

Our Reference: 1255#1227

J Rossell
Principal Policy Officer, Policy and Strategic Reform
Local Land Services

13th January 2022

Dear Ms Rossell

SUBMISSION ON THE STATUTORY REVIEW OF THE NATIVE VEGETATION PROVISIONS OF THE LOCAL LAND SERVICES ACT 2013

Thank you for the opportunity to provide comment on the statutory review of the Land Management Framework (Framework) and discussion paper.

The importance that Council places on agricultural activity in the Wollondilly Local Government Area (LGA) is reflected in its adopted Local Strategic Planning Statement and Rural Lands Strategy. A distinct feature of the Wollondilly LGA is the presence of significant biodiversity values largely located on private rural land that includes 11,384 hectares of threatened ecological communities and 36,214 hectares of koala habitat.

The importance of a legislative based framework that provides guidance for rural landholders is recognised. However, the existing Land Management Framework is considered to have adverse implications to the biodiversity values of rural land within Wollondilly.

A key recommendation of this submission is for the updated framework to provide a more rigorous ecological based assessment process as well as direct engagement with landholders. The submission also provides comments on viewed inconsistencies with other planning frameworks applicable to rural zoned land.

It is requested to be noted that the timeframe for submission has not allowed for formal endorsement by Council. Any resolutions of Council arising from the attached submission will be forwarded to LLS for consideration.

Council staff would welcome further collaboration with the LLS (and other stakeholders) during the finalisation and implementation of a revised Land Management Framework.

Please contact Council's A/Team Leader Environmental Services, David Henry on (02) 4677 9687 or via e-mail David.henry@wollondilly.nsw.gov.au for any enquiries.

Yours faithfully



Corey McArdle
Manager Waste and Environmental Services

SUBMISSION ON THE STATUTORY REVIEW OF THE LOCAL LAND SERVICES ACT

The Wollondilly Local Government Area (LGA) is comprised of a diverse range of natural, cultural and rural landscapes of noted importance to the local community. The section of the LGA outside Drinking Catchment and National Parks and Wildlife Service estate is comprised of approximately 88 percent of rural land that is zoned both rural and Environment Conservation.

The importance and recognition that Council places on agricultural activity in the Wollondilly LGA and responding to concerns and views of rural landholders is reflected in its adopted Local Strategic Planning Statement (LSPS) and Rural Lands Strategy. However, the Land Management Framework introduced in November 2017 is considered to have a range of shortcomings with associated adverse implications to biodiversity based on experience and observations of Council staff.

The opportunity to raise these shortcomings and provide suggested responses for their addressing through the preparation of this submission in regard to the statutory review of Part 5A, Schedule 5A, and Schedule 5B of the *Local Land Services Act 2013* is consequently appreciated. This submission is restricted to the relevance of the framework to Council's strategic, biodiversity management and advocacy responsibilities. Comments on the Consultation Questions within the Discussion Paper in a subsequent section of this submission are also restricted to these responsibilities.

A meeting held on 7th December 2022 between representatives of Local Land Services (LLS) and Wollondilly and Wingecarribee Shire Council as part of the consultation associated with the statutory review was greatly appreciated. This submission in this regard also provides comments on perceived shortcomings in the nexus between the land management framework and other planning frameworks applicable to rural zoned land as requested by an LLS representative at the meeting.

PART A: OVERVIEW OF BIODIVERSITY VALUES OF RURAL LAND IN WOLLONDILLY

1) Biodiversity values of land zoned rural within the Wollondilly Local Government Area

The Wollondilly LGA contains three Critically Endangered Ecological Communities (CEECs) listed under the *Biodiversity Conservation Act 2016* (BC Act). These are; Shale/Sandstone Transition Forest (SSTF), Cumberland Plain Woodland (CPW) and Sydney Turpentine-Ironbark Forest (STIF). There are 5,111 hectares of CPW and 12,645 hectares of SSTF within Wollondilly LGA based on available broad scale mapping (Tozer et al. 2010) largely located on rural land. In addition, fifty-seven species of threatened flora and 76 species of threatened fauna have been recorded within the Wollondilly LGA with a significant proportion recorded on rural land.

The Wollondilly Shire koala population is now recognised as an important koala population within Sydney and NSW by a range of studies including Coleman, 2016, as well recent advice provided by the NSW Office of Chief Scientist and Engineer in regard to the Cumberland Plain Conservation Plan. This importance has also been identified by analysis during the preparation of Council's draft Koala Plan of Management in 2020. The population has increased significance in having no or very low of the inflicting *Clemedia* disease for the species as well as being slightly impacted by the 2019 bushfires in comparison to other populations within NSW.

