

## ITEM 6 WEST DAPTO URBAN RELEASE AREA BIODIVERSITY CERTIFICATION APPLICATION

Council has been collaborating with the NSW Government to introduce a Biodiversity Certification Strategy for the West Dapto Urban Release Area (WDURA).

The policy direction which envisaged outcomes for biodiversity conservation and streamlined biodiversity impact assessment was included in the Illawarra Regional Strategy: 2006-31, Illawarra-Shoalhaven Regional Plan 2015 and reconfirmed as a commitment to biodiversity incomes in the recently released Illawarra-Shoalhaven Regional Plan 2041.

The underlying principle of 'improve or maintain biodiversity values' of biodiversity certification has been adopted into Council's West Dapto Vision 2018 and Wollongong Development Control Plan 2009, Chapter D16: West Dapto Release Area.

Council submitted an initiating application to the former Office of Environment and Heritage (OEH) with the required supporting studies for biodiversity certification of WDURA in August 2019. Since lodgement work has continued to address technical issues and determine the funding mechanism to support implementation of the scheme.

In mid-2021 'West Dapto Biodiversity' was included in the Special Infrastructure Contribution – Illawarra Shoalhaven Ministerial Determination, for a cost of \$20 million to be collected through a per lot levy. Council was subsequently advised to proceed with a revised application with updated supporting studies for further adequacy review. This is the final step to advance to public exhibition and potential conferral of biodiversity certification by Ministerial Order.

This report recommends that Council advance the proposed biodiversity certification of WDURA via formal exhibition and lodgement of the final application.

### RECOMMENDATION

- 1 Council endorse lodgement of the final application and supporting documents for biodiversity certification of the West Dapto Urban Release Area to the NSW Department of Planning, Industry and Environment - Biodiversity and Conservation Division
- 2 Subject to concurrence from NSW Department of Planning, Industry and Environment - Biodiversity and Conservation Division, Council coordinate public exhibition of the biodiversity certification application and supporting documents for a minimum period of 30 days
- 3 Following the exhibition period, Council prepare an engagement report addressing the submissions received and forward the engagement report to the NSW Department of Planning, Industry and Environment - Biodiversity and Conservation Division for consideration and recommendations for conferral of biodiversity certification by Ministerial Order
- 4 The General Manager be delegated authority to sign all necessary Agreements and associated documents to finalise any conferral of biodiversity certification for the West Dapto Urban Release Area.

### REPORT AUTHORISATIONS

Report of: Chris Stewart, Manager City Strategy

Authorised by: Linda Davis, Director Planning + Environment - Future City + Neighbourhoods

### ATTACHMENTS

- 1 West Dapto Urban Release Area Biodiversity Certification Overview
- 2 Biodiversity Certification Assessment Area Land Use Types

## BACKGROUND

Biodiversity certification is a mechanism to integrate planning for biodiversity conservation with planning for proposed land development, primarily associated with urban development.

The underlying principle of biodiversity certification is an 'improve or maintain' outcome for biodiversity values through a range of conservation measures including facilitation of long-term protection and management of areas of high biodiversity value.

Biodiversity certification provides a process for planning authorities to assess the biodiversity values of land as part of the strategic planning process where the following are identified -

- Areas of high biodiversity value to be protected from development.
- Areas of lower biodiversity value, including cleared land, that are preferable for development.
- Conservation measures to offset impacts to biodiversity values.

In summary, following conferral, biodiversity certification of an area -

- Provides certainty for planning authorities and landholders about the likely impacts and conservation measures required to offset those impacts.
- Requires offsets to be located within the assessment area, or nearby locality as far as possible, as opposed to elsewhere in a Region or the State.
- Is anticipated to translate to economic benefit from a more streamlined environmental assessment and approval process and the encouragement of investment.
- Is expected to provide economic savings for developers, reducing the cost of environmental assessment related to development applications.

