
From: Strini Pillai
Sent: Monday, 3 June 2024 4:56 PM
To: Portfolio Committee 7
Cc: GLALC CEO; Melissa Williams
Subject: RE: Inquiry into the planning system and the impacts of climate change on the environment and communities - Post hearing responses
Attachments: Email to Legislative Council_NSW Parliament_6 May 2024 QON response Final.docx; Gandangara Comments on CPCP_Final 3 June 2024.docx



Dear David,

See attached:

- 1) Word document with changes to transcript and evidence for the first query on Transcript Page 3
- 2) The GLALC comments of the Cumberland Plain Conservation Plan in response to the second transcript query of Page 5

Happy to provide further information about First Peoples Cultural and Heritage perspectives which is the core of Gandangara Local Aboriginal Land Councils

mission.

Kind regards

"in the right hands, every frustration is a seed for growing excellence"

Strini Pillai

Program Manager – Heritage, Ecology and Land Manager
Gandangara Local Aboriginal Land Council

Gandangara Local Aboriginal Land Council acknowledges the Families of the Cabrogal Clan of the Darug Nation as the Traditional Custodians of the lands we span. GLALC pays respects to Elders past, present and emerging. Gandangara Local Aboriginal Land Council continues to value the generations of knowledge Aboriginal people embed within our organisation.

Changes to transcript

1. Page 2, last paragraph, third sentence should read:

And, with claiming Crown lands, we planned to zone **large portions of it** as C2 land.

2. Page 5, paragraph 5, sentence 3 should read:

The existing land, the 1161 ha, for instance, in Sutherland, and the land that we are claiming, the plan is to ensure that large portions of the land is zoned as C2.

Answer to query 1 in the transcript

Page 5, paragraphs 4 and 5

These examples are not limited to the two councils below. There are examples of riparian zone vegetation clearing and encroachment outside of Gandangara borders as well.

Liverpool Council

1. <https://arcg.is/uX0rK>

The Guidelines of riparian management from the DPI produces a riparian zone based on a formula. The formula itself is Frontier Science and is in question. Additional to the legislated reduction of riparian zones, Liverpool Council has defied the guidelines and allowed even greater encroachment into the riparian reserve.

The endangered CPW has been cleared completely. See North of Jedda Road, the Order 3 Maxwells creek ought to be 30m on either side of the channel, however it reduces to 13.4m on the western flank and 15.1 m on the eastern flank. With expected sea level rise, these developments have deliberately been placed in a flood zone.

2. <https://arcg.is/nDv5u0>

Overdevelopment is responsible for too much runoff for the overly reduced riparian zones. The endangered Cumberland Plain Woodland, publicised on all Metro LGA and state websites, is the natural control to reduce volume and velocity, however, the endangered PCT has been all along riparian zones.

