

## 6 VEGETATION MAPPING OPTIONS

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### EXECUTIVE SUMMARY

- At its meeting on 11 December 2019, Council resolved to prepare a Planning Proposal to replace the current Terrestrial Biodiversity Map within the *Hornsby Local Environmental Plan 2013* with an updated vegetation map with the inclusion of 10m buffers.
- Council also resolved to undertake community consultation to seek feedback on the revised mapping for consideration by Council in progressing a formal Planning Proposal.
- On 4 March 2020, the options and implications of updating the vegetation mapping were presented to Councillors at an informal workshop to enable discussion about the community consultation and drafting of the Planning Proposal.
- At the workshop, various views were expressed by Councillors with respect to the range of potential implications of the updated vegetation map and it was generally agreed that a report should be presented to Council to confirm the scope of the Planning Proposal.
- It is recommended that Council adopt one of the three options discussed in this Report to inform the community consultation and preparation of the Planning Proposal to update the Terrestrial Biodiversity Map within the *Hornsby Local Environmental Plan 2013*.

### RECOMMENDATION

THAT Council:

1. Adopt (*Council to nominate Option 1, 2 or 3*) as outlined in Director's Report No. PL5/20 as the basis for the preparation of a Planning Proposal to update the Terrestrial Biodiversity Map within the *Hornsby Local Environmental Plan 2013*.
2. Undertake community consultation (*Council to nominate before or after Gateway Determination*) to seek public comment on the Planning Proposal as part of the Plan making process.
3. Consult the Hornsby Local Planning Panel in the preparation of the Planning Proposal and the comments of the Panel be addressed in a report to Council presenting the Proposal.

## PURPOSE

The purpose of this Report is to present options to update the *Hornsby Local Environmental Plan 2013 (HLEP 2013)* Terrestrial Biodiversity Map and the implications associated with each to clarify the scope of the Planning Proposal and associated messaging for community consultation.

## BACKGROUND

Currently, the *HLEP 2013* includes a Terrestrial Biodiversity Map and a corresponding Clause (6.4 Terrestrial Biodiversity) that details matters for consideration that must be addressed when assessing a development application on land within the mapped area. The current Terrestrial Biodiversity Map identifies National, State and Regionally significant vegetation communities based on Smith and Smith Vegetation Communities of Hornsby Shire Mapping (2008 Update) plus 'Bushland Protection' land previously recognised under the *Hornsby Shire Local Environmental Plan 1994 (HSLEP 1994)*.

In 2017, Council engaged the services of Ecological Australia to update the vegetation mapping referred to as the ELA Vegetation Map 2017. On 27 November 2019, the vegetation map updates were presented to Councillors at an informal workshop. Discussion included options to update the *HLEP 2013* Terrestrial Biodiversity Map to include additional vegetation communities.

At its meeting on 11 December 2019, Council considered Mayoral Minute No. MM13/19 concerning opportunities to strengthen protection of biodiversity and tree canopy and resolved that:

1. *Council prepare a Planning Proposal to replace the current Terrestrial Biodiversity Map within the Hornsby Local Environmental Plan 2013 with a new Map using updated vegetation mapping prepared on behalf of Council by Eco Logical Australia with the inclusion of 10 metre buffers.*
2. *Council consult the Hornsby Local Planning Panel in the preparation of the Planning Proposal and the comments of the Panel be addressed in the report to Council presenting the Proposal.*
3. *When the Planning Proposal is submitted to the Department of Planning, Industry and Environment, Council request the matter be expedited to ensure practical effect is given to the updated vegetation mapping in consideration of all development applications, tree and vegetation permits, and development processes.*
4. *Until such time as the Planning Proposal has been gazetted, all development applications involving tree removal within the area shown on the updated vegetation map be assessed comprehensively in accordance with the tree preservation controls within the Hornsby Development Control Plan.*
5. *Whilst the Planning Proposal is being prepared, Council undertake a communication exercise to seek broad feedback that can be incorporated/considered when Council considers adopting the formal Planning Proposal.*

In accordance with Council's resolution, preparation of a Planning Proposal commenced. However, in drafting the Planning Proposal and preparing a consultation strategy to seek community feedback, it became apparent that there are several options for incorporating the Hornsby Vegetation Map 2017 into the *HLEP 2013* Terrestrial Biodiversity Map with differing implications for each option.

