

Sarah Ng

From: Anthony Tavella on behalf of DPE PS ePlanning Exhibitions Mailbox
Sent: Thursday, 8 October 2020 12:30 PM
To: DPE PS Biodiversity Mailbox
Subject: FW: Webform submission from: Draft Cumberland Plain Conservation Plan
Attachments: [REDACTED]-submission---objection-to-cumberland-conservation-plan-(e2-zoning-riparian-corridor.pdf

From: noreply@feedback.planningportal.nsw.gov.au <noreply@feedback.planningportal.nsw.gov.au>
Sent: Thursday, 8 October 2020 12:20 PM
To: DPE PS ePlanning Exhibitions Mailbox <eplanning.exhibitions@planning.nsw.gov.au>
Subject: Webform submission from: Draft Cumberland Plain Conservation Plan

Submitted on Thu, 08/10/2020 - 12:16

Submitted by: Anonymous

Submitted values are:

Submission Type: I am making a personal submission

First Name: Lorraine

Last Name: Vella

Name Withheld: No

Email: [REDACTED]

Suburb/Town & Postcode: Orchard Hills 2748

Submission file:

[REDACTED]-submission---objection-to-cumberland-conservation-plan-(e2-zoning-riparian-corridor.pdf

Submission: Dear Mr. Hartley, Thank you for your letter dated 26th August, 2020, advising that our property may be within the area proposed for environmental conservation (E2) zoning. We strongly object to this proposed rezoning of our property because there is no legitimate reason for our land to be rezoned, as there is no ecology on our land, it is a bare rural paddock. The land is cleared and managed as a rural residential allotment. The intermitted water course is part of a private residential stormwater drainage management scheme and does not have any environmental effects. The dam on our property has been constructed during the course of the owners development of the their land. We look forward to a favourable response at your earliest convenience. Kind Regards Lorraine Vella [REDACTED]

URL: <https://pp.planningportal.nsw.gov.au/draftplans/exhibition/draft-cumberland-plain-conservation-plan>

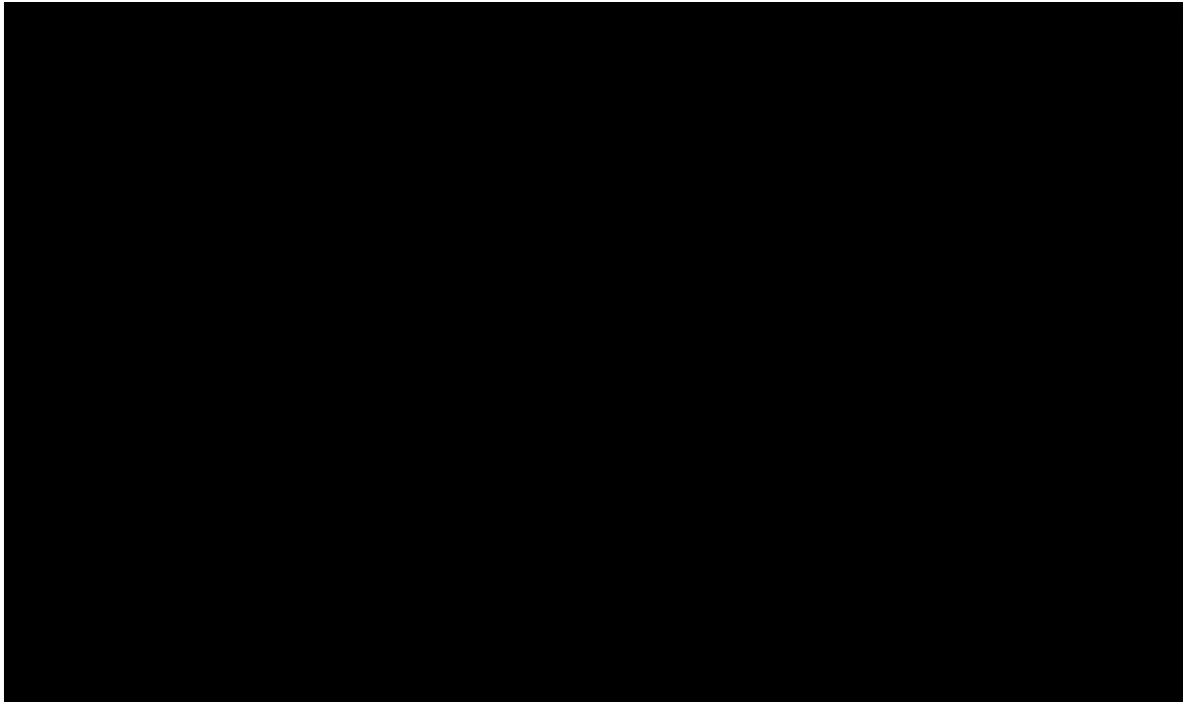
DRAFT CUMBERLAND PLAIN CONSERVATION PLAN

Addendum to the Previous Submission dated 8th October 2020

Objection to the (E2) Zoning – Environmental Conservation
[REDACTED] Orchard Hills 2748

