

**Submission
No 157**

**INQUIRY INTO PLANNING SYSTEM AND THE IMPACTS
OF CLIMATE CHANGE ON THE ENVIRONMENT AND
COMMUNITIES**

Organisation: Wollondilly Shire Council

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NSW Legislative Council
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SUBMISSION BY WOLLONDILLY SHIRE COUNCIL ON THE INQUIRY INTO THE PLANNING SYSTEM AND THE IMPACTS OF CLIMATE CHANGE ON THE ENVIRONMENT AND COMMUNITIES

EXECUTIVE SUMMARY

The Wollondilly Local Government Area (LGA) is a peri-urban LGA with a high diversity of landscapes and biodiversity values. These values are experiencing pressure from a range of land uses including; urban growth, underground mining, as well as unauthorised vegetation clearance on land with various zoning, including rural.

Council staff have a broad view that an effective planning system needs to be led and funded by State Government given that Councils operate in a legislative and policy framework established at the state level. A common experience is that achievement of the intended and designed positive outcomes from a wide variety of Council activities is negated, or on occasions, prevented as a consequence of shortcomings in the planning system. The stated purpose of the Inquiry to obtain an updated framework that will ensure that the local community, the built and natural environment are protected from climate change induced impacts, is welcomed.

This submission provides comments on the Terms of Reference for the *Inquiry into the Planning System and the Impacts of Climate Change on the Environment and Communities*. The comments are based on current issues being experienced by Council and the local community it represents in terms of biodiversity loss and the social, health, environmental and economic impacts of climate change. The comments are consistent with a number of Council submissions, with the most recent being the Review of the *Biodiversity Conservation Act 2016* in April 2023. The comments are also based on a wide variety of Council documents given the application of the Inquiry to a high number of Council responsibilities. A key relevant document is Council's Sustainability Policy adopted in February 2023.

The Terms of Reference (ToR) are considered to suitably cover the highly complex and diverse range of issues associated with the purpose of the Inquiry. However, a range of comments and recommendations are provided to address the social, health and economic adverse implications of urban heat whose increased effect as a consequence of climate change has been identified by a range of specialists in the field. Further comments in the submission are provided on the need for an integrated style layout in addressing climate

change induced impacts consistent with Councils' adopted Integrated Water Management Strategy.

Part A of the submission is comprised of relevant Council documents that Council would expect in an updated planning framework with those of most relevance being the; Sustainability Policy, Social and Health Impact Policy, and Local Strategic Planning Statement. It also provides an overview of biodiversity values, development pressure on these values and Council's broad position on the adequacy of the applicable planning framework. This position is reflective of that expressed in Council's submissions on the Cumberland Plain Conservation Plan and recent statutory review of the *Biodiversity Conservation Act 2016*. In this regard, support is provided to the Nature Positive approach recommended by the Final Report into this Review as a means of enhancing the assessment of climate change induced environment, health, social and economic impacts in a revised planning system.

Part B of the submission provides comments received from a number of different Council Sections given the application of the ToR for the Inquiry to a wide variety of Council responsibilities. Recommendations at a higher strategic level and applicable to all Terms of Reference Items include:

- The implementation of measures to achieve the stated purpose of the ToR and associated themes is significantly more achievable and effective at the onset of a proposal at the rezoning/masterplan process rather than the development application process referenced in ToR Items (a) and (b).
- The updated planning system should be strongly based on and informed by the social (and health), environment, economic and governance pillars.
- The expansion and integration of the current wide variety of state-initiated climate change related programs into a holistic state-led and funded strategy that specifically addresses climate change induced impacts be investigated.

Part B also provides comments and a wide range of recommendations designed to address identified shortcomings in the current planning framework consistent with applicable Council documents and previous submissions. The ToR item relating to "*adequacy of planning powers and planning bodies for the consideration of costs placing the environment at risk as a consequence of biodiversity loss*" has been interpreted as having a wider application to climate change induced impacts. The submission consequently provides comments and recommendations on viewed shortcomings of the biodiversity framework in terms of the Biodiversity Offset Scheme, Cumberland Plain Conservation Plan and state government koala policies.

The key recommendations of the submission in regard to each of the ToR items and subitems are:

Terms of Reference Item (a)

- That implications in regard to bushfire be the subject of a comprehensive assessment at the rezoning stage to ensure future development adequately addresses bushfire and biodiversity legislation as well as climate change implications.
- Council would expect that any development/planning proposal have demonstrated consistency with its *Sustainability Policy*.

Terms of Reference Item (b)

Adequacy of planning powers for local councils to review, amend or revoke development approvals

Revoking a determination would not be supported by Council's Development Services Section without these issues being addressed in a revised planning system as well as provision of suitable external resource assistance for any ensuing legal proceedings.

Adequacy of planning powers in regard to the cumulative impacts of development

The Committee is requested to recognise and investigate inadequacies in the current framework in the assessment of cumulative impacts (costs) as well as associated health and social and environment risks as a consequence of these viewed inadequacies.

Adequacy of planning powers in regard to Climate change and natural disasters

The Committee is requested to recommend that an Urban Heat Planning Strategy be prepared. A scope for such a Strategy ensuring the shortcomings are addressed in a revised NSW planning system in its Final Report is also recommended. The Committee is also requested to recommend the NSW Government issue a Ministerial Directive that provides interim government planning requirements in regard to urban heat given the strong potential for significant adverse social and health implications under the current planning framework. Such a Directive is requested to be based on studies by specialists in this field.

Adequacy of planning powers in regard to biodiversity loss

The Committee consider and provide recommendations to address shortcomings in the NSW planning framework in regard to biodiversity loss within the overall context of social, health and environmental impacts of climate change based on all available information and in consultation with stakeholders including local government. This should include specific recommendations to enhance the adequacy of the Cumberland Plain Conservation Plan in relation to these matters.

Rapidly changing social, economic and environmental circumstances

The NSW government needs to invest vastly more in developing social and affordable housing, and needs to set much higher affordable housing targets for developers (and then enforce those targets). Such investment will allow people of lower socio-economic status to live in a wider variety of areas rather than forcing the majority of them to live in places whose lack of infrastructure exacerbates their disadvantage and vulnerability to climate change induced impacts.

Terms of Reference Item (c) Short, medium and long term planning reforms that may be necessary to ensure that communities are able to mitigate and adapt to conditions caused by changing environmental and climatic conditions

For implementation in the short term

- Introduce climate change as an object of the *Environmental Planning and Assessment Act 1979*.

- The Committee recommend a Ministerial Directive that provides interim government planning requirements in regard to urban heat to be issued as soon as feasible. These requirements are to be based on studies by specialists in this field.
- The NSW government should incorporate requirements for an effective communication strategy in an updated framework that educate the target demographic about affordable ways to mitigate the effects of urban heat given the disproportionate impact of climate change on vulnerable low-income communities and seniors.

