

5 VEGETATION PROTECTION

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5 VEGETATION PROTECTION

5.1 INTRODUCTION

Trees and vegetation are a vital part of the biodiversity, amenity, and local character of Albury City. They provide a network of critical green infrastructure to improve our resilience to the impacts of climate change. Mature trees sequester carbon, improve soil nutrients, slow stormwater flows and provide shade to cool our streets, parks, and buildings. Trees are also a strong character and place element of our city, particularly in Heritage Conservation Areas. Native vegetation communities of diverse trees, shrubs, grasses, and wetland species, together with tree hollows and rocky outcrops are essential habitat features that support the regions wildlife.

This Part of the DCP guides the management and preservation of trees, vegetation, and native vegetation across the Albury City Local Government Area (LGA). A glossary of terms used in this Part of the DCP is provided in Section 5.6.

It is important that development comply with all relevant Parts of this DCP. Applicants should ensure that all Parts of the DCP have been checked for relevance, not just the Part that refers to the relevant zone, the predominant development category, or the most obviously relevant list of controls.

5.2 GENERAL VEGETATION PROTECTION

This section applies to development to clear vegetation in the Albury LGA.

Section 5.3 of this DCP also applies to land identified wholly or partially on the **Biodiversity Certification Exclusion Areas Map**.

Objectives

1. Prescribe the vegetation to which Clause 9, Part 3 of the *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* applies.
2. Maintain and improve Albury's total vegetation cover.
3. Protect vegetation within and adjacent to development sites.
4. Minimise soil erosion or sedimentation into Murray River and other waterways.

Controls

- i. Development consent is required to clear vegetation:
 - a) to enable a use of land or other development for which development consent is required; or
 - b) is heritage listed, a heritage item, in a Heritage conservation area, Aboriginal object or in an Aboriginal place of heritage significance.

- ii. Control (i) (b) does not apply if the criteria in Clause 5.10 (3) of the Albury LEP 2010 are satisfied.
- iii. A permit is required to clear vegetation that is:
 - a) a tree 3 metres or more in height and with a trunk circumference of 300mm or more at 1.3 metres above ground level;
 - b) native vegetation in a **specified area** or identified on the **Extant Vegetation DCP Map**;
 - c) located within 100 metres of the Murray River or within 40 metres of the Murray River on R5 – Large Lot Residential zone or urban release areas; or
 - d) listed on the Significant Tree Register.
- iv. A permit is not required for the following excluded development:
 - a) clearing vegetation where Council is satisfied there is an imminent risk to human life or property;
 - b) tree pruning that does not exceed 10% of the canopy every three years and in accordance with the *Australian Standard – Pruning of Amenity Trees (AS 4373-2007)*;
 - c) clearing environmental weeds on the Exempt Species List in Section 5.4 of this DCP, except for control (i) b) or control (iii) c);
 - d) clearing non-native fruit or nut producing trees, except for control (i) b); or
 - e) clearing vegetation authorised under other legislation, e.g. clear native vegetation within the biodiversity offset scheme threshold in rural areas Part 5A of the *Local Land Services Act 2013*, *Land Management Native Vegetation Code 2018*, 10/50 clearing *Rural Fires Act 1997*, *Electricity Supply Act 1995*, *Exempt and Complying Development Code 2008*.
- v. Clearing of vegetation must not result in increased erosion or sedimentation by leaving exposed soil within 40 metres of a watercourse.
- vi. Development applications are to include a Landscape Concept Plan for the following proposals:
 - a) three or more dwellings;
 - b) four or more allotments in residential zones;
 - c) commercial or industrial zoned development sites proposing landscaped areas; or
 - d) where required by another Part of this DCP.
- vii. A modification to a development consent (Section 4.55) is required to clear vegetation to be retained as a condition of development consent.
- viii. A permit application to clear vegetation (10 trees or greater) is to include a Vegetation Management Plan.

Notation

To clear vegetation of imminent risk to human life or property, call customer service on 02 6023 8111 and email photographs of the tree to info@alburycity.nsw.gov.au attention Environment Team, prior to removal.

Owner's consent must be obtained or order under *Trees (Disputes Between Neighbours) Act 2006* to prune, remove or clear vegetation on an adjoining property.

