

Department of Planning and Environment

# Googong Neighbourhoods 3-5 Recommendation Report

Biodiversity certification of land (non-strategic  
applications)



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# Abbreviations

Abbreviation	Meaning
BAM	Biodiversity assessment method
BC Act	<i>Biodiversity Conservation Act 2016</i>
BCA	Biodiversity certification agreement
BCAA	Biodiversity certification assessment area
BCAR	Biodiversity certification assessment report
BCF	Biodiversity Conservation Fund
CEEC	Critically endangered ecological community
DP	Deposited plans
EBPC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cth)
GFIMS	Googong foreshores interface management strategy
LEP	Local environment plan
LGA	Local government area
PCT	Plant community type
PTWL	Pink-tailed worm-lizard
QPRC	Queanbeyan-Palerang Regional Council
SAII	Serious and irreversible impact
VMP	Vegetation management plans

# Summary

## Googong township

Googong township is approximately 20 km from the Canberra central business district and 5 km south of the city of Queanbeyan in the Queanbeyan-Palerang Regional Council (QPRC) Local Government Area. Googong township is a relatively new development that resulted from a large-scale planning process in the early 2000s. Stage 1 of Googong township has been developed, along with the associated infrastructure and schools to support the growing township, and Stage 2 is under construction.

## Proposed development

Googong Township Pty Ltd submitted a development application for Stages 3–5 to QPRC in September 2021. The application is for a residential subdivision creating approximately 2,100 new lots varying in sizes across 164.34 ha of land. The application is currently being assessed by QPRC for referral to the Southern Regional Planning Panel.

The proposed development would result in the removal of 57.46 ha of yellow box grassy woodlands also known as plant community type (PCT) 1334. This PCT forms part of the critically endangered ecological community White Box – Yellow Box – Red Gum Grassy Woodland and Derived Native Grassland (referred to as Box-Gum Woodland in this recommendation package).

## Biodiversity certification application

In December 2019, Googong Township Pty Ltd submitted an application to the Biodiversity and Conservation Division South East Planning team (BCD) for biodiversity certification for the 164.34 ha of land on which Stages 3–5 would be built. The application includes a biodiversity certification assessment report (BCAR).

The effect of biodiversity certification, for development under Part 4 of the *Environmental Planning and Assessment Act 1979*, is that assessment of the likely biodiversity impacts is not required under Part 7 of the *Biodiversity Conservation Act 2016* (BC Act). This means the biodiversity offsets scheme will not apply.

## Proposed conservation measures

The application proposes a credit retirement obligation of 1084 biodiversity credits, as the approved conservation measure, to be retired in stages. The biodiversity credits for each stage would be retired before any development impacts occur.

## Biodiversity certification agreement

The proposal includes Googong Township Pty Ltd entering into a biodiversity certification agreement (BCA) to protect 56.73 ha of land, which is predominately covered by native vegetation. The BCA includes vegetation management plans (VMPs), which require the land will be protected and enhanced, in perpetuity.

Note the BCA and VMP, while forming part of this proposal and briefing package, are not approved conservation measures for the purposes of the biodiversity certification application.

## Recommendation to confer certification

BCD have concluded that the proposal is suitable for biodiversity certification under section 8.2 of the BC Act, as the proposed conservation measure, being the retirement of 1084 biodiversity credits, will be adequate to offset the impact on biodiversity values of the proposal.

### **Serious and irreversible impacts**

The Minister is required to take the serious and irreversible impacts (SAIL) into account in deciding whether to confer certification and determine whether to impose additional and appropriate measures to minimise the impacts.

BCD recommends that the Minister form the view that there is a serious and irreversible impact on the critically endangered ecological community White Box – Yellow Box – Blakely's Red Gum Grassy Woodland and Derived Native Grassland (Box-Gum Woodland). However, BCD recommends that the Minister determine that additional measures are not required, as the SAIL is addressed by the avoid and minimise measures included in the proposal.

### **Reasons for biodiversity certification application**

Standard biodiversity certification under Part 8 of the BC Act provides a wholistic approach for achieving balanced biodiversity and development outcomes. Also, if the development was assessed under Part 7 of the BC Act and the consent authority formed the view that the development will have a SAIL, the consent authority must not grant development consent. Biodiversity certification provides a pathway for any SAIL to be assessed as part of the wholistic approach.

### **Design of proposal – avoid and minimise measures**

The proposal has been designed to focus the impacts of the development into the areas which have the lower conservation value. Plot data and field investigations confirmed that these areas are low value as they have low floristic and structural integrity.

The Department of Planning and Environment (the department) worked with the developer to ensure the areas with high biodiversity values were being avoided by development. Further, the following additional avoidance measures will be imposed via a biodiversity stewardship agreement:

1. enhancement and protection of a 10.96 ha Yellow Box Reserve
2. 40.39 ha of land zoned C2 (Environmental conservation) will be managed under a VMP
3. direct impacts to 5.38 ha within the proposed large lots will be avoided using specific management actions to protect their habitat values.

Avoiding and minimising the impact on the Box-Gum Woodland will supplement the measures previously established for the Googong township development (Stages 1–2). The conditions of approval under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) required:

- establishing a pink-tailed worm-lizard (PTWL) Conservation Area comprising 54 ha
- creating the *Googong foreshores interface management strategy* (GFIMS) (Biosis 2014), which outlines how the remainder of the PTWL habitat is managed.

(Note, the pink-tailed worm-lizard (*Aprasia parapulchella*) is also known as the pink-tailed legless lizard. The former name is generally used under the EPBC Act, the latter under the BC Act.)



# 1. Purpose of document

This report provides a recommendation to the decision-maker, as delegate to the Minister for the Environment and Heritage, on whether to confer biodiversity certification under section 8.2 of the *Biodiversity Conservation Act 2016* (BC Act). It documents the Department of Planning and Environment's (the department) review of the application against the requirements of the BC Act and the *Biodiversity assessment method* (BAM 2017).

The Minister's power to confer or refuse to confer biodiversity certification for non-strategic applications under Part 8 of the BC Act has been delegated to band 2 and 3, Senior Executives of the department.

Name of recommending officer:	Nicola Hargraves, Senior Regional Biodiversity Conservation Officer, Department of Planning and Environment
Name of decision-maker:	Dean Knudson, Deputy Secretary Biodiversity Conservation and Science, Department of Planning and Environment, as delegate to the Minister for Environment and Heritage
CM9 container and record numbers:	EF22/7352 SF22/74956
Name of applicant/s:	Googong Township Pty Ltd
Date application received:	Final received 7 May 2021
Dates of public notification under section 8.6(3):	23 March 2021 to 23 April 2021

## 2. Documents before the decision-maker

### 2.1 Documents attached to this report

Tab	Document
1	Completed application form
2	Biodiversity certification assessment report
3	Applicants' response to public submissions
4	Applicants' response to council submission

## 3. Overview of application

### 3.1 Background

#### 3.1.1 History of proposal

The Googong development is part of a new township that underwent a large strategic planning process in 2002. Queanbeyan Council (as it then was) sought to expand the area of residential land available within the local government area (LGA) to meet the growing demand for residential development driven by its proximity to Canberra. Googong was part of several locations which were identified as being available for development. Changes were made to the local environment plan (LEP) to reflect the outcomes of the process. The area was zoned into 5 separate zoning areas, which included R1 – Residential, R5 – Large lot residential, B2 – Business and Sp2 – Special purpose to cater for the local shopping centre and the proposed school, and there were also areas of C2 – Environmental conservation land proposed to provide a buffer to the Googong catchment area.

Googong township consists of 5 development stages. This biodiversity certification application is for Stages 3–5 and incorporates all the land zoned for residential development. Stages 1 and 1b, which included the business district, have already been developed. Stage 2 is under construction. Stages 3–5 are the final stages.

An assessment under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) was undertaken in 2011, due to the potential impact on matters of national environmental significance and on Commonwealth land (Googong Dam). As a result of this assessment the majority of the pink-tailed worm-lizard (PTWL) (*Aprasia parapulchella*, also known as the pink-tailed legless lizard) habitat was reserved, and the Googong Pty Ltd were required to prepare the *Googong foreshores interface management strategy* (GFIMS) (Biosis 2014).

The developers also entered into a local planning agreement with council in 2011 at which point they dedicated land to council for open space, including the PTWL Conservation Area (38.07 ha zoned R5 – Large lot residential and 15.93 ha zoned C2 – Environmental conservation).

In 2013, the PTWL Conservation Area was established. The boundary was delineated to ensure that the vast majority of PTWL habitat occurring in the Googong township (including all very high quality habitat and the majority of medium quality habitat) was protected, managed and improved. The northern half of the PTWL Conservation Area was established to compensate for impacts to PTWL habitat that occurred as a result of the development of Googong Neighbourhood 1B. The southern half, even though it was established at the same time in 2013, was designed to compensate for the predicted future impacts to PTWL habitat as a result of the development of Googong Neighbourhood 5 (Stage 5). Accordingly, the southern 27.59 ha of the PTWL Conservation Area is included in the study area, and the value of this conservation measure is appropriately considered and accounted for herein.

#### 3.1.2 Summary of the current proposal

The application has been made by Capital Ecology, on behalf of Googong Township Pty Ltd. It proposes the certification of 164.34 ha of land for development within a total assessment area of 261.46 ha (proposed land uses are shown in Figure 1). The proposed development includes the following:

- to subdivide the subject land into approximately 2,100 new residential lots ranging in size from 330 m<sup>2</sup> general residential to 15,000m<sup>2</sup> large lot residential lots, with 13.14 ha

of urban open space and 84.32 ha ‘avoided land’ (itemised below) that is managed for conservation

- the avoidance of 40.39 ha within C2 zoned land, managed via the biodiversity conservation agreement (BCA) and vegetation management plans (VMPs)
- the establishment of a reserve, the Yellow Box Reserve, covering 10.96 ha, to protect and enhance its biodiversity values and to be managed via the VMP, forming part of the BCA
- avoiding direct impacts to 5.38 ha within the proposed large lots that will also contain specific management actions to protect the values present that will form part of the BCA
- avoiding 27.59 ha within the PTWL Conservation Area (noting this land is already under a conservation agreement associated with earlier stages of Googong that are not the subject of this application for biodiversity certification)
- the retirement of credits in accordance with the BAM in stages to be formalised in the Biodiversity Certification Order included in this recommendation package, reflecting the staged timing of the development.

The proposed development also includes a management zone running along the urban interface with the Googong foreshores and low density ‘edge neighbourhoods’ to reduce any edge effects that may occur, known as the GFIMS. The GFIMS boundary is generally located along the C2 zone boundary and can be seen in Figure 2.

A proportion of the land, approximately 11.22 ha, is characterised as ‘retained land not proposed for certification’. This land is considered neither avoided nor proposed for certification. Any future intention to develop this land would be subject to assessment under the BC Act. An additional 1.58 ha of retained land is wholly within the Old Cooma Road corridor, and while is part of the assessment area, will not be impacted by the development nor is it being retained and managed for its biodiversity values (that is, considered avoided land).

### **3.1.3 Summary of biodiversity values identified within the assessment area**

Three plant community types (PCTs) and habitat for multiple threatened entities were identified in the assessment area during the biodiversity certification assessment report (BCAR) assessment process, listed below:

- PCT 999: Norton’s Box – Broad-leaved Peppermint open forest on footslopes, central and southern South Eastern Highlands Bioregion (PCT 999 Norton’s box – broad-leaved peppermint open forest) divided into 6 vegetation condition zones.
- PCT 1110: River Tussock – Tall Sedge – Kangaroo Grass moist grasslands of the South Eastern Highlands Bioregion (PCT 1110 tussock and sedge moist grasslands) within a single low quality vegetation condition zone.
- PCT1334: Yellow Box grassy woodland of the northern Monaro and Upper Shoalhaven area, South Eastern Highlands Bioregion (PCT 1334 yellow box grassy woodlands). This PCT meets the criteria for the BC Act listed critically endangered ecological community (CEEC) and serious and irreversible impact (SAIL) entity White Box – Yellow Box – Blakely’s Red Gum Woodland (Box-Gum Woodland).
- PTWL habitat (listed as vulnerable under BC Act and EPBC Act) is found within both PCTs 999 and 1334.



### 3.1.4 Summary of impacts to biodiversity values

The development impacts are summarised here and discussed in more detail below.

