

8 October 2020

Secretary
NSW Department of Planning, Industry & Environment
GPO Box 39
SYDNEY NSW 2001

Dear Sir/Madam

Submission to Draft Cumberland Plain Conservation Plan (DCPCP)- [REDACTED] Kemps Creek

Metro Planning Services has been engaged by Mrs Janet Esho and BNR Trading Pty Limited who are the owners of [REDACTED] Kemps Creek, to prepare a submission in response to the Draft Cumberland Plain Conservation Plan (DCPCP) that is currently on public exhibition.

We have reviewed the DCPCP and supporting documentation that was available for viewing. Our client has instructed us to put forward the following offer to the Department:

- Our client wishes to donate to the Department approximately 5 hectares (out of 10.19 ha) of their land east of the upward red arrow on Figure 2, which includes IN1 General Industrial land, in return for rezoning of the front western portion of the site to IN1 General Industrial;
- Our client offers to plant approximately 600 eucalyptus trees or a number deemed satisfactory to the Department in the section hatched in black and red arrows on the aerial plan contained in Figure 2, which is currently zoned IN1 General Industrial;
- Further, our client offers to rehabilitate the rear eastern portion of the site which is currently zoned E2 Environmental Conservation.

We note that the front western and rear eastern portions of our client's property is identified as "Non-certified avoided for Biodiversity", "strategic conservation area" and "Cumberland Plain Woodland" vegetation on the spatial viewer mapping. Refer Figure 1. We assume that the restrictive "non certified" classification has largely resulted from the recent rezoning of the front western portion of the site to E2 Environmental Conservation under the Western Sydney Employment Area SEPP 2009.

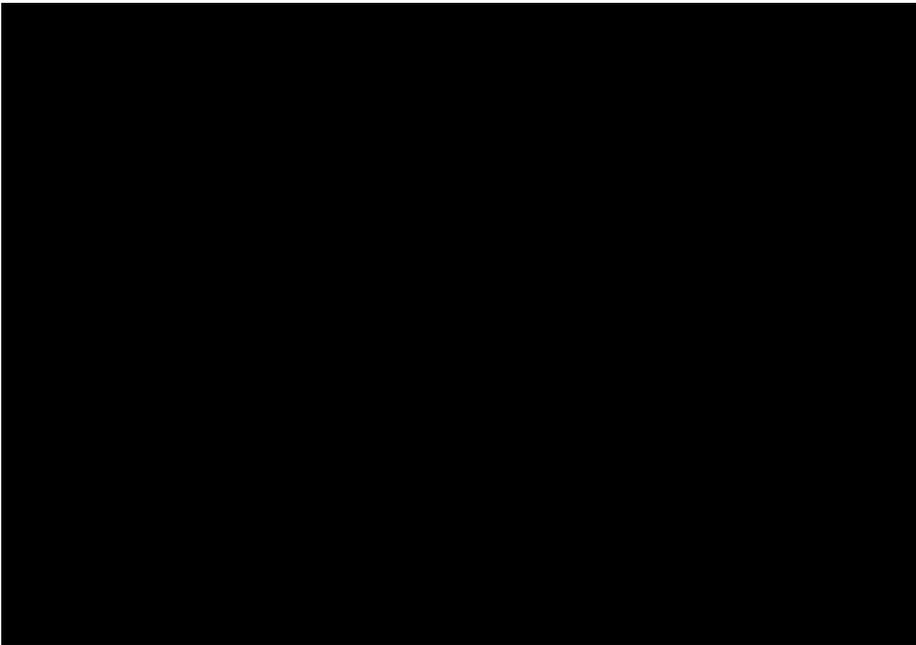
We understand that the DCPCP has been prepared to meet the requirements for strategic biodiversity certification under the NSW Biodiversity Conservation Act 2016 and strategic assessment under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999.

Our client seeks that the Department make amendments to the Draft Plan which in turn will necessitate amendments to the prevailing zoning of the site under the provisions of the Western Sydney Employment Area 2009 SEPP.