Accordingly, on 4 March 2020, a Councillor workshop was held to discuss the various options and implications. At the workshop, a range of views were expressed by Councillors and it was generally agreed that a report should be presented to Council to confirm the scope of the Planning Proposal.

## DISCUSSION

This report discusses options and implications for updating the *HLEP 2013* Terrestrial Biodiversity Map. The main difference between the options is whether the threshold of National, State and Regional significance should be maintained, or whether all vegetation communities should be added to the LEP Map.

### 1. Strategic Context

This report considers the merit of updating the Terrestrial Biodiversity Map within the *HLEP 2013* in relation to State and local planning policies and legislation. The relevant policy and legislation are discussed below.

#### 1.1. Greater Sydney Region Plan - A Metropolis of Three Cities

*A Metropolis of Three Cities – the Greater Sydney Region Plan* (GSRP) has been prepared by the NSW State Government to guide land use planning decisions for the next 40 years (to 2056).

The vegetation mapping update is consistent with the GSRP, in particular the following objective and strategy:

*Objective 27: Biodiversity is protected, urban bushland and remnant vegetation is enhanced.*

*Strategy 27.1 Protects and enhance biodiversity by:*

- Supporting landscape-scale biodiversity conservation and the restoration of bushland corridors.
- Managing urban bushland and remnant vegetation as green infrastructure.
- Managing urban development and urban bushland to reduce edge-effect impacts.

The vegetation mapping update is generally consistent with the above objective and strategy as it provides continued protection to vegetation of high biodiversity significance.

#### 1.2. North District Plan

The North District Plan is a 20-year plan to manage growth and achieve the 40-year vision of the Greater Sydney Region Plan. The North District Plan provides the strategic link between the GSRP and Council's local strategies and plans. The proposed updates to the Terrestrial Biodiversity Map give effect to the following priorities and actions:

*Planning Priority N16 – Protecting and enhancing bushland and biodiversity*

*Planning Priority N17 – Protecting and enhancing scenic and cultural landscapes*

*Planning Priority N19 – Increasing urban tree canopy cover and delivering Green Grid connections*

*Action 66. Protect and enhance bushland and biodiversity by:*

- a) *Support landscape-scale biodiversity conservation and the restoration of bushland corridors*
- b) *Managing urban bushland and remnant vegetation as green infrastructure*
- c) *Managing urban development and urban bushland to reduce edge-effect impacts*

*Action 67. Identify and protect scenic and cultural landscapes*

*Action 71. Expand urban tree canopy in the public realm*

#### 1.3. Hornsby Community Strategic Plan - Your Vision Your Future 2028

The Hornsby Community Strategic Plan 'Your Vision Your Future 2028' is a 10-year vision that identifies the main priorities and aspirations for the future of Hornsby Shire and is Council's long-term plan to deliver the best possible services for Hornsby Shire including:

*FA6 Valuing green spaces and landscapes*

*FA8 Adapting to a changing environment*

The proposed updates to the Terrestrial Biodiversity Map are generally consistent with the above focus areas of the Community Strategic Plan by improving the management and protection of significant vegetation communities throughout the Shire.

#### **1.4. Hornsby Local Strategic Planning Statement**

On 12 February 2020, Council adopted the Hornsby Local Strategic Planning Statement (LSPS) which identifies its 20-year land use vision for managing growth and change over that time. The following priorities are key considerations for this mapping update:

*Sustainable Priority 1. Improving the overall health of our natural environment and ecosystem.*

*Sustainable Priority 2. Protecting and increasing the extent and quality of natural areas.*

*Sustainable Priority 5. Embedding biodiversity conservation principles throughout local planning policies.*

In addition to these priorities, the Biodiversity Map within the LSPS (figure 22) highlights those areas of biodiversity significance as identified within the ELA Vegetation Map 2017. The proposed updates to the Terrestrial Biodiversity Map are consistent with the key priorities within the Hornsby LSPS which will assist in the protection and improvement of the overall health of our natural environment.

