

Steve Hartley  
Executive Director  
Green and Resilient Places Division  
Department of Planning, Industry and Environment

07 October 2020

Dear Steve Hartley

**Subject: Public Exhibition of the Draft Cumberland Plain Conservation Plan**

I am the owner of the property and land at [REDACTED] Orchard Hills also known as lot [REDACTED]. This can be seen from map 1 which is attached.

In general, I support the Draft Cumberland Plain Conservation Plan to protect and enhance the biodiversity of our region but do not understand the rationale behind the proposed rezoning of the back of my land to E2 Environmental Conservation Area. I have sought the advice of a Consultant Town Planner who has given me assistance in the preparation of this submission. Map 2 shows the land that is to be rezoned as E2 Environmental Protection and this has an area of 1.3ha.

My property has an area of 2.6 ha on the northern side of [REDACTED] at Orchard Hills. The land has the following characteristics:

1. A gentle slope from the road down to a drainage line with a ridge forming the northern boundary of the property thus creating a low point at the drainage line which starts on the land to the west and continues to the east;
2. The drainage line has been identified as a first order stream which flows into a piped culvert under Kent Road and leads into the land on the eastern side of Kent Road. It can be described as a drainage depression which only flows after rain;
3. There is a dam located on the drainage line which has an area of approximately 3,100 m<sup>2</sup>. There are two other dams on the drainage line. One is immediately upstream and the other is immediately downstream of the dam on the subject land;
4. The land is cleared of vegetation except for a patch of approximately 7,900 m<sup>2</sup> of vegetation on the northern side of the dam. The vegetation can be described as having scattered trees approximately 3-5m high with underlying shrubs and grasses. The vegetation also extends into the adjoining property to the west.

The draft Plan makes the following provisions for the land:

1. Map 15.4 of the Cumberland Plain Assessment Report identifies two Threatened Ecological Communities on the subject land as well as other land in the vicinity which are as follows:
  - (a) Cooks River/Castlereagh Ironbark Forest in the Sydney Basin Bioregion
  - (b) Cumberland Plain Woodland in the Sydney Basin Bioregion;
2. Map 15.4 also identified two other Threatened Ecological Communities in the Orchard Hills area in the vicinity of the subject land as follows:
  - (a) River-flat Eucalypt Forest on Coastal Floodplains of the New South Wales North Coast, Sydney Basin and South East Corner Bioregion;
  - (b) Swamp Oak Floodplain Forest of the New South Wales North Coast, Sydney Basin and South East Corner Bioregion;
3. Map 10.4 of the Cumberland Plain Assessment Report identifies the Stream Strahler Order and nominates the stream running through the land as '1' which means it is a first order stream. The map also shows a number of other first order streams in the Orchard Hills area in the vicinity of the subject land;
4. Map 19 of the Cumberland Plain Assessment Report identifies the Habitat Connectivity and it shows the subject land as well as other land in the vicinity as being 'connected vegetation';

5. The non-vegetated parts of the land have been categorised as ‘certified-Urban Capable Land’, whilst the vegetated part including the dam, have been categorised as ‘Non-Certified Land’
6. The plan states that the vegetation and dam has been classified as ‘avoided land’ and this is defined on page 20 as follows:

*“Avoided land is avoided from development due to identified biodiversity values on the site, or because the land cannot legally or feasibly be developed due to its topography or due to an environmental feature such as a riparian corridor. In this instance, ‘avoidance’ refers to the approach the department has undertaken to avoid and minimise the impacts to biodiversity from development in the nominated areas, as required under the BC Act and EPBC Act.*

7. The avoided land is proposed to be zoned as E2 Environmental Protection because of its significance;

The document titled *State Environmental Planning Policy Strategic Conservation Planning Explanation of Intended Effect* makes the following statements about the proposed Environmental Conservation Zoning:

*The objective of environmental conservation (E2) zoning is to protect parts of the nominated areas that have been identified as non-certified because they are avoided for biodiversity purposes or avoided for other purposes.*

*Avoided land will not be biodiversity certified, will not be zoned for development. Only certain development will be permitted with consent.*

The effect of this is that the land that is to be zoned as Environmental Protection has no development potential and it is unclear if the land will be purchased by the Government. This is concerning because there has not been any evidence presented to show why the subject land is so different from the other land surrounding it which seems to have similar if not more significance for biodiversity conservation.