Our client requests that the Department rezone the front western portion of the site from E2 Environmental Conservation to IN1 General Industrial. See approximate red circled area in Figure 2. Of critical importance to our client is the red triangular shaped portion of land located at the south eastern tip of the E2 zoning which contains an existing packaging shed. This particular portion of land is cleared of vegetation and also contains an on-site septic tank which is critical to the ongoing operations of the intensive agricultural business on the site.

In return, our client offers to donate or rezone a portion of the site located towards the eastern rear from IN1 General Industrial to E2 Environmental Conservation. The portion of land is the larger black hatched portion of the site with red arrows, as identified on the aerial plan contained in Figure 2. A copy of the current prevailing landuse zoning map of the site is contained in Figure 3 for the Departments information. A copy of the finalised Mamre Road Precinct Plan is also contained in Figure 4 for the Departments information.

In addition, our client offers to rehabilitate the two rear eastern portions of the site that are hatched in black. Our client is willing to plant 600 native eucalyptus trees or a number of trees deemed to be satisfactory to the Department to assist in rehabilitating the area.



Site Description

In preparing this submission, we have undertaken a detailed inspection of the site, taken photographs of the site and reviewed relevant constraint mapping of the site. The site is a long narrow roughly rectangular shaped allotment with an area of [REDACTED] frontage of approximately [REDACTED] and depths of [REDACTED] along the northern side boundary and [REDACTED] along the northern side boundary.

The vegetation at the western frontage of the site has been modified through past clearing activities and is highly disturbed in areas. An aerial depiction of the site is contained in Figure 2 and photographs 1 to 4 show the vegetation on site. The western portion of the site contains a small number of eucalyptus trees estimated to be approximately 60 trees.

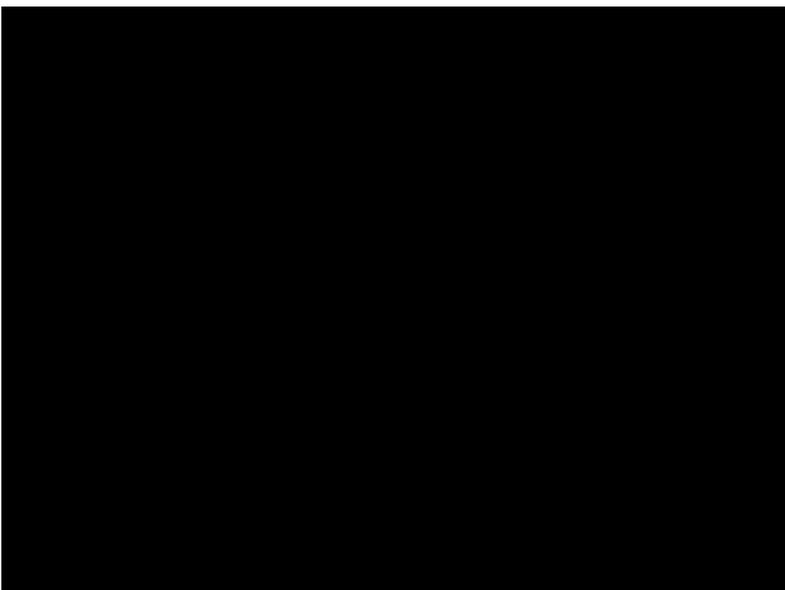


Photo 1-View along track located along southern side boundary of site facing towards greenhouses



Photo 2-View of pine regrowth vegetation located upon the front south western portion of site