A distinct feature of the Wollondilly LGA is the presence of its significant biodiversity values referred to above largely located on private land zoned rural as well as rural style land zoned Environment Conservation. This feature highlighted by Maps 1 and 2 showing the occurrence of Critically Endangered Ecological Communities and identified koala habitat corridors (primary, secondary and tertiary) on rural zoned land respectively (Attachment 1). An analysis of the Mapping highlighting the significance and diversity of biodiversity is provided in Table 1 for the information of the LLS.

Table 1: Biodiversity value of land zoned rural and with Environment Protection Zoning

Feature	Rural Zoning	Conservation Zoning
Threatened Ecological Communities	11,384 ha	1800 ha
Koala	36,214 ha	33,164 ha (98 percent of the total Environmental Protection Zoning)

2) Pressures to the biodiversity values of rural land associated with vegetation clearance

Vegetation clearance under the Land Management Framework can present significant impacts to biodiversity including clearance of habitat, removal of threatened flora species and fragmentation of habitat connectivity. It can also result in impacts to complimentary aesthetic, landscape and cultural values. In relation to this matter, Staff are aware of a number of incidents when large scale full clearance has occurred on a development site prior to the lodgement of the application with Council.

Wollondilly Shire Council was approached by Local Land Services and the (then) Office of Environment and Heritage in 2016 to develop a program to reduce unauthorised vegetation clearance given that the LGA was in the top 5 LGA's in NSW for such clearance. Staff understand this high level of clearance remains and is a common concern raised in community consultation undertaken by Council.

PART B: SUPPORTING INFORMATION TO THE SUBMISSION

1) Responsibilities of Wollondilly Shire Council on rural zoned land

Council's submission on the land management reforms in June 2016 stated that "*the role of the Local Land Services (LLS) as the regulatory authority for development and/or vegetation clearance on rural zoned land would be satisfactory to Council subject to demonstrated significant increases in its current staff and financial resources*". This position remains valid although Council would welcome enhanced collaboration as part of the implementation of the framework including direct engagement with landholders. The LLS is requested to note in this regard that feedback received from landholders and the experience of Council staff indicates current significant shortcomings in the resourcing of the LLS and associated Native Vegetation Panel.

2) Overview of Council position regarding the current Land Management Framework

The importance that Council places on the on-going management and protection of the significant rural zoned land within the Wollondilly LGA is reflected in the adoption of its Rural Land Strategy in February 2022. The importance of a legislative framework that provides guidance for rural landholders including certain exemptions without creating adverse implications for the ongoing operations of properties is also recognised.

However, the following finding by the NSW Audit has been noted with strong concern given the associated impacts of vegetation clearance on the biodiversity values of rural land in Wollondilly referred to above:

A review of the land management framework, conducted in early 2019 by the Natural Resources Commission was noted to conclude that “clearing rates have increased almost 13-fold from an average rate of 2,703 ha a year under the old laws to 37,745ha under the new laws and that biodiversity in 9 out of 11 regions is now at risk”

In relation to this matter, the LLS is requested to note that Council’s submission to the NSW Legislative Council Inquiry on Koala Habitat expressed the following concerns regarding the Land Management Framework which are considered to remain valid:

- *Council Staff are of the view that the reform package does not contain sufficient adequate provisions to manage and regulate native biodiversity occurring on private land within a local and broader context.*
- *There are concerns that the proposed risk based and largely self-assessment approach adopted will result in biodiversity losses on a localised scale due to identified shortcomings in the assessment process (discussed below) and adequate regulation.*

The publication produced by the Environmental Defenders Office <https://www.edo.org.au/wp-content/uploads/2020/08/EDO-LC-report-2-spreads.pdf> broadly reflects the current position of Council based on experiences and observations of staff and received feedback from the public and landholders

3) Council approach to protection and management of biodiversity

The size of the Wollondilly LGA and the extent, significance and diversity of its biodiversity values requires that Council utilise a strategic approach in collaboration with a range of stakeholders in the protection and management of these values. This approach targets the protection of important remnants of Endangered and Critically Endangered Ecological Communities and corridors for the movement of significant fauna species in a landscape context with particular emphasis on identified koala corridors.

The Land Management Framework is considered by staff as presenting impediment to the above approach in large part due to viewed strong deficiencies in the assessment and regulation process over vegetation clearance. Council has established a collaborative partnership with rural landholders and other applicable stakeholders as a means of overcoming this constraint. This approach has been observed to received positive feedback and achieve positive outcomes from both an operational and biodiversity perspective on a localised scale.

4) Strategic context of managing biodiversity on rural zoned land

The Land Management Framework is viewed as having relevance to the strategic framework applying to rural land at the state, regional and local level as summarised below. The LLS is requested to note the disappointment of Council that the importance of retention of habitat corridors is not addressed by the applicable statutory and policy framework.

