

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Friday, 12 March 2021 7:19 PM
To: PPO Engagement
Cc: eplanning.exhibitions@planning.nsw.gov.au
Subject: Webform submission from: Western Sydney Aerotropolis Draft Precinct Plans
Attachments: 846-890-luddenham-road-dpie-submission.pdf

Submitted on Fri, 12/03/2021 - 19:17

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Rob

Last name

Heffernan

I would like my submission to remain confidential

No

Info

Suburb/Town & Postcode

Luddenham

Submission file

[846-890-luddenham-road-dpie-submission.pdf](#)

Submission

Please find attached a submission to support Rob and Deb Heffernan against the draft precinct plan's proposal for green space.

I agree to the above statement

Yes

Disclaimer

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Western Sydney Aerotropolis Precinct Plans Team
Department of Planning, Industry and Environment
4 Parramatta Square, 12 Darcy Street,
Parramatta NSW 2150

11.3.21

As owners of the property at [REDACTED] Luddenham Road, Luddenham, we wish to object to the Draft Planning arrangements for green space associated with the Western Sydney Airport.

The Draft Plan would effectively result in approximately 50% of our property (approximately 5 to 6 hectares) two to three hectares along Cosgroves Creek and another 3 hectares of open space (grass paddock), not associated with Cosgroves creek on the north, western end of the property being declared green space with a consequent impact on the value of our property or our ability to do anything with this section now or in the future. We acknowledge and accept the riparian zone along Cosgroves creek but highly disagree with the open green space (grass paddock) on our property.

On our study of the Draft Document, the allocation of green space appears to be based on the following criteria:

- Following defined watercourses throughout the wider area.
- Location of hills in the area in the vicinity of the airport.

It is at odds with the above points for the section of land that affects our property to be arbitrarily declared green space.

This section is in no way a continuation of the hill on the property across Luddenham Road to the west.

There is a manmade water channel through the neighbouring property, to the north of our affected land. Logically any green space associated with this channel feature could and should be confined to this drainage channel.

We have engaged, Gunninah Environmental Consultants to complete an **Ecological and Riparian Assessment Report** which has been attached to this submission.

Our property has been in our family for nearly 60 years and for the last 40 years, we accepted the fact that the Western Sydney Airport was coming and always thought it will be a great development for the west. We have no

objection for useful green space (as in Riparian zones along creeks and Parklands) but it is evident that the Planning Dept has set aside an excessive amount of green space in this Precinct Plan. On our property over the 60 years, my father and us, have planted over two hundred trees, which are now mature trees but not native to the Cumberland Woodland Plain.

In our view, the continuation of the green space to our property is neither logical nor justified.

The best case outcome in our view is for the green space classification to be removed from our property. The next best case outcome would be for the green space corridor to be reduced and made narrower to follow the line of the manmade channel.

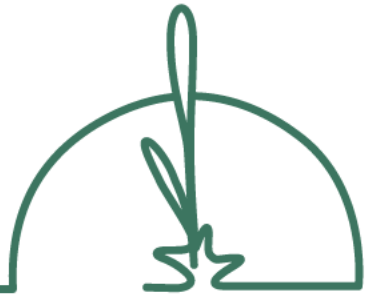
Yours Sincerely

Rob & Deb Heffernan

[REDACTED]

[REDACTED]

gunninah



Lot 38 in DP 211842
846-890 Luddenham Road, Luddenham

Northern Gateway Precinct Plan

Ecological & Riparian Assessment Report

F Dominic Fanning

Gunninah

March 2021

gunninah



Northern Gateway Precinct Plan

Ecological & Riparian Assessment Report

F Dominic Fanning
Gunninah

March 2021

This document and the intellectual material it contains have been prepared by the author (Mr F Dominic Fanning) for the specific purposes described herein.

It has been prepared in cognition of Division 2 Part 31 of the *Uniform Civil Procedures Rules* (UCPRs) and the *Expert Witness Code of Conduct* contained in Schedule 7 to the UCPRs – as practised *inter alia* in the NSW Land & Environment Court.

Any interpretation of this *Report* or any extraction from it are subject to the approval of the author.




NORTHERN GATEWAY PRECINCT PLAN

ECOLOGICAL & RIPARIAN ASSESSMENT REPORT

March 2021

1 INTRODUCTION

1.1 Background

The NSW Department of Planning, Industry & Environment (DPIE) has released a *Draft Precinct Plan* for the Northern Gateway Precinct in western Sydney; associated with the Western Sydney Aerotropolis (see plans in Attachment A).

The *Draft Northern Gateway Precinct Plan* is contained in Part 4 of the *Northern Gateway Urban Design and Landscape Plan* prepared for the Western Sydney Planning Partnership by Hill Thalys Architecture + Urban Projects Pty Ltd (dated October 2020).

As discussed in detail below, the *Draft Northern Gateway Precinct Plan* relies in part on the *Draft Cumberland Plain Conservation Plan* which has been prepared by the NSW government – as there is no separate dedicated ecological or riparian assessment *Report*.

1.2 Purpose of This Report

The subject land for this *Ecological & Riparian Assessment Report* is Lot 38 in DP 211842 (846-890) Luddenham Road, Luddenham (Figure 1 below; Attachment B).