#### Norton's box – broad-leaved peppermint open forest

A total of 75.04 ha of PCT 999 will be cleared, plus an additional 4.07 ha where groundstorey-only impacts will be permitted resulting in a credit obligation of 136 ecosystem credits. This area consists of 6 vegetation zones:

- 55.55 ha of the Norton's box community is contained to Zone 4 which is characterised as having no canopy, with a native dominant but low-diversity groundcover which resembles a derived grassland representation of this community.
- The removal of 1 ha of Zone 5 which contains some canopy but is exotic and has low diversity of species, as well as the removal of 10.25 ha of zone 6 which doesn't contain any canopy and is classified as exotic.
- Zone 3 has no native canopy and is primarily native dominant and contains moderate to high diversity of species. The proposal will remove 0.24 ha of this zone.
- Zone 2 contains a native canopy with a native dominant understory and a moderate diversity of species. The proposal will remove 10.43 ha of this zone.
- Lastly, Zone 1 contains a native canopy with native dominance of species and moderate to high diversity of species present. The proposal will remove 1.32 ha of this zone.

#### PCT 1110 tussock and sedge moist grasslands

- 9.53 ha of this community will be cleared with an additional 4.1 ha of groundstorey-only impacts. This zone is exotic dominated and has low diversity of species and does not create a credit obligation.

#### PCT 1334 yellow box grassy woodlands

- 64.51 ha of yellow box grassy woodland will be cleared with an additional 4.68 ha of groundstorey-only clearing, generating a total credit obligation of 900 ecosystem credits.
  - Impacts to this PCT include the clearing of 52.97 ha of CEEC Box-Gum Woodland plus an additional 4.49 ha of groundstorey-only Box-Gum Woodland impacts.

A summary and explanation of the zones of the CEEC Box-Gum Woodland being impacted is below:

- Zone 1 of the CEEC Box-Gum Woodland consists of the highest quality vegetation with a native canopy present with native dominant understory with moderate to high diversity. **This zone is not being impacted by this proposal.**
- Zone 2 contains a native canopy with a native dominant understory, however low species diversity, which means it is a reasonable example of the community. The proposal will impact on 5.04 ha of this zone.
- Zone 4 contains no canopy with native dominant understory with a low native species diversity offering low ecosystem function. This means that the rehabilitation of this zone is uncertain and questionable due to the level of degradation it has undergone. This is a derived grassland which is a low conservation value representation of the community. The proposal will be impacting on 47.93 ha of this zone.
- Zone 5 and Zone 3 are either not impacted or not present.
- Zone 6 has no canopy and exotic dominant understory doesn't meet the final determination under the BC Act and is therefore not an SAI consideration. The proposal involves 11.54 ha of this community being removed.

- 4.18 ha of PTWL habitat would be cleared with a total credit obligation of 48 species credits.

### 3.1.5 Reasons for certification application

Standard biodiversity certification under Part 8 of the BC Act provides a wholistic approach for achieving balanced biodiversity and development outcomes. Also, if the development was assessed under Part 7 of the BC Act and the consent authority formed the view that the development will have a SAIL, the consent authority must not grant development consent. Biodiversity certification provides a pathway for any SAIL to be assessed as part of the wholistic approach.

### 3.1.6 Current land use

The site has been substantially modified by its current and past land use, which has been primarily Merino sheep grazing and some cattle grazing. Approximately 72% of the original woody vegetation (canopy, midstory, and shrub storey) has been cleared across the study area in the past to promote the pastoral productivity of the land.

The prolonged period (at least several decades) of high-intensity stock grazing has prevented regeneration of the overstorey and midstory and depleted the native species diversity in certain sections of the study area.

### 3.1.7 Proposed land use

Googong is identified in the *South east and tableland regional plan 2036* (Department of Planning and Environment 2017) as a population growth location where additional residential lots will be required. The proposed land use will be for R1 – general residential and range in sizes of 330 m<sup>2</sup> to large lot residential with lots of 15,000 m<sup>2</sup>.

The proposed development also includes the GFIMS running along the urban interface with the Googong foreshores. This area includes low density ‘edge neighbourhoods’ that aim to reduce potential edge effects and indirect impacts on the surrounding ecological values, and management of the PTWL Conservation Area (Capital Ecology 2021). The GFIMS is nearly wholly located within the C2 land.

Parts of the subject land are identified on the Queanbeyan LEP Terrestrial Biodiversity Map. These areas correspond to Montgomery Creek and its unnamed tributaries which either pass through or originate in the study area.

A development application was submitted to Queanbeyan-Palerang Regional Council (QPRC) in September 2021, and the development is currently being assessed by QPRC for referral to the Southern Regional Planning Panel. It is required to be assessed by the Southern Regional Planning Panel as it has a large capital investment value.

Figure 1 indicates a large area and then a smaller area that is ‘retained land not proposed for certification’ (orange section) between the certified land and the C2 land. This land is proposed to be developed in the future and will require a planning proposal at that stage as the current zoning is inconsistent with suburban residential development. Changes to the zoning of this land to allow assessment and development is not assessed as part of this application for biodiversity certification.

The smaller area shown on Figure 1 in orange as retained land towards the north-east of the assessment area is inconsistent with mapping included in the BCAR. This inconsistency is due to a mapping/GIS data error that did not correctly draw the C2 zoning. This error was detected when the final shape files were submitted for assessment. As a result, a small section of the proposed development was drafted in C2 zoned land. The proponent will

address this issue after the decision on biodiversity certification and has proposed to not adjust offset obligations. All the quoted figures within this recommendation package and the application are correct and consistent, having been updated to account for this issue.

It is also proposed that the Yellow Box Reserve be placed into an appropriate C zone. This would also occur post-biodiversity certification decision.

## 3.2 The biodiversity certification assessment area

The biodiversity certification assessment area (BCAA) is shown on Figure 1 and currently comprises the lots and deposited plans (DPs) listed in Table 1.

**Table 1 Current lot and deposited plans (DPs) within the biodiversity certification assessment area**

Lot	DP Number
Lot 10	DP 754881
Part Lot 11	DP 754881
Lot 42	DP 754881
Lot 996	DP 1276892
Lot 1605	DP 1266000
Lot 2	DP 1231713
Lot 13	DP 1266001
Lot 12	DP 1266001
Lot 7	DP 1246784
Lot 3	DP 1149329

The division of land within the BCAA and its future land uses should biodiversity certification be conferred is shown in Table 2.

**Table 2 Proposed land use**

Land use	Area (ha)	Native vegetation extent (ha)
Biodiversity certification assessment area (BCAA)	261.46	221.25
Land proposed for biodiversity certification (land to be developed)	164.34	126.00
Avoided land (land within certification assessment area that is avoided for biodiversity reasons), of which 56.73 ha is subject to a biodiversity certification agreement (BCA)	84.32	84.04
Retained land (land within the BCAA that is not proposed for certification)	11.22	11.09

The figures reported in Table 2 vary slightly from those in the final BCAR as a small section of land initially proposed to be certified is located within C2 land. This section of land cannot be considered for biodiversity certification and will instead, should the proponent wish to proceed with developing the land, be assessed separately at a future time.



### 3.3 Maps

A series of maps have been included in this section to provide a visual reference to the distribution of biodiversity values across the assessment area. Each impacted threatened entity is included. These maps have been presented as a standalone section to provide an initial visual reference for the rest of the report. All maps in this recommendation report have been created using data supplied by the authors of the BCAR.

Figure 1 – Land uses within the assessment area

Figure 2 – *Googong foreshore interface management strategy* (GFIMS) land within the biodiversity certification assessment area

Figure 3 – Staging of the development

Figure 4 – Plant community types and vegetation zones within the assessment area

Figure 5 – Extent of Box-gum Woodland within the assessment area

Figure 6 – Avoided land

Figure 7 – Trees to be retained

Figure 7 – Trees to be removed

Figure 9 – Pink-tailed worm-lizard habitat impact area

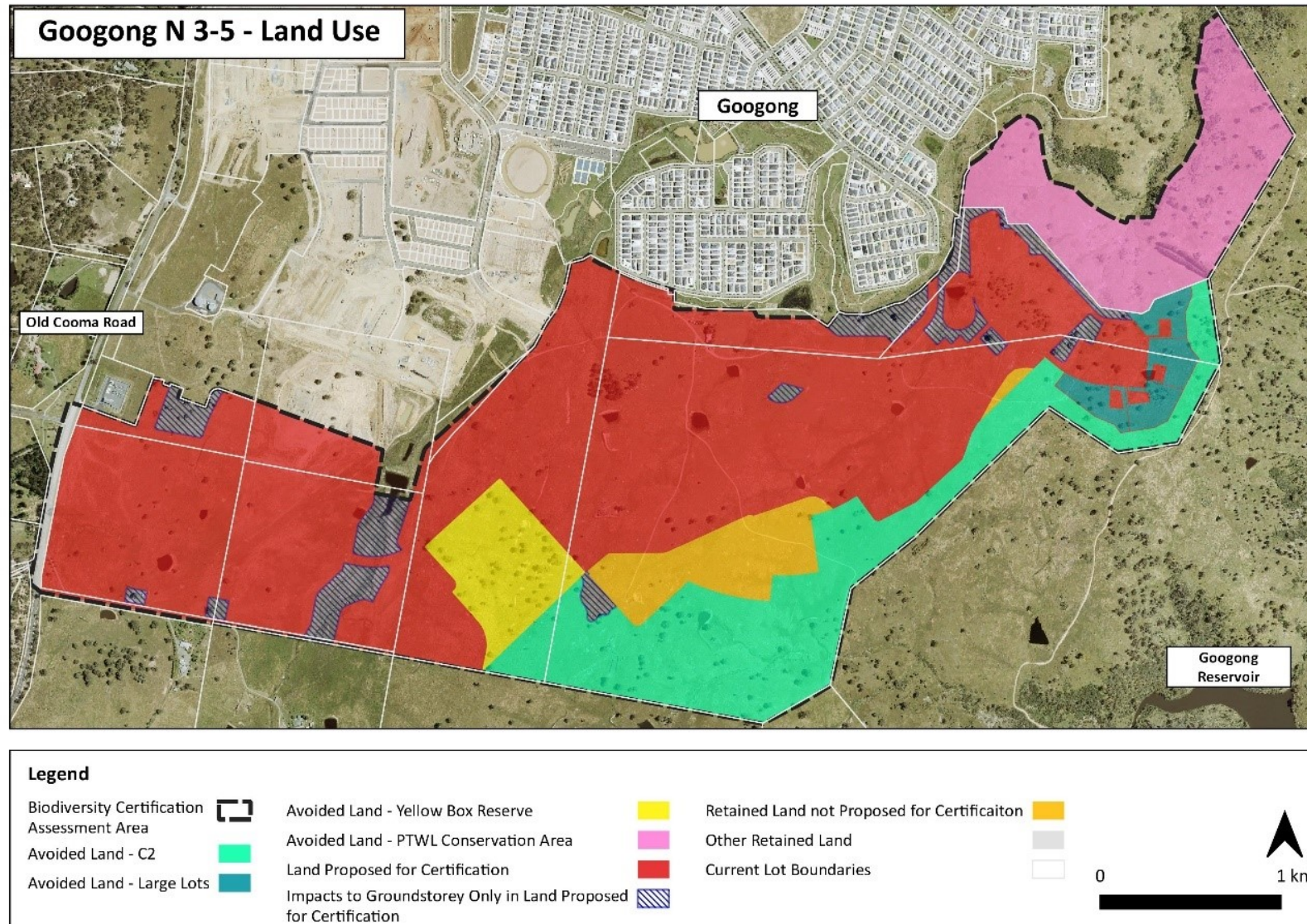
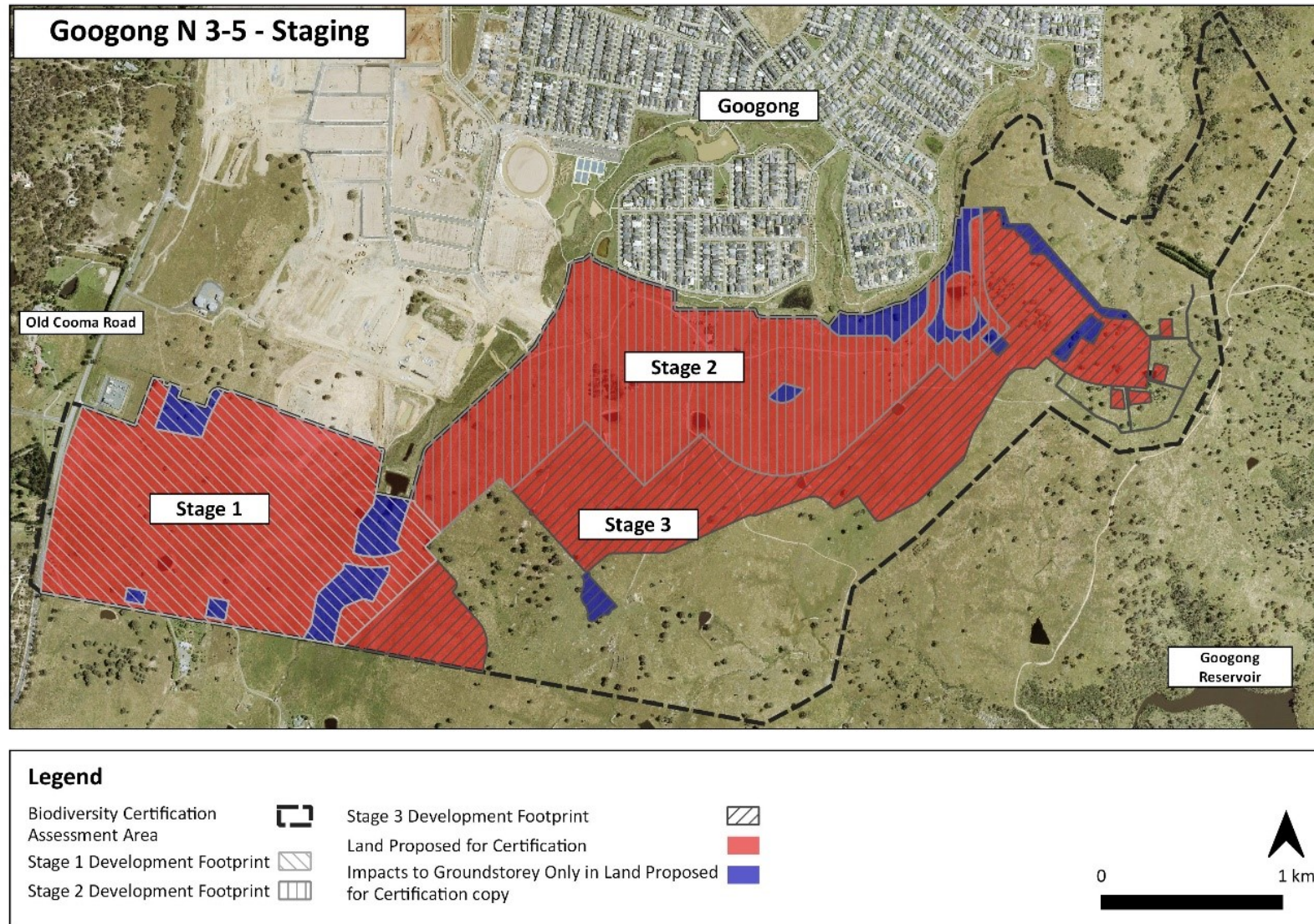