Photo 3-View facing north east towards site of former greenhouse structures

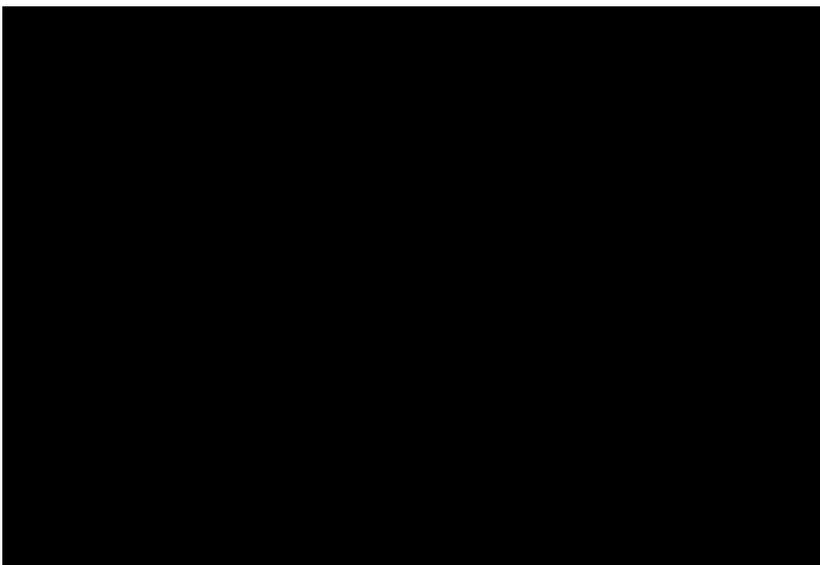


Photo 4-View facing north across cleared portion of site that is zoned IN1



Figure 3-Landuse zoning map under Western Sydney Employment Area SEPP 2009

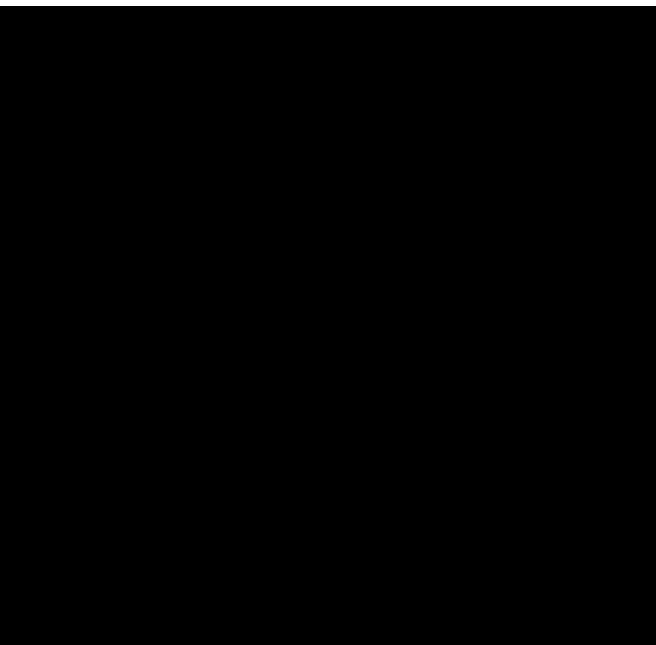


Figure 4-Finalised Mamre Road Precinct Plan

In providing planning justification for our case, we make the following comments:

E2 Environmental Conservation zoning/Non Certified Strategic Conservation area

Our client considers that the classification of the front western portion of the site as “Non Certified for Biodiversity” and “Strategic Conservation Area” is not an accurate representation of the site. That portion of the site comprises highly modified and disturbed vegetation along with the presence of invasive exotic species, particularly across the front south western portion of the site. Refer photos 1 and 2 that show the extensive pine vegetation in existence.

In support of our submission, Anderson Environmental was engaged to prepare a preliminary desktop ecology assessment of the site, dated 16 December 2019. A copy of the submission is attached.

Anderson Environmental undertook aerial photo interpretation and analysis of videos provided by the client and advised that the front western portion of the property has been disturbed through under scrubbing since 2004 along with the introduction of exotic plants. Anderson Environmental advises that the vegetation has been quite modified in many places due to past use. Evidence of exotic grasses and weeds are present. Evidence of invasive exotic plant species is shown in photographs 1 and 2. The front western portion of the site has also been subject to livestock grazing with up to 150 sheep on site in recent years.