Source: Aerial Map – Storm Water Drainage Runoff (Highlighted)

LOT 136 - STORM WATER DRAINAGE OVERFLOWS,



Prepared by: Matthew & Lorraine Vella

Addendum to our Previous Submission 8/10/2020

Follow-up information from Orchard Hills Residents' Community Meeting held on 19 October 2020 on the Draft Cumberland Plain Conservation Plan

There was a large representation of over 150 Orchard Hills residential owner(s) who attended the meeting and the following questions were asked of the Panel:

1. When were the letters sent to residential land owners requesting for a meeting to discuss E2 zoning & Riparian corridors?
2. Why were there NO site inspection and onsite assessments conducted on each property?
3. Was due diligence and due process followed in accordance with the Biodiversity Acts, Land & Environmental Acts., and Water Management Acts.(NSW).?
4. Where is the list of animals, birds, Fauna and vegetation etc. currently on our properties under the draft Cumberland plan?
5. How was the digital mapping conducted – if onsite inspection / assessments were not conducted on each property?
6. How did NSW department of planning arrive at the proposed E2 zoning areas without onsite inspection / assessments?
7. How did you arrive at the E2 zoning areas and are the developers the beneficiaries in taking land from residential land owners who have lived all their lives on these properties to be suddenly ripped away from their own livelihood?
8. What gives the NSW department the right to take our residential land away from legitimate residential land owners?
9. Why are we persecuted for planting trees and harvesting water from the rains by constructing small dams to feed our livestock on our properties?
10. Why have these rural land properties that have had piggery farms, Cattle, sheep and goats on these lands over 30 years ago not protected before they sold off the rural land to the current owners?
11. Why are the proposed E2 zoning & Riparian corridors by the NSW Department of Planning not purchasing the affected properties at the current market value?
12. Will there be a voluntary purchase of the properties that will be affected?
13. Why doesn't the NSW Department of Planning purchase all of the affected properties at market value rather put an impost on private and residential land owners?
14. Why doesn't the NSW government purchase land from the Air force base (across Wentworth road) and utilize government land near Mamre road (under the power lines) and use it for Biodiversity and Land & Environmental purposes?
15. What compensation will be discussed and offered for our properties?
16. Will the Land tax and Council rates go down and adjusted ?
17. Why are you taking our privately owned land when there is plenty of land owned by the NSW and the Commonwealth government.
18. Will the land values go down and the developers pay less for E2 zoning?

19. Is the proposed draft plan aimed to benefit future developers and take advantage of the low property values?

Addendum to our Previous Submission 8/10/2020 –

Objection to the (E2) Zoning – Environmental Conservation:

We refer to your letter dated 26th August 2020 and the proposed Draft Cumberland Conservation Plan and stated a number of points which I wish to strongly reject and object.

- **“Ecologists undertook surveys of the vegetation and wildlife habitat” on properties such as mine.**

Please note: We have spoken to all of the neighbouring land owners and they confirmed they never received any written letters or communication from the NSW department of Planning, Land & Environment with the exception of the letter dated 26th August 2020.

There were never any ecologists from NSW department of Planning who visited our property and neighbouring properties and undertook a site inspection/onsite assessment or any study to survey the vegetation and wildlife.

The reason I know this is because it is clear that my property and the properties around me are well maintained and kept mowed. I have goats and previously had horses on my property. The small dam runs dry every 2 – 3 years.

It does not take an Ecologist to see that there is no more biodiversity on our properties which differ from any other residential property in the Orchard Hills precinct or Penrith area.

I doubt there was ever a field study undertaken – further, if there was, I would like the opportunity to have the documentation shared with us and reviewed by an independent consultant to determine the validity of the information.

When was this study commissioned by the NSW Department of Planning?

Why are the field studies and reports for all of the properties not shared and made transparent to the residential land owners for proposed E2 zoning?

On what basis was the study and modelling undertaken by the NSW Planning department:

1. E2 Zoning & Riparian corridor Study – development of models to define E2 Zoning & Riparian Corridors and characteristics of the proposed areas for conservation purposes.