In a regional policy context, the proposed biodiversity certification of the WDURA has a genesis in the Illawarra Regional Strategy: 2006-31 and has continued as an inter-Governmental initiative and is an outcome envisaged through several of the strategies of the Illawarra-Shoalhaven Regional Plan 2041. In addition, biodiversity certification of the WDURA is embedded in Wollongong City Council policy and planning guidelines.

Community consultation, extensive Government interagency liaison and collaboration, scoping studies, feasibility assessments, detailed field surveys, data analysis and conservation cost estimating according to the NSW Government formal assessment methodology, have evolved over a considerable period.

Progression of key stages of the biodiversity certification initiative has been supported by Council resolutions on 30 May 2013 and 23 June 2014.

Council submitted an initiating application, the required supporting studies, and a draft Biodiversity Certification Strategy for the biodiversity certification of WDURA in August 2019. At this time due to the progress of development in WDURA Stages 1 and 2, OEH advised Council to focus on Stages 3, 4 and 5 for biodiversity certification (Attachment 1).

Consistent with the NSW Government formal assessment methodology, the draft Biodiversity Certification Strategy proposed a per lot levy to fund the proposed conservation measures.

Following an adequacy review of the initiating application and supporting documents by the Department of Planning, Industry and Environment - Biodiversity and Conservation Division (formerly OEH), Council Officers were advised of the need for further work on technical and planning related issues, including -

- Certainty of the inclusion of the proposed per lot levy for areas to be biodiversity certified by the NSW Government into a Special Instructure Contribution scheme.
- The requirement for an amended matrix of conservation measures, with an increased emphasis on conservation of existing biodiversity values in the locality, focusing on high conservation value native vegetation and habitats.

- Increased certainty of Council commitments to the timing of the implementation of conservation measures and planning related matters including future amendments to the *Wollongong Local Environmental Plan 2009* (WLEP 2009) in support of the biodiversity certification.
- In principle support by the Department of Planning, Industry and Environment - Local and Regional Planning (DPIE – LRP) of future proposed amendments to the WLEP 2009 in support of biodiversity certification.

In close consultation with the Department of Planning, Industry and Environment - Biodiversity and Conservation Division (DPIE – BCD), Council Officers commenced work in early 2021 focusing on technical aspects for revised supporting studies and the draft Biodiversity Conservation Strategy. Importantly, consensus was reached on the relative weighing of a mix of conservation measures required to achieve an ‘improve or maintain’ outcome for biodiversity values, which in summary are –

- Land use planning provisions that will involve future amendments to the WLEP 2009. These are otherwise known as planning instrument credits and do not have a monetary value.
- The purchase and retirement of both ecosystem and species credits through the NSW Biodiversity Offset Scheme and funded by a per lot levy.
- Intensified management of biodiversity values at six (6) Council reserves (Attachment 1) for an envisaged in perpetuity timeframe, funded by a per lot levy.

Consultation has also continued with DPIE on the planning and funding matters which required refinement and certainty to support Council’s application for biodiversity certification of the WDURA. The process of amending WLEP2009 will be subject to conferral of biodiversity certification for the WDURA and a separate report to Council to initiate amendments to the planning instrument.

Recent milestones in this continuing work are -

- An agreed approach with DPIE – BCD on the matrix of conservation measures which form the foundation of biodiversity impact offsets for biodiversity certified land in WDURA Stages 3, 4 and 5.
- An agreed framework with DPIE – BCD for a revised draft Biodiversity Conservation Strategy.
- The inclusion of ‘West Dapto Biodiversity’ in the Special Infrastructure Contribution – Illawarra Shoalhaven (SIC) Ministerial Determination of the May 2021, for a cost of \$20 million to be collected through a per lot levy.
- Written support from State agencies for future WLEP 2009 amendments and proposed timing for biodiversity certification of Stages 3, 4 and 5 of the WDURA.
- Written advice received 29 September 2021 of a funding amount approved by the Minister for Planning and Public Spaces under the State Voluntary Planning Agreement Program for \$2.48 million to secure initial conservation measures should biodiversity certification be conferred.

