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BUSINESS PAPER

Ordinary Council Meeting

16 May 2023

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Chief Executive Officer

16 REPORTS TO COUNCIL FOR DETERMINATION**16.1 REVIEW OF THE SOUTH GOULBURN THREATENED SPECIES MANAGEMENT PLAN**

Author: Environment & Biodiversity Assessment Officer
Director Planning & Environment

Authoriser: Aaron Johansson, Chief Executive Officer

Attachments: 1. South Goulburn Threatened Species Management Plan (separately enclosed) 

Link to Community Strategic Plan:	1. Our Environment EN1 Protect and enhance the existing natural environment, including flora and fauna native to the region.
Cost to Council:	Nil
Use of Reserve Funds:	Nil – Council is already responsible for the management of Council owned assets within the current operational budget. The preparation of a management plan for this vegetation would be undertaken by staff.

RECOMMENDATION

That:

- 1) The report on the review of the South Goulburn Threatened Species Management Plan by Council's Environment and Biodiversity Officer be received.
- 2) Council adopt the "South Goulburn Threatened Species Management Plan Review" April 2023, including the list of recommendations being to:
 - a) Implement measures to identify and protect remnant Box Gum Grassy Woodland in the South Goulburn area, as far as is reasonably practicable.
 - b) Develop and implement a management plan for remnant Box Gum Grassy Woodland on Council owned land.
 - c) Implement a program to raise community awareness of the conservation value and significance of remnant Box Gum Grassy Woodland in the South Goulburn area, and within the local government area (LGA).
 - d) Encourage the use of locally occurring native plant species representative of the Box Gum Grassy Woodland ecological community in landscaping projects in the local area.
 - e) Ensure that all decision makers involved in development of the area are advised of the presence of the Critically Endangered Ecological Community and the threatened species it sustains, and the legislative requirements to protect these.
 - f) Continue to liaise with and seek advice from NSW Department of Planning and Environment, Biodiversity and Conservation, about the protection and management of remnant Box Gum Grassy Woodland.
 - g) Continue to monitor extent and condition of remnant Box Gum Grassy Woodland in the South Goulburn area.
 - h) Ensure that this report is reviewed and updated regularly, and with no more than 5-year intervals between reviews.

Section 375A of the *Local Government Act 1993* requires General Managers to record which Councillors vote for and against each planning decision of the Council, and to make this information publicly available.

BACKGROUND

In 2004 Council engaged an ecologist, Rodney Falconer, to identify and assess the importance of remnant “Box Gum Grassy Woodland” in the South Goulburn area. The results of this ecological assessment were summarised and presented as a plan to Council (*South Goulburn Endangered/Threatened Species Management Plan November 2004*) and adopted by Council in November 2004.

Since 2004 there have been significant changes to legislation relating to biodiversity and further development of the South Goulburn area. In 2022 Council resolved that the 2004 report and mapping be reviewed and updated as required following outcomes of an ecological survey and in consideration of legislative changes.

This report follows the preparation of the “*South Goulburn Threatened Species Management Plan Review*” April 2023 (**Attachment 1**). This report recommends adopting the 2023 Review and recommendations for the management and protection of remnant native vegetation in the subject area.

REPORT

South Goulburn Threatened Species Management Plan 2004

In 2004 it was identified that remnant pockets of open Box Gum Woodland existed but that these were degraded and at risk of further clearing due to on-going development of the area. The report recommended specific management and conservation actions, including a Strategic Vegetation Protection Framework advocating the retention and restoration of remnant vegetation and trees where possible, and creation of canopy links to enhance landscape connectivity for arboreal fauna.

Sixteen (16) key areas were identified in this report and in the accompanying *Action Plan (Canopy Corridor)*. Although the 2004 plan was focussed primarily on identifying the locations of key threatened/ecological vegetation communities within the South Goulburn area, it also identified the importance of remnant vegetation at Ridge Street/Mary Street in West Goulburn, and the benefits of creating canopy links from remnant Box Gum Woodland in the South Goulburn area to this locally important reserve, now known as the West Goulburn Bushland Reserve.

The key areas and connectivity between the remnant vegetation community are identified in Figure 1 below.