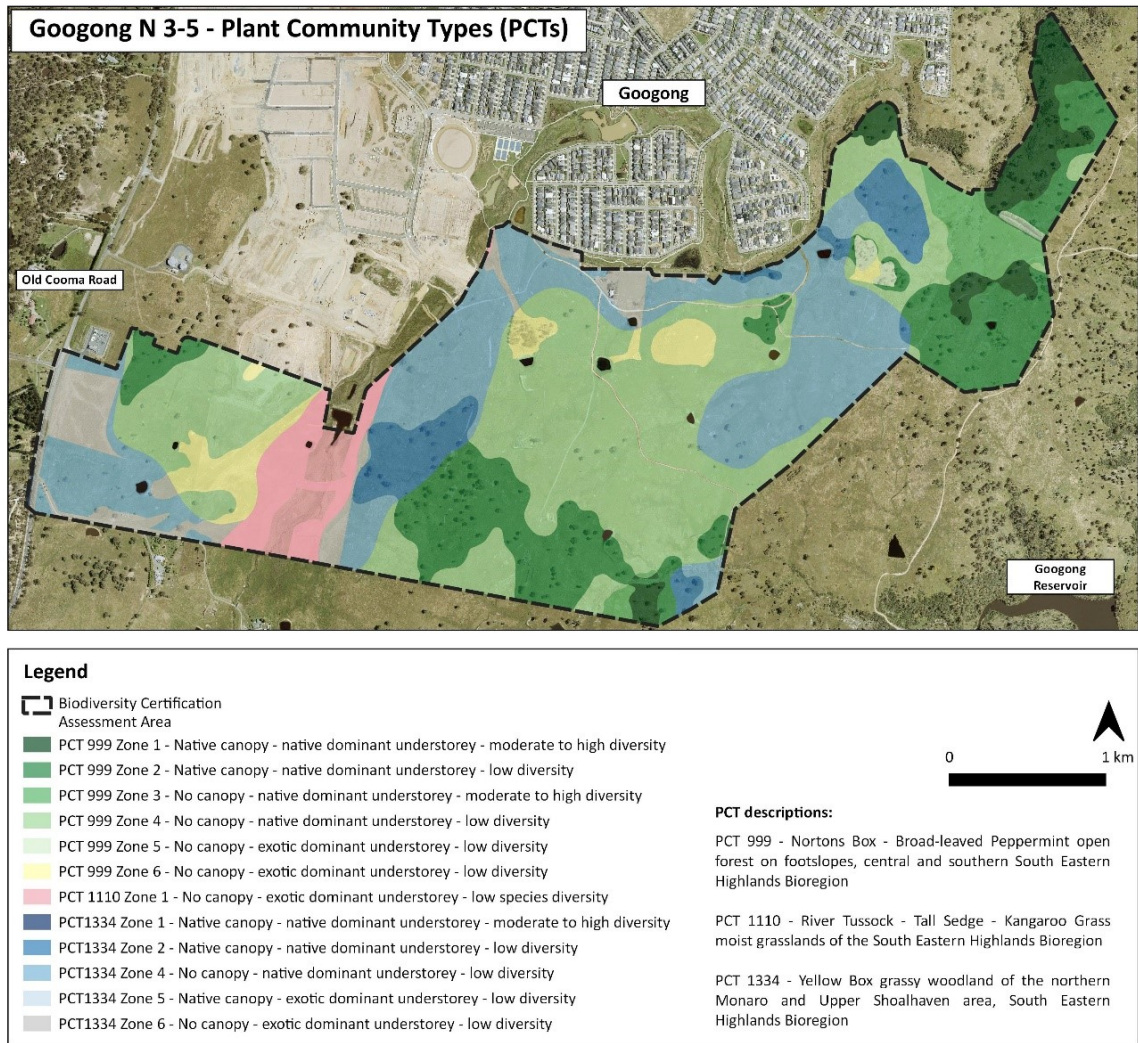
Figure 1 Land uses within the assessment area



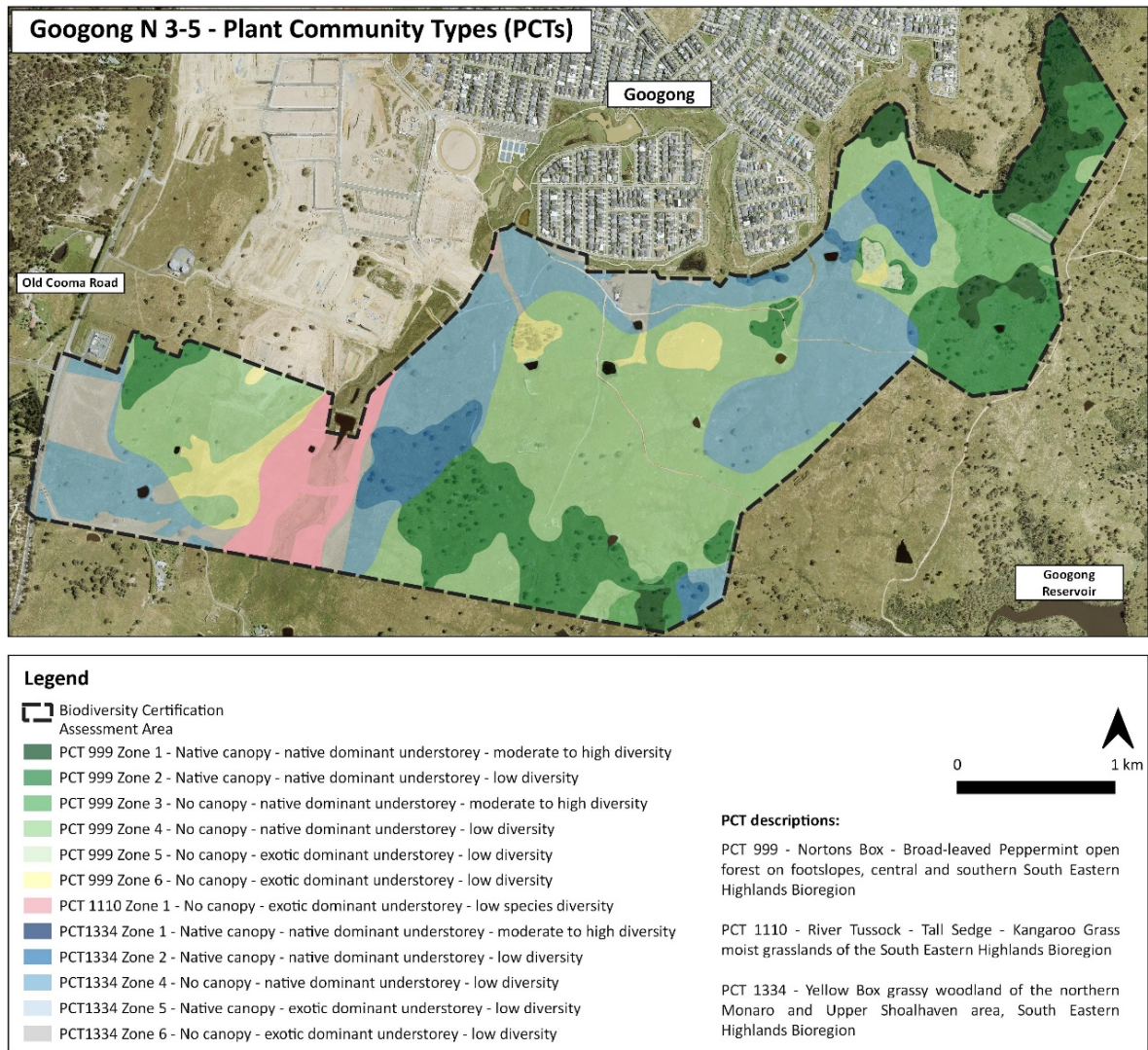


**Figure 2** Googong foreshore interface management strategy (GFIMS) land within the biodiversity certification assessment area