It is noted that whilst there is a comprehensive assessment of the vegetation and its significance in the reports, there does not seem to be a report that identifies why the land has been categorised as ‘avoided land’. It is not steep, nor is it part of an identified riparian corridor, so it can only be assumed that it has exceptional biodiversity value. It would be assumed that land of such value would have been identified as part of a study which would have included a survey of the vegetation on the land. No survey has been carried out on the subject land nor has any permission been sought for experts to access the land. If the land is so significant, it would have been expected that there would be a report exhibited with the draft Cumberland Plain Conservation Plan identifying the following for each of the parcels of land that are categorised as ‘avoided’:

1. The reason for it being categorised as avoided land, i.e. biodiversity or other values;
2. Individual species present on the land and a map showing the location of each of the species;
3. Threatened Ecological Communities present on the land and a map showing the location of each of the Threatened Ecological Species (I note that this has been done);
4. Whether the land forms part of a habitat connectivity area;
5. Whether the land forms part of a riparian corridor;
6. The intactness of the vegetation community;
7. The density of the tree canopy and the undergrowth;
8. The connectedness of the land to other similar areas of biodiversity;
9. The presence of weeds and the number and types;
10. The slope of the land measured in percentage of slope;
11. Location of any drainage line and its Strahler Stream order;
12. A statement identifying why the land should be categorised as avoided land and its significance for biodiversity conservation;

Without such a report on the land, it is hard to assess the reasons for the land being excluded from being certified as urban capable land.

My land can be described as an 'island of biodiversity' rather than being connected to other surrounding land to be zoned as Environmental Protection. The maps that have been referred to above show the land to be not as connected nor to be as dense in the spatial mapping of the biodiversity as surrounding land that has not been proposed to be zoned as Environmental Protection.

A comparative viewing of the land in Orchard Hills on the spatial viewer shows a large amount of land that is identified as Threatened Ecological Community. However, only a relatively small amount of land is to be zoned as Environmental Conservation and most of this is part of a connected biodiversity area either along a drainage line which has been identified as Strahler level two or above or is part of a large area of Threatened Ecological Community. This can be seen from maps 3 and 4. It is considered that the identification of the vegetation and dam on the subject land as proposed Environmental Conservation zoning is inconsistent with other similar land in the vicinity of the subject land for the following reasons, and this can also be seen on maps 3 & 4:

1. The land is not connected to other land which is zoned as Environmental Conservation, and is thus considered to be an island of conservation;
2. There is other land that is Cumberland Plain Woodland, with more intact vegetation located on it and has more connectivity that is not proposed to be zoned as Environmental Protection E2;
3. There are in excess of 40 other dams in the Orchard Hills area of varying sizes, however the dam on the subject land is the only one that has been proposed for Environmental Conservation Zoning.

It is not proposed to clear the vegetation as part of the ultimate development of the land, its status as containing Threatened Ecological Communities, is not being questioned. However there has not been sufficient information provided to me to be satisfied that it should be zoned as Environmental Protection. The main concern is that the proposed zoning will reduce the development potential of the land by 50% without any certainty of adequate compensation by way of acquisition by the Government. One option that could be explored to deal with this is that a clause could be included in the SEPP to apply to land that is partly zoned as Environmental Conservation, this clause would allow the development density to be determined having regard to the area of the whole lot (including that land zoned as Environmental Conservation) in exchange for the dedication of the land to the Government. This provision could apply to land that is to be zoned for high or medium density development and be within 1km of a train station. It is noted that the proposed Orchard Hills Train Station is to be located in the vicinity of Kent Road and that the land in the vicinity of [REDACTED] would most likely have a higher density of development because of its proximity to the transport infrastructure.

The proposed rezoning of the back of my land to E2 Environmental Conservation Area will substantially impact the valuation of my land and will also substantially impact the developable area of my land.