2. E2 Zoning & Riparian Study – analysis of Onsite assessments, community consultation and investigation for sources of storm water drainage runoffs from properties across Darvill Road to Calvert Road to Wentworth Road. Are the same Biodiversity regulations applied to other suburbs in Orchard Hills precinct – Caddens Estate, Cadden Hill etc...
 3. E2 Zoning & Riparian Study – development of residential owner's study plan which outlines the options investigated for all affected residential land owners and properties.
 4. Voluntary purchase options by the NSW Department of Planning, Land & Environment to create Biodiversity areas.
 5. Would the NSW department of Planning share the studies done with Cadden's Estate & Cadden Hills housing development for E2 Zoning and Riparian corridors? Where are the conservation areas?
 6. Why were the large dams and wetlands excavated and bird life, Kangaroos, foxes, fauna, high level vegetation destroyed along with natural creeks and gullies in Caddens & Cadden Hill housing development. The excavated dams, gullies and creeks were filled with earth stripped from Caddens Hill hilltop that have existed for hundreds of years which were obviously approved for housing development by NSW Planning department, Land & Environment and the Council?
- **The plan was to ensure that the strategic conservation plan was to ensure that conservation was planned over the next 36 years to the year 2056 and was being designed to protect local biodiversity.**

As indicated above – We strongly reject the assumption that our property has any additional or special biodiversity present more than any other residential lots in Penrith, Caddens Estate & Cadden Hills housing development.

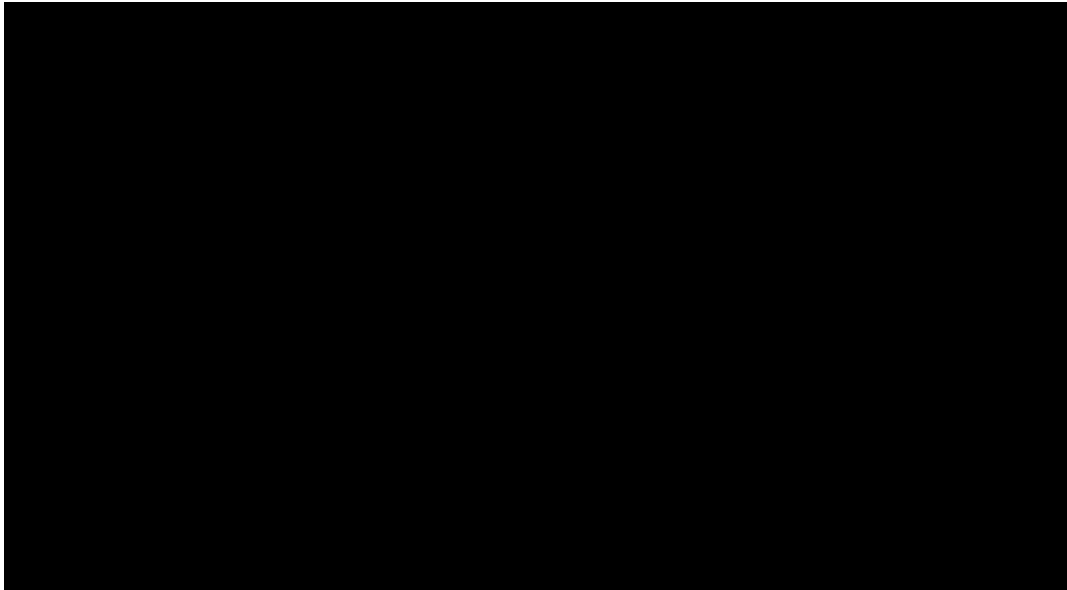
Where are the areas for E2 Zoning and Riparian corridors identified for Caddens Estate, Caddens Hill housing development scheme approved by the NSW Planning department and Penrith City Council?

What Planning rules and Biodiversity acts., were applied to these housing estates which is in the Orchard hills precinct?

The attached aerial photos (refer Page 1 above) will demonstrate that the proposed data used by the Department is not accurate, but also that our property and others around us have no "Special" or additional biodiversity than any other residential RU4 / R5 zoning.

The area of land nominated by the Department is a series of stormwater drainage overflows from landscaped areas and storage dams as clearly demonstrated in the 1988 Survey Plan. (see below).

Source: 1988 approved survey plan with Council



To suggest that our property is subject to a conservation zoning suggests that a desktop investigation based on inaccurate maps with arbitrary lines drawn on it for the purposes of Council determining stormwater drainage patterns for development control.

This land should be zoned as residential R5 and permitted to allow small Rural residential type dwellings to continue as per the Vines estate in which our boundary shares on two sides.

- **“the proposed (E2) zoning will NOT affect current uses of the land, and landholders can continue to live on their land, using their properties as they did before the plan commenced”.**

(E2) Environmental Conservation has significant impacts on the use of land. This comment is very deceiving to those that do not understand this and this zoning prohibits certain uses on the land.

The Act requires specific functions of Council to be undertaken for development proposed in a mapped (E2) Zoning area and even though the rest of the land would not be mapped (E2) – this does not preclude the considered impact of future development on the (E2) portion.

