

30 November 2022

Paul Perkovic  
Legacy Property  
Level 45, 25 Martin Pl  
Sydney NSW 2000

**Subject: Planning Proposal – EHG comments on the consistency assessment of Orchard Hills North Planning Proposal and the Cumberland Plain Conservation Plan**

Dear Paul,

I have now read the EHG response to the consistency assessment of the planning proposal that we prepared. I note that EHG concluded “the consistency assessment has not addressed key issues in relation to the protection and enhancement of existing native vegetation and riparian corridors on avoided land”. Based on our further review of the EHG comments, it is our opinion that the proposal does address the key issues relating to the protection and enhancement of existing native vegetation and riparian corridors on avoided land, as outlined in the following pages.

I also note that the letter provided a contact person to deal with if further clarifications are required. I have emailed and left phone calls for Mr Shaun Hunt, Senior Conservation Officer. As explained in the table below, I believe that we should meet with EHG to discuss the nature and extent of additional lands proposed for conservation under the proposal. (See **Figure 1** in **Appendix A**.)

Please call me to discuss this as required.

Yours sincerely

A handwritten signature in dark ink that reads "David Robertson".

David Robertson  
Director  
david.robertson@cumberlandecology.com.au

Cumberland Ecology  
PO Box 2474  
Carlingford Court 2118  
NSW Australia  
Telephone (02) 9868 1933  
ABN 14 106 144 647  
Web: [www.cumberlandecology.com.au](http://www.cumberlandecology.com.au)

# APPENDIX A :

## Comments and Response Table

**Table 1 EHG Comments and CE Response**

EHG Comments	Cumberland Ecology Response
<p>The assessment accurately identifies land mapped as avoided land and certified – urban capable land under the Cumberland Plain Conservation Plan (CPCP). An overlay of the proposal against these land classifications has not been provided.</p>	<p>Cumberland Ecology has prepared an overlay of the proposal against the land classifications from the CPCP (<b>Figure 1</b>). The area of avoided land designated by the CPCP will not be cleared if the proposal is implemented.</p> <p>The area of avoided land is ~ 4.52 ha, comprising riparian land. However, ~2.08 ha (45%) of that is cleared land comprising exotic grassland.</p> <p>No drainage infrastructure or other development will occur within the ~4.52 ha and a Vegetation Management Plan (VMP) will be prepared to provide for permanent protection of the avoided land and replanting of native vegetation (eg River Flat Eucalypt Forest) within the ~ 2.08 ha of cleared land.</p> <p>As indicated in <b>Figure 1</b>, there will be other areas of bushland/open space where native vegetation will be conserved and/or native trees planted. These areas amount to approximately 3.00 ha. One such area will adjoin the avoided land/riparian zone and will complement conservation measures in that area in the long term.</p> <p>The avoided land/riparian zone, together with the bushland/open space areas will total ~7.56 ha of bushland/native trees.</p>
<p>EHG considers that the consistency assessment has not adequately assessed the impacts of the proposal on avoided land. As raised in EHG’s submission dated 26 August 2022, the Claremont Creek riparian corridor is identified as avoided land under the CPCP. A range of active and passive recreational uses and infrastructure are proposed adjacent to the creek and within the riparian corridor. This includes rain gardens, sporting fields, recreation areas and a stormwater basin which appears to extend beyond the bank of the creek.</p>	<p>As stated above, no development will take place within the avoided land, which will in future be managed for conservation in perpetuity via a VMP. The VMP will be prepared as development takes place in stages on the subject land.</p> <p>It is recommended that a Development Control Plan (DCP) is drafted to contain a clause to trigger the need to prepare the VMP when the first DA in Precinct 6 is prepared.</p> <p>The DCP trigger for the VMP should specify that indirect impacts from any nearby sporting fields, recreation areas and stormwater infrastructure are managed to prevent harm to the conservation area in the avoided lands.</p>
<p>The consistency assessment has not considered these proposed impacts in the context of chapter 13 of the State Environmental Planning Policy (biodiversity and conservation) 2021.</p>	<p>Cumberland Ecology has reviewed Chapter 13 of the State Environmental Planning Policy (biodiversity and conservation) 2021 and considered the ecological outcomes of the proposal. As explained above all of the avoided land will be subject to long term conservation and so development will be in compliance with the aims of chapter 13.</p>

