

13 November 2024

James Goode
Development Director
McCloy Group
Suite 2, Ground Floor, 317 Hunter St
Newcastle NSW 2300

Re: Kings Hill Urban Release Area - Ecology values of E2 zoned land proposed to be rezoned

Dear James,

Introduction

It is understood that McCloy Group are proposing to undertake an administrative planning proposal (rezoning) at Kings Hill to achieve the following:

1. Align the MU1 Mixed Use zone with the lot layout envisioned under the Concept Masterplan and DA Approval (DA16-2013-599-1),
2. Rezone approximately 2,300m² of land adjoining Newline Road which is not flood prone from C2 Environmental Conservation to MU1 Mixed Use, and
3. Reduce the minimum lot size of the existing and proposed MU1 Mixed Use zone from 400m² to 300m² to achieve housing diversity in and around the neighbourhood centre and park (Figure 1).

This letter report provides details of biodiversity values present within the 2,300m² to be changed from C2 Environmental Conservation to MU1 Mixed Use zoning. It is noted that a broader scale assessment of the lands has occurred, which is briefly discussed below. It is understood that this will be used to undertake discussions with Department of Climate Change, Energy, the Environment and Water (DCCEEW) – Biodiversity, Conservation and Science (BCS) prior to lodgement of the planning proposal to understand any requirements they may have for the proposal. Consequently, this letter provides brief details of the land proposed to be rezoned, and the outcome of approvals for the broader site.

An earlier version of this letter report dated 11 October 2024 was provided to DCCEEW, and an online meeting was held with BCS on 5th November 2024 to discuss the contents of the report. No specific comments were provided by BCS during the meeting, with BCS stating that they would provide a response subsequent to the meeting. At the time of writing of this updated report, a response had not been received from BCS. It is further noted that biodiversity impact assessment prepared for the amended Subdivision development application (DA) assessed these lands as being part of the development footprint (Figure 2). Therefore, if rezoned, it is anticipated that no further biodiversity assessment or approvals under NSW legislation would be required.

Status of Biodiversity Approvals

The DA at 587 Newline Road, Raymond Terrace, also referred to as Windeyer Lands Residential Subdivision ('Subdivision DA'), originally proposed the removal of a total of 49 ha of native vegetation, comprising five ha in Precinct 1, and 44 ha in Stage 2 (which combines multiple precincts). The Subdivision DA was submitted to Port Stephens Council on 23 September 2013 by Hunter Lands Pty Ltd. The land was subsequently purchased by McCloy Kings Hill Pty Ltd.

Due to the date of the original application, the proposal was assessed under the now-repealed NSW *Threatened Species Conservation Act 1995* (TSC Act). After extensive consultation with Port Stephens Council, the Subdivision DA was redesigned to avoid and minimise impacts to the Koala (*Phascolarctos cinereus*) where practicable (EMM 2022).

The amended Subdivision DA involves the following development (Figure 2):

- vegetation clearance of Precincts 1 – 4 to the east of Newline Road;
- residential subdivision and development of Precinct 1;
- construction of a raised connection road to the north (across lands zoned C2 Environmental Conservation) as part of Precinct 3; and
- a biodiversity conservation area of approximately 71.06 ha, consisting of:
 - conservation of lands zoned C2 Environmental Conservation (outside of the road footprint);
 - conservation of a portion of the lands zoned for development (approximately 17.47 ha), including a 3 m buffer between the proposed development lands and the C2 Environmental Conservation and R1 General Residential conservation areas; and
 - revegetation of lands, primarily within the existing cleared C2 Environmental Conservation land adjacent to Newline Road (Figure 3).

The loss of Koala food trees has been minimised through the redesign of the development with 17.47 ha of the development zoned lands that contain higher densities of Koala food trees, to be retained and conserved. This has resulted in 90.3% of all Forest Red Gum trees and 80.0% of Grey Gum trees (of two species) ≥ 300 mm diameter at breast height (dbh) being retained within biodiversity conservation area.