(i) *State and regional context*

Sydney Regional Plan

The Metropolitan Rural Zone that forms part of the Sydney Regional Plan covers almost all the rural zoned areas of the Wollondilly LGA. Council has incorporated this aspect of the Plan into a Clause within its Local Environmental Plan 2011. **A revised Land Management Framework would be expected to require that any vegetation removal application within the Metropolitan Rural zone have consistency with applicable parts of the Regional Plan.**

Koala State Environmental Planning Policies (Koala SEPP)

The Koala SEPP 2020 is recognised as applying to rural land in NSW outside the defined Greater Macarthur Area for the purpose of the SEPP. However, Koala SEPP 2021 (now Chapter 4 within the *State Environmental Planning Policy (Biodiversity Conservation)2022*) applies to all zones within the Wollondilly LGA. Council has made a number of resolutions requesting the release of the Guideline for this SEPP by the NSW Government which has not occurred at the time of lodgement of this submission. **The LLS is requested to note that any vegetation clearance under the framework be required to have demonstrated consistency with the Applicable Koala SEPP that includes Guidelines for Koala SEPP 2021 (when released).**

(i) *Local strategies*

Rural Land Strategy

The broad purpose of this Strategy is to provide “a framework for managing growth, change and development for rural land in Wollondilly to the year 2040”. The Strategy has a number of principles that includes the following of specific relevance to the Land Management Framework:

- Develop and promote agricultural resources and the community
- Reducing land use conflicts
- Balancing environmental, social and economic outcomes
- Taking a future focussed long-term approach
- Maintaining consistency with state planning policies
- A right to farm

Council would expect that application for vegetation clearance under the Land Management Framework be required to have demonstrated consistency with applicable local rural based strategic documents that would include Council’s Rural Lands Strategy

Draft Biodiversity Strategy

Council is in the process of preparing a Biodiversity Strategy to provide an overarching framework for the management and protection of biodiversity within the Wollondilly LGA. A key priority theme of the Strategy will be the protection of the biodiversity values of rural land. The Strategy in this regard proposes a three pronged approach comprised of strategic planning to protect areas of valued (including important remnants and habitat corridors), on-ground works to enhance biodiversity condition and direct engagement with rural landholders.

A meeting attended by representatives of Local Land Services, Greater Sydney Land Care and the Biodiversity Conservation Trust has been held as part of the preparation of the

Strategy. At the meeting it was agreed that expansion of the current direct engagement with rural landholders in partnership with stakeholders by Council would be the most effective means of achieving positive biodiversity outcomes without adversely affecting property operations.

The LLS is requested to note the preferred position of Council is that the Land Management Framework for vegetation clearance on Sensitive Regulated Land (or equivalent), require consideration of Council adopted Biodiversity Strategies. It is suggested that links to such strategies on council websites on the LLS website is a suitable mechanism to facilitate this consideration.

PART C: COMMENTS BASED ON THE DISCUSSION PAPER FOR THE STATUTORY REVIEW OF THE FRAMEWORK

This part of the submission provides comments based on the Discussion Paper including the listed questions identified as being of particular relevant to Council responsibilities based on the position and issues detailed in the preceding section of this submission. Comments on other relevant but less pertinent questions are provided in Table 2 (Attachment 2).

Comments are provided over recommended changes to the Code to address identified viewed shortcomings in the Framework. Such comments are considered consistent with the following statement in the Discussion Paper:

The statutory review is not a comprehensive review of the Land Management (Native Vegetation) Code 2018 (the Code), the Local Land Services Regulation 2014 or the other components of the Land Management and Biodiversity Conservation reforms per se. However, the review can make recommendations on changes to the Code and Local Land Services Regulation if it finds they are needed to meet the objective of this part of the Act.

Question 1: Is it clear how different land use zonings are defined and treated in the Land Management Framework? What, if any, changes are needed?

- Received feedback indicates there is a level of uncertainty as to whether rural style land in Wollondilly is zoned either rural or conservation.
- The feedback has also identified strong uncertainty over the assessment and approval pathway for each of these zones as well as the overall role of the LLS in these matters.

The LLS website is acknowledged as containing detailed information regarding the framework. However, the LLS is requested to provide and distribute widely such information that could potentially include Council's website.

Question 4: How comfortable and capable are landholders in self-assessing their land according to the land categories? What, if any, improvements to the Transitional Arrangements should be made?

- The accurate identification of land categories is required to be undertaken by a person with ecological qualifications in certain circumstances given this process can involve surveys and mapping of vegetation communities as well as fauna habitat. The level of landholders across NSW with such qualifications is questioned based and the viewpoint of the LLS.
- The development merit assessment process for Part 4, 5.1 as well as activities under Division 5.1 of the *Environmental Planning and Assessment Act 1979* does not allow for self-assessment.

The LLS is requested to reform the framework that would facilitate the prompt evaluation by landholders and remove the self assessment unless in certain circumstances without creating undue financial and/or operational burden to ongoing operations of their property.

Question 8: How effective are the requirements for establishing, managing, monitoring and reporting for set asides?