The subject land is bound by Luddenham Road (along the northwestern boundary), Cosgroves Creek (along the southeastern boundary) and other private lands (to the northeast and southwest).

The *Draft Precinct Plan* for the Northern Gateway Precinct identifies a number of purported ‘*Existing Constraints*’ on the subject land – involving real and/or alleged “*Endangered Ecological Communities*” (EECs); areas of “*Other Vegetation*”; alleged ‘streams’ and real and/or supposed ‘riparian zones’; as well as unjustified and inaccurate ‘*Cumberland Plain Conservation Plan Avoided Lands*’.

This *Report* has been prepared at the request of the landowner of the subject land to review the mapping of various alleged ‘constraints’ on the subject land and to identify those portions of the land that contain actual development constraints (ecological and/or riparian) and those portions of the land that would be available for development purposes.

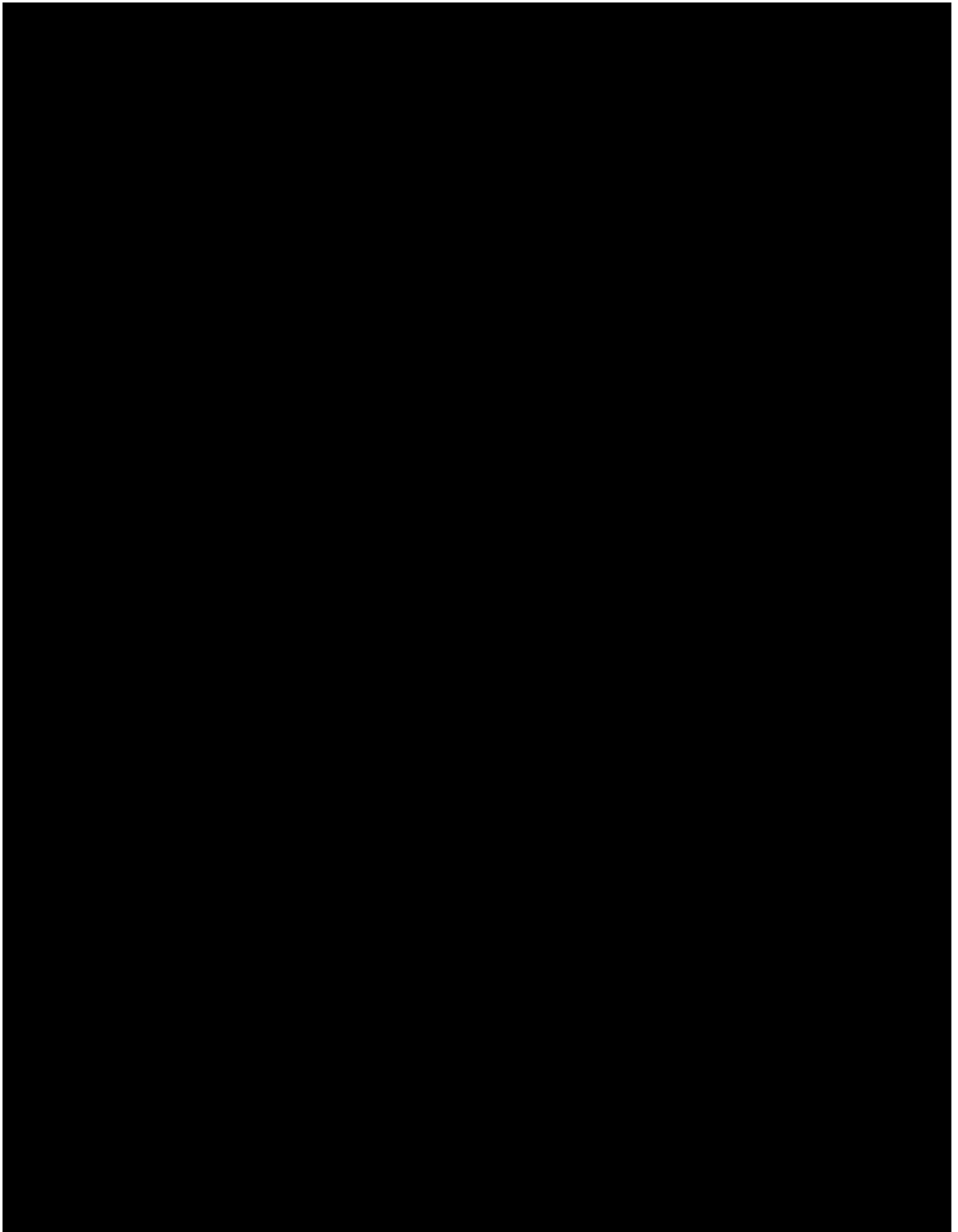


Figure 1 The subject land at 846-890 Luddenham Road, Luddenham

2 INFORMATION BASE

The undersigned conducted a walked survey of the subject land on 17 February 2021 – inspecting the vegetation present, taking photographs and observing the topography of the land (see Photographic Essay in Attachment C).

The following documents were reviewed by the undersigned.

