Level 13, 420 George
Street, Sydney, NSW 2000

T: (02) 9259 3800

14 March 2024

Our ref: 24SYD7782

The Hills Council
PO Box 7064, NORWEST NSW 2153

Attention: Megan Munari

Dear Ms Munari

West Gables Planning Proposal - Response to Submission - Biodiversity

Eco Logical Australia (ELA) prepared a Biodiversity Certification Assessment Report (v2 dated 6 December 2022) for the West Gables Planning Proposal. The BCAR has been reviewed by The Hills Council. This letter provides a response to the matters raised by Council in their email (M.Munari) dated 22 February 2024.

Table 1 Response to Council matters

Summary of council matter	Response
Council recommends that the BCAR is reviewed by DCCEEW before commencing formal consultation with Council	*Biodiversity Certification Fact Sheet #2 recommends consultation with Council and DCCEEW prior to formal lodgement of an application for biodiversity certification. Council then has 42 days to respond to the formal application.* Submission of the draft BCAR to Council in 2023 formed the initial consultation. The proponent group will now undertake pre-lodgement consultation with DCCEEW in March/April 2024.
The preliminary assessment of the proposal has identified that the land proposed to be zoned RE1 and utilised as passive open space is the same as the land identified as 'avoided areas' in the biodiversity certification assessment report. Essentially, all 'avoided areas' are identified in the master plan as local parks. Generally speaking, Council may be supportive of the retention of some native vegetation in and adjacent to our local parks and have other examples of this in the Shire (for example Equinox Park in Box Hill and the Withers Road Park in North Kellyville). However, it should be noted that both of these examples	Noted that Council may be supportive of retaining native vegetation in parks. It is acknowledged that the other examples provided by Council were biodiversity certified land, however the point here is that the outcome should be the same. Parks can provide protection of high biodiversity values through good design of park facilities, management of biodiversity values and public ownership.

Summary of council matter	Response
occurred on bio-certified land, where Council had more flexibility to balance the biodiversity/tree retention and recreation outcomes rather than having the recreation outcomes reduced or eliminated to protect biodiversity or vice versa.	
The "Biodiversity Certification Fact Sheet #1: Avoiding and minimising impacts" indicates that "biodiversity values on land that has been avoided when designing areas for development should be protected from future impacts" and as such Council would expect the Proponent to have considered the amount of these 'avoided areas' that are to be protected and those that can contain structures, paths, play equipment etc. This is not evident in the material provided	Detailed design of the parks has not yet been undertaken. However figures below shows indicative concept for the parks. The following principles would apply: • Locate kick-about spaces and amenities in existing cleared areas. If any native vegetation is proposed to be impacted, it would not be classified as 'avoided'. • Micro-site footpath locations so that they avoid removal of mature trees. Footpaths should be low impact construction, and have down lighting to minimise light spill. • Bushfire Asset Protection Zones should not be located within the Park • A Vegetation Management Plan is to be prepared and implemented for weed removal and rehabilitation of native vegetation.
The Biodiversity certification assessment report should be updated to include the following key additional information: • How the knowledge of threatened vegetation and biodiversity has informed the location and design of future development to avoid and mitigate impacts on the SAII entities at risk; • Opportunities to provide enhanced corridors and increase connectivity between patches of threatened vegetation. The VMP must also consider avoidance of impacts from stormwater and stormwater infrastructure; and • Location of all hollow bearing trees on the subject land.	Noted. The final BCSR will provide additional information on these matters. See below comments on avoiding impacts in the biodiversity certification assessment area. The site has very limited connectivity for biodiversity as land to the north, east and west has minimal vegetation. Vegetation to the west is separated by Boundary Road. Hollow bearing trees can be included in the final BCAR, although we note this is strictly a requirement of the BAM which only required HBT to be identified in plot data.
Avoiding impacts in the biodiversity certification assessment area	*Biodiversity Certification Fact Sheet #1 'Avoiding and minimising impacts' sets out the process and principles that should be followed for biodiversity certification. The fact sheet establishes the process as:* • *Establish a biodiversity certification area* • *Identify land with existing biodiversity values* • *Identify land proposed for development* • *Justify why any impacts to existing biodiversity values cant be avoided* *The principles are:* • *Land proposed to be avoided must be within the biodiversity certification assessment area*