Furthermore, the proposal includes positive measures and mitigation measures as part of the proposal, including:

- revegetation of 5.04 ha, with 1,260 Koala food trees and additional non koala food trees to be planted;
- raising the access road that will pass through the revegetation area, between Precincts 1 and 3, so as to facilitate Koala movements;
- commitment to conservation of lands to be retained, which will include preparation and implementation of a Vegetation Management Plan, and management of the weed Lantana (*Lantana camara*), which is present. Dedication of the biodiversity conservation area to Council (at Council's request), and monetary contribution to a Council trust fund for ongoing in-perpetuity management of the biodiversity conservation area;
- erecting Koala exclusion fencing at the development / conservation interface; and

- education of residents as to the value of the biodiversity conservation lands and the importance of excluding dogs.

On 8 July 2024 Port Stephens Council granted consent to the Subdivision DA (DA16-2013-599-1).

In addition, McCloy Group will be submitting a referral under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

Biodiversity Values present

The land proposed to be changed from C2 Environmental Conservation to MU1 Mixed Use zoning were mapped as “Derived grassland” by Firebird in 2019 (Figure 4). However, based on photos of the site (Figure 6) and the their description of the vegetation, the vegetation is more consistent with a “Non-native grassland”:

The cleared areas of the site have been pasture improved and are dominated by pasture grasses, such as Paspalum dilatatum (Common Paspalum) and Pennisetum clandestinum (Kikuyu), as well some natives, such as Aristida vagans (Three-awned Spear Grass), Cymbopogon refractus (Barbed Wire Grass) and Themeda australis (Kangaroo Grass).

The land proposed to be changed from C2 to MU1 zoning is not mapped on the biodiversity values map (Figure 5).

A single Forest Red Gum (*Eucalyptus tereticornis*) is present at the southern boundary of the land proposed to be changed from C2 to MU1 zoning (Figure 6).

Summary

Discussions with BCS is sought prior to the lodgement of the planning proposal to change zoning for these lands of approximately 2,300m², from C2 Environmental Conservation to MU1 Mixed Use zoning, to understand any requirements they may have for the proposal.

Yours sincerely



Dr Steven Ward

Associate Ecologist

sward@emmconsulting.com.au

References

EMM 2022, *Koala Impact Assessment 587 Newline Road, Raymond Terrace*, prepared on behalf of McCloy Group.

Firebird 2019, *Addendum Ecological Assessment for Windeyer Lands Residential Subdivision*.

