



# PLANNING PROPOSAL

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

July, 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
3	22 March, 2024	Prepared to support the submission of the Planning Proposal to DPHI for a Gateway Determination	Mark Ruddiman	14043
4	15 July, 2024	Prepared for public exhibition under s3.34 of the <i>Environmental Planning and Assessment Act, 1979</i>	Mark Ruddiman	14043
Current Version		4		

# Executive Summary Table

<b>Site address</b>	There is no specific address for the Planning Proposal, however, it is intended to generally apply to land zoned RU1 Primary Production, RU2 Rural Landscape and RU4 Primary Production Small Lots under <i>Wollondilly Local Environmental Plan 2011</i> , noting that there are some areas of the Shire where the proposed amendments will not apply (for example, land within the Wilton and Greater Macarthur Priority Growth Areas).
<b>Existing Planning Controls</b>	<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 development consent.</p> <p>Schedule 2 (Exempt Development) and Schedule 3 (Complying Development) in WLEP 2011 do not contain any provisions that would allow 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>
<b>Summary of recommendations:</b>	<ul style="list-style-type: none"> <li>• Amend WLEP 2011 Schedule 2 (Exempt Development) to: <ul style="list-style-type: none"> <li>○ enable horticulture to be undertaken in the RU1 Primary Production zone as exempt development subject to certain criteria;</li> <li>○ enable small scale horticulture to be undertaken as exempt development in the RU2 Rural Landscape Zone and RU4 Primary Production Small Lots Zone;</li> </ul> </li> <li>• Amend WLEP 2011 Schedule 3 (Complying Development) to enable horticulture to be undertaken in the RU2 Rural Landscape zone and RU4 Primary Production Small Lots Zone as Complying Development subject to certain criteria.</li> </ul>
<b>Technical Studies relevant to the planning proposal</b>	Wollondilly Rural Lands Strategy (2021); Wollondilly Rural Lands Findings Report (Locale Consulting, December 2020)
<b>Applicant</b>	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 either exempt or Complying Development in the RU2 Rural Landscape Zone and RU4 Primary Production Zone. Undertaking horticulture as either exempt or complying development under these proposed changes will rely on the development meeting 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, Housing and Infrastructure's *Local Environmental Plan Making Guideline* (August, 2023).

## 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 Wollondilly Rural Lands Strategy identified significant opportunities for horticulture in the Wollondilly Local Government Area to the year 2040, however, the current framework 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. The amendments recognise improved technologies and more efficient practices in the horticulture sector that have over time reduced the impacts of these activities and in many cases the need for approval via the development application pathway in the Wollondilly Local Government Area is now seen as unnecessary. Providing an opportunity for low impact horticultural activities on relatively unconstrained land to be undertaken as exempt development in the RU1 zone and as either exempt or complying development in the RU2 and RU4 zones will encourage new horticultural activities in the area.

The changes proposed by these amendments aim to create an exempt and complying development pathway in the rural zones for both the use (i.e. horticulture) as well as any structures in which the horticultural use will be carried out where the use would occur in a controlled environment. This would include structures such as igloos, glasshouses and the like. Approval requirements for structures that are ancillary to the agricultural use, such as machinery sheds, storage sheds etc will be determined under Subdivision 16 (Farm Buildings other than stock holding yards, grain silos and grain bunkers) in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

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 generally apply to land zoned RU1 Primary Production, RU2 Rural Landscape and RU4 Primary Production Small Lots under *Wollondilly Local Environmental Plan 2011*. It is important to note that even after the proposed amendments are made, there will still be some areas in the Shire where landholders will not be able to rely on the exempt and/or complying development pathway for horticulture (e.g. land within the Wilton or Greater Macarthur Growth Areas).

## Structure of this document

This Planning Proposal has been prepared in accordance with the NSW Government's *Local Environmental Plan Making Guideline (August, 2023)*.

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 six (6) 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, Housing and Infrastructures website.

## Delegation

Council sought delegation as the local plan-making authority to make this amendment to the *Wollondilly Local Environmental Plan 2011* when the proposal was submitted for a Gateway Determination. However, the Gateway Determination that was issued on 24 May, 2024 by the Department of Planning, Housing and Infrastructure determined that Council **would not be the designated Local Plan Making Authority for this Planning Proposal**.