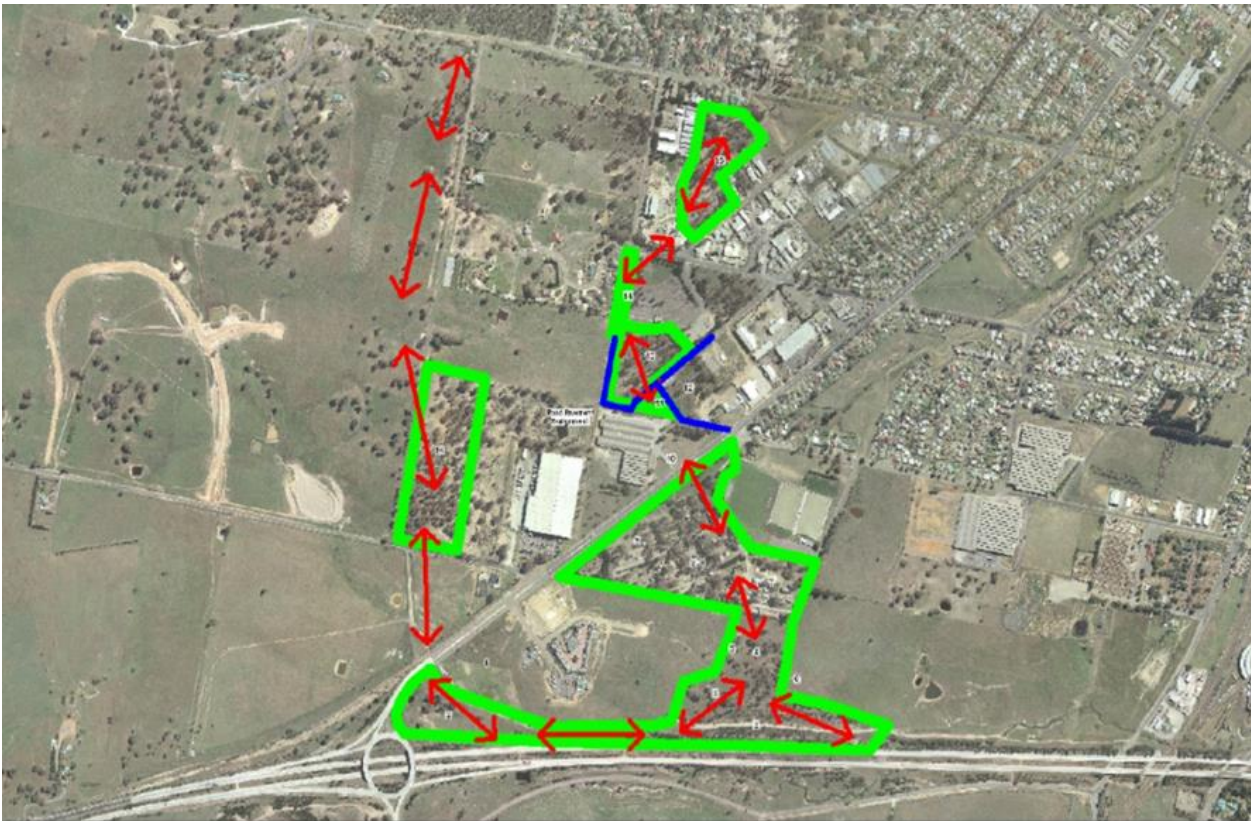


FIGURE 1: Rodney Falconer's Proposed Strategic Vegetation Protection Framework

Recommendations included both retaining and restoring existing native vegetation and establishing a vegetation link along Carr Street.

Review Outcomes

1. Legislative Framework

There have been significant changes to the management of native vegetation which have been made in NSW since 2004. The *Biodiversity Conservation Act 2016* replaced the *NSW Threatened Species Conservation Act 1995* and the *Local Land Services Act 2013* replaced the *Native Vegetation Act 2003*.

The introduction of Biodiversity Conservation (BC) Act resulted in a major shift in the way native vegetation is managed. The BC Act introduced the principle of avoidance, then mitigation, and offset. It also introduced a native vegetation offset scheme that puts a price on the value of native vegetation, so that in instances where avoidance is not possible there is an alternative framework where species or vegetation community credits may be purchased to facilitate the regeneration of the specified community/species on a stewardship site. It is important to note that avoidance in some instances is the only pathway. Typically, at a strategic level (such as with planning proposals), avoidance must be undertaken unless it is proven to be unavoidable and the zoning change is to facilitate critical infrastructure, public safety etc. This is also the case for approvals under Part 5 of the *Environmental Planning and Assessment Act 1979* (review of environmental factors – REFS). There are also instances where the species or vegetation community is listed as critically endangered and is identified as being at risk of Serious and Irreversible Impact (SAIL).