- The *Draft Northern Gateway Precinct Plan* (Part 4 of the *Northern Gateway Urban Design and Landscape Plan* prepared for the Western Sydney Planning Partnership by Hill Thalys Architecture + Urban Projects Pty Ltd - dated October 2020).
- The *Draft Cumberland Plain Conservation Plan* (DPIE - dated August 2020).
- WSPP. November 2020. *Overview of the Northern Gateway Precinct Plan*. Western Sydney Planning Partnership.
- WSPP. November 2020. *Draft Aerotropolis Precinct Plan. Technical Support Summaries*. Western Sydney Planning Partnership.

As noted above, there is no specific or dedicated ecological or riparian assessment *Report* for the *Northern Gateway Precinct* on the Department of Planning website. The undersigned has been advised that the *Northern Gateway Precinct Plan* relies *inter alia* on the *Draft Cumberland Plain Conservation Plan* (DOIE 2020) with respect to riparian and ecological issues.

This is, as discussed below, a significant problem - compounded by the extremely poor and inaccurate mapping contained in the *Northern Gateway Precinct Plan*.

3 PRECINCT PLAN MAPPING

The *Draft Northern Gateway Precinct Plan* (as identified above) has mapped alleged or purported “*Existing Constraints*” with respect to ecological and riparian issues on the subject land (Lot 38 in DP 211842) at 846-890 Luddenham Road, Luddenham (see Figure 2 below; map in Attachment B).

The mapping provided in the *Draft Northern Gateway Precinct Plan* of purported or alleged ‘constraints’ on the subject land at Luddenham (as noted above) is **coarse, inaccurate, incorrect and inappropriate**.

In the first instance, the lines used in the mapping are up to 20 metres in width. For a significant planning document, this is simply **unacceptable**.

Second, the lines are **inaccurate** and **incorrectly** placed (in part at least). For example, the dark green lines which purportedly define ‘*Cumberland Plain Conservation Plan Avoided Lands*’ identify an area substantially greater (approximately 120m in width) along Cosgroves Creek than that depicted in the *Draft Cumberland Plain Conservation Plan* (the ‘*Plan*’) – see Chapter 4 below. The mapping in the *Draft Northern Gateway Precinct Plan* is simply **inaccurate** and **incorrect**.

Further, the mapping of an alleged 3rd Order ‘Stream’ through the southwestern part of the subject land is based on the **flawed** and **inaccurate** ‘Hydroline’ mapping of watercourses (see Chapter 5 below). There is **no** watercourse of any type at this location; and this alleged ‘constraint’ simply **does not exist**.