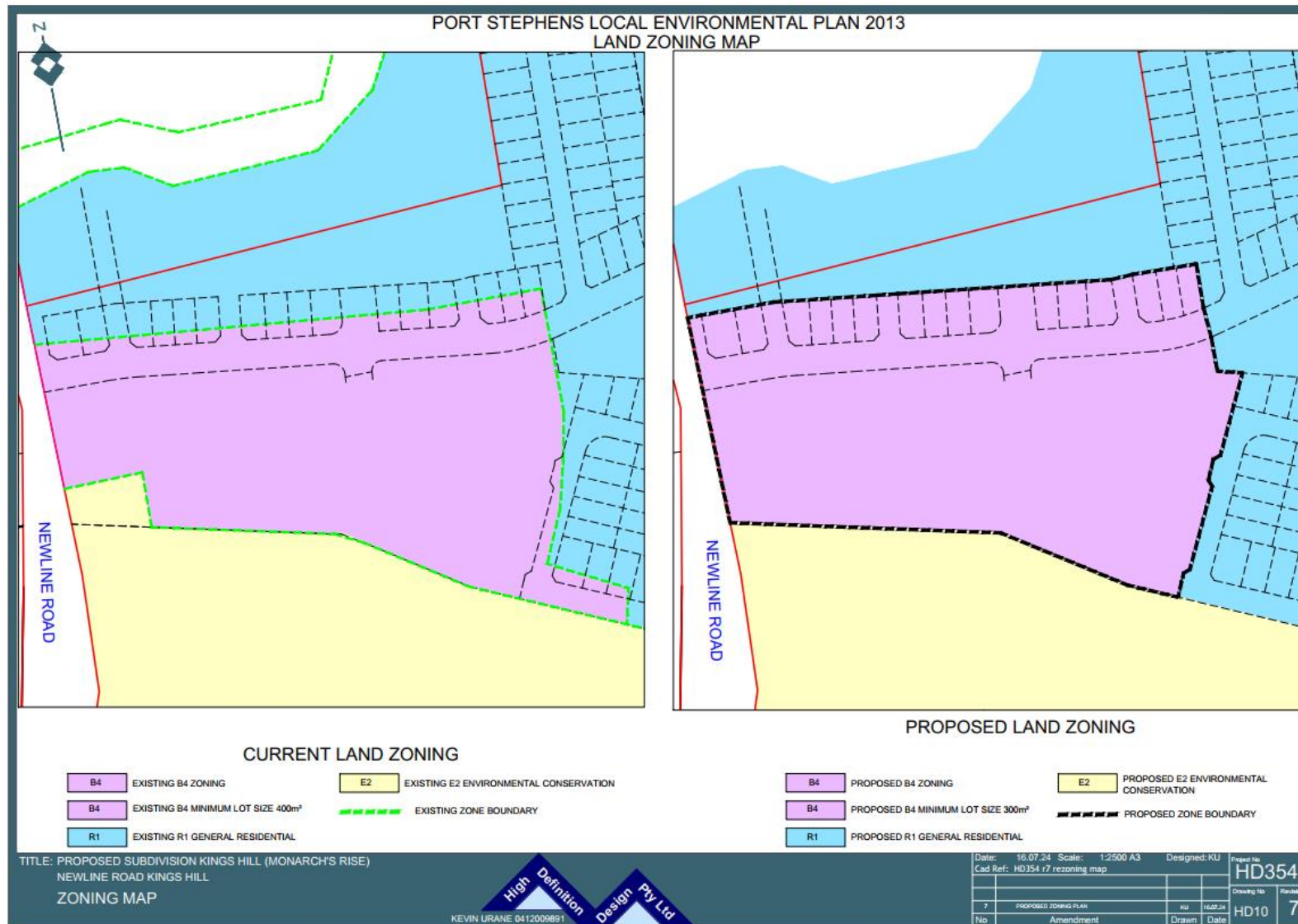


Figure 1 Proposed Windeyer Lands current and proposed land use zoning