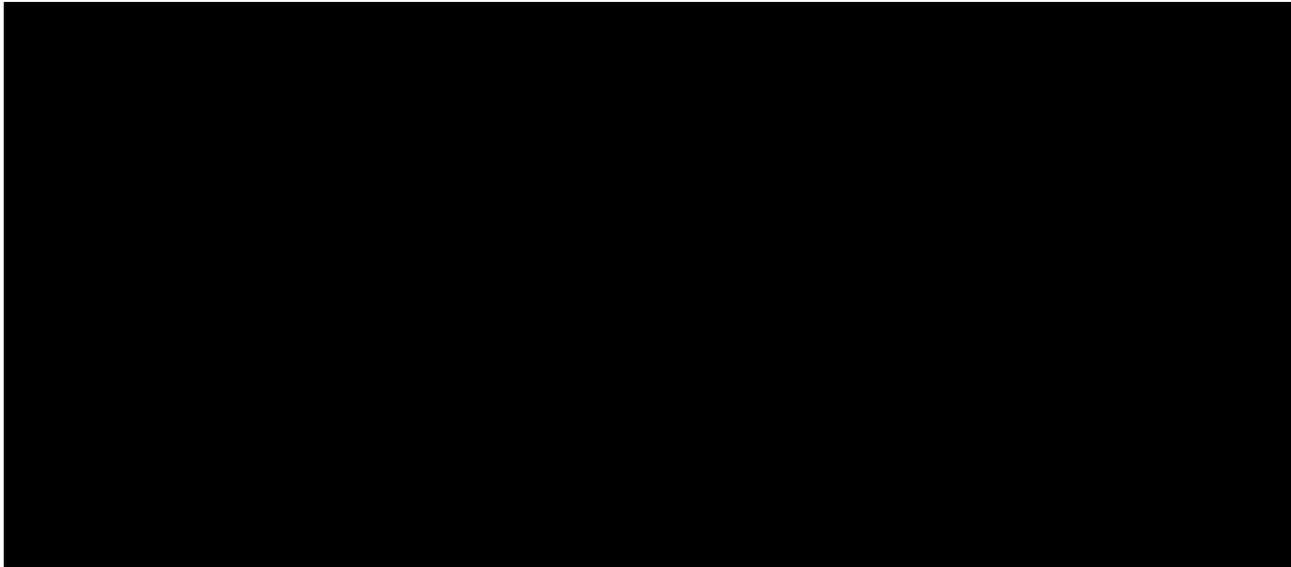
I kindly ask for documentation to be provided showing the reasoning behind the proposed rezoning of the back of my land to E2 Environmental Conservation Area.

I thank you for the opportunity to submit my feedback and look forward to working with the Department of Planning, Industry and Environment to maximise the area's local character for Urban design.

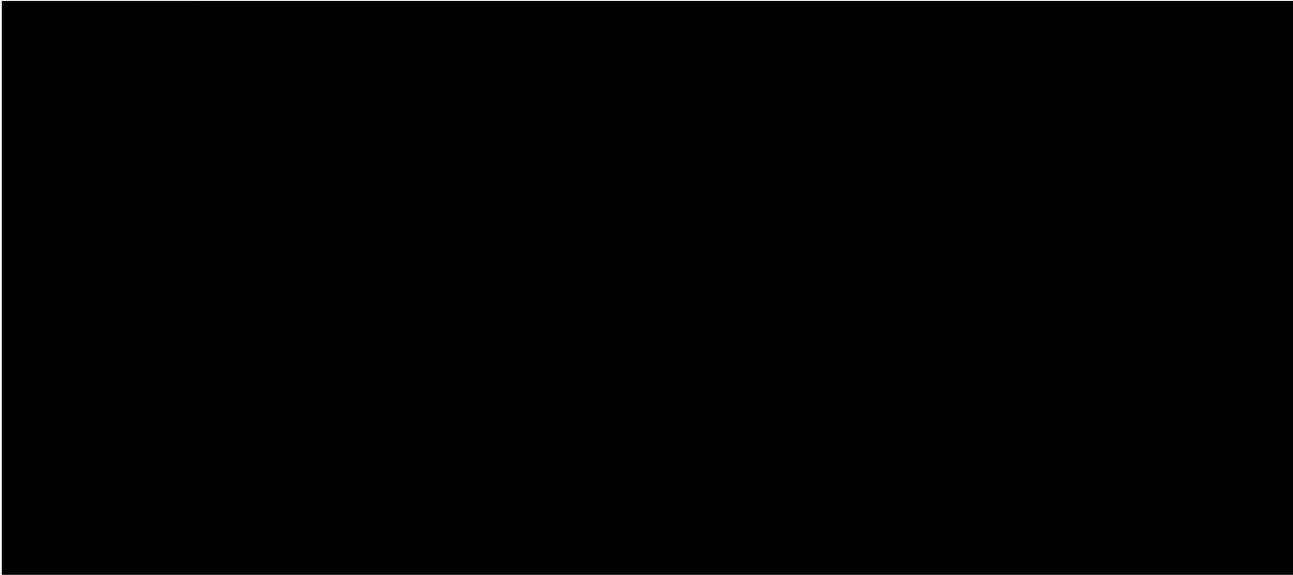
Yours Faithfully

[REDACTED]