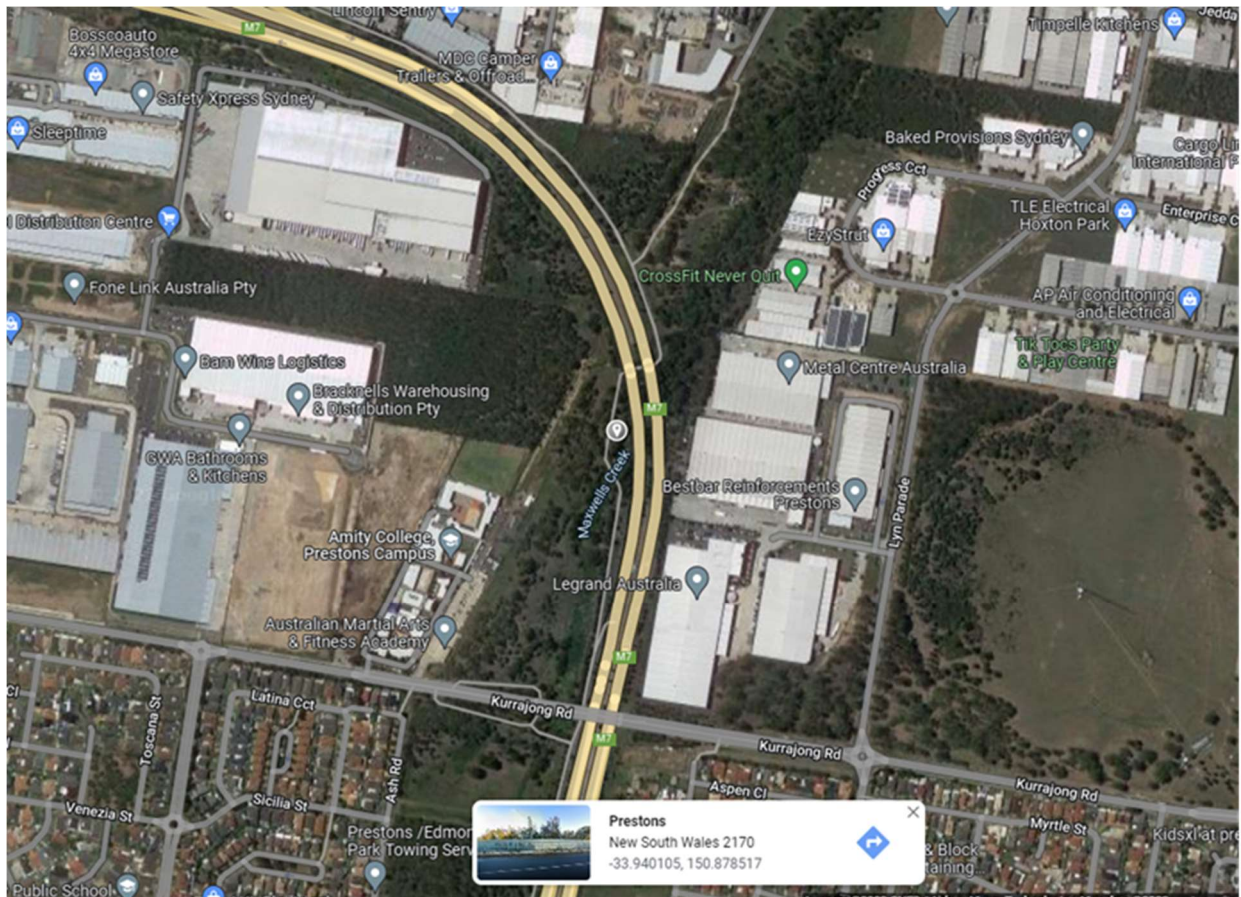
Ironically, The LGA (the consent authority) publicises that CPW is endangered.

3. M7 Widening Project – Construction Pad across a creek

The Program Manager sent an email to Liverpool Council on Tue 20/09/2022 11:06 AM to alert them that they had approved:

- a. building a Construction Pad in a conservation area (C2@B9817)
- b. building a Construction Pad across a waterway and riparian zone and,
- c. Removing endangered PCT's to create the Construction Pad.

No response was received.



Cumberland Council

1. Map 1: <https://arcg.is/1mPXOO2>

More examples: <https://arcg.is/1S1eXi1>, <https://arcg.is/1zC4On>, <https://arcg.is/0a5iHr> ,
<https://arcg.is/0DPWYf>

Map 1: Within Cumberland Council jurisdiction, the Order 2 Duck River ought to be 20m on either side of the channel, however it reduces to 10 m on the eastern flank, well within the DPI guidelines.

There are many more examples along Duck River where endangered CPW has been cleared and no revegetation works have been planned. Ironically, The LGA (the consent authority) publicises that CPW is endangered.

2. <https://arcg.is/11aujL>

There are also many instances where pathway that runs parallel to Duck River was built well within the riparian zone. The DPI Guidelines for Riparian Management applies another spurious formula called “The Averaging Rule” when developers allowed to build within the riparian area. In this example, where was the “The Averaging Rule” applied?

Page 3, Paragraphs 4, 5 and 6

See Cumberland Plain Conservation report

Comments on the Cumberland Plain Conservation Plan

Gandangara's position

Gandangara Local Aboriginal Land Council (LALC) has statutory authority over 6 LGA's; Liverpool, Fairfield, Canterbury-Bankstown, Parramatta, Cumberland, and the Sutherland Shire, and an obligation to protect the cultural heritage within the boundaries of the LALC. To date, given the overdevelopment in 5 of the LGAs and the more than 1200 tons of development waste dumped on the Gandangara owned open bushland in the 6th LGA, Gandangara wishes to raise custodial concerns for Holistic Heritage Preservation.

Holistic Heritage Preservation aims to protect everything that the Aboriginal Culture is borne from i.e., abiotic landforms, waterways, soil, and all biota (vegetation, wildlife). Large aspects of Aboriginal Culture are borne of the natural environment. The high levels of development occurring around Western Sydney is essentially cutting down the existing culture through this drastic modification of the natural landscape and replacing it with a foreign one.