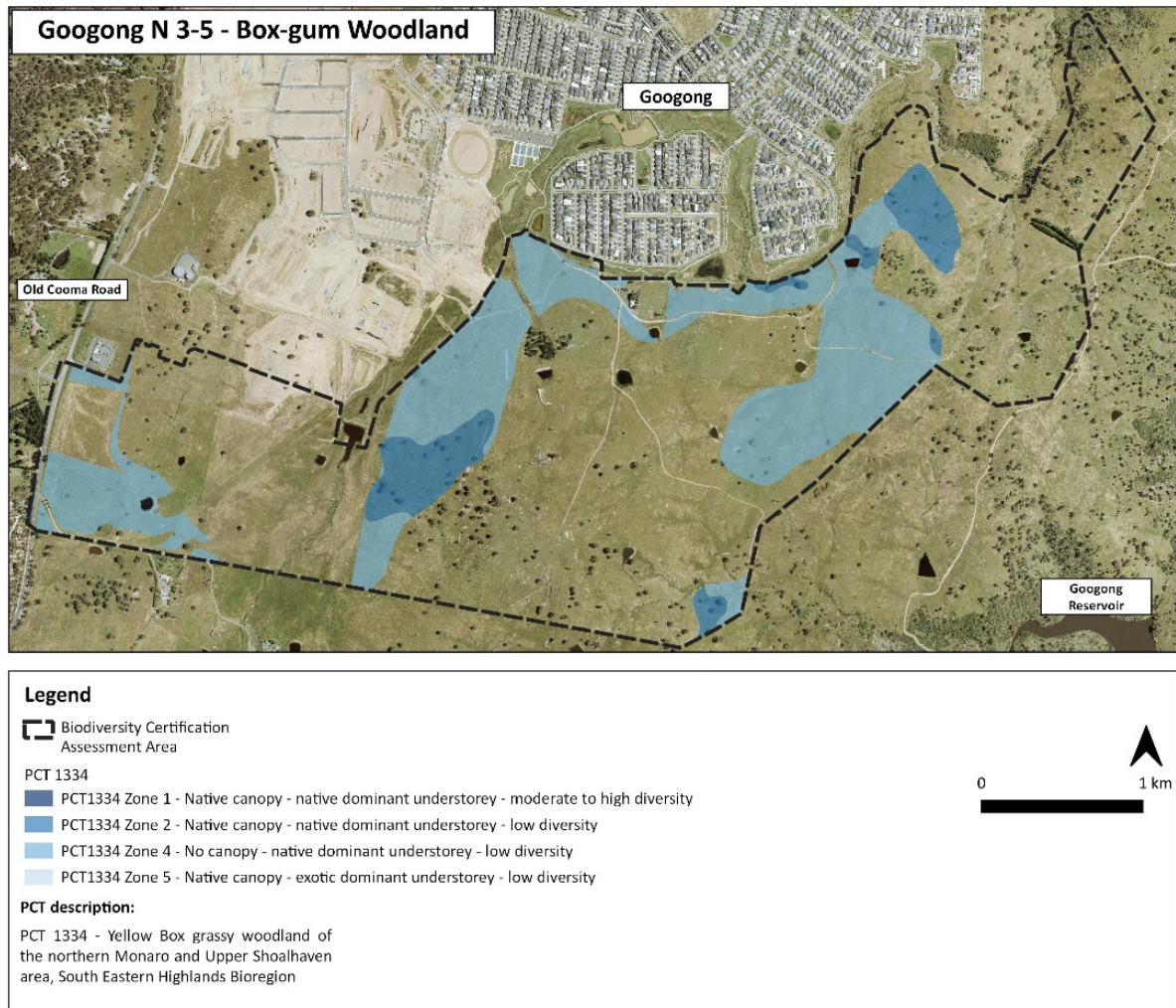


**Figure 3 Staging of the development**



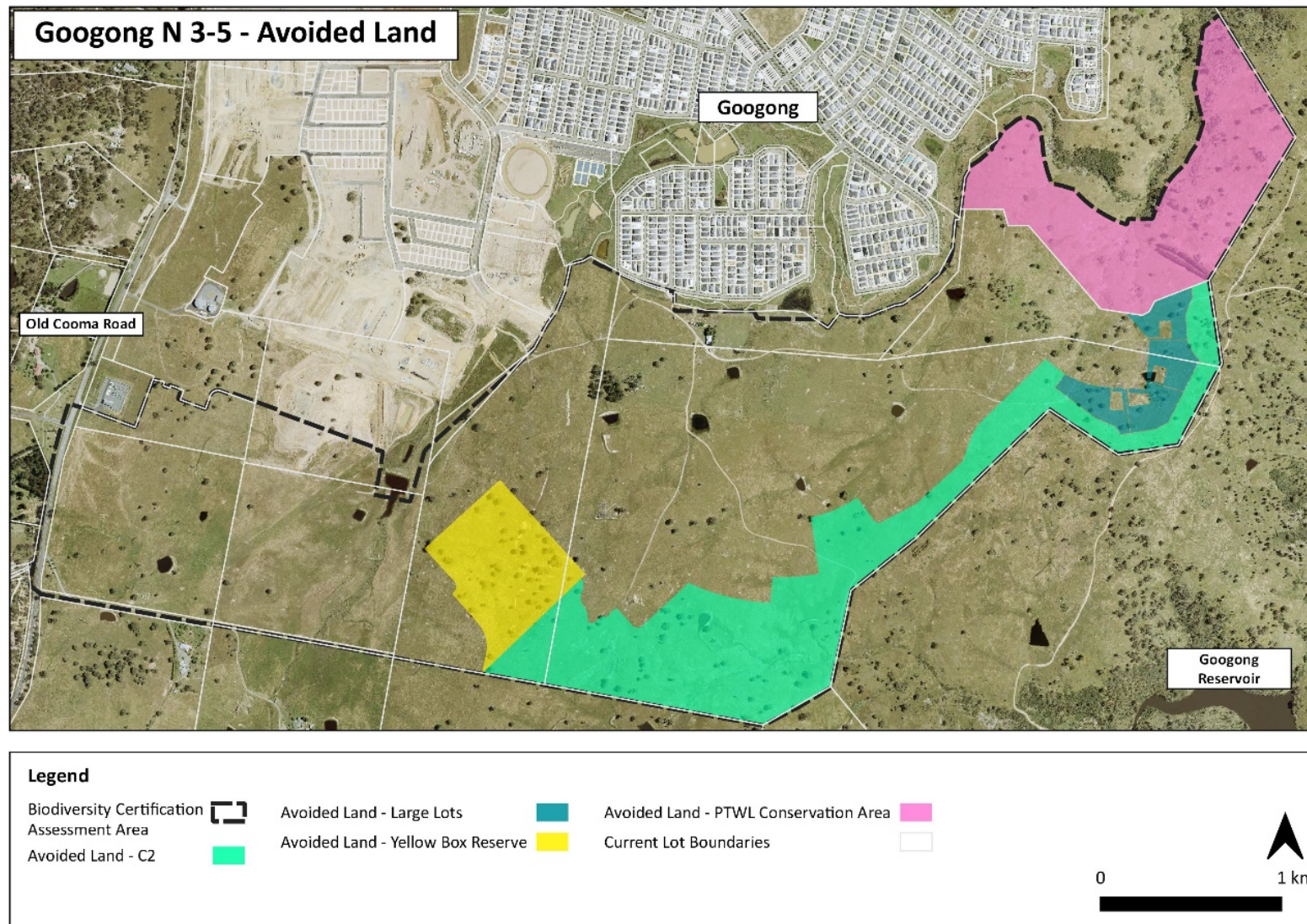
**Figure 4 Plant community types and vegetation zones within the assessment area**





