APP | Property and Infrastructure Specialists

[redacted]

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2 November 2020

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

Email: biodiversity@planning.nsw.gov.au

Dear Sir / Madam

DRAFT CUMBERLAND PLAIN CONSERVATION PLAN 2020-56 (AUGUST 2020)
[redacted] KEMPS CREEK

1 Introduction

This submission is made on behalf of VIMG in response to the Department of Planning, Industry and Environment's (the Department) exhibition of The Draft Cumberland Plain Conservation Plan (the CPCP). It has been prepared by APP Corporation Pty Ltd in conjunction with Eco Logical Australia (ELA).

VIMG strongly supports the draft Plan and fully endorses its aims and objectives to deliver long term conservation outcomes to the Western Parkland City, through the identification of strategically important biodiversity areas within the Cumberland subregion and offset the biodiversity impacts of future urban development, while ensuring a vibrant and liveable city.

There are, however, several issues related to the mapping within the draft Plan that VIMG wish to bring to the Department's attention in relation to their site at [redacted] Kemps Creek. Each of these matters is discussed below.

In summary:

- The eastern part of the site has highly disturbed patches of a plant community type associated with an endangered ecological community (Shale Gravel Transition Forest). Only very small areas in moderate condition would conform to this endangered ecological community under the NSW Biodiversity Conservation Act 2016 (BC Act). However, this vegetation does provide connectivity between vegetated lands to the north and the south.
- The vegetation in the western portion of the site has been incorrectly mapped in the CPCP as Castlereagh Shale Gravel Transition Forest (PCT 724) - which is listed as an endangered ecological community under both the BC Act and Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). The site inspection showed that vegetation in the western part of the site more closely resembled Cumberland River Flat Forest (PCT 835). The extent of native vegetation in the western part of the site is significantly less that shown on the CPCP Interactive Map. The vegetation within the western portion of the site does not provide any connectivity to Kemps Creek or other patches of vegetation.

It is requested that the mapping contained within the draft CPCP including the urban capable land boundary be amended to reflect the field survey validated native vegetation on the site.

2 The Site

The site is legally described as Lot [redacted] and generally known as [redacted] Kemps Creek. It is approximately [redacted] Access to the site is via [redacted] through a right of way through the adjoining property to the south at [redacted] The site is currently occupied by a poultry farm. Badgerys Creek / Kemps Creek is to the west of the site. Surrounding development includes a whole sale garden nursery to the south and [redacted] a future 33 m wide and significant main arterial road, quarry, agricultural land and rural industries.

The subject site has a history of agricultural land use and has been largely cleared as a result. The site consists of farmland with exotic vegetation (pasture, crops and shelter belts of trees) and farm dams.

Figure 1 - The Site

3 Draft Cumberland Plain Conservation Plan

The Draft Cumberland Plain Conservation Plan identifies significant portions of the site as comprising native vegetation, namely Shale Gravel Transition Forest. Approximately 5.9 ha of vegetation within the site is mapped as 'non certified' for biodiversity and as a 'strategic conservation area' (refer to Figures 5 and 6).

The Department has used avoidance criteria to identify areas of high biodiversity value to avoid development and to designate urban capable land to be biodiversity certified in each nominated area. The CPCP identifies for the site the following land categories:

- Certified – urban capable.

- Non-certified – avoided for biodiversity.

The implication of the draft CPCP is that the non-certified lands would not be available for development. The non-certified lands on this site are also identified as Strategic Conservation Areas and are proposed for E2 Environmental Conservation zoning.

ELA undertook a rapid field survey on 27 October – the purpose of which was to validate / ground truth the extent and quality of vegetation and existing vegetation mapping and to identify the presence of habitat features such as tree hollows. None of the vegetation on the site was identified as having a high ecological value. Whilst ELA validated the presence of small portions of Shale Gravel Transition Forest and Riverflat Eucalypt Forest on site, it was not as extensive as shown in the draft CPCP maps.

4 Biodiversity Assessment

A copy of the ecological assessment prepared by Eco Logical Australia is included in **Appendix A**. None of the vegetation on the site was identified as having a high ecological value. The conclusions of this assessment are as follows:

PCT 724 - Broad-leaved Ironbark-Grey Box-Melaleuca decora Grassy Open Forest on Clay-Gravel Soils of the Cumberland Plain, Sydney Basin

- The eastern part of the property has highly disturbed patches of this community in poor condition. The native species present include *Eucalyptus longifolia, Eucalyptus fibrosa, Eucalyptus sclerophylla and Melaleuca decora*, with understorey dominated by exotic grasses and weeds including *Eragrostis curvula*. Most of the PCT has no native understorey and is highly disturbed with clearing and soil mounding, with only very small areas in moderate condition that would conform to Shale Gravel Transition Forest in the Sydney Basin Bioregion Endangered Ecological Community under the BC Act. These small areas have a native understorey including *Einadia hastata, Lepidosperma laterale, Ozothamnus diosmifolius, Dillwynia sieberi, Daviesia ulicifolia and Microlaena stipoides.*

PCT 835 – Forest Red Gum – Rough-barked Apple grassy woodland on alluvial flats of the Cumberland Plain, Sydney Basin Bioregion.