This is a clear restriction on future uses of my land which currently has permissible uses under the RU4 zoning. This WILL change the future use of my land.

Objection to the (E2) Zoning – Environmental Conservation:

1. There were never any ecologists – to my knowledge coming on to my property to study, survey and discuss the vegetation and wildlife for the proposed Draft Cumberland plan.

The reason I know this is because it is clear that my property and the properties around me are well maintained and kept mowed. It does not take an Ecologist to see that there is no more biodiversity on our properties which differ from any other residential property in the Orchard Hills precinct, Penrith and St. Mary's areas.

I doubt there was ever a field study undertaken – further, if there was, I would like the opportunity to have the documentation shared with us and reviewed by an independent consultant to determine the validity of the information.

2. The attached aerial photos will demonstrate that the proposed data used by the Department is not accurate, but also that our property and others around us have no "Special" or additional biodiversity than any other residential RU4 / R5 zoning in the Orchard Hills precinct.

The area of land nominated by the Department is a series of stormwater drainage overflows from landscaped properties and storage dams. My property has not been landscaped unlike the neighbouring properties.

To suggest that my property is subject to a conservation zoning suggests that a desktop investigation based on inaccurate maps with arbitrary lines drawn on it for the purposes of Council determining stormwater drainage patterns for development control.

My land should be re-zoned as residential R5 and permitted to allow small Rural residential type dwellings to continue as per the Vines estate in which my boundary shares two sides and surrounds my property.

3. This zoning prohibits certain uses on the land and development controls are required to be implemented when this zoning is in place.

The Act requires specific functions of Council to be undertaken for development proposed in a mapped (E2) Zoning area and even though the rest of the land would not be mapped (E2) – this does not preclude the considered impact of future development on the (E2) portion.

This is a clear restriction on future uses of my land which currently has permissible uses under the RU4 zoning. This WILL change the future use of my land.

4. The proposed zoning will cover over half the rear boundary of my property, which is protecting – what ??? wildlife and vegetation - well I don't know, and no-one has told me – it is a mowed residential land with a stormwater drainage overflow going through the adjoining properties to the North of my

property and intersects at the corner of House Nos. [REDACTED]
north / west boundaries.

5. No studies have been produced verifying and listing the animals, birds, flora, fauna species found on our property and surrounding properties.
6. Community consultation was not undertaken. At no point were we interviewed / questioned or spoken with, to determine the current and previous use of the land and describe any environmental protection concerns required.
7. Drainage and stormwater management systems are **not** inherently earmarked as important environmental conservation areas, particularly when associated activities with rural land allotments approved with the 1988 survey plan – This would mean that every dam in Orchard Hills precinct would be regarded as being a precious bio-diverse environment – which is clearly not the case.

The idea that a riparian water course flows through our property is inaccurate. Council have approved structures and landscaping features on neighbouring properties directly adjoining the stormwater overland flow paths. If the area in question was considered conservation worthy, these structures and features would Not have been approved and the area protected.

8. This attempt by the department to put in place an arbitrary zoning based on insufficient and ill prepared research makes the NSW department look very unprofessional in this context.
9. Areas considered riparian zones generally have protection measures which prohibits activity within 40m each side of the water course. The Protection of the Environment Operations Act prohibits placing material in position which may be considered to pollute a water way. Therefore, the simple act of mowing my lawn spreading lawn clippings / top dressing my grass could constitute a strict breach of this legislation. This is unacceptable.

We have currently engaged an Ecologist to prepare a report on the proposed Draft Cumberland Plan affecting our properties. The report will be forthcoming in the next 3 -4 weeks and we will forward the report for your review.

I wish to advise that I will take this matter further, if required. I have spoken to my fellow neighbours and we all agree that this is a mistake on behalf of the NSW department of planning.

We are prepared to seek further legal advice if this matter continues and will strongly object to any re-zoning occurring on our properties with a view to take the matter further to the Courts.

Please provide the departments intentions in this matter, with due notice, so that my fellow neighbours and I may be able to take any further steps necessary to resolve this matter in a court of law.

Yours sincerely,

Matthew & Lorraine Vella

Date: 30th September 2020

Dear Mr. Hartley & Ms. Elizabeth Irwin,

Re: Submission to Draft Cumberland Plain Conservation Plan Exhibition

Submission for property: [REDACTED] Orchard Hills NSW 2478

[REDACTED] [REDACTED]

Thank you for your letter(s) dated 26th August & 22nd September, 2020, advising that our property [REDACTED] may be within the proposed area for environmental conservation (E2) zoning and Riparian corridors.

We are the owners of [REDACTED], Orchard Hills, NSW 2748 and we have lived with our family on this property for over 25 years.

