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LEVEL 8, 123 PITT STREET  
SYDNEY NSW 2000**

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ABN 50 105 256 228

9 October 2020

[REDACTED]  
Department of Planning, Industry and Environment  
Green and Resilient Places Division  
Locked Bag 5022  
Parramatta NSW 2124

Dear [REDACTED]

## **SUBMISSION ON DRAFT CUMBERLAND PLAIN CONSERVATION PLAN MIR GROUP - BROOKS POINT SITE**

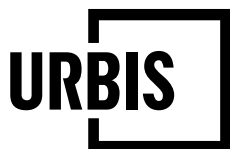
This letter has been prepared on behalf of Mir Group in response to the public exhibition of the draft Cumberland Plain Conservation Plan 2020-56 (**the draft CPCP**). This submission is made in respect to the land holding at Brooks Point, owned by Mir Group. The site is located within the Greater Macarthur Growth Area.

Due to the size and ecological complexity of the site and the draft CPCP, it is requested that this letter be submitted as a formal, interim submission to the draft CPCP. An update with the detailed site assessment and comments and recommendations will be submitted prior to COB Wednesday, 14 October 2020.

Yours sincerely,

[REDACTED]

[REDACTED]



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ABN 50 105 256 228

14 October 2020

Department of Planning, Industry and Environment  
Green and Resilient Places Division  
Locked Bag 5022  
Parramatta NSW 2124

To whom it may concern,

## **SUBMISSION ON DRAFT CUMBERLAND PLAIN CONSERVATION PLAN**

This letter has been prepared on behalf of Mir Group in response to the public exhibition of the draft Cumberland Plain Conservation Plan 2020-56 (**the draft CPCP**).

This submission is made in respect to the landholding owned by Mir Group, identified as the Brooks Point Site. The site is located in Appin, within the Wollondilly Local Government Area (LGA).

We understand that the draft CPCP seeks to offset the biodiversity impacts of future urban development within the Cumberland subregion by identifying strategically important biodiversity areas to ensure a vibrant and liveable city going into the future. The draft CPCP will inform the zoning for certified – urban capable land and non-certified land, land that is either avoided land for biodiversity or other environmental purposes. It also identifies areas that are suited for future ecological reserves and/or offsets.

This letter is supported by a submission provided by Ecological at **Attachment A**.

### **1. THE SITE**

The Brooks Point site is comprised of multiple adjoining lots adjoining the Cataract River (western boundary). The site is approximately 244ha in area and is made up of mostly undeveloped land used for rural residential and primary production purposes. The site has been historically cleared for agricultural purposes and supports little native vegetation across the bulk of the site. Several farm dams and creeks traverse through the site, most stemming from the Cataract River and the Rocky Ponds Creek.

Multiple minor roads enter and cross through the site and Wilton Road crosses through the south extent of the site. Wilton Road connects the site with Appin and the wider, major arterial road network. Of note, multiple existing easement corridors cross north-south through the site.

Considering the existing distribution of natural features across the site, the majority of the site has potential for future residential and/or employment development. The site has 163.61ha of suitable development land, located within the West Appin precinct of the Greater Macarthur Growth Area.

The site composition is provided in Figure 1 below. An aerial photograph of the site is provided in Figure 2 below.