# 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 in *Wollondilly Local Environmental Plan 2011* on suitable rural lands;
3. To ensure that, where necessary, appropriate criteria (referred to as 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, and for small scale horticulture in the RU2 Rural Landscape Zone and RU4 Primary Production Small Lots 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, 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 to include hydroponic operations that utilise “drain to waste” systems, any waste water must be appropriately collected and either used to irrigate field-based horticulture on the landholding or else be fully captured and appropriately disposed of;
- (3) Must have access to a suitable water source to sustain the use;

- (4) For open field-based horticulture, must achieve a setback distance of:
- no less than 5m from any property boundary for organic horticulture certified under the Australian Certified Organic Standard (not including any property boundary that forms part of the landholding);
  - for all other field-based horticulture: 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 15 percent after any allowable cut and fill (up to a maximum of 1 metre);
- (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:
- if required by the *Local Government Act, 1993* for:
    - an on-site effluent disposal system if the development is undertaken on unsewered land;
    - an on-site stormwater drainage system
  - 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) 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.
- (14) Must not result in the removal of any native vegetation that requires a permit, approval or development consent, unless the removal or pruning is carried out in accordance with the permit, approval or development consent;
- (15) Where horticulture is proposed in controlled environment structures such as igloos, glasshouses, polytunnels and the like, must achieve the following:
- not be located within a Heritage Conservation Area (including a Landscape Conservation Area);
  - be setback in accordance with the table below:

Land Use Zone	Minimum Setbacks	
	Any boundary adjoining a Residential Zone	Any boundary not adjoining a residential zone (not including any property boundary that forms part of the landholding).
RU1	20m	10m



<b>RU2</b>	20m	20m
<b>RU4</b>	20m	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 8 metres in height above existing ground level;

f) The combined total of all structures must not exceed the following:

<b>Land Use Zone</b>	<b>Combined Size of Structures</b>
<b>RU1</b>	5000 sqm
<b>RU2</b>	1000 sqm
<b>RU4</b>	1000 sqm

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

(16) 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*,

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 to include hydroponic operations that utilise “drain to waste” systems, any waste water must be appropriately collected and either used to irrigate field-based horticulture on the landholding or else be fully captured and appropriately disposed of;

(3) Must have access to a suitable water source to sustain the use;

(4) For field-based horticulture, must achieve a setback distance of no less than:

i) no less than 5m from any property boundary for organic horticulture certified under the Australian Certified Organic Standard (not including any property boundary that forms part of the landholding);

ii) for all other field-based horticulture: 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 15 percent after any allowable cut and fill (up to a maximum of 1 metre);

(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) 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.

(14) Must not result in the removal of any native vegetation that requires a permit, approval or development consent, unless the removal or pruning is carried out in accordance with the permit, approval or development consent;

(15) 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) 20 metres from any property boundary which adjoins a residential zone; and
  - ii) 10 metres from any property boundary not adjoining a residential zone (not including any property boundary that forms part of the landholding).
- 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 8 metres in height above existing ground level;
- 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;

(16) 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 for horticulture 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 development 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 Housing and Infrastructure'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 - <b>Productivity</b>	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 (MRA) 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 to be</p>

		<p>undertaken on rural landholdings, particularly where it is low scale and of minor impact which will, in turn, help retain supply chains of fresh food from local producers, consistent with Objective 24.</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 Regional 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 (MRA) 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 as a result, 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><b><i>Agricultural processing and export</i></b></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 Planning Proposal look to enhance the opportunities associated with the development of the Western Sydney airport outlined above by removing barriers to establishing a horticulture use 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 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 those areas identified as being required to satisfy the regional population growth needs and housing targets). This Planning Proposal applies to rural zoned land within Wollondilly that lies within the MRA. This includes all rural zoned land in the Shire with the exception of those areas within the Wilton and Greater Macarthur Priority Growth Areas as these areas 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 to 2040 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 with a key outcome of that Strategy being to identify opportunities to realise the potential of underutilised agricultural land as well as opportunities for agricultural and non-agricultural diversification. This Planning Proposal follows the development of that Rural Lands Strategy and its relevant actions contained within.

[Wollondilly 2040<sup>1</sup>](#) 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). 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
- Resilience and Hazards
- Transport and Infrastructure

---

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

- 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 10m setback for field-based horticulture was deemed sufficient in preventing any unreasonable odour impact on adjoining landowners. Market garden operators will still need to have regard to prevailing wind conditions and other environmental factors as well as utilising the appropriate spray techniques etc in order to prevent any unreasonable impact and this has been captured in the proposed standards that need to be achieved. 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*.

In accordance with Council's Resolution, an incentivised minimum 5 metre boundary setback has been applied for certified organic field-based horticulture. Organic production systems are guided by the following principles and outcomes:

- Production of naturally safe, high quality, nutritionally vital foods;
- Optimal production output, with rational and minimised use of inputs;
- Use of recycling and biological cycles within the farming system;
- Biodiversity protection and enhancement within the farm and surrounding areas;
- Regeneration of lands and soils and best environmental practice of farming activities

Organic Farming Systems are typically certified under the Australian Certified Organic Standard. A 5m minimum setback for certified organic farming, due to its lesser impact is considered a suitable approach.