- Whilst the draft CPCP mapped all vegetation on site as Shale Gravel Transition Forest, the site inspection showed that vegetation in the western part of the site more closely resembles PCT 835 which is associated with the Endangered Ecological Community Riverflat Eucalypt Forest. The community was in poor condition with individual *Eucalyptus tereticornis, Angophora bakeri, Melaleuca decora* and *Acacia decurrens* with some native understorey and regrowth. The extent of native vegetation in the western part of the site is significantly less that shown on the CPCP Interactive Map.

A plan showing the validated vegetation on the site is provided in Figure 2.

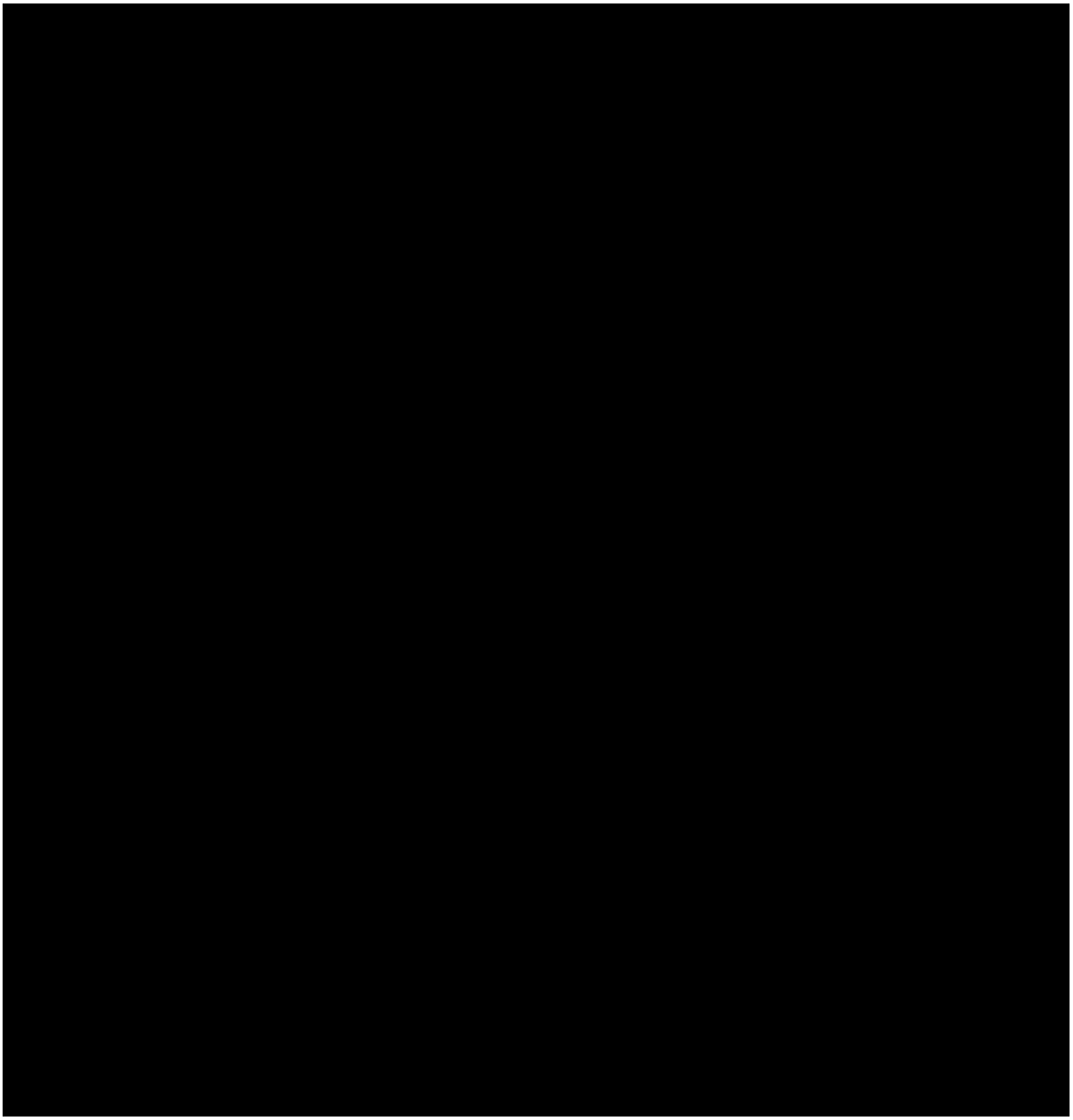

Figure 2 – ELA Validated Vegetation on the site

5 Mapped versus Validated vegetation on the site

Figures 3-6 show the mapped vegetation overlays (or categories) set out in the draft CPCP on the validated vegetation plan. As shown, there are several discrepancies between the mapped and surveyed vegetation on the site.