Figure 1 [REDACTED] Landholding

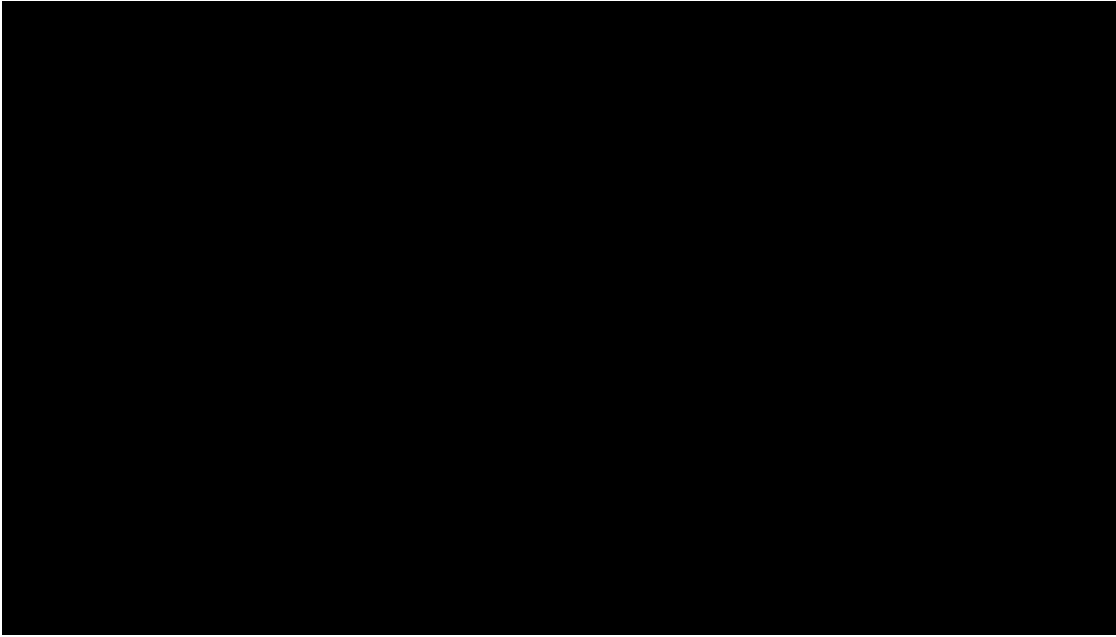
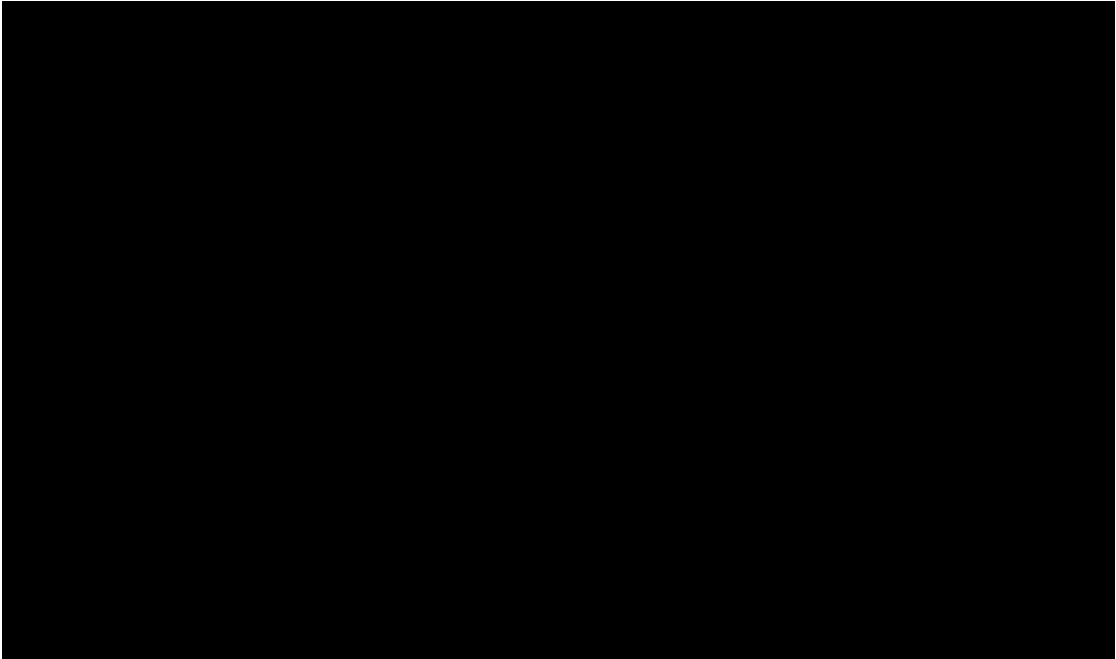


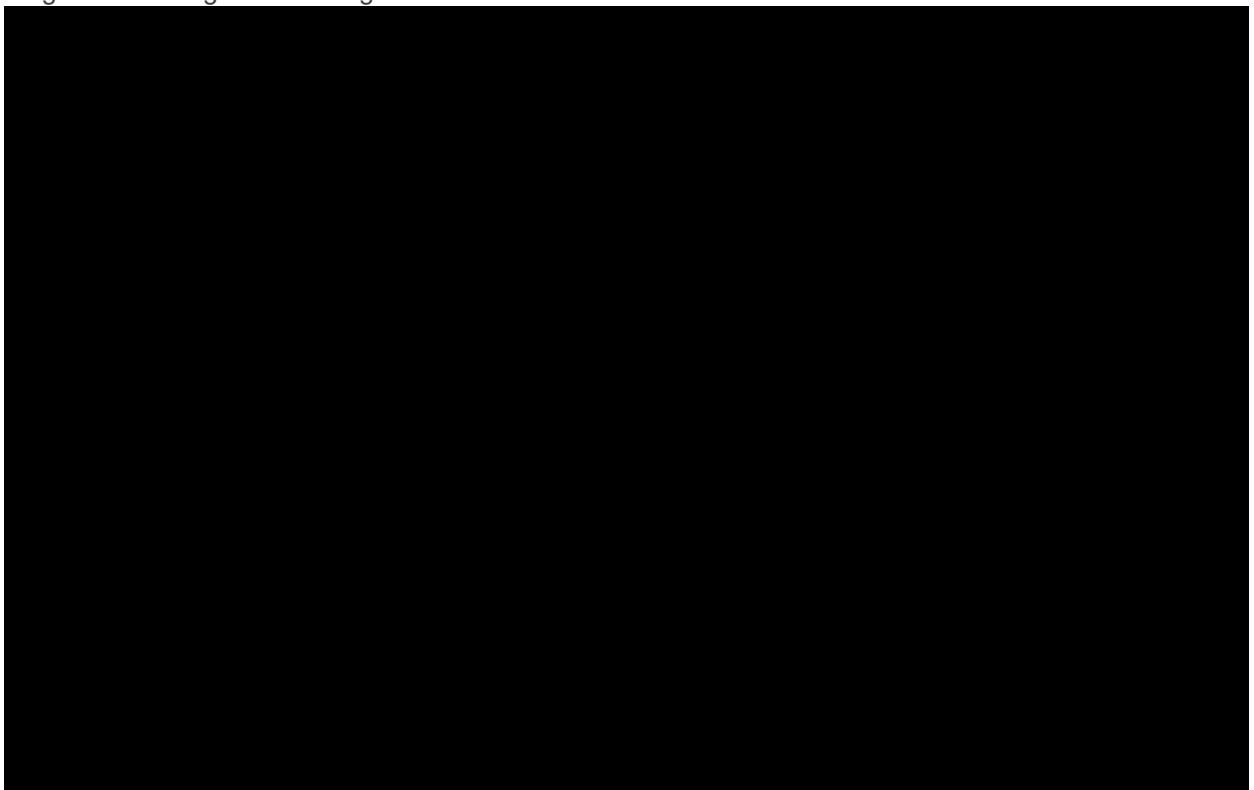
Figure 2 Aerial Image of Site



## 1.1. PLANNING CONTEXT

The bulk of the site is currently zoned as RU2 Rural Landscape with a minor segment, south of Wilton Road, zoned as E2 Environmental Conservation under the Wollondilly LEP 2011. One easement that runs north-south through the site is zoned as SP2 Infrastructure. The existing zoning across the landholding is demonstrated in Figure 3 below:

Figure 3 Existing Land Zoning



The development of the site as to accommodate residential growth as well as employment land uses has been considered and assessed by [REDACTED] for several years. A rezoning planning proposal was submitted by Mir Group in 2014 and has since been withdrawn pending re-submission. The Brooks Point Planning Proposal sought to facilitate the redevelopment of the site for 3,500 residential dwellings as well as a new local neighbourhood centre and educational facilities. This planning proposal included a thorough ecological analysis as well as consideration of the biodiversity corridors at the relevant riparian corridors.

In addition to substantial development potential, the landholding is of great strategic importance. The Greater Macarthur Structure Plan identifies the bulk of the site as urban capable land and accordingly, it is poised for urban development in the near future. Of note, the plan identifies that the West Appin precinct is capable of providing approximately 15,000 new dwellings. The plan also identifies future rezoning of land as a specific action to meet the vision of the Greater Macarthur Growth Area.



## 1.2. EXISTING ECOLOGICAL CONDITION

The majority of the site has been cleared for agricultural use and contains open grassland and woody weeds, comprising mostly of exotic species. The bulk of remaining vegetation is confined to the areas immediately adjoining the existing riparian zones. Of note, a large expanse of significant vegetation is located at the corridor along Cataract River at the western extension of the site.

It is noted that the draft CPCP identifies large portions of the landholding as non-certified land (Avoided for Other Purposes / Avoided for Biodiversity) (refer to Figure 4). The intent of this mapping is for these areas to be zoned as E2 – Environmental Conservation which will prohibit urban development and protect existing biodiversity.

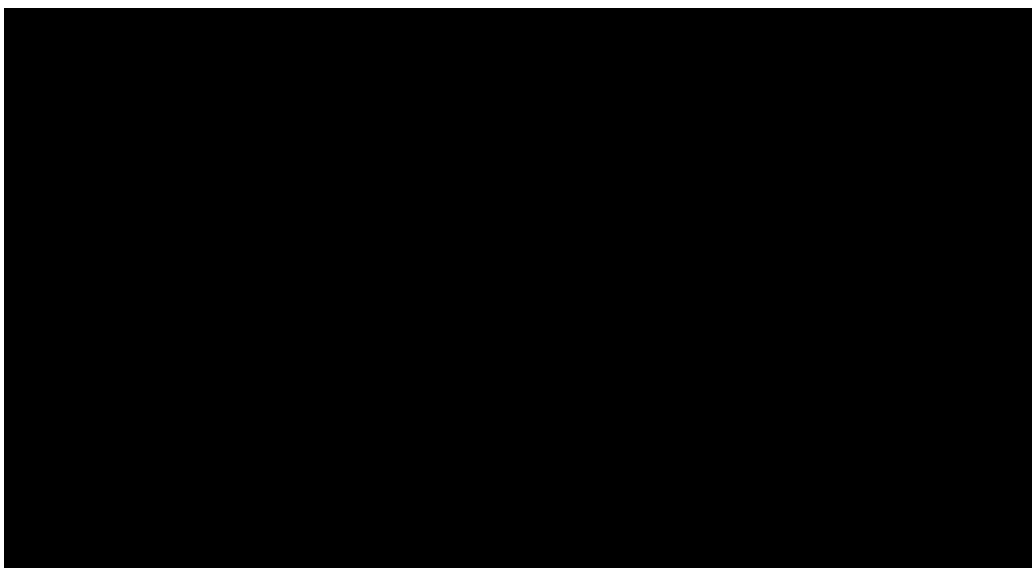
Similarly, the draft CPCP identifies large areas of the landholding as Strategic Conservation Area (SCA) (refer to Figure 4). The draft CPCP notes that SCAs are areas that include large remnants of native vegetation, provide important connectivity and/or has ecological restoration potential. Accordingly, these SCAs are identified as suitable for offsetting biodiversity impacts by either securing new conservation reserves or by establishing a biodiversity stewardship site.

Whilst the objective of this mapping is understood, it has been applied inaccurately and does not properly represent the ecological context of the site.

The CPCP team has confirmed that ground truthing was not undertaken across the site in preparing the draft CPCP. Of note, the draft CPCP mapping have identified several 2nd Strahler Order streams that do not exist on the ground or have no discernible channel. The two easement corridors are mapped as excluded. These areas are not already developed or protected and consequently, this mapping is inappropriate.

Additionally, the Department has used limited spatial data and the identification of non-certified / E2 zoned land was not conducted at a detailed, local planning scale. Consequently, some areas that are composed of poor quality and/or degraded vegetation, and indiscernible creeks have inappropriately been identified as non-certified land / E2 zoned land. Further detail of the ecological context of the site is provided at **Attachment A**.