## Noise

Horticulture in rural zones can generate occasional noise 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 operating 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 exempt development or 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 if unreasonable noise restrictions are imposed.

It is also important to note that activities associated with a horticultural activity (particularly field-based horticulture) that emit noise are normally intermittent and can be controlled through best practice farming. 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 do 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 and outdated;
- 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 retained for at least 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 a 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 conditions that need to be satisfied.

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 has been undertaken. Council will work with Water NSW to address the concerns that they have raised in this preliminary consultation throughout the Planning Proposal process.

The development 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 separation 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 comprises 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 requires 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 development 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 (other than vegetation which could ordinarily be removed without the need for any permit or approval, such as a dead, dying or dangerous tree).

## **Visual Impacts**

Any visual impacts associated with field-based horticulture are likely to be minimal, as such a use would, in almost all cases be consistent with the desired rural landscape character in all of the rural zones. The amendments would apply to the use (horticulture) but also to any controlled environment structures in which the horticultural use would be undertaken.

The proposed development standards include a range of boundary setback requirements for horticulture where it is carried out in a controlled environment, as well as controls relating to the maximum area of such structures. Although the use of these structures for horticultural production is consistent with the rural environment in the Wollondilly LGA and would be consistent with the objectives of the rural zones, consideration also needs to be given to the rural landscape character.

In the RU1 Primary Production Zone, the exempt development provisions allow for a setback of 20m from any boundary where the land adjoins a residential zone and 10m from any other boundary, with an area of up to 5000 square metres for all structures. These are the most generous of the standards proposed in recognition that the intent of the RU1 Primary Production zone is to encourage agricultural production and sustain local food production and any structures under the exempt development provisions would be consistent with the desired agricultural landscape for those areas. The 10m setback would allow for an area which could be maintained and provided some separation to a neighbouring boundary (possibly even allowing for an access track or the like).

The exempt development provisions also allow for small scale horticulture to be undertaken in the RU2 and RU4 zones. Under the proposed standards, a combined area for all controlled environment structures of 1000 square metres would be allowed for exempt development in these zones, this would typically allow say, two igloos each of 10m x 40m or 50m taking into account standard sizes. These are considered to be an appropriate scale for exempt development in the RU2 and RU4 zones.

A larger setback is provided in the RU2 zone in order for controlled environment horticulture to be undertaken as exempt development on the basis that the lots in this zone are typically larger and the intent of the zone is to encourage primary industry but to also maintain the rural landscape character of the land and these standards have been proposed to minimise visual impact. A slightly lesser setback is provided for exempt development in the RU4 zone (being 20m) in recognition that the lots in this zone are smaller and this figure has been based largely on examples of existing controlled environment structures on smaller lots in this zone which have received minimal complaints over time and are not visually intrusive.

A smaller setback is provided in the standards for Complying Development in the RU2 and RU4 zone, being 20m where the site adjoins a residential zone boundary and 10m in all other cases. This has also been development with the knowledge that in the case of Complying Development there may be the ability to include standard conditions in Schedule 3 of WLEP 2011 to provide mitigation measures where there may be some visual impact (e.g. screen landscaping or the like).

### **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 development standard 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, this could include a river or groundwater extraction license or an on-site storage dam). A development standard 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?**

#### **Water NSW**

Part of the land to which the proposal relates is located within the Sydney Drinking Water Catchment area, as such, comments were sought from Water NSW as part of the preparation of the Planning Proposal in accordance with Ministerial Direction 3.3 Sydney Drinking Water Catchments. The key points raised in the Water NSW submission were as follows:

- Approximately 75% of the Wollondilly LGA overlaps with the Sydney Drinking Water Catchment;
- Horticulture carries a potentially high risk to water quality, due to the risk from fertilisers, sediment, pesticides and other chemicals. 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 Sydney Drinking Water Catchment due to the relaxation

of planning controls and approval processes for horticultural ventures and the number of ventures that may subsequently arise;

- The exempt and complying development pathways will result in horticulture uses bypassing critical requirements under Parts 6.2 and 6.5 of the Biodiversity and Conservation SEPP, that protect water quality in the Sydney Drinking Water Catchment, including requirements such as:
  - For new horticultural development to have a neutral or beneficial effect (NORBE) on water quality;
  - For concurrence from Water NSW for horticultural ventures;
  - To conform with the Neutral or Beneficial Effect on Water Quality (NORBE) Guidelines and current recommended practices;
  - The exempt and complying development pathways are likely to increase Water NSW's compliance responsibilities and functions, as pollution control would pass on to the tail-end of the development rather than the planning stage;
  - Overall, do not support the Planning Proposal and proposed LEP amendments in their current form;
  - Requested that, if the Planning Proposal proceeds, land within the Sydney Drinking Water Catchment, or as a minimum, land declared to be a Special Area, be excluded from the exempt and complying development pathways.
  - Supported the proposed exclusion of the Wilton and Greater Macarthur Growth areas from the operation of the exempt and complying development provisions.

