

# **Appendix T**

## **Biodiversity Assessment**



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Dear Kerrie,

**Development at Cudgegong Road Station Precinct South – Bio-Certification Letter**

Eco Logical Australia (ELA) was commissioned by Landcom to prepare a letter report on biodiversity matters for the development within the Cudegong Road Station Precinct South (CRSPS). The CRSPS is located between Cudgegong Road, Tallawong Road, Schofields Road and the Metro corridor and comprises around 7.8ha of government owned land. It is within the southern part of the broader Cudgegong Road Station Precinct (Area 20) of the North West Priority Growth Area. The concept proposal is for approximately 1200 dwellings and 9,000 sqm of retail, commercial and community uses. It also includes a central park, new streets and supporting public domain.

The NSW Department of Planning & Environment (DP&E) issued Secretary's Environmental Assessment requirements (SEARs) for the proposed development with the following SEARs relevant to this report:

*11. Biodiversity*

*The EIS [Environmental Impact Statement] shall provide:*

- *An assessment of the proposal's biodiversity impacts, including the preparation of a Biodiversity Development Assessment Report, if required under the Biodiversity Conservation Act 2016; and*
- *assess the consistency of the proposal with the applicable Biodiversity Certification Order conferred on the State Environmental Planning Policy (Sydney Region Growth Centres) 2006.*

*12. Riparian Corridor*

*The EIS shall include an assessment of the proposal on the ecological values of the riparian corridors in proximity to the site, namely First Ponds Creek to the west and Second Ponds Creek to the east.*

Subsequent to receiving the SEARs email correspondence from OEH was received which stated that "It has been confirmed that, in accordance with s.8.4 of the BC Act, a BDAR is not required for state significance infrastructure or development (or any other development under Part 4 of the EP&A Act) on biodiversity certified land" (email dated 22/2/2018).

Therefore, this report assesses the consistency of the proposal with the Biodiversity Certification Order, and further an assessment of the ecological values of the riparian corridors in proximity to the site.

## Biodiversity Certification

Eco Logical Australia (ELA) has undertaken a review of the proposed development at the CRSPS and can confirm that the entire site is 'subject land' according to Schedule 7 to the *Threatened Species Conservation Act 1995* (TSC Act) (**Figure 1**). In August 2017, the *Biodiversity Conservation Act 2016* (BC Act) was gazetted and repealed the TSC Act, however section 43 of the *'Biodiversity Conservation (Savings and Transitional) Regulation 2017'*, carries over the effect of the biodiversity certification into the new BC Act.

Section 8.4(2) of the BC Act describes the effect of biodiversity certification in relation to development (including State Significant development) under Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). This section states '*an assessment of the likely impact on biodiversity of development on biodiversity certified land is not required for the purposes of Part 4 of the Environmental Planning and Assessment Act 1979*'.

Therefore, no further assessment of impacts to threatened species, populations or ecological communities is required under the NSW BC Act. Furthermore, the preparation of a BDAR under the BC Act will not be required.

## Sydney Region Growth Centres SEPP 2006

The Sydney Region Growth Centres SEPP, Appendix 6 Area 20 Precinct Plan contains controls for the clearing of Existing Native Vegetation (ENV), Native Vegetation Retention (NVR) and Riparian Protection Areas (RPA) as shown on the Native Vegetation Protection Map.

The site does not contain vegetation mapped as ENV, NVR or RPA and therefore these clauses are not relevant to the development (**Figure 1**).

## Commonwealth Strategic Assessment (EPBC Act)

On 28<sup>th</sup> February 2012, the Commonwealth Minister for the Environment announced that the program of development activities within the Growth Centres was approved under the *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act) Strategic Assessment process. Specifically, all actions associated with the development of the Western Sydney Growth Centres as described in the 'Sydney Growth Centres Strategic Assessment Program Report' (Nov 2010) have been assessed at the strategic level and approved in regard to their impact on the following Matters of National Environmental Significance:

- World Heritage Properties
- National Heritage Places
- Wetlands of International Importance
- Listed threatened species and communities
- Listed migratory species

These decisions indicate that the Commonwealth is satisfied that the conservation and development outcomes that will be achieved through the Western Sydney Growth Centres Program will satisfy their requirements for environmental protection under the EPBC Act. Provided that development activity proceeds in accordance with the Growth Centres requirements (such as the Biodiversity Certification Order, the Growth Centres SEPP and DCPs, Growth Centres Development Code etc.) there is no requirement to assess the impact of development activities on Matters of National Environmental Significance within the Growth Centres and no requirement for referral of activities to the Commonwealth Department of Environment.

