

14.3 DRAFT PLANNING PROPOSAL - PROPOSED AMENDMENTS TO WOLLONDILLY LOCAL ENVIRONMENTAL PLAN 2011 (APPROVAL PATHWAYS FOR HORTICULTURE IN RURAL ZONES)

File Number: 12275-2#205

Directorate: Shire Futures

Address: All land zoned RU1 Primary Production, RU2 Rural Landscape and RU4 Primary Production under WLEP 2011 (excluding land within the Wilton and Greater Macarthur Priority Growth Areas)

Current Zoning: RU1 Primary Production, RU2 Rural Landscape and RU4 Primary Production Small Lots

Proposal: Draft Planning Proposal to amend the Wollondilly Local Environmental Plan 2011 to enable Horticulture to be undertaken as exempt or complying development in the rural zones.

Applicant: Council led Planning Proposal

EXECUTIVE SUMMARY

The purpose of this report is to advise Council on the Council initiated draft Planning Proposal (draft proposal) to make it easier to undertake horticulture in the Wollondilly Local Government Area by introducing fast-tracked planning approval pathways. This report also recommends Council support the draft Proposal for Gateway determination.

The draft proposal seeks to enable horticulture to be undertaken as exempt or complying development in rural zones, where it is low impact and can meet a series of pre-determined development standards. To achieve this, the draft proposal seeks to amend *Wollondilly Local Environmental Plan 2011* (WLEP 2011) to enable horticulture to be undertaken as:

- Exempt development in the RU1 Primary Production zone;
- Complying development in the RU2 Rural Landscape zone; and
- Complying development in the RU4 Primary Production Small Lots zone.

Should Council endorse the draft proposal, it would be submitted to the NSW Department of Planning, Housing and Industry (DPHI) with a request for a Gateway determination to enable the draft Planning Proposal to proceed to public exhibition for further consultation.

The draft proposal has been prepared in response to recommendations within the Wollondilly Rural Lands Strategy (RLS) 2021. The RLS identified significant opportunities for horticulture in the Wollondilly Local Government Area, however the current approach requiring a development application for horticulture is seen as a barrier to primary producers, particularly where horticulture is proposed on a small scale and is low impact.

Providing an opportunity for horticultural activities to be undertaken as exempt development in the RU1 zone and as complying development in the RU2 and RU4 zones will help encourage and facilitate the establishment of new and expanding horticultural activities in the area. Extensive community consultation has been undertaken to inform the draft Planning Proposal, including consultation with Council's Agricultural and Rural Industries Advisory Group who assisted in identifying the pre-determined development standards.

The draft proposal is scheduled for presentation to the Wollondilly Shire Local Planning Panel meeting on 8 February 2024. At the time of this report's preparation, the minutes of this meeting (including advice from the Panel meeting) were not available and will be provided under **Separate Cover** once published.

In preparing the draft proposal, it was identified that provisions in State Environmental Planning Policy (SEPP) (Precincts – Western Parkland City) 2021 (Precincts SEPP) relating to wildlife buffer zones (clause 4.19), require additional technical studies and referrals for horticulture on land to which the wildlife buffer zones apply. This report also seeks Council's endorsement to write to the Minister for Planning and Public Spaces to make an exception to clause 4.19 of the Precincts SEPP where horticulture is undertaken in a fully enclosed controlled environment structure.

RECOMMENDATION

That Council:

1. Agree that the draft Planning Proposal (Approval Pathways for Horticulture in Rural Zones) has strategic planning merit and the proposed amendments to the Wollondilly Local Environmental Plan 2011 should be progressed.
2. Submit the Planning Proposal to the NSW Department of Planning, Housing and Industry with a request for a Gateway determination
3. Request authorisation for Council as the Local Plan Making Authority to undertake the plan making functions for this Planning Proposal.
4. Write to the Minister for Planning and Public Spaces requesting an exception to clause 4.19 Wildlife hazards of State Environmental Planning Policy (Precincts – Western Parkland City) 2021, where horticulture is undertaken in a fully enclosed controlled environment structure.

REPORT

Background

A draft Planning Proposal has been prepared in response to key recommendations and actions identified within Council's Strategic Planning Framework, including Wollondilly 2040, Council's Local Strategic Planning Statement (LSPS) and the Wollondilly Rural Lands Strategy (RLS).

Wollondilly 2040 provides a 20-year land use vision for Wollondilly and guides the implementation of the Western City District Plan at a local level. The vision is for a prosperous, sustainable and resilient future for Wollondilly residents, with an enviable lifestyle of historic villages, modern living, rural lands and bush settings. The LSPS identifies a number of actions under each of its 18 Planning Priorities.

Planning Priority 16 in the LSPS is *Enhancing and protecting the diverse values of the Metropolitan Rural Area* and outlines the need for Council to develop a RLS. One of the key outcomes envisioned by the RLS was to identify opportunities that would realise the potential of underutilised agricultural land as well as opportunities for agricultural and non-agricultural diversification.

The RLS was adopted by Council at its Ordinary Meeting on 21 September 2021. A key finding of the RLS was that horticultural enterprises (such as growing vegetables) have widespread distribution as they can utilise a range of soil types, water sources and topography. They are not confined exclusively to higher quality agricultural land and are an important part of future agricultural production in the Shire.

The contribution of horticulture to the value of agricultural production in Wollondilly is increasing over time. Horticulture's contribution to the value of agricultural production in the Greater Sydney Region grew from 28% in 2000/01 to 51% in 2015/16. Given the significant area of quality land in Wollondilly, access to water (in part via farm dams) and proximity to labour and markets including the development of the Western Sydney Airport, continued growth of the horticultural industry in Wollondilly is expected.

However, as part of the consultation undertaken with rural landholders in developing the RLS, legislation constraints and red tape were identified as one of the key issues facing the future of

rural land and agriculture in Wollondilly. Legislation changes also were identified as a key area that would make farming in Wollondilly more productive.

As a result, there was an action included in the RLS to investigate amendments to the approval pathways currently required by WLEP 2011. Action 3.1.6 of the RLS states the following:

“Investigate LEP changes to encourage greater horticultural production:

- a) *Review Wollondilly LEP 2011 with a view to allowing Intensive Plant Horticulture and construction/operation of associated infrastructure such as greenhouses, hothouses, polytunnels, igloos and hydroponic systems as exempt development within areas zoned RU1 Primary production.*
- b) *Review Wollondilly LEP 2011 with a view to allowing Intensive Plant Horticulture and construction/operation of associated infrastructure such as greenhouses, hothouses, polytunnels, igloos and hydroponic systems as exempt development or complying development within areas zoned RU2 Rural Landscape.*
- c) *Review Wollondilly LEP 2011 with a view to allowing Intensive Plant Horticulture and construction/operation of associated infrastructure such as greenhouses, hothouses, polytunnels, igloos and hydroponic systems as either complying development or permitted with consent within areas zoned RU4 Primary Production Small Lots.”*

A review of WLEP 2011 was undertaken in accordance with the actions outlined above.

The draft Planning Proposal, provided as **Attachment 1** to this report, responds to the findings of the review.

A Councillor briefing on the draft proposal was held on 13 February 2024.

DETAILS OF THE PLANNING PROPOSAL

Site Description

The draft Planning Proposal proposes to apply to all land within the Wollondilly Local Government Area zoned RU1 Primary Production, RU2 Rural Landscape and RU4 Primary Production Small Lots under WLEP 2011.

The draft proposal does not seek to apply to rural zoned land within the Wilton and Greater Macarthur Priority Growth Areas, given their intention to facilitate new housing and jobs within an urban environment, and not being identified as part of the Metropolitan Rural Area (MRA).

Description of proposal

The draft Planning Proposal seeks to make it easier to undertake horticulture in the Wollondilly Local Government Area by introducing fast-tracked planning approval pathways. It seeks to achieve this by enabling Horticulture as:

- Exempt development in the RU1 Primary Production zone;
- Complying development in the RU2 Rural Landscape zone; and
- Complying development in the RU4 Primary Production Small Lots zone.

Under WLEP 2011, Horticulture is defined as “*the cultivation of fruits, vegetables, mushrooms, nuts, cut flowers and foliage and nursery products for commercial purposes, but does not include a plant nursery, turf farming or viticulture*”.

The draft proposal seeks to achieve the above by amending *Schedule 2 – Exempt Development* and *Schedule 3 – Complying Development* of WLEP 2011, by identifying Horticulture as either exempt or complying development, subject to pre-determined development standards and other criteria specified.

‘Exempt’ and ‘Complying’ development are two planning approval pathways that enable a faster and more streamlined approval process.

Exempt development would enable minor development to be undertaken without the need for planning or building approval so long as it meets specific development standards.

Complying development would enable straightforward low impact development to be determined through a fast-track assessment. If an application meets specific development standards and land requirements a complying development certificate (CDC) can be obtained through Council or an accredited certifier without the need for a full development application (DA). Complying development can be approved with conditions.

Justification for exempt development – RU1 Primary Production zone

Horticulture is proposed to be identified as 'exempt development' within the RU1 Primary Production zone only. The proposed approach is considered appropriate for the following reasons:

- Horticulture is considered to be a fundamental agricultural use that is consistent with the intention and objectives of the RU1 zone.
- Impacts from the undertaking of horticultural activities are considered low, and can be managed by the pre-determined development standards and other criteria specified, which includes but is not limited to (where in controlled environmental structures):
 - That the property is not within a Heritage Conservation Area (including a Landscape Conservation Area);
 - For lots less than 10 hectares, there is a minimum setback of 30 metres from any property boundary;
 - For lots greater than 10 hectares, there is a minimum setback of 50 metres from any property boundary;
 - That the development cannot exceed 7 metres in height; and
 - That the total of combined structures does not exceed 5,000 square metres.

Justification for complying development – RU2 Rural Landscape zone and RU4 Primary Production Small Lots zone

Horticulture is proposed to be identified as 'complying development' within the RU2 Rural Landscape zone and RU4 Primary Production Small Lots zone. The proposed approach is considered appropriate for the following reasons:

- Horticulture is considered to be an agricultural use that is consistent with the intention and objectives of the RU2 and RU4 zones. There is however, potential for minor land use conflicts given the smaller lot sizes, fragmented land ownership and adjoining non-rural zoned lands to these areas. This is why an exempt development pathway for horticulture is not considered appropriate for these zones.
- Impacts from the undertaking of horticultural activities are minor, and can be managed by the pre-determined development standards and other criteria specified, which includes but is not limited to (where in controlled environmental structures):
 - That the property is not within a Heritage Conservation Area (including a Landscape Conservation Area);
 - In the RU2 zone - For lots less than 10 hectares, there is a minimum setback of 50 metres from any property boundary;
 - In the RU2 zone - For lots greater than 10 hectares, there is a minimum setback of 100 metres from any property boundary;
 - In the RU4 zone – For all lots, there is a minimum setback of 20 metres from any property boundary;
 - That the development cannot exceed 7 metres in height; and

- That the total of combined structures does not exceed 4,000 square metres.
- There is the potential for general conditions to be nominated under Schedule 3 of WLEP 2011, which would apply to all Complying Development Certificates issued under this Schedule. There is no scope for general conditions under exempt development.

Gateway Determination

If supported by Council, the draft proposal will be submitted to the NSW Department of Planning, Housing and Infrastructure (DPHI) with a request for a Gateway determination.

PLANNING CONTEXT

The following information provides a summary of the assessment of the draft proposal against the local and state strategic planning framework.

Wollondilly Community Strategic Plan 2033 (CSP 2033)

The Wollondilly Community Strategic Plan 2033 (CSP) identifies and expresses the aspirations held by the community of Wollondilly and sets strategies for achieving those aspirations.