The concerns of Water NSW are noted. The development standards contained in the proposed LEP amendments which need to be met in order for horticulture to be undertaken as exempt or complying development include a number of requirements to ensure that impacts on water quality is minimal, and wherever possible (particularly in hydroponics setups), that wastewater is treated and reused to the greatest extent. Further consultation with Water NSW will be undertaken throughout the Planning Proposal process to ensure that where possible, their concerns are addressed, this may require the inclusion of further development standards in the proposed LEP amendments to ensure that any horticultural activity in the Sydney Drinking Water Catchment can achieve a NORBE on water quality without having to go through the full development application process.

## **NSW Department of Planning, Housing and Infrastructure**

A Scoping Proposal was prepared in accordance with the NSW Local Environmental Plan Making Guidelines (August, 2023) and was forwarded to the NSW Department of Planning, Housing and Infrastructure (DPHI) on 11 January, 2023. In response, DPHI forwarded to Council, comments that they had received from the NSW Department of Primary Industries – Agriculture on the proposal. These comments from DPI – Agriculture are provided below; no other agency comments were provided. DPHI did not provide any specific comments or advice in relation to the Scoping Proposal that was submitted.

## **NSW Department of Primary Industries - Agriculture**

DPI Agriculture were consulted as part of the Scoping Proposal process for the Planning Proposal. The key points raised in their comments are provided below:

- 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.



- Were supportive of the proposal, however, advised that further consideration should be given to the Complying Development pathway in the RU4 zone. This was on the basis that Council's Rural Lands Strategy had recommended that a review of this zone be carried out following the completion of an Agricultural Viability for the LGA and that some land in this zone may not be suitable for agriculture.
- Referred to the *NSW DPI Buffer Zones to Reduce Land Use Conflict with Agriculture Guide* and the *Managing Biosecurity in Land Use Planning and Development Guide* which suggests a buffer zone of 250m to sensitive receivers for both open field and controlled environment horticulture. A lesser separation distance may be appropriate if a vegetated buffer can be provided to reduce chemical spray drift.
- 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.
- Suggested that the development standard relating to the total area of all structures be considered in the context of lot sizes (i.e. the maximum size increase with the size of the landholding);
- 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.

## **Western Sydney Airport Corporation and Department of Infrastructure**

In accordance with the Gateway Determination conditions, Council has also consulted with the Western Sydney Airport Corporation and the Australian Government: Department of Infrastructure, Transport, Regional Development, Communications and the Arts. A summary of the key matters raised in their advice is included below:

### Western Sydney Airport Corporation

- alternate planning pathways are not supported for horticulture (both field-based and controlled environment) on land within the Wildlife Buffer Map and Obstacle Limitation Surface Map under the SEPP;
- a detailed analysis and assessment of the Planning Proposal (PP) is required against airport safeguarding provisions under State planning policy particularly in relation to wildlife risk and intrusions into prescribed airspace;
- there is no justification in the PP as to why the exclusion of National airport safeguarding provisions are unique to Wollondilly;
- seeking exemptions under the SEPP undermines the airport safeguarding provisions;
- any amendment to the SEPP would need to be undertaken by DPHI;
- WSI needs to assess development within the mapped aviation safeguarding areas to ensure they are not impacting on the airport operations. An exempt or complying development approval pathway would not enable the Commonwealth (i.e., WSI) to undertake the required assessment to meet its obligations;
- controlled environments for horticulture should not be an exclusion to the additional provisions within the wildlife buffer areas as horticulture relies on other onsite activities that are wildlife attracting, including, Onsite water management (detention or retention basins), Waste Management, Landscaping (certain species);
- horticulture is included as 'relevant development' and requires a written wildlife assessment and in most cases a wildlife management plan that needs to be assessed by the Commonwealth (i.e. WSI);

- on part of the rural zoned land within the Wollondilly Shire Council Area and within the Wildlife Buffer Area there is existing terrain that penetrates the Obstacle Limitation Surface (OLS).
- any structure that is erected on the existing terrain that penetrates the OLS would be considered a controlled activity as defined under s182 of the Airports Act 1996;
- The proposal does not address the *Ministerial Direction 1.10 Implementation of Western Sydney Aerotropolis Plan* as it does not maintain the integrity of the airport safeguarding provisions
- does not address *Ministerial Direction 5.3 Development Near Regulated Airports and Defence Airfields*