## **2. Mapping**

The following section outlines the background to Council's current vegetation mapping.

### **2.1 Smith and Smith Mapping**

The native vegetation communities of the Hornsby Local Government Area (excluding National Parks and Wildlife Service lands) were identified and mapped by P & J Smith Ecological Consultants (Smith and Smith) in 1990-1993 using aerial photo interpretation and extensive field checking.

A further study conducted between 2006 and 2008 by Smith and Smith identified errors in the original mapping and updated the classification and mapping of vegetation communities recognised in legislation.

The Smith and Smith 2008 survey mapped 15,520 hectares of vegetation and identified 34 native vegetation communities, including 24 communities of National, State or Regional significance. These comprised 3 Critically Endangered Ecological Communities (CEECs) and 10 Endangered Ecological Communities (EECs) listed under State and Federal legislation. A further 11 vegetation communities were identified as being Regionally significant. The remaining 10 communities are local/common species.

### **2.2 ELA Mapping**

The ELA Vegetation Report 2017 maps 16,352 hectares of vegetation and identifies 35 native vegetation communities, including 26 communities of National, State and Regional significance. These comprise 4 CEECs and 10 EECs listed under State and Federal legislation. A further 12 vegetation communities are identified as being Regionally significant. The remaining 9 communities are local/common species.

The ELA Report applies the existing, accepted vegetation communities classified by Smith & Smith with the following updates:

- An additional vegetation community of mixed 'urban native exotic/remnant vegetation', consistent with the Sydney Metropolitan vegetation mapping that overlaps part of the Hornsby Shire study area. In total, 648 hectares are identified as 'urban native/exotic. However, the proportion of exotics is highly variable and field validation is recommended to ground truth the data. Therefore, this vegetation community is not included within the total calculated area of native vegetation communities as recommended by the ELA 2017 Report.
- The addition of Cumberland Plain Woodland vegetation community. This is a CEEC identified under both Federal and State legislation and remnants within Hornsby Shire have now been included in the mapping.
- The upgrading of the conservation status of Angophora Woodlands from local to Regionally significant based on the NSW Plant Community Type equivalent.

The ELA 2017 Report recommends that the ELA Mapping 2017 be reviewed after one year in circulation to allow opportunity to collate user feedback, identify minor edits and any major issues. Field validation is recommended to validate potential remnant EECs and for detailed site planning.

### 2.3 Comparison of Mapping

A comparison of the 2008 and 2017 Mapping is provided in the table below. The ELA 2017 mapping applies a broader vegetation definition in comparison to Smith and Smith 2008 mapping and has consequently captured more vegetation, as it accounts for remnant vegetation without a native understorey, particularly in the urban and rural residential boundaries with bushland. This is known as relictual occurrences. A total of 232 hectares has been identified as potential relictual CEEC and EEC, subject to field validation.

The figures are based on the Smith and Smith 2008 and ELA 2017 Reports and will be further refined using GIS data subject to the option chosen by Council.

Vegetation Significance	Smith and Smith 2008		ELA 2017	
	Area (ha)	Number of Vegetation communities	Area (ha)**	Number of Vegetation communities
Commonwealth (CEEC and EEC)	337	3	607	4
NSW (CEEC and EEC)	236	10	279	10
Regionally Significant (Sydney Region)	822	11	943	12
<b>Sub-total Area</b>	<b>1,395</b>	<b>24</b>	<b>1,829</b>	<b>26</b>
Locally Significant (Hornsby Shire)	1,267	4	1,384	3
Common Species	12, 858	6	13,139	6
<i>Urban Native Exotic/remnant vegetation*</i>	<i>N/A</i>	<i>N/A</i>	<i>648*</i>	<i>1*</i>
<b>Total Area</b>	<b>15,520***</b>	<b>34</b>	<b>16,352</b>	<b>35</b>