Furthermore, the *Commonwealth Environmental Protection and Biodiversity Conservation Act 1999* (the EPBC Act) also applies and has its own list of endangered vegetation communities and species. Box Gum Grassy Woodland is listed as a Critically Endangered Ecological Community (CEEC) under both the Commonwealth EPBC Act and the NSW Biodiversity Conservation Act.

Advice received from the NSW Department of Planning and Environment (Biodiversity and Conservation Team), is that clearing of any area of the identified CEEC in the local area comprises a significant impact and that any such activity will trigger entry into the Biodiversity Offsets Scheme and hence the requirement for a BDAR (Biodiversity Development Assessment Report) to be prepared by a BAM (Biodiversity Assessment Method) Accredited Assessor.

Box Gum Grassy Woodland is also listed in NSW as a SAIL Entity (at risk of Serious and Irreversible Impact - SAIL)

A consent authority cannot approve any activity that is likely to have a serious and irreversible impact on a SAIL entity, unless the authority considers that this type of impact is outweighed by the social and economic benefits that the development will deliver to the State.

Essentially this means that any site found to contain Box Gum Grassy Woodland must be assessed using the framework as set out in the NSW BC Act and Commonwealth EPBC Act. If Box Gum Grassy Woodland and Derived Native Grassland is identified it triggers the avoidance, mitigation, or offset pathway (as applicable to the development that triggered the assessment). This means that the subject site or area is required to be surveyed at the appropriate time of year (spring) to determine the presence of this community. Accordingly, the subject area (as originally mapped in the 2004 Plan) has been resurveyed during spring and early summer of 2022/3.

The implication of the subsequent legislation is that there is a legislated framework now which is stronger than the one which existed in 2004. This framework requires the identification of vegetation (via a specific methodology) and then where such listed or native vegetation is found the application of the avoidance, mitigation, or offset principle, noting that where SAIL entities occur generally avoidance is the appropriate response unless a relatively high bar of public benefit can be established.

Given the change in legislation there are protections in place in a legal framework for the South Goulburn area where "Box Gum Grassy Woodland and Derived Native Grassland" occurs.

2. Re-survey of Subject Area

Since 2004, there has been significant further development of the South Goulburn area and a continual loss of remnant trees and native vegetation. Areas that were recommended to be restored and revegetated to provide canopy connectivity have not been revegetated.

Council's Environment and Biodiversity Officer conducted ecological surveys of each of the areas identified in the 2004 Plan on three different days during September 2022 through to December 2022. This was to ensure that survey work was undertaken at the most appropriate time (spring and early summer) for the identification of native plant species. Appendix C of the 2023 Review provides survey dates and lists of native species (flora and fauna) found on each site during the survey period.

The survey work has identified and confirmed the presence of Box Gum Grassy Woodland and Derived Native Grasslands within the subject area (Figure 2). Additionally, the Hoary Sunray, listed as Endangered under both the Commonwealth EPBC Act and the NSW Biodiversity Conservation Act, was found to be present on two sites, including the Cathcart Street Unformed Road Reserve.

Some parcels of land that were in Council ownership in 2004 have since been sold and have been cleared or are proposed to be cleared. At the present time, only approximately 2.6 hectares of remnant vegetation is owned by Council (Figure 3). Recommended actions such as the proposed creation of a vegetation corridor along Carr Street have not been successful.

Whilst Council had rezoned the land along Carr Street in 2009 to C4 Environmental Living with a relatively higher minimum lot size, the private ownership and subsequent residential development of various lots has resulted in a net loss of vegetation over time.



FIGURE 2 – Remaining areas of Box Gum Grassy Woodland (following 2023 review of the area studied in 2004).



FIGURE 3 – Remaining areas of Box Gum Grassy Woodland (following 2023 review of the area studied in 2004) in Council ownership.

On one site, an Aboriginal Marked Tree was identified, and this is now registered on the AHIMS (Aboriginal Heritage Information Management System) database.