Most of the vegetation within the eastern portion of the site comprises vegetation community PCT 724 that is in poor condition. Only three small patches of vegetation within this part of the site has been identified as being in 'moderate' condition. The draft Plan mapping shows a larger area of native vegetation than what is on the site. The draft mapping overlay identifies several existing buildings and

other areas of hardstand on the site as both 'native vegetation' and 'strategic conservation' (refer to Figures 3-6), which is clearly not the case.

The extent of native vegetation in the western part of the site is significantly less that shown on the CPCP Interactive Map. Nor is the vegetation Shale Gravel Transition Forest. The four small isolated patches of native vegetation on the western boundary of the site were identified as Riverflat Eucalypt Forest. These patches are in poor condition and includes isolated paddock trees which exotic ground cover. These patches of vegetation are not connected to existing vegetation to the north (which comprise scattered paddock trees), west or south (nursery).

Figure 3 – Extent of native vegetation on the site (draft CPCP map compared with existing vegetation on the site)

Figure 4 – Extent of strategic conservation area (draft CPCP map compared with existing vegetation on the site)

Figure 5 – Extent of Shale Gravel Transition Forest (draft CPCP map compared with existing vegetation on the site)

Figure 6 – Extent of non-certified land as mapped in the draft CPCP compared with existing vegetation on the site

The size (small) and shape of these patches, and the fact that they are surrounded by heavily cleared and modified farmland presents a challenge for conservation. This is because with increased intensity of land usage, there is potential for the remaining patches to become increasingly isolated and for edge effects (e.g. encroachment of weeds, disturbance by humans) to become more significant.

The vegetation patches, much of which are isolated paddock trees, are not large, are irregular in shape and are surrounded by heavily cleared and modified farmland. They are likely to become increasingly isolated and for edge effects including encroachment of weeds and disturbance by humans and animals to become more significant.

There are also design and planning difficulties in accommodating urban development on the site around these patches due to their size and shape, namely:

- isolated and fragmented pockets of developable area that are not visually or physically integrated or connected with other parts of the site;
- increased edge effects – the edge of a larger consolidated area of vegetation can be more effectively treated and controlled than several smaller patches and a greater proportion of the 'core' area of vegetation can be protected; and
- reduced efficiencies in terms of road layout, lot configuration and servicing.

The draft CPCP states that during public exhibition, landholders may seek to have the urban capable boundary amended prior to the finalisation of the draft CPCP. The urban capable land boundary will only be updated if the criteria to amend urban capable land, as set out in the draft CPCP is justified. ELA have undertaken an assessment of the vegetation on the site against the criteria set out in the draft CPCP.

ELA have concluded that amending the urban capable land boundary to represent the field survey validated native vegetation on the site will not change the impact to any threatened ecological community. Removing the non-certified land in the western part of the site will not impact on any intact threatened ecological community.

6 Conclusion

VIMG strongly supports the draft CPCP and fully endorses its aims and objectives to deliver long term conservation outcomes to the Western Parkland City, through the identification of strategically important biodiversity areas within the Cumberland subregion. As discussed above, there are several matters VIMG wish to bring to the Department's attention. It is requested that the mapping contained within the draft CPCP including the urban capable land boundary be amended to reflect the field survey validated native vegetation on the site. This includes:

- Amend the extent of the Native Vegetation overlay as it relates to vegetation on the site to align with findings of vegetation surveys including excising areas that comprise non-native vegetation, existing buildings and areas of hardstand.
- Amend the Strategic Conservation Area overlay to align with findings of the vegetation surveys, particularly vegetation within the western portion of the site, which does not provide any connectivity.
- Amend the Shale Gravel Transition Forest overlay as it relates to vegetation on the site to align with findings of vegetation surveys (amend boundary of vegetation overlay within the eastern and western portions of the site) and presence of Cumberland River Flat Forest (PCT 835) within the western portion of the site (not Shale Gravel Transition Forest).
- Amend the non-certified land overlay as mapped in the draft CPCP to align with the findings of the vegetation surveys, as well as acknowledging that the size and shape of native vegetation on the site, being surrounded by heavily cleared and modified farmland presents challenges for conservation (patches likely to become increasingly isolated and subject to edge effects including encroachment of weeds, disturbance by humans).