On the basis of the high level of disturbance of native vegetation across the front western portion of the site, we consider that retention of the E2 Environmental Conservation zone & classification as a “non certified strategic conservation area”, which was essentially derived on the basis of aerial mapping and was not ‘ground truthed’ by a suitably qualified Ecologist, is an unjustified and an unreasonable sterilisation of that portion of our client’s property.

As previously stated in this submission, our client wishes to donate approximately 5 hectares of land located at the eastern rear of the site to the Department, as hatched in black on the aerial plan contained in Figure 2. In return, our client seeks to have the front western portion of the site rezoned to IN1 General Industrial. In addition, our client offers to rehabilitate the two rear eastern portions of the site that are hatched in black as identified on the aerial plan contained in Figure 4. Our client is also willing to plant 600 native eucalyptus trees or a number of trees deemed satisfactory to the Department to assist in rehabilitating the area.

Further, upon review of the aerial mapping contained in Figure 5, we question why the southern boundary of our client’s property was selected as the arbitrary southern boundary of the E2 Environmental Conservation zone and non certified strategic conservation area? Clearly it is apparent from the aerial view of the site that the two directly adjoining southern properties (No. 74-88 and 90-104 Aldington Road) contain similar vegetation along the western frontages as our client’s site. Instead the adjoining southern properties have been zoned IN1 General Industrial. Why did this occur?

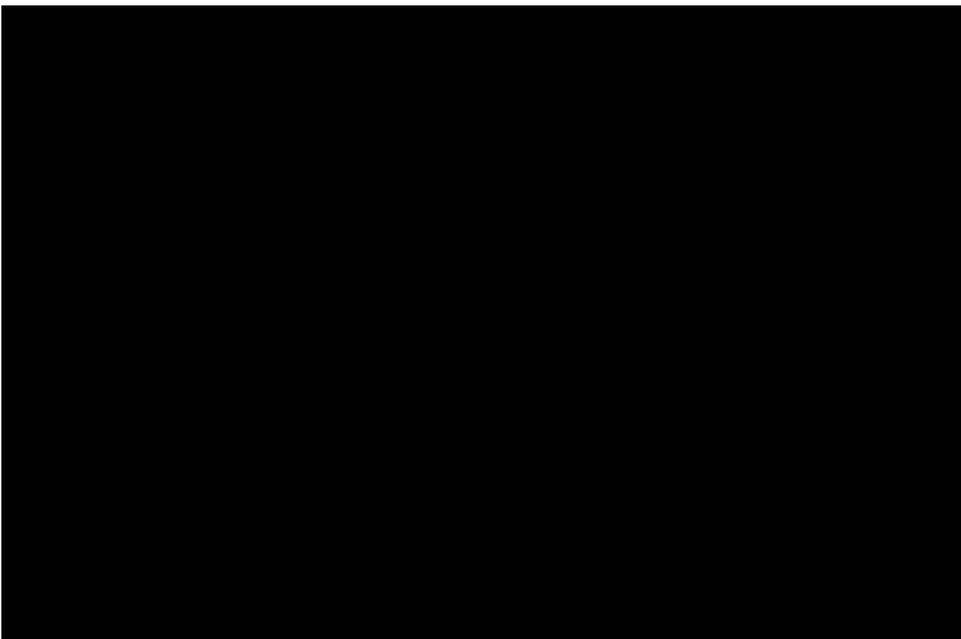


Figure 5-Aerial mapping depicting vegetated portion of client’s site and adjoining southern properties

Industrial landuse suitability of front western portion of site

We consider that the front western portion of the site is ideal to provide for industrial development given contextually the site directly adjoins land to the south that is now zoned industrial. Refer Figure 4.

The front western portion of the site can also be well serviced with public utilities given it has direct frontage to Aldington Road and can be well accessed from the existing and new road system that will service the area. The M4 Motorway is also located in close proximity to the north.