Priority 4 in the CSP which relates to local jobs, tourism and agribusiness, notes that “*the Shire has significant economic growth potential through agriculture*”. The amendments outlined in the draft proposal will encourage and facilitate this growth.

The draft proposal is consistent with the key policy directions outlined in the CSP. It will also implement a priority action from the Delivery Program (12.3.1).

Wollondilly 2040 Local Strategic Planning Statement (LSPS)

Wollondilly 2040 LSPS was adopted by Council at an Extraordinary Meeting on 11 February 2020. The LSPS provides a 20-year land use vision for Wollondilly and guides the implementation of the Western City District Plan at a local level.

The vision is for a prosperous, sustainable and resilient future for Wollondilly residents, with an enviable lifestyle of historic villages, modern living, rural lands and bush settings. The LSPS identifies a number of actions under each of its 18 Planning Priorities.

Planning Priority 16 in Wollondilly 2040 is *Enhancing and protecting the diverse values of the Metropolitan Rural Area* and outlines the need for Council to develop a RLS. One of the key outcomes envisioned by the RLS was to identify opportunities that would realise the potential of underutilised agricultural land as well as opportunities for agricultural and non-agricultural diversification.

The draft proposal is consistent with the LSPS.

Western City District Plan 2018

The Western City District Plan (District Plan) is a 20-year plan that guides implementation of the Greater Sydney Region Plan and acts as a bridge between regional and local planning. It outlines a number of directions, priorities and actions for managing growth, delivering infrastructure and protecting and enhancing bushland and biodiversity.

The draft proposal reflects the objectives and actions of the District Plan, as identified in Table 1.

District Plan priority	Comment
W8 Leveraging industry opportunities from the Western Sydney Airport and Badgerys Creek Aerotropolis	<p>Planning Priority W8 provides the following in relation to opportunities associated with the Western Sydney Airport related to agricultural processing and export:</p> <p><i>Agricultural processing and export</i></p> <p><i>Agricultural industries provide produce, employment and tourism opportunities and require long-term certainty to enable</i></p>

District Plan priority	Comment
	<p><i>investment and growth, especially as the Western Sydney Airport may provide new international markets. The Western Sydney Employment Area will develop agribusiness and will also provide opportunities to establish high value intensive agricultural industries and will enhance export capacity for NSW Primary Industries to new international markets. Local agribusiness opportunities for processing and export can be leveraged through stronger links to rural areas in the district.</i></p> <p>The amendments outlined in the draft proposal look to enhance the opportunities associated with the development of the Western Sydney Airport outlined above by removing barriers associated with horticulture where it is low impact.</p>
W17 Better Managing Rural Areas	<p>Planning Priority W17 in the Western City District Plan identifies the need to retain the value of land mapped as Metropolitan Rural Area (MRA) under both the Greater Sydney Region Plan and Western City District Plan. The District Plan identifies a range of values of the MRA lands, including its capacity and suitability for agricultural production.</p> <p>The District Plan intends to distinguish between the MRA as opposed to the Metropolitan Urban Area (i.e. areas identified for urban purposes, in particular to satisfy the regional population growth needs and housing targets). This draft Planning Proposal applies to all rural zoned land within Wollondilly that lies within the MRA. This includes all rural zoned land other than those areas within the Wilton and Greater Macarthur Priority Growth Areas (these Growth Areas do not form part of the MRA mapped area).</p> <p>The amendments outlined in the draft proposal seek to remove any unnecessary barriers for horticulture in the MRA where it is of minor impact by creating an exempt and/or complying development pathway.</p>

Table 1: Draft proposal alignment to Western City District Plan

Metropolitan Rural Area (MRA)

The draft proposal is consistent with the values of the MRA, particularly the agricultural production values of these rural lands by encouraging horticulture.

The draft proposal is therefore considered consistent with the District Plan and MRA.

Section 9.1 Ministerial Directions

The Minister for Planning has issued a number of Directions under the *Environmental Planning and Assessment Act 1979* which apply to the assessment of Planning Proposals.

A more detailed assessment is provided as part of the draft proposal document at **Attachment 1**.

State Environmental Planning Policies

The NSW Government publishes State Environmental Planning Policies (SEPPs). These documents deal with matters of state or regional planning significance. This proposal is consistent with and/or does not contravene all applicable SEPPs.

A more detailed assessment is provided as part of the draft proposal document at **Attachment 1**.

Application of SEPP (Precincts – Western Parkland City) 2021

In reviewing the potential for exempt and complying development pathways for horticulture, it was identified that clause 4.19 Wildlife Hazards of SEPP (Precincts – Western Parkland City) 2021 (Precincts SEPP) requires that development consent must not be granted for horticulture on land within the 13km wildlife buffer zone, until certain activities and investigations are undertaken that identifies there is no risk to the operation of the Western Sydney Airport from wildlife.

Given that the draft proposal seeks to enable exempt and complying development pathways for horticulture uses, it is considered appropriate that the application of clause 4.19 is not required where those horticulture uses are fully contained within controlled environmental structures, such as greenhouses, hothouses, polytunnels, igloos and hydroponic systems.

This report recommends Council write to the Minister for Planning and Public Spaces to make an exception to clause 4.19 of Precincts SEPP where horticulture is undertaken in a fully enclosed controlled environment structure.

CONSULTATION

Community Consultation

Extensive community consultation has been undertaken to inform the draft proposal. Community consultation with rural landholders was originally undertaken as part of the development of the RLS, which identified the need to reduce red tape to encourage more agricultural uses within the Shire. A key method of this consultation included a Landholder Survey which was sent to primary producers in the Shire in March 2020. These survey responses informed the direction and actions of the adopted RLS.

As identified within Council's *Planning Proposal Policy* and *Community Participation Plan*, early consultation is typically undertaken following the submission or preparation of a Planning Proposal and prior to a proposal being considered at an Ordinary Meeting of Council and prior to a Gateway determination. Although preliminary consultation is not a statutory requirement, it is considered by Council to be good practice.

Given the extensive consultation undertaken to date, a variation to the application of this Policy with regard to preliminary consultation was requested and subsequently approved by the Director Shire Futures, in accordance with section 11.4 of the Policy.

Should the draft proposal proceed and receive a Gateway determination, further community and stakeholder feedback will be invited through a formal public exhibition undertaken in accordance with Council's *Community Participation Plan* and any other requirements included in the Gateway determination.

Council's Agricultural and Rural Industries Advisory Group

Council staff have held two workshops with Council's Agricultural and Rural Industries Advisory Group, with the most recent workshop on 23 November 2023. The results of this workshop are largely what have formed the criteria and proposed amendments sought by the draft Planning Proposal.

It should be noted that the workshop with Council's Advisory Group was focused on developing suitable criteria whereby horticulture could be undertaken as exempt development in the RU1 Primary Production zone, as this was seen as the priority of the three zones given that the intent of this zone is to support agricultural production. The development of this criteria initially, has formed the basis for the criteria whereby horticulture could be undertaken as complying development in the RU2 Rural Landscape zone and the RU4 Primary Production Small Lots zone.

The group also noted the potential land use conflict challenges that may occur for producers in the RU2 and RU4 zones, and were generally satisfied that a complying pathway was more appropriate for these zones.

Consultation with Public Agencies

Preliminary consultation on the proposed amendments has so far been invited from the Department of Planning, Housing and Infrastructure (DPHI), the Department of Primary Industries (DPI), and Water NSW.

DPHI have passed on feedback from the DPI and have advised that this should be considered as their position. Water NSW have also provided Council with preliminary comments.

DPHI and DPI support the draft amendments and/or provide no comments. DPI has recommended Council further consider the development standards of the RU4 Primary Production Small Lots zone to mitigate any potential land use conflicts. Water NSW has raised concerns with the draft amendments in their current form and seek, at a minimum, that the Planning Proposal not apply to land within a designated 'Special Area', but preferably not apply to land within the Sydney Drinking Water Catchment.

A copy of the advice is provided in **Attachment 2** to this report.

No changes are recommended to the draft planning proposal in response to the agency feedback at this stage. Council staff intend to work with both DPI and Water NSW to further refine the Planning Proposal as part of Agency consultation.

Further consultation will be undertaken with all relevant public agencies during public exhibition following the receipt of the Gateway determination, and in line with any conditions of the Gateway determination and Ministerial Directions.

Local Planning Panel Advice

As required by the Ministerial Direction issued on 27 September 2018, the draft Planning Proposal was reported to the Wollondilly Shire Local Planning Panel.

The Panel consists of independent qualified individuals and is required to provide advice on Planning Proposals to Council for its consideration before Council considers whether or not to forward it to the NSW Government for a Gateway determination.

The draft proposal was reported to the Local Planning Panel at its meeting on 8 February, 2024. At the time of this report's preparation, the minutes of this meeting (including advice from the Panel meeting) were not available and will be provided under Separate Cover once published.

CONCLUSION

This report seeks Council's endorsement of a draft Planning Proposal to enable horticulture to be undertaken as exempt or complying development in rural zones where it is of minor impact and can meet a series of pre-determined development standards. Should Council endorse the draft proposal, it would be submitted to DPHI seeking a Gateway determination to enable public exhibition and further consultation.

The draft proposal seeks to amend *Wollondilly Local Environmental Plan 2011* (WLEP 2011) to enable horticulture to be undertaken as exempt development in the RU1 Primary Production Zone and complying development in the RU2 Rural Landscape Zone and RU4 Primary Production Small Lots Zone.

The amendments will utilise Schedule 2 and 3 in WLEP 2011 to provide a framework where it is appropriate for horticulture to be undertaken as exempt or complying development in the rural zones, within the Metropolitan Rural Area (MRA).

The draft proposal responds to Action 3.1.6 in Council's adopted Rural Lands Strategy and is identified as a priority project and action in Council's Delivery Program 2022/23 to 2025-26. It has been prepared in-house utilising staff resources and has been developed following extensive consultation with rural landholders and Council's Agricultural and Rural Industries Advisory Group.

Options for Moving Forward

The draft Planning Proposal has been prepared in accordance with Section 3.33 of the *Environmental Planning & Assessment Act 1979* and Local Environmental Plan Making Guidelines published by DPHI.

The purpose of this report is to seek Council's endorsement of a draft Planning Proposal to enable horticulture to be undertaken as exempt or complying development in rural zones where it is of minor impact and can meet a series of pre-determined development standards and other criteria specified.

The options available for Council are as follows:

1. Resolve to support the draft Planning Proposal in the form as provided in **Attachment 1**.
2. Resolve to support the draft Planning Proposal in another form.
3. Resolve not to support the draft Planning Proposal. With this option there is no further action to be undertaken.

Option 1 is the recommendation of this report to Council.

FINANCIAL IMPLICATIONS

The amendments outlined in this draft Planning Proposal are in response to Action 12.3.1 of Council's Delivery Program 2022/23 to 2025/26 which states the following:

'As an interim measure, implement short term action from Wollondilly Rural Lands Strategy including:

- *Review Wollondilly LEP 2011 to encourage greater horticultural production'*

The Delivery Plan identifies that the work has "Funding Confirmed" for the 2023/24 financial year. The draft proposal has been prepared in-house through staff resources.