Summary of council matter	Response
	• *Important values should be prioritised for avoidance* • *Certain values should always be avoided (large areas of intact vegetation, vegetation in the best condition, habitat for species with high biodiversity risk rating, threatened ecological communities or highly cleared plant types)* • *Land proposed to be avoided must be additional* • *Avoided land should be protected from future development* The Planning Proposal and associated BCAR has followed the process described above. A Biodiversity Certification Area has been identified, biodiversity values have been established with that area and land proposed for development has been identified. An overview of the biodiversity values is provided below. The information below also provides rationale for how the avoid and minimise principles were followed. It is acknowledged that the Planning Proposal does have impacts to biodiversity values and that the final BCAR application will need to provide further information on the rationale for avoidance and minimising biodiversity impacts. STAGE 1 BIODIVERSITY ASSESSMENT <u>Literature review</u> Historical aerial photos from 1955, 1978 and 1994 were reviewed to identify potential remnant vegetation. This showed that the site predominately being for agriculture through these periods, with the most significant stand of vegetation being in the north of the site (approximately where the local park is proposed), although scattered paddock trees existed through these time periods. Bionet atlas records of threatened species recorded within 5km of the site were obtained. <u>Field survey</u> Field survey of Plant Community Types, their condition and their status (eg; endangered, critically endangered) were undertaken in July 2021 and May 2022. The majority of vegetation was mapped as Critically Endangered Ecological Community and therefore is high conservation value, however the vegetation is fragmented and in either low or moderate condition. The figure from the BCAR is provided below (Figure 1). The vegetation on site has little off-site connectivity. Threatened flora species survey was undertaken in 2022. No threatened flora were recorded. Survey for Green and Golden Bell Frog, threatened micro-bats, Cumberland Plain Land Snail, squirrel glider and greater glider was undertaken in March-April 2022. Survey recorded presence of several threatened microbats, but not the other species. STAGE 2 IMPACT ASSESSMENT <u>Avoid and minimise</u> The location of the development was based on consideration of biodiversity and non-biodiversity related matters such as proximity to existing development and infrastructure.

Summary of council matter	Response
	In terms of biodiversity, the location chosen is approximately 80 ha and has approximately 11.1 ha of native vegetation, of which 7.83 ha is native vegetation in low condition, with the remainder in moderate condition. Following supply of the biodiversity values information, re-design of the concept plan was undertaken (see figures 2,3 and 4 below) which: • Increased the size of parks and riparian corridor which provided for an avoidance of more native vegetation. The proposal avoids impacts to 4 ha of native vegetation by retaining vegetation in parks. Further justification for the use of 'avoidance' in the parks is provided below. • Provided retention of trees in a road buffer (see figure 6 below) Consideration was given to retention of trees in large lots, however Council (M.Munari 11 Oct 2022) advised that trees retained in in private lots would not be counted as protected. The design has focussed retention of native vegetation in the largest patch in the north of the site as well as two other parks. This will be subject to a Vegetation Management Plan and eventual transfer to Council so that the vegetation is in public ownership. Where impacts are proposed to native vegetation, the following mitigation measures are proposed: • A Biodiversity Management Plan to ensure removal of habitat minimises harm to native animals • Purchase and retirement of biodiversity credits as required by the BAM
Prescribed impacts	Noted. The final BCAR will include additional information on prescribed impacts such as water quality and hydrology.
The BCAR must accurately identify all hollow bearing trees within the subject land	Noted. Final BCAR to include map of all HBT.
Entities at risk of SAII (CPW and SSTF).	Councils comment is noted. In the case of Biodiversity Certification, SAII matters are determined by the Minister. The role of the accredited ecologist is to present information for assessment.