Orientation

This is a development plan, not a conservation plan. If the concern for Cumberland Plain woodland is critical, why are areas that have been previously deforested being developed and not reforested?

Furthermore, while the plan may present an intention, the implementation of such plans often differs as management and contractors reduce their cost-to-complete and increase profit margins. Thus, based on the current implementation of previous plans viz., the SEPP 2011, the following concerns need to be raised.

Issues

Remnant forest in previously owned land purchased for development.

Since this is the "Cumberland Plain Conservation Plan," remnant vegetation within the critically endangered Plant Community should not be removed. The ground stratum may be easier to collect seed from and relocate however trees cannot. Even advanced-growth stock does not provide the same ecological services as a mature tree and will not for decades. Furthermore, remnant soils under remnant vegetation are as rare as the vegetation itself.

Stormwater management

CPW is best preserved in large expanses rather than in small, fragmented pockets where initial populations are too small. Fragmented pockets are destined for obvious extinction due to Allee effects. SEPP 2011 confines native trees to riparian zones which includes the Wildlife Corridor Connectivity plan. The shocking result of this plan is evident in Fig. 2, which highlights the demolition of more CPW communities throughout Sydney.

Riparian Zone management

Riparian zones are mechanically engineered, resulting in the unnatural alteration of the natural landforms. Slopes are molded by large earthmovers by cutting through soil profiles as per cut-and-fill maps. During this engineering phase, erosion, sedimentation, and turbidity are highest, and as a result, water quality suffers in Sydney, in particular from salinity. However, just like CPW conservation status, these negative impacts are widely publicized, but development goes on undeterred.

The Strahler system provides a basis for riparian zone management; however, it does not provide enough space for ecological services to sustain terrestrial and aquatic fauna, and water quality. Given

that Australia agreed to meet the objectives of the Sustainability Development Goal 2030 and has targets to hit by 2050, the on-ground results are disturbing. Refer to Fig. 2 for the obviousness of the failure of this approach. The following is unclear:

- I) How was the amount of necessary ecological services measured?
- II) How was the necessary area for eco services required in a RZ determined?
- III) How did ecologists justify The Averaging Rule (Fig 1) in the inner 50% of the RZ given the questions above?