ATTACHMENTS

1. **Attachment 1 - Draft Planning Proposal - Review of Approval Pathways for Horticulture in Rural Zones For Gateway Determination** 
2. **Attachment 2 - Preliminary comments from State Agencies** 



PLANNING PROPOSAL

Review of Wollondilly Local Environmental Plan 2011 – Approval Requirements for Horticulture in Rural Zones

January 2024



Document Register

Version	Date	Details	Prepared By	File Location
1	9 January, 2024	Prepared for Consultation with Water NSW under Ministerial Direction No. 3.3.	Mark Ruddiman	14043
2	15 January, 2024	Prepared to support report to Local Planning Panel for advice	Mark Ruddiman	14043
Current Version		2		



Executive Summary Table

Site address	There is no specific address for the Planning Proposal, however, it is intended to apply to all land zoned RU1 Primary Production, RU2 Rural Landscape and RU4 Primary Production Small Lots under <i>Wollondilly Local Environmental Plan 2011</i> (with the exception of land within the Wilton and Greater Macarthur priority growth areas).
Existing Planning Controls	<p>The land use tables in WLEP 2011 prescribe that horticulture is permitted within the RU1 Primary Production Zone, the RU2 Rural Landscape Zone and the RU4 Primary Production Small Lots Zones with consent.</p> <p>Schedule 2 (Exempt Development) and Schedule 3 (Complying Development) do not contain any provisions for horticulture to be undertaken as either exempt or complying development in any of the rural zones.</p> <p>There are no other environmental Planning instruments which enable horticulture to be undertaken as exempt or complying development in rural zones in the Wollondilly Local Government Area and as such, horticulture would always require a Development Application.</p>
Summary of recommendations:	To amend WLEP 2011 Schedule 2 (Exempt Development) to enable horticulture to be undertaken in the RU1 Primary Production zone as exempt development subject to certain criteria and to amend WLEP 2011 Schedule 3 (Complying Development) to enable horticulture to be undertaken in the RU2 Rural Landscape zone subject to certain criteria.
Technical Studies relevant to the planning proposal	Wollondilly Rural Lands Strategy (2021); Wollondilly Rural Lands Findings Report (Locale Consulting, December 2020)
Applicant	Wollondilly Shire Council

Introduction

This Planning Proposal explains the intended effect of and the justification for amendments to *Wollondilly Local Environmental Plan 2011* (Wollondilly LEP). The proposal seeks to amend WLEP 2011 to provide a pathway for horticulture to be undertaken as exempt development in the RU1 Primary Production Zone and as Complying Development in the RU2 Rural Landscape Zone and RU4 Primary Production Zone where it meets a pre-determined list of standards (which are outlined in this proposal).

The Planning Proposal has been prepared in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979* and the NSW Government, guidelines published by the Department of Planning and Environment's *Local Environmental Plan Making Guideline*.

Background

The proposal is in response to an action in the Wollondilly Rural Lands Strategy (2021) which requires Council to review the approval pathways for horticulture in the rural zones. The Rural Lands Strategy identified significant opportunities for horticulture in the Wollondilly Local Government Area to the year 2040, however, the current approach where horticulture requires a development application is seen as a barrier to primary producers wanting to undertake horticulture, particularly where it is proposed on a small scale or is low impact. Providing an opportunity for small scale, low impact horticultural activities to be undertaken as exempt development in the RU1 zone and as complying development in the RU2 and RU4 zones will encourage new horticultural activities in the area.

A Planning Proposal is a document which explains the changes which are proposed to an environmental planning instrument, in this case the Wollondilly Local Environmental Plan 2011 (Wollondilly LEP).

This explanation is provided through text and images (usually plans).

The Wollondilly Local Environmental Plan 2011 is the key statutory document at a local government level which guides and controls the development of land within the Wollondilly Shire Council area.

Technical Studies

The following Technical Studies were prepared to inform the planning proposal:

- Wollondilly Rural Lands Strategy (2021);
- Wollondilly Rural Lands Strategy Findings Report (Locale Consulting, December, 2020)

The site

There is no specific address for the Planning Proposal, however, it is intended to apply to all land zoned RU1 Primary Production, RU2 Rural Landscape and RU4 Primary Production Small Lots under *Wollondilly Local Environmental Plan 2011* (with the exception of land within the Wilton and Greater Macarthur priority growth areas).

Structure of this document

This Planning Proposal has been prepared in accordance with the NSW Government's *Local Environmental Plan Making Guideline*.

The guide provides information on the process for preparing planning proposals. In particular, it sets out what matters should be included in a planning proposal to satisfy the requirements of the *Environmental Planning and Assessment Act 1979*.

This Planning Proposal has been structured in five parts as follows:

Part 1	A statement of the objectives and intended outcomes of the proposed instrument.
Part 2	An explanation of the provisions that are to be included in the proposed instrument.
Part 3	The justification for those objectives, outcomes and the process for their implementation
Part 4	Maps to identify the intent of the planning proposal and the area to which it applies
Part 5	Details of the community consultation that is to be undertaken on the planning proposal.
Part 6	Project timeline to detail the anticipated timeframe for the planning proposal.

The guide is available on the Department of Planning & Environment's website.

Delegation

Council is seeking delegation as the plan-making authority to make this amendment to the *Wollondilly Local Environmental Plan 2011*.

Part 1 – Objectives and Intended Outcomes

Objectives:

1. To undertake actions 3.1.6 (a) 3.1.6 (b) and 3.1.6 (c) in the Wollondilly Rural Lands Strategy;
2. To encourage horticulture on rural lands by creating an exempt and/or complying development pathway (depending on the type of rural zone) in *Wollondilly Local Environmental Plan 2011*;
3. To ensure that where necessary, appropriate criteria (development standards) are in place for horticulture to be undertaken on rural lands as exempt and/or complying development to ensure that the activities do not unreasonably impact adjoining lands or the environment.

Intended Outcomes:

1. To complete an amendment to WLEP 2011 Schedule 2 (Exempt Development) to provide a pathway for horticulture to be undertaken as exempt development in the RU1 Primary Production zone where certain criteria can be achieved.
2. To complete an amendment to WLEP 2011 Schedule 3 (Complying Development) to provide a pathway for horticulture to be undertaken as Complying Development in the RU2 Rural Landscape Zone and the RU4 Primary Production Small Lots Zones where certain criteria can be achieved.
3. To retain the provisions whereby horticulture can be undertaken via a development application where the proposed criteria in Schedule 2 (Exempt Development) or Schedule 3 (Complying Development) cannot be achieved.

Part 2 – Explanation of Provisions

The planning proposal proposes the following:

Amend Schedule 2 Exempt Development in WLEP 2011 to include the following:

Horticulture in the RU1 Primary Production Zone

- (1) Must be located greater than 40 metres from a watercourse;
- (2) If the use is proposed in hydroponic structures such as igloos, glasshouses or the like, a reticulated system for the treatment and reuse of water must be provided;
- (3) Must have access to a suitable water source to sustain the use (being either a river or groundwater extraction license or an on-site storage dam);
- (4) For open field-based horticulture, must achieve a setback distance of no less than 10m from any property boundary (not including any property boundary that forms part of the landholding);
- (5) Must not be located on a slope which is greater than 10 percent;

- (6) Must not be located within a Priority Growth Area identified under the *State Environmental Planning Policy (Precincts – Western Parkland City), 2021*;
- (7) Must not be located within the Wildlife Buffer Zone on the Wildlife Buffer Zone map under *State Environmental Planning Policy (Precincts – Western Parkland City) 2021* (other than where the use is undertaken in a controlled environment, such as igloos, glasshouses and the like where the structures are fully enclosed);
- (8) A minimum of 1 toilet per 20 employees (or part of 20 persons employed) must be provided on the land and be designed in accordance with the Building Code of Australia;
- (9) Before the use commences, must (if required) have an approval:
- a) if required by the *Local Government Act, 1993* for:
 - i) an on-site effluent disposal system if the development is undertaken on unsewered land;
 - ii) an on-site stormwater drainage system
 - b) Before the use commences, if required, have written consent from the relevant roads authority (if required under section 138 of the *Roads Act 1993*) for the building of any kerb, crossover or driveway to service the development.
- (10) where the use is proposed in structures such as, igloos, glasshouses, polytunnels and the like and is proposed on land in a mine subsidence district within the meaning of the *Mine Subsidence Compensation Act 1961*, have the prior approval of the Subsidence Advisory Board (where required), and
- (11) Irrigation runoff water must be managed on site and not impact on adjoining properties.
- (12) The use shall not give rise to water, air or noise pollution as defined in the *Protection of the Environment Operations Act, 1997*.
- (13) The operation and repairs to machinery (including irrigation pumps) shall only be undertaken between the hours of 7am to 6pm Monday to Saturday (inclusive);
- (14) Where the land is, or has been used for a purpose identified under table 1 of the EPA Contaminated Land Planning Guidelines and the horticultural use will involve the growing of produce from the ground, a statement must be obtained from a person who is qualified to assess contaminated sites, stating:
- the land is suitable for the development, or
 - the land will be suitable for the development if specified remediation works are carried out.
- (15) Must not result in the removal of any native vegetation on the land;
- (16) Where horticulture is proposed in controlled environment structures such as igloos, glasshouses, polytunnels and the like, must achieve the following:
- a) not be located within a Heritage Conservation Area (including a Landscape Conservation Area);
 - b) be setback no less than:
 - i) for lots less than 10 hectares – 30 metres from any property boundary;
 - ii) for lots greater than 10 hectares – 50 metres from any property boundary.
 - c) The frames and covers associated with the structures are to be maintained (and where required replaced) in accordance with manufacturers standards to maintain an appropriate standard of amenity;
 - d) use materials that minimise glare so that it does not impact on the amenity of adjoining lands;
 - e) not be greater than 7 metres in height above existing ground levels;
 - f) the combined total of all structures must not exceed 5000 square metres;
 - g) not involve more than 1 metre of cut and 1 metre of fill at any point;
- (17) if the fill is imported to the site—be free of building and other demolition waste, and only contain virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the *Protection of the Environment Operations Act 1997*, and

Amend Schedule 3 Complying Development in WLEP 2011 to include the following:

Horticulture in the RU2 Rural Landscape Zone and RU4 Primary Production Small Lots Zone

- (1) Must be located greater than 40 metres from a watercourse;
- (2) If the use is proposed in hydroponic structures such as igloos, glasshouses or the like, a reticulated system for the treatment and reuse of water must be provided;
- (3) Must have access to a suitable water source to sustain the use (being either a river or groundwater extraction license or an on-site storage dam);
- (4) For field-based horticulture, must achieve a setback distance of no less than 10m from any property boundary (not including any property boundary that forms part of the landholding);
- (5) Must not be located on a slope which is greater than 10 percent;
- (6) Must not be located within a Priority Growth Area identified under the *State Environmental Planning Policy (Precincts – Western Parkland City), 2021*;
- (7) Must not be located within the Wildlife Buffer Zone on the Wildlife Buffer Zone map under *State Environmental Planning Policy (Precincts – Western Parkland City) 2021* (other than where the use is undertaken in a controlled environment, such as igloos, glasshouses and the like where the structures are fully enclosed);
- (8) A minimum of 1 toilet per 20 employees (or part of 20 persons employed) must be provided on the land and be designed in accordance with the Building Code of Australia;
- (9) Before the use commences, must (if required) have an approval:
 - a) if required by the *Local Government Act, 1993* for:
 - i) an on-site effluent disposal system if the development is undertaken on unsewered land;
 - ii) an on-site stormwater drainage system
 - b) Before the use commences, if required, have written consent from the relevant roads authority (if required under section 138 of the *Roads Act 1993*) for the building of any kerb, crossover or driveway to service the development.
- (10) where the use is proposed in structures such as, igloos, glasshouses, polytunnels and the like and is proposed on land in a mine subsidence district within the meaning of the *Mine Subsidence Compensation Act 1961*, have the prior approval of the Subsidence Advisory Board (where required), and
- (11) Irrigation runoff water must be managed on site and not impact on adjoining properties.
- (12) The use shall not give rise to water, air or noise pollution as defined in the *Protection of the Environment Operations Act, 1997*.
- (13) The operation and repairs to machinery (including irrigation pumps) shall only be undertaken between the hours of 7am to 6pm Monday to Saturday (inclusive);
- (14) Where the land is, or has been used for a purpose identified under table 1 of the EPA Contaminated Land Planning Guidelines and the horticultural use will involve the growing of produce from the ground, a statement must be obtained from a person who is qualified to assess contaminated sites, stating:
 - the land is suitable for the development, or
 - the land will be suitable for the development if specified remediation works are carried out.
- (15) Must not result in the removal of any native vegetation on the land;
- (16) Where horticulture is proposed in controlled environment structures such as igloos, glasshouses, polytunnels and the like, must achieve the following:
 - a) not be located within a Heritage Conservation Area (including a Landscape Conservation Area);
 - b) be setback from any property boundary in accordance with the following:

Land Use Zone	Lot Size	Minimum Setback
RU2 Rural Landscape	Less than 10ha	50m
	Greater than 10ha	100m
RU4 Primary Production Small Lots	All Lots	20m

c) The frames and covers associated with the structures are to be maintained (and where required replaced) in accordance with manufacturers standards to maintain an appropriate standard of amenity;

d) use materials that minimise glare so that it does not impact on the amenity of adjoining lands;

e) not be greater than 7 metres in height above existing ground levels;

f) the combined total of all structures must not exceed 4000 square metres;

g) not involve more than 1 metre of cut and 1 metre of fill at any point;

(17) if the fill is imported to the site—be free of building and other demolition waste, and only contain virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the [Protection of the Environment Operations Act 1997](#), and

Part 3 – Justification of strategic and site-specific merit

Section A – Need for the Planning Proposal

A 3.1 Is the Planning Proposal a result of an endorsed Local Strategic Planning Statement, strategic study or report?

Yes, the Planning Proposal is a direct result of the actions contained in Wollondilly's Local Strategic Planning Statement and adopted Rural Lands Strategy.

Wollondilly 2040: Local Strategic Planning Statement

Wollondilly 2040, Local Strategic Planning Statement (LSPS) was adopted by Council at an Extraordinary Meeting on 11 February 2020. Wollondilly 2040 provides a 20-year land use vision for Wollondilly and guides the implementation of the Western City District Plan at a local level.

The vision is for a prosperous, sustainable and resilient future for Wollondilly residents, with an enviable lifestyle of historic villages, modern living, rural lands and bush settings. Wollondilly 2040 identifies a number of actions under each of its 18 Planning Priorities.

Planning Priority 16 in Wollondilly 2040 *is enhancing and protecting the diverse values of the Metropolitan Rural Area* and in particular it outlines the need for Council to develop a Rural Lands Strategy. One of the key outcomes envisioned by the Rural Lands Strategy was to identify opportunities to realise the potential of underutilised agricultural land as well as opportunities for agricultural and non-agricultural diversification. Action 16.3 is the relevant action in Wollondilly 2040 and states the following:

Action	Timeframe
Complete a Rural Lands Strategy to identify and protect land for intensive agriculture.	Short

Wollondilly Rural Lands Strategy

The Wollondilly Rural Lands Strategy was undertaken in 2020 and 2021 and it was adopted by Council at its Ordinary Meeting on 21 September 2021. A key finding of the Rural Lands Strategy was that horticultural enterprises (such as growing vegetables) have widespread distribution as they can utilise a range of soil types, water sources and topography. They are not confined exclusively to higher quality agricultural land and are an important part of future agricultural production in the Shire.

The contribution of horticulture to the value of agricultural production in Wollondilly is increasing over time. Horticulture's contribution to the value of agricultural production in the Greater Sydney Region grew from 28% in 2000/01 to 51% in 2015/16. Given the significant area of quality land in Wollondilly, access to water (in part via farm dams) and proximity to labour and markets (including the development of the Western Sydney Airport), continued growth of the horticultural industry in Wollondilly is expected.

Wollondilly has areas of high-quality soils that need to be protected, however there are options for horticulture where soil quality isn't quite so high. Horticulture is a growing industry in Wollondilly, and it does not necessarily require:

- specific (high quality) soils as production can occur in glasshouses, protected structures and/or pots, and many soil constraints can be ameliorated;
- access to regulated and/or licenced surface or groundwater sources as the region has relatively high rainfall and deficiencies can be augmented by surface runoff captured in farm dams;
- large scale rural holdings;
- flat topography - whilst horticulture is not generally suited to steep land, many types of horticulture can be practised on sloping land.

However, as part of the consultation that was undertaken with the rural landholders as part of the development of the Rural Lands Strategy, legislation constraints and red tape were identified as one of the key issues facing the future of rural land and agriculture in Wollondilly, while legislation changes were identified as a key area that would make farming in Wollondilly more productive.

As a result, there was an action included in the Final Rural Lands Strategy to investigate amendments to the approval pathways currently required by WLEP 2011. The intent of this action is to encourage horticulture in the area and ensure that the opportunities identified in the Rural Lands Strategy are realised.

Action 3.1.6 is the relevant action and states the following:

Action 3.1.6 Investigate LEP changes to encourage greater horticultural production:

- a) Review Wollondilly LEP 2011 with a view to allowing Intensive Plant Horticulture and construction/operation of associated infrastructure such as greenhouses, hothouses, polytunnels, igloos and hydroponic systems as exempt development within areas zoned RU1 Primary production.*
- b) Review Wollondilly LEP 2011 with a view to allowing Intensive Plant Horticulture and construction/operation of associated infrastructure such as greenhouses, hothouses, polytunnels, igloos and hydroponic systems as exempt development or complying development within areas zoned RU2 Rural Landscape.*
- c) Review Wollondilly LEP 2011 with a view to allowing Intensive Plant Horticulture and construction/operation of associated infrastructure such as greenhouses, hothouses, polytunnels, igloos and hydroponic systems as either complying development or permitted with consent within areas zoned RU4 Primary Production Small Lots.*

A 3.2 Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes.

At present, horticulture is permitted under the land use tables in each of the rural zones in WLEP 2011 by being listed under the heading 'Permitted with Consent'. There is no other provision in WLEP 2011 or any other Environmental Planning Instrument (such as a SEPP) which enables horticulture as either exempt or complying development in these zones. An amendment to WLEP 2011 is therefore required to initiate the proposed amendments which

can only be undertaken in this case by a Planning Proposal prepared in accordance with the NSW Department of Planning's Local Environmental Plan Making Guideline.

Section B – Relationship to strategic planning framework

B 3.3 Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?

Greater Sydney Region Plan and Western City District Plan (March 2018)

The Greater Cities Commission's *A Metropolis of Three Cities – the Greater Sydney Region Plan* and the *Western City District Plan* were finalised by the (then) Greater Sydney Commission in March 2018. These 20-year plans with a 40-year vision are a bridge between regional and local planning. They inform local environmental plans, community strategic plans and the assessment of Planning Proposals.

There are over 100 actions between these plans, many of which are relevant to Wollondilly. These plans are structured around strategies for:

- **Infrastructure and Collaboration;** supportive infrastructure, use of public resources such as open space and community facilities, working through collaboration.
- **Liveability;** social infrastructure, healthy communities, housing supply and affordability, great places,
- **Productivity;** the 30-minute city, land use and transport infrastructure, leveraging from the Western Sydney Airport and Badgerys Creek Aerotropolis, jobs.
- **Sustainability;** green spaces and landscape, tree canopy, using resources efficiently, managing rural areas, resiliency, bushland and biodiversity, waterways, green grid
- **Implementation;** local strategic planning statements, monitoring and reporting.

A Metropolis of Three Cities – Greater Sydney Region Plan

The planning proposal reflects the relevant objectives and actions of the Regional Plan as follows:

Planning Priority	Relevant Objective	Assessment
Planning Priority 5 - Productivity	Objective 24 Economic Areas are Targeted for Success	<p>Objective 24 in the Regional Plan focuses on the importance of rural industries and agriculture in the region. It identifies that the <i>main rural industries of the Metropolitan Rural Area are intensive agricultural production on relatively small land parcels and resource extraction in the Western Parkland City with some activity in the North District.</i></p> <p>Objective 24 goes on to state that the Metropolitan Rural Area is of specific importance for vegetables, mushrooms and cut flowers (among other forms of agriculture) and that it is important to retain, and where possible, increase opportunities for agricultural and horticultural uses to keep fresh foods available locally.</p> <p>The amendments proposed by this planning proposal will encourage horticulture,</p>

		<p>particularly where it is low scale and of minor impact to be undertaken on rural landholdings which will contribute to ensuring that supply chains of fresh food from local producers is retained.</p> <p>The amendments proposed may also encourage activities such as the leasing of portions of larger rural lots for small scale horticulture on a more intensive scale as it would not implicate landowners in the legal processes associated with development applications and the like.</p>
Planning Priority 6 Sustainability	Objective 29 - Environmental, social and economic values in rural areas are protected and enhanced	<p>Objective 29 in the Regional Plan recognises that Agricultural production bolsters Greater Sydney's resilience, and agriculture is supported by a growing interest in local food production.</p> <p>The Region Plan also identifies that new opportunities for growing fresh food close to a growing population and freight export infrastructure associated with the Western Sydney Airport is one of the key factors that will influence land use in the Metropolitan Rural Area to the year 2040.</p> <p>The amendments outlined in the Planning Proposal respond to these opportunities by reducing barriers to horticulture where it could be undertaken with low impact and consequently will assist in realising the opportunities to access new markets such as those associated with the Western Sydney Airport in the short to medium term.</p>

Western City District Plan

The planning proposal reflects the objectives and actions of the District Plan as follows:

District Plan priority	Comment
W8 Leveraging industry opportunities from the Western Sydney Airport and Badgerys Creek Aerotropolis	<p>Planning Priority W8 provides the following in relation to opportunities associated with the Western Sydney Airport related to agricultural processing and export:</p> <p><i>Agricultural processing and export</i></p> <p><i>Agricultural industries provide produce, employment and tourism opportunities and require long-term certainty to enable investment and growth, especially as the Western Sydney Airport may provide new international markets. The Western Sydney Employment Area will develop agribusiness and will also provide opportunities to establish high value intensive agricultural industries and will enhance export capacity for NSW Primary</i></p>

	<p><i>Industries to new international markets. Local agribusiness opportunities for processing and export can be leveraged through stronger links to rural areas in the district.</i></p> <p>The amendments outlined in this Draft Planning Proposal look to enhance the opportunities associated with the development of the Western Sydney airport outlined above by removing barriers associated with horticulture where it is low impact.</p>
W17 Better Managing Rural Areas	<p>Planning Priority W17 in the Western City District Plan identifies the need to retain the value of land mapped as Metropolitan Rural Area (MRA) under both the Greater Sydney Region Plan and Western City District Plan. The District Plan identifies a range of values of the MRA lands, including its capacity and suitability for agricultural production.</p> <p>The Plan intends to distinguish between the MRA as opposed to the Metropolitan Urban Area (i.e. areas identified for urban purposes in particular to satisfy the regional population growth needs and housing targets). This Draft Planning Proposal applies to all rural zoned land within Wollondilly that lies within the MRA. This includes all rural zoned land other than those areas within the Wilton and Greater Macarthur Priority Growth Areas which do not form part of the MRA mapped area.</p> <p>The amendments outlined in the Planning Proposal seek to remove any unnecessary barriers for horticulture in the MRA where it is of minor impact by creating an exempt and/or complying development pathway. This will assist in retaining the values, in particularly the agricultural production values of these rural lands by encouraging horticulture.</p>

The [Greater Sydney Region Plan - A Metropolis of Three Cities](#) and the [Western City District Plan](#) are available on the Greater Cities Commissions website.