Regards,

David Bonjer
Principal Planner

Figure 1 Vegetation condition

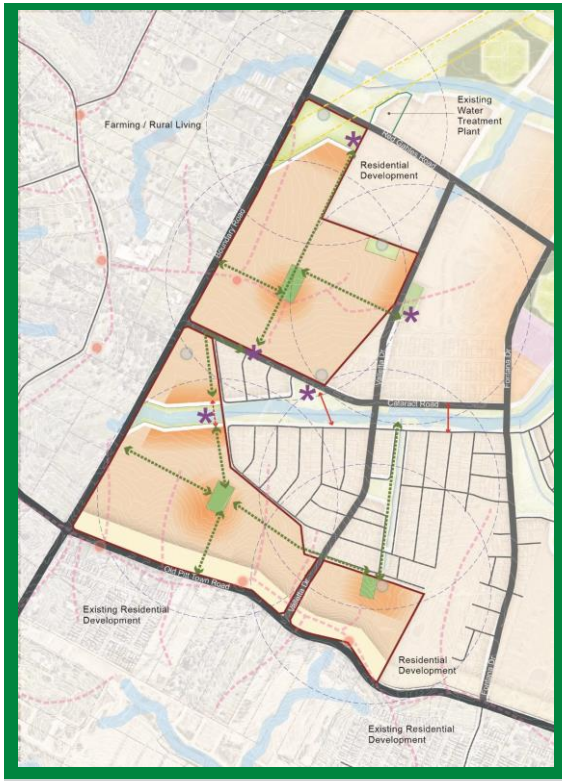


Figure 2 Preliminary Structure Plan

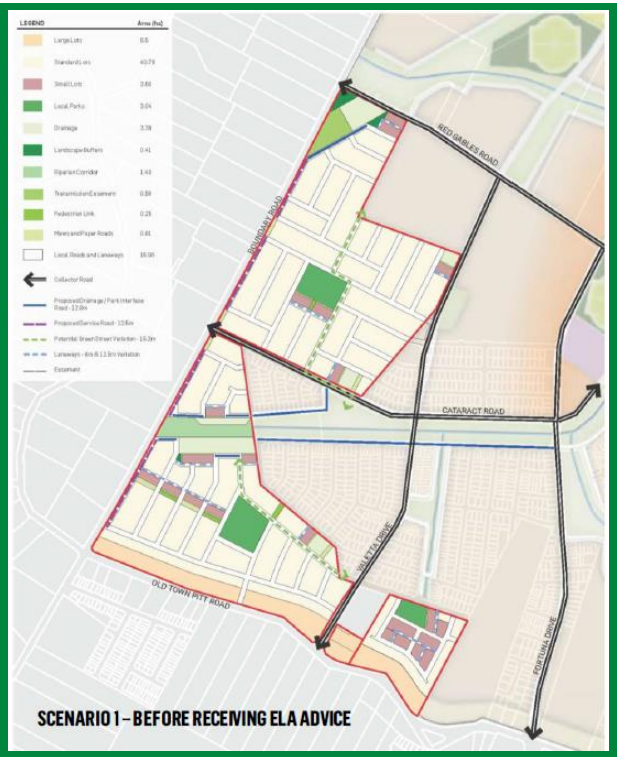


Figure 3 Revised plan – scenario 1

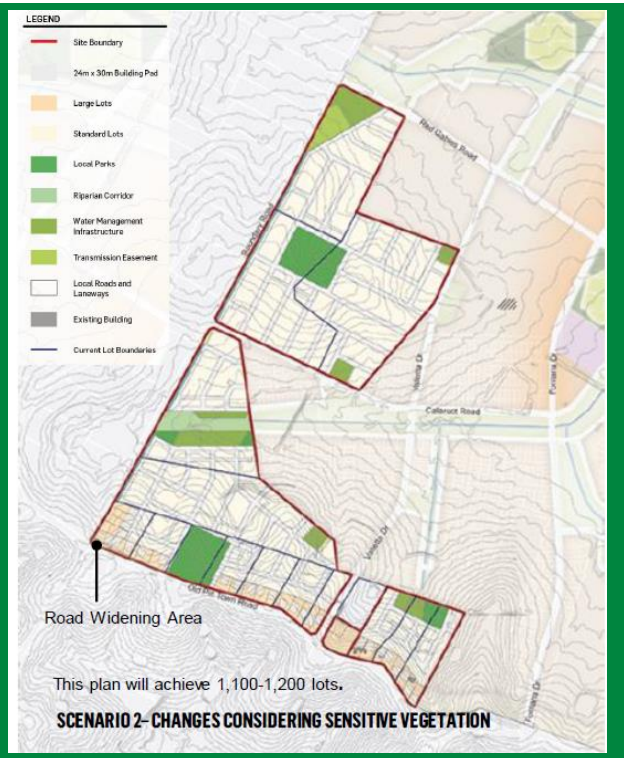


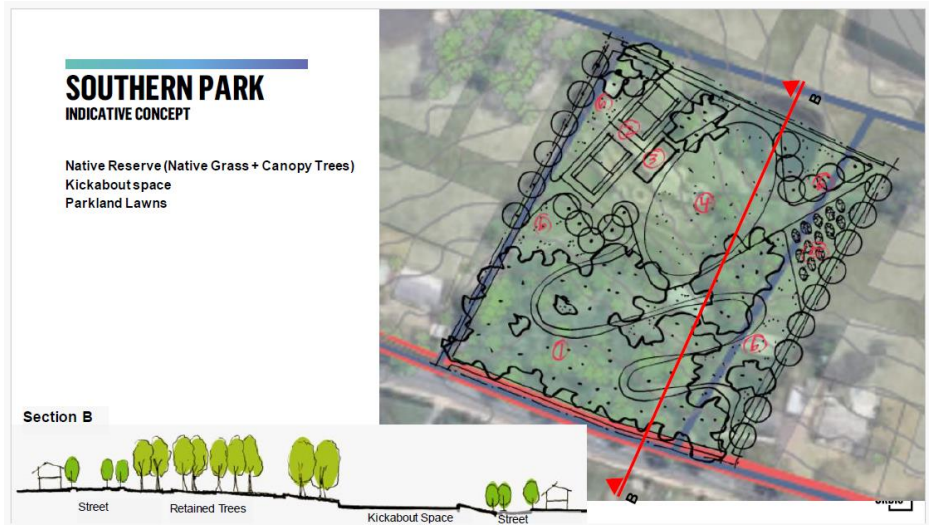
Figure 4 Final plan – scenario 2

All parks increased in size to enable retention of more vegetation.