3. Removal of remnant Box Gum Woodland

Whilst the extent and quality of some native vegetation communities within the study area has diminished since 2004, the 2023 Review has established the presence of Box Gum Grasslands Woodland and Derived Native Grasslands on sites within the subject area, particularly on land that remains in Council ownership.

Due to the identification of the presence of this CEEC, removal of remnant Box Gum Grassy Woodland from any land in the South Goulburn Area, including Council owned land, will require a biodiversity Assessment Report (BDAR) and the need to obtain and retire the relevant Biodiversity Offset Credits. Furthermore, the removal of an SAI entity would need to demonstrate a social and economic benefit to the State.

Next steps

In summary, there is a protective legislative framework in place, however, over time there has been a loss of “Box Gum Grassy Woodland and Derived Native Grasslands” within the subject area. The best coverage remains on land which is predominantly in Council ownership except for land on the southeastern side of Carr Street and land on the southern side of Theatre Drive.

The 2023 Review provides the following list of recommendations that Council:

- Implement measures to identify and protect remnant Box Gum Grassy Woodland in the South Goulburn area, as far as is reasonably practicable.
- Develop and implement a management plan for remnant Box Gum Grassy Woodland on Council owned land.
- Implement a program to raise community awareness of the conservation value and significance of remnant Box Gum Grassy Woodland in the South Goulburn area, and in the LGA as a whole.
- Encourage the use of locally occurring native plant species representative of the Box Gum Grassy Woodland ecological community in landscaping projects in the local area.
- Ensure that all decision makers involved in development of the area are advised of the presence of the Critically Endangered Ecological Community and the threatened species it sustains, and the legislative requirements to protect these.
- Continue to liaise with and seek advice from NSW Department of Planning and Environment, Biodiversity and Conservation, about the protection and management of remnant Box Gum Grassy Woodland.
- Continue to monitor extent and condition of remnant Box Gum Grassy Woodland in the South Goulburn area.
- Ensure that this report is reviewed and updated regularly, and with no more than 5-year intervals between reviews.

All land outside of Council's ownership that still contains this CEEC in 2023 has an environmental zoning (either C3 Environmental Management or C4 Environmental Living). So, there is nothing further in the way of legislative or zoning protection that can be offered.

The main way that Council can protect these areas is with an appropriate management regime. This can be prepared as a part of the Bushland Plan of Management or undertaken separately to inform the ongoing management of these sites in the interim.

CONCLUSION

In conclusion this review has found that several sites identified in the 2004 report have since been cleared or are in the process of being cleared. Approximately one quarter of remnant vegetation identified by Falconer as being ecologically important has been removed since 2004. Furthermore, retention of significant areas of remnant vegetation and creation of canopy links as recommended by Falconer has not been implemented.

In sites where Box Gum Grassy Woodland remains, the canopy trees remain and are mostly in good health, but the groundcover layers are mostly highly degraded and weed infested. However, there is potential for restoration of these sites. Furthermore, the Hoary Sunray, listed as Endangered under both the Commonwealth EPBC Act and the NSW Biodiversity Conservation Act, was found to be present on two sites, including the Cathcart Street Unformed Road Reserve.

At the present time (2023), only approximately 2.6 hectares of remnant Box Gum Grassy Woodland vegetation in the South Goulburn area is owned by Council. This remnant native vegetation provides habitat for several threatened fauna species.

Despite the degraded condition of the remnant Box Gum Grassy Woodland in the South Goulburn Area, the vegetation in these areas comprises a Critically Endangered Ecological Community listed under Schedule 2 of the NSW BC Act 2016 (*White Box - Yellow Box - Blakely's Red Gum Grassy Woodland and Derived Native Grassland in the NSW North Coast, New England Tableland, Nandewar, Brigalow Belt South, Sydney Basin, South Eastern Highlands, NSW South Western Slopes, South East Corner and Riverina Bioregions*).

Advice from Department of Planning and Environment - Biodiversity and Conservation is that removal of any areas of this CEEC constitutes a significant impact on the local occurrence of the ecological community and that this will require preparation of a BDAR (Biodiversity Development Assessment Report) by a BAM (Biodiversity Assessment Method) accredited assessor.

It is recommended that the recommendations of the 2023 review be adopted and implemented to ensure the ongoing maintenance and protection of the critically endangered Box Gum Grassy Woodland community where occurring in South Goulburn. These recommendations will also be beneficial for Council's understanding of how to manage this community where occurring on land generally within the local government area (LGA).