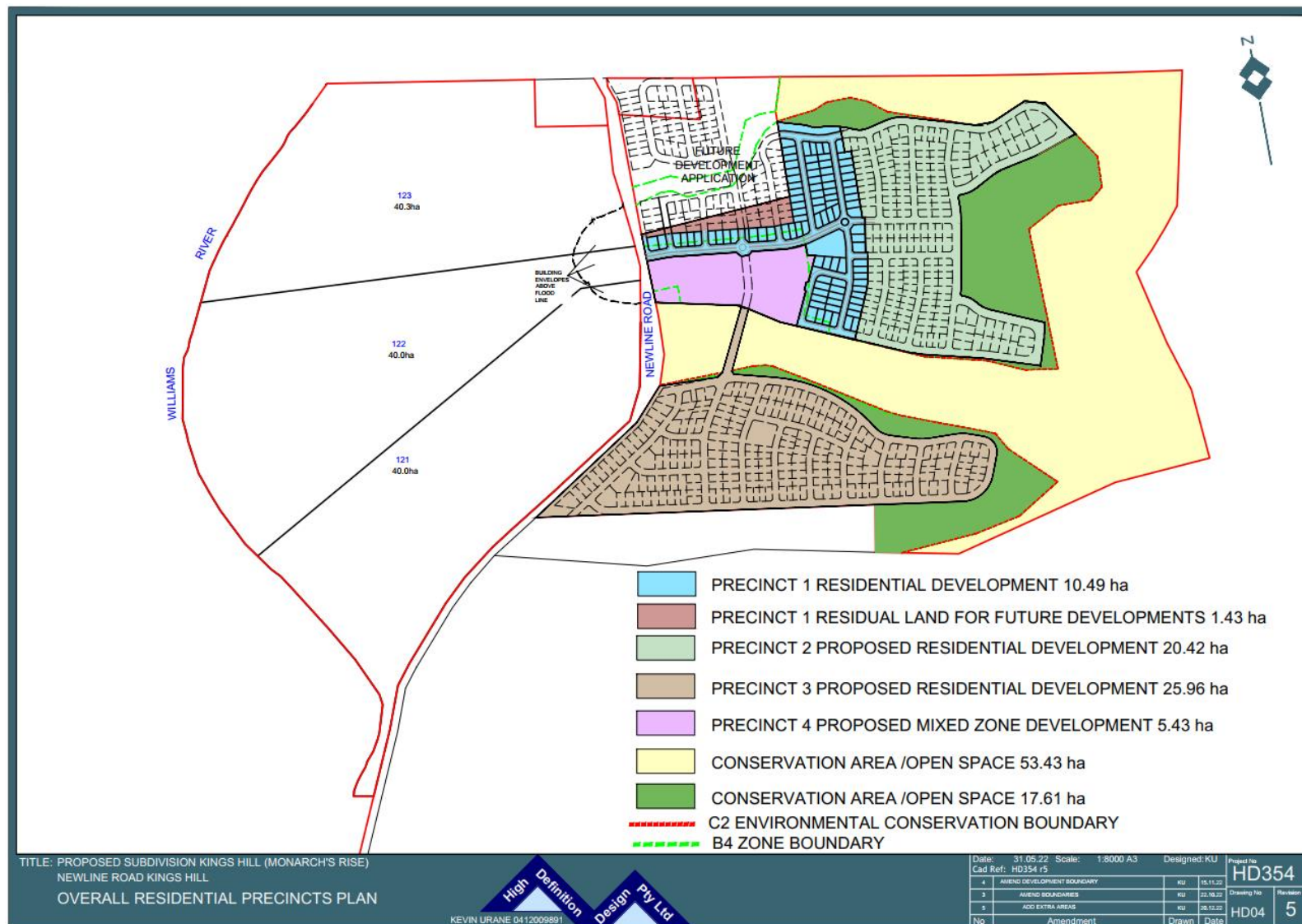


Figure 2 Proposed Windeyer Lands Residential Subdivision and site areas

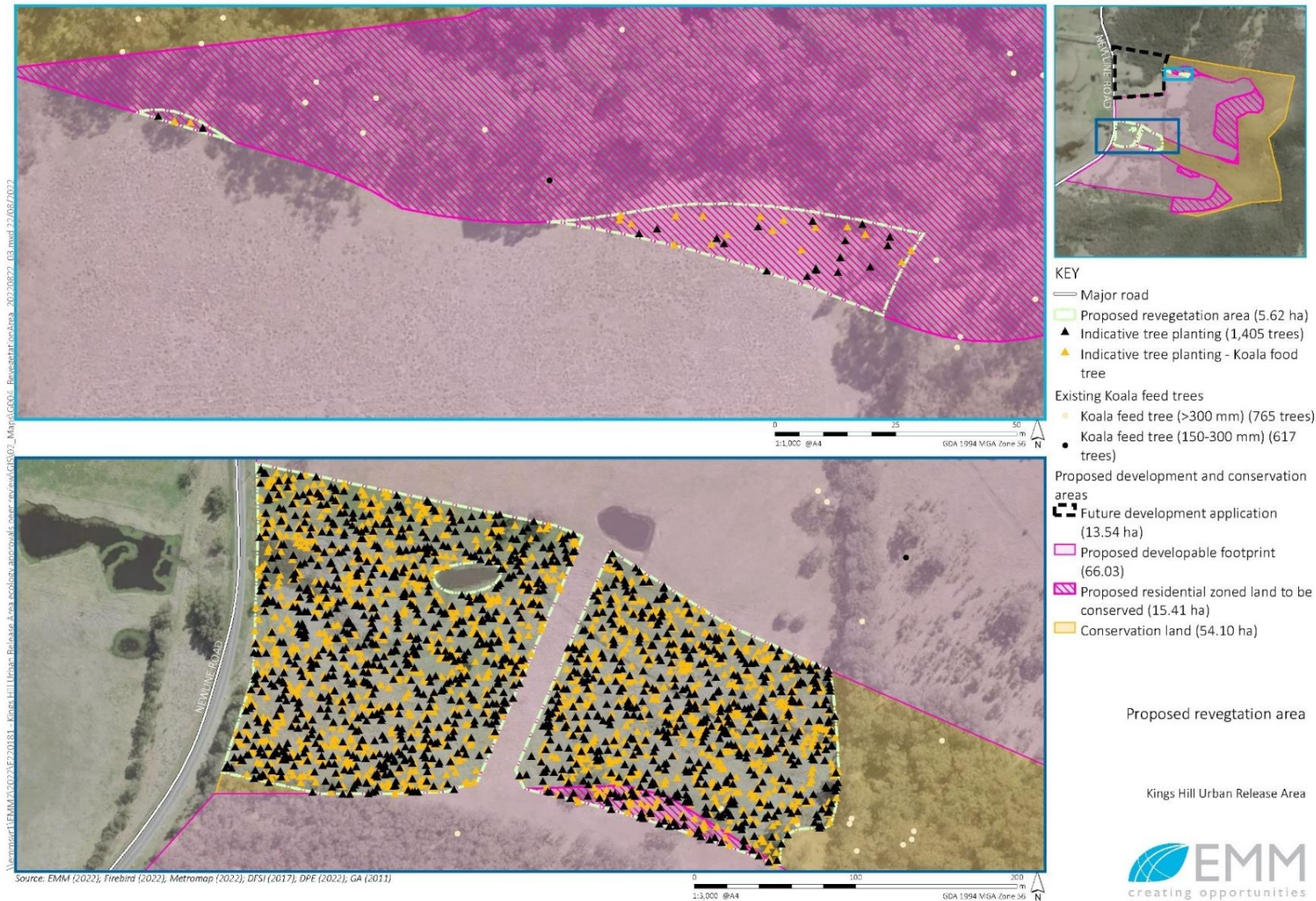


Figure 3 Proposed revegetation areas (note the legend should say “Proposed revegetation area (5.04 ha)”, not “5.62 ha”)