Further increase size of all parks to retain more vegetation.

Add service road along Boundary Road with retention of trees.

Figure 5 Park concepts



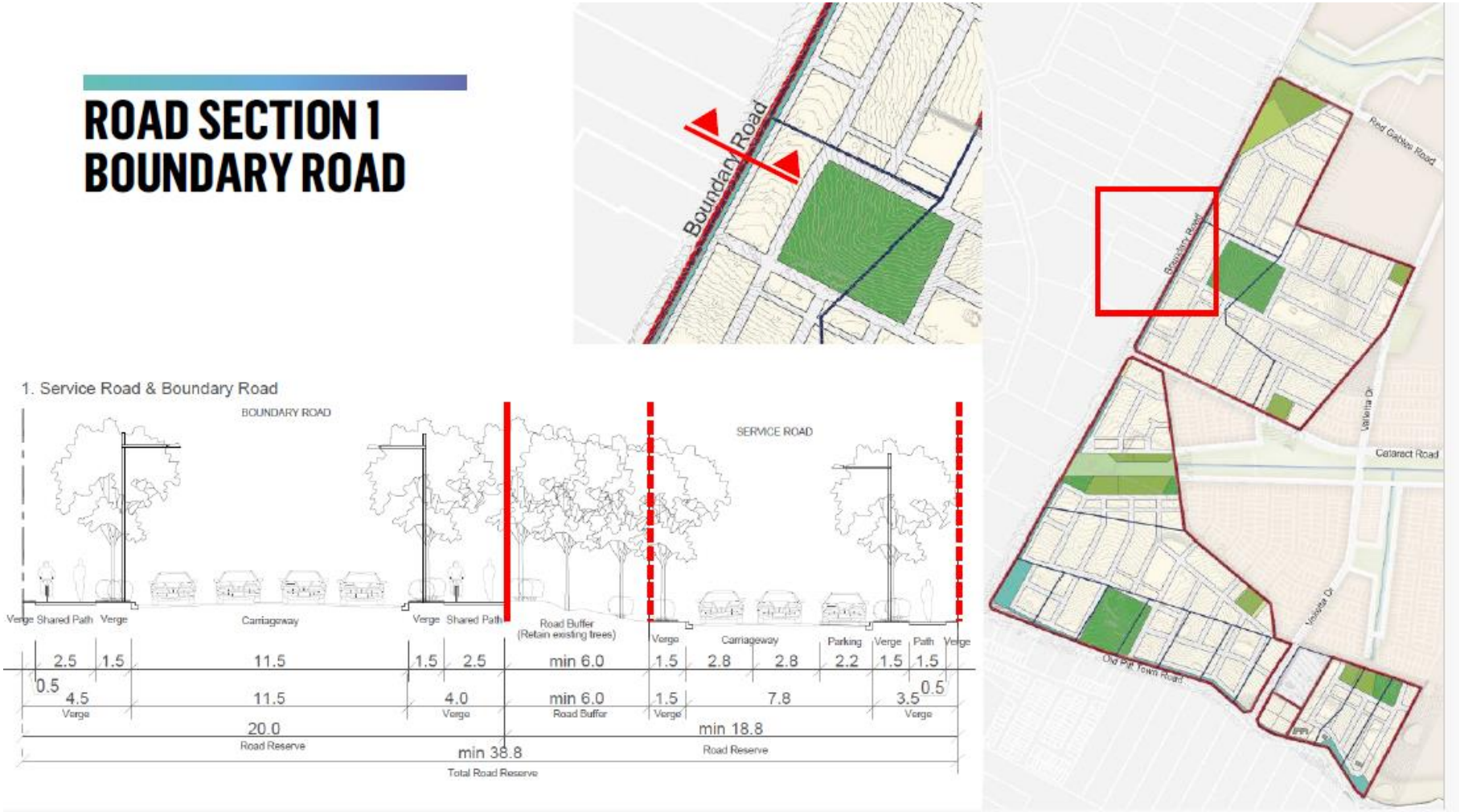


Figure 6 Retention of vegetation in road buffer