Encroachments outside of the Structural Root Zone (SRZ) that are less than 10% of the Tree Protection Zone (TPZ) are generally considered minor.

5.2.1 SPECIFIED AREAS

This section applies to clear native vegetation in **specified areas** or identified on the **Extant Vegetation DCP Map**.

Objectives

1. Protect significant threatened species habitat and ecological communities.

Controls

- i. Development is to be designed to avoid the clearing of native vegetation. Where this is not possible, the development must demonstrate that it has been designed to minimise the removal of native vegetation.
- ii. Clearing of native vegetation of high ecological value, may require compensatory planting in accordance with Section 5.3.2 of this DCP.

Notation

Clauses 6.3, 7.2, 7.3 and 7.5 of the Albury LEP 2010 outline the preservation requirements for native vegetation.

5.3 BIODIVERSITY CERTIFICATION EXCLUSION AREAS

Section 5.3 of this DCP applies to development to clear native vegetation on land identified wholly or partially on the **Biodiversity Certification Exclusion Areas DCP Map**.

This is in addition to the objectives and controls of Section 5.2 above.

Objectives

1. Maintain and improve Albury's biodiversity.
2. Protect existing habitat features within and adjacent to development sites.
3. Enhance the recovery of threatened species and ecological communities.
4. Prevent the fragmentation of environmental land.

Controls

- i. Development is to be designed to avoid the clearing of native vegetation. Where this is not possible, the development must demonstrate that it has been designed to minimise the removal of native vegetation.
- ii. Clearing of vegetation must not result in increased erosion or sedimentation by leaving exposed soil within 40 metres of a watercourse.
- iii. Clearing of native vegetation of ecological value, where the Biodiversity Offset Scheme does not apply, requires compensatory planting in accordance with Section 5.3.2.

Notation

Clauses 6.3, 7.2, 7.3 and 7.5 of the Albury LEP 2010 outline the preservation requirements for native vegetation.

5.3.1 BIODIVERSITY OFFSET SCHEME

This section applies to development to clear native vegetation land identified wholly or partially on the **Biodiversity Certification Exclusion Areas DCP Map**.

Objective

1. Establish whether the Biodiversity Offset Scheme applies.

Controls

- i. If one or more of the following controls apply a Biodiversity Development Assessment Report (BDAR) is to be prepared by an accredited assessor, in accordance with the Biodiversity Assessment Method (BAM):

- a) The land is identified wholly or partially on the **Biodiversity Values Map**

<http://www.lmbc.nsw.gov.au/Maps?index.html?viewer=BOSETMap>

- b) The clearing exceeds the Biodiversity Offset Scheme Threshold identified in Table 1 below:

Table 1 – Native vegetation clearing under Biodiversity Offset Scheme Threshold, taken from Clause 7.2, Part 7 of the *Biodiversity Conservation Regulation 2017*

Minimum lot size of land*	Area of clearing
Less than 1 hectare	0.25 hectare or more
Less than 40 hectares but not less than 1 hectare	0.5 hectare or more
Less than 1,000 hectares but not less than 40 hectares	1 hectare or more
1,000 hectares or more	2 hectares or more

*If there is no minimum lot size in the LEP, the actual size of the lot will apply

- c) The clearing is likely to significantly impact threatened species and threatened ecological communities. Prepare a Test of Significance under Section 7.3 of the *Biodiversity Conservation Act 2016* in accordance with the *Biodiversity Conservation Regulation 2017*.

Notation

For more information on the application of the Biodiversity Offset Scheme visit, www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity-offsets-scheme/landholders-and-developers

5.3.2 ECOLOGICAL COMPENSATION

This section applies to development to clear native vegetation on land wholly or partially identified on the **Biodiversity Certification Exclusion Areas DCP Map** where the Biodiversity Offset Scheme does not apply.