We **strongly object** to the proposed E2 Zoning and Riparian corridors on our property, because there is no legitimate reason for our land to be rezoned, as there is no ecology on our land or any biodiversity area that is governed by the Biodiversity Act., Land & Environmental Acts and Water Management Act.

The NSW State Planning Department have attempted to fast track a draft conservation plan with a letter dated the 26th August 2020, received on 31st August 2020. We were given a deadline to have our submissions in by the 23rd September 2020. There was **NO** onsite assessment and **NO** community consultation on our property and neighbouring properties. After much protests from the Orchard Hills residential land owners and intervention of Tanya Davies (MP of Mulgoa) the deadline was extended to 9th October 2020.

We then received a subsequent letter dated the 26th September 2020 from the NSW department of Planning, confirming an extended deadline for submissions until the 9th October 2020.

It is **not right** and **we question** the NSW planning department to fast track & finalize an inaccurate mapping draft conservation plan within 1 month of notifying residential owners on Wentworth Road, Orchard Hills. This was and is done amidst the COVID pandemic further exacerbating family and financial stress on us as a family & as retirees. We along with other residential landowners believe due process and due diligence was not followed as part of the planning process. Under normal planning process, it takes months and years to engage and discuss with the community, residential landowners and other community interests in order to get consensus and agreement.

The NSW Department of Planning, Industry & environment are proposing to amend & change our property land rights without an on-site assessment and without community consultation to propose a conservation area for E2 zoning and a riparian corridor on our properties. The proposed decision by the NSW State Department is questionable and the motives of the bureaucrats is wrong, inaccurate and betrays

the very public trust with the NSW state government. We can assure you this will certainly have an impact for many MP's in their respective state and federal seats at the next election.

We question why there were **NO** on-site assessments and **NO** community consultation by the Department of Planning with us and all of the nearby and adjoining neighbouring residential landowners. Apart from Lots [REDACTED] all other adjoining and neighbouring properties was selectively excluded by the Department of planning as highlighted in the blue mapping shading areas in the draft conservation plan and we strongly object and reject the proposed conservation draft plan. Whatever the reasons for the exclusion of all of the adjoining & neighbouring properties, then [REDACTED] should also be excluded.

Investigating the draft Cumberland Plain conservation plan (Refer below attached proposed Departmental 2020 mapping & 1988 Survey plans) has now revealed mistakes and inaccuracies by the NSW department of planning. The NSW department of planning should reveal their reasoning and evidence for the proposed inaccurate mapping, identifying riparian corridors and E2 Zoning areas contrary to our findings as follows:

1. The proposed conservation plan includes blue shading which represents land avoided for other purposes (riparian corridors, including the buffer). The blue shading boundary proposed in the departmental mapping has shown our property [REDACTED] and selectively excludes all of the neighbouring properties to the West and North-West that are the main sources of the storm water runoffs and further excludes house nos. [REDACTED] which is discharged through the properties.
 - a. [REDACTED] (Storm water runoffs - Mapping excluded from blue shading area)
 - b. [REDACTED] (Storm water runoffs - Mapping excluded from blue shading area)
 - c. [REDACTED] (Storm water runoffs - Mapping excluded from blue shading area)
 - d. All of the above properties and nearby hill properties (West & North-West) are the main sources of the storm water runoffs which is excluded from the draft plan mapping.
2. The light-yellow shading in the departmental mapping area highlighting house property nos. [REDACTED] is questionable and inaccurate.
3. Storm water runoffs from adjoining & nearby properties discharges the storm water runoffs to [REDACTED] discharges the excess storm water runoffs through House property [REDACTED] to the other side of the road in the mapped blue shading area. Why are these properties excluded from the proposed plan?
4. The proposed conservation plan shows the peach shading area represents the

certified - urban capable land which is contrary to our review & investigative process and includes the following properties:



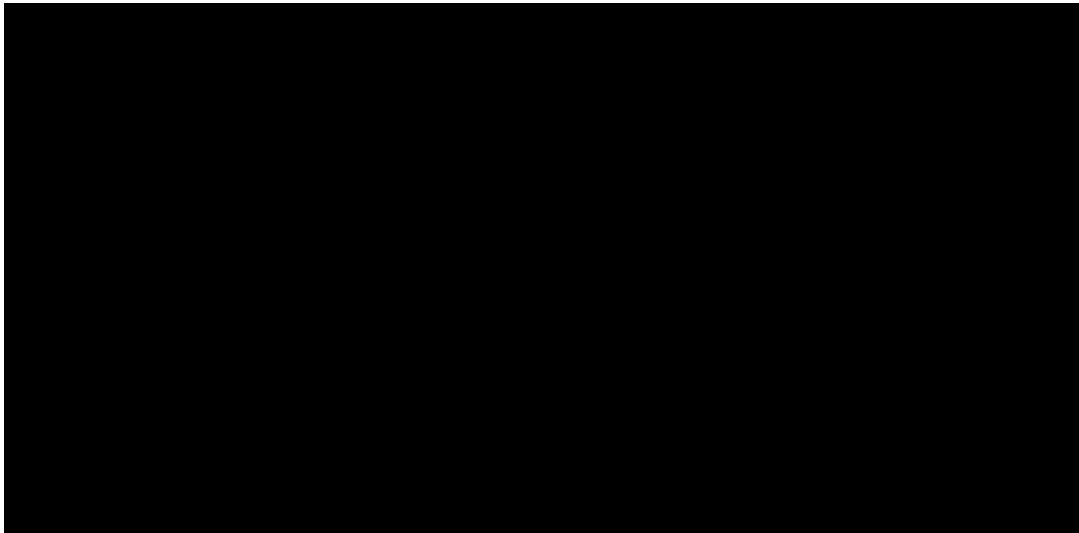
5. Contrary to the proposed conservation plan, all of the properties and nearby hill properties are the main sources of the storm water runoffs coming through onto our properties and then flows through House [REDACTED] [REDACTED]. These properties are excluded from the mapping, and we have received advice this is inaccurate, questionable and unconstitutional under the NSW departmental planning acts.

Questionable - NSW Dept. Mapping
(Easements)

Official Survey Map 1988

E2 Zones & Riparian Corridors

(Please check the dotted lines)



I also refer to Water NSW website and the definition of a riparian zone – "island alongside creeks, streams, gullies, rivers and wetlands. These areas are unique and diverse, and are often the most fertile parts of the landscape".

How would our property based on this definition from Water NSW comply with the proposed conservation plan?

NSW Department Planning have selectively excluded over 12 neighbouring properties by mapping an area to prepare the draft Cumberland Conservation plan. This is unconstitutional and contrary to our residential property rights and further, a restriction to our liberty and beneficial rights. This fact, has been verified and confirmed with advice we have received and calls into question the NSW department of Planning, Land & Environment's fairness and due diligence required to complete due process for any proposed conservation plan under the NSW State planning, Land & Environmental & Water Management Acts.

Lot [REDACTED] is a rural paddock with a home and a small man-made constructed dam to

harvest water during the rain or once in century storm water runoffs.

I would like to have this on record, the NSW department of conservation planning made an inaccurate statement in their letter dated 26th August 2020, states "*thanking us for granting permission for the ecologists to survey our properties as part of strategic conservation planning process and for mapping & zoning*" which never ever eventuated. This **is grossly and a highly inaccurate** statement and is questionable. **I object strenuously to this incorrect statement.** We were never contacted or visited by an Ecologist or any official from the NSW Department of Planning, Industry & Environment.

We are now compelled to engage an Ecologist to review the proposed draft Cumberland Plain Conservation Plan and verify and confirm if due process and due diligence were compliant and adhered to under the NSW State Planning, Land & Environmental & Water management Acts.

We question the NSW department State Planning, their right to change or amend our beneficial rights and restrict our liberty to protect our land and property values given there was **NO** visitation, **NO** community consultation, **NO** on-site assessment on our property and other neighbouring residential properties.

We as owners, **strenuously object and reject the conservation plan proposal** for E2 zoning & Riparian corridors on our property for the following reasons:

1. The Biodiversity mapping of the riparian corridors and E2 Zoning for [REDACTED] [REDACTED] [REDACTED] is inaccurate, unconstitutional and non-compliant with the Biodiversity Act, Land and Environment Act and NSW Water Management Acts.
2. We have not verified the research and on-site assessments by the NSW department of Planning. There are numerous inaccuracies and questions that remains unanswered with the draft conservation plan and for the respective House Nos. & Properties as follows:
 - a. House Nos. [REDACTED] [REDACTED] Orchard Hills (Mapping excludes original sources of Storm water run offs)
 - b. [REDACTED] [REDACTED] Orchard Hills (Mapping excludes original sources of Storm water run off)
 - c. [REDACTED] [REDACTED] Orchard Hills (Mapping excludes original sources of Storm water run off)
 - d. Nearby properties on Hills - (Mapping excludes original sources of Storm water run off)
 - e. [REDACTED] [REDACTED] [REDACTED] Orchard Hills (Mapping excludes Discharge of Storm water run off)
3. The NSW State Planning & Environment in their draft plan have not identified and shared the listed animals, Plants & high-value vegetation on my property [REDACTED] [REDACTED] that is of conservation value as stipulated under the Biodiversity Act, Land Environment Act and Water Management Act.