<b>Total Area incl. 10-metre buffer zone</b>	<b>N/A</b>	<b>34</b>	<b>18,221</b>	<b>35</b>
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*\*Urban Native/Exotic remnant vegetation was identified as an additional vegetation group within the ELA 2017 Report. However, it is not included within the total calculated area or total number of vegetation communities proposed to be mapped within the HLEP 2013 Terrestrial Biodiversity Map (refer to discussion).*

*\*\*Increased area (ha) is predominately due to the addition of relictual occurrences of vegetation (i.e. vegetation with no native understorey) within the ELA 2017 Report, which was not accounted for within Smith and Smith 2008.*

*\*\*\* The Smith and Smith Mapping includes land located south of the M2 Motorway. This land was not included within the ELA 2017 Map as it was transferred to Parramatta Council through the Council amalgamation process.*

### **3. Hornsby Local Environmental Plan**

The following discussion outlines the planning controls for mapped vegetation.

#### **3.1 Current HLEP Terrestrial Biodiversity Map**

Currently, the Terrestrial Biodiversity Map within the *HLEP 2013* identifies vegetation of National, State and Regional significance plus approximately 50 ha of 'Bushland Protection' land previously recognised under the *HSLEP 1994* which was mapped under past localised precinct planning studies in the 1990's.

Approximately 1,750 properties (either in part or in full) are currently identified on this mapping, for which the following land use implications apply:

#### ***State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP)***

Land that is mapped on Council's *HLEP 2013* Terrestrial Biodiversity Map is taken to be land to which the Codes SEPP does not apply. This means that complying development is not permitted on that land. In the event that a portion of a property is identified on the *HLEP 2013* Terrestrial Biodiversity Map, exempt or complying development could lawfully be carried out on that part of the lot which is not affected by the mapping (unless it is excluded by one of the other exclusions listed under the provisions of the Codes SEPP by clause 1.19). Development could still be undertaken within the mapped area although it would be subject to a development application.

However, it should be noted that, in selecting any option for updates to the mapping of vegetation in the *HLEP 2013*, it would be open for Council to confirm as part of the associated Planning Proposal whether complying development should be permitted within the mapped area depending on the vegetation type.

#### ***Hornsby Local Environmental Plan 2013***

For development proposed on land that is mapped on Council's *HLEP 2013* Terrestrial Biodiversity Map, development applications must have regard to the provisions of Clause 6.4 Terrestrial Biodiversity of the *HLEP 2013* which reads (in part) as follows:

- (3) *Before determining a development application for development on land to which this clause applies, the consent authority must consider:*
  - (a) *Whether the development is likely to have:*
    - (i) *Any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and*
    - (ii) *Any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and*



### **10/50 Vegetation Clearing Code of Practice for New South Wales**

The 10/50 Vegetation Clearing Entitlement still applies to land mapped on the HLEP Terrestrial Biodiversity Map unless it meets the criteria for vegetation that cannot be cleared under the 10/50 Vegetation Clearing Code. Within the Hornsby Shire, these include:

- SEPP 14 Coastal Wetlands.
- Wetlands in the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.
- Wetlands in the Sydney Regional Environmental Plan 20 – Hawkesbury Nepean River (No 2 – 1997).
- SEPP 26 Littoral Rainforest (not including the 100-metre buffer).
- Specified Koala habitat mapped in Comprehensive Koala Plans of Management.
- Ramsar Wetlands.
- Within 100 metres of the coastline or estuaries of NSW.
- Records of Critically Endangered Plants as mapped and provided by the Office of Environment and Heritage.
- Land mapped as Critical Habitat.
- The following Critically Endangered Ecological Communities:
  - Blue Gum High Forest in the Sydney Basin Bioregion.
  - Cumberland Plain Woodland in the Sydney Basin Bioregion.
  - Shale Sandstone Transition Forest in the Sydney Basin Bioregion.
  - Any other Critically Endangered Ecological Community, if mapped and provided by the Office of Environment and Heritage.
- Any land that is dedicated or reserved or acquired for the purpose of dedication or reservation under the National Parks and Wildlife Act 1974.
- World Heritage.
- Vegetation of high environmental significance identified as part of the bio-certification of the Sydney Region Growth Centres.
- Mangroves and coastal saltmarsh as described in NSW Department of Primary Industries Primefact 746 May 2008 – Mangroves, and Primefact 1256 March 2013 – Coastal saltmarsh.

