

**Sarah Ng**

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**From:** [REDACTED]  
**Sent:** Friday, 9 October 2020 1:59 PM  
**To:** DPE PS Biodiversity Mailbox; Melissa Rassack  
**Cc:** [REDACTED]  
**Subject:** Landowner Submission - Cumberland Plain Conservation Plan - [REDACTED]  
**Attachments:** [REDACTED]CPCP Submission\_091020.pdf

Attention: [REDACTED]  
[REDACTED]

Please find attached a submission on behalf of the landowners of lot [REDACTED]  
I believe that it is not too late for the suggested changes to be made but your prompt consideration of these is required.  
I look forward to further discussions on this matter.  
Regards,

[REDACTED]  
[REDACTED]

PLANNING | PROPERTY ANALYTICS | ADVOCACY



9 October 2020

██████████  
Department of Planning, Industry and Environment  
Green and Resilient Places Division,  
Locked Bag 5022  
Parramatta NSW 2124

E: [biodiversity@planning.nsw.gov.au](mailto:biodiversity@planning.nsw.gov.au) and ██████████

Dear Santana,

**Re: Cumberland Plain Conservation Plan ██████████ Kemps Creek**

This submission follows from and supports an earlier submission made to the Department (see **Appendix A**) regarding the outcomes of the Mamre Road rezoning process and, specifically, its impact on my client's land at ██████████ Kemps Creek ██████████

The earlier submission requested that it be considered in the context of the then pending draft Cumberland Plain Conservation Plan. Nonetheless, we were advised to make an additional submission to the now exhibited draft Conservation Plan.

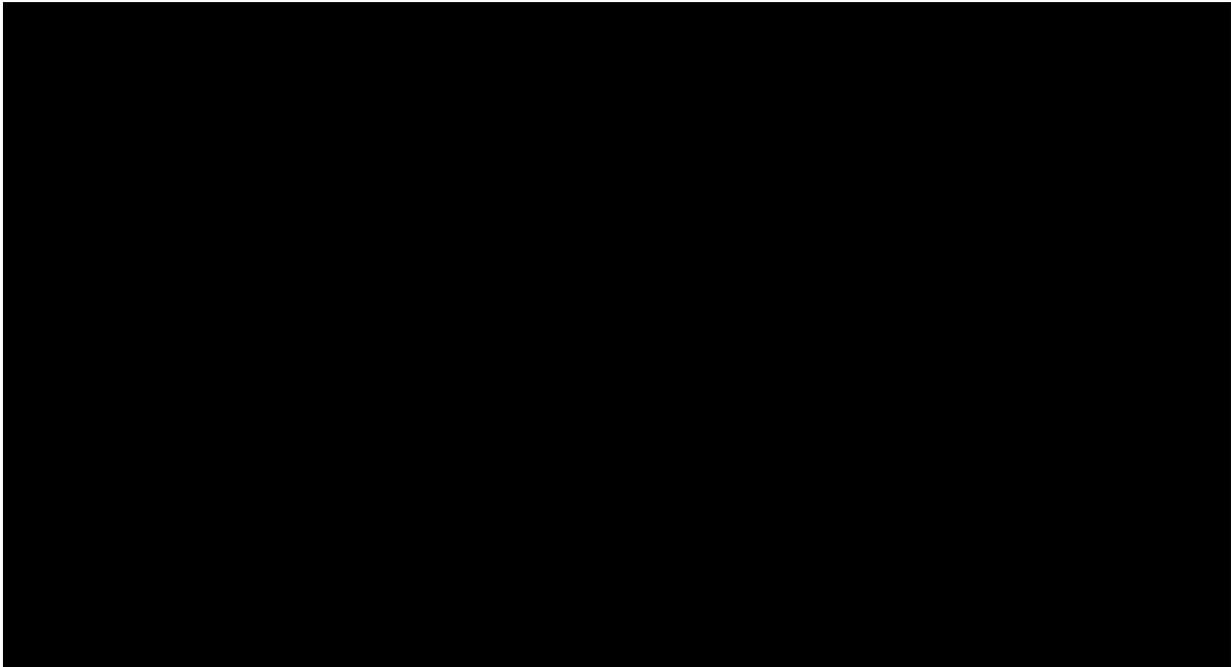
In short, my client, Rocapa Pty Ltd et al, is aggrieved by the extent of E2 zoning that has been assigned to the subject land. My client originally felt that the Department had made a mistake in classifying its land as environmentally important. The land has historically been used for agricultural purposes – orchards and grazing – and is separated from the adjacent property to the east by a 40m wide cleared and grazed stretch of land. In addition to several exotic species, Lot ██████ accommodates native trees, but these are insufficient in number and/or quality to warrant an environmental classification, i.e. the ecological quality of the site is heavily degraded by a dominant presence of weeds and exotic species.