B 3.4 Is the Planning Proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?

Wollondilly 2040 Local Strategic Planning Statement was made and came into effect on 27 March 2020. The LSPS outlines the land use planning vision for Wollondilly over the next 20 years and will guide the implementation of the District Plan at a local level. This vision is for a prosperous, sustainable and resilient future for Wollondilly residents, with an enviable lifestyle of historic villages, modern living, rural lands and bush settings.

Planning Priority 16 in Wollondilly 2040 *is enhancing and protecting the diverse values of the Metropolitan Rural Area* and this Planning Priority recognises that much of the land in Wollondilly, other than within the growth areas is identified as Metropolitan Rural Area for its agricultural, environmental and scenic values. Wollondilly 2040 also recognises that the MRA lands in Wollondilly provide (and should continue to provide) a range of agricultural products, including products from horticultural uses to Greater Sydney and that these uses also contribute to local jobs and the local economy.

in particular it outlines the need for Council to develop a Rural Lands Strategy. Among the key outcomes of the Rural Lands Strategy were to identify opportunities to realise the potential of underutilised agricultural land as well as opportunities for agricultural and non-agricultural diversification. Action 16.3 in Wollondilly 2040 required Council to develop a Rural Lands Strategy which would set the framework for the development of rural lands over the period to 2040.

[Wollondilly 2040¹](#) is available on Council's website.

B 3.6 Is the planning proposal consistent with applicable State Environmental Planning Policies?

The NSW Government publishes State Environmental Planning Policies (SEPPs) and Sydney Regional Environmental Plans (SREPs or deemed SEPPs). These documents deal with matters of state or regional planning significance.

An assessment of the planning proposal against each SEPP is provided at Appendix A. The Planning Proposal is generally consistent with the relevant SEPPs.

B 3.7 Is the Planning Proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

The Minister for Planning and Public Spaces issues Local Planning Directions that councils must follow when preparing a planning proposal. The Directions cover the following focus areas:

- Planning Systems
- Planning Systems – Place-based
- Design and Place
- Biodiversity and Conservation

¹ <https://www.wollondilly.nsw.gov.au/planning-and-development/guidelines-and-controls/local-strategic-planning-statement/>

- Resilience and Hazards
- Transport and Infrastructure
- Housing
- Industry and Employment
- Resources and Energy
- Primary Production

The planning proposal is considered to be consistent with the relevant Ministerial Directions.

An assessment of each of the proposed amendments consistency against all Ministerial Directions is provided at Appendix B.

Section C – Environmental, social and economic impact

C 3.8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal?

No.

C 3.9 Are there any other likely environmental effects of the planning proposal and how are they proposed to be managed?

Odour

Odour in rural areas associated with the use of land for horticulture can arise from use of agricultural chemical sprays, fertilisers (organic and inorganic), effluent disposal and composting plants. Following consultation with Council's Agriculture and Rural Industries Advisory Group, the setbacks nominated in order for horticulture to be undertaken as exempt development in the RU1 zone and complying development in the RU2 and RU4 zones should be sufficient in reducing odour impact. The potential for odour to arise where horticulture is undertaken in a controlled environment such as igloos or glasshouses, is significantly less, however a larger setback is proposed in these instances to ensure that visual and general amenity is retained. A provision has also been included to ensure that the use shall not give rise to water, air or noise pollution as defined in the *Protection of the Environment Operations Act, 1997*.

Noise

It is acknowledged that there is a noise consideration with a horticultural use being undertaken in rural zones, mainly associated with trucks, machinery, transporting the produce, pumps and tractors. At the workshop with Council's Agriculture and Rural Industries Advisory Group in November, 2023, the following was noted:

- A tractor during the day is reasonable, however, not at night;
- The RU4 zoned lots have smaller lot sizes and are often narrow lots, therefore a lesser setback than say the RU2 zone may be appropriate for Complying Development, however, a provision needs to be included to state that the use shall not give rise to noise pollution as defined in the *Protection of the Environment Operations Act, 1997*.
- Concern with taking away the right to farm

The proposed 10m setback for field-based horticulture is considered appropriate to mitigate noise impact in the rural zones. A greater setback is appropriate for hydroponics/glasshouses due to amenity concerns and has been accommodated in the proposed standards.

Chemical Spray Drift

Chemical spray drift is unlikely to be an issue of concern for horticulture where it is undertaken within a hydroponic/glass house type set up where the chemicals being sprayed are in an enclosed environment. The off-target movement of agricultural chemicals can be a cause of concern to residents in proximity to field based horticulture uses. These concerns are based largely on fears of exposure to agricultural chemicals but also due to detection of odours associated with the chemical.

In NSW there are no guidelines available which stipulate an appropriate setback/buffer distance from boundaries for open field-based horticulture. The Queensland Department of Natural Resources Planning Guidelines (Separating Agricultural and Residential Land Uses) however suggests a 40m separation distance between the growing areas and boundaries where a vegetated landscape buffer is provided, while a suggested separation distance of 300m is suggested where no vegetated landscape buffer exists. The guidelines are however, from 1997 and may not necessarily reflect current technology or practices.

The key points from the workshop with Council's Agriculture and Rural Industries Advisory Group are:

- The setbacks in the Queensland guidelines are too extreme;
- How the crop is sprayed is relevant, the use of a modern-day air induction nozzle reduces spray drift substantially;
- Operators are now required to comply with the Australian Standard when applying chemicals to crops. The label of the chemical typically instructs the application methods so as to minimise the spray leaving the application area;
- A commercial operator is legally required to document spraying (including weather conditions, where it is applied, what is being sprayed, what is the pest etc); in what is commonly referred to as a spray diary. The record must be obtained for 7 years.
- There is also a requirement on the farmers to have regard to prevailing wind conditions when applying the chemicals and determine the likely impact;

Overall it was considered that the operational requirements for the application of pesticides/herbicides and the like should be sufficient in mitigating any potential impact where a 10m setback was incorporated for field-based horticulture.

Water Quality

Enabling a field-based horticulture setup without a development application poses some risk to water quality, particularly in terms of pesticides and other fertilisers being captured as part of stormwater runoff, erosion, and disposal of wastewater.

At the workshop held with the Agriculture and Rural Industries Advisory Group, it was determined that in order to be undertaken as exempt development, any physical works to establish the use as well as the actual use itself, must be no less than 40 metres from the top of bank of a defined watercourse (adopting the relevant definitions in the *NSW Water Management Act, 2000*). A 40-metre setback was considered an appropriate separation distance on the basis that this is the trigger for the works requiring a Water Act License from

Water NSW. 40m from a watercourse is also common requirement for various types of development (such as earthworks and retaining walls) under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

The following key points were also noted at the Workshop with Council's Agriculture and Rural Industries Advisory Group:

- A reference to a 'label' on a pesticide/herbicide or other application has significant implications for legal operation. Chemicals could have setback requirements from watercourses (such as 20m, 40m, and 90m), the ultimate setback depends on the chemical nature of the pesticide. This effectively means that even where a minimum setback distance of 40m is proposed, some chemicals used may need to incorporate an increased distance from a watercourse. Any pesticide should be used in accordance with the label where there is a chemical setback from a watercourse which is regulated under the *Pesticides Act, 1999*;
- A 40m setback from any watercourse is considered to be a minimum. There would be an inconsistency with other existing planning requirements for anything less than 40m;
- Noted that a Development application and Water Act License from Water NSW (which would likely be subject to certain conditions) would be required for anything less and there is likely to be strict parameters.

It is also noted, that a significant portion of rural zoned land in Wollondilly falls within the Sydney Drinking Water catchment. Any development in this area is required to achieve a Neutral or Beneficial Effect on Water Quality (NORBE) and meet the requirements of Ministerial Direction 3.3 Sydney Drinking Water Catchments. The Ministerial Direction also requires the Planning Proposal Authority to consult with Water NSW in preparing a Planning Proposal which will be undertaken.

The standards to undertake horticulture as exempt development or complying development within a controlled environment (both within the Drinking Water Catchment Area and more broadly) will be subject to a requirement that the development include a reticulated system for the treatment and reuse of water in order to minimise runoff and reduce the impact on receiving waters.

The extent to which water could be reused in such a setup depends on the type of hydroponics system being run. The advice from the Agriculture and Rural Industries Advisory Group at the workshop was that 'run to waste' is the predominant system used in Western Sydney. 'Run to Waste' is a concept applied in horticulture where irrigation is applied until it moves out of the root zone and is then disposed of. A recirculation production system that recovers nutrients and reduces water demand should be encouraged.

Any further, specific requirements for water re-use could be developed as the Planning Proposal progresses and further consultation is undertaken.

Biosecurity

The NSW Guidelines have separations distance requirements from one type of poultry farm to another type of poultry farm for biosecurity purposes, but no known requirements for horticulture. The outcomes of the Workshop with the Agriculture and Rural Industries

Advisory Group determined that no requirements in respect of biosecurity would be required in the criteria for exempt development.

Biodiversity Impacts

Many of Wollondilly's rural lands comprise land that is considered to be of high biodiversity value. Wollondilly's Rural Lands Strategy identifies that 40% of rural land uses comprise native vegetation. Vegetation clearing in rural zones is controlled under the Local Land Services Act, 2013 and The Land Management (Native Vegetation) Code 2018 includes exemptions for vegetation removal in rural zones. Development consent for the removal of vegetation in rural zones is only required where:

1. The land is identified as a Strategic Conservation Area under *State Environmental Planning Policy (Biodiversity) 2021*;
2. The use for which the vegetation removal is being undertaken required development consent.

Many of the exemptions that are enabled under the rural clearing code apply where there is an existing or proposed agricultural use, and as such, developing a pathway whereby horticulture could be carried out as exempt or complying development may by virtue enable broad scale clearing also as exempt or complying development. To avoid such a scenario, one of the standards that must be achieved for horticulture to be undertaken as exempt development is that it must not involve the removal of any native vegetation.

C 3.10 Has the planning proposal adequately addressed any social and economic effects?

The economic impacts from the proposal are likely to be mostly positive. Any social impacts are likely to be associated with matters such as impact from odour or chemical spray drift which have been addressed above.

Section D – Infrastructure (Local, State and Commonwealth)

D3.11. Is there adequate public infrastructure for the planning proposal?

It is considered that adequate public infrastructure is in place to support the proposal.

It is noted that Access to water is a critical component of any horticultural use undertaken in Wollondilly and demonstrating water access is typically a key consideration in any proposed horticulture use. This was identified as a key issue by Council's Agriculture and Rural Industries Advisory Group at the workshop and the following key points were also raised:

- The use must have a confirmed access to a water source (being groundwater, river or dam);
- The landowner would need to undertake their own due diligence in any case with regard to a reliable water source;
- There was a general agreement that water is a key consideration in enabling horticulture to be undertaken as exempt/complying development in the rural zones;

Having regard to the above, a requirement has been included that in order for a horticulture use to be undertaken as exempt or complying development, it must have access to a suitable water source to sustain the use (being either a river or groundwater extraction license or an on-site storage dam). A requirement has also been included for a reticulated system to be established for hydroponics/igloos in order to be undertaken as exempt or complying development, in recognition of the opportunity that exists for water re-use with these developments.

Section E – State and Commonwealth Interests

E3.12 What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?