### **3.2 Proposed update to HLEP Terrestrial Biodiversity Map**

Due to changes in vegetation patterns and updates to State and Federal legislation and community classifications since the Smith and Smith 2008 mapping, there is no dispute that the *HLEP 2013* Terrestrial Biodiversity Map requires updating. However, clarification is required as to whether the update should be like for like (i.e. maintaining the current threshold of National, State and Regional significance for identification in the LEP), or whether all vegetation communities should be identified on the LEP Map.

To maintain the current threshold, a like for like update would involve the identification of an additional 434 hectares of vegetation and 2 additional communities to represent 26 National, State and Regionally significant communities (refer to table 2.3 Comparison of Mapping above).



Alternatively, if all vegetation communities are identified on the LEP Map with a 10m buffer, the update would involve the identification of an additional 16,827 hectares of vegetation and 11 additional communities to represent 35 National, State, Regional, locally significant and common species.

Given the large difference, consideration should be given to the implications of each approach in the context of the objects of the *Environmental Planning and Assessment Act* which include the orderly and economic use and development of land and the protection of the environment, including the conservation of threatened species and ecological communities.

### **OPTIONS AND IMPLICATIONS**

Three options are outlined below, with a discussion on the implications for each. The main difference between the options is whether the threshold of National, State and Regional significance should be maintained, or whether all vegetation communities should be added and identified on the LEP map.

#### **Option 1: Use updated ELA Vegetation Mapping with existing rationale identifying National, State and Regionally significant communities**

This option would involve the identification of an additional 434 hectares and 2 additional communities to represent 1,829 hectares of vegetation comprising 26 National, State and Regionally significant communities and is consistent with the current LEP mapping rationale.

Land use implications would remain the same (as listed above in 2.1 Current HLEP Terrestrial Biodiversity Map). However, this option would increase the number of properties affected from approximately 1,750 to approximately 4,100.

Locally significant vegetation communities would continue to be protected under Section 1B.6 Tree and Vegetation Preservation of the HDCP.

#### **Option 2: Use updated ELA Vegetation Mapping to expand the mapped communities to include all vegetation with application of a 10m buffer**

This option would involve the identification of all vegetation communities on the *HLEP 2013* Terrestrial Biodiversity Map with a 10m buffer, representing additional 16,826 hectares and 11 additional communities with a total 18,221 hectares of vegetation comprising 35 National, State, Regional, locally significant and common species.

Land use implications would remain the same (as listed above in 2.1 Current HLEP Terrestrial Biodiversity Map). However, this option would increase the number of properties affected from approximately 1,750 to approximately 12,150 and extends the DCP buffer required for works from vegetation from the current 20m to 30m (i.e. with the inclusion of the 10m additional mapping buffer).

The 10/50 Vegetation Clearing Entitlement would potentially still apply to mapped areas, unless it meets the criteria for vegetation that cannot be cleared under the 10/50 Vegetation Clearing Code (listed above under 2.1 Current HLEP Terrestrial Biodiversity Map).

Due to the increased number of properties that would be included in the updated vegetation mapping under the HLEP 2013, consideration should be given to the resource implications for Council assessing tree applications and development applications which would now require Council consent.

#### **Option 3: Use updated ELA Vegetation Mapping with High and Local Significance distinction**

This option would involve identification of all vegetation communities within the *HLEP 2013* Terrestrial Biodiversity Map, but it would distinguish between areas of high biodiversity significance (updated ELA Mapping of National, State and Regionally significant communities) and areas of locally significant vegetation plus a 10-metre buffer.

The land use implications for this option would be the same (as listed above in 2.1 Current HLEP Terrestrial Biodiversity Map) for the approximately 4,100 properties identified as being of high biodiversity significance.