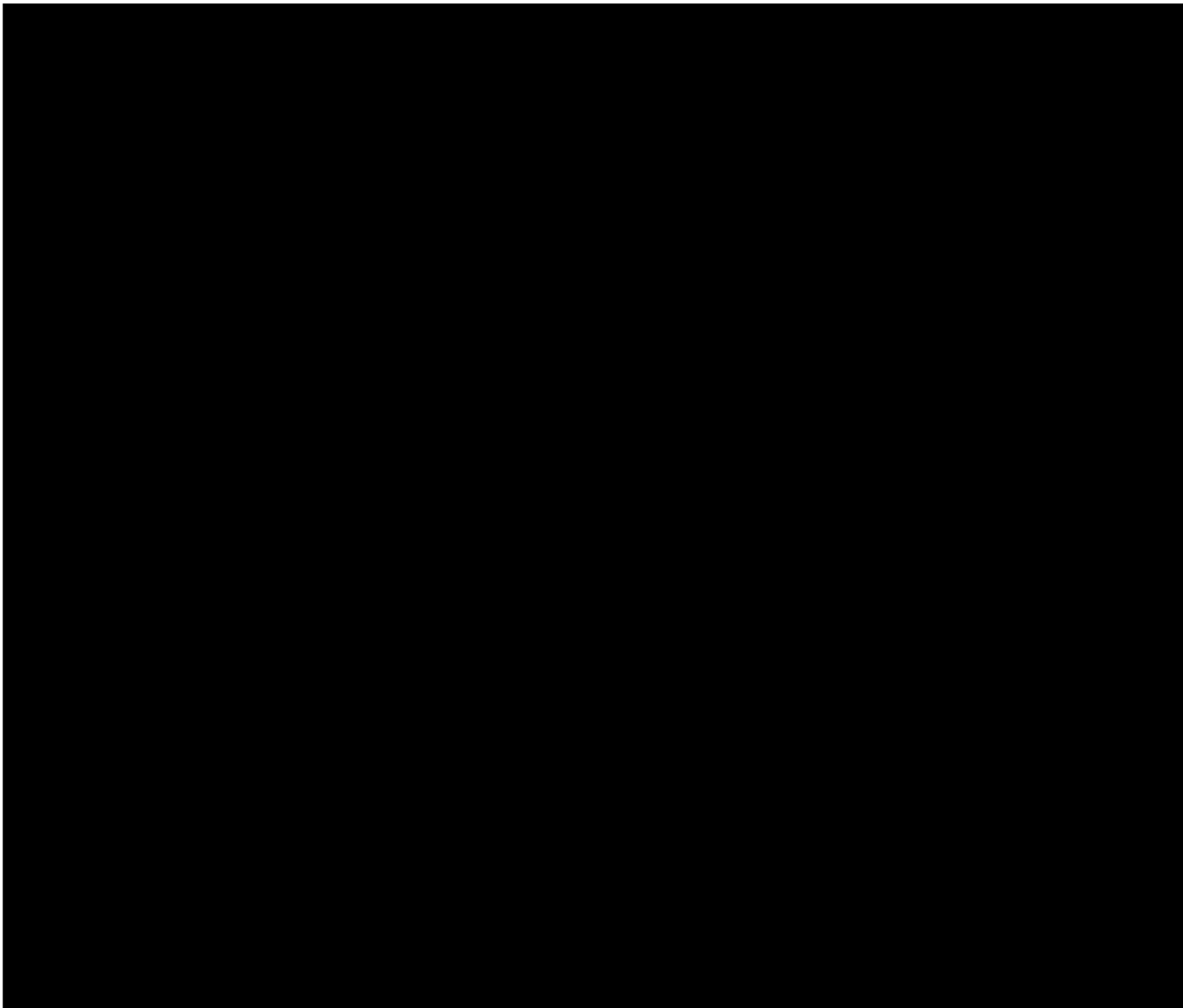


Figure 2 The mapping of purported 'Existing Constraints' on the subject land at 846-890 Luddenham Road, Luddenham – in the *Draft Northern Gateway Precinct Plan*

Dark Green Lines	Purported 'Cumberland Plain Conservation Plan Avoided Lands'
Red Lines	Purported 3 rd Order Streams
Purple Line	4 th Order Stream (Cosgroves Creek)

As discussed above, the *Draft Northern Gateway Precinct Plan* mapping is **coarse, inaccurate, incorrect and inappropriate** – and **incorrectly** identifies the extent and/or presence of alleged 'Existing Constraints'.

The whole area occupied by the **incorrectly** mapped 3rd Order 'Stream' in the extract from the *Draft Northern Gateway Precinct Plan* (Figure 2 above) is **unjustifiable** – given that there is **no** watercourse of any type at this location and the area is merely a paddock of introduced pasture grasses and weeds.

In addition, the mapping of the alleged 'constraint' along Cosgroves Creek is **excessive** (greater than 120m in total width' ~60m on the subject land) and is **not consistent** with the *Draft Cumberland Plain Conservation Plan* (see discussion below).

4 DRAFT CUMBERLAND PLAIN CONSERVATION PLAN

4.1 Background

The *Draft Cumberland Plain Conservation Plan* (the ‘Plan’) has been prepared by the DPIE to provide strategic planning and biodiversity outcomes in western Sydney – specifically to support the delivery of the ‘Western Parkland City’ including the Western Sydney Aerotropolis.

Relevantly, the ‘Plan’ states *inter alia* that it “will identify and protect **important** biodiversity in the nominated areas” (emphasis added). The ‘Plan’ also states that it “identifies strategically **important** biodiversity areas within the Cumberland subregion” (emphasis added).

On the basis of the detailed considerations documented below, the ‘Plan’ has clearly **failed** in both regards with respect to the subject land at Luddenham.

4.2 Vegetation Mapping Issues

The *Draft Cumberland Plain Conservation Plan Viewer* (the ‘Plan Viewer’) has mapped parts of the subject land at Luddenham (see Figure 3 below and in Attachment B) in the following terms.

- Patches of vegetation are mapped as a “*threatened ecological community*” (TEC) –
 - Cumberland Plain Woodland (CPW) – various patches through the subject land.
 - Swamp Oak Forest - along Cosgroves Creek.
 - River-flat Forest in two small patches – in the northeastern part of the land.
- A band (approximately 40m wide) along Cosgroves Creek and in the southwest of the subject land is mapped as “*strategic conservation*”.

However.

The mapping of vegetation contained in the ‘Plan’ **does not** adequately or accurately reflect the existing circumstances on the subject land at Luddenham (see Figure 1 above and aerial photograph in Attachment A; Photographic Essay in Attachment C).

The vegetation along Cosgroves Creek is dominated by casuarinas – and may constitute Swamp Oak Floodplain Forest (a TEC); although the *Casuarina* species has not been verified. The ‘circular’ patch of alleged River-flat Forest in the east of the subject land is actually a stand of *Casuarina cunninghamiana* or *Casuarina cunninghamiana/glauca*. This is not a TEC.

The patches of alleged CPW on the subject land are actually trees which were planted by the landowners over the last 60+ years – noting that some of the trees planted are species of the CPW community (albeit of unknown provenance and therefore not appropriately identified as a TEC).

These plantings are clearly **artificial**; and **do not** constitute the TEC. In addition, there is **virtually no** native understorey or groundcover – noting the presence of a dwelling with gardens and associated features, sheds, previously cleared lands, substantial stockpiles of equipment and materials, fences and tracks, non-native vegetation, extensive weeds and introduced plantings, and other artificial elements (see Photographic Essay in Attachment C).