4. **Please note:** There has never been any Koalas, Kangaroos, foxes that live on our property with the only exception of our own few domestic goats.
5. The draft conservation plan creates a legal situation for affected residential owners and possible future litigation with excluded neighbouring properties creating numerous changes and deliberate contouring of their own properties to push the excess storm runoffs from their properties when compared to the original 1988 survey map. (Refer attachment 1988 survey plan below).

The land was cleared and managed as a rural residential allotment over the last 35 years.

Due to the intermittent nature of storm water run offs there should not be any riparian ecology areas that would need conservation which excludes all of the adjoin and neighbouring properties.

It is clearly evident from the aerial photos there should be no E2 zoning and riparian zones within this area. There is no conservation zoning relevant here.

We would be happy to fill up the man created dams with soil on our property just as the neighbouring properties have done over the years and changed their easement and contour over the last 15 years.

Until such time that a detailed on-site assessment is carried out on all nearby properties in Orchard Hills with the proposed biodiversity conservation zoning, we request that the draft plan be withdrawn with immediate effect and we would be in contact with our local & federal Members of Parliament to support the unfairness and questionable conservation plan on our property in Orchard Hills.

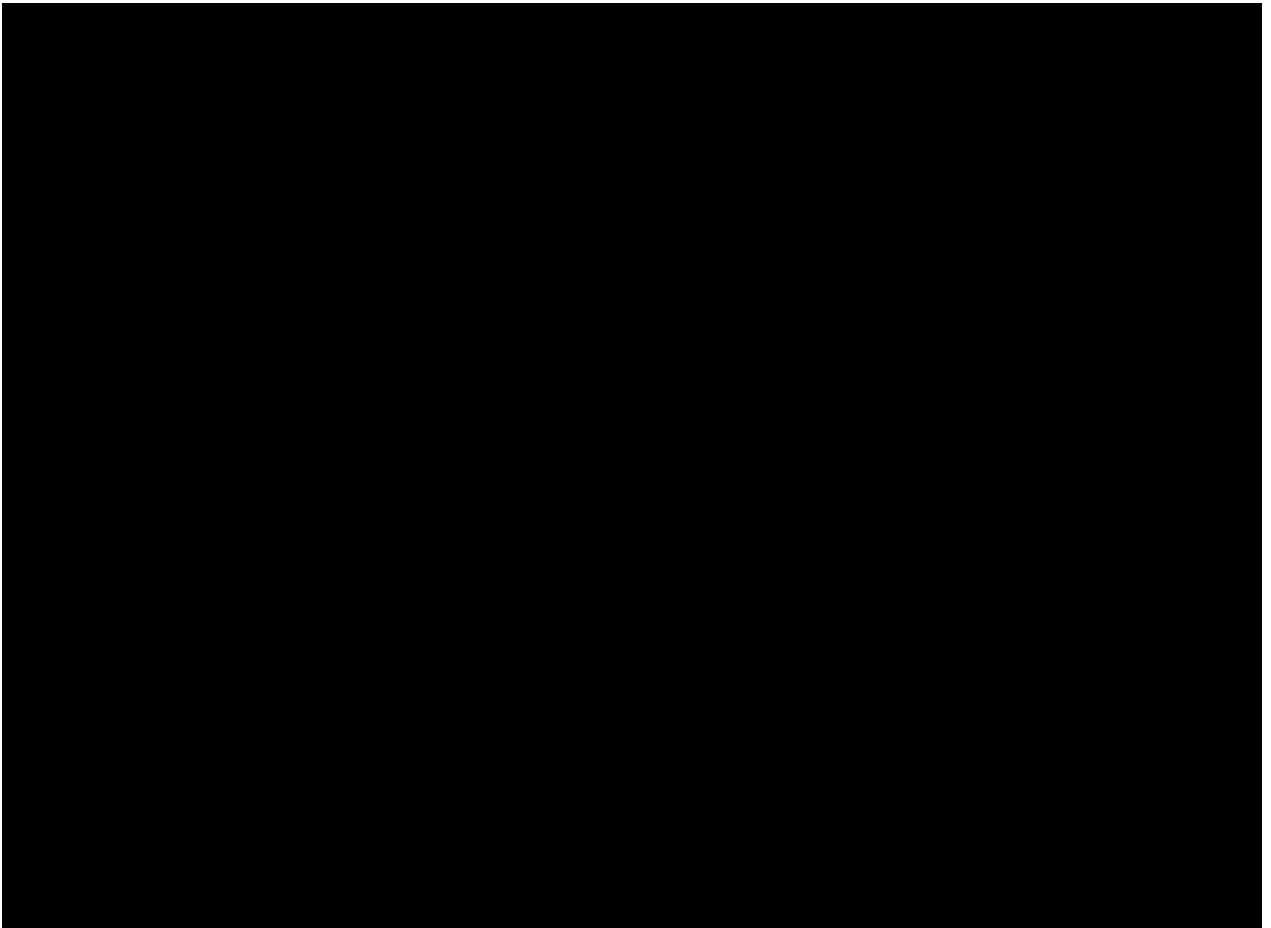
In the meantime, we would appreciate if we can arrange an urgent meeting ASAP to discuss the integrity of the proposed draft plan with the Land owners and go through all of the above information and ensure due process and due diligence was adhered to under the NSW State Planning Acts.