The approximately 8,050 properties identified as being of the lower threshold of local significance and common species (plus a 10-metre buffer) would not be excluded for the purposes of the Codes SEPP or the provisions of the HLEP for Terrestrial Biodiversity. However, the provisions of the HDCP for tree and vegetation preservation would apply with an extension of the DCP buffer required for works from vegetation from the current 20m to 30m (i.e. with the inclusion of the 10m additional mapping buffer).

The 10/50 Vegetation Clearing Entitlement would potentially still apply to mapped areas, unless it meets the criteria for vegetation that cannot be cleared under the 10/50 Vegetation Clearing Code.

Under this option, consideration should also be given to the resource implications for Council assessing tree applications and development applications which would now require Council consent.

### Comparison of Options

A comparison of the three mapping options to update the *HLEP 2013* Terrestrial Biodiversity Map is provided in the table below. Each option applies the ELA 2017 mapping through different methodologies.

The table below outlines the approximate number of properties which would be affected by each mapping option compared to those currently affected.

Map	Significant Communities (plus 'Bushland Protection' from <i>HSLEP 1994</i> )	Buffer	No. of properties affected (approx.)	Base Vegetation Map
<i>Current LEP Map</i>	<i>National, State and Regional</i>	<i>Nil</i>	<i>1,750</i>	<i>Smith and Smith 2008</i>
<b>Option 1</b> (using existing rationale and maintain the same thresholds)	National, State and Regional	Nil	4,100	ELA 2017
<b>Option 2</b> (update and expand the threshold to map all communities)	National State, Regional, local and common species	10m	12,150	ELA 2017
<b>Option 3</b> (update to map all communities but distinguish to lessen implications for local and common species)	National State, Regional local and common species	10m	12,150 (8,050 DCP implications) (4,100 Complying Development, LEP and DCP implications)	ELA 2017

The main difference between the options is whether the threshold of National, State and Regional significance should be maintained, or whether all vegetation communities should be added to the LEP map and the difference between the number of properties affected in term of the State Government's Code SEPP, the HLEP and the HDCP. The difference between Options 2 and 3 is that under Option 3, Complying Development would be permitted in areas of locally significant vegetation plus a 10-metre buffer.

## **CONSULTATION**

The Department of Planning, Industry and Environment (DPIE) was consulted prior to the preparation of this Report in relation to the guidelines for the types of vegetation communities that can be included within a Terrestrial Biodiversity Map. DPIE representatives have confirmed that advice on the mapping will be provided when a Planning Proposal is formally submitted for a Gateway Determination outlining the proposed updates to the Terrestrial Biodiversity Map and associated rationale and implications.

In accordance with Council's resolution from its meeting on 11 December 2019, a communication exercise is required to be undertaken while a Planning Proposal is being prepared to seek feedback that can be considered when Council considers adopting the formal Planning Proposal. In undertaking this consultation exercise, letters would be sent to affected property owners that would be identified in updated vegetation mapping. Information would also be available on Council's website.

Given the limited guidance received from the State Government, caution is required when considering a communication exercise. Depending on the Option chosen, there is a risk that a Planning Proposal may not be supported by the State Government. If the Planning Proposal does not receive support, a communication exercise prior to Gateway Determination could unnecessarily cause community angst.

Once a Gateway Determination is approved, Council would undertake mandatory community consultation with affected landowners and seek feedback which would be considered and reported to Council.

## **BUDGET**

There are no budgetary implications associated with Council's consideration of this Report.

## **POLICY**

Following Council's resolution to progress this planning proposal, updates may be required to be made to Part 1C.1.1 Biodiversity of the HDCP. The range of amendments to the HDCP, if any, will be assessed a result of the mapping update option chosen as part of this reporting process.

A separate report will be prepared for Council's consideration if amendments to the *HDCP* are required.

## **CONCLUSION**

This report presents three options for updating the HLEP Terrestrial Biodiversity Map based on ELA 2017 mapping for Council's consideration.

It is recommended that Council adopts one of the three options to inform the preparation of a Planning Proposal and community consultation.

## **RESPONSIBLE OFFICER**

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**Attachments:**

There are no attachments for this report.

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