Figure 4 Draft CPCP Mapping



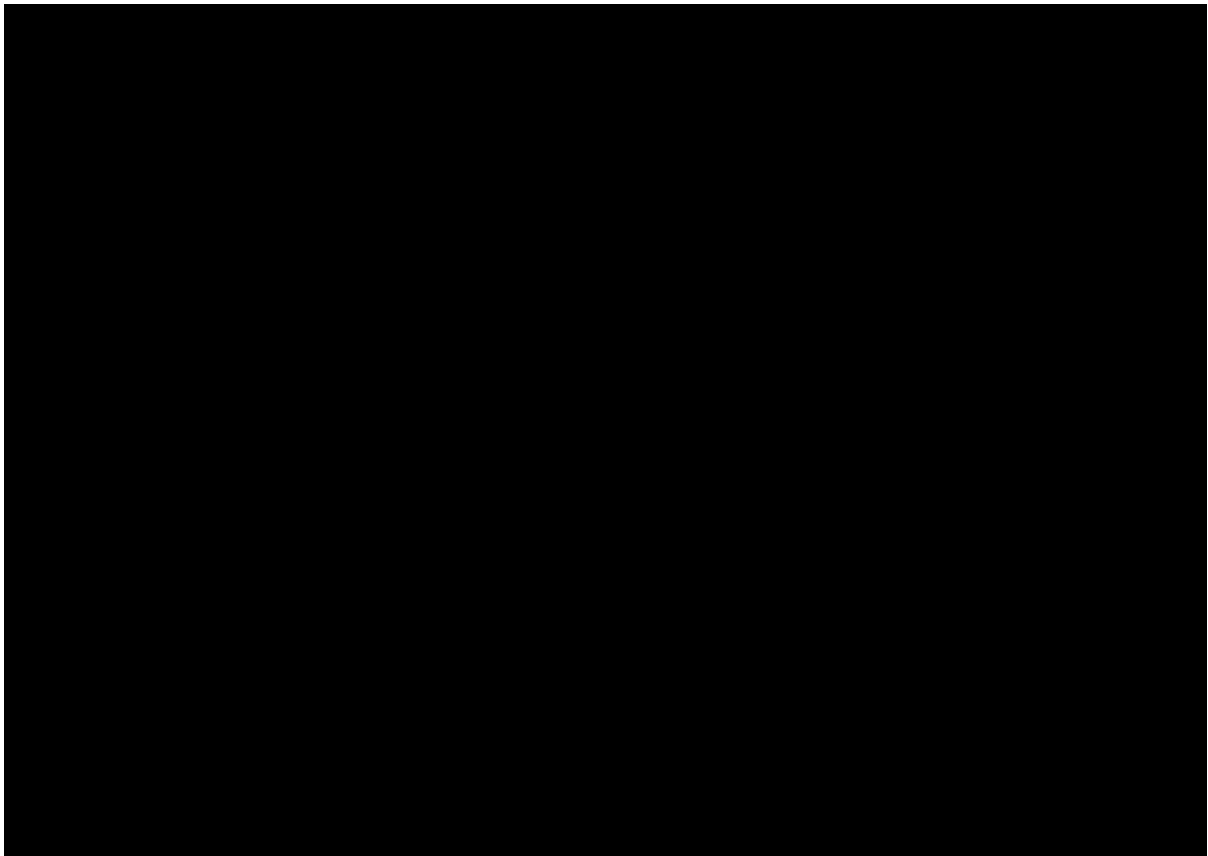
### 1.3. PROPOSED BIODIVERSITY OFFSET

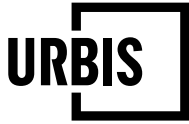
The objective of the non-certified / E2 mapping is supported. However, the proposed mapping does not properly consider the context of the site and will unreasonably compromise the development potential of the site. Of note the non-certified mapping and subsequent E2 zoning will prohibit any urban development within some lands which have little identified ecological value. Similarly, the Strategic Conservation Area mapping does not reflect the suitable biodiversity protection measures for the high ecological values that are at the site.

As such, it is essential that the proposed non-certified / E2 and Strategic Conservation Area mapping be amended as follows:

- The proposed non-certified / E2 Environmental Conservation and Strategic Conservation Area mapping needs to be amended and consistent with the mapping as provided in Figure 6 and Attachment A.
- The boundary of the proposed non-certified / E2 Environmental Conservation surrounding the north-east riparian corridor needs to be refined (item 5 & 6 in Figure 5)
- The areas mapped as 'excluded' are to be mapped as 'Certified - Urban Capable Land' in accordance with Figure 6 and Attachment A.

Figure 5 Proposed draft CPCP mapping





The amendments in non-certified / E2 mapping as well as exclusion areas will better reflect the ecological context of the site.

The amendments seek to appropriately remap any areas with limited biodiversity value or water channel as urban capable land. The amendments will ensure accurate and thorough consideration of the site's ecological values whilst reducing unnecessary complication and conflict with the intended urban development at the site. This will enable appropriate housing, employment, and service development at the site whilst also allowing for a more effective biodiversity outcome. This is consistent with the CPCP vision to "support the delivery of infrastructure, housing and jobs for the people in the Western Parkland City while protecting important biodiversity".

## **2. RECOMMENDATION ON THE DRAFT CPCP**

For the reasons outlined in the previous sections and Ecological's response to the draft CPCP, we provide suggested amendments as detailed above as to adjust the mapped non-certified and excluded areas whilst recognising Strategic Conservation Areas.

We acknowledge the effort of DPIE to prepare such an extensive conservation plan and thank the Department of Planning, Industry and Environment for the opportunity to respond in anticipation of delivering a collaborative plan.

However, the draft CPCP mapping does not properly reflect the ecological and planning context of the site. The proposed amendments outlined in this submission will result in a logical and acceptable conservation process that better accounts for the fragmented and isolated ecological land.