The underlying purpose of set aside areas in providing compensation for vegetation clearance on the property is commonly utilised by Council staff and is agreed with in principle. In this regard, Council routinely applies conditions in determinations that require a demonstrated biodiversity outcome prior to allowing any vegetation clearance associated with a proposal to proceed. However, while outside the direct scope of staff, the requirements for Set aside Areas detailed in Schedule 3 of the Land Management Code is considered to have insufficient ecological basis to achieve such a demonstrated outcome.

The investigation of similar style requirements for set aside areas during the review of the Framework is consequently requested.

Question 12: To what extent does the public have confidence in compliance and enforcement of native vegetation regulation?

Council does not hold data to provide response specifically on the level of confidence by the public in the compliance and regulation of vegetation clearance on land zoned rural. However, the issue of vegetation clearance is a common item raised in any consultation undertaken by Council. In this regard, the issue of development and need for the pursuit of ecological development practices has been the dominant feedback received during the recent public exhibition of Council's draft Sustainability Policy.

The confidence of the public in the regulatory and compliance component of the Framework is considered as being low level however, a detailed public engagement program would be needed to verify this. Council would welcome an opportunity to discuss any potential program for this.

Staff would prefer that local public engagement be held as part of the review process to enable it to be incorporated into the finalised amended Land Management Framework.

Question 13: Overall, how relevant are Part 5A and Schedule 5a and Schedule 6B of the Local Land Services Act in achieving the social, economic and environmental interests of the state?

This question is noted to be based on the objective of the Framework " *To ensure the proper management of natural resources in the social, economic and environmental interests of the State, consistently with the principles of ecologically sustainable development*" as defined by the framework". The Discussion Paper is noted to state in this regard, *under Section 212 of the Local Land Services Act 2003 the Minister is to review the native vegetation provisions and determine if the policy objectives of these provisions remain valid, and whether the provisions themselves remain appropriate for securing the objectives of this part of the Act*"

The following provides comments on the considered consistency of the Framework based on the two broad components of the above objective as well as recommendations to address identified inconsistencies.

The validity of the Objectives

The inclusion of the term ecological sustainable development in the objective is consistent with Council's recently exhibited draft Sustainability Policy and is supported. However, Table 3 highlights viewed inconsistencies of the Framework with the principles for this term listed on Page 33 of the Discussion Paper.

Table 3: Viewed inconsistencies of the Framework with the provided ESD definition

State component of definition of ESD	Comments regarding viewed consistency of Framework
The Precautionary principle, which includes serious and irreversible damage to the environment	The nexus to the 'Serious and Irreversible Impact' provisions within the <i>Biodiversity Conservation Act</i> is uncertain. This requires Council to refuse applications presenting such impact. However, it is considered the framework does not require any demonstration of whether intended vegetation clearance presents such damage.
Inter-generational equity, the present generation should ensure the health, diversity and productivity of the environment is maintained or enhanced for future generations.	The reports prepared by the National Audit Office have documented extensive clearance of vegetation that has occurred since the introduction of the Scheme. The current framework is consequently considered as having strong inconsistencies with both these items of ecological sustainable development.
Conservation of biological diversity and ecological integrity.	
Improved valuation, pricing and incentive mechanisms, where environmental factors are included in the valuation of assets and service	While outside the scope of Council responsibilities, the consistency of the framework with this item is questioned based on the experience of applicable staff.

In relation to this matter, the wording "interests of the state" is disagreed with on the grounds that it does not address localised implications of the Framework both within the context of local government areas and individual properties. The wording of the objective is consequently recommended to be amended to "ensure the proper management of natural resources consistent with the principles of ecological sustainable development". The inclusion of 'social, economic and environmental' is considered superfluous given the definition of this term and can be removed.

Whether the provisions of the framework remain appropriate for securing objectives

The above comments would highlight the view of staff that the current framework is not appropriate/effective in securing objectives (amended as recommended above). Recommendations provided by this submission are designed to assist in achieving a revised Framework that achieve this outcome within the scope of Council's responsibilities.

Question 14: What if any other issues should be considered as part of the statutory review

The following provides comments on additional issues not considered addressed by the Discussion Paper and of relevance to the objectives of the Framework that staff consider should be considered by LLS as part of the statutory review.

(i) *The inclusion of enhanced considerations at the application stage*

The following additional considerations for inclusion in assessment requirements for vegetation clearance within a revised Land Management Framework are provided which are recognised as in part being restricted to Category 2 Vulnerable Regulated Land or Category 2 Sensitive Regulated Land Vulnerable:

- The inclusion of restrictions on size of trees or habitat features that can be cleared under allowable activities.
- Increase in the current “selective thinning” stem density which is viewed as too low and presenting more a full vegetation clearance with occasional tree retention.
- Inclusion of restrictions on the use of heavy machinery which have been observed to create erosion and animal welfare issues.
- The inclusion of requirements for applications to provide demonstration with bona-fide agriculture use (e.g. activities undertaken on the property such as cropping or livestock).
- The inclusion of requirements with associated succinct plain English guidelines on requirements to identify threatened species, ecological communities and fauna habitat, (including habitat corridors), as assistance in identifying the applicable land category as well as assessment of potential impacts of the vegetation clearance. This should also include guidance on seeking specialist ecological advice in regard to these matters.