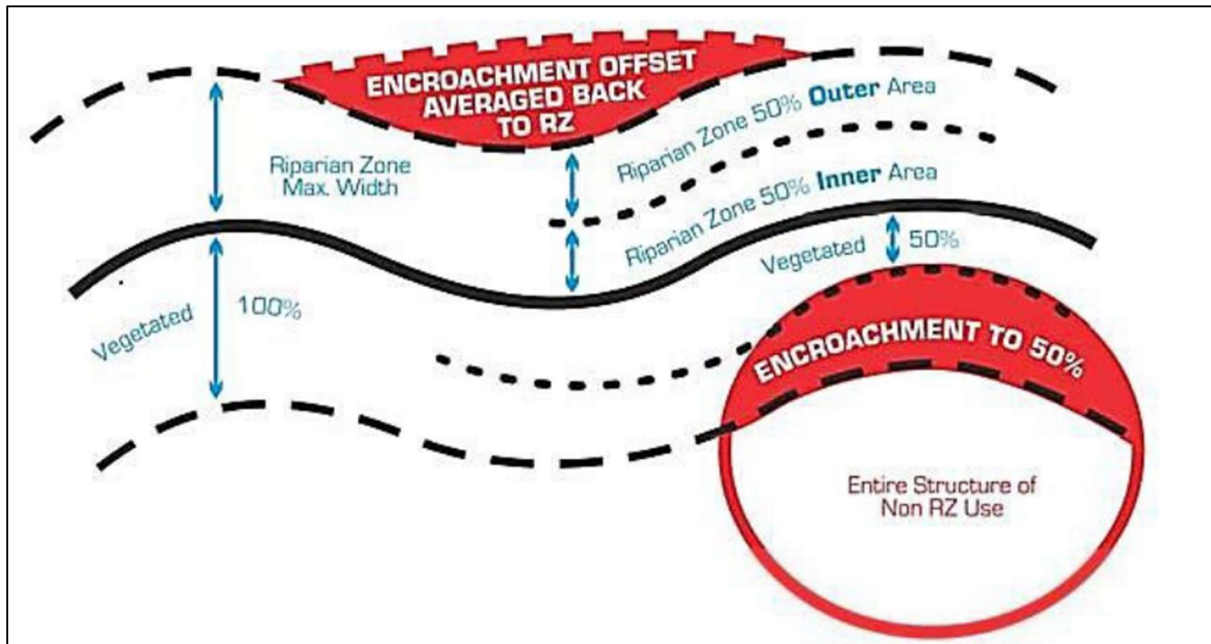


Figure 1: The Averaging Rule

Public use of Riparian Zones

From the middle of the RZ, the outer 50% of the RZ may have cycleways and paths up to four meters wide. The entire area is essentially a green space developed for instrumental use and disregards the intrinsic value of the Cumberland Plain Woodland. The government has had to buy back homes built in riparian zones to the tune of \$70 billion.

Please advise if LGAs will be approving any more developments in riparian zones? We are aware of many projects.

Revegetation of riparian zones

Two problems exist with seed collection.

Seed Collectors do not collect from all available remnant species but find it more efficient to collect a larger amount from a few specimens. Most often, in the substrate engineering process, vegetation and seedbanks are destroyed. Thus, the gene pool of critically endangered CPW is further reduced.

Furthermore, seed collectors for nurseries find it more efficient to collect seed from already revegetated riparian zones than the development area even when remnant species exist on the development site. The diversity and abundance of natives in proximity on revegetated sites are more cost effective. Thus, the same previously collected genetic material is recycled through nurseries while more remnant vegetation is destroyed.

Combined, these two problems further compound the Cumberland Plain Conservation Crisis.

Why do we not cut down trees?

Why we “should or should not cut trees” is not dependent on a technocratic decision concluded around a table in government, but rather an exospheric reason. All life, including human life, on the continent depends on. The continent is Pyrophytic, faces the sun at 90 degrees due to the earth’s tilt and receives harsh sunlight. Trees have developed over 62 million years to stay evergreen and keep temperatures down so life can thrive. Removal of temperature regulators and carbon sequestrators will increase temperatures in Sydney. This irresponsible practice also affects global temperatures and aggravates global warming and climate change issues. Australia signed international treaties since 1972 at World Summits and pledged to prevent these very issues.

<https://westernweekender.com.au/2023/03/penrith-records-hottest-march-day-in-25-years/>

Wildlife

“The number of species at risk of extinction continues to rise. As at 2020–21, 1,043 species and 115 ecological communities are listed as threatened under NSW legislation including 78 species declared extinct. There has been a general pattern of decline in species diversity in NSW since European settlement.”

<https://www.soe.epa.nsw.gov.au/all-themes/biodiversity/threatened-species#:~:text=The%20number%20of%20species%20at,incl%2078%20species%20declared%20extinct.&text=There%20has%20been%20a%20general,in%20NSW%20since%20European%20settlement.>

Wildlife depends on land and vegetated areas, especially riparian areas, for habitat, water, and food. It is well known that hollows in trees only begin to form between 100-150 years.

(<https://www.environment.nsw.gov.au/resources/nature/landholderNotes01TreeHollows.pdf>)

Burrowing animals and micro-fauna require a mature, healthy, and stable soil system to occupy a space. Riparian re-engineering upsets the balance and essentially either kills or forces out native fauna. Compacted soils can take many years to recover and stunt revegetation, and therefore limit habitat. Revegetated areas, in general, will take decades to reach a biocapacity level to support life. Please note: As is, green spaces are rare (see Fig. 2). Furthermore, even where remnant trees are preserved, small, fragmented areas can only sustain a small number of tree dwelling species. Limited space increases intra and inter species competition, predation, and roadkill.

Ecological services

See Fig. 2., which identifies minimal green spaces among hard, cemented surfaces as a clear juxtaposition to the list below.