EHG Comments	Cumberland Ecology Response
	<p>The aims of this chapter 13 in italics, followed by a comment about the outcome from the proposal in plain text are as follows—</p> <p><i>(a) to ensure development in the nominated areas is consistent with the biodiversity certification under the <a href="#">Biodiversity Conservation Act 2016</a>, Part 8 and strategic assessment under the <a href="#">Environment Protection and Biodiversity Conservation Act 1999</a> of the Commonwealth, Part 10;</i></p> <p>All such areas are to be retained and protected in the riparian zone and conserved in perpetuity as per the VMP, which will be prepared to accompany the first DA for Precinct 6.</p> <p><i>(b) to facilitate appropriate development on biodiversity certified areas;</i></p> <p>Development is to be confined to biodiversity certified areas, as shown in <b>Figure 1</b>.</p> <p><i>(c) to identify and protect areas with high biodiversity value or regionally significant biodiversity that can support ecological functions, including threatened ecological communities, species and areas with important connectivity or ecological restoration potential;</i></p> <p>The riparian corridor will be maintained and improved by replanting and active management, and will be managed in perpetuity via a VMP as explained above. This will maintain threatened ecological communities, species and connectivity of riparian habitat.</p> <p><i>(d) to avoid or minimise impacts from future development on biodiversity values in areas with high biodiversity value;</i></p> <p>There are other areas of trees and native vegetation totalling about 3 ha that will also be subject to avoidance measures, as explained above. These measures will complement the conservation measures for the avoided lands.</p> <p><i>(e) to support the acquisition of priority areas with high biodiversity value as conservation lands in perpetuity;</i></p> <p>As explained above, the high conservation value lands in the riparian corridor, the avoided lands, will be conserved in perpetuity.</p>

EHG Comments	Cumberland Ecology Response
<p>Further to the above, Ministerial direction 3.6 – Strategic Conservation Planning applies to avoided land and strategic conservation areas under the CPCP. The objective of this direction is to protect, conserve or enhance areas with high biodiversity value. It requires a planning proposal to demonstrate that it protects or enhances biodiversity within avoided land and strategic conservation areas.</p>	<p>As set out above, the avoided land will be protected and enhanced and managed for conservation in the long term via a VMP.</p>
<p>Whilst the proposed rezoning of avoided land within the Claremont Creek riparian corridor to C2 – Environmental Conservation is supported, the works and land uses proposed within the avoided land are not consistent with the ministerial direction or the objectives of the C2 – Environmental Conservation zone. Department of Planning and Environment 2</p>	<p>Noted. This has been responded to above.</p>
<p>EHG notes that sufficient consideration has been provided in relation to the consistency of the proposal with requirements for certified urban capable land under the CPCP. EHG does reiterate however that while the CPCP negates the need for future development to assess and offset biodiversity impacts over certified – urban capable land, existing vegetation and riparian corridors present opportunities to deliver the vision of the Western Parkland City including the provision of cool, green neighbourhoods and centres with generous open spaces and increased canopy cover. As such consideration should be given to the retention and enhancement of existing native vegetation and riparian corridors.</p>	<p>Consideration has been given to the retention and enhancement of existing native vegetation and riparian corridors on the subject land. As stated above in preceding responses, additional areas of woodland beyond those in the avoided land will be conserved under the proposal. The avoided land/riparian zone, together with the bushland/open space areas will total ~7.56 ha of bushland/native trees.</p>