We respectfully request that the proposed non-certified / E2 rezoning, excluded areas and strategic conservation area mapping be adjusted to achieve a better biodiversity and ecological outcome. This will ensure that the urban development of this site can progress effectively so that the important housing and employment development can continue.

The area is a key urban element of the Greater Macarthur Growth Area. It needs a balanced conservation outcome so that the urban development objectives of this critically important Growth Area can be achieved. There are limited identified Growth Areas in South Western Sydney. The identified urban potential of the land needs to be kept to ensure that a viable new community can emerge. The conservation outcomes for the area are respected and supported. However a more balanced outcome is sought based on the recommendations in this submission and Attachment A prepared by Ecological.

Please do not hesitate to contact us with any queries on this submission. We would welcome the opportunity to meet with you to discuss this submission.





Yours sincerely,

[Redacted signature]

[Redacted name]

[Redacted footer]



[REDACTED]

13 October 2020

Our ref: [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Attention: [REDACTED]

Dear [REDACTED]

**Submission on biodiversity outcomes of the draft Cumberland Plain Strategic Assessment and Conservation Plan**

I refer to your request seeking advice/comment on the proposed certified urban capable land and biodiversity conservation outcomes arising from the draft Cumberland Plain Strategic Assessment Report (CPAR) and Cumberland Plain Conservation Plan (CPCP) and how it affects your landholdings at Brooks Point.

**Explanation of Growth Areas Strategic Assessment process and benefits to landholders.**

On the 26 August 2020, the Department of Planning, Industry and Environment (DPIE) placed the draft Cumberland Plain Strategic Assessment Report (CPAR) and Cumberland Plain Conservation Plan (CPCP) on public exhibition, inviting comments/submission by 9 October 2020. The reports follow work commenced by the Department in 2017 and early stakeholder consultation with major landholders in 2018/19.

The Strategic Assessment covers nearly 200,000 ha in four Growth Centres (Greater Macarthur Growth Area (GMGA), Wilton, Aerotropolis and the Greater Penrith to Eastern Creek Investigation Area) and identifies extensive areas of 'Urban Capable Lands' in the GMGA which it proposes to 'biodiversity certify' under the NSW *Biodiversity Conservation Act 2016* (BC Act) and seek approval for development under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

If approved, the Cumberland Plain Strategic Assessment and Conservation plans have significant benefits for landholders such as the GLG (i.e. the land will be identified for rapid rezoning and you will not be required to undertake further ecological assessments of the lands or obtain further approvals under the BC and EPBC Acts when submitting development applications).

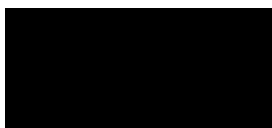
Your landholdings at Brooks Point, despite their long history of agricultural use, still retain areas of remnant native vegetation, comprising critically endangered Cumberland Plain Woodland (CPW), Shale Sandstone Transition Forest (SSTF) and habitat for threatened flora and fauna, most notably the Koala, which are protected under NSW and Commonwealth environmental legislation. In identifying urban

capable land, the Department has applied a number of 'avoidance criteria' to demonstrate under relevant environmental legislation that impacts to areas of 'high biodiversity conservation value' have been avoided, minimise and/or mitigated to the maximum extent possible before committing to offsetting residual impacts.

The Conservation Plan proposes to 'protect' lands containing high-value vegetation that has been 'avoided' with environmental conservation (E2) zoning to support the conservation objectives. The Plan also identifies approximately 29,000 ha of 'Strategic Conservation Areas' (both inside and outside of the Growth Centres) where the Government (via the Office of Strategic Lands (OSL) and the Biodiversity Conservation Trust (BCT) will prioritise the 'voluntary' acquisition of lands, and prioritise the targeting of environmental levies to secure 'Biodiversity Stewardship' sites to meet the plans 5,475 ha biodiversity offset targets.

The following attachment outlines what the plans proposes for your Brooks Point landholdings with a number of suggested minor changes to the proposed E2 lands that could be taken into consideration now or at the precinct planning stages to achieve a better urban and conservation outcome. Subject to the suggested changes, the plan strikes a balanced outcome for the land holdings and I recommend that it should be supported.

Regards,



**Senior Principal Consultant - Biodiversity Offsets, Eco Logical Australia**

## **Attachment 1: Review of draft Cumberland Plain Strategic Assessment Report (CPAR) and Cumberland Plain Conservation Plan (CPCP) outcomes for Brooks Point land holdings**

It should be noted that the Strategic Assessment report is a large scale assessment covering nearly 200,000 of land, and accordingly the level of detail/ecological data collected for the assessment is high level and has not been as extensively ground-truthed as a normal more local release area would be.

It appears that the Departments consultants have not undertaken a field based survey of the Brooks Point landholdings (refer to **Figure 1** which shows the location of vegetation condition plots) and have relied to a major extent on regional scale vegetation mapping (updated and refined with more recent aerial photographs), limited over the fence validation of vegetation condition (particularly where landholders have not granted access permission), expert opinion on the presence and extent of threatened species habitat (in the absence of target survey) and use of other databases (i.e. 1:25,000 scale hydro-lines to show the extent of 2<sup>nd</sup> order and higher streams to be avoided). An assessment of these creek lines indicates that several 2<sup>nd</sup> order sections mapped by the Department do not exist on the ground, or have a poorly defined channel resulting from many years of agricultural land management, and are constrained by existing structures (farm dams).