For implementation in the medium to long-term

- Standard provisions should be prepared for the Standard Instrument LEP that deal with climate change. At present, local provisions are being developed on an ad hoc basis on a Council by Council basis. The NSW Government has prepared a Local Housing Strategy and Guideline and template to support and guide Councils to develop their local housing strategies. These could be updated to require consideration of climate change when identifying areas with development capacity.

The need for a state developed, led and implemented planning system is recognised as being important to enable people and the natural and built environments are adequately protected from climate change impacts. However, the accompanying submission has raised a wide range of significant shortcomings in the adequacy of the planning system in relation to these impacts. A significant and wide-ranging reform to the planning system that incorporates comments and recommendations in this submission in consultation with a wide variety of stakeholders, including research institutions and local government, is consequently viewed as required. Consultation with members of the Committee to discuss issues raised with representative Council staff would be appreciated, if feasible.

FULL SUBMISSION

This submission provides comments on the Terms of Reference for *the Inquiry into the planning system and the impacts of climate change on the environment and communities*. The comments are based on current issues being experienced by Council and the local community it represents in regard to the social, health, environmental and economic impacts of climate change including biodiversity loss. The comments are consistent with issues raised in a number of Council submissions, with the most recent being the Review of the *Biodiversity Conservation Act 2016* in April 2023.

The comments are also based on a wide variety of Council documents given the application of the Inquiry to a broad range of Council responsibilities. A key relevant document is Council's Sustainability Policy adopted in February 2023 that contains the following endorsed position regarding Climate Change:

Council recognises that anthropogenic climate change is occurring and without substantial action poses a major threat to humanity and most living systems on Earth. The acute and chronic impacts of climate change include more frequent, widespread and devastating severe weather events. Council is committed to reducing greenhouse gas emissions, mitigating climate change impacts and building greater environmental and community resilience on a localised scale consistent with state and federal government policies and best practice.

This submission is divided into two broad comments comprised of Background Information on applicable issues within the Wollondilly LGA (Part A) and Part B, which includes comments and recommendations for consideration by the Committee in regard to the Terms of Reference items. The opportunity to present issues raised at a Public Hearing or potentially in a separate meeting with the Committee is sought and would be appreciated.

PART A: BACKGROUND INFORMATION

1) Overview of the biodiversity values of Wollondilly

(i) Overview of Biodiversity values

The Wollondilly Local Government Area (LGA) is a peri-urban LGA with a high diversity of landscapes and biodiversity values, comprised of 133 threatened species and three Critically Endangered Ecological Communities, as well as a regionally significant koala population. A distinct feature of the Wollondilly LGA is a significant portion of biodiversity values located on privately owned, rural zoned land as well as rural-style land with Environment Conservation zoning. An analysis of the significance and diversity of biodiversity is provided in **Table 1**.

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)

(ii) *Socio-economic/health (demographic matters) of Wollondilly*

The Wollondilly LGA is currently home to an estimated population of 54,772 people. By 2036, the population is predicted to increase to 92,102 people. Identified social and health issues in Wollondilly (compared to NSW as a whole) include a shortage of General Practitioners, imminent population growth, car dependence, insufficient physical activity, injuries due to vehicle collisions, mental health (especially following the 2019 bushfire season and the Covid-19 pandemic), cancers and access to health services.

2) Overview of applicable Council Strategies to the Inquiry

The Terms of Reference for the Inquiry have relevance to a wide variety of Council documents including the following:

- Sustainability Policy
- Neighbourhood Plan Policy
- Local Environmental Plan 2011
- Local Strategic Planning Statement
- Integrated Water Management Policy
- Social and Health Impact Policy and related Guidelines
- Long-term Recovery and Resilience Plan
- Wilton Health and Wellbeing Strategy

Council would expect that a revised planning system have broad consistency, at a minimum, with all applicable parts of all the above documents. The key features of each of the above documents with on-line links are presented in Attachment 1 of this submission for the information of the Committee.

3) Development and development framework within Wollondilly

a) Overview of current and scheduled development pressure

The following provides a snapshot of current development in the Wollondilly LGA and experiences associated with the applicable planning framework based on development within and outside Growth Areas for the information of the Committee.

Development in Growth Areas and associated framework

The Wollondilly LGA contains two Growth Areas defined under the State Environmental Planning Policy Sydney Region Growth Centres 2006 (Growth SEPP) located in the vicinity of Appin (Greater Macarthur Investigation Area) and Wilton (Wilton Priority Growth Area). Location and features of these Growth Areas are viewable in respective planning documents; [Wilton 2040](#) and [Greater Macarthur 2040](#). Both these Growth Areas provide

important linkages in regionally significant habitat corridors for a range of fauna species including the koala.

b) Council position on the applicable framework

The planning framework prepared at the state government level applying to the Growth Areas is broadly comprised of Land Use Planning (Wilton and Greater Macarthur 2040), Neighbourhood Plans and Development Control Plans. Council has appreciated the collaboration with the Department of Planning and Environment in the preparation of a number of documents under this framework, particularly the Wilton DCP which staff broadly support. However, Council's recently lodged submission on the statutory review of the *Biodiversity Conservation Act* raised the following shortcomings in this framework of relevance to the Inquiry:

- Council being required to carry out its responsibilities for planning and assessing under the framework established at the state government level.
- There is an absence of an overarching planning framework at the state level that would enable developments to be designed that would provide integrated positive outcomes in addressing the effects of climate change consistent with the broad environment, social, economic and government pillars of sustainability.
- The Cumberland Plain Conservation Plan is absent of any provisions that provide for development based on the above sustainability pillars on the certified land.

Development pressure outside Growth Areas

Council has direct statutory responsibilities for reviewing and determining development applications in accordance with the statutory policy framework at the local, state and commonwealth level. The areas currently and projected to experience development pressure outside the Growth Areas in comparison to the key biodiversity values of the Wollondilly LGA including koala corridors. This pressure is also focussed in less constrained areas for development on what is known as Cumberland Plain that is comprised of ecological communities that are listed as either Endangered or Critically Endangered in large part as a consequence of development pressure (as well as general vegetation clearance).

Council's recently lodged submission on the statutory review of the *Biodiversity Conservation Act* raised a number of shortcomings in the Biodiversity Offset Scheme associated with the Act in particular. It supported a statement in the submission from the Environmental Defenders Office to the earlier Parliamentary Inquiry into the Integrity of this Scheme *"It is EDO's view that the policy settings underpinning the BOS do not align with best practice science-based biodiversity offsetting; permit an inappropriate level of variation and discretion; and do not adopt the ecologically necessary limits to prevent extinctions (e.g. 'red flags'). The BOS will not deliver the intended biodiversity outcomes, including to conserve biodiversity and maintain the diversity and quality of ecosystems"*.

