

16 October 2020

Our ref: #19SUT-17405

Governor's Hill Pty Ltd

[REDACTED]

[REDACTED]

PO Box 373

Narellan, NSW 2567

Dear Stephen,

Submission on biodiversity outcomes of the draft Cumberland Plain Strategic Assessment and Conservation Plan in relation to Governor's Hill study area

I refer to your request on behalf of the Governor's Hill Pty Ltd seeking advice/comment on the proposed certified urban capable land and biodiversity outcomes arising from the draft Cumberland Plain Strategic Assessment Report (CPAR) and Cumberland Plain Conservation Plan (CPCP) and how it affects the Governor's Hill landholdings.

Background

As you are aware, Eco Logical Australia (ELA) were commissioned by Governor's Hill Pty Ltd in September 2016 to undertake ecological and bushfire investigations to support a Biocertification Assessment under the now repealed *Threatened Species Conservation Act 1995* and a planning proposal for an Indicative Layout Plan (ELA 2018- **Annexure A**). In 2018, Governor's Hill was invited to participate in the Strategic Biodiversity Certification Assessment being undertaken by the Department of Planning, Industry and Environment (DPIE).

Throughout 2017 and 2018, ELA undertook extensive ecological surveys of the Study Area, combined with previous work undertaken by SLR Consulting in 2013 and 2014 and Cumberland Ecology and Gunninah in 2015 and 2016. The resulting report and all spatial data was provided to the Department of Planning, Industry and Environment (DPIE) in November 2017 for use in their strategic assessment.

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 including Governor's Hill.

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

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

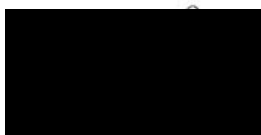
If approved, the Cumberland Plain Strategic Assessment and Conservation plans have significant benefits for landholders (i.e. the land will be identified for rapid rezoning and you will not be required to undertake further ecological assessments of the lands or obtain further approvals under the BC and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

However, as you are aware, these landholdings, despite their long history of agricultural use, still retain significant 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 biodiversity values 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 attachments outlines what the plans propose for the Governor's Hill landholdings with a number of suggested minor changes to the proposed E2 lands that should be taken into consideration now or at the precinct planning stages. Overall, the plan strikes a balanced outcome for the land holdings similar to the Wilton Town Centre Masterplan and should be supported

Regards,



Senior Principal Consultant - Biodiversity Offsets, Eco Logical Australia

Annexure A: ELA 2018. Wilton Town Centre Precinct Rezoning Proposal. Wilton Priority Growth Area. Report prepared for Macarthur Developments Pty Ltd, September 2018.

Attachment 1: Review of draft Cumberland Plain Strategic Assessment Report (CPAR) and Cumberland Plain Conservation Plan (CPCP) outcomes for Governor’s Hill 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.

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 we support. 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’.

However, the Department has used existing databases (i.e. 1:25,000 scale hydro-lines) to show the extent of 2nd order and higher streams to be avoided, rather than a site based assessment of the presence of such creek lines on the ground, and also indicate that separate approval will be required for any crossings/impacts to these creek lines (this is consistent with the *Water Management Act*, which is not switched-off by the Biocertification process). An assessment of these creek lines indicates that several 2nd 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).

Further, we note that in relation to the Governor’s Hill land, it appears that the Department’s consultants have used the data provided by ELA to inform their mapping of biodiversity values (and vegetation condition) and applied their avoidance criteria to determine urban capable land, and areas avoided for biodiversity values to an extent which closely matches the Indicative Layout Plan previously submitted to the Department as part of the planning proposal in 2018 (ELA 2018 and **Figure 2**). Accordingly the outcomes should be supported in principle, subject to the minor refining of boundaries and proposed zoning indicated below (based on our more detailed knowledge of the land holdings) labelled as number 1, 2, 3 etc on **Figure 1**. The comments are generally consistent with the avoidance principles used in the assessment report.