The site's physical characteristics are suitable to accommodate large floor plate industrial development given it is a large parcel of land that directly adjoins similar sized properties to the south that are identified for industrial use. The topography of the site is also suitable for industrial use given the flat nature of it and limited need for significant earthworks. The front western portion of the site comprises highly modified vegetation as previously addressed in the Ecological submission prepared by Anderson Environmental.

In conclusion, we strenuously object to retention of the E2 Environmental Conservation zoning and the proposed non certified Strategic Conservation area classification across the front western portion of the site under the DCPCP given the poor degraded nature of that vegetation. As previously stated, our client:

- Our client wishes to donate to the Department approximately 5 hectares (out of 10.19 ha) of their land east of the upward red arrow on Figure 2, which includes IN1 General Industrial land, in return for rezoning of the front western portion of the site to IN1 General Industrial;
- Our client offers to plant approximately 600 eucalyptus trees or a number deemed satisfactory to the Department in the section hatched in black and red arrows on the aerial plan contained in Figure 2, which is currently zoned IN1 General Industrial;
- Further, our client offers to rehabilitate the rear eastern portion of the site which is currently zoned E2 Environmental Conservation.

We trust that the Department of Planning will give serious consideration to the issues raised in our submission and the preliminary desktop ecology submission prepared by Anderson Environmental, and make amendments to the Draft Cumberland Plain Conservation Plan.

We can be contacted on 0418 431 897 if the Department requires any clarification and would welcome the opportunity to meet with representatives of the Department to discuss our submission in detail.

Yours Faithfully



DIRECTOR



INTERIM LETTER

[REDACTED]
KEMPS CREEK

Job number: 2340

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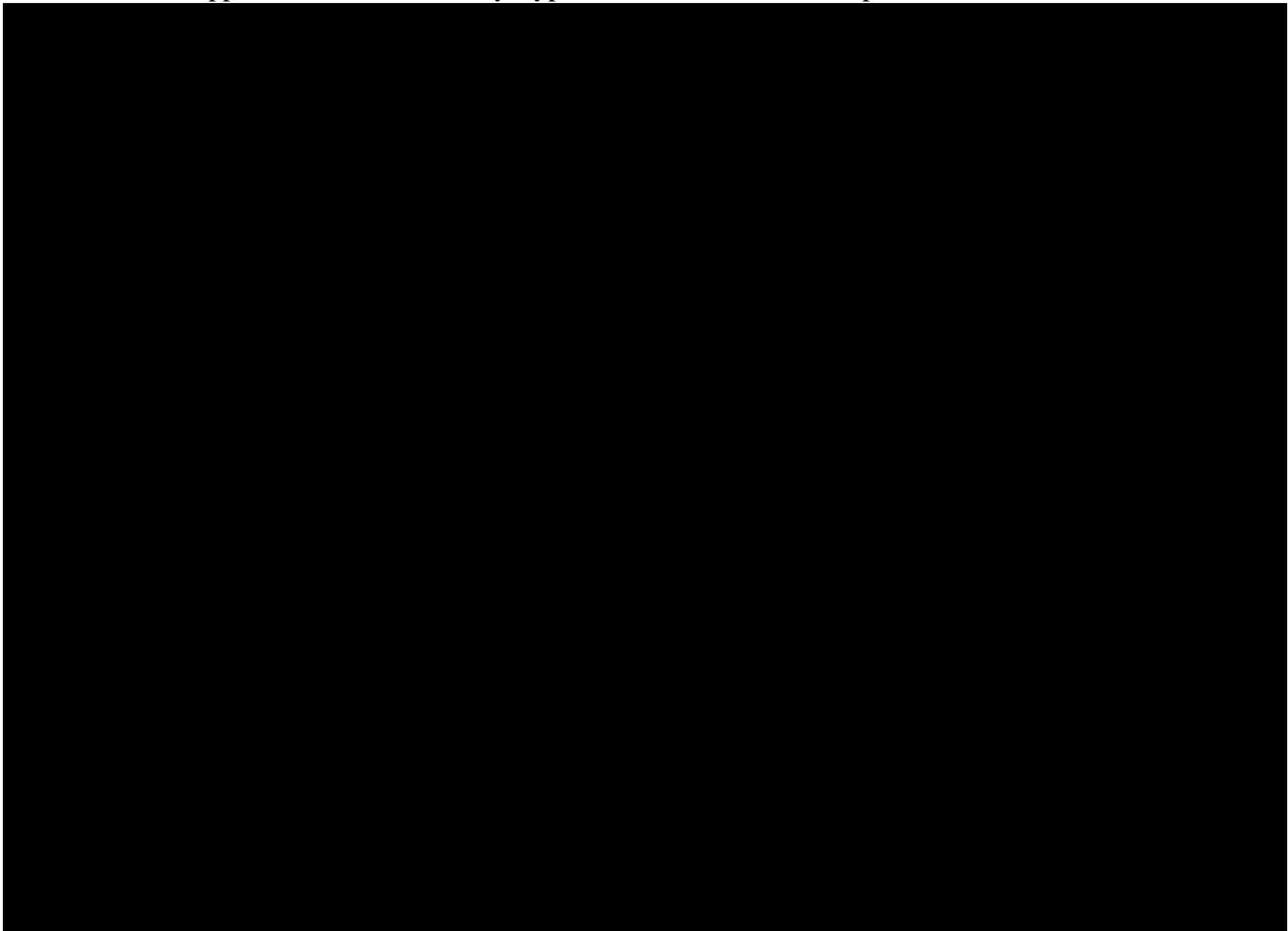
ABN 87 164 830 728