**Figure 5** Extent of the CEEC Box-Gum Woodland within the assessment area





**Figure 6** Avoided land



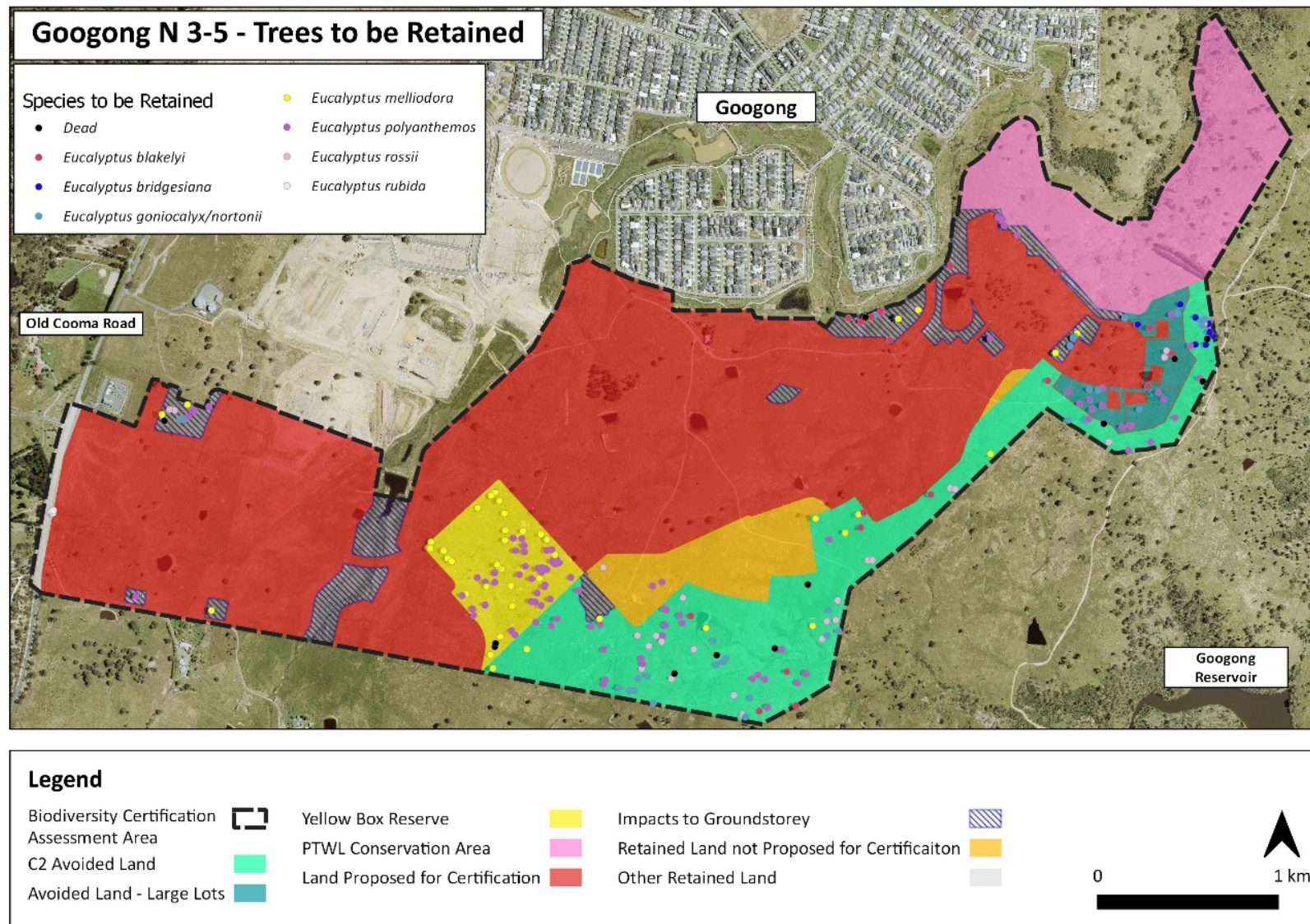


Figure 7 Trees to be retained



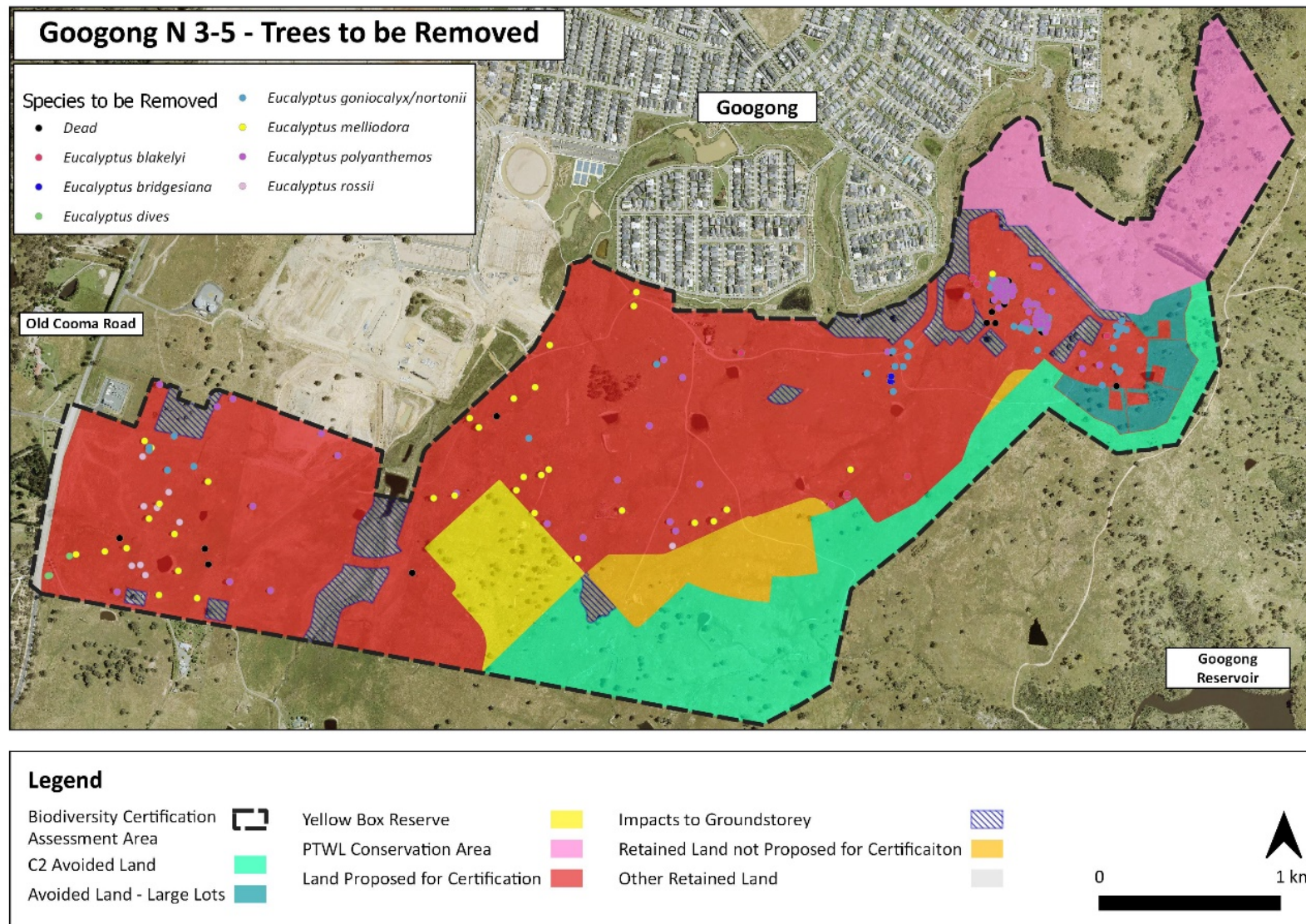


Figure 8 Trees to be removed



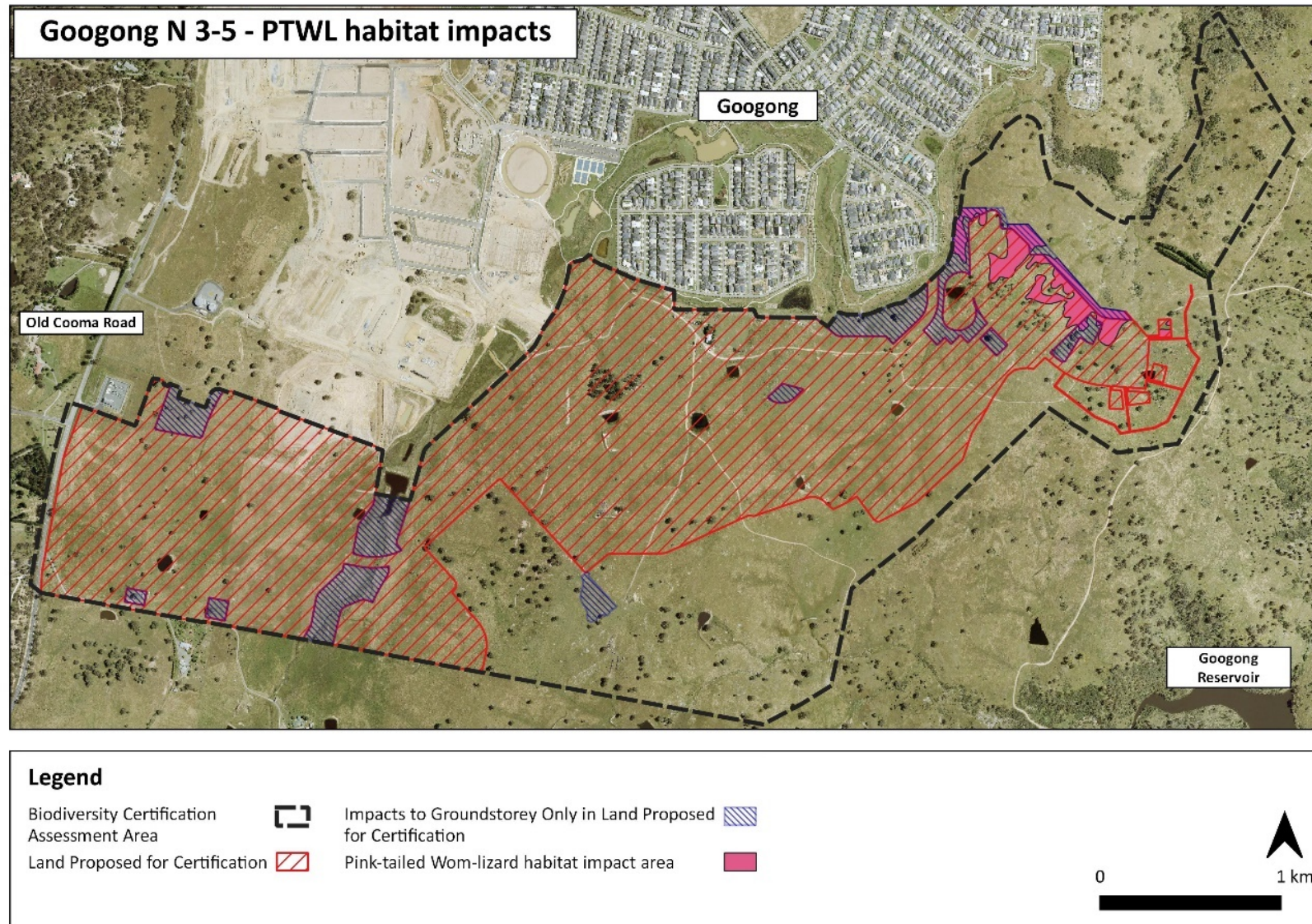


Figure 9 Pink-tailed worm-lizard habitat impact area

### 3.4 Land ownership

The landowner is Googong Township Pty Ltd. The entire BCAA is within the Queanbeyan-Palerang LGA.

### 3.5 Parties to the application

The following person/s or body/s are proposed parties to the application for biodiversity certification:

Party name (ABN/ACN if relevant)	Contact
Googong Township Pty Ltd	Tim Corby

### 3.6 Biodiversity certification agreements

#### Biodiversity Conservation Act 2016

##### 8.16 Biodiversity certification agreements

(1) The Minister may enter into an agreement (a biodiversity certification agreement) with a person in connection with biodiversity certification (including a proposal to confer, modify or extend biodiversity certification).

The following biodiversity certification agreements are proposed in connection to the biodiversity certification application. The biodiversity certification agreement is not considered an approved conservation measure.

Party	Land (where relevant)	Purpose
Googong Township Pty Ltd	Reserve and large lots residential and avoided C2 land	Manage the areas of retained vegetation in perpetuity to protect and enhance biodiversity values of the area

## 4. Description of proposal

### 4.1 Measures to avoid or minimise impacts

#### 4.1.1 Introduction

To address impacts to biodiversity, a key intent of the design of the proposed subdivision has been:

- for direct impacts to occur in areas with lower quality vegetation zones
- for higher quality vegetation zones to be secured as 'avoided land' that will be protected under a variety of in-perpetuity protection mechanisms.

In considering the overall balance between impacts and avoidance, it is apparent that there are still some areas with high biodiversity values that will be impacted by the subdivision. This balance is discussed in more detail below.

#### 4.1.2 Land that is avoided

The proposed development has been designed to avoid impacts to 56.73 ha of land. The land considered avoided land for the purposes of assessing this application for biodiversity certification is comprised of 3 sections of land (as shown in Figure 6):

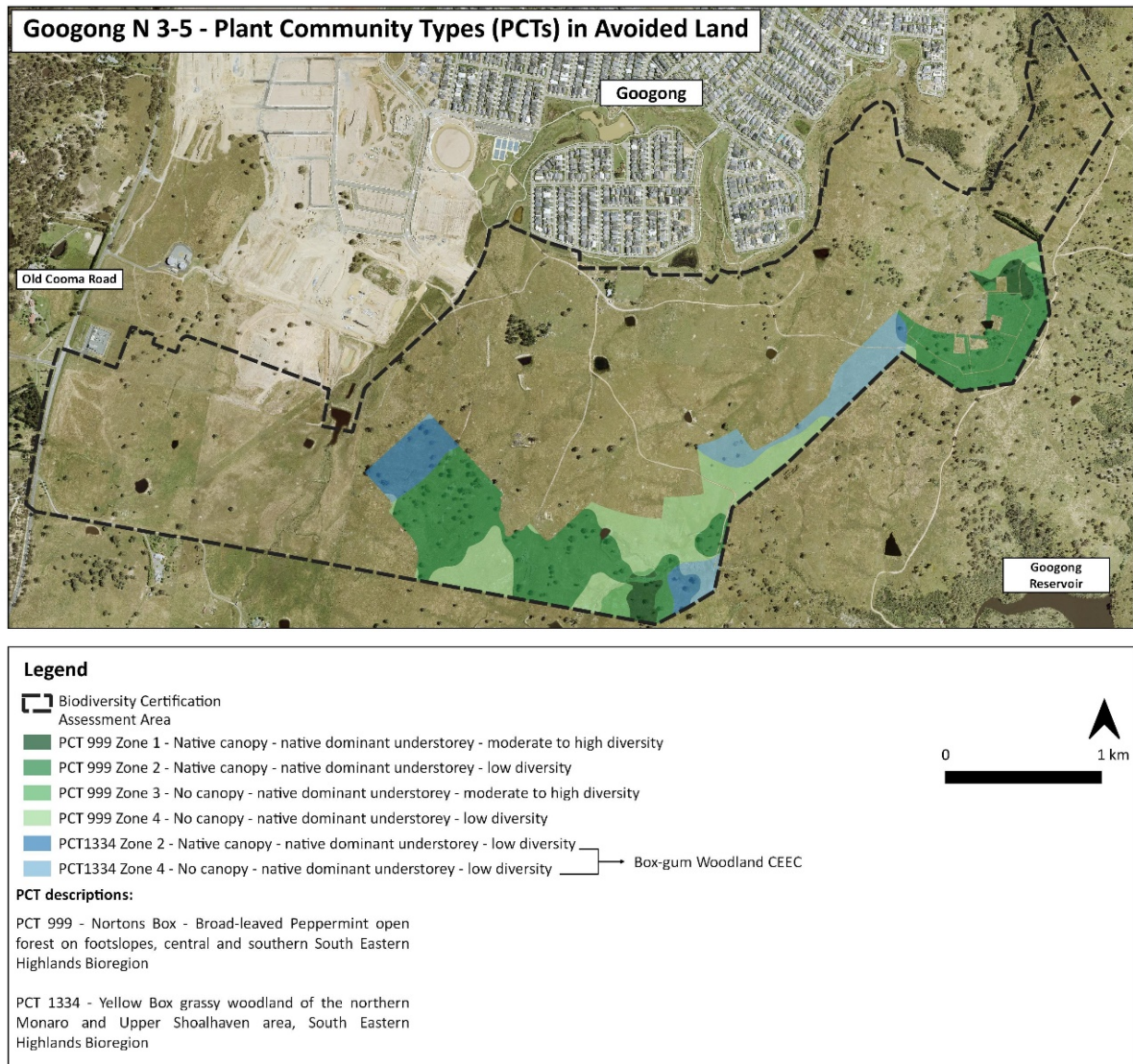
- the Yellow Box Reserve (covering 10.96 ha)
- the avoided C2 zoned land (covering 40.93 ha)
- the avoided land within the proposed large lots (a combined 5.38 ha).

These areas and their management are described in detail below.

An additional 27.59 ha which will be retained in the PTWL Conservation Area is **not** considered avoided land for the current application for biodiversity certification.

The 3 areas considered avoided land will all be managed and enhanced for their biodiversity values. They will be placed under a BCA to protect them in perpetuity and be managed in accordance with the VMP. The C2 land and Yellow Box Reserve will be managed to enhance biodiversity values. The VMP has been specifically designed to enhance the integrity of the vegetation, by enriching the habitat through the addition of dead and down timber removed from the development site and through weed management. The VMP was submitted prior to the finalisation of the BCA, to ensure it included the appropriate measures to ensure the long-term enhancement of the area. The location of each area of avoided land is shown in Figure 6. The PCT and zones retained within each parcel of avoided land are shown in Figure 10.





**Figure 10 Plant community type (PCT) and vegetation condition zone retained within avoided land**

The biodiversity values being conserved within the avoided land represent 196 remnant trees that contain 57 hollows that are high-value habitat within the landscape. The avoided land will also be protecting 4.98 ha of PTWL habitat, which will also be enhanced with rock from the adjoining subdivision. A summary, based on mapping and data provided in the application for biodiversity certification, of the vegetation that will be retained and managed in the avoided land is shown in Table 3. The table itemises the area of each PCT zone in each of the 3 avoided land areas, and also provides the area of native vegetation in each PCT zone and the area that is Box-Gum Woodland.

**Table 3 Summary of all retained vegetation in the avoided land**

PCT / zone / description	Yellow Box Reserve	C2 land	Large lots	Native vegetation	Box-Gum Woodland
PCT 999 Zone1: Native canopy - native dominant understorey - moderate to high diversity	0	1.59	0.66	2.25	
PCT 999 Zone 2: Native canopy - native dominant understorey - low diversity	6.98	15.42	4.14	26.54	
PCT 999 Zone 3: No canopy - native dominant understorey - moderate to high diversity	0	1.22	0.56	1.78	
PCT 999 Zone 4: No canopy - native dominant understorey - low diversity	0.07	14.34	0	14.41	
PCT 1334 Zone 2: Native canopy - native dominant understorey - low diversity	3.81	1.26	0	5.07	5.07
PCT 1334 Zone 4: No canopy - native dominant understorey - low diversity	0.1	6.3	0	6.40	6.40
<b>Total area</b>	<b>10.96</b>	<b>40.13</b>	<b>5.36</b>	<b>56.45</b>	<b>11.47</b>

### Yellow Box Reserve

The Yellow Box Reserve is 10.96 ha and retains 67 trees within the open woodland, 18 of which contain hollows. The reserve is a mix of PCTs with approximately 7.05 ha of PCT 999 Norton's box – broad-leaved peppermint open forest and 3.91 ha of PCT 1334 yellow box grassy woodlands. The area is an ecotone between the 2 PCTs with several overstorey species of both vegetation communities occurring across the reserve.