We trust that the Department will give a full and proper consideration to the matters raised above. Should you have any queries about this matter, please do not hesitate to contact the undersigned on [redacted]

Yours sincerely
APP CORPORATION PTY LIMITED

[redacted]

[redacted]
Project Director

APPENDIX A

Level 3
101 Sussex Street
Sydney NSW 2000
t: (02) 9259 3800

30 October 2020

Our Reference: 20SYD - 17622

VIMG Agriculture PTY Ltd
C/o: APP

Attention: Elise Crameri

Dear Elise,

[redacted] **Kemps Creek, Review of Draft Cumberland Plain Conservation Plan**

Eco Logical Australia (ELA) was engaged to undertake the following tasks to assist your consideration of the draft Cumberland Plain Conservation Plan (CPCP):

- site visit to validate vegetation communities
- provide recommendations for changes if field survey confirms the draft CPCP is based on incorrect information.

ELA understands that the client is seeking to determine if any parts of the site have lower biodiversity values that may justify an alternative approach in the draft CPCP. Our assessment is attached. We verified that the eastern part of the site contains a Plant Community Type associated with an Endangered Ecological Community and also provides connectivity between vegetated lands to the north and south.

The vegetation in the west of the site was incorrectly mapped in the CPCP. The Plant Community Type present is not Shale Gravel Transition Forest (PCT 724). The is PCT 835 which is associated with Riverflat Eucalypt Forest and was less extensive than mapped in the CPCP. This vegetation was in poor condition.

The attached compares the biodiversity values on site to the criteria for avoidance in the draft CPCP and concludes that there is a case for refinement of boundaries in the CPCP.

Please do not hesitate to contact me to discuss the contents of this letter.

Regards,

[redacted]
Principal Consultant

[redacted]

1. Methods

ELA accredited ecologist Diane Campbell undertook a rapid field survey on 27 October 2020. The field survey undertook the following tasks:

- Validating the extent and quality of vegetation and existing vegetation mapping
- Identifying the presence of habitat features such as tree hollow

2. Results

2.1 Review of Draft Cumberland Plain Conservation Plan

The draft CPCP was released for public comment between 26 August and the 9 October 2020. The plan intends to provide certainty regarding biodiversity impacts and conservation outcomes within the study area.

2.1.1 Vegetation Communities

The draft CPCP maps the site as containing Shale Gravel Transition Forest which is listed as an Endangered Ecological Community under both the NSW BC Act and Commonwealth EPBC Act. Whilst ELA validated some of this community on site, it was not as extensive as shown in the draft CPCP maps.

2.1.2 Land Category

The department used avoidance criteria to identify areas of high biodiversity value to avoid development and to designate urban capable land to be biodiversity certified in each nominated area. The study area contains the following land categories:

- Certified – urban capable.
- Non-certified – avoided for biodiversity

The implication of the draft CPCP is that the non-certified lands would not be available for development.

The non-certified lands on this site are also identified as Strategic Conservation Areas and are proposed for E2 Environmental Conservation zoning.

2.2 Field survey: Vegetation Communities

PCT 724 - Broad-leaved Ironbark-Grey Box-Melaleuca decora Grassy Open Forest on Clay-Gravel Soils of the Cumberland Plain, Sydney Basin

The eastern part of the property has highly disturbed patches of this community in poor condition. The native species present include *Eucalyptus longifolia, Eucalyptus fibrosa, Eucalyptus sclerophylla and Melaleuca decora*, with understorey dominated by exotic grasses and weeds including *Eragrostis curvula*.

Most of the PCT has no native understorey and is highly disturbed with clearing and soil mounding, with only very small areas in moderate condition that would conform to Shale Gravel Transition Forest in the Sydney Basin Bioregion Endangered Ecological Community under the NSW Biodiversity Conservation Act. These small areas have a native understorey including *Einadia hastata, Lepidosperma laterale, Ozothamnus diosmifolius, Dillwynia sieberi, Daviesia ulicifolia and Microlaena stipoides.*

PCT 835 – Forest Red Gum – Rough-barked Apple grassy woodland on alluvial flats of the Cumberland Plain, Sydney Basin Bioregion.

Whilst the draft CPCP mapped all vegetation on site as Shale Gravel Transition Forest, the site inspection showed that vegetation in the western part of the site more closely resembles PCT 835 which is associated with the Endangered Ecological Community Riverflat Eucalypt Forest. The community was in poor condition with individual *Eucalyptus tereticornis, Angophora bakeri, Melaleuca decora* and *Acacia decurrens* with some native understorey and regrowth. The extent of native vegetation in the western part of the site is significantly less that shown on the CPCP Interactive Map.