Council staff have noted the Final Report on the review of the *Biodiversity Conservation Act* has adopted a Nature Positive approach consistent with the recently produced publication titled Nature Positive Sydney by the Committee for Sydney. This approach and recommendations of this publication have a high level of synergy with a number of issues raised in Council's submission on the Act. **The adoption of this broad approach and by the Committee in responding to the Terms of Reference is recommended by this submission.**

c) *Specific issues associated with development in Wollondilly*

The following provides comments on key development issues of relevance to the Inquiry in regard to urban heat, integrated layouts and the related activities and position of Council for the information of the Committee.

Urban Heat

Urban heat has been an evolving issue in Wollondilly and western Sydney in general. It has been studied at depth by specialist researchers, including the University of Western Sydney, for range of factors including increased temperatures compared to coastal areas, lower socio-economic demographics in general and the largely adopted practice of removing vegetation from a development site prior to construction. Modelling available to Council staff identifies that the number of days in Western Sydney over 40 degrees are expected to increase significantly by 2040. In a Fact Sheet on Climate Change published by The Doctors for Environment, the statement “*Globally, 37% of warm season heat-related deaths can be attributed to climate change and increased mortality is evident in every continent*” is made. It is noted to further state that “*Heatwaves have been called ‘silent killers’, as deaths may not always be identified as heat-related if the death is due to worsening of an underlying health condition*”.

Council staff have observed a wide range of research over a number of years in regard to this important matter as well as introduction of a number of government programs and initiatives in regard to urban heat. Staff have welcomed the collaboration with researchers with a high level of expertise in this complex field at the University of Western Sydney. The wording in Tor Item (b) that the Committee will review risks to people from the impacts of climate change has been assumed as covering urban heat. However, the Committee is requested to specifically investigate this issue as part of its consideration of each ToR Item during the Inquiry given the strong potential adverse social and health implications of urban heat. Consultation with urban heat specialists for inclusion in a revised planning system is recommended. Such recommendations are requested to include planning measures that can be applied to Growth Areas as a matter of imperativeness to avoid the adverse social and health implications viewed as being likely by development in these areas under the current CPCP framework.

Planning reforms to achieve an integrated development layout

Specialist advice received by staff from UWS has indicated that the addressing of climate change impacts in the form of urban heat within development areas requires a holistic, integrated approach. Components of this approach is to provide cooling through mechanisms ranging from broadscale retained areas of vegetation, retention of generated stormwater within the landscape, retaining canopy cover, to coloured and green roofs. Staff are aware of research that has shown the provision of an integrated layout with overlapping blue and green grids is an effective mechanism in abating the social and health impacts of urban heat together with other measures such as urban design. Heat maps commonly shown in urban heat related research publications has proven the effectiveness of such an approach. In relation to this matter, staff are aware of modelling that identifies the traditional approach of relying on street trees. A tree on private property will result in no more than 30 to 25 percent canopy cover instead of the (supported by Council) government target of 40 percent.

Council is seeking and making progress, as part of implementation of its Integrated Water Management Strategy and associated Water Sensitive Guidelines, to achieve an integrated approach but is constrained by absence of requirements and guidelines in the planning system. It is considered that these matters are not explicitly addressed in the wording for ToR items (b) and (c). **The Committee is therefore requested to investigate and identify short, medium and long-term planning reforms that would facilitate integrated layouts on larger development sites in consultation with specialists.**

PART B: COMMENTS ON THE TERMS OF REFERENCE

This part of the submission provides comments on the ToR based on issues applicable to the Wollondilly LGA as well as documents referenced in Attachment 1 of this submission. The comments have applied the following interpretation of key terms used as there is uncertainty over aspects of the wording in the ToR.

Changing Landscape: Any alteration in existing land use including construction of development. For the purposes of this submission, comments regarding potential social, environment and economic impacts associated development is requested to be viewed as comments on changing landscapes given the dominance of this issue in the Wollondilly LGA.

Climate change induced impacts: Any environment, social or health implication recognised by specialists as a consequence of climate change that includes the effects of urban heat.

Biodiversity loss: Any impact or removal of biodiversity (as defined by the *Biodiversity Conservation Act 2016*).

Placing people or the environment at risk: Environment: the risk of a species achieving threatened status or a higher status of potentially extinct. People: Any adverse social, health or economic adverse impact including death.

1) General comments regarding the Terms of Reference

The following general comments provided by management of Council sections with direct responsibilities in regard to planning are applicable (in varying degrees) to each of the individual ToR items:

- An updated planning system that responds to each of the ToR items needs to be led and funded by government given that councils operate in a legislative and policy framework established at the state level.
- Councils are in the process of a range of initiatives to address the impacts of climate change such as the Hazards and Emergency and Sustainability Policy by Wollondilly Council. However, experience has shown the effectiveness of these initiatives in addressing impacts of climate change to people and the natural and built environment is subject to and can be overridden by Policies introduced at the government level. On occasions, experience has also shown that current government initiatives in the process of being implemented can be overridden by a new government initiative

- The implementation of measures to achieve the stated purpose of the ToR and associated themes is significantly more achievable and effective at the onset of a proposal at the rezoning/masterplan process rather than the development application process referenced in ToR Items (a) and (b).
- The updated planning system should be strongly based on and informed by the social (and health), environment, economic and governance pillars of sustainability.
- Council is aware of and participates in a high number of diverse initiatives and programs introduced at the government level that are viewed as applying in large part to specific issues such as Flood Management or requirements for Net Zero Emissions Strategies by councils. **The Committee is requested to investigate the expansion and integration of such programs into a holistic state led and funded strategy that specifically addresses climate change induced impacts and is broadly based on relevant Council documents to the Inquiry presented in Attachment 1 to this submission.**
- The Organisation of Economic Cooperation and Development is noted to have released a publication "**Rethinking Urban Sprawl: Moving towards Sustainability Highlights**". One of the Key Messages of this Report of relevance to this Inquiry is "*Coherent and targeted policy action is urgently needed from different levels of government to steer urban development towards more sustainable pathways. This is also pivotal for achieving the goals of the Paris Climate Agreement and the UN Sustainable Development Goals*". The Committee is recommended to consider this report which can be viewed at <https://www.oecd.org/environment/tools-evaluation/Policy-Highlights-Rethinking-Urban-Sprawl.pdf>.

2) Comments on Individual Terms of Reference Items

Terms of Reference (a): Protection of people and the environment for developments that are proposed or approved

- i. *In flood and fire prone areas or areas that have become more exposed to natural disasters as a result of climate change.*
 - Council has recently finished a draft Flood Study for the Wollondilly LGA that considers modelled relevant implications of climate change.
 - A number of approved developments have been identified at risk of flooding from high intensity rainfall events such as occurred in June 2016 when significant flooding was experienced in Picton as a result of an East Coast Low Event.
 - Council's Flooding Engineer has advised there is flexibility within the current draft Flood Study for the current 1:200 year flooding event to become the standard 1:100 year flood event utilised in development design as a consequence of climate change induced impacts.