Based on progress of the key milestones above, Council Officers have been advised by DPIE – BCD to lodge a revised application, supporting studies and Biodiversity Certification Strategy for further adequacy review. Following receipt of concurrence from DPIE – BCD, the following actions must be undertaken to proceed with the biodiversity certification process -

- The application, supporting studies and Biodiversity Certification Strategy must be publicly exhibited for a minimum of thirty days.
- Following public exhibition, Council will be required to prepare a report summarising any submissions received and the responses to them. Changes to the Biodiversity Certification Strategy can be made based on the submissions received provided that an ‘improve or maintain’ outcome is still achieved.
- The final biodiversity certification application, Biodiversity Certification Strategy, supporting documents and report of submissions during public exhibition will then be submitted to DPIE – BCD.

- After considering advice from DPIE – BCD, the determining Minister will either confer biodiversity certification on the specified land in the WDURA or refuse to confer biodiversity certification.
- If the decision is made to confer biodiversity certification on the specified land, this will occur through a Ministerial Order published in the NSW Government Gazette. If the decision is to refuse biodiversity certification, the Minister will advise Council in a letter.

## PROPOSAL

At its meeting on 23 June 2014, Council considered a report on West Dapto Urban Release Area – Biodiversity Certification Conservation Strategy and resolved -

- 1 *A conservation strategy to support the West Dapto Urban Release Area Biodiversity Certification application be prepared.*
- 2 *Formal negotiations commence with landholders to confirm their interest in being a party to the biodiversity certification application, with a view to entering a BioBanking agreement if the application and levy mechanism are successful.*
- 3 *Council liaise with NSW Department of Planning and Environment to refine costs and secure a levy mechanism that will ensure the collection of sufficient funds to implement the conservation strategy in the West Dapto Urban Release Area.*

Consistent with the resolution Council staff submitted an initiating application and the required supporting studies for the biodiversity certification of the WDURA in August 2019 and these have been reviewed for adequacy by DPIE – BCD. The draft Biodiversity Certification Assessment Report and Conservation Strategy forms the basis of Council's application and includes -

- Details of the assessment methodology.
- The environmental assessment results and proposed biodiversity conservation strategy.
- Mapped details of the proposed land not subject to this biodiversity certification application (e.g retained land), land identified for development and land nominated for conservation measures (Attachment 2).
- Demonstration of an improve or maintain outcome for biodiversity conservation.
- Details of the credit accounting and timing of conservation measures.

Refinement of the initiating application is ongoing in terms of the conservation measures, mapping, credit calculation and levy estimates. These updates are being considered in collaboration with DPIE – BCD. The public release of this documentation is subject to concurrence being received from DPIE – BCD and a formal exhibition process. For these reasons, the exhibition package of documents is not able to be included with this report. However, the core elements and application of those elements will be as described within this report.

A core element of the proposed Biodiversity Certification Strategy is the restoration and management of six existing natural area reserves with five reserves in the WDURA and one in close proximity acting as 'stepping-stone' in a local biodiversity corridor from the escarpment to Lake Illawarra (Attachment 1).

The proposed biodiversity certification levy and its management have been modelled to provide funding for these on-ground conservation measures as well as the retirement of both ecosystem and species credits through the NSW Biodiversity Offset Scheme.

Following the outcomes of the public exhibition process a post exhibition Submissions Report will be prepared along with the final application and supporting studies to DPIE – BCD who will make a recommendation to the Minister regarding conferral of biodiversity certification by Ministerial Order.

Subject to formal concurrence from DPIE – BCD, it is therefore recommended Council publicly exhibit a revised draft application for biodiversity certification of the WDURA, supporting studies and final draft Biodiversity Certification Strategy for 30 days. It's envisaged that should Council support the recommendations public exhibition will commence before the end of the 2021 calendar year.