The consideration and provision of a response to the above recommended amendments by the LLS would be appreciated.

(ii) *Approval of applications*

Engagement by landholders with the Native Vegetation Panel

Table 4 within the Discussion Paper states that only one application was received by the Native Vegetation Panel out of 140 enquiries received during the period from the introduction of the Framework in August 2017 to September 2022. In the absence of specific reasons for these figures, the view could be expressed that landholders have proceeded with their clearance following receipt of information without obtaining the necessary approvals given the extensive area of vegetation clearance that has occurred in this period.

There is a viewed low level of rigor and transparency in the review and approval process which if addressed sufficiently would likely result in positive benefits including the level of public outcomes as well as positive operational and biodiversity outcomes on a property scale.

Application of the Biodiversity Offset Scheme

The requirement for applications to the Native Vegetation Panel to comply with the Biodiversity Offset Scheme where it applies is recognised as being in accordance with statutory requirements. Concern has been expressed in relation to this matter over only one application being received out of 140 received enquiries.

The provided example is noted to state that the calculated requirement of 3 credits for the application was waived by the Panel based on non-ecological grounds. There is concern over the waiving being undertaken at the beset of the Panel given the observed wide recognition of the strong ecological basis of the Biodiversity Assessment Method that informs the credit calculations.

There are provisions for an applicant to seek a reduction in credit retirement requirements for a development application. Council has prepared a preliminary draft Biodiversity Offset Policy which is envisaged will be adopted late 2023 or early 2024. This preliminary version has a proposed Council formal position of only accepting such an application on ecological grounds. Staff would expect that the Native Vegetation Panel adopt a similar style approach in this scenario and that this be incorporated into the revised Land Management Framework.

(iii) *Enhanced integration of the Land Management Framework with the Biodiversity Offset Scheme*

Council has raised a number of shortcomings with the Biodiversity Offset Scheme, particularly on a localised scale in a range of submissions while recognising the need for a state based offset scheme. Such shortcomings are viewed as being validated in a submission prepared by the Environmental Defenders Office to the NSW Legislative Council Inquiry into the Integrity of the Biodiversity Offset Scheme. The recommendation of the EDO for a revised more ecological based offsetting framework applying to both development and the land management framework is supported by Council staff.

PART C: NEXUS WITH OTHER PLANNING FRAMEWORKS

Council staff would expect that there be a nexus between the Land Management Framework and other planning frameworks applicable to the approval and regulation of vegetation clearance on land zoned rural. This expectation is consistent with a view expressed in the submission to the Inquiry into the Integrity of the NSW Biodiversity Offset Scheme by the Environmental Defenders Office. However, the following outlines considered shortcomings in the nexus in regard to each applicable planning framework based on the experience of staff.

1) Chapter 2 of the Biodiversity Conservation SEPP (Vegetation in Non-Rural Areas)

This SEPP applies to extensive areas of rural style land within the Wollondilly LGA zoned Environment Conservation. It requires the issuing of a permit by Council where the vegetation clearance does not activate the Biodiversity Offset Scheme within the *Biodiversity Conservation Act 2016* which can involve vegetation clearance up to 2 ha. Council has adopted a two-tier process that requires an assessment for native vegetation clearance greater than 100 square metres given the potential for biodiversity impacts from such vegetation clearance.

Viewed inconsistencies of the planning framework with the Land Management Framework

- The Land Management Framework is viewed as not providing similar rigour of assessment of impacts on biodiversity values from vegetation clearance as under the Vegetation SEPP where Council is the approving authority.
- The Land Management Framework does not ensure consideration of habitat corridors through either the Land Management Code and Set Aside Areas which is required by Council as the approving authority under the Vegetation SEPP.

Council would expect that a revised Land Management Framework contain a suitable tier based approach in requiring a form of vegetation clearance where the Biodiversity Offset Scheme does not apply that is broadly based on the Vegetation SEPP.

2) Chapter 13 of the Biodiversity Conservation SEPP (associated with the Cumberland Plain Conservation Plan)

Section 13.4 of this SEPP requires the lodgement of a development application for clearance of native vegetation in areas classified as Strategic Conservation Areas. Such areas occupy approximately 30 percent of the Wollondilly LGA located outside National Park estate and Drinking Catchment Areas. Further discussions regarding this matter with LLS would be appreciated.