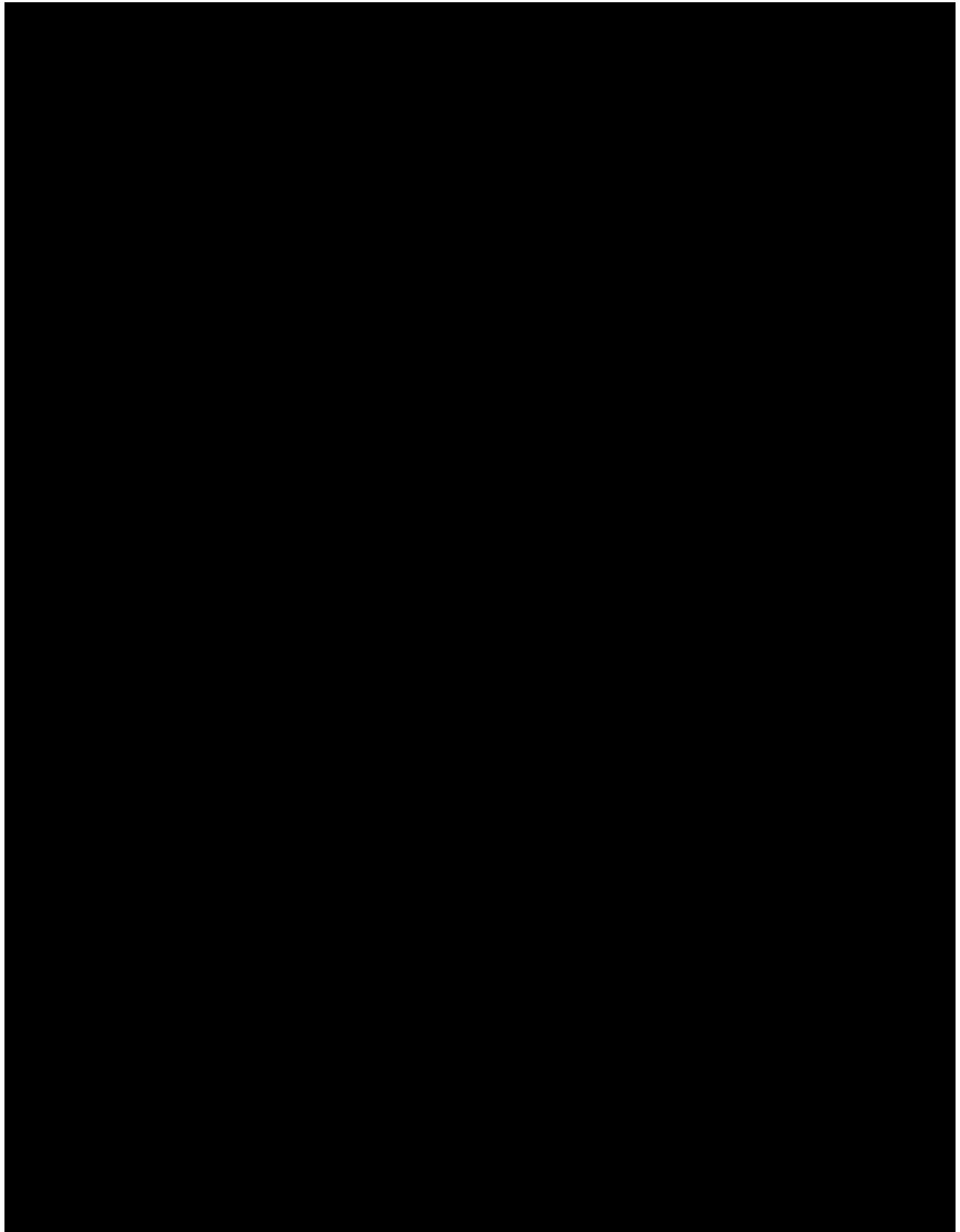


Figure 3 The mapping of purported TECs on the subject land at Luddenham Road, Luddenham – in the *Draft Cumberland Pain Conservation Plan*

Light Orange	Cumberland Pain Woodland
Light Green	River-flat Forest
Light Purple	Swamp Oak Forest

The mapping of alleged patches of TECs along the northeastern boundary of the subject land are also **incorrect** – as these constitute patches of casuarinas which have colonised artificial drains.

There is **no evidence** that the mapping of any of the purported TECs on the subject land has been based on any site investigations. Indeed, given the inaccuracies documented above, it is clear that **no proper** verification of the vegetation on the subject land has been undertaken.

The mapping of TECs on the subject land at Luddenham is therefore **hypothetical** and **unverified**; and **cannot reasonably constitute a satisfactory basis** for precluding development on the land.

It is further noted that ‘The Plan’ **does not** provide any mechanism to review the mapping on which it relies; thus embedding **flawed** and **incorrect** mapping as the base of ‘The Plan’.

4.3 Environmental Zoning Issues

The *Proposed Environmental Zoning* of the subject land contained in the Plan Viewer’ (Attachment A) is based primarily (it would seem) on the **faulty** ‘Hydroline’ mapping of watercourses; as discussed below.