## CONSULTATION AND COMMUNICATION

The proposed biodiversity certification of the WDURA has been articulated in the community consultation exhibited drafts of the following regional and local strategic planning documents -

- Illawarra Regional Strategy 2006-31.
- Illawarra-Shoalhaven Regional Plan 2015.
- Illawarra-Shoalhaven Regional Plan 2036 – Implementation Plan 2017-2019.
- Illawarra-Shoalhaven Regional Plan 2041.
- West Dapto Vision and Structure Plan.
- Wollongong Development Control Plan 2009, Chapter D16: West Dapto Release Area.
- Our Wollongong 2028 - Community Strategic Plan.
- Council Delivery Programs and Operational Plans.

Consultation with DPIE – BCD, DPIE – LRP and other State agency divisions has been ongoing with site visits and various meetings of all parties in the period of 2012-21. In addition, updates on progress have been provided to -

- Wollongong City Council West Dapto Review Committee.
- West Dapto Steering Committee and Coordination Group.
- Regional and local development sector forums.
- The Lake Illawarra Estuary Management Committee.

The 30-day minimum public exhibition of the revised application for biodiversity certification of the WDURA, supporting studies and final draft Biodiversity Certification Strategy requires the following according to the NSW Government biodiversity certification method -

- Publication in a newspaper circulating generally throughout NSW.
- Publication on the Council's website.
- Invitation to the public to make submissions, specifying a closing date for submissions.
- Make available copies of the application and draft Biodiversity Certification Strategy at Councils Administration building on Burelli Street, Wollongong and its website for the duration of the submissions period.

In addition to the above, other explanatory documents summarising the process and methodology for biodiversity certification will be made publicly available to accompany the mandatory exhibition documents.

Submissions received during the public exhibition period will be considered, responded to, and reported on in a post exhibition Submission Report.

## PLANNING AND POLICY IMPACT

This report contributes to the delivery of Wollongong 2028 Objective 'Our natural environment, waterways and terrestrial areas are protected, managed and improved' under the Community Goal 'We value and protect our environment'. It specifically delivers on the following –

Community Strategic Plan	Delivery Program 2018-2022	Operational Plan 2021-22
Strategy	4 Year Action	Operational Plan Actions
1.1.1 The community is actively involved in the expansion and improvement of our green corridors and other natural areas connecting the escarpment to the sea	1.1.1.2 Projects and programs that achieve enhancement of the natural environment and escarpment are developed and implemented	Action 1 - Continue to pursue biodiversity certification of the West Dapto Urban Release Area including offsetting provisions

## RISK MANAGEMENT

Council has been advised by DPIE – BCD to finalise and resubmit the application and supporting documents for biodiversity certification for the WDURA with the view to proceeding to the next key phase of public exhibition.

Whilst the objective of conferral of biodiversity certification for Stages 3, 4 and 5 of the WDURA is not guaranteed, advancement to this next phase has involved risk mitigation through an iterative process in accordance with the NSW Government assessment methodology and consultation with DPIE – BCD and DPIE – LRP.

Although there will be some risks for Council should biodiversity certification for Stages 3, 4 and 5 of the WDURA be conferred, the Biodiversity Conservation Strategy that will guide the implementation of the scheme aspires to mitigate this risk via -

- Development of a framework for financial management.
- Development and delivery of a monitoring and reporting program for key aspects of the initiative including planning and conservation outcomes.
- An implementation review undertaken every five (5) years, in consultation with DPIE – BCD, as opposed to what would normally be a fifteen-year review cycle.
- Adaptive management in acknowledgment of the cyclic nature of national and global economies and ecological systems.

Broadly it's considered Council has the expertise and systems to manage and mitigate any future risks for the in-perpetuity operational timeframe of the project, however sufficient resources will need to be allocated to ensure this.

## FINANCIAL IMPLICATIONS

There will be on going financial implications as part of Council's commitment to the biodiversity certification of the WDURA. In summary, key aspects will be -

- An anticipated benefit to Council staff resourcing through a more streamlined environmental assessment and approval process for development proposals in the WDURA.
- Resourcing the implementation of actions in the Biodiversity Conservation Strategy primarily through allocation of staff time and this will involve a range of internal stakeholder teams on a need's basis.
- The proposed Biodiversity Conservation Strategy commits to a five-yearly review of the continuing actions in collaboration with DPIE – BCD, potentially other DPIE groups and may require the services of specialised accredited ecological consultants.
- Repayment of up-front funding from the NSW Government for initial conservation measures. It's proposed the repayment will be through funds collected from the biodiversity certification levy enabled through the SIC.