Figure 1 show the extent of Urban Capable Land (proposed for biodiversity certification by the Department) and areas avoided for biodiversity values (either endangered ecological communities and/or ‘important koala habitat’) and other excluded areas such as existing roads and easements on titles. **Figure 2**. Shows the Government boundaries overlaid on the Governor’s Hill Indicative Layout Plan. **Figure 3** provides our suggested revisions to these maps.

Table 1 is a breakdown of these areas for the Governor’s Hill land holdings.

Table 1: CPAR Area of proposed land uses in the Wilton Town Centre Precinct

	Total
Urban Capable Land	136.94
Environmental Protection Zoning	37.14
Strategic Conservation Areas	31.43

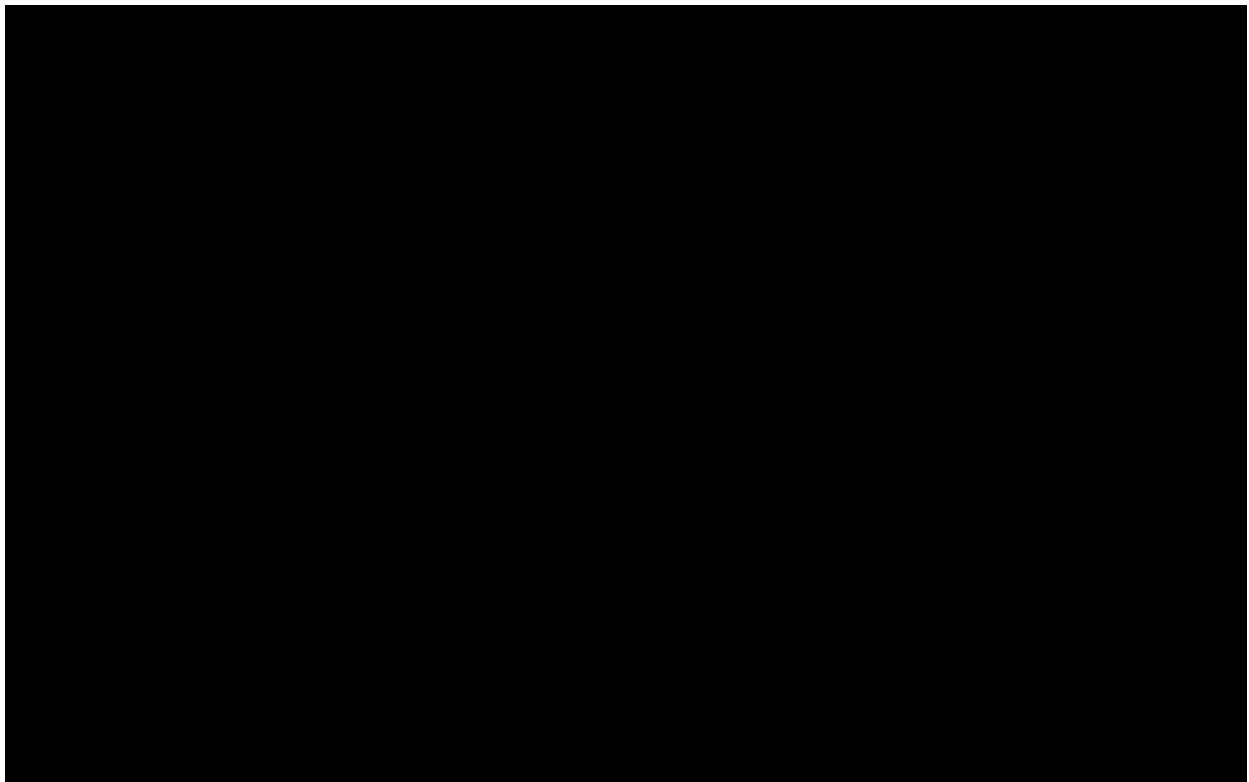
1. (Label 1)The **Excluded Areas** within the Governor’s Hill landholdings (defined by the CPAR as areas already protected) include a number of existing internal roads and easements. These areas are not already protected. The existing roads (Picton Road and Wilton Park Road) are proposed to be upgraded (widened with new intersections) or relocated. Furthermore, the existing easements within the property are currently redundant or will become redundant or relocated with urban development. Thus they should be included in the ‘Urban Capable Land’ to avoid any problems with areas within the development footprint being either certified or not certified 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. (Label 2) Proposed **E2 Zoning** of Public Open Space south of the northern east-west collector road. This area is proposed as RE1 Open Space and Recreation in the Wilton Town Centre Precinct Indicative Layout Plan with retention of trees for landscaping purposes and as local bushland. This area is also mapped as “Important Koala habitat” and thus proposed for Koala exclusion fencing in the CPCP. It is suggested that it would be inappropriate to provide an underpass on the road for Koala and fence this area given its small size (< 0.5 ha) and proximity to urban development, cars and dogs. It would be best to consolidate protection (and fencing) of koala habitat north of the east-west collector road.
3. Similarly, the narrow north-south corridor along Byrnes Creek (Label 10) would be unsuitable for koala given the width (< 100m) and proximity to future town centre uses. Furthermore it does not connect to other koala habitat and would effectively become a functional dead end. This area should not be targeted for fencing. Any koala exclusion fencing should therefore be restricted to the northern side of the northern east-west collector road as shown at Label 11 in **Figure 3**.
4. Several water quality basins are proposed along the Brynes Creek corridor (Labels 3, 5 & 6) that are in cleared areas within land proposed as E2. Clarification is required as to whether these basins would be a permissible uses in E2 Zoning and if not, the location of these basins should be excluded from the E2 boundary.
5. The 2nd order creek line shown as Label #4 has been mapped as ‘avoided for other reasons’. The creek line at this location is poorly defined, has no discernible channel and would likely be supported by the NRAR for removal (refer to **Photo 1**). The section of creek line above the dam should be included in the certified urban capable land area. Further, the land to the north (Bradcorp land holdings) is also mapped as urban capable land.
6. Label #7 shows an existing farm dam with extremely limited biodiversity value to be avoided for biodiversity values and to be zoned E2. The Wilton Town Centre Master Plan identifies this dam to be retained as an ornamental Lake with water quality functions and act as a focal point in the landscape vision of the town centre. The proposed E2 zoning should be removed from this location
7. Similarly, Label # 8 proposes E2 Zoning as a continuation of the Brynes Creek corridor on the basis of avoidance for biodiversity reasons. The vegetation at this location is highly degraded, fragmented and isolated form the vegetation in the corridor further north. The Wilton Town Centre Masterplan identifies this area as RE1 Open Space and Recreation which will retain these amenity trees as part of local landscaping.
8. Similarly, Label # 9 proposes E2 Zoning over an area avoided for biodiversity values which is also highly degraded, fragmented and isolated from the vegetation in the corridor further north. Importantly it is proposed as a Water Quality Enhancement Basin to treat existing contaminated