An issue has arisen of relevance to this SEPP over the assessment framework to be followed for vegetation clearance on land zoned rural but in urban capable land defined by the Cumberland Plain Conservation Plan. Discussions with representatives of LLS and the CPCP team within DPE have been unable to satisfactorily address this issue.

The addressing of this issue by the Statutory Review and a response by LLS as soon as practically possible is sought.

Viewed inconsistencies with the Land Management Framework

- Landholders wishing to undertake vegetation clearance within a Strategic Conservation Area would be required to undertake a detailed assessment as part of a development application. In comparison, an adjoining landholder would only be required to comply with the Framework and not submit a development application for vegetation clearance.
- The Chapter of the SEPP includes provisions that state vegetation clearance should not be granted by the consent authority (in certain circumstances). The Land Management Framework is viewed as not providing similar provisions.

Council would expect that the requirements for vegetation clearance under the framework be consistent with Controls for vegetation clearance within Strategic Conservation Areas (without requiring the lodgement of a Development application).

3) Assessment and determination of development applications under Part 4 of the Environmental Planning and Assessment Act 1979

Vegetation clearance is noted to be included in the definition of 'development' within the *Environmental Planning and Assessment Act 1979*. Council records have identified that 170 applications on land zoned rural within the Wollondilly LGA with the potential to involve vegetation clearance were received in the period 2021 -2022. Any vegetation clearance as part of these applications were required to involved a form of environmental impact assessment as part of the merit assessment in a format subject to factors including the applicability of the *Biodiversity Conservation Act 2016*.

Viewed inconsistencies with the Land Management Framework

Staff would expect that any form of vegetation clearance be subject in broad terms to a similar level as would be required for a development application.

Staff would also expect that the approval process within the revised Framework allow for the inclusion of conditions that are broadly based on the purpose and statutory role of conditions of consent for determinations issued under the *Environmental Planning and Assessment Act 1979*.

4) Private Forestry Codes

As a broad position, staff recognise the need for a framework that enables private forestry operations on rural properties under certain circumstances. However, Council has previously resolved in relation to this matter:

Maintain Council dual consent provisions for Private Native Forestry in Local Environmental Plans to account for the variability within regions, zoning objectives, site survey needs, traffic and infrastructure limitations and consultation with adjoining landholders.

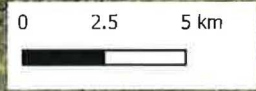
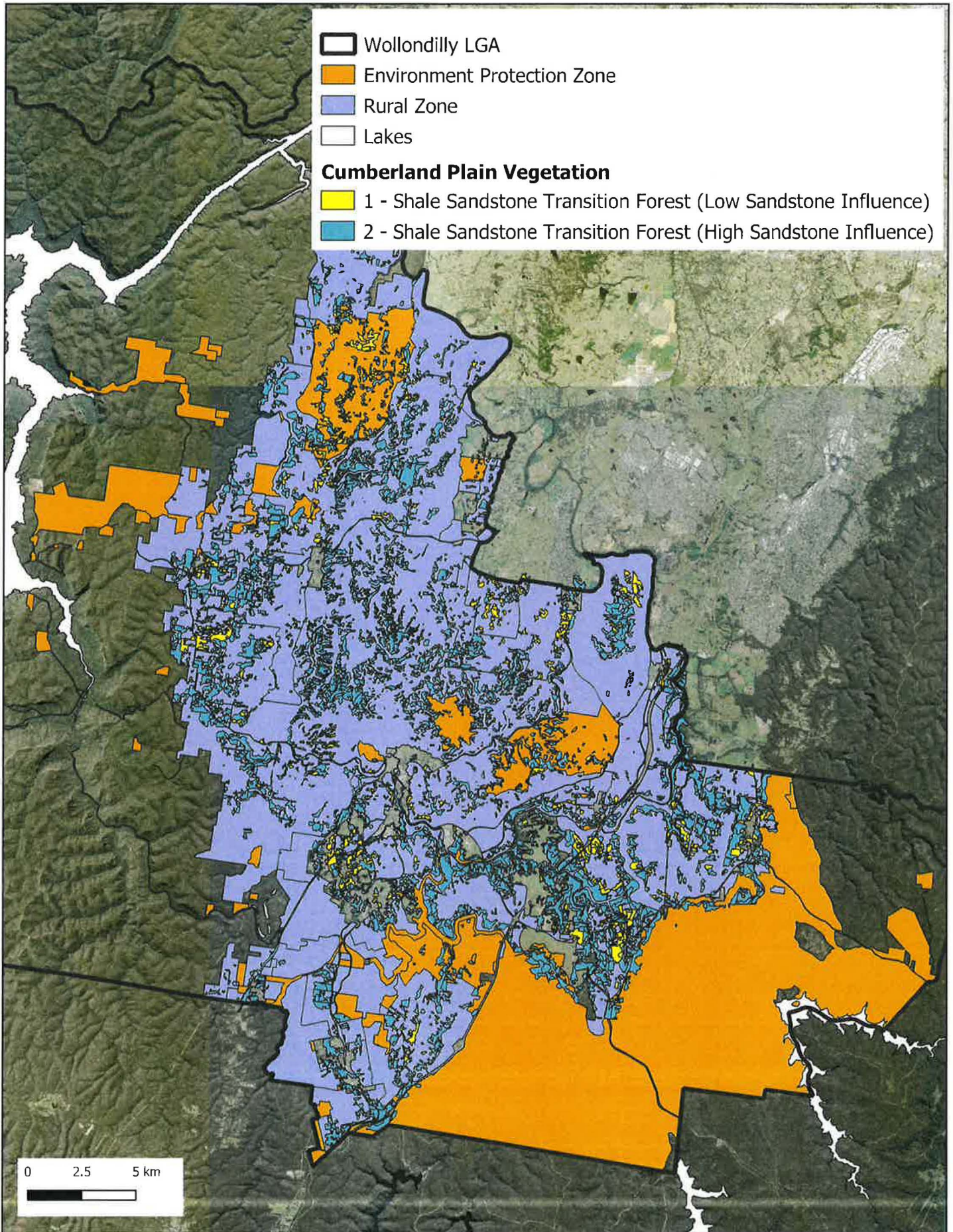
It is understood, (as referenced in the Discussion Paper), that revisions to the Land Management Code to incorporate private forestry operations are in the process of being finalised.