The Yellow Box Reserve retains the highest value vegetation in the assessment area. It has the largest and most diverse mix of the trees, along with an intact understorey. Although the understorey is lacking some diversity in the area previously grazed, the removal of grazing along with the proposed enhancement of the area will increase its diversity. This will be monitored over time to ensure the area is managed to enhance the biodiversity values and to also retain and protect the hollow-bearing trees. The reserve area has elements of Box-Gum Woodland along with several large remnant red box trees.

The reserve will be managed in perpetuity via a BCA with the VMP which will outline the management actions associated with the management of this parcel of land. Retention of these trees in the landscape are an important part of this reserve as all other trees within the Googong township development Stages 1 and 2 have been removed within the development footprint.

To protect the biodiversity values within the proposed reserve, the VMP will include the following measures:

- retention and protection of remnant native vegetation, regrowth, dead timber and rocks
- encouragement of natural regeneration of native vegetation, with follow-up monitoring to ensure its effectiveness

- development and implementation of an integrated weed management plan, including weed control, monitoring, and inspection of existing and new weeds
- management of human disturbance, including fencing, signage and restrictions on permitted activities, such as:
  - monitoring and record-keeping requirements, that will be sent to BCD for review and follow-up monitoring if deemed necessary
  - adaptive management, including a review of management plans every 5 years – this process considers the effectiveness of the matters contained in the current plan.

## **C2 avoided land**

The avoided C2 land contains 40.13 ha which retains 105 remnant trees, 33 of which contain hollows. This area also supports 4.31 ha of PTWL habitat with the intention of adding loose rocks salvaged from the development areas to provide supplementary habitat for the species.

Supplementary plantings will occur within both the Yellow Box Reserve and the C2 land, except where the known PTWL habitat occurs, with the initial plantings to be completed within 12 months of the relevant trigger. The VMP outlines species-specific plantings in accordance with the PCT. Pest management will also be undertaken to control competition. Inspections will then be carried out to ensure that these management actions are successful and follow-up on the feral animal control, weed control and if any replacement planting is required. All avoided areas will prohibit grazing of introduced animals.

## **Large lots avoided land**

Approximately 5.36 ha of native vegetation will be retained as avoided land within large lots (see Figure 6 for the location of the proposed large lots). Measures to minimise impacts to the biodiversity values within large lots will be included in the VMP.

As these large lots will be privately owned and managed, they will have different management actions placed on the individual landowners that purchase the lots. The lots will have specific actions within the VMP that are slightly different to those within the C2 land and Yellow Box Reserve. They will be more focused on preserving and protecting the biodiversity values present within the lots rather than enhancing them. The large lot features include PTWL and Norton's box community. Examples of some of the restrictions on title include the prohibition of habitat removal, such as rocks and native vegetation, and the prohibition of grazing/hooved animals.

### **4.1.3 Funding for measures to minimise impacts**

It is estimated that a lump sum of \$1 million will be spent on revegetation and \$400,000 on weed control. Exact costs will depend on the successful revegetation works and the impacts from environmental factors such as the environment, that is, droughts.

### **4.1.4 Avoidance to pink-tailed worm-lizard habitat**

The PTWL Conservation Area was established in 2013 to compensate for impacts to PTWL habitat as a result of the development of Googong township. This proposed development will retain a further 4.98 ha of PTWL habitat that is within the C2 land (4.31 ha) and the large lots (0.67 ha). The large lots will have specific VMP conditions that will restrict the impact to this threatened species habitat, such as the exclusion of grazing animals and impacts outside of the building envelop, and restrictions of clearing of habitat. It is also proposed to add in

supplementary habitat (loose rock) from the previous Googong stages into the land to add value to the habitat available to the species.

#### 4.1.5 Consideration of candidate serious and irreversible impacts (SAIL) entities

Box-Gum Woodland is the only candidate SAIL entity impacted by the proposed development. Classified as PCT 1334, yellow box grassy woodland is found across much of the BCAA. This PCT can form part of the CEEC White Box – Yellow Box – Blakely's Red Gum Grassy Woodland and Derived Native Grassland (referred to as Box-Gum Woodland in this recommendation package).

The BCAR has described PCT 1334 yellow box grassy woodland as being in 6 vegetation condition zones.

The area that will be impacted has undergone various levels of degradation that have led to different floristic and structural conditions.

The zones of the Box-Gum Woodland and their quality descriptions that are being impacted are described below:

- Zone 1 of the Box-Gum Woodland consists of the highest quality vegetation with a native canopy present with native dominant understorey with moderate to high diversity. **This zone is not being impacted by this proposal.**
- Zone 2 contains a native canopy with a native dominant understorey, however low species diversity, which means it is a reasonable example of the community. The proposal will impact on 5.04 ha of this zone.
- Zone 4 contains no canopy with a native understorey which has a low species diversity and consequent low ecosystem function. It is uncertain whether this zone can be practically rehabilitated given the high level of degradation it has experienced. The proposal will be impacting on 47.93 ha of this zone.
- Zone 5 and Zone 3 are either not impacted or not present.
- 11.54 ha of Zone 6 is being impacted, however, this zone has no canopy and the understorey is dominated by exotics. Given this it no longer can be considered Box-Gum Woodland.

SAIL and impacts to Box-Gum Woodland are discussed in more detail further in this recommendation report.

#### 4.1.6 Avoiding and minimising indirect impacts

The proposed development reduces the likelihood of indirect impacts by enacting the following principles to avoid and minimise impacts to native vegetation and habitat.

- locating the project in areas where the native vegetation or threatened species habitat is in the poorest condition
- locating the project such that connectivity enabling movement of species and genetic material between areas of adjacent or nearby habitat is maintained
- reducing the clearing footprint of the project in the planning stages
- making provision for the demarcation, ecological restoration, rehabilitation and/or ongoing maintenance of retained native vegetation and habitat.



In addition, potential indirect impacts will be minimised and mitigated throughout construction and occupation by the following measures:

- controlling sedimentation of receiving waterways during construction
- controlling noise, light, vibration and dust spill during construction
- controlling weed introduction and/or spread during construction and occupation
- controlling incidental damage and removal of retained native vegetation and habitat during construction and occupation
- controlling pest animals as a result of increased human activity during occupation
- reducing the impact of edge effects due to increased human activity during occupation.

#### **4.1.7 Avoiding and minimising prescribed impacts**

The land proposed for certification contains substantial patches of loose surface rock, the removal of which is identified as a potential prescribed biodiversity impact under the BAM. An extensive rock-turning survey was performed across the area to determine the value of the loose surface rock to native fauna, with consideration given to the threatened species likely to occur in the area.

With respect to the proposed land for certification only, PTWL habitat was identified in the north-eastern corner of the subject land which adjoins the PTWL Conservation Area. These areas of PTWL habitat were previously known to exist and were included in the EPBC Act referral and corresponding EPBC Act approval for Googong township. Impacts to these areas of PTWL habitat were addressed in the corresponding conditions of approval.

No threatened fauna were detected under rocks across the remainder of the subject land, and only a small number of common herpetofauna and invertebrates were found. It is therefore unlikely that the removal of loose surface rock across the remainder of the subject land will have a prescribed biodiversity impact on a threatened species or ecological community.

The impact associated with removal of rock across the subject land will be partly mitigated by collecting surface rock across portions of the subject land and relocating that rock to the avoided C2 zoned land directly to the north-west of the identified PTWL habitat. The purpose of this activity will be to create and/or improve habitat for fauna, thereby helping to mitigate the impacts associated with the removal of surface rock.

Finally, 4.98 ha of PTWL habitat will be protected and enhanced within the C2 land and large lots. These areas will be protected and managed in perpetuity.

#### **4.1.8 Mitigating impacts that are uncertain**

The proposed development is unlikely to result in biodiversity impacts that are unforeseen or uncertain given that:

- the subject land does not support karst, caves, crevices, cliffs and other geological features of significance
- the proposed development does not include underground mining
- the proposed development does not include wind turbines
- the proposed development is unlikely to substantively increase the incidence of vehicle strikes.

To manage the uncertain impacts in the Yellow Box Reserve and C2 land, the VMP will impose certain measures to restrict activities that would adversely impact on biodiversity.



#### 4.1.9 Justification for impacts that are not avoided

There will be some ongoing direct impacts to native vegetation. Most of this impact will be occurring on areas which have been mapped as low conservation value. They have been used for grazing for several decades which has reduced the species diversity and removed the overstorey vegetation. There will be some impacts to areas of PCT 999 Norton's box – broad-leaved peppermint open forest which have an intact overstorey, however, these areas have low quality groundcover and most of the trees are young without hollows. Nevertheless, there will be a reduction in hollow-bearing trees in the development area. This will be partly compensated by the permanent protection of the Yellow Box Reserve and the enhancement of the C2 land which will provide ongoing restoration of habitat.

#### 4.1.10 Impacts on native vegetation and habitat

The BCAA totals 261.46 ha which includes 221.25 ha of native vegetation in various condition states. The land proposed to be biodiversity certified (that is, impacted) totals 164.34 ha and is comprised of 117.76 ha of native vegetation. Most of the vegetation that will be impacted by the development is low-diversity secondary grassland derived from Box-Gum Woodland. The diversity of the groundcover in this secondary grassland has been significantly reduced, with very few forbs, due to a long history of sheep and cattle grazing. The groundcover is dominated by grazing-tolerant grasses. There are several patches of intact regrowth trees in one corner which will be impacted by the development. These trees form part of the Norton's box – broad-leaved peppermint community. Although intact, they contain very few hollows. These trees will be offset as part of the area being certified.

#### 4.1.11 Ecosystem credit requirements

Ecosystem credits are used to offset the impacts on threatened ecological communities and threatened species habitat for species that can be reliably predicted to occur on the subject land and other PCTs.

Development of the land for biodiversity certification will require a total of 1,036 ecosystem credits to be retired to offset the impacts to native vegetation and associated habitat for ecosystem credit species. Appendix A (Table 7) shows the credits required per impacted vegetation type.

The credit obligation includes 136 ecosystem credits for impacts to PCT 999 Norton's box – broad-leaved peppermint open forest, and 900 ecosystem credits for impacts to PTC 1334 yellow box grassy woodlands, and their associated ecosystem credit threatened species.

All patches of PCT 1110 tussock and sedge moist grasslands identified and mapped in the BCAR were considered highly degraded and have not generated an offset credit obligation.

#### 4.1.12 Species credit requirements

Species credits are used to offset the residual impacts on threatened species that cannot be reliably predicted to occur on the land for certification. Presence is determined by important habitat maps, surveys or an expert report. Where an expert report is used, the department requires evidence of departmental approval of expert status.

The land proposed for biodiversity certification contains habitat for PTWL (*Aprasia parapulchella*, listed as vulnerable under the BC Act) which is a species credit species. Development of the land would generate a credit obligation of 48 species credits to be retired to offset the impacts. Appendix B (Table 8) shows the credits required per impacted species.

#### 4.1.13 Summary of impacts to vegetation

A summary of impacts to vegetation, including Box-Gum Woodland and other native vegetation is shown in Table 4. The PCT and zone labels used by the accredited assessors in the BCAR and listed in Table 4 indicate the overall quality of each vegetation zone (for example, PCT1334 Zone 2 - Canopy - Native Dom - Low Diversity indicates that a native canopy is present, that the understorey is dominated by native plant species but that the diversity of native species is low).