Australian Government: Department of Infrastructure, Transport, Regional Development, Communications and the Arts

- The Department has concerns with the proposal, as it undermines important safeguards set out in the State Environmental Planning Policies (SEPP) and is inconsistent with Guideline C (Managing the Risk of Wildlife Strikes in the Vicinity of Airports) and Guideline F (Managing the Risk of Intrusions into Protected Airspace of Airports). In the National Airports Safeguarding Framework.
- The removal of the requirement for development applications for enclosed horticultural structures in the 13km wildlife buffer zone would increase the risks of unverified intrusions into protected airspace.
- Western Sydney Airport Corporation should also be consulted as they perform functions under the SEPP on behalf of the Commonwealth.

The concerns of both the Western Sydney Airport Corporation and the Australian Government: Department of Infrastructure, Transport, Regional Development and the Arts are noted, particularly their concerns around the ability of the proposal to undermine the airport safeguards currently provided in the SEPP. The Planning Proposal has now been updated with a further assessment of the proposal against the Ministerial Direction s 1.10 and 5.3.

Further consultation will be undertaken during the public exhibition of the Planning Proposal with a view to determining whether the issues raised are capable of being addressed or whether the affected land needs to be removed from the Planning Proposal. It is noted that the Obstacle Limitation Surface, currently does not act as a barrier to exempt development or complying development for structures under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

## **Other Agencies**

Formal consultation with public agencies will occur as part of the formal public exhibition of the proposal following receipt of a Gateway Determination.

## Part 4 – Maps

This 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 approval 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;

## Council's Agriculture and Rural Industries Advisory Group

The objective and purpose of Council's Agriculture and Rural Industry Advisory Group is:

- To consider actions and matters that support Council's Community Strategic Plan (CSP) goals in relation to Agriculture and Rural Industries
- To enable Council to engage with its community in relation to Agriculture and Rural Industries

Council staff have held two workshops with the Advisory Group, with the most recent workshop on 23 November, 2024. 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 preferred approach would be to include Horticulture in Schedule 2 Exempt Development and Schedule 3 Complying 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.

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
Implement changes sought by Council Resolution	End March, 2024
Gateway determination	End May, 2024
Satisfy Gateway Determination conditions and prepare for public exhibition	End June, 2024
Commencement and completion of public exhibition period	July/August, 2024
Post-exhibition review (including consideration of submissions)	September, 2024
Consideration of the Planning Proposal by Council (seeking finalisation)	October, 2024
Submission to the Department for finalisation (where applicable)	November, 2024
Gazettal of LEP amendment	December, 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*.

## **C. Assessment against Gateway Determination Conditions**

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

## **D. Wollondilly Local Planning Panel Advice (8 February, 2024)**

## **E. Council Resolution to request a Gateway Determination (27 February, 2024)**

# 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
<b>SEPP (Transport and Infrastructure) 2021</b>	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.
<b>SEPP (Biodiversity and Conservation) 2021</b>	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. Further consultation will be undertaken throughout the Planning Proposal process to ensure that the concerns raised by Water NSW to date can be addressed and the development standards proposed will capture the requirements under Part 6.5 'Sydney Drinking Water Catchment' of the SEPP.
<b>SEPP (Primary Production) 2021</b>	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 <i>SEPP (Primary Production) 2021</i> .
<b>SEPP (Resilience and Hazards) 2021</b>	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 development standard that must be satisfied in order for horticulture to be undertaken as exempt development in the RU1 zone, RU2 or RU4 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"> <li><i>the land is suitable for the development, or</i></li> <li><i>the land will be suitable for the development if specified remediation works are carried out.</i></li> </ul> <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>
<b>SEPP (Industry and Employment) 2021</b>	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.
<b>SEPP (Resources and Energy) 2021</b>	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
<b>SEPP (Planning Systems) 2021</b>	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.
<b>SEPP (Precincts – Eastern Harbour City) 2021</b>	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.
<b>SEPP (Precincts – Central River City) 2021</b>		No	N/A	Not applicable to Wollondilly.
<b>SEPP (Precincts – Western Parkland City) 2021</b>		Yes	Yes	<p>The Planning Proposal will not contain provisions that will contradict or would hinder the application of the SEPP.</p> <p><b>Land within the Wilton and Greater Macarthur Priority Growth Areas</b></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 development standards 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><b>Land within Wildlife Buffer Zone on the Wildlife Buffer Zone map under State Environmental Planning Policy (Precincts – Western Parkland City) 2021</b></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 development standards to undertake horticulture as exempt or complying development include a requirement for the land to be located outside the Wildlife Buffer Area where field-based horticulture is proposed. 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>
<b>SEPP (Precincts – Regional) 2021</b>		No	N/A	Not applicable to Wollondilly.