It is noted that none of the other purported TECs on the subject land (see Chapter 4.2 above) have been identified in the *Proposed Environmental Zoning* (see Figure 4 below and in Attachment B) for protection on the subject land (appropriately so – given the discussion above).

The mapping of an approximately 40m wide *Proposed Environmental Zone* along Cosgroves Creek is potentially appropriate – given the issues discussed in Chapter 5 below.

However.

The mapping of a purported *Proposed Environmental Zone* along the non-existent ‘watercourse’ from the southwestern boundary of the subject land (as discussed in detail below) is **inappropriate**.

There is **no** such ‘watercourse’ (or ‘creek’ or ‘stream’) at this location (see Figure 1 above and in Attachment A; Photographic Essay in Attachment C). This is merely either a large farm dam or an overland flow path (with no channel or even a simple invert) surrounded by a paddock of introduced pasture grasses and weeds. There is **no native vegetation** at this location on the subject land.

There is **no justification** for this portion of the purported *Proposed Environmental Zone* on the subject land at Luddenham - Lot 38 in DP 211842 (846-890) Luddenham Road, Luddenham.

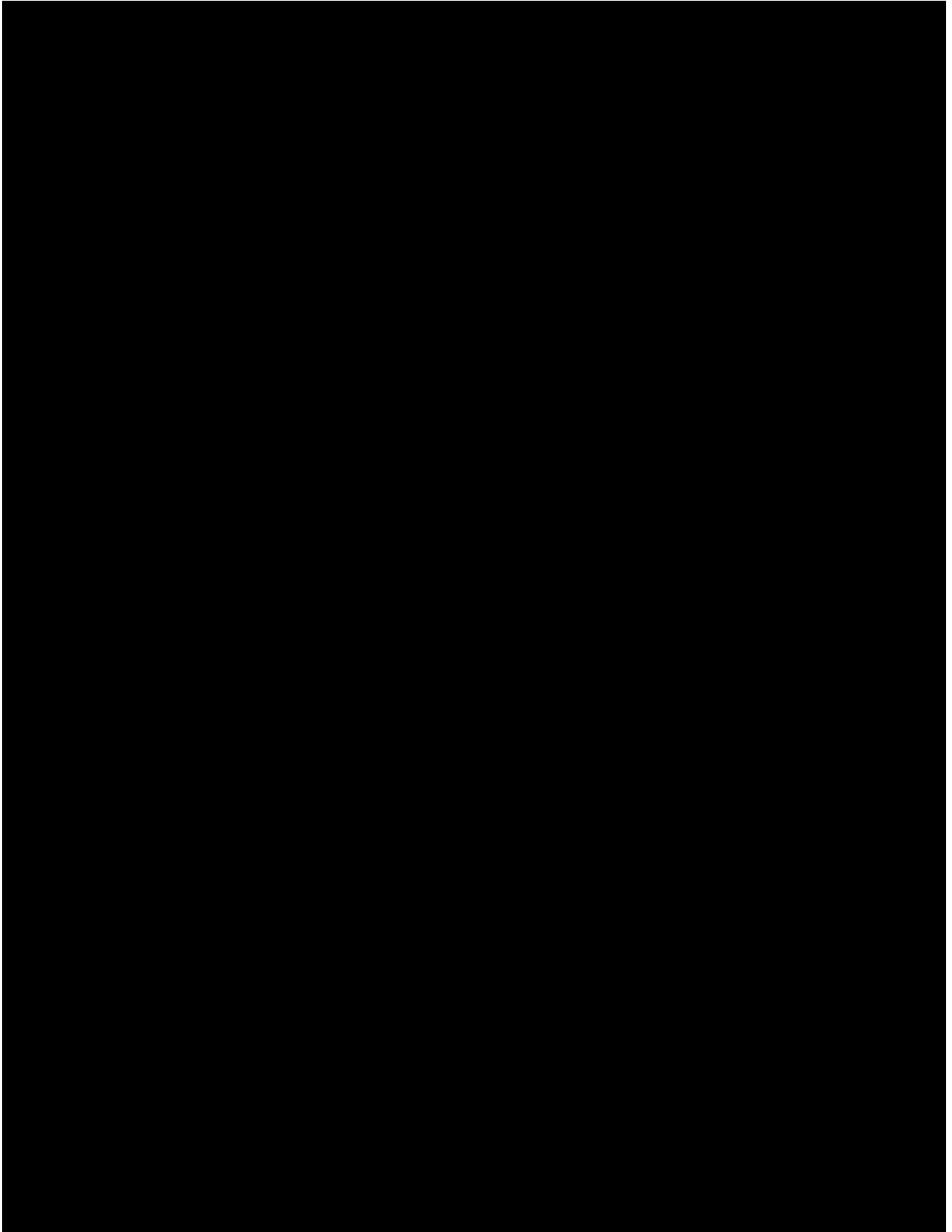


Figure 4 The mapping of 'Proposed Environmental Conservation' areas on the subject land at Luddenham Road, Luddenham – in the *Draft Cumberland Pain Conservation Plan*

5 RIPARIAN ASSESSMENT of the SUBJECT LAND

5.1 Cosgroves Creek

Cosgroves Creek, which forms the southeastern boundary of the subject land, is clearly a “*river*”; and has been mapped (by the Hydroline mapping) as a Strahler 4th Order Stream. The Creek has a well-defined ‘bed and banks’; and is incised 3-5 metres into the landscape (see Photographic Essay in Attachment C).