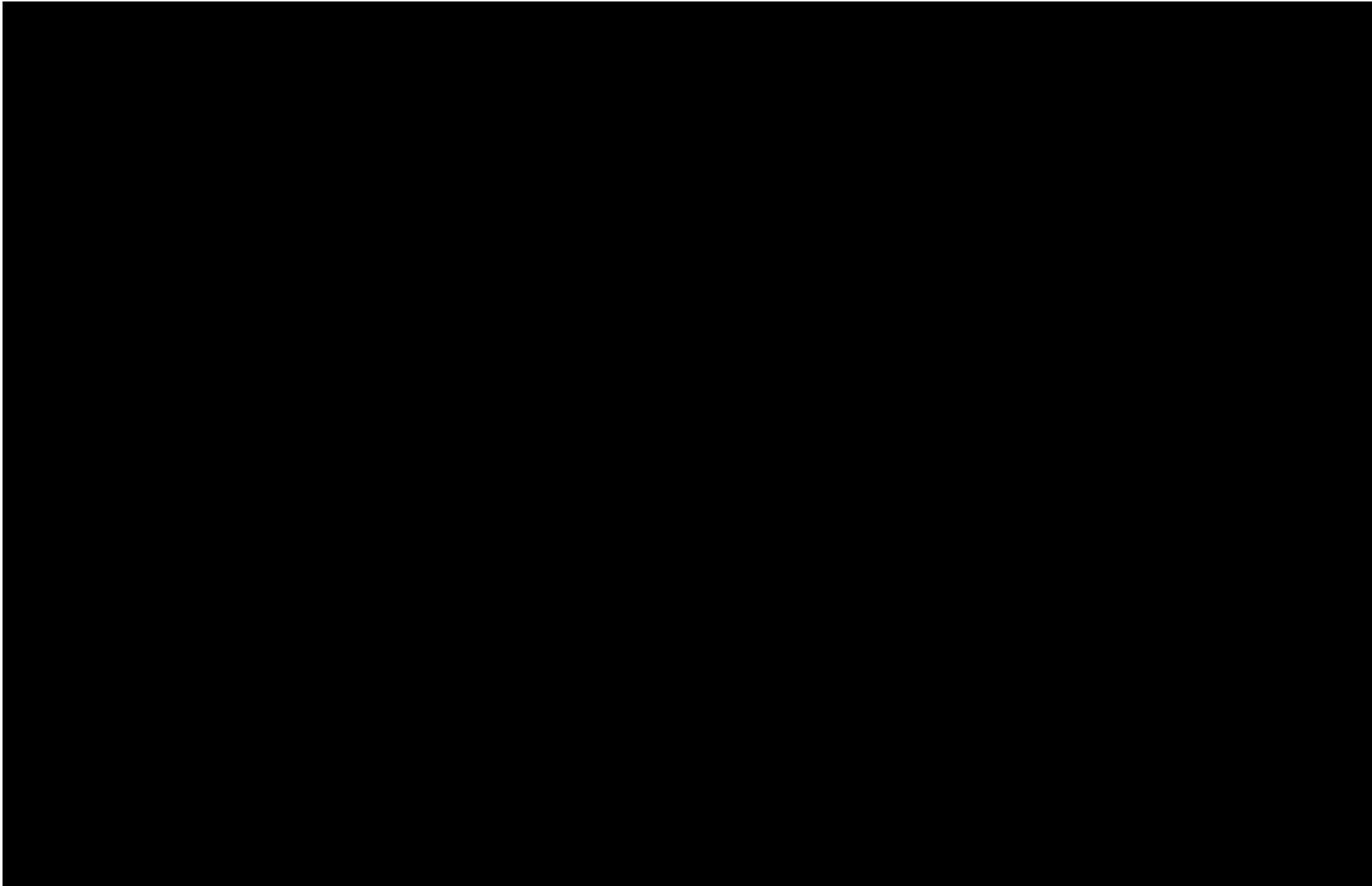
[REDACTED]



**Map 1: Subject Site – [Redacted] Orchard Hills**



**Map 2: Approximate Location of the proposed E2 Environmental Conservation Area**



**Map 3: Cumberland Plain Conservation Plan Orchard Hills Detail**



**Map 4: Cumberland Plain Conservation Plan Orchard Hills**