Objectives

1. Ensure effective assisted bushland restoration and revegetation.
2. Replace lost habitat features.

Controls

- i. Provide compensatory planting in accordance with the Vegetation Planting Rate in Table 2.
- ii. Prioritise the retention of native old growth or hollow-bearing trees. If loss of trees is unavoidable, the following mitigation measures are to be applied:
 - a. hollow resources are to be retained and repurposed as habitat; or
 - b. artificial hollow replacement in accordance with Table 3.
- iii. Planting is to reflect the vegetation community being removed or modified in accordance with the General Native Profiles for the Albury District or the Bowna-Jindera District in the *South West Slopes Revegetation Guide**.
- iv. Ecological compensatory plantings are to:
 - a. be outside any known Asset Protection Zones (APZ) in accordance with *NSW RFS Standards for Asset Protection Zones*;
 - b. provide vegetation buffer zones;
 - c. be located on the subject site and connect to existing patches of native vegetation or strengthen corridors that link environmental land on two or more nearby sites;
 - d. provide block shaped links, to reduce edge effects created by linear perimeters; and
 - e. trees are to be planted in proximity, in accordance with Table 4.

Table 2 – Vegetation Planting Rate

Ecological Value	Ratio**
Trees Medium/Low	1:5
Trees High	1:10
Understorey/shrubs	1:7
Groundcover (grasses, native herbs, wetland species)	1:10

Table 3 – Artificial Hollow Replacement Rate

Hollow Size	Hollow Diameter	Replacement ratio
Medium	51-100mm	1:1

Large	101-200mm	1:2
Very large	>200mm	1:4

Table 4 – Vegetation Planting Density

Vegetation Type	Density
Tree	1 per 5m ² with a maximum of 20 metre spacing
Shrubs	3 per 5m ² planted in clumps
Grasses and ground covers	4 per 1m ² planted in clumps

- v. Where land is not conducive to compensatory planting, regeneration, or restoration techniques in accordance with the National Standards for the Practice of Ecological Restoration, may be supported.

Notation

*General Native Profiles for the Albury District and the Bowna-Jindera District of the *South West Slopes Revegetation Guide, Murray CMA 1998* (p.122-123).

**80% survival rate of compensatory vegetation planting is required by the end of 2 years maintenance period. It is strongly advised the rate is increased by 10-20% and suitable species are selected.

5.3.3 LAND ADJACENT TO THE MURRAY RIVER

This section applies to development to clear vegetation within 400 metres of the Murray River.

This section is to be read in conjunction with *Murray Regional Environmental Plan No 2 (MREP No 2)* and Clause 7.5 of the Albury LEP 2010.

Objective

1. To conserve and protect Riverine corridors, including native vegetation.
2. Improve riparian habitat along the creek lines which provide important linkages to the Murray River.
3. Minimise soil erosion or sedimentation into the Murray River.

Controls

- i. Development is to be designed to avoid the clearing of native vegetation. Where this is not possible, the development must demonstrate that it has been designed to minimise the removal of native vegetation.
- ii. Clearing of vegetation must not result in increased erosion or sedimentation by leaving exposed soil within 40 metres of a watercourse.
- iii. Clearing of native vegetation of ecological value, within the Biodiversity Offset Scheme Threshold, may require compensatory planting in accordance with Section 5.3.2 of this DCP.

5.4 EXEMPT SPECIES LIST

This section applies to development to clear vegetation in the Albury LGA except for the following vegetation:

- a) that is heritage listed, in a Heritage conservation area, on the Significant Tree Register; or
- b) located within 100 metres of the Murray River or within 40 metres of the Murray River on R5 – Large Lot Residential zone or urban release areas.

Table 4 – Environmental Priority Weed Species

Common name	Species name
Prickly Pears	<i>Austrocylindropuntia</i> sp. <i>Cylindropuntia</i> sp. <i>Opuntia</i> sp.
Flax-leaf Broom	<i>Genista linifolia</i>
Cape Broom	<i>Genista monspessulana</i>
Scotch Broom	<i>Cytisus scoparius</i> subsp. <i>scoparius</i>
Lantana	<i>Lantana camara</i>
Willow species	<i>Salix</i> sp.
Mesquite	<i>Prosopis</i> sp.