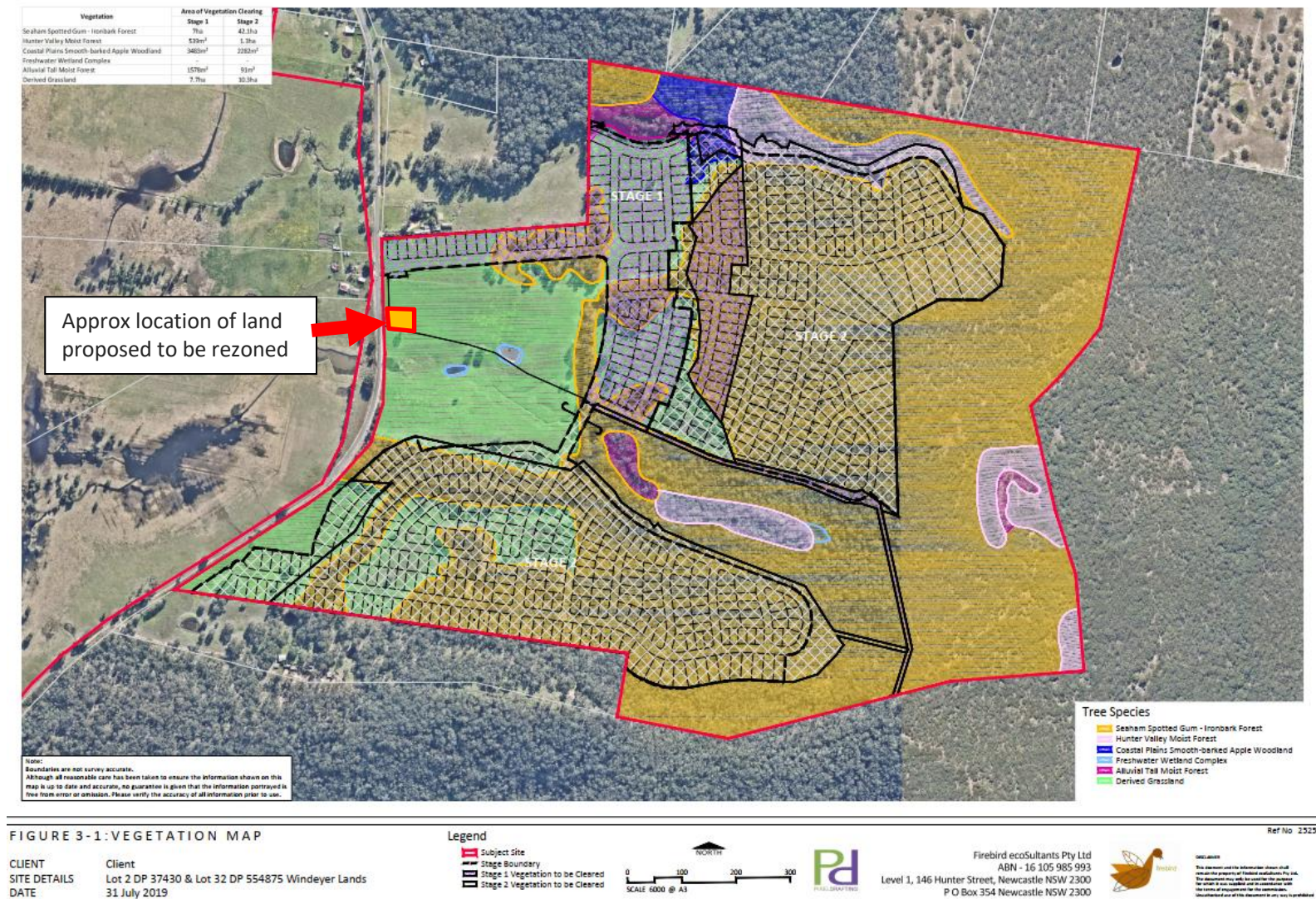


Figure 4 Vegetation map (from Firebird 2019). Note that the development footprint has been reduced from that shown here