Council's Flooding Engineer has provided following recommended inclusions in an updated planning system for consideration and response by the Committee:

- **Mechanisms that would allow for purchase of property and alternate land use be introduced for approved developments identified as being at risk of flooding.**

- **A requirement for the undertaking of an updated flood analysis in accordance with latest modelling that incorporates the most recent climate change projections prior to the granting of any Determination for a proposed development.**

Bushfire prone areas that have become exposed as a result of climate change

Approximately 85 percent of the Wollondilly LGA has been classified as bushfire prone land in the updated mapping that recently received formal approval from the NSW Rural Fire Service. Council's recent submission on the review of the *Biodiversity Conservation Act 2016* raised issues associated with the dual consideration of bushfire risk and biodiversity impacts for received development applications which is a very common occurrence in the Wollondilly LGA. The comments provided in regard to this issue in Section 3.1 of [Council's submission on the review of the Biodiversity Conservation Act](#) contained to this submission are requested to be considered by the Committee as part of the Inquiry.

Recommendations for consideration and response by the Committee

- The Committee is requested to note the strong preferred view of staff that implications in regard to bushfire be the subject of a comprehensive assessment at the rezoning stage to ensure future development adequately addresses bushfire and biodiversity legislation as well as climate change implications.
 - The Committee examine planning mechanisms for regional evacuation and modelling to enable planning authorities to understand the bushfire risk and inform the suitable scale and layout of a development that is necessary to adequately address the identified risk.
 - The Committee is requested to include within an updated planning system, measures that would enable, (and require where necessary), the suitable adjustment of a proposed development to reduce the level of bushfire risk as well as avoiding (preferably) or minimising impacts to biodiversity to address this risk. Such planning measures should require the consideration of climate change induced impacts as well as wide ranging and based on up to date current scientific research.
 - The Committee is requested to investigate planning mechanisms that would enable the retrofitting of approved developments and adjustments to layout, (for subdivision developments), in response to any identified enhanced bushfire risk as a consequence of climate change.
- ii. *Areas that are vulnerable to rising sea levels, coastal erosion or drought conditions as a result of climate change*
- The significance of the rural style landscape of the Wollondilly LGA with a need for its protection are common themes in feedback received from the local community.
 - The landholders in these areas have experienced the impacts of periodic drought including loss of productivity and associated social and economic hardship with the most recent being during 2018/2019.
 - Council staff have participated in a number of resilience-based programs of relevance to this issue in terms of enhancing community resilience by improving water management and enhancing water re-use and recycling.

The Committee is requested to investigate the inclusion of measures within an updated planning framework that would enable the retrofit of appropriate water reuse/recycling opportunities for approved development that reflects the applicable land zone(s) to the development.

The Committee is further requested to investigate the inclusion of design measures for appropriate water reuse/recycling opportunities for proposed development that reflects the applicable land zone(s) to the development.

(iii) Developments proposed or approved in areas that are threatened ecological communities or habitat for threatened species

This ToR item has been interpreted as applying to a scenario that includes for example, a koala habitat corridor or area of threatened ecological community presenting an increased bushfire risk to an adjoining development (either proposed or approved) due to the influences of climate change. Such scenarios are reasonably common in Wollondilly, particularly development applications involving dwellings on bushland blocks and subdivisions that have an interface with bushland areas. The protection of life and property from bushfire risk is of imperativeness to Council. Within this context, the Committee is request to note that Council would expect that any development/planning proposal have demonstrated consistency with the following Biodiversity Protection Principle in its *Sustainability Policy* whilst complying with the bushfire risk management framework:

Considering the broader planning framework, all decisions are made in accordance with the following order of priority, where achievable:

- 1. Avoidance of potential impacts to biodiversity. Where avoidance cannot be achieved then;*
- 2. Mitigation of any unavoidable impacts of the decision on the site affected. Where mitigation cannot be achieved then;*
- 3. Offsetting of any residual impacts of the decision within the Wollondilly LGA.*

Recommendations for consideration and response by the Committee as part of the Inquiry are:

- The introduction of measures in a revised planning system that would enable the adequate consideration of any risks presented by retained areas of biodiversity value at the planning/masterplan stage that would inform the subsequent design and layout of the respective development.
- Investigate planning mechanisms that identify areas where development not be permitted in instances where the required asset protection zones are not achievable on a site and/or vegetation clearance to satisfy such requirements is identified as presenting an unacceptable high level of impact to biodiversity by a suitably qualified ecological person. The Committee is requested to note in this regard that the Final Report into the Review of *the Biodiversity Conservation Act 2016* includes a recommendation of direct relevance involving the establishment of "No Go" areas.

Terms of Reference (b) The adequacy of planning powers and planning bodies, particularly for local councils, to review, amend or revoke development approvals, and consider the costs, that are identified as placing people or the environment at risk

The following provides broad comments and recommendations with a focus on Wollondilly in terms of the adequacy of planning powers for councils to consider the costs identified as placing people or the environment at risk consistent with the wording of this ToR item. There is uncertainty over the context of 'costs' and at risk in terms of application and whether this involves a Cost Benefit Analysis. The term has been interpreted in a broad sense for the purposes of this submission as being any potential adverse financial or non-financial based implication arising from a decision under the planning framework.

1) Adequacy of planning powers for Council to review, amend or revoke development approvals

The Manager of Council's Development Services has provided the following advice in regard to the issues associated with the revoking of development approvals:

- The existence of statutory provisions that enable the revoking of an approval is recognised.
- There is however an absence of specific guidance in these provisions for consent authorities to follow in revoking an approval and any revoking would most likely trigger legal proceedings with resulting significant workload for a number of Council staff and associated significant adverse implications for ongoing workload.
- Revoking a determination would not be supported without addressing of the above issues in a revised planning system, as well as provision of suitable external resource assistance for any ensuing legal proceedings.

The Manager of this Section has also provided the following advice in regard to Modification applications which has been assumed to relate to the 'amending of approvals' referenced in the Terms of Reference:

- The existence of a safeguard in the *Environmental Planning and Assessment Act 1979* that requires a modification to a Development Approval not be so significant as to render it substantially different from the original Development is recognised.
- The views expressed above regarding absence of specific guidelines however also applies to such applications.

The ToR is noted to not list refusal of determinations which is considered an important planning mechanism in responding to received proposals with identified potential unacceptable risks to the community and/or the environment. Council utilises this option where there is viewed justification, however it frequently triggers legal proceedings and there is viewed shortcomings in the current planning framework for its application in terms of criteria and process as above with revoking and amending approvals.

The Committee is requested to investigate appropriate criteria and guidance for councils to revoke as well as refuse determinations where identified as appropriate. The Committee is also requested to investigate suitable resource assistance to councils for any legal proceedings ensuing from revoking, modifying or refusing determinations.