Table 5 – Environment Weed Species

Common name	Species name
All Ash species	<i>Fraxinus</i> sp.
Bamboo species	<i>Bambusa</i> sp.
Box Elder Variegated Box Elder	<i>Acer negundo</i> sp.
Broom sp.	<i>Genista</i> sp. <i>Cytisus</i> sp.
Camphor Laurel	<i>Cinnamomum camphora</i>
Canary Island Date Palm	<i>Phoenix canariensis</i>

Common name	Species name
Cassia	<i>Cassia</i> sp.
Castor Oil Plant	<i>Ricinus communis</i>
Chinese Tallow	<i>Triadica sebifera</i>
Cocos Palm	<i>Sygarus romanzoffiana</i>
Cootamundra Wattle	<i>Acacia baileyana</i>
Cotoneaster	<i>Cotoneaster</i> sp.
Crab-apple	<i>Malus</i> sp.
Early Black Wattle	<i>Acacia decurrens</i>
Evergreen Alder	<i>Alnus jorullensis</i>
False Acacia	<i>Robinia pseudoacacia</i>
Firethorn	<i>Pyracantha</i> sp.
Flinders Range Wattle	<i>Acacia iteaphylla</i>
Fruit trees	<i>Prunus and citrus species</i>
Golden Ash	<i>Excelsior aurea</i>
Golden Wreath Wattle	<i>Acacia saligna</i>
Gossamer Wattle	<i>Acacia floribunda</i>
Hackberry species	<i>Celtis</i> sp.
Hawthorn	<i>Crataegus</i> sp.
Liquidambar	<i>Liquidambar styraciflua</i>
Loquat	<i>Eriobotrya japonica</i>
Mirror Bush	<i>Coprosma repens</i>
New Zealand Cabbage Palm	<i>Cordyline australis</i>
Oleander	<i>Nerium oleaner</i>
Olive*	<i>Olea europaea</i> *Fruiting varieties only
Ovens Wattle	<i>Acacia pravissima</i>
Pittosporum	<i>Pittosporum</i> sp.
Plum	<i>Prunus</i> sp.
Poplar	<i>Populus</i> sp.
Privet	<i>Ligustrum</i> sp.
Queensland Silver Wattle	<i>Acacia podalyrifolia</i>
Rhus Tree	<i>Toxicodendron succedaneum</i>
Senna	<i>Senna</i> sp.
Silky Oak	<i>Grevillea robusta</i>
Snowy River Wattle	<i>Acacia boormani</i>
Strawberry Tree	<i>Arbutus unedo</i>
Sydney Golden Wattle	<i>Acacia longifolia</i>
Tree Lucerne (Tagasaste)	<i>Chamaecytisus proliferus</i>
Tree-of-heaven	<i>Ailanthus altissima</i>
Wild Tobacco	<i>Solanum mauritaianum</i>
Yucca	<i>Yucca</i> sp.

5.5 SPECIFIC APPLICATION INFORMATION

- i. A **permit** or **development application** to clear trees is to be accompanied by the written consent of the property owners and may be required to include an arboricultural report prepared by a suitably qualified person with the following information:
 - a) A table indicating the location, size (height, canopy spread and trunk circumference 1.3m above ground level), hollows, species, health, condition and estimated Useful Life Expectancy (ULE) of the trees on the site and nearby adjoining properties.
 - b) The methodology or techniques used to conduct the assessment.
 - c) Provide justification for the clearing of vegetation.
 - d) Provide any practical alternatives that have been explored prior to proposing the clearing of vegetation.
 - e) A plan to scale that clearly illustrates the following information:
 - 1. the location of existing and proposed development, buildings, driveways, car parking, drainage and paved areas.
 - 2. vegetation to be removed, retained or replaced on the site and nearby adjoining properties and the location of any hollows.
 - 3. where proposed development is within the Tree Protection Zone (TPZ) and/or Structural Root Zone (SRZ) of a retained tree, a section is required to demonstrate the construction methodology of any proposed footings or excavation
 - 4. the proposed location of replacement plantings, suitable species selection, minimum container size and soil volume.
 - f) Outline tree protection measures for trees and vegetation on the site and adjoining properties during the construction phase in accordance with Australian Standard – Protection of trees on development sites (AS 4970-2009).
 - g) Any other supporting evidence including photographs, a structural certificate or soil test results.
- ii. A **permit application** to clear vegetation in **specified areas** or identified on the **Extant Vegetation DCP Map** is required to address the objectives and controls of Section 5.2.1 in the [Vegetation Removal Permit](#).
- iii. A **permit** or **development application** (including Section 4.55 modifications) is required to clear native vegetation on land identified on the **Biodiversity Certification Exclusion Areas DCP Map** where the Biodiversity Offset Scheme does not apply. If ecological compensation is required, a Vegetation Management Plan/s to scale that clearly illustrates the following information:
 - a) Asset Protection Zones (APZ), where applicable;
 - b) buffer zones around existing native vegetation, waterways and wetlands;