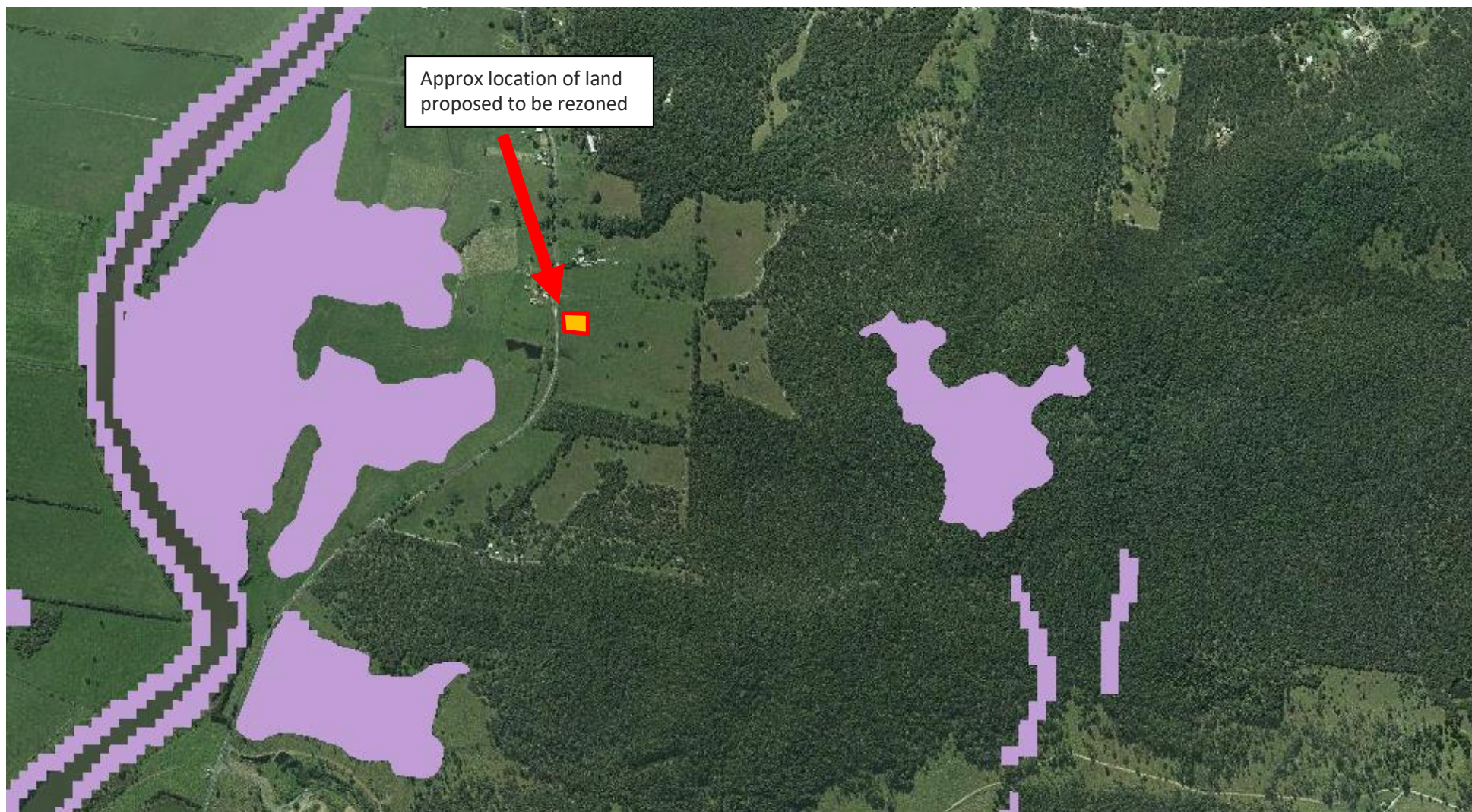


Figure 5 Biodiversity values mapping

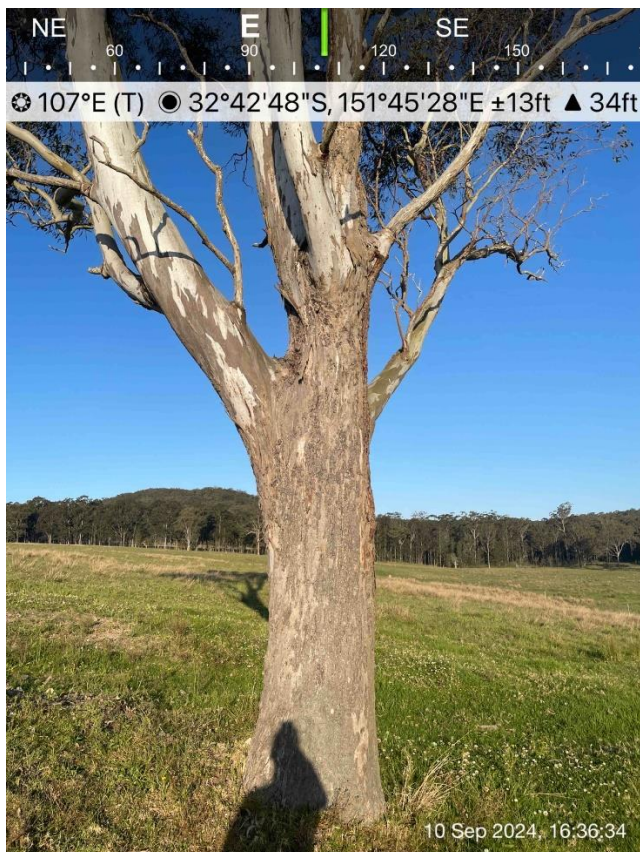
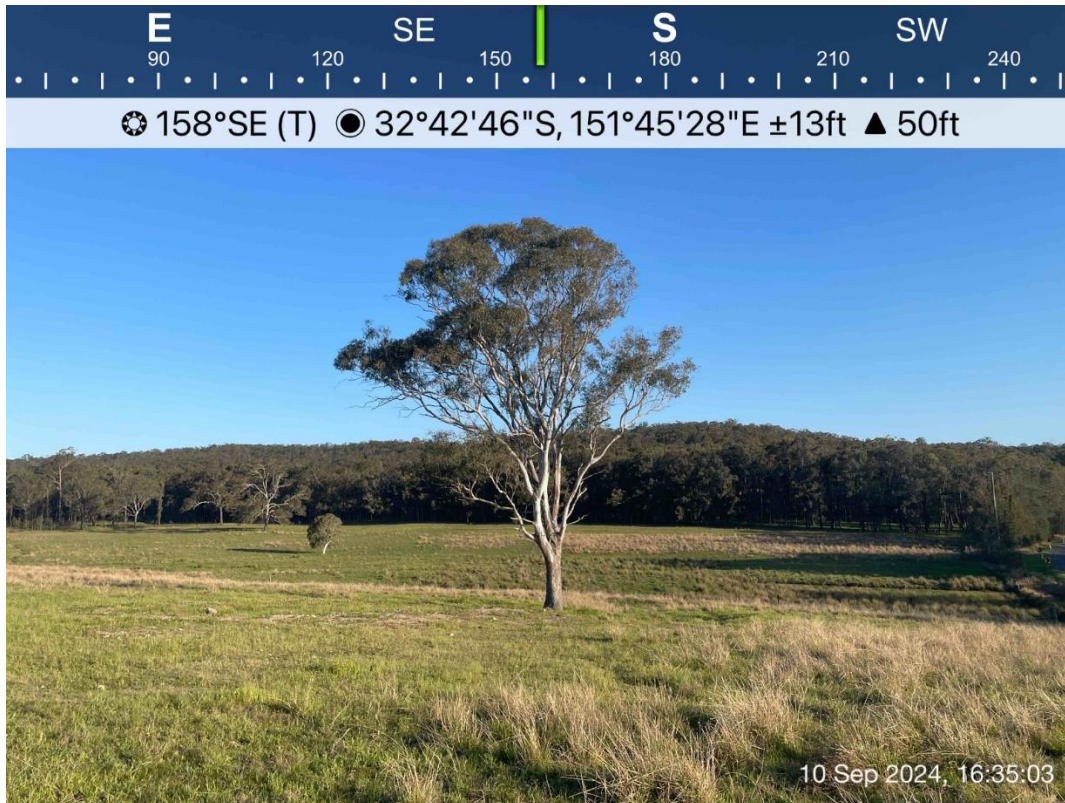


Figure 6. Photos of the area proposed to be rezoned from C2 to MU1, and the tree present at the southern boundary, a Forest Red Gum (*Eucalyptus tereticornis*)