2) Adequacy of Planning Powers for Council to consider the costs that are identified as placing people or the environment at risk

The following provides comments regarding the adequacy of the planning system in addressing identified costs (impacts) for each ToR sub item as well as recommendations for consideration and response by the Committee.

(i) *General comments on the overall planning system provided by Council's Strategic Section*

Focussing on the strategic planning process and rezoning land (through environmental planning instruments) within the planning system is viewed as potentially providing the greatest opportunity to ensure that people and the natural and built environment are protected from climate change induced impacts and changing landscapes. The approach in this regard enables constraints of a site and measures to address these impacts to be incorporated into the design and layout of any subsequent development.

Once land is rezoned, there needs to be a focus on how to mitigate any risks to new communities as well as the risk level that will be accepted. Technical studies to support site specific rezoning proposals are generally limited to the suitability of the site in terms of natural hazards, for example, bush fire and flooding hazards. They do not consider the cumulative impacts on a community. For example, can a larger population be safely evacuated in a natural disaster? Another, example may be that the land capability of the site is not constrained, however, what happens if access to and from the area relies on constrained land.

Ministerial Directions have become relatively straightforward to justify an inconsistency but require more weight to be effective in delivering the sought outcomes. In this respect, such Directions are viewed by this submission as being a potentially prompt and effective approach in regard to the identified shortcomings in the system that are viewed as being imperative to address avoidance of potential significant adverse social, economic, health and environmental impacts.

(ii) *Comments and recommendations for individual Terms of Reference subitems*
Terms of Reference (b) (i) Adequacy of planning powers for the consideration of costs placing people or the environment at risk as a consequence of the cumulative impacts of development

The current planning system is not considered designed to adequately identify the cumulative social, health and environmental impacts of a development including the impacts of climate change on the following grounds:

- The current planning system has a heavy focus on a site by site merit process that can have the effect of preventing consideration of cumulative impacts associated with a number of proposals.
- The broad purpose of the *Environmental Planning and Assessment Act 1979* as well as its Objects does not contain any specific reference to cumulative impacts. **The Committee is requested to note that this submission recommends the inclusion of object(s) that relate to such impacts as well as the impacts of climate change.**
- Section 1(4) of the *Environmental Planning and Assessment Regulation 2000* states that “A statement of environmental effects referred to in subclause (1)(c) must indicate amongst other matters (the steps taken to protect the environment or to lessen the expected harm to the environment”. The regulation does not in

this regard include any statutory requirement for the consideration of cumulative impacts or associated social, health and environmental impacts (costs).

- Section 1.7 of the *Environmental Planning and Assessment Act 1979* requires application of Part 7 *Biodiversity Conservation Act 2016* (BC Act) Biodiversity Assessment and Approvals under the Planning Act. The viewed deficiencies of the *Biodiversity Conservation Act* in the consideration of potential cumulative impacts to biodiversity contained in [Council's recent submission on the statutory review of this Act](#). These deficiencies consequently extend in the planning system through this linkage between the two Acts.

In relation to this matter, NSW Rural Fire Service Determinations issued under integrated development provisions now commonly require an entire development site be managed as an Inner Protection Area. Such requirements have been observed on occasions to result in adverse cumulative impacts to areas of vegetation and canopy with associated heat implications with requirements for Inner Protection Areas across multiple adjoining allotments.

The Committee is requested to recognise and investigate inadequacies in the current framework in the assessment of cumulative impacts (costs) as well as associated health and social and environment risks as a consequence of these viewed in adequacies. This investigation is requested to consider the Parliamentary Integrity of the Biodiversity Offset Scheme, previous reviews of the planning system including the current review of the Biodiversity Conservation Act as well as Council documents presented in Attachment 1 of this submission. The Committee is also requested to identify and provide recommendations for the addressing of these shortcomings in an updated and revised planning framework in consultation with stakeholders including councils

Terms of Reference (b)(ii): Adequacy of planning powers and planning bodies for the consideration of costs placing people or the environment at risk as a consequence of climate change and natural disasters

The response to the contributing factors of climate change is viewed as largely being the responsibility of the NSW and Commonwealth governments. The state government in recent years is acknowledged to have introduced a range of programs such as the Greener Cities Program, adoption of 40 percent canopy targets and a production of a range of tools for Councils to assist respond to the requirement for preparation of Net Zero Emission Strategies.

Council recognises it has a role in addressing the causes of climate change and associated potential social, health, environmental and economic impacts. In this respect, Council's adopted Sustainability Policy outlines a number of relevant formal positions to this matter that includes a commitment to achieve a net zero status for its emissions by 2050, at the latest. Council also attempts to implement a range of programs as well as implement a range of Policies such as its Integrated Water Management Policy to address the effects of climate change. However, the Committee is requested to note the common experience of staff that any positive outcome from such programs is negated or made unachievable by the introduction of government programs that are viewed as, in large part, absent of any measures to address impacts associated with climate change, such as the Cumberland Plain Conservation Plan.

The ToR item is noted to refer separately to climate change and natural disasters. Staff have noted scientific research that a warming climate can increase the intensity and associated impacts of these events. The following outlines concerns and viewed shortcomings of the state-based planning system and recommendations for the Committee to address these shortcomings.

Adequacy of planning powers and bodies in addressing risks to people and the environment as a consequence of urban heat

- Staff are aware of a range of research studies by specialists that heat has the highest fatality rate amongst all natural disasters. A holistic approach of a wide variety of components including planning to address its impact (cost) to the community and the environment (in broad terms) is viewed as being required.
- Staff have the following ecological based concerns on the impacts of climate change:
 - The potential severe impact that could occur to koalas as well as other wildlife in the event of a bushfire.
 - The potential adverse impacts to flora and fauna species in terms of, but not limited to, long-term ecological function ability of ecological communities, habitat suitability, availability of food sources and movement patterns as a consequence of predicted changes in climate.
 - Staff are aware of a research project by Macquarie University titled “*Influence of Bushfires on Antimicrobial Resistance Dynamics in the Grey Headed Flying Fox*”. A noted finding of this research was that studied species (that includes Grey Headed Flying Foxes and koalas) have increased resistance to antibiotics when heat stressed was provided at the recent National Flying Fox Forum. This finding is of particular concern for the effectiveness of the current trial of the Chlamydia vaccine given the northern part of Wollondilly is the only chlamydia free area within NSW.
- Council has the following strong concerns over the apparent absence of measures within the current planning system to combat the environmental, social and health impacts of urban heat:
 - The absence of any overarching State Environmental Planning Policy following the decision not to proceed with the State Environmental Planning Policy (Design and Place) (Design and Place SEPP).
 - Absence of any specific measures to achieve an integrated layout that provides urban cooling in the planning framework currently applying to Growth Areas apart from roof colour controls and nominated 40 percent canopy targets.
 - Insufficient measures to achieve lot sizes and caps for building envelopes on development sites that would provide for suitable cooling and the achievement of the (supported by this submission) 40 percent canopy cover. Staff are aware of modelling and research including that undertaken by the University of Western Sydney that reliance on street trees and trees on private property will produce a maximum 25 percent canopy cover.
 - Insufficient planning statutory mechanisms at the state level that would require controls to address urban heat be contained in Development Control Plans as well as insufficient guidance for the consideration of urban heat implications as part of Council’s consent responsibilities in Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