Table 1: Vegetation communities identified within the study area

Vegetation Community	PCT	BC Act Status	EPBC Act Status	SAII Candidate	Percent Cleared of original extent
Castlereagh Shale Gravel Transition Forest	724	Endangered	Critically Endangered	No	75
Cumberland Riverflat Forest	835	Endangered	-	No	93

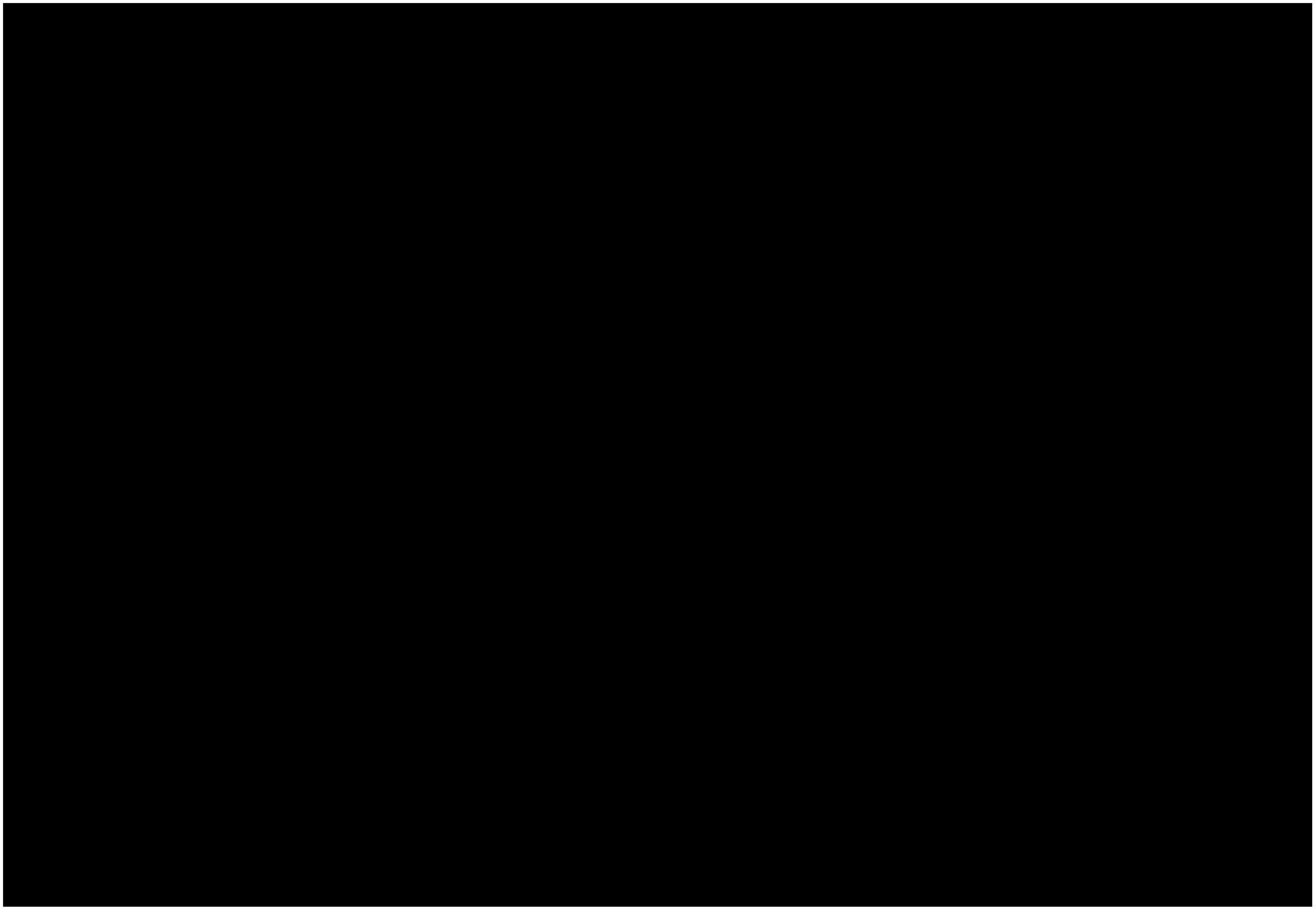

Figure 1 ELA Preliminary Validated Vegetation

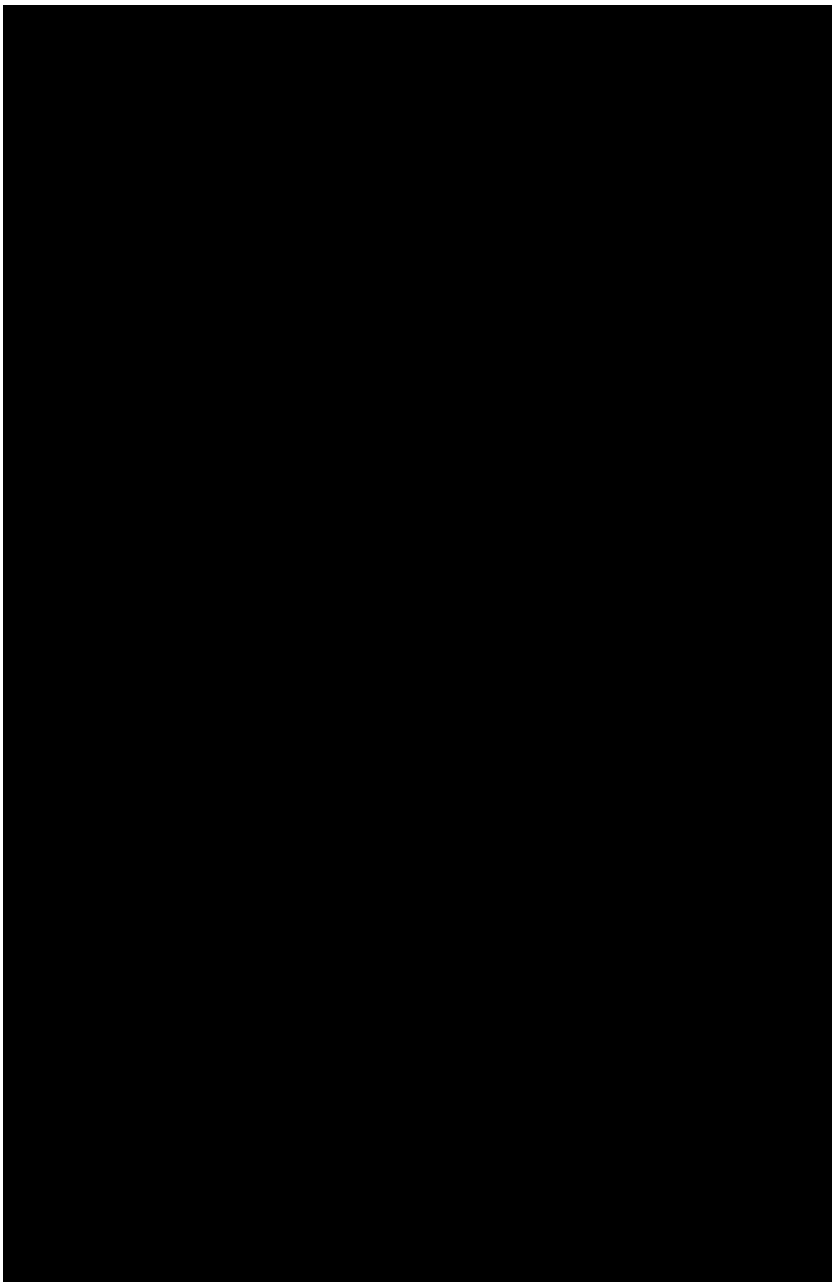

Figure 2: Exotic grasses and isolated paddock trees in the south-west corner

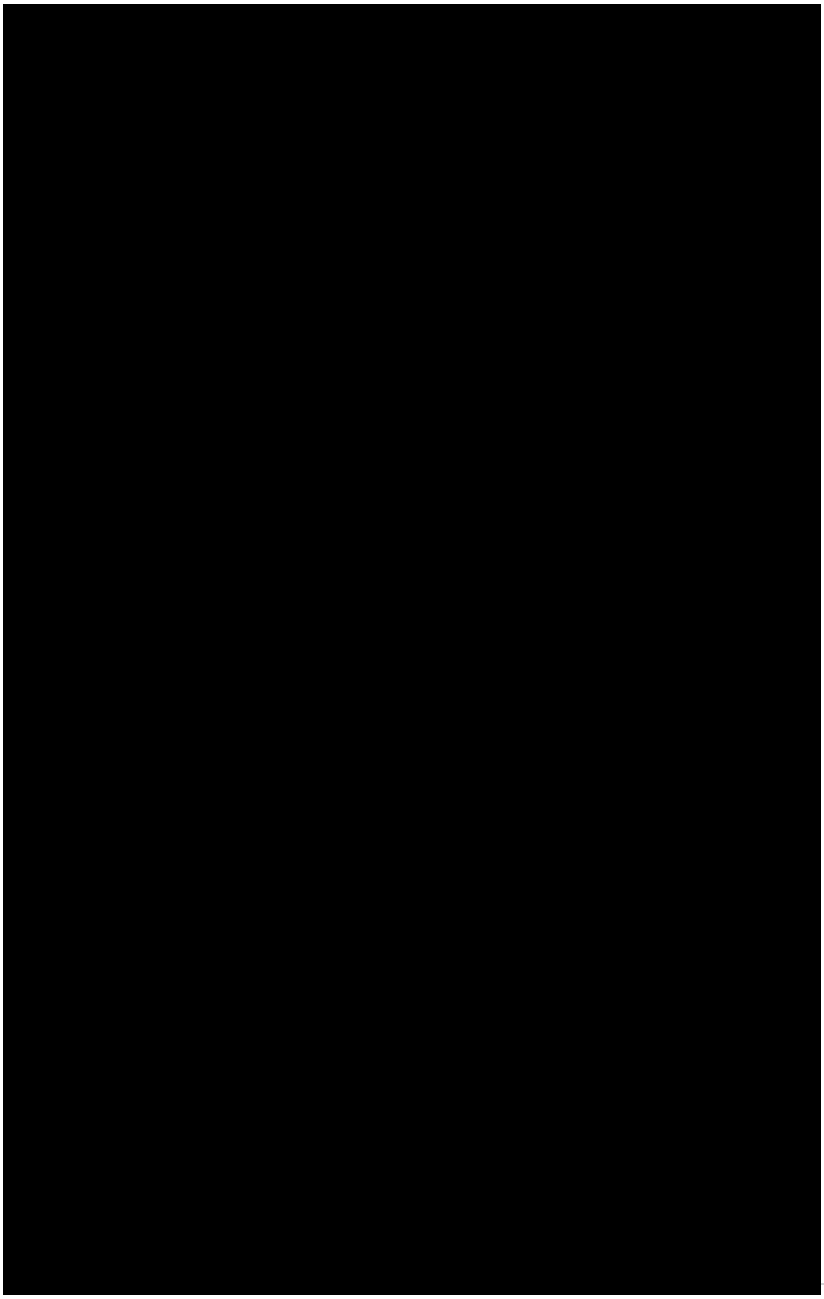

Figure 3: Riverflat Eucalypt Forest in the north-west corner

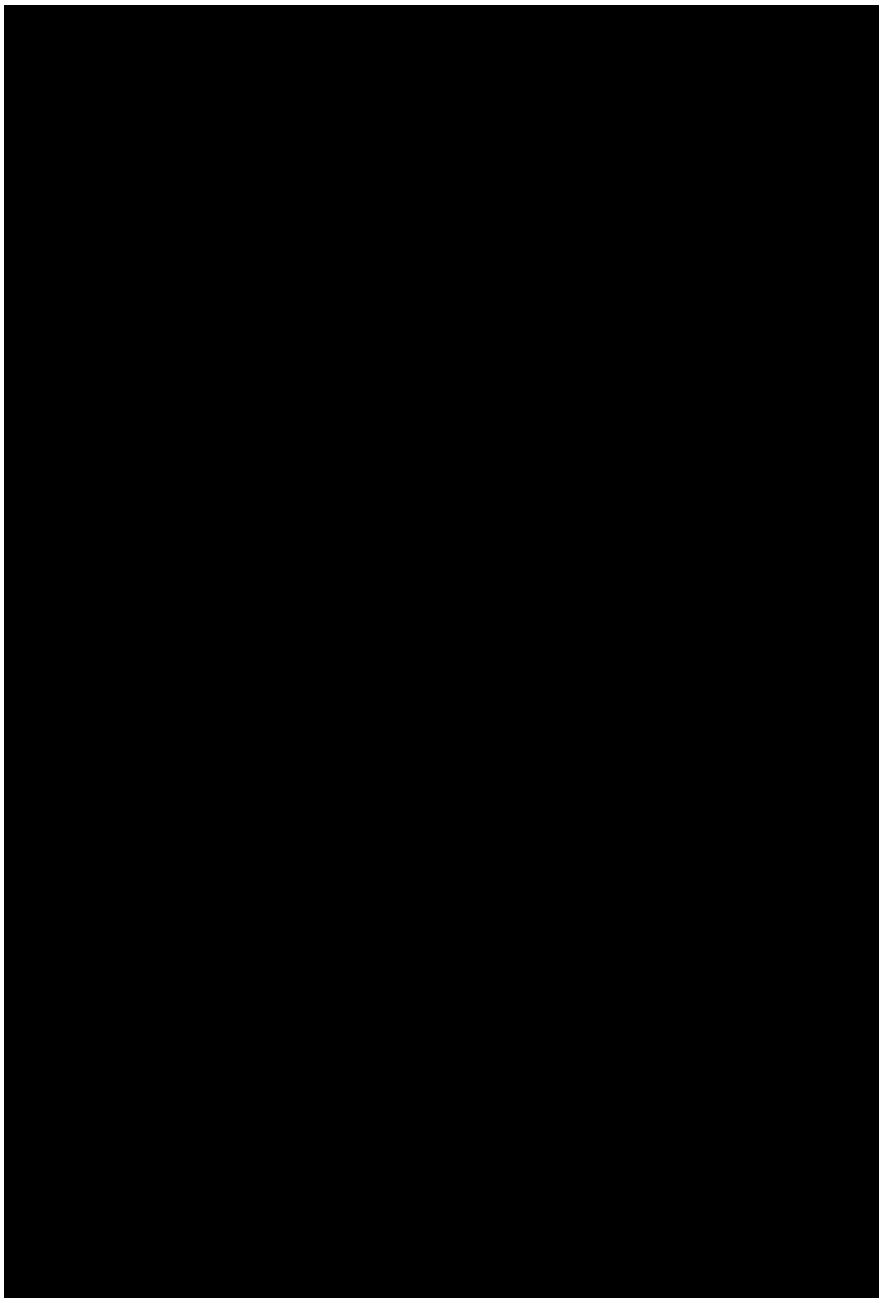

Figure 4 PCT 724 in the north-east corner

3. Analysis Against Draft Cumberland Plain Conservation Plan

Appendix B of the draft CPCP details the 'avoidance criteria' of the plan, which are essentially the criteria for what was considered to have sufficient conservation value to warrant its 'avoidance' or protection. Table 2 below compares these criteria to what ELA found on site.

Appendix B of the draft CPCP also describes what flexibility there is for changing the maps in the draft CPCP.

Table 2: Assessment against draft CPCP Avoidance Criteria

Box 1 Avoidance criteria	ELA assessment
(a) TECs and PCTs	