Formal consultation with public agencies will occur as part of the formal public exhibition of the proposal following receipt of a Gateway Determination. Comments will however, be sought from Water NSW as part of the preparation of the Planning Proposal in accordance with Ministerial Direction 3.3 Sydney Drinking Water Catchments as part of the land to which the proposal will apply is located within the Sydney Drinking Water Catchment area.

Part 4 – Maps

This Draft Planning Proposal does not seek any mapping amendments.

Part 5 – Community Consultation

Community Consultation

The actions in Council's Rural Lands Strategy requiring a review of the horticulture pathways was largely in response to the outcomes of consultation undertaken with rural landholders and Councils Agriculture and Rural Industries Advisory Group during the preparation of that Strategy. In the initial stages of Council's Rural Lands Strategy, a survey was sent to primary producers in the area. Legislation constraints and red tape were identified as one of the key issues facing the future of rural land in Wollondilly, while legislation changes were identified as a key area that would make farming in Wollondilly more productive. The survey also concluded with a series of weighted statements, of which the following were ranked in the top 5:

- Tailor planning policies throughout the rural areas of the Shire having regard to agricultural land capability, landscape and environmental characteristics and proximity to villages;
- Encourage intensive horticulture such as glasshouses

The following items from the consultation with primary producers and rural landholders throughout the development of Wollondilly's Rural Lands Strategy are included for information:

1. Landholder Survey (March, 2020);
2. Fact Sheet supporting landholder survey (March, 2020);
3. Letter to primary producers with survey link for rural lands survey;
4. Results from rural landholder survey;
5. Background Findings Report – Consultation Section;

Consultation with Public Agencies

Consultation will be undertaken with Water NSW prior to Council making a decision on whether to proceed to the Gateway Determination Stage as required by Ministerial Direction 3.3 Sydney Drinking Water Catchments. Further consultation will be undertaken with all relevant Public Agencies as part of the Public Exhibition Stage following the receipt of the Gateway Determination.

Council's Agriculture and Rural Industries Advisory Group

Council staff have held two workshops with the Advisory Group, with the most recent workshop on 23 November. The results of this workshop are largely what have formed the criteria provided in Part 2.

It was also agreed with the advisory group that the approach that the draft Planning Proposal would pursue would be to include Horticulture in Schedule 2 Exempt Development in WLEP 2011 with associated criteria that must be met in order to be undertaken without a development application. The other option of identifying the use as development permitted

without consent in the land use table for the zone was not considered to be a suitable approach, for the reasons outlined in this report.

It should be noted that the workshop with Council's Advisory Group was focussed on developing suitable criteria whereby horticulture could be undertaken as exempt development in the RU1 Primary Production zone, as this was seen as the priority of the three zones given that the intent of this zone is to support agricultural production and the development of this criteria initially would form the basis for the criteria whereby horticulture could be undertaken as complying development in the RU2 Rural Landscape zone and the RU4 Primary Production Small Lots zone.

The group also noted the land use conflict challenges that may occur for producers in the RU2 and RU4 zones, and were generally satisfied that a complying pathway was more appropriate for these zones to provide certainty and a small assessment.

Part 6 – Project Timeline

Project detail	Timeline
Pre-Lodgement Consultation with DPIE and Water NSW (as per Ministerial Direction)	End January, 2024
Consideration by Wollondilly Local Planning Panel	8 February, 2024
Consideration of draft Planning Proposal by Council	27 February, 2024
Gateway determination	End March, 2024
Pre-exhibition	End April, 2024
Commencement and completion of public exhibition period	End May, 2024
Consideration of submissions	Late June, 2024
Post-exhibition review	Late June, 2024
Consideration of the Planning Proposal by Council (seeking finalisation)	23 July, 2024
Submission to the Department for finalisation (where applicable)	August, 2024
Gazettal of LEP amendment	September, 2024

Appendices

A. Compliance with SEPPs

Table summarising compliance with applicable State Environmental Planning Policies (SEPPs) and deemed SEPPs (formerly Regional Environmental Plans)

B. Assessment against Section 9.1 Directions

Table summarising compliance with applicable Section 9.1 Ministerial Directions issued under the *Environmental Planning and Assessment Act 1979*.

Appendix A

Compliance with SEPPs

The table below indicates compliance, where applicable, with the State Environmental Planning Policies (SEPPs) and deemed SEPPs (formerly Regional Environmental Plans)

State Environmental Planning Policies (SEPPs)	Includes recently repealed SEPPs	Applicable	Consistent	Assessment
SEPP (Transport and Infrastructure) 2021	SEPP (Infrastructure) 2007 SEPP (Educational Establishments and Childcare Facilities) 2017 SEPP (Major Infrastructure Corridors) 2020 SEPP (Three Ports) 2013	Yes	N/A	The planning proposal will not contain provisions that will contradict or would hinder the application of the SEPP.
SEPP (Biodiversity and Conservation) 2021	SEPP (Vegetation in Non-Rural Areas) 2017 SEPP (Koala Habitat Protection) 2020 SEPP (Koala Habitat Protection) 2021 Murray Regional Environmental Plan No 2 – Riverine Land SEPP No 19 – Bushland in Urban Areas SEPP No 50 – Canal Estate Development SEPP (Sydney Drinking Water Catchment) 2011 Sydney Regional Environmental Plan No 20 – Hawkesbury – Nepean River Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment Willandra Lakes Regional Environmental Plan No 1 – World Heritage Property	Yes		The lands to which the Planning Proposal relates are mostly located within the Hawkesbury-Nepean Water Catchment and Sydney Drinking Water Catchment areas. The planning proposal will not contain provisions that will contradict or would hinder the application of the SEPP.
SEPP (Primary Production) 2021	SEPP (Primary Production and Rural Development) 2019 Sydney Regional Environmental Plan No 8 (Central Coast Plateau Areas)	Yes	Yes	The proposal is consistent with the objectives and controls contained in the SEPP (Primary Production) 2021.
SEPP (Resilience and Hazards) 2021	SEPP (Coastal Management) 2018 SEPP 33 – Hazardous and Offensive Development SEPP 55 – Remediation of Land	Yes	Yes	<p>The amendments proposed apply to a broad area of rural zoned land and there is the possibility that this could include sites which have previously been used for a potentially contaminating use. It is acknowledged that enabling horticulture to be undertaken as exempt or complying development will remove the ability for a comprehensive planning assessment to be carried out under Chapter 4 – Remediation of Land contained in <i>SEPP (Resilience and Hazards) 2021</i>.</p> <p>As such, it is proposed to include the following provision that must be satisfied in order for horticulture to be undertaken as exempt development in the RU1 zone, or as complying development in the RU2 or RU4 zone:</p> <p><i>(13) Where the land is, or has been used for a purpose identified under table 1 of the EPA Contaminated Land Planning Guidelines and the horticultural use will involve the growing of produce from the ground, a statement must be obtained from a person who is qualified to assess contaminated sites, stating:</i></p> <ul style="list-style-type: none"> <i>the land is suitable for the development, or</i> <i>the land will be suitable for the development if specified remediation works are carried out.</i> <p>This is a similar approach taken in the <i>SEPP (Exempt and Complying Development Codes) 2008</i> for Industrial and Commercial Development undertaken as Complying Development.</p>
SEPP (Industry and Employment) 2021	SEPP (Western Sydney Employment Area) 2009 SEPP 64 – Advertising and Signage	No	N/A	The planning proposal will not contain provisions that will contradict or would hinder the application of the SEPP.
SEPP (Resources and Energy) 2021	SEPP (Mining, Petroleum Production and Extractive Industries) 2007 Sydney Regional Environmental Plan No. 9 – Extractive Industries	No	N/A	The planning proposal will not contain provisions that will contradict or would hinder the application of the SEPP.

State Environmental Planning Policies (SEPPs)	Includes recently repealed SEPPs	Applicable	Consistent	Assessment
SEPP (Planning Systems) 2021	SEPP (State and Regional Development) 2011 SEPP (Aboriginal Land) 2019 SEPP (Concurrences and Consents) 2018	No	N/A	The planning proposal will not contain provisions that will contradict or would hinder the application of the SEPP.
SEPP (Precincts – Eastern Harbour City) 2021	Sites within the State Environmental Planning Policy (State Significant Precincts) 2005 have been split across the 4 precincts. Sites within the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 have been split between the Central River City and Western Parkland City precincts	No	N/A	Not applicable to Wollondilly.
SEPP (Precincts – Central River City) 2021		No	N/A	Not applicable to Wollondilly.
SEPP (Precincts – Western Parkland City) 2021		Yes	Yes	<p>The Planning Proposal will not contain provisions that will contradict or would hinder the application of the SEPP.</p> <p>Land within the Wilton and Greater Macarthur Priority Growth Areas</p> <p>Wollondilly's Rural Lands Strategy did not consider the Greater MacArthur and Wilton Priority Growth Areas on the basis that these areas have been identified for significant growth to the year 2040. Accordingly, the proposed changes include a requirement for the land to be located outside the Wilton and Greater Macarthur Priority Growth Areas in order to be carried out as exempt or complying development. Any proposal to undertake horticulture in these areas would still require development application which would enable Council to consider any conflicts with the designated urban growth that has been planned, which would include consideration of any structure plans and the like that have been developed for those areas. The proposal therefore would not contradict any of the provisions contained in the SEPP in relation to the priority growth areas.</p> <p>Land within Wildlife Buffer Zone on the Wildlife Buffer Zone map under State Environmental Planning Policy (Precincts – Western Parkland City) 2021</p> <p>In October, 2020, the NSW Government introduced the <i>State Environmental Planning Policy (SEPP) (Western Sydney Aerotropolis) 2020</i>, now known as the <i>SEPP (Precincts – Western Parkland City) 2021</i>. This State Policy includes a number of planning controls to safeguard the future operations of the Western Sydney International Airport.</p> <p>One of these safeguards was the application of a Wildlife Buffer Zone Area. The Wildlife Buffer Zone comprises a 13km radius around the Aerotropolis Precinct and affects a significant area of land in the northern part of the Wollondilly Local Government Area.</p> <p>Where land is located within the 13km radius, the SEPP provides a number of matters that Council need to consider as part of the assessment of any development application for a land use that is likely to attract birds and insects (and ultimately lead to bird strikes). The land uses where these considerations apply are listed in the SEPP and one of those uses identified is Intensive Plant Agriculture (which includes Horticulture).</p> <p>Accordingly, the proposed changes include a requirement for the land to be located outside the Wildlife Buffer Area where field-based horticulture is proposed in order to be carried out as exempt or complying development. In this instance a Development Application would still be required for the use, so as to enable the appropriate risk assessment under the SEPP can be undertaken. Horticulture undertaken within a controlled environment (such as hydroponics/greenhouses etc) where it is fully enclosed may still be appropriate in these areas as exempt or complying development where the other criteria can be met, as they will be enclosed and will not attract birds and insects.</p> <p>The proposal therefore would not contradict any of the provisions contained in the SEPP in relation to the Western Sydney Airport safeguards.</p>
SEPP (Precincts – Regional) 2021				Not applicable to Wollondilly.