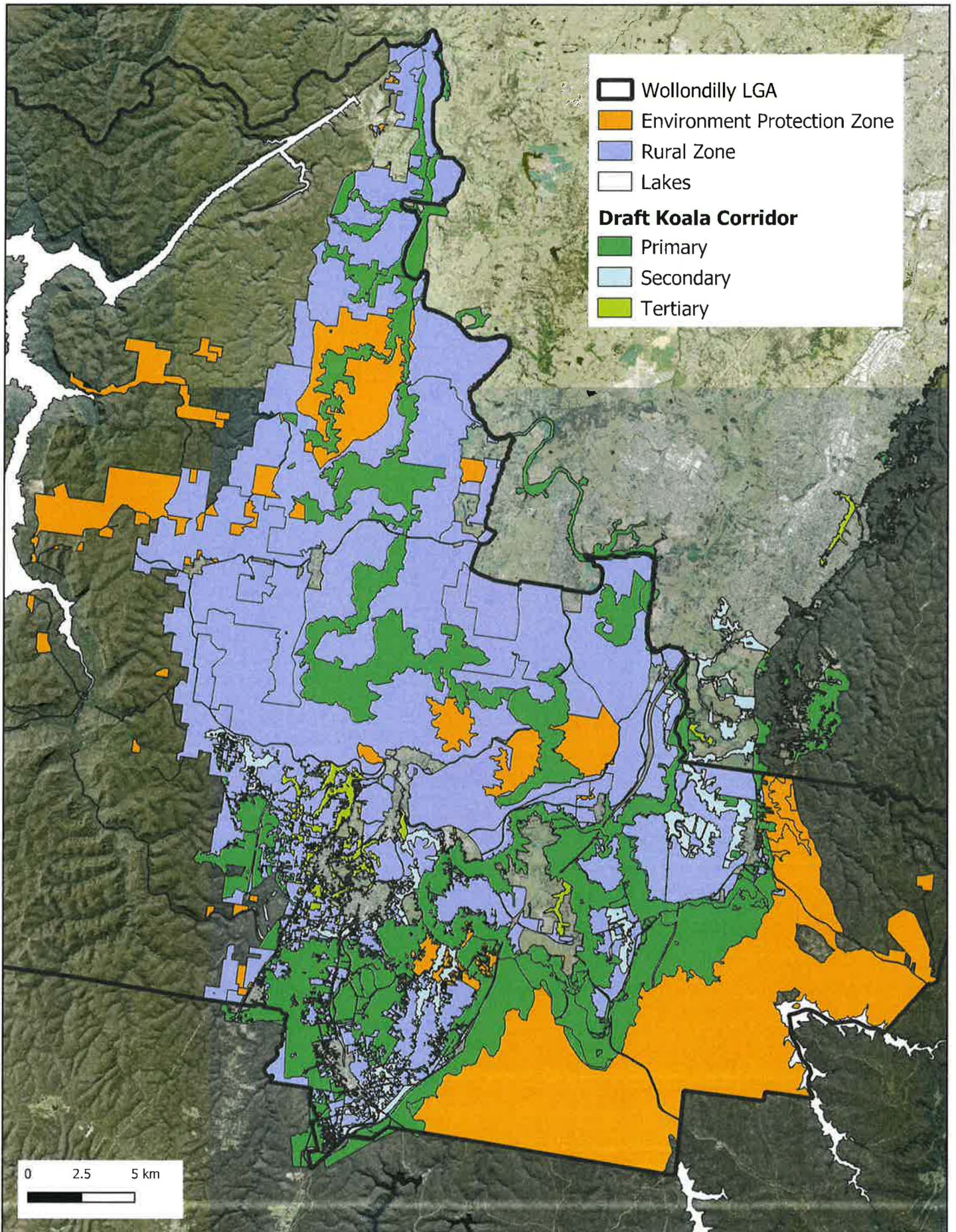
The LLS is requested to note that staff would expect such an amended Code to include appropriate assessment requirements broadly based on the approach for other planning frameworks outlined above.