- Through the biodiversity certification levy, funding for restoration and management of biodiversity values for six existing Council natural area reserves with five in the WDURA and one in close proximity acting as 'stepping-stone' in a local biodiversity corridor. The proposed biodiversity certification levy and its management have been modelled to provide funding for these reserves in perpetuity.

In addition to the financial implications highlighted above for Council it is considered -

- The intensification of natural area management actions in the six Council reserves from levy funding will provide employment opportunities to local ecological restoration contractors.
- Council has more influence over investment in biodiversity values in the locality, the LGA and region than might otherwise occur if offsetting impacts to biodiversity values for future development in the WDURA were assessed on a site-by-site basis under the current NSW Biodiversity Offset Scheme. In the instance of the latter, there is potential that biodiversity offsets could be secured elsewhere in NSW through offset payment to the NSW Biodiversity Conservation Trust.
- There is likely to be economic savings for developers, due to the elimination of protracted consultation on biodiversity impacts, reducing the cost of environmental assessment related to development applications and a probability of cost saving for offsetting measures over the projected timeframe for development in Stages 3, 4 and 5 of the WDURA. On the latter, Council analysis of -
  - Biodiversity offsets for a subdivision in the WDURA in 2016 indicate the cost to the developer on a per Lot basis was six times greater than the current per Lot proposed biodiversity certification levy amount
  - The Wilton Growth Area proposed SIC projects a total cost of more than \$60 million for biodiversity certification, to be delivered as part of the broader Cumberland Plain Conservation Plan, compared with the projected \$20 million for biodiversity certification of the WDURA in the SIC I-S. In further comparison, the WDURA biodiversity certification per Lot levy for future biodiversity certified land in the WDURA Stages 3, 4 and 5, is less than half of the likely per dwelling levy for the Wilton Growth Area biodiversity certification.