The Department has developed an updated vegetation condition layer that maps the vegetation as either 'intact', 'thinned', 'scattered trees' or 'derived native grassland' (DNG) (refer to **Figure 2**), and as it appears that no ground based assessments were undertaken, it is unclear how some areas have been mapped as 'DNG', 'thinned' or 'intact' when the most recent aerial imagery available shows clearly 'thinned' areas as 'Intact' (Label 3 on **Figure 3**) and large areas of grazed lands with woody weeds with no Eucalypt canopy mapped as 'thinned' (Label 8 on **Figure 3**). As these areas are mapped as "Urban Capable Land" it would suggest that the Department has significantly over estimated the impacts to Biodiversity values in this area.

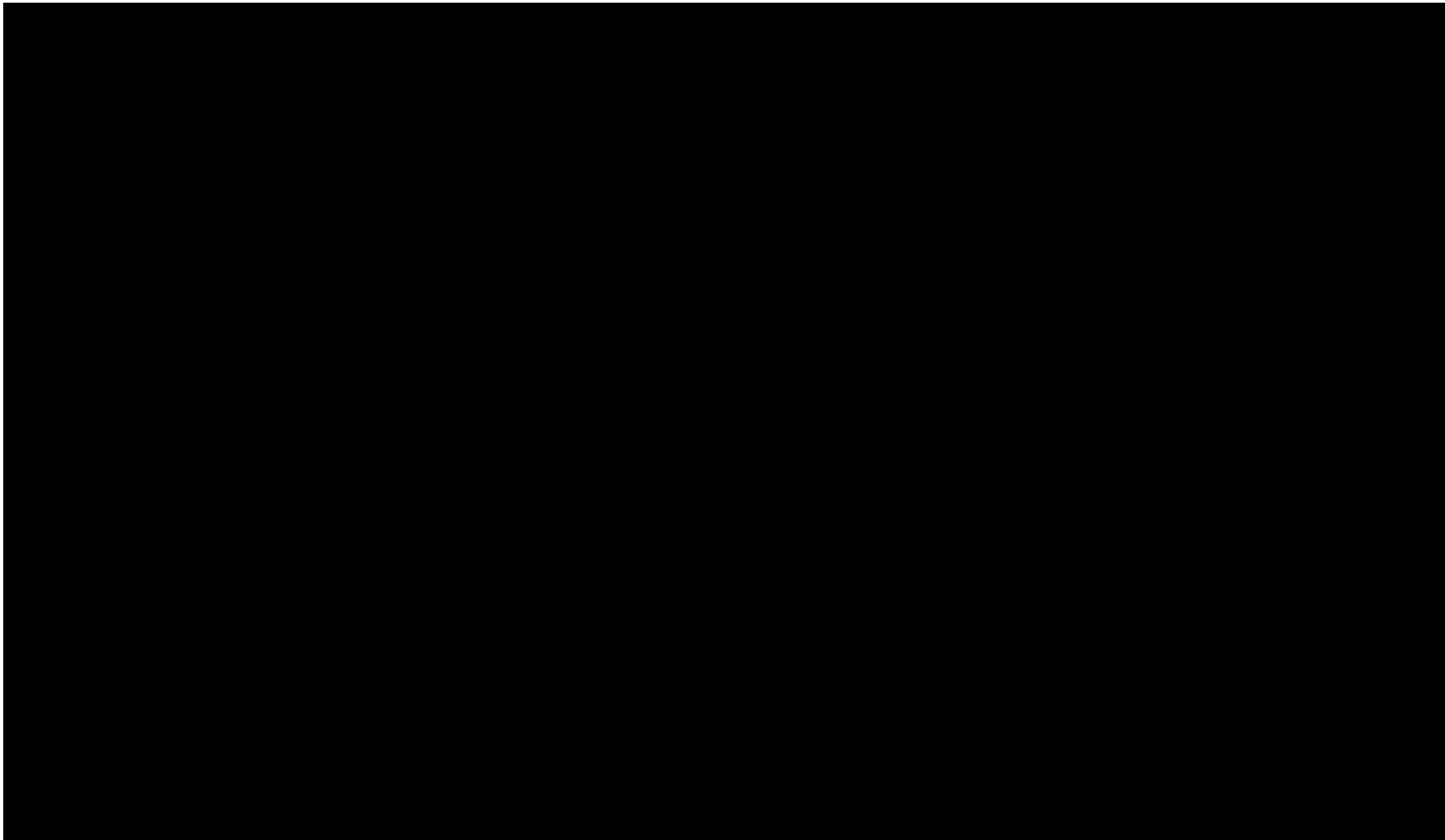
As a result, the Department acknowledges that the proposed boundaries for Urban Capable Land and E2 zoning will need 'refining' at a more detailed, local planning scale (i.e. Precinct Planning), which I recommend is supported. I also note that the DPIE has stated it will only make changes to the Urban Capable Land boundary that are consistent with their 'avoidance criteria'.

Accordingly the following suggested minor amendments (as numbered 1, 2, 3 etc on **Figure 3**) are provided to assist in this 'refining'. The comments are generally consistent with the avoidance principles used in the assessment report and result in a similar area of urban capable land and more consolidated and viable conservation areas. The suggested amendments are provided on a non-prejudicial basis.

