZS 1596:2014, <i>The storage and handling of LP Gas</i> and the storage and handling of LP gas on the landholding complies with the requirements of relevant authorities, including that metal piping is used, (e) for gas cylinders stored on the landholding within 10m of farm stay accommodation— <ul style="list-style-type: none"> (i) the release valves are directed away from the farm stay accommodation, and (ii) the cylinders are enclosed on the hazard side of the installation, and (iii) the connections to and from the cylinders are made of metal, (f) there are no polymer sheathed flexible gas supply lines to gas meters adjacent to farm stay accommodation on the landholding, (g) for fire fighting purposes, the landholding— <ul style="list-style-type: none"> (i) is connected to a reticulated water supply and a fire hydrant is located within 70m of each part of the development, or (ii) for a landholding with an area of no more than 10,000m²—has a 10,000L capacity water tank, or (iii) for a landholding with an area greater than 10,000m²—has a 20,000L capacity water tank,

Requirements for Complying Development	
	<p>(h) for a water tank installed on the landholding in accordance with paragraph (g)—</p> <p>(i) the water tank has a 65mm metal Storz outlet with a gate or ball valve, and</p> <p>(ii) the gate or ball valve, pipes and tank penetrations are made of metal and designed to allow for a 50mm inner diameter water flow through the Storz outlet.</p>

Standards for Farm Stay Premises 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.

Requirements for Development Consent	
<p>What zones permit Farm Stay Accommodation under WLEP 2010?</p>	<p>WLEP 2010 current permits Farm stay accommodation with consent in the following zones:</p> <ul style="list-style-type: none"> • RU1 Primary Production • RU2 Rural Landscape • SP3 Tourist • C3 Environmental Conservation <p>At its Ordinary Meeting of 18 May 2022 Council resolved to prepare a Planning Proposal to also permit <i>Farm stay accommodation</i> in the RU4 Primary Production Small Lots zone.</p>
<p>How many bedrooms does the WLEP 2010 allow?</p>	<p>Clause 5.4 of WLEP 2010 allows for a maximum of 8 bedrooms contained in farm stay buildings.</p>
<p>Has Council adopted the optional clause 5.24 of the Standard Instrument (SI)?</p>	<p><i>At its Ordinary Meeting of 18 May 2022 Council resolved to prepare a Planning Proposal to adopt the optional clause as it was then drafted. It is noted that the SI clause has since been redrafted to reflect performance standards only, rather than numerical standards. For reference, the current SI model clause is provided below.</i></p> <p>5.24 Farm stay accommodation [optional]</p> <p><i>(1) The objectives of this clause are as follows—</i></p> <p><i>(a) to diversify the uses of agricultural land without adversely impacting the principal use of the land for primary production,</i></p> <p><i>(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.</i></p> <p><i>Direction—Additional objectives may be included.</i></p> <p><i>(2) Development consent must not be granted to development for the purposes of farm stay accommodation on a landholding unless the consent authority is satisfied all buildings or manufactured homes used to accommodate guests on the landholding will be—</i></p> <p><i>(a) on the same lot as an existing lawful dwelling house, or</i></p> <p><i>(b) on a lot of a size not less than the minimum lot size for a dwelling house to be permitted on the lot under an environmental planning instrument applying to the land.</i></p>

	<p>(3) Subclause (2) does not apply if the development is a change of use of an existing dwelling to farm stay accommodation.</p> <p>(4) Development consent must not be granted to development for the purposes of farm stay accommodation 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> <p>(i) residential accommodation,</p> <p>(ii) primary production operations,</p> <p>(iii) other land uses, and</p> <p>(b) whether the development will have a significant adverse impact on the following on or near the land—</p> <p>(i) the visual amenity or heritage or scenic values,</p> <p>(ii) native or significant flora or fauna,</p> <p>(iii) water quality,</p> <p>(iv) traffic,</p> <p>(v) the safety of persons, and</p> <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 development, and</p> <p>(e) the compatibility of the development with nearby land uses.</p> <p><i>Direction—Additional development standards for farm stay accommodation may be included.</i></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 <p>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.</p>

For further information please contact:

Susan Stannard

Coordinator Strategic Policy

Strategic Outcomes Team

Wingecarribee Shire Council

mail@wsc.nsw.gov.au

4868 0888

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