On that basis, there would be an expectation (NB **not** a ‘requirement’) from the NRAR of a 40 metre wide ‘Vegetated Riparian Zone’ (VRZ) along Cosgroves Creek; as identified in the *Draft Cumberland Plain Conservation Plan*. It is also relevant to note, however, that a 40m wide VRZ is **not** mandated by the *Water Management Act 2000* and that incursions of up to 50% into the VRZ are possible.

Whether or not Cosgroves Creek is actually an actual 4th Order Stream is not the subject of this *Report*; but it is noted by the undersigned that the overwhelming majority of the Hydroline mapping within the Sydney metropolitan area is incorrect – because many purported ‘streams are not actually present.

Furthermore, the identification of a ‘Riparian Zone’ approximately 120m wide along Cosgroves Creek (60 metres on the subject land) in the “*Existing [riparian] Constraints*” mapping contained in the *Draft Precinct Plan* (see Figure 2 below and map in Attachment A) is **unjustified, inappropriate and unreasonable**. That mapping is also **inconsistent** with the mapping in the *Draft Cumberland Plain Conservation Plan*.

5.2 Other Watercourses

There are **no** other watercourses, other than unformed overland flow paths, present on the subject land at Luddenham - Lot 38 in DP 211842 (846-890) Luddenham Road, Luddenham (see Figure 1).

The “*Existing [riparian] Constraints*” identified on the subject land, as mapped in the *Precinct Plan*, include a purported Strahler 3rd Order Stream flowing northeasterly from the southwestern boundary (see Figure 2; Attachment A) - according to the **faulty** and **unvalidated** Hydroline mapping.

There is **no** such ‘Stream’ or ‘Creek’ present at this location on the subject land. There is **no** watercourse of any sort at this location (see aerial photographs in Attachment B; Photographic Essay in Attachment B). There is, rather, a large artificial farm dam; upstream of which (on the adjoining land to the southwest) there is no formed ‘Stream’ or ‘Creek’ or other watercourse.

The application of an approximately 100m ‘riparian zone’ along this **non-existent purported** watercourse – in accordance with the **flawed** ‘Hydroline’ mapping and the *Draft Cumberland Plain Conservation Plan* - is **unjustifiable** on ecological, riparian, statutory and logical grounds.

5.3 Conclusions

The imposition of a ‘Riparian Zone’ of up to 40m width (on average) along Cosgroves Creek along the southeastern side of the subject land at Luddenham may possibly appropriate.

However, there is **no** watercourse in the southwestern part of the land; and **no** riparian constraints to future potential development of this portion of the subject land.

6 ECOLOGICAL ASSESSMENT of the SUBJECT LAND

6.1 Circumstances

The subject land has been used intensively and exclusively for an array of **agricultural and rural purposes** for a very long time (at least 60 years by the current landowner's family *pers comm*) – including the agistment and grazing of horses and cattle; the construction and maintenance of extensive stables, yards and shelters; buildings, parking areas, tracks, farm dams, pathways and associated structures; and as a long-term horse-riding business (see Photographic Essay in Attachment C).

The paddocks on the subject land are characterised almost entirely by introduced grasses and pasture weeds (see Photographic Essay in Attachment C). There are virtually no native groundcover plants throughout the subject land; other than occasional individual plants at scattered locations (predominantly along Cosgroves Creek).

Cosgroves Creek, as discussed above, is a moderate sized watercourse – with a riparian woodland dominated by casuarinas; but a highly weed-infested understorey (see Photographic Essay in Attachment C of this *Report*).

6.2 Ecological Considerations

The mapping of alleged “*Existing* [ecological] *Constraints*” on the subject land, as contained in the *Draft Northern Gateway Precinct Plan* (see Figure 2 above and in Attachment A) is coarse, inaccurate, incorrect and predominantly **inappropriate**.

The mapping of a patch of an alleged ‘*Endangered Ecological community*’ at the northeastern boundary of the subject land is **incorrect**. Whilst there is some she-oak at this location – (a) it is an artifact from the excavation of a drain and (b) it is not dominated by the Swamp Oak *Casuarina glauca*.

The mapping of patches of ‘*Other Vegetation*’ on the subject land is also **coarse, inaccurate and incorrect**. The two larger patches of alleged ‘*Other Vegetation*’ along Luddenham Road do **not** properly, accurately or reasonably identify alleged ‘*Other Vegetation*’ (see aerial photography in Attachment B; Photographic Essay in Attachment C).

These purported ‘patches’ are in fact highly fragmented; and actually consist of trees planted by the landowner and his family over a period of the last 60 years within and around intensive development on the land (horse yards, buildings, tracks and associated development). The identification of these fragments patches of vegetation as an “*Existing Constraint*” on the subject land is patently incorrect.