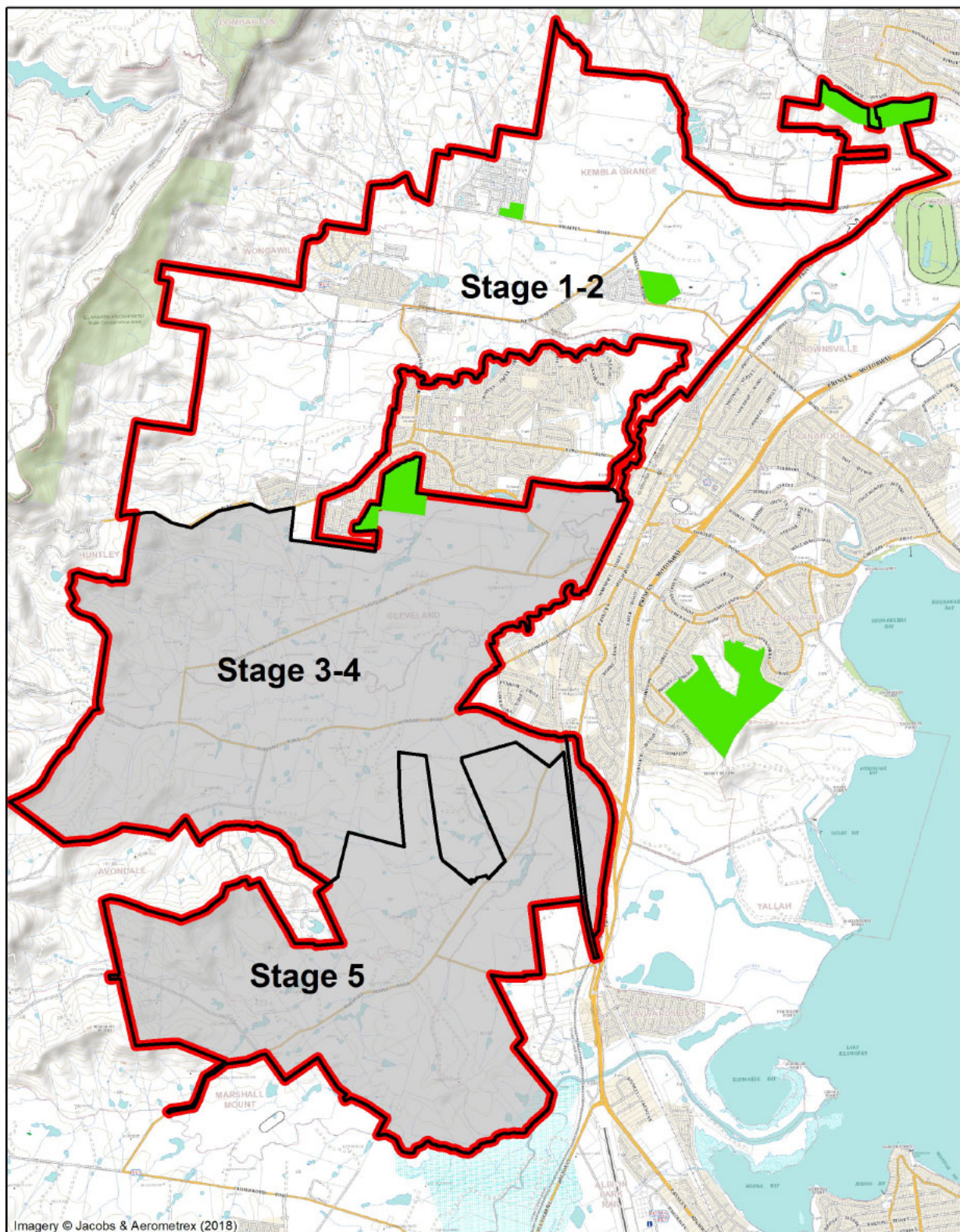
## CONCLUSION

Council has been collaborating with the NSW Government to pursue biodiversity certification for the WDURA with the initiative also embedded in regional and local policy.

Based on strengthen commitment in 2021 by the NSW Government to support the planning aspects and funding framework, Council has been advised by to DPIE – BCD to finalise and resubmit the application and supporting documents for biodiversity certification for the WDURA. It's envisaged that following further adequacy review by DPIE – BCD, the application and supporting documents can proceed to public exhibition for a minimum of 30 days.

Following public exhibition, review of submissions and a preparation of a submissions report, the proposal will be considered for conferral by Ministerial Order. Should biodiversity certification be conferred, Council will commence the implementation of a Biodiversity Conservation Strategy for an in-perpetuity timeframe.

This report recommends resubmission of Council's draft application and supporting documents for biodiversity certification for the WDURA to DPIE – BCD for concurrence prior to proceeding to public exhibition for a minimum period of 30 days. Following the exhibition process and consideration of submissions it is further recommended that, Council support the submission of the finalised application and supporting documents for biodiversity certification of the West Dapto Urban Release Area to the DPIE – BCD with the objective of achieving conferral for biodiversity certification for the WDURA.



**Legend**

-  Biodiversity Certification Assessment Area
-  West Dapto Urban Release Area Stages
-  Biodiversity Certification - Impacts and Offset Area
-  Council Reserve - Intensified Conservation Works