**Table 4 Summary of vegetation impacts**

PCT / zone	Clearing - all strata	Clearing - groundstorey only	Total impacts per PCT / zone	Native vegetation per PCT / zone	Box-Gum Woodland per PCT / zone
PCT1110 Zone 1 - Exotic Dom - Low Diversity	9.53	4.10	13.63	N/A	N/A
PCT1334 Zone 2 - Canopy - Native Dom - Low Diversity	5.04	1.37	6.41	6.41	6.41
PCT1334 Zone 4 - Native Dom - Low Diversity	47.93	3.12	51.05	51.05	51.05
PCT1334 Zone 6 - Exotic Dom - Low Diversity	11.54	0.38	11.92	N/A	N/A
PCT999 Zone 1 - Canopy - Native Dom - ModHigh Diversity	1.26	0.06	1.32	1.32	N/A
PCT999 Zone 2 - Canopy - Native Dom - Low Diversity	7.88	2.55	10.43	10.43	N/A
PCT999 Zone 3 - Native Dom - ModHigh Diversity	0.08	0.16	0.24	0.24	N/A
PCT999 Zone 4 - Native Dom - Low Diversity	54.56	0.99	55.55	55.55	N/A
PCT999 Zone 5 - Exotic Dom - Canopy - Low Diversity	1.01	0.00	1.01	1.01	N/A
PCT999 Zone 6 - Exotic Dom - Low Diversity	10.25	0.31	10.56	N/A	N/A
Not mapped to PCT	2.12	0.12	2.23	N/A	N/A
<b>Total</b>	<b>151.19</b>	<b>13.14</b>	<b>164.34</b>	<b>126.00</b>	<b>57.46</b>

## 4.2 Serious and irreversible impacts

### 4.2.1 Overview of serious and irreversible impact (SAIL) principles

An impact is regarded as serious and irreversible if it is likely to contribute significantly to the risk of a threatened species (including endangered populations) or an ecological community becoming extinct. The principles for determining significant risk are set out in clause 6.7 of the Biodiversity Conservation Regulation 2017. They are:

- Principle 1: The impact will cause a further decline of a species or ecological community that is currently observed, estimated, inferred, or reasonably suspected to be in a rapid rate of decline.
- Principle 2: The impact will further reduce the population size of the species or ecological community that is currently observed, estimated, inferred, or reasonably suspected to have a very small population size.
- Principle 3: The impact is made on the habitat of the species or ecological community that is currently observed, estimated, inferred, or reasonably suspected to have a very limited geographic distribution.
- Principle 4: The impacted species or ecological community is unlikely to respond to measures to improve its habitat and vegetation integrity, and therefore its members are not replaceable.

‘Likely’ in the context of considering whether an impact is a SAIL has been found to mean ‘a real chance or possibility’, as per *White v Ballina Shire Council* 2021 (NSWLEC 2021).

These principles have been used to identify threatened species and ecological communities with the potential to be impacted by SAIL.

### 4.2.2 Threatened ecological communities at risk of serious and irreversible impacts

The BCAR states that one candidate SAIL entity, the CEEC Box-Gum Woodland, will be impacted by the proposed development.

This White Box – Yellow Box – Blakely’s Red Gum Grassy Woodland and Derived Native Grassland CEEC is SAIL according to Principle 1, as the community is nationally listed as critically endangered under the EPBC Act and critically endangered under the BC Act. The community has undergone extensive clearing throughout its range resulting in remnants that are predominantly small and fragmented. It is estimated that less than 5% of the original distribution remains (Threatened Species Scientific Committee 2020).

The proposed development will result in impacts to 57.46 ha (including a total clearing impact of 52.97 ha and groundstorey-only impacts to 4.49 ha) of Box-Gum Woodland. This level of impact will cause a further decline in the ecological community according to Principle 1, and it is therefore recommended that the decision-maker conclude there will be a SAIL on the Box-Gum Woodland CEEC.

The decision-maker must take these impacts into consideration when determining the application for biodiversity certification and must determine whether to impose additional measures to minimise those impacts.

BCD have negotiated a BCA supported by a VMP which will outline the management actions to be undertaken on the Yellow Box Reserve and within the remaining Conservation (C2) zoned land. The BCA and VMP will ensure the long-term persistence of the woodland CEEC into the future. **The BCA and VMP are additional to the retirement of credits.**

BCD recommends that no additional measure be required to minimise the impacts to the SAII Box-Gum Woodland CEEC due to the significant measures which are outlined in the BCA and the supporting VMP documents.

### 4.3 Proposed conservation measures

Section 8.3(2) of the BC Act identifies the measures that can be specified in the order conferring biodiversity certification as approved conservation measures to offset the impacts on biodiversity values of the clearing of native vegetation and the loss of habitat on biodiversity certified land. **Non-strategic applications must offset the impacts of the certification of land by retiring biodiversity credits.**

Division 6 of Part 6 of the BC Act enables a person who is required to retire biodiversity credits to make a payment instead to the Biodiversity Conservation Fund (BCF) of the value of the credits in accordance with the offset payment calculator.

Table 5 details the retirement of biodiversity credits associated with the proposed certification.

**Table 5 Retirement of biodiversity credits**

Name of credit	No. of credits	In accordance with like-for-like, or variation rules?	Current credit holder/ proposed BSA/BCF payment	Timing of purchase/ retirement of credits
PCT 999 – Northon’s Box – Broad-leaved Peppermint open forest on footslopes, central and southern South Eastern highland Bioregion	136	Yes	No	In accordance with the timing/stages of the development stages, i.e. the first stage for this proposal will retire 28 credits, middle stage will retire 11, last stage will retire 97.
PCT 1334 – Yellow Box grassy woodland of the northern Monaro and Upper Shoalhaven area, South Eastern Highlands Bioregion	900	Yes	No	In accordance with the timing/stages of the development stages, i.e. the first stage for this proposal will retire 166 credits, middle stage will retire 431, last stage will retire 303.
Pink-tailed worm-lizard ( <i>Aspasia parapulchella</i> )	48	Yes	No	In accordance with the timing/stages of the development stages, i.e. the first stage for this proposal will retire 0 credits, middle stage will retire 5, last stage will retire 43



## 4.4 Native vegetation on avoided land and other retained land

A total of 56.73 ha of native vegetation in the assessment area is retained within the avoided lands that are outside the certification area. All avoided and retained land within the certification assessment area will be managed and protected via the BCA and enhanced with the VMPs. The exception to this is the areas which have been identified as open space or park areas.

A summary of the vegetation retained within avoided land is shown in Table 6.

**Table 6 Summary of avoided vegetation within avoided land**

PCT / zone full	Yellow Box Reserve	C2 land	Large lots	PTWL Area	Total avoided land per PCT / zone	Native vegetation per PCT / zone	Box-Gum Woodland per PCT / zone
PCT 1334 Zone 2 – Canopy – Native Dom – Low Diversity	3.81	1.26	0	2.19	7.26	7.26	7.26
PCT 1334 Zone 4 – Native Dom – Low Diversity	0.1	6.3	0	0	6.4	6.40	6.40
PCT 999 Zone 1 – Canopy – Native Dom – ModHigh Diversity	0	1.59	0.66	9.74	11.99	11.99	N/A
PCT 999 Zone 2 – Canopy – Native Dom – Low Diversity	6.98	15.42	4.14	5.07	31.61	31.61	N/A
PCT 999 Zone 3 – Native Dom – ModHigh Diversity	0	1.22	0.56	5.7	7.48	7.48	N/A
PCT 999 Zone 4 – Native Dom – Low Diversity	0.07	14.34	0	4.39	18.8	18.80	N/A
PCT 999 Zone 5 – Exotic Dom – Canopy – Low Diversity	0	0	0	0.5	0.5	0.50	N/A
Not mapped to PCT	0	0.26	0.02	0	0.28	N/A	N/A
<b>Total</b>	<b>10.96</b>	<b>40.39</b>	<b>5.38</b>	<b>27.59</b>	<b>84.32</b>	<b>84.04</b>	<b>13.66</b>

#### 4.4.3 Yellow Box Reserve

The reserve consists of 10.96 ha and is proposed to be managed and protected in perpetuity via a BCA, and further enhanced with a VMP. It is also proposed to be zoned C2 in the future to be consistent with the neighbouring land.

It contains 67 scattered woodland trees, 18 of which contain hollows. It will be managed under a VMP that has been negotiated between the consultant, Googong Pty Ltd, and BCD. The reserve will be managed specifically to increase the biodiversity value of the area including removal of weeds and enhancement of groundcover and midstorey species. The site will be monitored as part of the VMP to ensure the biodiversity values are increasing over time.

All active forms of recreation will be restricted to other park areas. The site will only allow passive recreation in the form of walking, and no hooved animals will be allowed. These requirements will all be outlined in both the VMP and the BCA. The reserve protects the areas of highest floristic diversity and structural components including a high concentration of large, old hollow-bearing trees. The reserve and the C2 land are the only areas within the Googong township development which will retain existing large, old hollow-bearing trees. All other trees which existed on the site prior to the development have been cleared in previous stages.

#### 4.4.4 Large lots

The large lots in the north-east of the site will also be subject to the BCA. This agreement will be on title and will result in the ongoing protection of the area of vegetation outside the building envelopes to be managed and protected in perpetuity. The BCA for these areas will be supported by a VMP.

The area surrounding the building is 5.38 ha of native vegetation. The building envelopes have been designed to avoid all 29 scattered woodland trees and the retention of those trees will be mandated on title. This area also supports 0.67 ha of PTWL habitat that will be protected via the VMPs on title. The VMP includes a prohibition on all unrestrained domestic animals, including cats, dogs, chickens, horses and pigs. The prohibition on unrestrained cats will be very beneficial for reptiles and woodland birds.

#### 4.4.5 C2 land

The C2 zoned land is at the rear of the large lots and on the south-east corner of the proposed development. It consists of 40.13 ha of native vegetation and contains over 100 scattered woodland trees that are made up of both the Box-Gum Woodland CEEC and the dry sclerophyll forest. The management of this area is in accordance with the *Googong foreshores interface management strategy* (GFIMS, as seen in Figure 10) and the VMP that will be enforced via the BCA.

## 5. Matters for the decision-maker to consider

For lands to be biodiversity certified, the decision-maker must be satisfied in relation to certain matters outlined in Part 8 of the BC Act. These matters have been assessed by BCD and documented in this recommendation report.

BC Act section	Matters to be considered by the decision-maker	Report section
8.6(1)	Consultation with local council	5.1.1
8.6(2)	Consultation with Minister for Planning	5.1.2
8.6(3)	Public notification requirements	5.1.3
6.5 & 8.8	Impacts likely to have serious and irreversible impacts on biodiversity values	5.2
8.7	Biodiversity certification to be conferred only if, having regard to the biodiversity certification assessment report, the approved conservation measures adequately address the likely impacts on biodiversity values of the biodiversity certification of the land	5.3

### 5.1 Consultation and public notification

#### Section 8.6 Biodiversity Conservation Act

Consultation and public notification requirements in relation to biodiversity certification application

(1) An applicant for biodiversity certification who is not a planning authority (or who is Local Land Services) is to consult the local council of the area to which the application relates before undertaking public consultation on the application.

(2) The Minister is to consult the Minister for Planning before determining an application for biodiversity certification.

#### 5.1.1 Consultation with local council

Queanbeyan Council was consulted on 30 October 2019 where representatives of Capital Ecology (Robert Speirs and Sam Reid) presented a draft of the BCAR (Capital Ecology 2019) to representatives of council (Simon Holloway, Natasha Abbott, and Mary Appleby) and Peet Limited/Googong Pty Ltd (Tim Corby). Following the meeting, written comments on the draft BCAR were received from Mary Appleby (email of 21 November 2019 sent by Martin Brown, Program Coordinator, QPRC). These comments are included in full in Appendix H of the BCAR and are summarised here:

- Concerns regarding the PTWL habitat and the management of the species were raised, along with the prescribed impact from the removal of habitat (through bush rock removal) and relocation into the C2 land. In line with this, council also raised concerns regarding maintaining a buffer between the large lots and the PTWL Conservation Area.
- Increased weed risk and ensuring appropriate management protocols are in place was raised as a concern.
- Council raised the importance of the retention of large mature trees, especially those that contain hollows.



All of these matters have been adequately addressed in the final version of the BCAR and by negotiations with the department throughout the application process.

## Recommendation

That the decision-maker be satisfied that the requirements for consultation with the local council of the area set out in section 8.6(1) of the *Biodiversity Conservation Act 2016* and clause 8.4 of the Biodiversity Conservation Regulation 2017 have been met.

### 5.1.2 Consultation with Minister for Planning

#### Section 8.6 of the BC Act provides that:

(2) The Minister is to consult the Minister for Planning before determining an application for biodiversity certification.

#### Discussion

The Minister for Planning was consulted on 7 December 2021. A presentation outlining the Googong Biocertification Project was given to the Director Southern Local Regional Planning on 3 September 2021. The following key issues were discussed:

- The conservation measure is the retirement of 1,084 credits in stages that correspond with the stages of the development which can be seen in Figure 4 in the Maps section (section 3.3) of this document.
- The supplementary avoidance of the Yellow Box Reserve, the C2 land and the large lots comprising of 56.73 ha that have VMPs that will protect and enhance the biodiversity values in perpetuity.
- The impact of 58.33 ha of SAI BC Act listed Box-Gum Woodland PCT 1334 and our assessment of this impact with the justification for this impact.

The Minister for Planning responded on 17 December and noted the area of the Yellow Box Reserve would need to be re-zoned if the area is conferred and indicated they would work with BCD and Queanbeyan-Palerang Council in the future to achieve this aim.