The Committee is requested to recommend an Urban Heat Planning Strategy be prepared as well as provide a scope for such a Strategy that would ensure the shortcomings are addressed in a revised NSW planning system in its Final Report. The Committee is also requested to recommend the NSW Government issue a Ministerial Directive possible that provides interim government planning requirements in regard to urban heat given the strong potential for significant adverse social and health implications under the current planning framework. Such a Directive is requested to be based on studies by specialists in this field including universities and Doctors for the Environment.

Adequacy of planning powers in addressing risks to people and the environment as a consequence of bushfire natural disasters

- The *Planning for Bushfire Protection Guidelines 2019* is viewed by staff as being largely adequate in achieving its purposes of providing a framework for the overall management of bushfire risk associated with development in NSW. **A requirement for the ongoing update of this document to reflect the predicted increase in fire risk as a consequence of climate change and associated need for increased response in the planning framework is however recommended.**
- The involvement of the NSW Rural Fire Service under the integrated development provisions of the planning system is supported and is requested to be contained in an update planning system. In relation to this matter, RFS Determinations have been observed recently to largely require an entire or the majority of a site be managed as an Inner Protection Area. Such requirements have been observed to commonly result in a higher biodiversity loss than is likely required as a result of the existing bushfire risk as well as causing delays and expense to the applicant.
- The Wollondilly LGA has a number of villages either fully or partially surrounded by bushland that are vulnerable to impact during significant fire events such as occurred in the Green Wattle Creek Fire in 2019 when a number of houses were lost across three villages. The Committee is requested to examine potential options to provide greater protection for such villages from future fire events in consultation with specialists in the field given the increased likelihood of potential fires with high intensity as a consequence of climate change.

Adequacy of planning powers in addressing risks to people and the environment as a consequence of flooding natural disasters

Council's Flooding Engineer has provided the following recommendations for consideration by the Committee

- The floodplain management system is good at studying and analysing floods but there is not a clear link into the planning framework for the recommendations associated with the management studies.
- There are particular issues with low flood risk development controls where there is a large area affected by the Predicted Maximum Flood outside the flood planning area (based on 1% AEP flooding).
- The creation of the Reconstruction Authority that appears to entail the preparation of a new Disaster Adaptation Plan, (yet to be fully articulated), would

appear to re-write the floodplain development manual after the latest version of that document was only recently published.

Adequacy of planning powers and planning bodies for the consideration of costs placing people or the environment at risk as a consequence of biodiversity loss

This ToR Item is considered to have a broader application to the impacts of biodiversity loss and people and the adequacy of the current planning system and powers for the addressing of these impacts. The social, environmental and health impacts associated with biodiversity loss are viewed as being interconnected. Staff are aware in this regard of studies in addition that the actual presence of green spaces and areas within a development enhances the health and wellbeing of residents.

The Guiding Principles for Local Government contained in Chapter 13 of the *Local Government Act 1993* includes “*Councils should consider the principles of ecologically sustainable development*”. Council’s development and planning responsibilities in terms of biodiversity management are defined by the biodiversity framework prepared and implemented at the state and commonwealth government level. The undertaking of these responsibilities is viewed as being significantly impeded or in a number of occasions prevented by shortcomings in the applicable components of the planning system. This in turn prevents or impedes the achievement of the intended outcome of Council’s activities in biodiversity management that include on-ground works and community advocacy. **The Committee is requested to note in this regard that Council is receiving rapidly increasing concerns expressed by the local community over the loss of biodiversity as a consequence of development.**

Areas of biodiversity loss that has occurred as a consequence of the viewed shortcomings in the biodiversity framework is difficult to quantify and is not currently available. However, as an indication, the Cumberland Plain Conservation Plan involves the removal of over 1,000- hectares of Critical Endangered Ecological Communities as well as significant areas of important koala habitat. The following provides a summary of the key issues for the assistance and information of the Committee based on previous Council submissions on the Parliamentary Inquiry into the Integrity of the Biodiversity Offset Scheme and Koala Habitat as well as Review of the *Biodiversity Conservation Act* which can be provided to the Committee upon request.

Viewed inadequacies/shortcomings of biodiversity related legislation

The key findings of the recently released Final Report into the review of the *Biodiversity Conservation Act* have a high level of synergy with issues raised in Council’s submission on this related review (Attachment 2) with those of most relevance to this Inquiry being:

- The Review Panel found that the present Biodiversity Conservation Act 2016 is not meeting its primary purpose of maintaining a healthy, productive and resilient environment, and is never likely to do so.
- The Act should proactively address climate change induced impacts on biodiversity and ecosystems and the cumulative impact of biodiversity loss and loss of ecosystem connectivity.

Of relevance to this matter, the interaction and on occasions duplication of biodiversity measures in the NSW *Biodiversity Conservation Act 2016* and Commonwealth

Environment Protection and Biodiversity Conservation Act 1999 creates ongoing complications for both applicants and Council as consent authority for relevant development proposals. A bilateral agreement between the NSW and Commonwealth Governments is acknowledged to be in force, although this currently is restricted to state significant developments. As a broad position, staff would support the extension of a bilateral agreement to apply to developments assessed under Part 4 of the NSW *Environmental Planning and Assessment Act 1979* on the condition that all shortcomings of the current NSW planning framework raised in this and related submissions from Council are adequately addressed in any such agreement.

Inadequacies in the planning system regarding the protection and management of koala habitat

The preparation of the NSW Koala Strategy and activities as part of its implementation including the establishment of the Georges River National Park, allocation of funding for habitat improvement and research into matters affecting koala habitat have been welcomed. However, there has been continuing concern over the absence or brief reference to the removal of habitat from development, considered the dominant threat to the koala population in this Strategy as well as a range of related documents prepared at the state level. Council's submission to the Legislative Inquiry into Koala Habitat in NSW "expressed the view that the (then) NSW Department of Planning, Industry and Environment has been undertaking land use planning adversely impacting the survival of koalas within the Wollondilly Local Government Area without strategic direction". A copy of this submission is provided in Attachment 3 to this submission.