State Environmental Planning Policies (SEPPs)	Includes recently repealed SEPPs	Applicable	Consistent	Assessment
<b>SEPP (Housing) 2021</b>	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.
<b>SEPP (Exempt and Complying Development Code) 2008</b>	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, RU2 and RU4 zones in the proposed amendments to WLEP 2011.
<b>SEPP (Building Sustainability Index: BASIX) 2004</b>		No	N/A	The planning proposal will not contain provisions that will contradict or would hinder the application of the SEPP.
<b>SEPP (Sustainable Buildings) 2022</b>		No	N/A	The planning proposal will not contain provisions that will contradict or would hinder the application of the SEPP.
<b>No 65 – Design Quality of Residential Apartment Development</b>		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
<b>Focus area 1: Planning Systems</b>				
1.1	<b>Implementation of Regional Plan</b>	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	<b>Development of Aboriginal Land Council Land</b>	No	N/A	This Direction is not applicable to Wollondilly.
1.3	<b>Approval and Referral Requirements</b>	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	<b>Site Specific Provisions</b>	Yes	Yes	The planning proposal does not include provisions with unnecessary restrictive site-specific planning controls.
<b>Focus area 1: Planning Systems – Place-based</b>				
1.5	<b>Parramatta Road Corridor Urban Transformation Strategy</b>	No	N/A	This Direction is not applicable to Wollondilly.
1.6	<b>Implementation of North West Priority Growth Area Interim Land Use and Infrastructure Implementation Plan</b>	No	N/A	This Direction is not applicable to Wollondilly.
1.7	<b>Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan</b>	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 <i>SEPP (Precincts – Western Parkland City) 2021</i> .  The concerns raised by Western Sydney Airport Co in relation to the proposed amendments affecting the integrity of the airport safeguarding provisions are noted.
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.

	Ministerial Direction	Applicable	Consistent	Assessment
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
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.
<b>Focus area 2: Design and Place</b>				
<b>Focus area 3: Biodiversity and Conservation</b>				
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 (which includes a Landscape 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	<b>Sydney Drinking Water Catchments</b>	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>Consultation has been undertaken with Water NSW in preparing this Planning Proposal as required by the Ministerial Direction. The concerns raised by Water NSW regarding the proposed amendments are outlined above. Further work will be undertaken with Water NSW to ensure that the proposed standards are further refined, in particular to ensure the following:</p> <ul style="list-style-type: none"> <li>• that horticulture developments in the Sydney Drinking Water Catchment has a neutral or beneficial effect on water quality;</li> <li>• future land use in the drinking water catchment are matched to land capability;</li> <li>• that the ecological values of the Special Areas within the water catchment land are retained;</li> </ul> <p>This may require additional standards to those already provided in the proposed amendments relating to water quality retention.</p>
3.4	<b>Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs</b>	No	N/A	This Direction is not applicable to the Planning Proposal.
3.5	<b>Recreation Vehicle Areas</b>	No	N/A	This Direction is not applicable to the Planning Proposal.
3.6	<b>Strategic Conservation Planning</b>	No	N/A	This Direction is not applicable to the Planning Proposal.
3.7	<b>Public Bushland</b>	No	N/A	This Direction is not applicable to the Planning Proposal.



	Ministerial Direction	Applicable	Consistent	Assessment
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.
<b>Focus area 4: Resilience and Hazards</b>				
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 <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, RU2 or RU4 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"> <li><i>the land is suitable for the development, or</i></li> <li><i>the land will be suitable for the development if specified remediation works are carried out.</i></li> </ul> <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. 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>
-----	----------------------------------	-----	-----	--

	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 are often exempt from requiring concurrence from Subsidence Advisory. 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 development standard has also been included in the proposed amendments 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 <a href="#">Mine Subsidence Compensation Act 1961</a>, have the prior approval of the Subsidence Advisory Board (where required)’</i></p>
<b>Focus area 5: Transport and Infrastructure</b>				
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.