- c) rate of compensatory plantings in accordance with Section 5.3.2 of this DCP; and
 - d) the proposed location of compensatory plantings, suitable species selection, separation distance between plantings, minimum container size and soil volume or required soil remediation and 2 year maintenance plan.
- iv. A **development application** (including Section 4.55 modification) to clear native vegetation where the Biodiversity Offset Scheme applies requires a Biodiversity Development Assessment Report (BDAR) prepared by an accredited assessor, in accordance with the Biodiversity Assessment Method (BAM) for more information visit www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity-offsets-scheme/landholders-and-developers

Notation

To clear vegetation of imminent risk to human life or property, call customer service on 02 6023 8111 and email photographs of the tree to info@alburycity.nsw.gov.au attention Environment Team, prior to removal.

Information requirements submitted are to contain the minimum information required under the *Planning and Assessment Regulation 2000* and Appendix A of this DCP.

Owner's consent must be obtained or order under *Trees (Disputes Between Neighbours) Act 2006* to prune, remove or clear vegetation on an adjoining property.

Encroachments outside of the Structural Root Zone (SRZ) that are less than 10% of the Tree Protection Zone (TPZ) are generally considered minor.

The Albury Profile of the *South West Slopes Revegetation Guide, Murray CMA 1998* contains a list of recommended vegetation for the Albury region. For more information on planting and species selection, the *Albury-Wodonga Garden Guide*, can be found on our website, visit www.alburycity.nsw.gov.au

5.6 GLOSSARY

Biodiversity Certification Exclusion Area means land to which Biodiversity Certification does not apply (shown on the Biodiversity Certification Exclusion Areas DCP Map)

Biodiversity Offsets Scheme Threshold (BOS) defined in Section 7.1, Part 7 of the *Biodiversity Conservation Regulation 2017*.

Clear vegetation as defined by Section 4, Part 1 of the *State Environmental Planning Policy (Vegetation in Non-Rural Areas)*

Development as defined in Section 1.5, Part 1 of the *Environmental Planning and Assessment Act 1979*

Environmental zones refers to E2 – Environmental Living Zone, E3 – Environmental Management Zone, and E4 – Environmental Living Zone.

Imminent risk means a tree with imminent (clear and immediate) potential to harm human health, life or that can damage property, as a result of a sudden change to the stability of the tree through structural failure, either above or below ground.

Native vegetation as defined by Section 60B, Division 1, Part 5A of the *Local Land Services Act 2013*

Non-rural areas as defined by Section 5, Part 1 of the *State Environmental Planning Policy (Vegetation in Non-Rural Areas)*

Regulated rural area as defined by the *Local Land Services Act 2013* and for the purposes of this DCP not, an authorised clearing under codes, in accordance with Clause 60S, Division 5 of the *Local Land Services Act 2013*.

River bank as defined in Section 7.5, Part 7 of the *Albury Local Environmental Plan 2010*

Specified areas means the land within the following zones: E2 Environmental Conservation, E3 Environmental Management, E4 Environmental Living, SP1 Special Activities, SP2 Infrastructure, RE1 Public Recreation, RE2 Private Recreation, R5 Large Lot Residential, RU5 Village or W2 Recreational Waterways.