State Environmental Planning Policies (SEPPs)	Includes recently repealed SEPPs	Applicable	Consistent	Assessment
SEPP (Housing) 2021	State Environmental Planning Policy (Affordable Rental Housing) 2009 State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 State Environmental Planning Policy No 70 - Affordable Housing (Revised Schemes) State Environmental Planning Policy No 21 - Caravan Parks State Environmental Planning Policy No 36 - Manufactured Home Estates	No	N/A	The planning proposal will not contain provisions that will contradict or would hinder the application of the SEPP.
SEPP (Exempt and Complying Development Code) 2008	No changes	Yes	Yes	The SEPP (Exempt and Complying Development Codes) 2008 contains provisions whereby certain development can be undertaken across NSW as exempt development, and also contains a number of complying development codes. This Planning Proposal does not contain any provisions that would conflict with the exempt or complying development provisions contained in the SEPP. It has also been ensured that the requirements in cl 1.16 'General Requirements for Exempt Development' have applied to the exempt development provisions for horticulture in the RU1 zone in the proposed amendments to WLEP 2011.
SEPP (Building Sustainability Index: BASIX) 2004		No	N/A	The planning proposal will not contain provisions that will contradict or would hinder the application of the SEPP.
SEPP (Sustainable Buildings) 2022		No	N/A	The planning proposal will not contain provisions that will contradict or would hinder the application of the SEPP.
No 65 – Design Quality of Residential Apartment Development		No	N/A	The planning proposal will not contain provisions that will contradict or would hinder the application of the SEPP.

Appendix B

Assessment against Section 9.1 Directions

The table below assesses the planning proposal against Section 9.1 (2) Ministerial Directions issued under the *Environmental Planning & Assessment Act 1979*

	Ministerial Direction	Applicable	Consistent	Assessment
Focus area 1: Planning Systems				
1.1	Implementation of Regional Plan	Yes	Yes	The planning proposal is considered to be consistent with the Western City District Plan (see earlier assessment – Section B 3.3), and is therefore consistent with this direction.
1.2	Development of Aboriginal Land Council Land	No	N/A	This Direction is not applicable to Wollondilly.
1.3	Approval and Referral Requirements	Yes	Yes	The planning proposal does not include provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority.
1.4	Site Specific Provisions	Yes	Yes	The planning proposal does not include provisions with unnecessary restrictive site-specific planning controls.
Focus area 1: Planning Systems – Place-based				
1.5	Parramatta Road Corridor Urban Transformation Strategy	No	N/A	This Direction is not applicable to Wollondilly.
1.6	Implementation of North West Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	No	N/A	This Direction is not applicable to Wollondilly.
1.7	Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	No	N/A	This Direction is not applicable to Wollondilly.

	Ministerial Direction	Applicable	Consistent	Assessment
1.8	Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	No	N/A	The planning proposal is not inconsistent with the Wilton Priority Growth Area Land Use and Infrastructure Implementation Plan. The proposed amendments will not apply to land in the Wilton Priority Growth Area.
1.9	Implementation of Glenfield to Macarthur Urban Renewal Corridor	No	N/A	This Direction is not applicable to Wollondilly.
1.10	Implementation of the Western Sydney Aerotropolis Plan	Yes	Yes	The Planning Proposal is consistent with the objectives and overall intent of the Western Sydney Aerotropolis Plan (2020) which is a key requirement of the Ministerial Direction. In particular, the measures to retain the integrity of the Wildlife Buffer Zone controls described above in Attachment 1 under SEPP (Precincts – Western Parkland City) 2021.
1.11	Implementation of Bayside West Precincts 2036	No	N/A	This Direction is not applicable to Wollondilly.
1.12	Implementation of Planning Principles for the Cooks Cove Precinct	No	N/A	This Direction is not applicable to Wollondilly.
1.13	Implementation of St Leonards and Crows Nest 2036 Plan	No	N/A	This Direction is not applicable to Wollondilly.
1.14	Implementation of Greater Macarthur 2040	No	N/A	The planning proposal is not inconsistent with Greater Macarthur 2040. The proposed amendments will not apply to land in the Greater Macarthur Growth Area.
1.15	Implementation of the Pyrmont Peninsula Place Strategy	No	N/A	This Direction is not applicable to Wollondilly.
1.16	North West Rail Link Corridor Strategy	No	N/A	This Direction is not applicable to Wollondilly.
1.17	Implementation of the Bays West Place Strategy	No	N/A	This Direction is not applicable to Wollondilly

	Ministerial Direction	Applicable	Consistent	Assessment
1.18	Implementation of the Macquarie Park Innovation Precinct	No	N/A	This Direction is not applicable to Wollondilly
1.19	Implementation of the Westmead Place Strategy	No	N/A	This Direction is not applicable to Wollondilly
1.20	Implementation of the Camelia-Rosehill Place Strategy	No	N/A	This Direction is not applicable to Wollondilly
1.21	Implementation of South-West Growth Area Structure Plan	No	N/A	This Direction is not applicable to Wollondilly
1.22	Implementation of the Cherrybrook Station Place Strategy	No	N/A	This Direction is not applicable to Wollondilly.
Focus area 2: Design and Place				
Focus area 3: Biodiversity and Conservation				
3.1	Conservation Zones	No	N/A	This Direction is not applicable to the Planning Proposal.
3.2	Heritage Conservation	Yes	Yes	A provision has been included to ensure that where horticulture is proposed to be undertaken in a controlled environment structure such as igloos, glasshouses and the like, that the land not be located in a Heritage Conservation Area. This will ensure that any impacts of such a development on heritage values can still be assessed via the development application pathway and the requirements of the Ministerial Direction will not be compromised by the proposal.

	Ministerial Direction	Applicable	Consistent	Assessment
3.3	Sydney Drinking Water Catchments	Yes	Yes	<p>A significant portion of rural zoned land in Wollondilly falls within the Sydney Drinking Water catchment. Any development in this area is required to achieve a Neutral or Beneficial Effect on Water Quality (NORBE) and any Planning Proposal in this area must meet the requirements of Ministerial Direction 3.3 Sydney Drinking Water Catchments.</p> <p>The standards to undertake horticulture as exempt development within a controlled environment structure such as igloos, glasshouses and the like (both within the Drinking Water Catchment Area and more broadly) will be subject to a requirement that the development include a reticulated system for the treatment and reuse of water in order to minimise runoff and reduce the impact on receiving waters.</p> <p>The extent to which water could be reused in such a setup depends on the type of hydroponics system being run. The advice from the Agriculture and Rural Industries Advisory Group at the workshop was that 'run to waste' is the predominant system used in Western Sydney. 'Run to Waste' is a concept applied in horticulture where irrigation is applied until it moves out of the root zone and is then disposed of. A recirculation production system that recovers nutrients and reduces water demand should be encouraged.</p> <p>A number of measures have also been imposed in the standards that would need to be achieved in order to undertake the use as exempt/complying development.</p> <p>Consultation will also be undertaken with Water NSW prior to Council making a decision on whether to proceed to the Gateway Determination stage in accordance with the requirements of the Direction.</p>
3.4	Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	No	N/A	This Direction is not applicable to the Planning Proposal.

	Ministerial Direction	Applicable	Consistent	Assessment
3.5	Recreation Vehicle Areas	No	N/A	This Direction is not applicable to the Planning Proposal.
3.6	Strategic Conservation Planning	No	N/A	This Direction is not applicable to the Planning Proposal.
3.7	Public Bushland	No	N/A	This Direction is not applicable to the Planning Proposal.
3.8	Willandra Lakes Region	No	N/A	This Direction is not applicable to Wollondilly.
3.9	Sydney Harbour Foreshores and Waterways Area	No	N/A	This Direction is not applicable to Wollondilly.
3.10	Water Catchment Protection	No	N/A	This Direction is not applicable to the Planning Proposal.
Focus area 4: Resilience and Hazards				
4.1	Flooding	No	N/A	This Direction is not applicable to the Planning Proposal.
4.2	Coastal Management	No	N/A	This Direction is not applicable to Wollondilly.
4.3	Planning for Bushfire Protection	No	N/A	This Direction is not applicable to the Planning Proposal.

4.4	Remediation of Contaminated Land	Yes	Yes	<p>The amendments proposed apply to a broad area of rural zoned land and there is the possibility that this could include sites which have previously been used for a potentially contaminating use. It is acknowledged that enabling horticulture to be undertaken as exempt or complying development will remove the ability for a comprehensive planning assessment to be carried out under SEPP (Resilience and Hazards) 2021.</p> <p>As such, it is proposed to include the following provision that must be satisfied in order for horticulture to be undertaken as exempt development in the RU1 zone, or as complying development in the RU2 or RU4 zone:</p> <p><i>(13) Where the land is, or has been used for a purpose identified under table 1 of the EPA Contaminated Land Planning Guidelines and the horticultural use will involve the growing of produce from the ground, a statement must be obtained from a person who is qualified to assess contaminated sites, stating:</i></p> <ul style="list-style-type: none"> <i>the land is suitable for the development, or</i> <i>the land will be suitable for the development if specified remediation works are carried out.</i> <p>This is a similar approach taken in the SEPP (Exempt and Complying Development Codes) 2008 for Industrial and Commercial Development undertaken as Complying Development. Such an approach should ensure that the requirements of Ministerial Direction 4.4 are achieved, being that:</p> <p><i>(a) the planning proposal authority has considered whether the land is contaminated, and</i></p> <p><i>(b) if the land is contaminated, the planning proposal authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and</i></p> <p><i>(c) if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning proposal authority is satisfied that the land will be so remediated before the land is used for that purpose.</i></p>
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	Ministerial Direction	Applicable	Consistent	Assessment
				<i>In order to satisfy itself as to paragraph 1(c), the planning proposal authority may need to include certain provisions in the local environmental plan.</i>
4.5	Acid Sulfate Soils	No	N/A	This Direction is not applicable to the Planning Proposal.
4.6	Mine Subsidence and Unstable Land	Yes	N/A	<p>The proposal will apply to certain areas of land that have been identified as being within Mine Subsidence Districts.</p> <p>Horticulture where it is carried out on a field basis (i.e. growing plants in the ground) poses no risk in terms of mine subsidence. Structures such as glasshouses, igloos etc, pose a minimal risk and can be exempt from requiring Subsidence Advisory Approval in some cases. However, consultation will be carried out with Subsidence Advisory during the public exhibition stage in accordance with the requirements of the direction and the following provision has also been included in the requirements for exempt/complying development:</p> <p><i>'where the use is proposed in structures such as, igloos, glasshouses, polytunnels and the like and is proposed on land in a mine subsidence district within the meaning of the Mine Subsidence Compensation Act 1961, have the prior approval of the Subsidence Advisory Board (where required)'</i></p>
Focus area 5: Transport and Infrastructure				
5.1	Integrating Land Use and Transport	No	N/A	This Direction is not applicable to the Planning Proposal.
5.2	Reserving Land for Public Purposes	No	N/A	This Direction is not applicable to the Planning Proposal.
5.3	Development Near Regulated Airports and Defence Airfields	No	N/A	The site is not located near a regulated airport which includes a defence airfield.
5.4	Shooting Ranges	No	N/A	The site is not located adjacent to land with an existing shooting range.

	Ministerial Direction	Applicable	Consistent	Assessment
Focus area 6: Housing				
6.1	Residential Zones	Yes	N/A	This Direction is not applicable to the Planning Proposal.
6.2	Caravan Parks and Manufactured Home Estates	No	N/A	This Direction is not applicable to the Planning Proposal.
Focus area 7: Industry and Employment				
7.1	Business and Industrial Zones	No	N/A	This Direction is not applicable to the Planning Proposal.
7.2	Reduction in non-hosted short-term rental accommodation period	No	N/A	This Direction is not applicable to the Planning Proposal.
7.3	Commercial and Retail Development along the Pacific Highway, North Coast	No	N/A	This Direction is not applicable to Wollondilly.
Focus area 8: Resources and Energy				
8.1	Mining, Petroleum Production and Extractive Industries	Yes	Yes	It is considered unlikely that the Planning Proposal would prohibit or restrict the development of resources, including coal, other minerals etc. Consultation will be carried out with the NSW Department of Mining, Exploration and Geoscience during the formal public exhibition of the Planning Proposal following the Gateway Determination to ensure that the requirements of the Ministerial Direction are satisfied.
Focus area 9: Primary Production				
9.1	Rural Zones	Yes	Yes	The Planning Proposal is consistent with the provisions of this Direction.
9.2	Rural Lands	Yes	Yes	The Planning Proposal is consistent with the provisions of this Direction.
9.3	Oyster Aquaculture	No	N/A	This Direction is not applicable to Wollondilly.