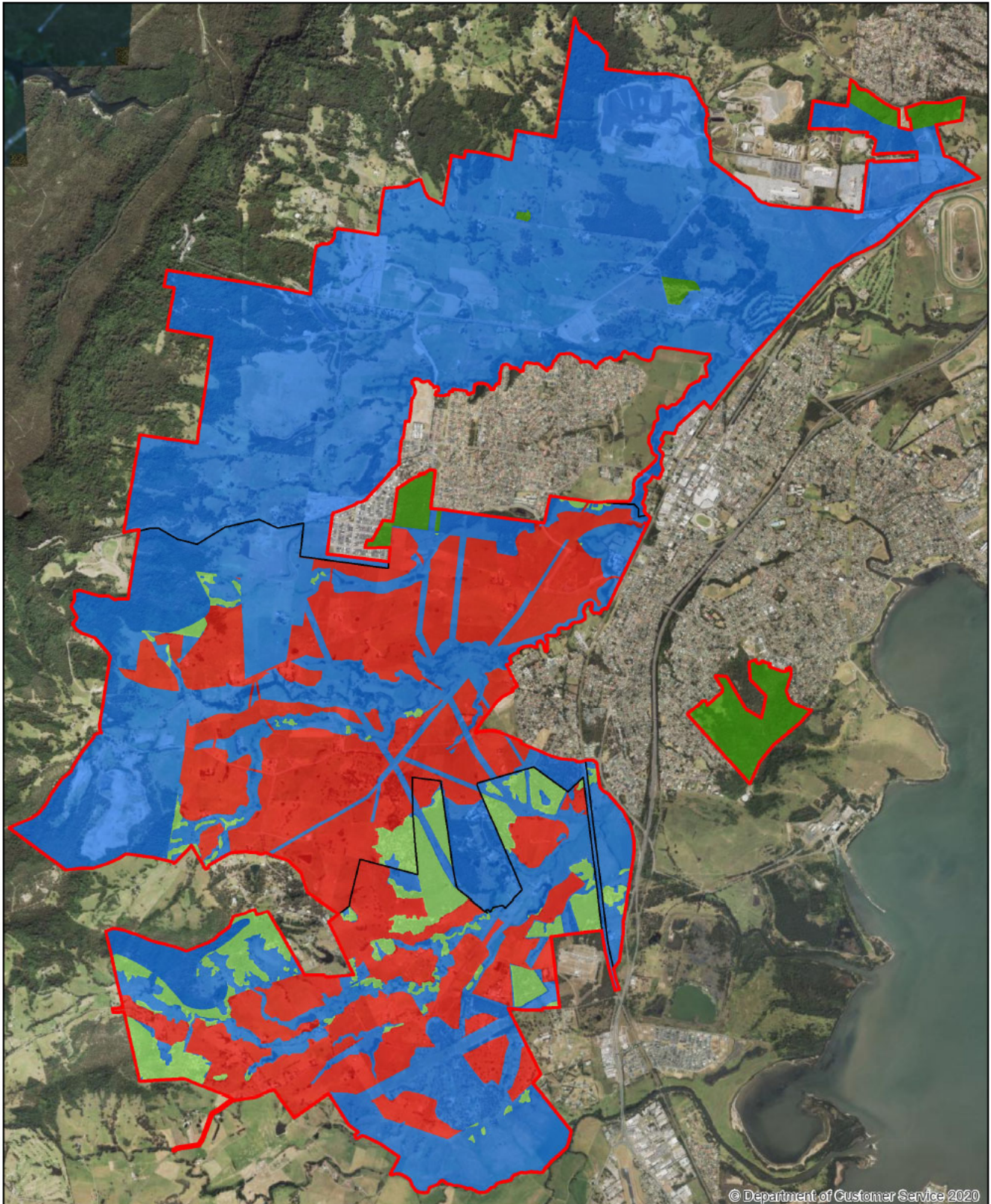
GIS ref.: gie01040-08 Overview

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Scale 1:50,000







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**Legend**

  Biodiversity Certification Assessment Area

  Stages

**Biodiversity Certification Assessment Area Land Use Types**

Land proposed for biodiversity certification (future development)

Land proposed for conservation measures (intensified conservation works – WCC reserves)

Land proposed for conservation measures (planning instrument)

Retained land

Date produced: 7 October 2021  
Projection: GDA 94 MGA Zone 56

0 0.5 1  
Kms



  
**ecoplanning**  
ecology | planning | offsets