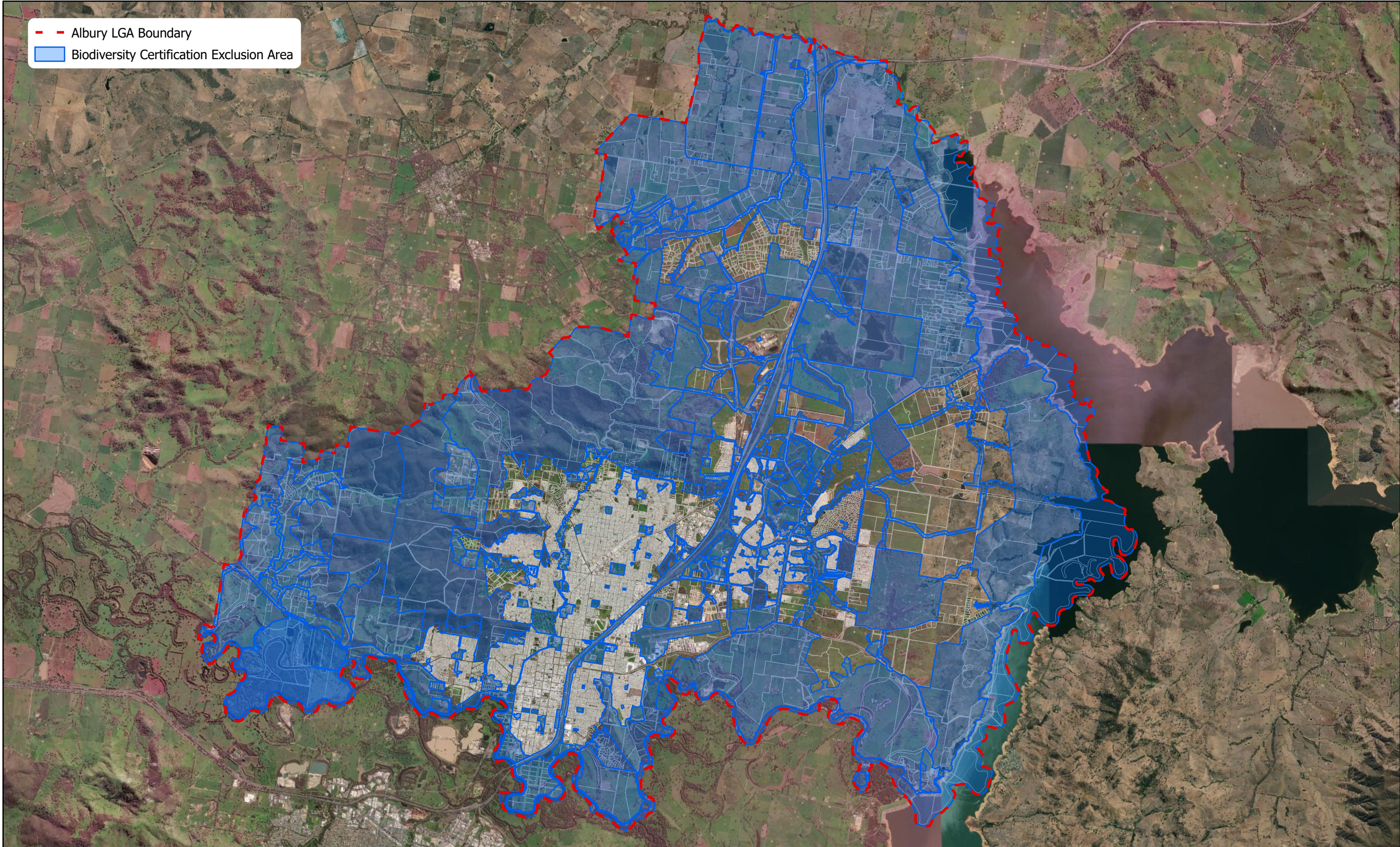
Vegetation as defined by Section 4, Part 1 of the *State Environmental Planning Policy (Vegetation in Non-Rural Areas)*

5.7 MAPS

Figure 5.1 BIODIVERSITY CERTIFICATION EXCLUSION AREAS MAP

Figure 5.2 EXTANT VEGETATION MAP

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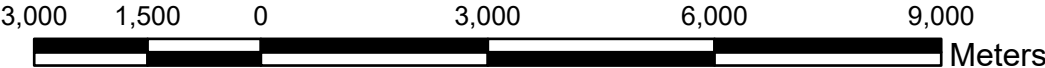