The following services are compromised:

1. Provisioning
 - a. Food sources
 - b. Water – Water quality, and thus the aquatic ecology is already critically compromised
<https://georgesriver.org.au/learn-about-the-river/georges-river-pollution#:~:text=Georges%20Riverkeeper%20collects%20over%20100,become%20bound%20to%20plastic%20surfaces>
 - c. Air - Air pollution in NSW causes 603 premature deaths and costs \$4.8bn a year
<https://www.theguardian.com/australia-news/2023/mar/15/air-pollution-in-nsw-causes-603-premature-deaths-and-costs-48bn-a-year-study-finds#:~:text=1%20month%20old->

[Air%20pollution%20in%20NSW%20causes%20603%20premature%20deaths%20and%20a%20year%2C%20study%20finds&text=Air%20pollution%20in%20New%20South,a%20long%2Dterm%20government%20study.](#)

2. Regulating
 - a. climate regulation, and other natural hazard regulation, pollination, water purification, pollination by wind and insects
 - b. flood regulation - <https://www.theguardian.com/australia-news/2023/jan/30/flash-flooding-traps-sydney-drivers-in-their-cars-after-torrential-rain-hits-city>
 - c. SDS report – Australia is off-track to achieving the SDGs in 2030 and would achieve about 40 per cent progress on all SDG targets
<https://newsroom.unsw.edu.au/news/science-tech/%E2%80%98missed-opportunity%E2%80%99-australia-fall-short-sustainable-development-goals-2030#:~:text=%E2%80%9COur%20results%20reveal%20that%20if,tar%20get%20s%20%E2%80%9D%20Mr%20Allen%20said.>
3. Cultural
 - a. Identity, spiritual enrichment, intellectual development, recreation and aesthetic values and consumables for ongoing cultural practices and medicine
4. Supporting services
 - a. Healthy habitat functions comprising photosynthesis, the water and air cycle and nutrient cycles.

Impacts of urban sprawl

The increase of dumping of development waste (HazMat and asbestos) from overdeveloped LGAs have ironically found its way onto GLALC land set aside for Cultural Practices in Sutherland. GLALC not only has to foot the bill, but also has pressure from residents and government authorities to clean up the mess others have profited from. Please advise if this development plan, the CPCP, has a parallel reactive plan for the next 33 years to manage waste. Also, what is the proactive plan to educate the NSW population about dumping, and dumping on Cultural lands? Please advise whether LGAs and regulatory authorities will be managing this waste management plan correctly?

Holistic Heritage Preservation

Current heritage studies undertaken within the Greater Sydney Region are predominantly development driven studies, which are limited to the scope of the proposed development. This provides bias in the data collected and limitations to archaeological investigations that are conducted. While archeological finds are provided with a certain level of protection under the current legislation, AHIPs are consistently being granted to destroy these sites. This includes the movement of artefacts, destroying the story and context of the sites. Anthropological studies are ignored by NSW authorities, with no specific requirement in the legislation for consideration of the anthropological connection of First People and Torres Strait Islanders peoples with the land and in particular specific areas, locations and/or landforms. For a Storytelling culture, the lack of acknowledgment and protection that is allowed under current NSW legislation for the protection of intangible heritage values is detrimental to the ongoing conservation of the Aboriginal culture. Furthermore, Eco-Heritage (natural heritage) is not respected in the development process, although provided limited protections under the 1987 amendments to the NSW Heritage Act 1977.

The current process is inadequate.

- Surface checks are limited, with an extensive scientific site survey not a requirement under the *Due Diligence Code of Practice for the Protection of Aboriginal Objects* (DECCW 2010).
- Test excavations are limited to the size of the test pit and excavation layout, meaning in many circumstances they are not comprehensive assessments. The limitation in current legislation to test only 0.5% of a potential archaeological deposit is restricting the results obtained and therefore the conclusions made.
- Multiple techniques are not used to increase certainty. While the confined spaces legislation restricts the depth to which a test pit can be excavated, there are other methods that could be used to obtain samples of stratigraphy below the hand excavation limits (for example auger core samples).
- AHIMS is a place to start, however is not a definitive record of all archaeological sites at a location. The AHIMS database holds only a record of previously identified and recorded Aboriginal heritage sites and does not account for sites that have not been identified and recorded as an archaeological site. If an area does not have any AHIMS sites registered it does not identify an absence of archaeological material, likely representing an area where no previous research or assessment has occurred.
 - The results of previous studies around the Cumberland Plain have allowed archaeologists to develop a concise predictive model of the region (see White and McDonald 2010). For example, the results of Jo McDonald CHM 2005 have found that there is a ubiquitous presence of lithic artefacts across the landscape of the Cumberland Plain. These are present in small quantities at minimum, however multiple larger sites representing ongoing use are also present. It is clear from the results of previous archaeological investigations that there is high potential for Aboriginal sites to occur across the entirety of the Cumberland Plain, highlighting the limitations of the AHIMS search results.
- No consideration is made for paleontological studies. This is another discipline that is not covered by legislation in NSW and there are no current requirements for consideration.
- Post inadequate checks, massive amounts of soil are translocated as per cut and fill mapping without Cultural monitoring, and in some cases proper assessment. All cut and fill activities, including laydown areas and stockpiling sites should be included in any heritage assessments being conducted.