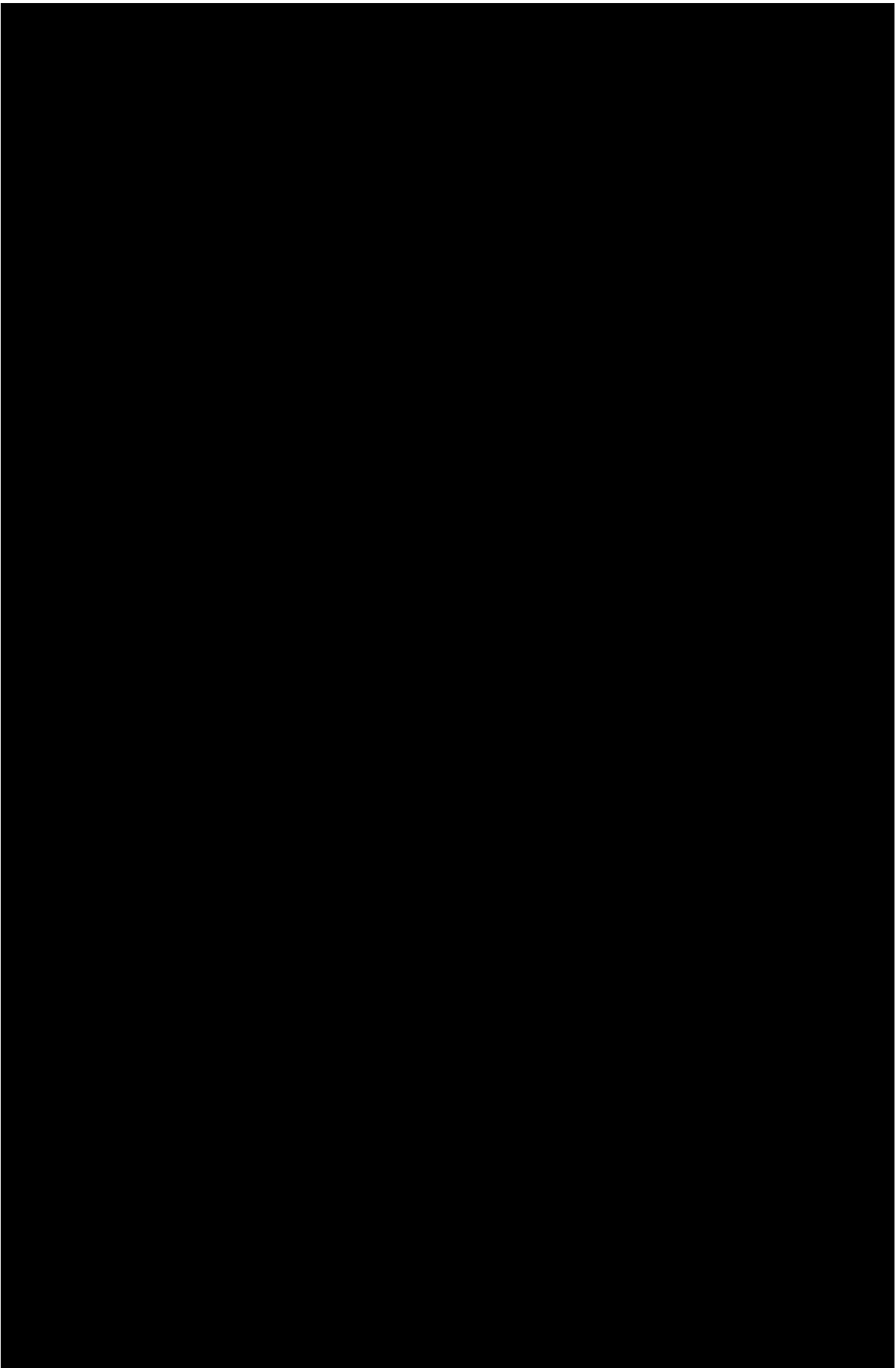
Sincere!

[Redacted signature]

Matthew & Lorraine Vella
Owner(s) [Redacted]

CC: [Redacted]





M