	Ministerial Direction	Applicable	Consistent	Assessment
5.3	Development Near Regulated Airports and Defence Airfields	Yes	Yes	<p>This Ministerial Direction applies to any Planning Proposal that will create, alter or remove a zone or provision relating to land near a regulated airfield.</p> <p>Council notes the advice from WSA Co that the proposal would not be consistent with this Ministerial Direction. It is noted that horticulture is already permitted on the land to which the proposal applies, however, the proposal seeks an alternate approval pathway to that use. Any potential inconsistencies can be further explored with WSA Co during the public exhibition period.</p>
5.4	Shooting Ranges	No	N/A	The site is not located adjacent to land with an existing shooting range.
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				

	Ministerial Direction	Applicable	Consistent	Assessment
8.1	<b>Mining, Petroleum Production and Extractive Industries</b>	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.
<b>Focus area 9: Primary Production</b>				
9.1	<b>Rural Zones</b>	Yes	Yes	The Planning Proposal is consistent with the provisions of this Direction.
9.2	<b>Rural Lands</b>	Yes	Yes	The Planning Proposal is consistent with the provisions of this Direction.
9.3	<b>Oyster Aquaculture</b>	No	N/A	This Direction is not applicable to Wollondilly.
9.4	<b>Farmland of State and Regional Significance on the NSW Far North Coast</b>	No	N/A	This Direction is not applicable to Wollondilly.

# Appendix C

## Assessment Against Gateway Determination Conditions

Condition No.	Condition Requirement	Council Response
1	<p>Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:</p> <p>(a) the planning proposal is categorised as standard as described in the <i>Local Environmental Plan Making Guidelines</i> (Department of Planning and Environment, 2022) and must be made publicly available for a minimum of 20 days; and</p> <p>(b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in <i>Local Environmental Plan Making Guidelines</i> (Department of Planning and Environment, 2021).</p> <p>Exhibition must commence before the end of August 2024.</p>	<p>The Public exhibition of the Planning Proposal will occur for 28 days and will be in accordance with the Local Environmental Plan Making Guidelines. The exhibition will commence on 17 July, 2024 and as such meets the requirements of the condition.</p>
2	<p>Prior to exhibition, a map showing lands where the planning proposal applies is to be provided. This shall include showing a layer of land subject to the Wildlife Buffer Zone from Western Sydney Airport under State Environmental Planning Policy (Precincts—Western Parkland City) 2021.</p>	<p>An interactive map has been prepared which will be available on the Wollondilly Yoursay Page during the public exhibition and identifies all of the areas where the land-based exclusions within the proposed development standards will apply. The condition is therefore satisfied.</p>
3	<p>Prior to community consultation, consultation is recommended with the following public authorities: Western Sydney Airport Corporation and Department of Infrastructure, Transport, Regional Development, Communications and the Arts. Advice from these agencies should be considered if the planning proposal is to be updated.</p>	<p>Consultation has been undertaken with the Western Sydney Airport Corporation and Department of Infrastructure, Transport, Regional Development, Communications and the Arts and their comments have been obtained prior to the commencement of the public exhibition of the planning proposal. The key matters raised are provided in Section 3.12 of the Planning Proposal above. The Planning Proposal has</p>



		been updated to give consideration to the matters raised in accordance with the condition.
4	<p>Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the Act:</p> <ul style="list-style-type: none"> <li>• Western Sydney Airport Corporation;</li> <li>• Department of Infrastructure, Transport, Regional Development, Communications and the Arts;</li> <li>• Department of Primary Industries;</li> <li>• Department of Mining, Exploration and Geoscience;</li> <li>• Water NSW</li> </ul> <p>Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 30 days to comment on the proposal.</p>	Consultation with the public agencies identified in the condition will be carried out and they will be provided with at least 30 days to comment as required by the condition.
5	A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).	Noted.
6	The LEP should be completed on or before 6 December 2024.	Noted and is on track to meet this condition.



# Appendix D

Wollondilly Local Planning Panel Advice (8 February, 2024)

### PUBLIC SUBMISSIONS

There were no registered speakers for this item.

### PANEL CONSIDERATION AND ADVICE

The Panel advises the Council that:

1. The Planning Proposal is supported for the following reasons:

- a) The Planning Proposal is consistent with the strategic planning framework and will provide the following substantial public benefits:
  - i. Encourage the establishment of new horticulture uses in the Shire;
  - ii. Remove barriers to undertaking horticulture in the Shire where it is of low impact;
  - iii. Assist in leveraging opportunities associated with the development of the Western Sydney Airport;
  - iv. Facilitate an increase in horticultural production in the rural zones.
- b) The proposal is consistent with Council's land use vision as detailed in the Local Strategic Planning Statement.
- c) The proposal is consistent with the District Plan.