The “unexpected finds” protocol is the only alternative; however, it can only be applied after damage (and destruction to some level) has occurred and may not be reported due to risk of bad publicity or affecting project cost and timing. In many cases unexpected finds are not reported as the person working on the ground has not had sufficient inductions enabling them to identify Aboriginal objects and/or archaeological features.

National Asset Protection

Wildlife, vegetation, archeological and anthropological values are National assets and have international interest as well. These assets require effective conservation during this period of development and expansion, as has been identified through the drafting of this conservation plan.

The extent to which these conservation principles are applied is, however, considered inappropriate when considering the wide range of values and significance that is at risk of destruction.

International Agreements

Australia has failed the Sustainability Goals. The Human Development Index is remarkably high, but ecological preservation is the worst in the world. Furthermore, Australia refused to sign the United Nation Declaration of Rights of First People and Torres Strait Islanders People (UNDRIP).

Summary of issues

The following broad criticisms are based on Cultural Lore and natural laws.

Issues that Gandangara would like to see protected:

- Protect any endangered ecological communities.
- Protect and increase the numbers and diversity of macro and micro fauna.
- Revegetation is not an equivalent to removed remnant CPW. Older established trees provide ecological services and have developed hollows important for nesting sites for native birds/animals under the Biodiversity Conservation Act 2016 (NSW) in which it is illegal to disturb the essential habitat of native birds which are protected species.
- The trees and understorey provide ecological services like water and air processing that benefits the surrounding community in the way of flood management and clean air.
- The trees themselves include species which are protected as critically endangered ecological community, thus ALL of the biota belonging to this ecological community is critically important to protect.
- This green belt is a crucial connection to along Georges River and provides an open floodplain for crucial natural recycling to occur. Waterways cannot exist merely as thin slivers because biota risk Allee effects and inevitable extinction. Refer to Figure 2.
- Overdevelopment of the green spaces is a contravention of the Rio Declaration (1992).
Based on the three goals of the RD,
 - The conservation of biological diversity is contravened.
 - Further reduction of a critically endangered Ecological community is not sustainable use of the components of biological diversity, and,
 - Benefits to the developer and homeowners does not outweigh the benefits to First People and Torres Strait Islanders Peoples' Cultural Preservation, the public safety in the region and the extinction of hundreds of species within the ecological community for the country, and the world.
- Green spaces process rain falls. Concrete pipes leading directly into the river do not adequately process this volume of run off thereby contributing to the significant flooding events observed throughout the Sydney region during periods of high rain fall. It is estimated that the recent flooding events in 2022 and 2023 have cost approximately \$3.35 billion in damage to the areas affected in South-East Queensland and Coastal NSW.
- Increased consequences because of green space development
 - concrete increases chemical runoff into the already degraded Georges River. The DPE's Water Program is compromised.
 - As a result of high density housing and lack of green spaces, thermal retention is already a threat and further development adds to the urban heat effect
<https://www.climatechange.environment.nsw.gov.au/urban-heat#:~:text=The%20urban%20heat%20island%20effect%20occurs%20because%20urban%20environments%20tend,radiated%20into%20the%20surrounding%20area.>
 - Increased population and hard surfaces increase litter passing into the waterways.

- Reduced water processing space
- Increased risk of extinction of riparian vegetation
- Reduced living space for riparian dependant wildlife.
- The Georges River, along with other urban waterways already suffer from greatly degraded water quality as a result of urbanisation resulted from unprocessed runoff and uncontrolled human activity e.g., the application of pesticides, in appropriate disposal of or accidental spillage of automotive chemicals.

Conclusion

The conservation of Cumberland Plain Woodland has to date been a post development ornamental practice. Uses of green spaces have been Instrumental and the intrinsic value of vegetation, and supporting ecological values, are ignored. While warnings exist on government websites, government bodies ignore their own information in favour of the deliberate destruction of what they are meant to protect. Treaties and plans are signed and transgressed. The fruit of government's priorities harmonized with the rejection of UNDRIP in 2007.