## Recommendation

That the decision-maker be satisfied that consultation with the Minister for Planning has occurred.

### 5.1.3 Public notification

#### **Section 8.6 of the BC Act sets out the requirements for public notification of the application**

- (3) The Minister is not to confer biodiversity certification unless—
- (a) the applicant for biodiversity certification publishes notice of the application in a newspaper circulating generally throughout the State and on a website approved by the Minister (and specifies in the notice where the application will be exhibited), and
  - (b) the notice invites the public to make submissions relating to the application before a closing date for submissions specified in the notice (being a date that is not less than 30 days after the date the notice is first published in a newspaper under this section), and
  - (c) the applicant causes copies of the application to be exhibited on its website and such other places that the Minister requires (until the closing date for submissions), and
  - (d) the applicant provides a report to the Minister that indicates the applicant's response to any submissions relating to the application that were received by the applicant before the closing date.
- (4) An applicant may vary its application for biodiversity certification as a consequence of any submission received following public notification of the application or for any other reason.
- (5) Further public notification of the application, as varied, is not required unless the Minister otherwise directs

#### **Discussion**

The public were invited to make comment on Capital Ecology's draft BCAR (Capital Ecology 2021) as per the following consultation program:

- Press advertisements were placed in *The Canberra Times* public notices on Wednesday 24 March 2021 and repeated Saturday 27 March 2021 (tear sheet for 24 March 2021).
- Placement in the news section of the Googong website (which included notification the home page) on Tuesday 23 March 2021.
- Placement under NSW Biodiversity Conservation Act section of the Googong Compliance website on 22 March 2021 (this will be updated with the approved BCAR in due course – see link to website in the 'More information' section).
- An email was sent to people on the Googong residents' database on 23 March 2021.
- Printed copies of the BCAR were made available at the sales office in Googong from 22 March 2021, and a log was ready to track anyone who wanted to collect a copy (as offered in the email). No requests were made in person, or via email.
- The consultation program ran for 31 days from 23 March 2021 to 23 April 2021.

Details of consultation	Comments
Was consultation under s 8.6 of the BC Act followed?	Yes
Time period application was on exhibition	31 days – 23 March 2021 to 23 April 2021
Number of submissions received	0
Is application varied as a result of submissions?	No

## Recommendation

That the decision-maker be satisfied that the public notification requirements in section 8.6(3) of the *Biodiversity Conservation Act 2016* have been met and that further public notification is not required.

## 5.2 Serious and irreversible impacts

### Section 8.8 of the BC Act states that:

(2) If the Minister is of the opinion that the clearing of native vegetation and loss of habitat on land proposed for biodiversity certification is likely to have serious and irreversible impacts on biodiversity values, the Minister—

(a) is required to take those impacts into consideration in determining the application for biodiversity certification, and

(b) is required to determine whether there are any additional and appropriate measures that will minimise those impacts.

### 5.2.4 Discussion

The BCAR has identified that one entity, the Box-Gum Woodland CEEC, will be impacted by the proposed development. We note that the BCAR does not determine if an impact is a SAI – this is a matter for the decision-maker. The BCAR outlines the information regarding the SAI entity being impacted and justifies the impact.

BCD considers the impact on White Box – Yellow Box – Blakely's Red Gum Grassy Woodland and Derived Native Grassland CEEC meets Principle 1, as the community is nationally listed as critically endangered under the EPBC Act and critically endangered under the BC Act. The community has undergone extensive clearing throughout its range, resulting in remnants that are predominantly small and fragmented. It is estimated that less than 5% of the original distribution remains (Threatened Species Scientific Committee 2020). The proposed development will result in the removal of a total of 57.46 ha of BC Act listed Box-Gum Woodland.

The decision-maker is required to take the impacts on the SAI entity into consideration and determine if there are any additional and appropriate measures which will minimise these impacts.



The majority of the impact to the SAI is in areas that are highly modified examples of the community that have relatively low structural and floristic values. Zone 2 has a vegetation integrity score of 26.6 and zone 4 has a vegetation integrity score of 24.5 – these scores are out 100. The high quality and good condition examples of the community have been retained in the C2 land and Yellow Box Reserve where they will be protected and enhanced in perpetuity.

BCD consider the implementation of VMPs enforced via a BCA, will be sufficient to minimise the impact of the development on the SAI Box-Gum Woodland and we consider no further conservation measures need to be imposed on the conferral of this application.

## Recommendations

That the decision-maker determine, in accordance with section 6.5 of the *Biodiversity Conservation Act 2016*, that the clearing of native vegetation and loss of habitat on land proposed for biodiversity certification is likely to have serious and irreversible impacts on biodiversity values.

That the decision-maker, having taken those serious and irreversible impacts into consideration in accordance with section 8.8 of the *Biodiversity Conservation Act 2016*, determine not to impose additional and appropriate measures to minimise those impacts.

### 5.3 Biodiversity certification to be conferred only if approved conservation measures adequately address the likely impacts

An application for biodiversity certification must be accompanied by a BCAR and including a biodiversity certification strategy prepared in accordance with the BAM.

The BCAR and strategy has been reviewed by the Department of Planning and Environment (Environment and Heritage Group ) as documented in this recommendation report.

#### Section 8.7 of the BC Act provides that:

- (1) The Minister may confer biodiversity certification only if the Minister is satisfied that (having regard to the biodiversity certification assessment report) the approved conservation measures under the biodiversity certification adequately address the likely impacts on biodiversity values of the biodiversity certification of the land.
- (2) For the purposes of determining the approved conservation measures (including the number of credits that may be required to be retired), the Minister is to have regard to the biodiversity certification assessment report but is not bound by that report.
- (3) This section applies to the extension or modification of biodiversity certification under this Part in the same way as it applies to the conferral of biodiversity certification.

### 5.3.5 Discussion

The approved conservation measures for a standard biodiversity certification under section 8.3 of the BC Act is the retirement of credits. The development will require the retirement of 1084 credits which include impacts to two PCTs and one species credit species (see Appendix 3). BCD have reviewed the credit requirements and the associated calculations undertaken in the Biodiversity Assessment Method Calculator. The calculations are in accordance with the Biodiversity assessment method. The credit requirement is slightly higher than required due to an error in the mapping by the accredited assessor. The proponent has opted not to alter the credit requirement and will retire the higher amount of credits than required. These credits will be retired in accordance with the Biodiversity Certification Order and will be staged.

### 5.3.6 Biodiversity certification assessment report prepared in accordance with the BAM

#### **Section 6.13 of the BC Act provides that:**

For the purposes of the biodiversity offsets scheme, a biodiversity certification assessment report is a report prepared by an accredited person in relation to the proposed biodiversity certification of land under Part 8 that—

- (a) assesses in accordance with the biodiversity assessment method the biodiversity values of the land proposed for biodiversity certification, and
- (b) assesses in accordance with that method the impacts on biodiversity values of the actions to which the biodiversity offsets scheme applies on the land proposed for biodiversity certification, and specifies the number and class of biodiversity credits to be retired to offset those impacts as determined in accordance with that method, and
- (c) that specifies other proposed conservation measures on or in respect of other land to offset those impacts on biodiversity values and their value (in terms of biodiversity credits) determined in accordance with that method.

### **Discussion**

The Googong Township – Neighbourhoods 3 to 5 Biodiversity Certification Assessment Report (at Tab 2) was prepared by Sam Reid (BAAS20006) and Robert Speirs (BAAS17089) who are accredited in accordance with section 6.10 of the BC Act. The BCAR has been reviewed several times and BCD have determined the BCAR meets the requirement of the BC Act and is prepared in accordance with BAM (2017).

## 6. Decision to confer biodiversity certification

**Section 8.2 of the BC Act states that:**

### **8.2 Biodiversity certification**

The Minister may, by order published in the *Gazette*, confer biodiversity certification on specified land in accordance with this Part.

Section 8.5 of the BC Act sets out the grounds on which the Minister may decline to deal with an application for biodiversity certification or confer biodiversity.

### **8.5 Application for biodiversity certification**

(5) The Minister may decline to deal with an application for biodiversity certification or to confer biodiversity certification—

- (a) if the application for certification has not been duly made, or
- (b) if the Minister considers that insufficient information has been provided to enable the conferral of biodiversity certification, or
- (c) for any other reason the Minister considers sufficient.

## 6.1 Discussion

BCD have reviewed and accepted the application for biodiversity certification which was prepared by the accredited assessors. The application satisfies the requirements of the BC Act. The application for biodiversity certification **has** adequately addressed the requirements of the BAM and that the proposed conservation measures under the biodiversity certification adequately address the likely impacts on biodiversity values of the biodiversity certification of the land (Section 5.3 above).

The conferral of biodiversity certification should be subject to the terms of the proposed Ministerial order attached to the accompanying briefing note.

### **Recommendation**

That the decision-maker confer biodiversity certification on land specified in the order in accordance with section 8.2 of the *Biodiversity Conservation Act 2016* by signing and dating the decision report, and by signing and dating the order conferring biodiversity certification attached to the briefing note accompanying this report and approving its publication in the *Government Gazette*.



## Appendix A Native vegetation impacts and credit requirements (ecosystem credits)

**Table 7 Ecosystem credits required to offset the proposed biodiversity certification of land**

Impacted plant community type/ TEC	Area impacted (ha)	Number of ecosystem credits	IBRA subregion	Plant community type(s) that can be used under like-for-like offset rules
PCT 999 – Norton's Box Broad-leaved Peppermint open forest on footslopes, central and southern South Eastern Highlands Bioregion (not a TEC)	69.6	136	Monaro	Southern Tableland Dry Sclerophyll Forests This includes PCT's: 296, 299, 345, 349, 351, 352, 649, 652, 653, 700, 701, 727, 728, 729, 730, 888, 911, 912, 953, 957, 999, 1089, 1093, 1177
PCT 1334 – Yellow Box grassy woodland of the northern Monaro and Upper Shoalhaven area, South Eastern Highlands Bioregion	58.33	900	Monaro	

## Appendix B Species impact and credit requirements (species credits)

**Table 8** Species credits required to offset the proposed biodiversity certification of land

Impacted species	Area of habitat	Number of species credits	IBRA subregion
Pink-tailed legless lizard ( <i>Aprasia parapulchella</i> ) also known as pink-tailed worm-lizard	4.2 ha	48	Monaro

## Appendix C Credit summary

Credit requirement				Proposed offset measures
Ecosystem or species credit	Name of credit	Credit class	Number of credits required for land proposed for certification (A)	Retirement of credits or payment into the BCF
Ecosystem credit	PCT 999 – Norton's box broad-leaved peppermint open forest on footslopes, central and southern South Eastern Highlands Bioregion (not a TEC)	Southern Tableland Dry Sclerophyll Forests This includes PCT's: 296, 299, 345, 349, 351, 352, 649, 652, 653, 700, 701, 727, 728, 729, 730, 888, 911, 912, 953, 957, 999, 1089, 1093, 1177	136	Retirement of credits
Ecosystem credit	PCT 1334 – Yellow box grassy woodland of the northern Monaro and Upper Shoalhaven area, South Eastern Highlands Bioregion	N/A	900	Retirement of Credits
Species credit	<i>Aprasia parapulchella</i> / pink-tailed legless lizard (pink-tailed worm-lizard)	999_Zone_1, 999_Zone_2, 999_Zone_3, 999_Zone_4, 999_Zone_5, 1334_Zone_2, 1334_Zone_4	48	Retirement of credits



## References

Biosis (2014) '[Googong foreshores interface management strategy – version 3](#)', prepared for Googong Township Pty Ltd by R Speirs, Biosis Pty Ltd, Canberra.

Capital Ecology (2019) Googong township – neighbourhoods 3 to 5: draft biodiversity certification assessment report, version 2, Capital Ecology, report prepared for Googong Township Pty Ltd, Gungahlin, ACT.

Capital Ecology (2021) '[Googong township – neighbourhoods 3 to 5: draft biodiversity certification assessment report](#)', version 7, Capital Ecology, report prepared for Googong Township Pty Ltd, Gungahlin, ACT.

Department of Planning and Environment (2017) '[South-east and tableland regional plan 2036](#)', NSW Government

NSWLEC (2021) White v Ballina Shire Council 2021, NSW LEC 1468, available through [BarNet Jade webpage](#).

OEH (Office of Environment and Heritage) (2017) *Biodiversity assessment method*, OEH, Sydney South.

Threatened Species Scientific Committee (2020) [Commonwealth Listing Advice on White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland](#), Department of Environment and Heritage, Commonwealth of Australia.

## More information

[PEET Googong compliance webpage – NSW Biodiversity Conservation Act](#) (links to draft BCAR and, once finalised, the final BCAR)