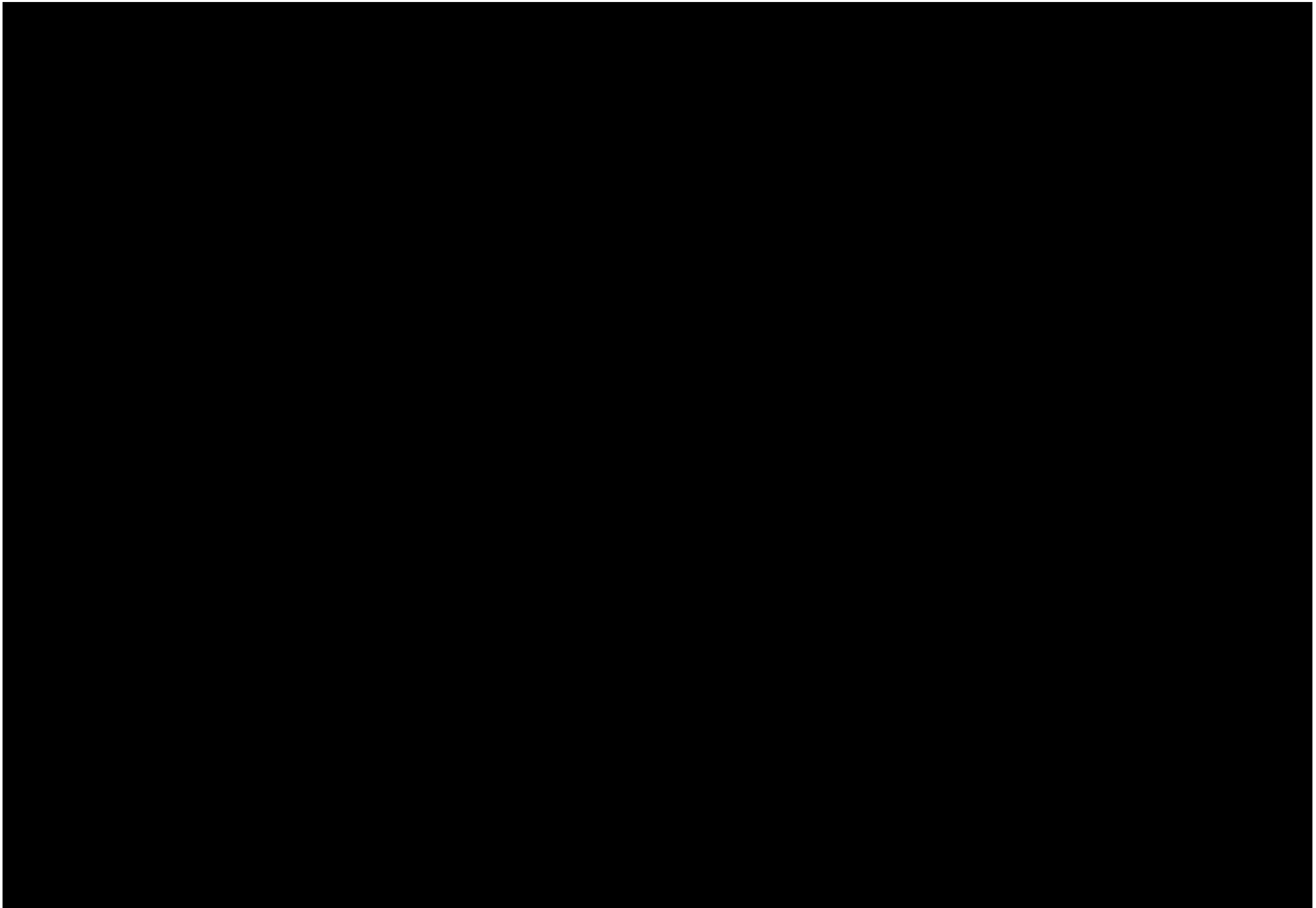
**Figure 3** shows the extent of Urban Capable Land (proposed by DPIE for biodiversity certification) and areas avoided for biodiversity values that are proposed to be zoned E2 Environmental protection.

1. The **Excluded Areas** within the Brooks Point landholdings (defined by the CPAR as areas already protected) include existing easements for gas, electricity and water (Label 1). These areas are not already protected and should be included in the 'Urban Capable Land' to avoid any problems with areas within the development footprint being certified and not certified (i.e. roads crossing the easements) and thus requiring separate assessment/approval at a later stage. Parts of these excluded areas are mapped as vegetation and if not included in the land to be certified – Urban Capable, will require separate assessment and approval