Similarly, the strips and smaller patches of ‘*Other Vegetation*’ on the subject land are canopy trees which have been planted by the landowner's family over a long period. As noted above, these are of unknown provenance and cannot reasonably be considered an example of CPW.

The purported “*Existing* [ecological] *Constraints*” on the subject land as mapped in the *Precinct Plan* (see map in Attachment A) are predominantly, if not entirely, **inappropriate, unreasonable and unjustified**.

6 CONCLUSIONS

The *Draft Northern Gateway Precinct Plan* (Part 4 of the *Northern Gateway Urban Design and Landscape Plan* prepared for the Western Sydney Planning Partnership by Hill Thalys Architecture + Urban Projects Pty Ltd - dated October 2020) has mapped alleged or purported “*Existing Constraints*” with respect to ecological and riparian issues on the subject land (Lot 38 in DP 211842) at Luddenham.

The mapping provided in the *Draft Northern Gateway Precinct Plan* of purported or alleged ‘constraints’ on the subject land at Luddenham - Lot 38 in DP 211842 (846-890) Luddenham Road, Luddenham - in the *Draft Northern Gateway Precinct Plan* is **coarse, inaccurate, incorrect and inappropriate**.

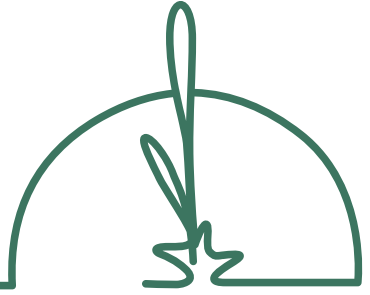
Similarly, the mapping of an alleged 3rd Order stream in the southwestern part of the subject land in the *Draft Cumberland Plain Conservation Plan* is **incorrect**. There is a large farm dam at this location; and there is no watercourse upstream of the farm dam on the adjoining property (to the southwest).

The information provided in the *Draft Northern Gateway Precinct Plan* is **utterly insufficient, inaccurate and inappropriate** to constrain the potential development of the subject land. The alleged “*Existing Constraints*” (other than to some extent the band of vegetation along Cosgroves Creek) **cannot be justified** on the basis of any **objective** analysis, and relevant statute or any *Planning Policy*.

F Dominic Fanning
Gunninah

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Northern Gateway Precinct Plan

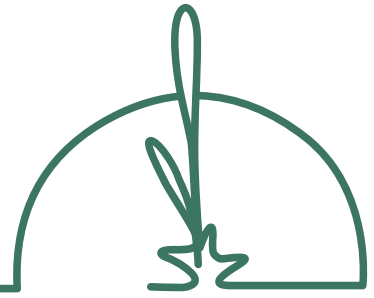
Ecological & Riparian Assessment Report

F Dominic Fanning
Gunninah

March 2021

Attachment A
Relevant Maps and Plans

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Northern Gateway Precinct Plan

Ecological & Riparian Assessment Report

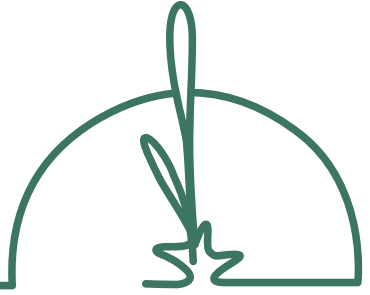
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March 2021

Attachment B
Statutory Maps and Plans

[The following text is a dense, continuous block of text, likely a scan of a document page. It is mostly illegible due to extreme blurring and low contrast. The text appears to be a single paragraph or a series of closely related sentences, but the specific words and structure cannot be discerned.]

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Northern Gateway Precinct Plan

Ecological & Riparian Assessment Report

F Dominic Fanning
Gunninah

March 2021

Attachment C
Photographic Essay



Photo 1 The northern part of the subject land looking northwest across Luddenham Road (just beyond the line of planted trees through the photograph) with introduced pasture and weeds



Photo 2 The northern part of the subject land looking north across towards the adjoining property (with Luddenham Road at the left) with introduced pasture and weeds; and two patches of she-oaks along an artificial drain (along the northeastern boundary of the land)



Photo 3 Stand of She-oaks (*Casuarina cunninghamiana* or *Casuarina cunninghamiana/glauca*) in the central northern part of the subject land



Photo 4 The northern part of the subject land looking southeast across Cosgroves Creek (in background) with introduced pasture and weeds



Photo 5 The central part of the subject land looking southwest towards existing development with planted trees (in the background) with introduced pasture and weeds



Photo 6 Cosgroves Creek Swamp Oak Forest with weed-infested understorey



Photo 7 Large farm dam in the southern part of the subject land (looking west from the dam wall) – with the southwestern property boundary being located along the fenceline and band of plants across the centre of the dam (Identification of this feature as a development ‘constraint’ in the *Draft Northern Gateway Precinct Plan* is patently inappropriate)



Photo 8 The now defunct sheds and yards for the horse agistment and horse-riding business on Lot 38 – noting that **all** of the trees in this part of the subject land have been planted



Photo 9 Cosgroves Creek along the southeastern boundary of the subject land at Luddenham



Photo 10 The highly weed-infested Swamp Oak Forest along Cosgroves Creek on the subject land