2. In progressing the Planning Proposal, Council should give consideration to the following:

- a) Provide information, including mapping, as part of the consultation process to explain the areas that will be excluded due to environmental constraints.
- b) Ensure that the planning proposal states that the provisions will only generally apply to the rural zones and that certain properties may not be able to access the exempt or complying pathways due to constraints.
- c) Acknowledge the feedback from Water NSW and recommends that Council work proactively with state agencies in progressing the planning proposal.
- d) Consider removing the limitation on operational hours for repairs of machinery.
- e) Reconsider the proposed extensive list of development standards that will apply in order to determine whether a development will be either 'Exempt' or 'Complying'. It will be complex for an owner or certifier to determine compliance or otherwise with the standards. Many of the proposed standards will require detailed merit and technical assessment.
- f) Update the planning proposal to provide more clarity as to whether it applies to the land use only, and/or to structures.

### VOTING

4/0

# Appendix E

**Council Resolution to request a Gateway Determination  
(27 February, 2024)**

## 14 PLACE AND LANDSCAPE

Item 14.1 – Report on the Impacts of Secondary Dwellings and Item 14.2 – Adoption of Bingara Gorge No.2 Planning and Agreement Amendment have been moved to the Open Items by Exception part of the document.

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

At 6:49 pm, Cr Blair Briggs left the meeting due to a previously declared conflict of interest.

#### RESOLUTION 20/2024

Moved: Cr Matthew Gould  
Seconded: Cr Suzy Brandstater

That Council:

1. Agree that the draft Planning Proposal (Approval Pathways for Horticulture in Rural Zones) has strategic planning merit
2. Submit the Planning Proposal to the NSW Department of Planning, Housing and Industry with a request for a Gateway determination *after the following changes have been incorporated:*
  - a) Amend clause 2 of the proposed complying development schedule and clause 2 of the proposed exempt development schedule to read "If the use is proposed to include hydroponic operations that utilise drain to waste systems any waste water must be appropriately collected and either used to irrigate field based horticulture on the landholding or else be fully captured and appropriately disposed of."
  - b) Amend clause 3 of the proposed complying development schedule and clause 3 of the proposed exempt development schedule to read "Must have access to a suitable water source to sustain the use"
  - c) Remove the lot size based setbacks and amend the minimum setback changes for controlled-environment horticulture in RU1, RU2 & RU4:
    - i. For property boundaries adjoining any residential zone – 20 metres
    - ii. For property boundaries not adjoining a residential zone – 10 metres. (not including any property boundary that forms part of the landholding)
  - d) Provide an incentivised minimum 5m setback for certified organic field-based horticulture
  - e) Ensure protective covering such as hail and bird netting is captured in field based controls
  - f) Amend the slope controls to allow field based and controlled environment horticulture on a slope up to 15%, after any allowable cut and fill (up to a maximum of 1 metre).
  - g) Remove the limitations on operational hours & machinery repairs , noting industry needs.
  - h) Amend clause 15 of the proposed complying development schedule and clause 15 of the proposed exempt development schedule to read "Must not result in the

*removal of any native vegetation that requires a permit, approval or development consent, unless the removal or pruning is carried out in accordance with the permit, approval or development consent."*

- i) Amend the proposed maximum height of controlled environment structures to 8 metres above existing ground levels.*
- j) The addition of a pathway for small scale horticulture as exempt development in the RU2 and RU4 zones.*
- k) Greater clarity that the proposal applies to both the land use and the provision of supporting buildings & infrastructure.*
- 3. *Acknowledge the feedback from Water NSW and continue to work proactively with state agencies in progressing the planning proposal.*
- 4. *Request authorisation for Council as the Local Plan Making Authority to undertake the plan making functions for this Planning Proposal.*
- 5. *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.*
- 6. *Through the consultation process, provide plain English, user friendly information including:*
  - a) The intent of the proposal and how it encourages greater horticultural production within the shire*
  - b) an explanation that the provisions will only generally apply to the rural zones and that certain properties may not be able to access the exempt or complying pathways due to constraints*
  - c) Mapping to explain the areas that will be excluded due to environmental or other constraints.*
- 7. *Ensure that the changes outlined in the planning proposal are incorporated into council's affordable farming initiative.*
- 8. *Write to the Hon Andrew Giles, Minister for Immigration, Citizenship and Multicultural Affairs and the Member for Hume, the Hon Angus Taylor seeking the permanent inclusion of Wollondilly within the second or third working holiday visa (subclass 417) program Seasonal Worker Program.*
- 9. *Thank and commend the exceptional work of the Agricultural and Rural Industries Advisory Group and Council staff in helping to develop the Planning Proposal.*

On being put to the meeting the motion was declared **CARRIED 8/0**

In Favour: Crs Michael Banasik, Suzy Brandstater, Matthew Deeth, Hilton Gibbs, Matthew Gould, Judith Hannan, Paul Rogers and Beverley Spearpoint

Against: Nil

At 6:58 pm, Cr Blair Briggs returned to the meeting.