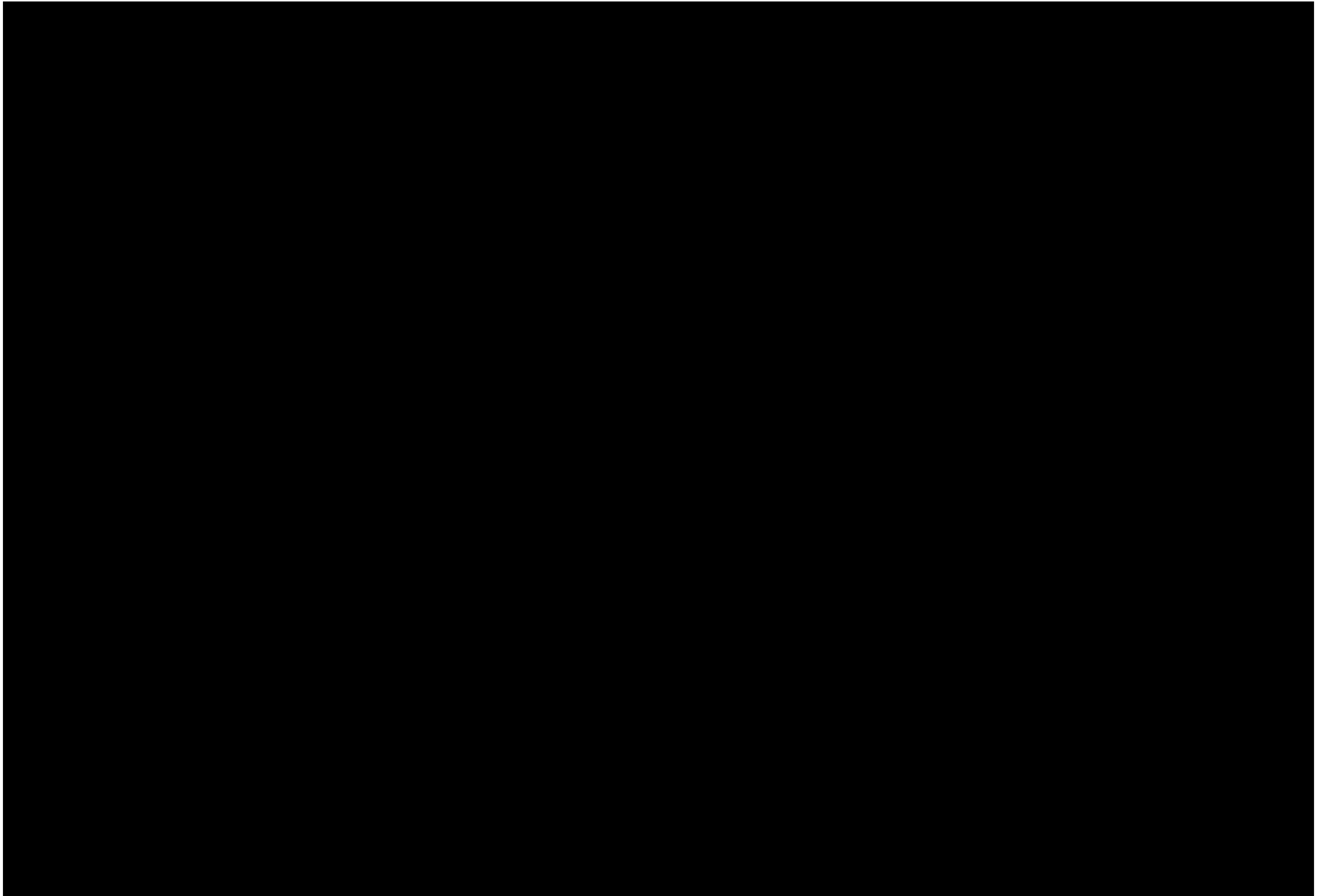
2. **Access to Landholdings** – The Brooks Point landholdings are currently accessed via an existing gravel road to Lot 4 DP 597781 and Lot 304 DP 623982. Access to Lot 4 is shown as ‘excluded’ but includes mapped ‘scattered trees’ along the bordering fence lines (see **Figure 2**). To avoid any doubt in regards to future subdivision, this access road should be shown as “Urban Capable” along with Lot 4.
3. Based on the map showing the extent of on-ground survey undertaken by the Departments consultants and the resulting vegetation condition mapping (**Figures 1 and 2**), there are large areas of the property, including large patches of vegetation and several creek lines, that have not been verified for condition, despite the Departments vegetation condition mapping indicating the vegetation is either ‘intact’ ‘thinned’ or ‘DNG’. A review by ELA of the most recent aerial photography shows large areas mapped as ‘thinned’ as being mostly cleared grazing land with woody weeds, areas mapped as ‘DNG’ being highly unlikely to be DNG given the current land use and history of management, and areas mapped as ‘intact’ that have been thinned and used extensively for grazing and thus should be mapped as “thinned’ (or modified)(refer to Points 3 and 8 on **Figure 3**). As a result of this mapping, that has informed the planning outcomes:-
  - a. the 2<sup>nd</sup> order creeks (Labels 5 and 7) that have been identified as ‘avoided for other reasons’ are poorly defined, have no discernible channel and would likely be supported by the NRAR for removal, are not included in urban capable land.
  - b. areas of poor quality vegetation (low canopy cover, few shrubs, extensively modified ground cover) (mapped as ‘thinned’ or ‘intact’ by the Strategic Assessment – refer to **Figure 2** and Labels 3, 4 and 6) have limited biodiversity values but are proposed to be zoned E2.
  - c. The proposed E2 zoning around Label 6, includes a large area of highly disturbed vegetation, correctly mapped as “thinned” as well as cleared land and should be refined to include consideration of open space requirements.
  - d. Areas mapped as “intact’ (Label 2) and proposed as E2/SCA, and that form part of a primary Koala corridor mapped by DPIE 2019 are supported.
4. Following from the points above, the large patches of avoided vegetation identified as E2 that are also identified as Strategic Conservation Areas (SCA) (Label 2) should be prioritised for acquisition within the Growth Centres to meet offset targets before Environmental Levies are used to encourage registration of Stewardship sites outside the Growth Centre area. As the proposed E2 zoning does not require active management, it is very likely that these lands will degrade in condition over the long term unless actively managed. Management by Local Government as ‘Community Land - Local Bushland Reserves’ will provide better long-term protection than simply zoning E2), with adjacent open space/recreation opportunities. These areas will be cheaper to secure as the lands have limited residual value to current land owners once adjoining lands are developed and can be used to reduce environmental levies whilst still meeting ‘like for like’ offset targets.



**Figure 1: Extent of DPIE survey effort across Brooks Point land holdings (Yellow circle shows approximate boundary of Land holding)**



**Figure 2: Extent of ELA preliminary survey effort across South Gilead landowner groups landholdings in 2018**



**Figure 3: Suggested modifications to the proposed Urban Capable Land and E2 Zoning – Brooks Point**