	Ministerial Direction	Applicable	Consistent	Assessment
9.4	Farmland of State and Regional Significance on the NSW Far North Coast	No	N/A	This Direction is not applicable to Wollondilly.

From: [REDACTED]
Sent: Friday, 2 February 2024 9:24 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: Referral Request - Wollondilly Scoping Proposal - Horticulture in Rural Zones

Good morning [REDACTED],

Thank you for forwarding the scoping proposal from the Wollondilly Shire Council for our review of the proposed horticulture approval requirements for horticulture in rural zones under the Wollondilly LEP 2011.

Horticulture which includes intensive plant agriculture and Controlled Environment Horticulture (CEH) are extremely important agricultural industries that will be required to meet the challenges of the future in terms of food security. Wollondilly LGA is in a perfect location for the Greater Sydney Region for market accessibility.

Wollondilly is the 3rd largest LGA by gross value of agricultural commodities in the Greater Sydney Region at \$86.69M. It is No. 1 in the value of ag commodities in NSW for vegetables, No. 2 for fruit and nuts, and No. 3 for nurseries, cut flowers or cultivated turf, so horticulture is an extremely important industry for this LGA ([AgTrack - Agricultural and Land Use Dashboard \(nsw.gov.au\)](https://www.nsw.gov.au/agriculture-and-land-use)).

Wollondilly Shire Council have an excellent Rural Land Use Strategy (RLS) that has considered agriculture in the context of the rural lands in the LGA supported by planning principles and key actions. We note this proposal has been identified in the RLS Action 3.1.6 to investigate LEP changes to encourage greater horticultural production.

NSW Department of Primary Industries (DPI) Agriculture is supportive of Wollondilly Council's scoping proposal and the intent to provide an opportunity for small-scale, low-impact horticultural activities to be undertaken as exempt development in the RU1 Primary Production and complying development in the RU2 Rural Landscape zone, however, would suggest the RU4 Primary Production Small Lots zone as complying development is considered further before inclusion.

The RLS identified the need to review the RU4 Primary Production Small Lots zone (Action 4.1.3) where land not suitable for the objectives of this zone would be identified in an Agricultural Viability Study (Action 3.1.1). As this study has not taken place, the provision of complying development for the RU4 zone with the proposed setbacks/buffers and size of infrastructure allowed could potentially introduce land use conflict issues that have not been considered.

It is recommended buffers be considered in line with the *NSW DPI Buffer Zones to Reduce Land Use Conflict with Agriculture Guide* and the *Managing Biosecurity in Land Use Planning and Development Guide* where both guides mention a 250m buffer for intensive plant agriculture and controlled environment horticulture. The Biosecurity guide also advises providing at least a 5-10m buffer around a greenhouse that is kept clean and clear, which would need to be in addition to any vegetation buffers required.

Separation distances could potentially be minimised by the provision of vegetative buffers if the 250m recommendation could not be met on an allotment. This will be particularly important for open field-based horticulture where vegetation buffers help to control spray drift.

An alternative consideration to number 15(f) of the draft clauses where the combined total of all structures must not exceed either 4,000m² for RU2 and RU4, and 5,000m² for RU1, might be the development of a relationship between the property's lot size and the square metre size of the horticultural development. This may also provide enough area for suitable buffers and help reduce potential land use conflict issues.

Most intensive plant and controlled environment horticulture developments are necessarily accompanied by production, packing and/or processing facilities. It is recommended consideration be given to their inclusion in further developing standards. Other issues that would need to be considered are stormwater management, erosion control, waste management, and pest management, including biosecurity.

The Central Coast Primary Industries Centre at Ourimbah (CCPIC) is the NSW Department of Primary Industries Centre of Excellence for market access, postharvest, food safety and greenhouse horticulture research and is

collocated with the Ourimbah campus of the University of Newcastle. We would be happy to organise a meeting with horticultural officers who may be able to provide further information for Council's consideration.

Additionally, if planning officers were interested, we may be able to line up access to a functioning horticultural business to further understand how these businesses operate on a day-to-day basis.

I have also provided links to some resources that may be of interest to Council. Some are outdated, apologies, however, the principle behind them is still relevant.

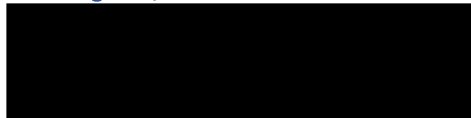
DPI NSW Guidelines

- [Guidelines for the development of controlled environment horticulture 1](#) (PDF, 618.4KB)
- [Guidelines for the development of controlled environment horticulture 2](#) (PDF, 460.6KB)
- [Managing Biosecurity in Land Use Planning and Development Guide](#) (PDF, 761KB)
- [Biosecurity and Food Safety Strategy 2022-2030](#) (PDF, 3772KB)
- [Buffer Zones to Reduce Land Use Conflict with Agriculture](#) (PDF, 611KB)

Industry body - <https://protectedcropping.net.au/>

If you would like to discuss any of the above information or arrange meetings with our specialists, please do not hesitate to contact either me or [REDACTED]

Kind regards,



Department of Primary Industries NSW



www.dpi.nsw.gov.au



The Department of Primary Industries acknowledges that it stands on Aboriginal land. We acknowledge the traditional custodians of the land and we show our respect for elders' past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally, and economically.



Please consider the environment before printing this e-mail.

From: [REDACTED]
Sent: Tuesday, 16 January 2024 4:32 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: Referral Request - Wollondilly Scoping Proposal - Horticulture in Rural Zones

Good Afternoon [REDACTED],

Metro West have received a scoping proposal from Wollondilly Council in relation to the review of horticulture approval requirements for horticulture in rural zones.

To assist could you please review the attached letter and scoping proposal, and provide any comments by the 31st Jan?

Kind regards,



Department of Planning, Housing and Infrastructure



dphi.nsw.gov.au

Level 31, 4PSQ
12 Darcy Street
Parramatta NSW 2150



I acknowledge the traditional custodians of the land and pay respects to Elders past and present. I also acknowledge all the Aboriginal and Torres Strait Islander staff working with NSW Government at this time.

Privacy/Legal disclaimers go here.

Please consider the environment before printing this email.



1 February 2024

Contact:

Telephone:

Our ref:

Wollondilly Shire Council
PO Box 21
PICTON NSW 2571

Dear [REDACTED],

Planning Proposal – Approval Requirements for Horticulture in Rural Zones

I refer to your email of 11 January 2024 requesting pre-lodgement advice on a Planning Proposal seeking to streamline the approval requirements for horticulture in various rural zones under the Wollondilly Local Environmental Plan 2011 (Wollondilly LEP). In preparing our response we have had regard to the s 9.1 Ministerial Direction 3.3 Sydney Drinking Water Catchment and its overall objective of providing healthy catchments and protecting water quality in the Sydney Drinking Water Catchment (SDWC).

The Proposal seeks to provide an 'exempt development' pathway for horticulture in the RU1 Primary Production Zone and a 'complying development' pathway in the RU2 Rural Landscape Zone and RU4 Primary Production Small Lots zones within the Wollondilly LGA. Land within the Wilton and Greater Macarthur Growth Areas would be excluded from the proposed exempt and complying development pathways.

Approximately 75% of the Wollondilly LGA overlaps with the SDWC. The LGA also encompasses critical water supply infrastructure, including Warragamba Dam, the majority of Lake Burragorang, parts of the Cataract and Cordeaux Dams, the Warragamba Pipelines and Upper Canal. Most of the SDWC area within the LGA is 'Special Area' under the *Water NSW Act 2014* and associated Water NSW Regulation 2020 due to the proximity to key water storages and their associated dams. Private land areas, such as within the Werri Berri Creek subcatchment drain directly into Lake Burragorang, the main bulk raw water storage for Sydney's drinking water supply. Many of these areas are currently available for agricultural use subject to relevant planning controls.

Horticulture ventures can vary from closed systems (e.g. greenhouses) to vegetable and fruit growing in open fields. Horticulture carries a potentially high risk to water quality due to the risk from fertilisers (with respect to nutrients and the potential application of organic-

WaterNSW ABN 21 147 934 787
169 Macquarie Street Parramatta NSW 2150
PO Box 398, Parramatta NSW 2124

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derived manures), sediment, pesticides and other chemicals. Increased nutrients in runoff reaching creeks and rivers can also increase the risk of algal blooms in watercourses and storages. These inherent risks raise the need for precautionary approaches to manage new horticulture developments up-front through the development consent process.

The proposed LEP amendments would likely increase the water quality risks from horticulture activities in the SDWC due to the relaxation of planning controls and approval processes for horticultural ventures, and the number of ventures that might consequently arise. Importantly, the exempt and complying development pathways circumvent the need for a full development application (DA) and consent process, bypassing critical requirements under Parts 6.2 and 6.5 of State Environmental Planning Policy (Biodiversity and Conservation 2021) (B&C SEPP) that protect water quality in the SDWC. This includes key requirements under Part 6.5 of the B&C SEPP such as:

- for new horticultural development to have a neutral or beneficial effect (NorBE) on water quality
- for concurrence from WaterNSW for horticultural ventures
- to conform with the [Neutral or Beneficial Effect on Water Quality Assessment Guideline](#) (NorBE Guideline), which in turn calls up the relevant Current Recommended Practices. There are three (3) [CRPs relevant to horticulture](#) development in the SDWC that would be bypassed under the proposal:
 - [Horticulture in the Sydney Drinking Water Catchment](#)
 - [Guidelines for Environmental Assurance in Australian Horticulture](#)
 - [Managing wastewater from Intensive Agriculture: A wetland system.](#)

The exempt and complying development pathways are also likely to increase WaterNSW's compliance responsibilities and functions. This is because water quality risks would no longer be averted through the B&C SEPP provisions such as the NorBE requirement and referral to WaterNSW for concurrence. Pollution control would pass to the tail-end of the development process (i.e. to after the development has been completed and is operational) and be reliant upon compliance action rather than on avoiding water quality risks through effective planning and design. This is not a good outcome for water quality or the wider environment.

Due to the potential risks to water quality and catchment health, we do not support the Planning Proposal and proposed LEP amendments in their current form. If Council seeks to proceed with the Proposal, we request that land within the SDWC, or as a bare minimum land declared as 'Special Area', be excluded from the proposed exempt and complying development pathways. For completeness, we support the proposed exclusion of the Wilton and Greater Macarthur Growth Areas from the proposed exempt and complying development provisions as this would implicitly protect the open waters of the Upper Canal in areas outside the SDWC.

Our position on this matter is not intended to stop horticultural development in the SDWC but rather to ensure that the water quality risks are effectively assessed, managed and

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controlled upfront through the development consent process before new ventures are undertaken. This is in keeping with the objective of section 6.58 of the B&C SEPP which seeks to provide 'healthy water catchments that will deliver high quality water to the Sydney area while also permitting compatible development'.

If you have any questions regarding this letter, please contact [REDACTED] at [REDACTED]

Yours sincerely

[REDACTED]

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