In relation to this matter, a noted common view particularly by developers is that assessment of impacts of a proposal to koala populations and their habitat is not required in the event of Chapter 4 in the State Environmental Planning Policy (Biodiversity and Conservation) 2021 (Koala SEPP 2021) not applying. This position is not supported by staff as such assessment is still viewed as being required as part of Council's consent responsibilities under Section 4.15 of the *Environmental Planning and Assessment Act 1979*. This issue is currently causing viewed significant applications for assessment of impacts of development within a Growth Area on a recognised highly significant koala population in the vicinity of Appin within the Wollondilly LGA that is also raising significant community concern. A prompt response by Government as well as discussions with Council by members of the Committee is sought.

Overview of viewed inadequacies regarding the Cumberland Plain Conservation Plan in terms of biodiversity loss

Staff from Council's Environment and Development Section have had experience in the review of development proposals within the urban certified land in Growth Areas and Strategic Conservation Areas as part of the strategic conferral process associated with the CPCP. This Plan is recognised as providing for retention of a level of corridor connectivity in Avoided Land within the Wilton and Greater Macarthur Investigation Area. However, staff have identified the following shortcomings in relation to this matter when reviewing development proposals within these Areas:

- Insufficient ecological basis of the boundary of Avoided Lands resulting in location of sections of habitat corridors on certified urban capable land.

- Inability to retain bushland as habitat corridors to achieve a suitable ecological base consistent with current research as a consequence of the conferral framework.
- Generic broad nature of requirements for assessment for impacts to koalas with an absence of localised requirements within the context of the development as a consequence of Koala SEPP 2021 not applying to urban certified land under the CPCP.

The Committee is requested to note that an analysis of CPCP mapping has identified approximately 250 hectares of recognised koala habitat on urban certified land within the Wilton Growth Area and a portion of the Greater Macarthur Investigation Area within the Wollondilly LGA. The experience of staff in reviewing planning and proposals within Growth Areas in relation to this matter has identified viewed inconsistencies with the interpretation and application of Advice provided by the NSW Chief Scientist in regard to issues associated with koala corridors and width by the CPCP. A Map showing the inconsistencies of urban certified land and the 390 metre wide corridor recommended by the Office of Chief Scientist is presented as Map 2 to this submission. Extracts of comments on this Plan contained in Council's submission on the draft Biodiversity Conservation Act are also presented in Attachment 2 to this submission.

Staff are aware of a media release from the NSW Minister for Environment advising of the revamping of the CPCP to enhance its adequacy in this matter. The integration of such a review with this Inquiry as well as the review of the *Biodiversity Conservation Act 2016* is recommended.

Recommendations for the Committee

The Nature Positive approach and recommendations of the Final Report into the statutory review of the *Biodiversity Conservation Act* are supported by staff in terms of addressing issues summarised above. Staff would expect that this approach form part of an all-encompassing strategy in addition to biodiversity that incorporates and integrates with programs and activities at the state and commonwealth level as recommended in this submission. **Within this context, the Committee is requested to undertake the following as part of the Inquiry:**

- **Identify measures and recommendations to enable costs, that are identified as placing people and the environment at risk as a consequence of biodiversity loss as much as feasibly possible in consultation with stakeholders including research and councils.**
- **Consider and provide recommendations to address shortcomings in the NSW planning framework in regard to biodiversity loss within the overall context of social, health and environmental impacts of climate change based on all available information and in consultation with stakeholders including local government. This should include specific recommendations to enhance the adequacy of the Cumberland Plain Conservation Plan in relation to these matters that can be readily implemented.**
- **Investigate measures for inclusion in a revised version of the Biodiversity Conservation Act and/or the associated Regulation that provides suitable statutory authority for consent authorities to require a site specific koala assessment where the SEPP does apply.**

- **Consider and provide recommendations to address issues associated with duplicity between the NSW Biodiversity Conservation Act and Commonwealth Environment Protection and Biodiversity Conservation Act within the overall context of the ToR for this Inquiry.**

Council staff understand that staff within the Department of Planning and Environment are preparing a proposed government response to recommendations of the Final Report into the Review of the *Biodiversity Conservation Act*. Staff have also noted a media release from the NSW Minister for Environment announcing an intended revision of the CPCP to enhance koala protection. The Committee is requested to integrate the Inquiry with these two processes subject to timing and wherever feasible.

(b) Adequacy of planning powers in addressing risks to people and the environment as a consequence of rapidly changing social, economic and environmental circumstances

This ToR item has been interpreted for the purposes of this submission as examining the adequacy of the current planning system in addressing social and health impacts that may occur as a result of climate change induced events such as extreme heat, bushfires and flooding. A recent example in this regard is considered to have occurred in early 2020 when Penrith had the highest temperature on that day in the world at 48.9 degrees and community were forced to relocate into cooler shopping centres as relief due to inadequate planning in terms of both layout and design.

The following comments and recommendations for consideration and response to address viewed inadequacies in the planning system by the Committee have been provided by Council's Senior Strategic Health Planner:

As a general comment, the planning system privileges car-centric low-density development that contributes to climate change by forcing people to do a majority of their trips in vehicles, by inefficient distribution of building materials, by inefficient allocation of funding on roads that wouldn't need to exist if a majority of people lived in higher-density neighbourhoods served by public transport, and by development of land that could otherwise be kept for nature or primary production. As a further comment, these fundamental shortcomings in the planning system commonly result in people who are unable to drive (for physical or socio-economic or other reasons) and/or are of a lower socio-economic level are disproportionately affected by climate change and are especially vulnerable to heat and natural disasters. Recommendations to improve the adequacy of the current planning system in relation to this Terms of Reference Item are:

- The planning system urgently needs to curtail the release of new housing that is not supported by public transport and social infrastructure instead of viewed acquiescence to pressure from developers and media to indiscriminately boost housing supply.
- The planning system needs to focus on regulating to ensure that the greater than 1 million empty homes in NSW are made available for people to rent rather than building new dwellings (each of which has a significant environmental footprint).
- The NSW government needs to invest significantly more in developing social and affordable housing, and needs to set much higher affordable housing targets for developers (and then enforce those targets). Such investment will allow people of lower socio-economic status to live in a wider variety of areas rather than forcing

- the majority of them to live in places whose lack of infrastructure exacerbates their disadvantage and vulnerability to climate change induced impacts.
- Stronger protections need to exist for agricultural land and sources of building materials (especially sand), particularly close to highly populated areas; trucking fresh vegetables to Sydney from regional NSW has a significant carbon footprint as well as increasing costs to the consumer, both of which disproportionately affect people of low socio-economic status.