## Present Biodiversity Values

A literature review was undertaken investigating OEH Vegetation Mapping (OEH, 2016) and additional relevant documents, legislation and planning instruments including

- Ecology Assessment report for Transport for NSW North West Rail Link (Eco Logical Australia, 2012a)
- Riparian Ecology Assessment report for Transport for NSW North West Rail Link (Eco Logical Australia, 2012b)
- Vegetation mapping for the areas of interest (obtained from the Office of Environment and Heritage (OEH) Vegetation Information System or other sources)
- Aerial photography, topographic mapping and terrain data
- Review of relevant planning instruments including Blacktown LEP and Sydney Metro Northwest Project

### *Native Vegetation*

The study area had previously been mapped as containing 'Cumberland Plain Woodland' by ELA (2012a) however, is no longer present within OEH Vegetation Mapping (OEH, 2016). Extensive earthworks have already been undertaken within the study area and thus, the remnant vegetation communities do no longer exist (**Figure 1**). There is some small stands of trees currently remaining in the south of the site. As previously mentioned, the site also does not contain vegetation mapped as ENV, NVR or RPA (**Figure 1**).

### *Threatened Species Habitat*

The vegetation within the study area is unlikely to provide suitable habitat for threatened flora species. The high level of disturbance and modification of vegetation and soils within the study area has limited the opportunities for threatened flora species to persist in the landscape.

Habitat for threatened fauna species is highly limited within the study area. The small stand of isolated native trees within the southern part of the study area may provide a very small amount of marginal foraging habitat for *Pteropus poliocephalus* (Grey-headed Flying-fox), as well as marginal foraging habitat for threatened microchiropteran bats.

### *Riparian Corridors*

As described by ELA (2012), First Ponds Creek and Second Ponds Creek are heavily modified from rural activities, with land clearing and instream dams common.

Two second order streams are in close proximity to the study area. The creek line of First Ponds Creek is approximately 920 m to the east and the creek line of Second Ponds Creek is approximately 126 m to the west. Both riparian corridors are mapped as River-Flat Eucalypt Forest with good to poor condition by ELA (2012b) (**Figure 2**). Second Ponds Creek also contains Cumberland Plain Woodland in poor condition.

### ***Water Management Act 2000***

Development on waterfront land (i.e. land within 40m of a watercourse or waterbody) requires a controlled activity approval under the *Water Management Act 2000* (WM Act). To guide land use planning and decisions on watercourses and their riparian zones, the Office of Water published *Guidelines for Riparian Corridors on Waterfront Land* (2012).

The 1: 25,000 topographic map shows Second Ponds Creek to the east and First Ponds Creek to the west, which are both second order streams according to the Strahler system. The guidelines state that watercourses should have riparian zones that area measured from the top of bank on each side of the watercourse (**Table 1**):

**Table 1: Riparian Corridor Matrix**

Stream Order	Vegetated Riparian Zone (VRZ)
1 <sup>st</sup>	10 m
2 <sup>nd</sup>	20 m
3 <sup>rd</sup>	30 m
4 <sup>th</sup>	40 m

The proposed development is consistent with such guidelines with the closest waterbody (Second Ponds Creek) approximately 126 m to the east of the development site.

### **Blacktown City Council Growth Centre Precincts Development Control Plan**

Figure 2-3: Second Ponds Creek – Flood Prone Land and Riparian Corridor within the Blacktown City Council Growth Centre Precincts Development Control Plan (DCP) shows areas within the precinct that are non-certified and are protected riparian corridors. The proposed study area does not fall within either of these areas (**Figure 1**). The DCP contains outcomes for Category 1 Watercourses for development within waterfront land as outlined in Section 2.1. The proposed works are not within waterfront land thus, such outcomes do not apply.

### **Conclusions and Recommendations**

A small amount of native vegetation may be removed as a result of the proposed development. These trees are located within disturbed areas and certified for removal (clearing). As the site is wholly within Bio-Certified lands, removal of vegetation from the study area would not result in a significant impact on any threatened species or ecological community under the BC Act or EPBC Act. Whilst trees (or other vegetation) present may be retained for landscaping or amenity if desired, there is no requirement to retain trees.

In regard to the both riparian corridors to the east and west of the study area, the listed potential impacts above can be adequately mitigated through standard sediment and erosion controls during the construction phase. As both First Ponds Creek and Second Ponds Creek are not in close proximity to the study area, no impacts on riparian vegetation or fauna are anticipated.

It is recommended that the following measures be implemented to protect native vegetation and fauna within and adjacent to the site:

- Sediment and erosion controls should be put in place during construction to prevent indirect impacts on the adjacent vegetation and the water courses to the east and west of the study area.
- Revegetation and/or soil stabilisation works should occur post construction to prevent surface erosion and sedimentation of both creeks.
- When the small isolated stand of trees is removed, care should be taken to avoid harm to native fauna. If fauna is found on the construction site, all works should stop – all native fauna is protected. Do not touch animal but wait for it to leave. If it is a threatened species, advice from a qualified ecologist should be sought and a rescue agency such as WIRES should be called if it is harmed.
- Weeds should be controlled within the study area as a part of landscaping works for future development.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Rebecca Ben-Haim', written in a cursive style.