run-off from the Hume Motorway, which would otherwise enter Byrnes Creek. As for Label #8, this area should not be identified as E2.

It is noted that the existing high quality vegetation proposed as E2 zoning is also identified as a Strategic Conservation Area (SCA). However, as the proposed E2 zoning does not require any active management, it is very likely that these lands will degrade in condition over the long term unless actively managed and there is no guarantee that the proposed environmental levies will be used to 'secure' this land as there are some 29,000 ha of SCAs mapped within the study area that may be secured to meet offset targets.

As the land identified as SCA within Governors Hill comprises a consolidated, high quality patch of vegetation, that has also been identified as a Primary Koala corridor by DPIE 2019, it is suggested that this area should be prioritised for acquisition within the Wilton Growth Centres to meet offset targets before Environmental Levies are used to encourage registration of Stewardship sites outside the Growth Centre area. Further, extensive discussions have already taken place with Wollondilly Shire Council regarding the future ownership and management of this area as Community Land – Bushland with a fully funded site specific management plan that will result in active conservation management and achieve a better environmental/biodiversity outcome than simply rezoning the land E2. This approach would also enable consideration of a nature trail through the Stewardship site/Council Reserve which is common to many other registered Biobank sites owned by Councils and consistent with the Master Plan's objective of creating memorable public places consistent with Government visions. Further, the cost to secure this land as community land would be far cheaper than purchasing Biodiversity credits at 'market rates' outside of the Growth Centre.