To Whom it may Concern

Anderson Environmental was engaged to conduct a Desktop Background Review of the Ecology of the site ([REDACTED] Kemps Creek) as it is proposed to be re-zoned as an E2 Environmental Conservation zone by the NSW Department of Planning. Due to the tight timing of contact from the client and the timeline of the responses required (by the 18th of December 2019) combined with the Christmas Period it was not possible for this consultant to undertake an on site assessment. As such the client requested that we provide some background advice based on background mapping and some photographs and short videos the client provided of the site. We have informed our client that we return on the 13th of January 2020 and would be available to undertake a formal site assessment at that time. In the meantime however our findings based on a background assessment on the aforementioned information are provided below.

The site is mapped as Plant Community Type 849 as shown on the map below.



This community forms part of the Cumberland Plain and is listed as Critically Endangered under both state and federal legislation.

Aerial photo interpretation indicates that the area on the front portion of the property has been disturbed through under scrubbing since 2004 (the latest historical period from which aerial photographs could be examined due to the tight timeframe of the project). The land has been used as “Jacoubs Fresh Fruit and Vegetables” (a commercial nursery/vegetable operation) with a home at the front of the property. It is likely that the use of the site as a nursery has resulted in the indicators which are present on the property indicating moderate to potentially high levels of disturbance to this area. This is indicated by both the aerial photos indicating potential previous mowing/under scrubbing (2014) combined with the intrusions into this area from building structures/nursery materials (pipes, dumped soil piles and other refuse etc) along with some exotic nursery plants which appear to have been planted in this area such as palms.

The vegetation present appears to be dominated by *Eucalyptus tereticornis* of a young to medium age class. There appear to be a few *Eucalyptus moluccana* present with what appear to be *Allocasuarina littoralis* in places. The vegetation does not have a small tree layer present and the ground covers comprise unidentified grasses until a formal site survey is undertaken. Field surveys are required to verify the condition of the site and provide an assessment of the vegetation present. It appears that the vegetation has been quite modified in many places due to past use. Evidence of exotic grasses and weeds are present however a formal assessment is required to provide a qualitative assessment of the vegetation present.

The client would like to request a formal extension to the submission period past the 18th of December 2019 so the site can be assessed on the ground via a formal assessment. This would enable them to provide a response for their site in relation to the vegetation present.

Yours Sincerely



Jason Anderson

B.App.Sc – 1992 (Conservation Technology - University of New England)

16th December 2019

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