1. Critically endangered ecological communities (CEECs) or PCTs ≥90% cleared in large patches and in good condition; or serious and irreversible impact (SAII) entities (TECs)	PCT 724 is associated with a CEEC under the EPBC Act but was not in good condition. PCT 835 is not a CEEC but is more than 90% cleared, however the community on site was in poor condition. Neither is an SAII entity.
2. EECs or PCTs ≥70% to <90% cleared in large patches and in good condition	PCT 724 is more than 70% cleared but was not in good condition.
3. PCTs ≥50% to <70% cleared in large patches and in good condition	N/A
4. PCTs <50% cleared in large patches and in good condition	N/A
(b) Threatened species	
1. Known habitat^ for critically endangered species, SAII entities (species), Saving Our Species (SOS) species polygons (where species-specific habitat is present), or large populations of threatened species (relative to typical size for that species); or known primary koala habitat	ELA did not undertake threatened species survey.
2. Known habitat^ for endangered species or known secondary koala habitat	ELA did not undertake threatened species survey,
3. Known habitat^ for vulnerable species	ELA did not undertake threatened species survey,
(c) Ecological processes	
1. Land identified as priority conservation lands, BIO Map core areas, or important local habitat corridors for key species including koalas	See below
2. Land identified as BIO Map regional corridors or as areas that provide significant opportunities to support important local habitat corridors for key species, including koalas	The proposed non-certified lands are the same as the lands shown on the BIO Map