Photo 1 showing non-existent 2nd order creek mapped in Strategic Assessment



References

Department of Planning, Industry and Environment (DPIE) 2019. Conserving Koalas in the Wollondilly and Campbelltown Local Government Areas.

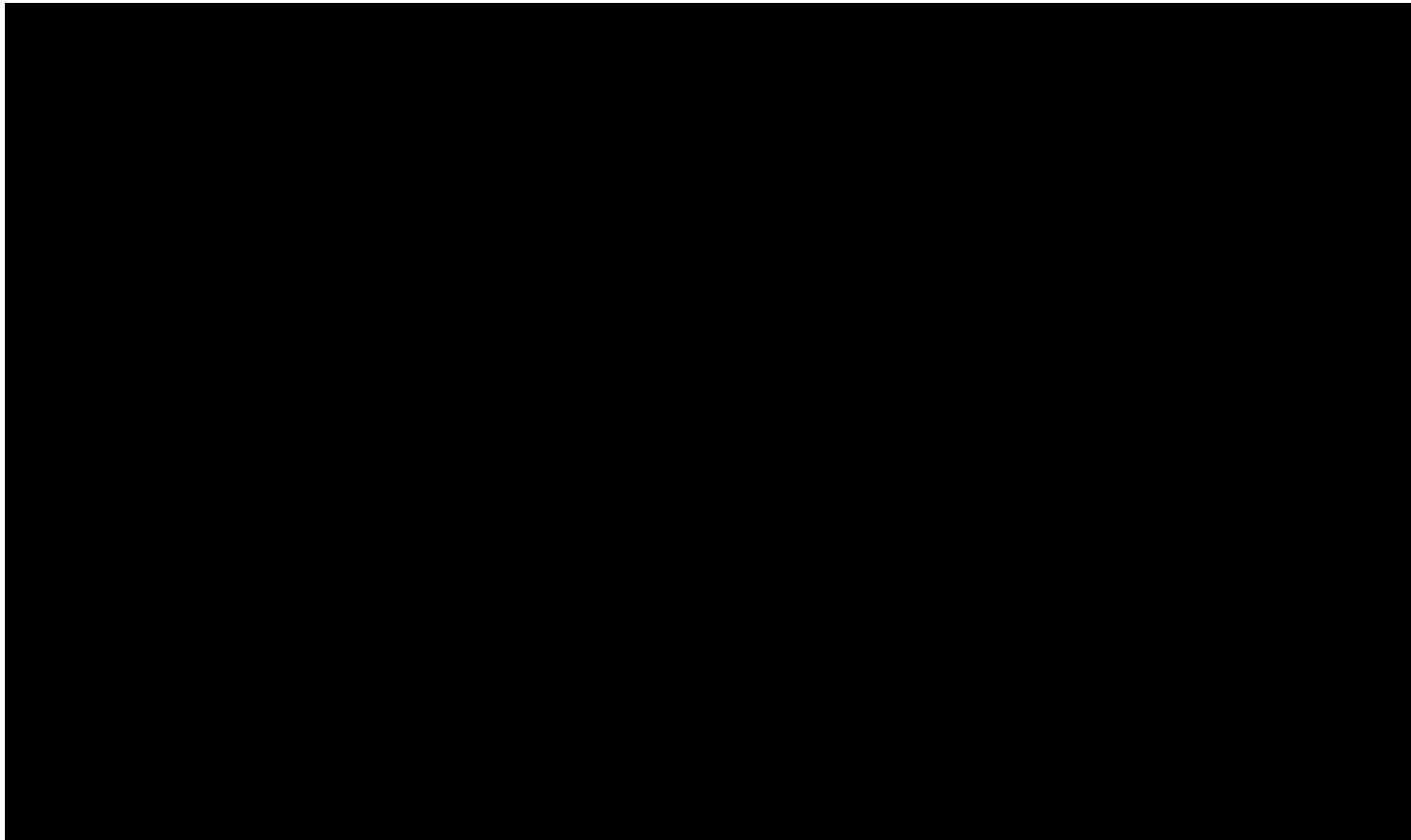
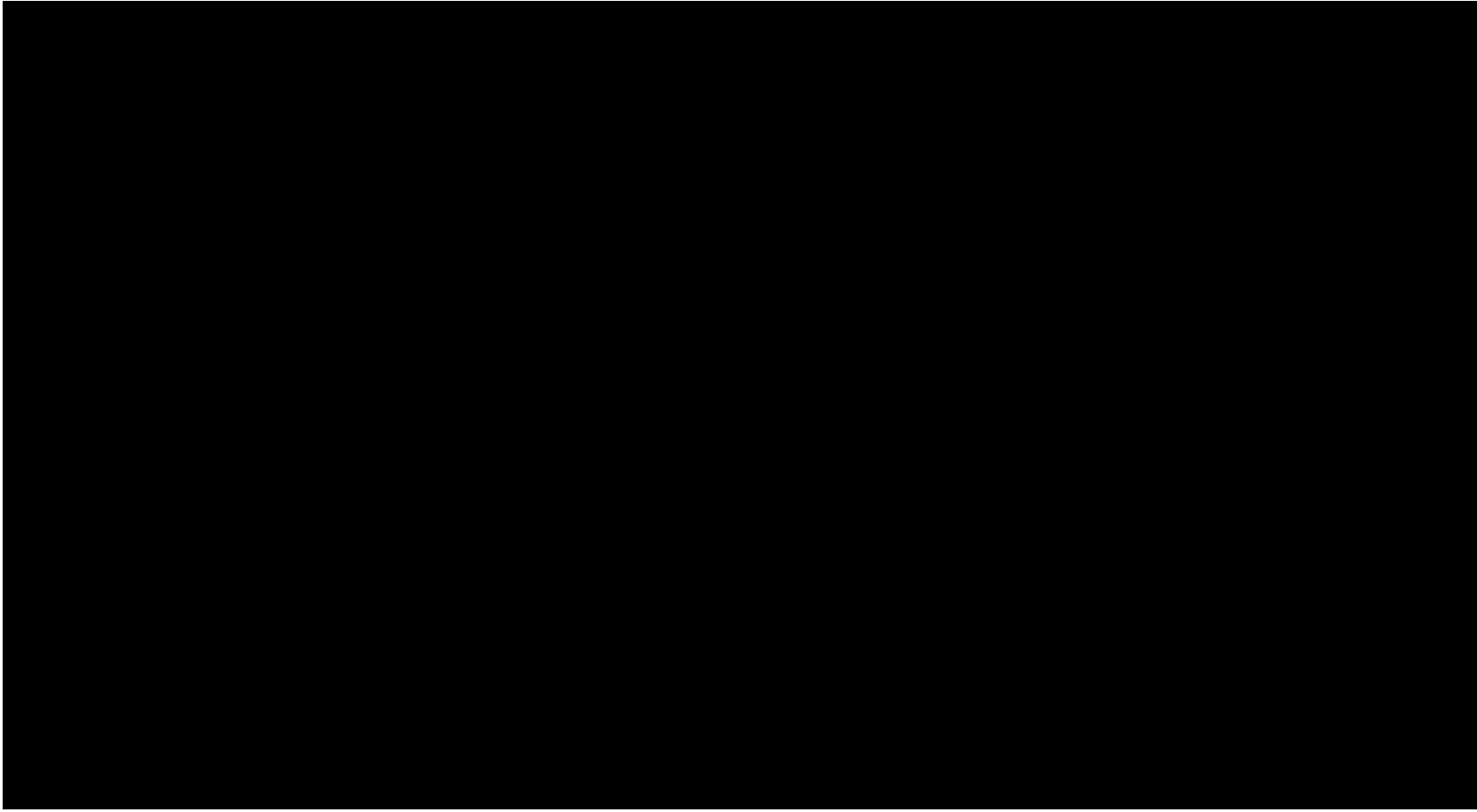


Figure 1 Proposed Strategic Assessment Urban Capable Land and E2 Zoning, Governor's Hill 2019 and 2020