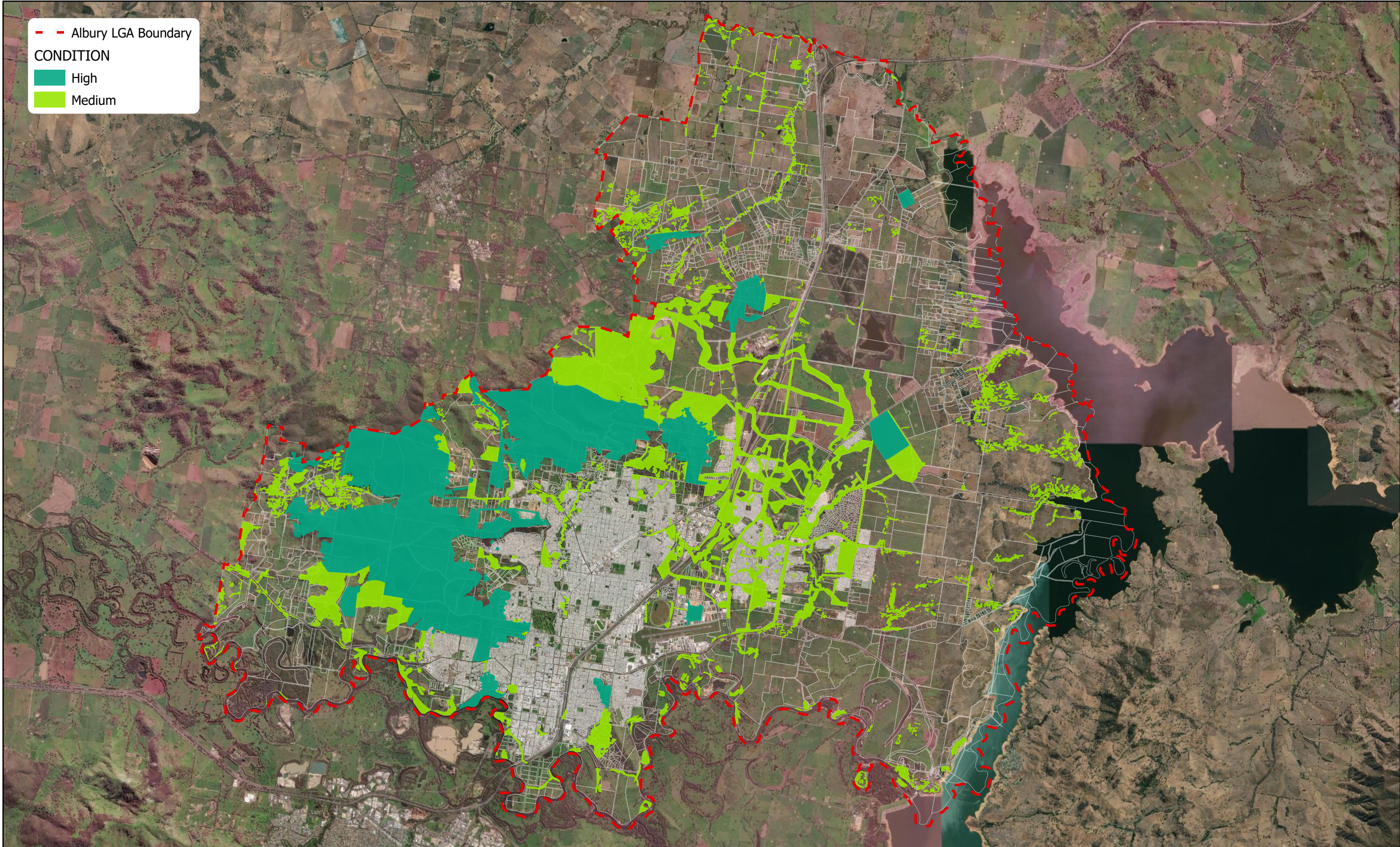
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Biodiversity Certification Exclusion Areas DCP Map

MAP GRID AUSTRALIA, ZONE 55
TRANSVERSE MERCATOR PROJECTION
HORIZONTAL DATUM: GEODETIC DATUM AUSTRALIA 1994
VERTICAL DATUM: AUSTRALIAN HEIGHT DATUM 1972
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Albury LGA Boundary

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MAP GRID AUSTRALIA, ZONE 55
TRANSVERSE MERCATOR PROJECTION
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PRODUCED by the Mapping Team, Engineering Group, AlburyCity.

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