3. Areas identified on the Biodiversity Values Map	The site is not identified on the Biodiversity Values Map, when accessed 29 October 2020 (**Error! Reference source not found.**).
Boundary rationalisation	
Consider removing:	

Box 1 Avoidance criteria	ELA assessment
Small nodes or isolated patches of features identified in (a), (b) or (c) if future land use change will lead to significant edge effects and low viability over the timeframe identified, and there is no feasible opportunity to enhance connectivity and extent.	PCT 835 in the western part of the site is in small patches and isolated paddock trees with exotic ground covers.
Corridors that do not link important areas of habitat, including 'blind corridors'. ^ As indicated by BioNet records or recent survey data.	Vegetation in the eastern part of the site provides connectivity between land to the north and south. Vegetation in the west of the site does not provide connectivity.

The draft CPCP says that during public exhibition, landholders may seek to have the urban capable boundary amended prior to the finalisation of the draft CPCP. The urban capable land boundary will only be updated if the criteria in Table 3 can be proven.

Table 3: Criteria required to amend urban capable boundary

Draft CPCP Criteria	ELA recommendation
Creeks and water features are mapped incorrectly, in which case they must be updated to match the topography and vegetation indicating movement of water through the landscape	NA to this site
On-site data collected by accredited assessors supports updating the boundaries	Field survey validated the native vegetation on site. The updated boundaries are shown in Figure 1.
There is no net change to impact of threatened ecological communities, SAII entities or vegetation in an intact condition state	Refining the boundaries to represent field validated information will not change the impact to TECs or SAII entities. Removing the non-certified land in the western part of the site will not impact on intact TECs.
There is no impact on an identified landscape corridor	This term is not described or mapped in the draft CPCP. The site is however on the BIO map for corridors, albeit the corridors contain areas of cleared land.
Authorised clearing has occurred. (The relevant Council will review cleared areas and determine if the clearing was permitted. The urban capable land boundary will not be changed if the clearing was unauthorised.)	ELA is not aware of any recent clearing on the property.

4. Conclusion

The vegetation in the western part of the site was significantly different to that mapped in the CPCP. This area is in poor condition. The eastern part of the site has been mapped correctly as PCT 724, although it could not be said to be in good condition. This part of the site does however provide a link between vegetated areas to the north and south.