**Rebecca Ben-Haim**

Environmental Consultant

## References

Eco Logical Australia 2012a. *Ecology Assessment report for Transport for NSW North West Rail Link*. Prepared for Transport for NSW.

Eco Logical Australia 2012b. *Riparian Assessment for the North West Rail Link*. Prepared for AECOM/Transport for NSW.

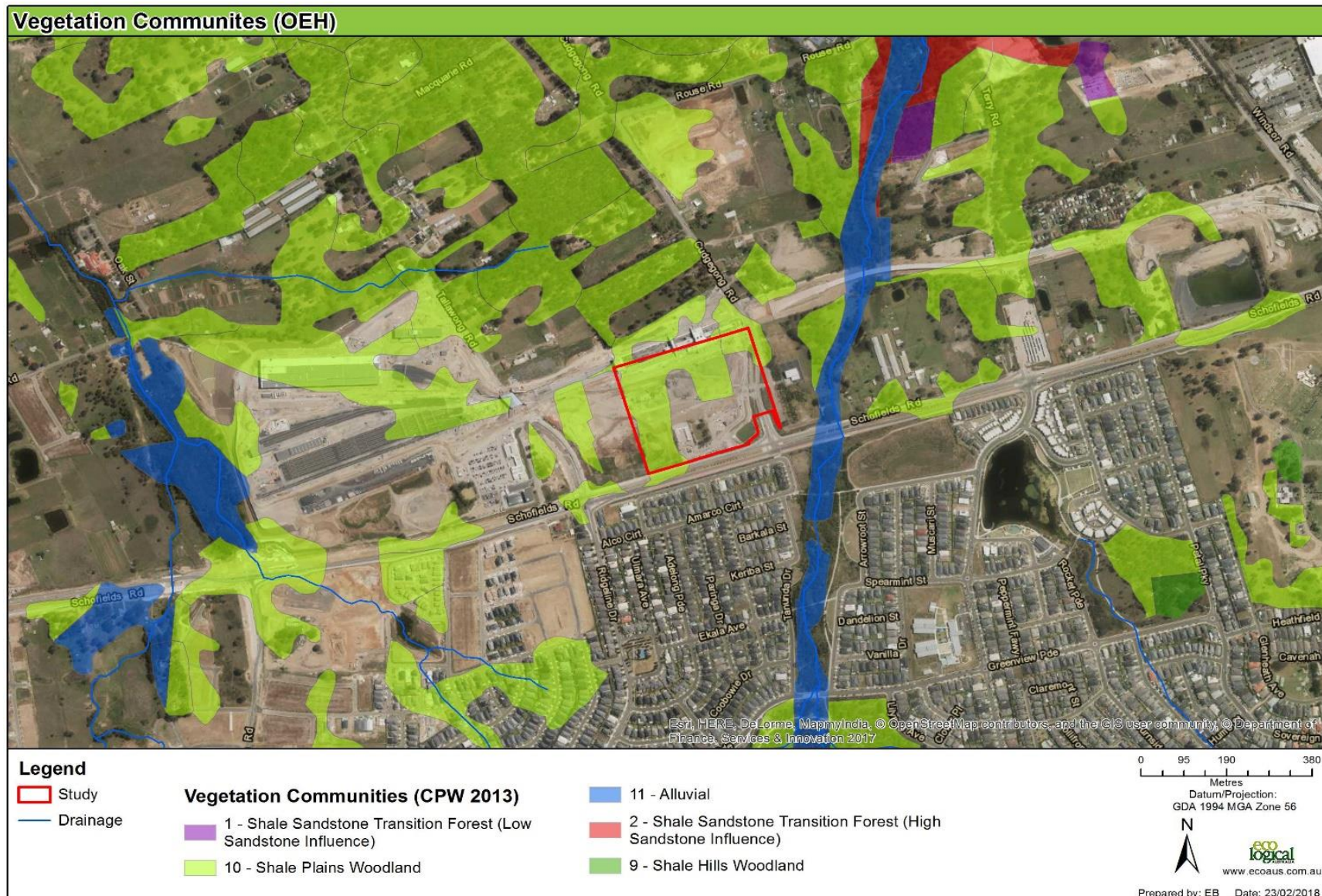
Office of Environment and Heritage (OEH) 2013. *The Native Vegetation of the Sydney Metropolitan Area*. Version 2.0 NSW Office of Environment and Heritage

Office of Environment and Heritage (OEH) 2016. *The Native Vegetation of the Sydney Metropolitan Area.: Vegetation Information System (VIS)*. NSW Office of Environment and Heritage



**Figure 1 Bio-Certified Land in relation to the study area**





**Figure 2** Vegetation communities in close proximity to the study area (ELA, 2012a). Note that the Shale Plains Woodland (Cumberland Plain Woodland) within the study area has already been extensively cleared