PART D: CONCLUDING STATEMENT

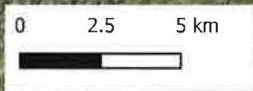
The existence of a Land Management Framework applying to land zoned rural administered by Local Land Services (or equivalent) is recognised as being appropriate. However, this submission has outlined a range of viewed shortcomings of the current framework in protecting the biodiversity values of land zoned rural within the Wollondilly Local Government Area that includes 11,384 hectares of threatened ecological communities.

This submission provides a range of recommended amendments for consideration by the LLS in regard to the strategic, biodiversity management and advocacy responsibilities applicable to the management of rural land based on the experiences and observation of staff and feedback received from the broader public as well as rural landholders. A key amendment relates to requiring consistency with the principles of Council's Rural Land Strategy which provides an overarching strategic framework both on a property scale and broader context. Further key amendments relate to achieving a more ecological rigorous assessment process and partial removal of the self-assess approach, as well as measures to directly engage with landholders as a means of achieving positive operational and environmental outcomes on a property scale as part of the implementation of a revised Framework.





Wollondilly LGA
 Environment Protection Zone
 Rural Zone
 Lakes
Draft Koala Corridor
 Primary
 Secondary
 Tertiary



Environment Protection Zoning and Koala Corridors in the Wollondilly Local Government Area



Projection: GDAB4/NGAS6
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Table 2 (Attachment 2) Land Management Framework Review Questions

Discussion Questions	
1. Is it clear how different land use zonings are defined and treated in the Land Management Framework? What, if any, changes are needed? Please give reasons for your answer.	Largely a landholder matter. There is potential confusion over rural type properties (which could have C Zones) and land that is zoned rural under the LEP.
2. How easy to understand are the land categories and the native vegetation clearing arrangements that apply under each category? What, if any, changes are needed?	Experience of staff have identified that the current names of the categories require clarification.
3. How useful is the Native Vegetation Regulatory Map as a tool for categorising private rural land? What, if any, other tools could help landholders make decisions about their land?	Does not adequately recognise the biodiversity value of land zoned rural in terms of ecological communities, fauna habitat and habitat corridors (in a landscape context)
4. How comfortable and capable are landholders in self-assessing their land according to the land categories? What, if any, improvements to the Transitional Arrangements should be made? Please give reasons for your answer.	Understood landholders have a responsibility to identify whether area to be cleared satisfies definition as a Critical Endangered Ecological Community (which requires ecological qualifications). Considered a significant proportion of rural landholders would not have such qualifications. Suitable information and on-site assistance where required needs to be provided by LLS
5. Do each of the approval pathways for native vegetation clearing provide landholders with adequate options while managing environmental risks? Please give reasons and/or examples to support your answer.	Matter for Landholders. The framework is viewed as requiring strengthening in regard to 'the management of environmental risk' and to achieve intended purpose "including Ecological Sustainable Development Principles" Examples are clearance of EEC's and koala habitat without adequate overseeing and monitoring compliance By LLS
6. Is it clear what native vegetation clearing activities are "allowable" i.e. don't need notification or approval?	Is a requirement for 'native vegetation must be only to the minimum extent necessary' assessed and enforced. Is the compliance with broad general allowable activities enforced
7. What, if any, other native vegetation clearing activities should be "allowable?" How could the requirements for allowable activities be improved?	Matter for landholders. Needs to be specific. The framework also needs to provide specific criteria for not allowable activities involving vegetation clearance subject to normal extensions such s hazard reduction
8. How effective are the requirements for establishing, managing, monitoring and reporting for set asides? Please give reasons for your answer.	Please see main body of the submission
9. What are the barriers to using the Native Vegetation Panel approval pathway and how could this pathway be improved?	Comments on this is not a matter for Council.
10. Is the public register for reporting on native vegetation certificates and notifications accessible, and is the information useful and easy to understand? What if any improvements to reporting should be made? Please give reasons for your answer.	Comments on this is not a matter for Council.
11. How adequate are the penalties for offences for illegal clearing and breaches of set aside obligations? Please give reasons and/or examples for your answer.	Questions over the adequacy of staff and financial resources to monitor and respond to instances of illegal clearance
12. To what extent does the public have confidence in compliance and enforcement of native vegetation regulation? How could public confidence be improved?	See main body of the submission