# FIGURES



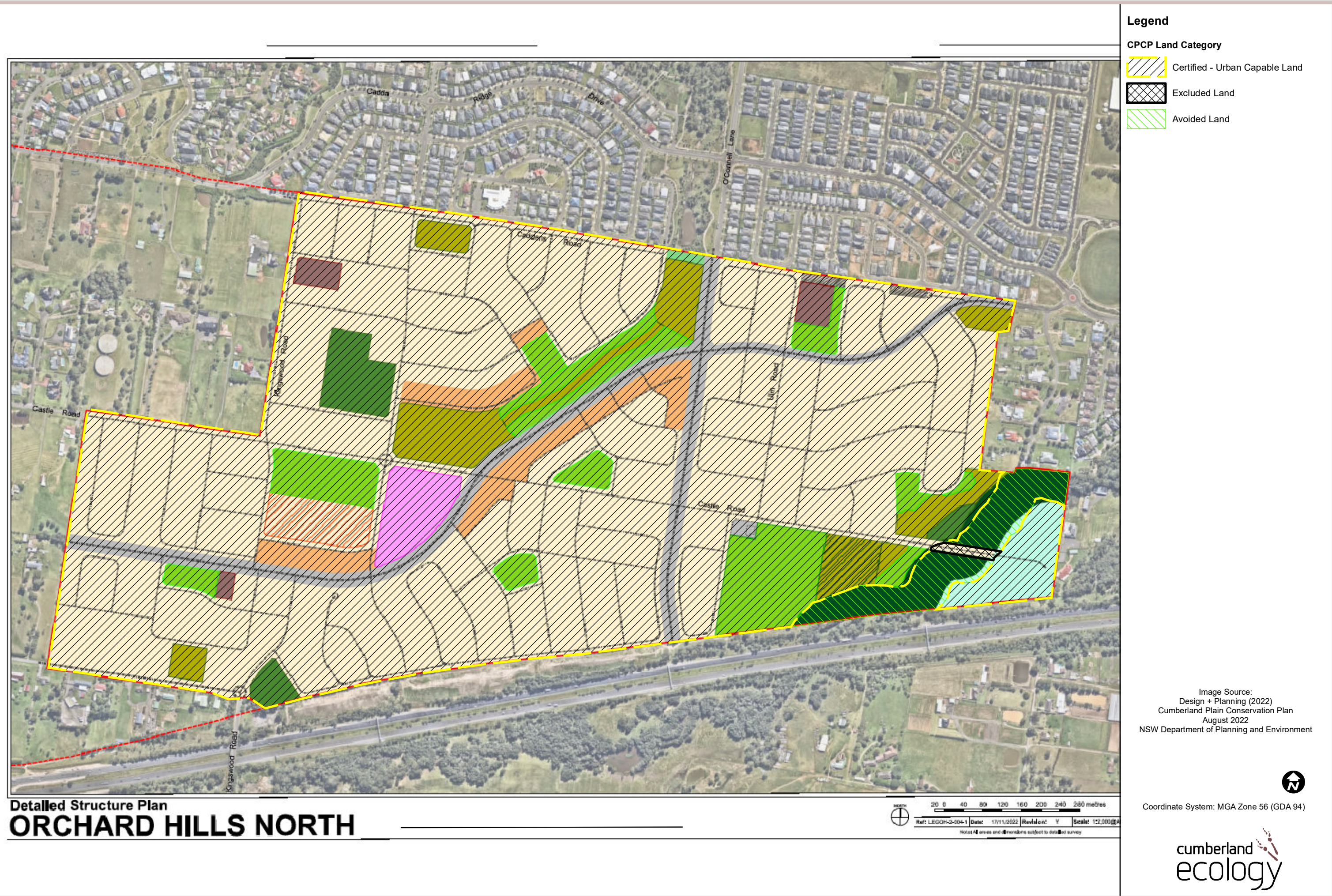


Figure 1. Cumberland Plain Conservation Plan land categories and the Indicative Master Plan