(c) Short, medium and long term planning reforms that may be necessary to ensure that communities are able to mitigate and adapt to conditions caused by changing environmental and climatic conditions, as well as the community's expectation and need for homes, schools, hospitals and infrastructure

This ToR item has been interpreted as referring to potential planning reforms that would achieve an outcome that reduces and/or alleviates impacts experienced by the community ranging from a broad sense to specific dwellings to climatic impacts including urban heat. The following provides recommended planning reforms for consideration and response by the Committee consistent the stated timeline for the reforms:

Recommended planning reforms viewed as achievable to be implemented in the short-term (low cost/low fruit)

Statutory and policy reforms

- Introduce climate change as an object of the *Environmental Planning and Assessment Act 1979* and require its consideration by consent authorities in accordance with Section 4.15 of this Act.
- Require the consideration of cumulative social, health and biodiversity impact in *the Environmental Planning Regulation 2000*.
- The Committee recommend a Ministerial Directive that provides interim government planning requirements in regard to urban heat to be issued as soon as feasible and be given the strong potential for significant adverse social and health implications under the current planning framework based on studies by specialists in this field including universities and Doctors for the Environment.
- The undertaking of the following reforms to current State Environmental Planning Policies to address deficiencies in the planning framework for the Cumberland Plain Conservation
 - Amend Section 13.16 of the Biodiversity Conservation SEPP to Development consent must not be granted to development on certified urban capable land unless the consent authority has considered whether the development is consistent with the Development Control Plan applicable to the precinct or the Mitigation Measures Guideline in the absence of such a DCP. This section of the SEPP currently only requires consistency with the Cumberland Plain Conservation Plan Mitigation Measures Guideline that is absent of any specific site-specific biodiversity assessment requirements.
- Investigation of measures for inclusion in a revised version of this Act and/or the associated Regulation that provides suitable statutory authority for consent authorities to require a site-specific koala assessment where this SEPP does apply where viewed as warranted (by the consent authority).

Community based reforms

- The NSW government should incorporate requirements for an effective communication strategy in an updated framework that educate the target demographic about affordable ways to mitigate the effects of urban heat given the disproportionate impact of climate change on vulnerable low-income communities and seniors.
- The NSW Government issue requirements (a Ministerial Direction is suggested) to establish accessible cooling spaces within large developments and in close proximity to residential areas in general during heatwaves, rather than relying on members of the community utilising shopping centres for cooler spaces, especially for our most vulnerable community members such as seniors

Recommended planning reforms viewed as achievable to be in the medium and/or long term

Strategic reforms

The following comments and recommendations to address experienced shortcomings in the planning framework based on the ToR has been provided by Council's Strategic Section:

- There needs to be a clear framework around climate change to guide the strategic planning framework. For example, a precise and readily understood description of What does the term 'climate change' mean for land use planning'.
- There needs to be a state led strategic framework that provides an appropriate mechanism that requires Councils to investigate and identify what the key climate change considerations are for their local area and how to respond. This could potentially be through local strategic planning statements and needs to have weight to influence land use planning decisions
- Consideration of climate change needs to be integrated into and embedded into the strategic planning framework;
 - The NSW Government has prepared a Local Housing Strategy and Guideline and template to support and guide councils to develop their local housing strategies. These could be updated to require consideration of climate change when identifying areas with development capacity.
 - NSW RFS's Planning for Bushfire Protection has been updated to accommodate strategic planning. However, the document is still too heavily focussed on development assessment. In our experience, comments on planning proposals tend to refer to matters which are relevant to a future development application and have little influence, if any, on the rezoning process.
 - Standard provisions should be prepared for the Standard Instrument LEP that deal with climate change. At present, local provisions are being developed on an ad hoc basis on a Council by Council basis. This often means that only those Councils with the resources to invest in the necessary policy development around climate change have progressed updates to their local environmental plans.
- In the last few years there has been significant change in land use planning for hazards. For example, new guides such as the NSW Government's Planning for a more resilient NSW, the release of a draft Shelter-in-place guideline to ensure people are safe during floods, and the establishment of the NSW Reconstruction Authority. Our Council has progressed a Shire Wide Hazard and Emergency

Management Study to identify the relevant hazards (both natural and human made) and key hazard related concerns for the Shire to inform land use planning decisions. This broad body of work needs to be more coordinated so that there is clear direction for councils.

Statutory reforms

- Recommend a comprehensive review of the current *Biodiversity Conservation Act* broadly based on the recently released Final Report on the Review, the findings of the Planning System and Climate Change Inquiry and issues raised in the respective submissions from Council.
- (d) alternative regulatory options to increase residential dwelling capacity where anticipated growth areas are no longer deemed suitable, or where existing capacity has been diminished due to the effects of climate change**

This ToR item has been interpreted as applying to a scenario for example where a government directive requiring the addressing climate change induced impacts such as provision of cooling spaces has the effect of required dwelling numbers not being achievable. Council's Strategic Growth Section has advised the provision of increased residential dwelling capacity in the form of medium density, as a response to 'increase residential dwelling capacity' referenced in the ToR could be supported within the Wollondilly LGA subject to resolution of matters listed below:

- If alternative (additional) locations are required to provide growth due to climate change limitations then these should be consistent with Council's adopted Local Housing Strategy.
- Any medium density style housing within nominated Growth Areas be subject to a detailed analysis that includes protection of the people and the natural and built environment from climate change induced impacts (including urban heat). It is a preferred view that such an analysis should form part of a Neighbourhood Plan or equivalent and no medium density be located within 100 metres of certified and avoided interface.

The application of 'regulatory options' is uncertain however is considered to have relevance to the strategic and consent authority functions of Council. **The Committee is requested to consider planning in addition to regulatory options as a more effective means of addressing this ToR item consistent with the overall intent of the Inquiry stated in the Terms of Reference.**

PART C: CONCLUDING STATEMENT

This submission has welcomed the holding of the Inquiry as an important means of addressing a number of shortcomings experienced by staff with the current planning framework as well as in received feedback from the local community that Council represents. The submission provides interpretation on a number of terms referenced in the ToR including changing landscapes, costs to the environment and biodiversity loss as context and assistance for its review by the Committee. The comments have consistency with a wide variety of Council documents as well as previous submissions most recently being the review of the *Biodiversity Conservation Act 2016*.

The ToR are considered to suitably cover the highly complex and diverse range of issues associated with the purpose of the Inquiry. However, a range of comments and

recommendations are provided to address the social, health and economic adverse implications of urban heat, whose increased effect as a consequence of climate change has been identified by a range of specialists in the field. Further comments are provided on the need for an integrated style layout in addressing climate change induced impacts consistent with Councils' adopted Integrated Water Management Strategy.

The submission incorporates comments received from a number of different Council Sections given the application of the ToR for the Inquiry to a wide variety of Council responsibilities. A key high level recommendation is for a state led overarching and clear strategic framework that provides an appropriate mechanism that requires Councils to investigate and identify what the key climate change considerations are for their local area and how to respond. It also provides general higher level comments within a broader planning framework context as well as lower level comments in relation to individual ToR Items and subitems. A key recommendation in this regard is the introduction of climate change and cumulative impacts into the Objects of the *Environmental Planning and Assessment Act 1979*.



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