This is the status quo. How will the CPCP address these concerns?

Additional references

White, B. and J. McDonald. 2010. Lithic artefact distribution in the Rouse Hill Development Area, Cumberland Plain, New South Wales. In *Australian Archaeology*, 70(1), pp.29-38.

DECCW. 2010. Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010.

DECCW. 2010. Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales.

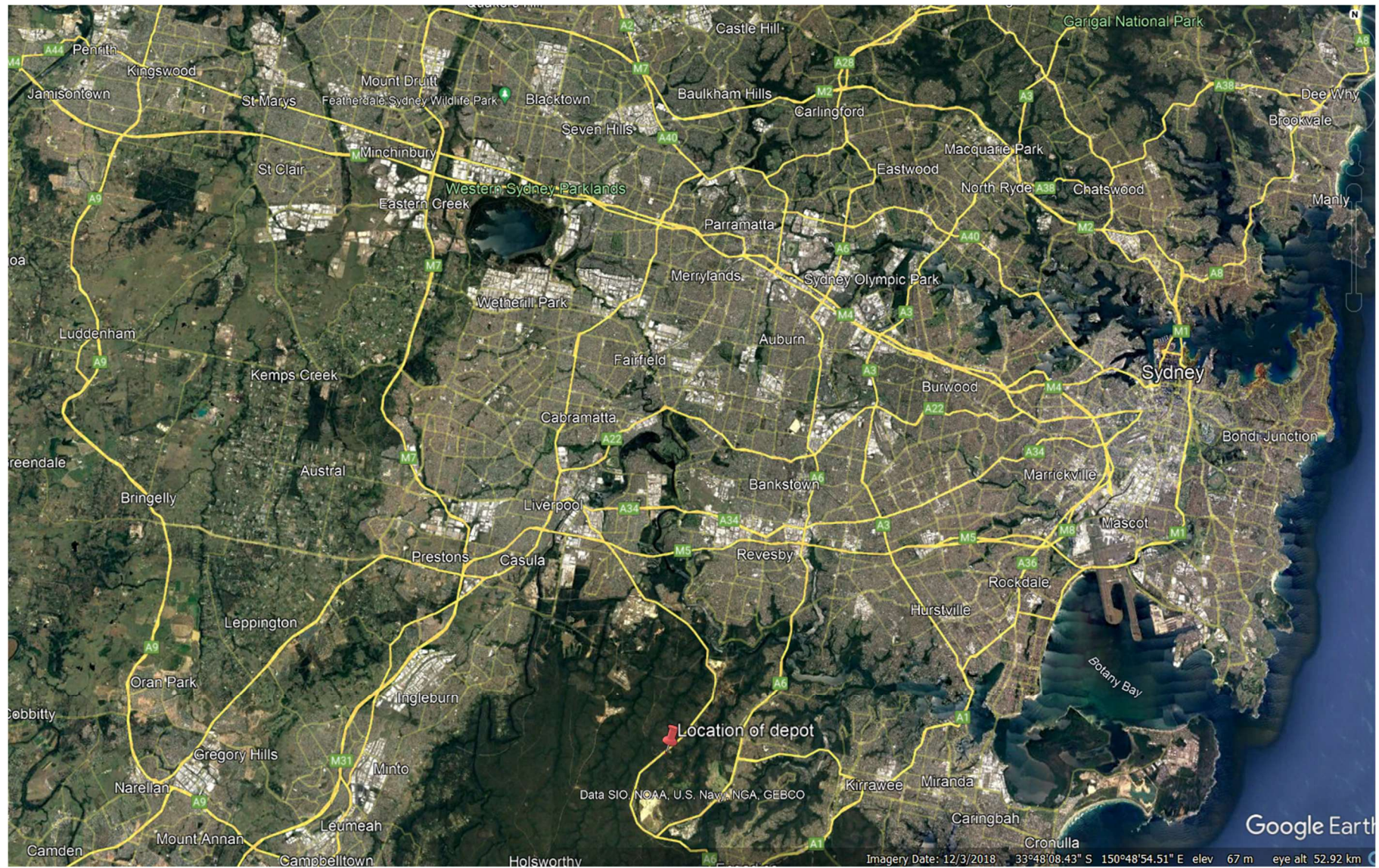


Figure 2: Map of Sydney covering the 6 LGAs.