A series of photographs depicting the site's vegetation is included at **Appendix A** to this submission.

In finalising the zoning outcomes for the Mamre Road precinct, the amount of land affected by the E2 zoning was reduced, but nonetheless still affects a large portion (70%) of Lot ██████. Notably, as pointed out in our earlier submission, other properties that are more heavily impacted by existing vegetation had their E2 classification wholly removed. Other substantial reductions were also made elsewhere.

The subsequent draft Cumberland Plain Conservation Plan does not shed any site-specific 'new light' on how or why my client's land has been zoned E2 other than explaining the strategic 'landscape approach' taken to identify and protect habitat for species' population viability and connectivity. The Plan, for instance, does not reference the scientific basis of the 'Priority Conservation Lands Map' from the earlier Cumberland Plain Recovery Plan, 2011 which shows no land in the immediate vicinity of the Mamre Road precinct as representing the best remaining opportunity to secure long-term biodiversity benefits for the region.

An extract from the draft Conservation Plan's spatial viewer, depicting the classifications applied to my client's land follows.



Source: [Draft Cumberland Plain Conservation Plan\\_Spatial Viewer](#)

Under the draft Conservation Plan my client's land is identified as being within a Strategic Conservation Area and accommodating native vegetation that is solely classified as Cumberland Plain Woodland notwithstanding the aforementioned presence of exotic and orchard species.

It is noteworthy also that the Mamre Road zoning process was completed prior to the exhibition of the draft Conservation Plan, so there is little surprise in finding that the now exhibited Conservation Plan's classifications confirm the zone boundaries that have already been assigned.

It is unfortunate, however, that the now proposed classification under the Conservation Plan was not able to be provided prior to the completion of the zoning process. To this day, my client has not been contacted, spoken to or visited by the Department or its conservation representatives about the land's conservation value. My client also has no knowledge of any consultant ever visiting the site to consider its vegetation qualities first hand.

The draft Conservation Plan advises that:

- *Not all of the strategic conservation area is expected to become new conservation land under the Plan. However, it is expected that around 11,000 hectares, or approximately double the Plan's offset commitment of 5,475 hectares of impacted native vegetation will be protected within new conservation lands. This will deliver increased green space and publicly accessible reserves for the community to enjoy as well as building ecological connectivity across the landscape through greater protections for biodiversity (p.37).*

**Response:** Does this mean that the full extent of environmental classification on my client's land (and elsewhere) is unnecessary and that, similar to other properties that have had a substantial reduction in the extent of E2 affectation, a similar reduction could still be contemplated?

- *An option for protecting land that has been assigned a high biodiversity value is to establish a Biodiversity Stewardship Agreement, providing owners with an ongoing income-stream to permanently manage their land.*

**Response:** A common (and probably the loudest) concern expressed during the recent on-line community webinar was that private landowners impacted by an E2 zoning feel aggrieved that their land has been treated differently from other land zoned for development purposes. Ideally, given its scarcity, the value of E2 land would be similar to other ‘development’ land such that landowners impacted by such zonings are not financially penalised. Instead, both the zoning process and the Conservation Plan are silent on this matter, preferring to let the market play its role. As previously stated, the Department would be well aware that the market’s practice of land acquisition is not always based on equal shared information, particularly where rural landowners are involved. Although suggested as a form of compensation, stewardship arrangements are only really suited to existing landowners that choose to remain on their land and to continue their going concern. It is not suited to landowners surrounded by development land such that their going concern is significantly compromised, i.e. where they have no choice but to sell. These landowners should be assisted in achieving an equivalent market development value. If this was the case, many landowners would not feel deprived by the zoning process. The lack of information provided in relation to land value will continue to rouse suspicion amongst affected landowners and is likely to thwart development progress.

- *The NSW Government proposes to purchase some areas of private land to create new public reserves or national parks. These areas will be identified as funding becomes available and based on priority areas for addressing the impacts of development that has been biodiversity certified.*

**Response:** Given the lack of information regarding the impact of the E2 zoning on the value of private land, the Department should consider the acquisition of all E2 land within the Mamre Road Precinct at fair market value, based on the underlying value of adjoining land.

Since the exhibition of the draft Conservation Plan my client has spoken with the neighbouring owner to the east [REDACTED]. Together they have considered a development scheme which reduces the amount of E2 zoned land on their properties to a more reasonable level and which considers the likely impact and alignment of the planned Southern Link Road.

Our prior submission in August referred to a proposed road layout prepared by AT&L which showed how the land could be dissected by a new road parallel to the Southern Link Road.

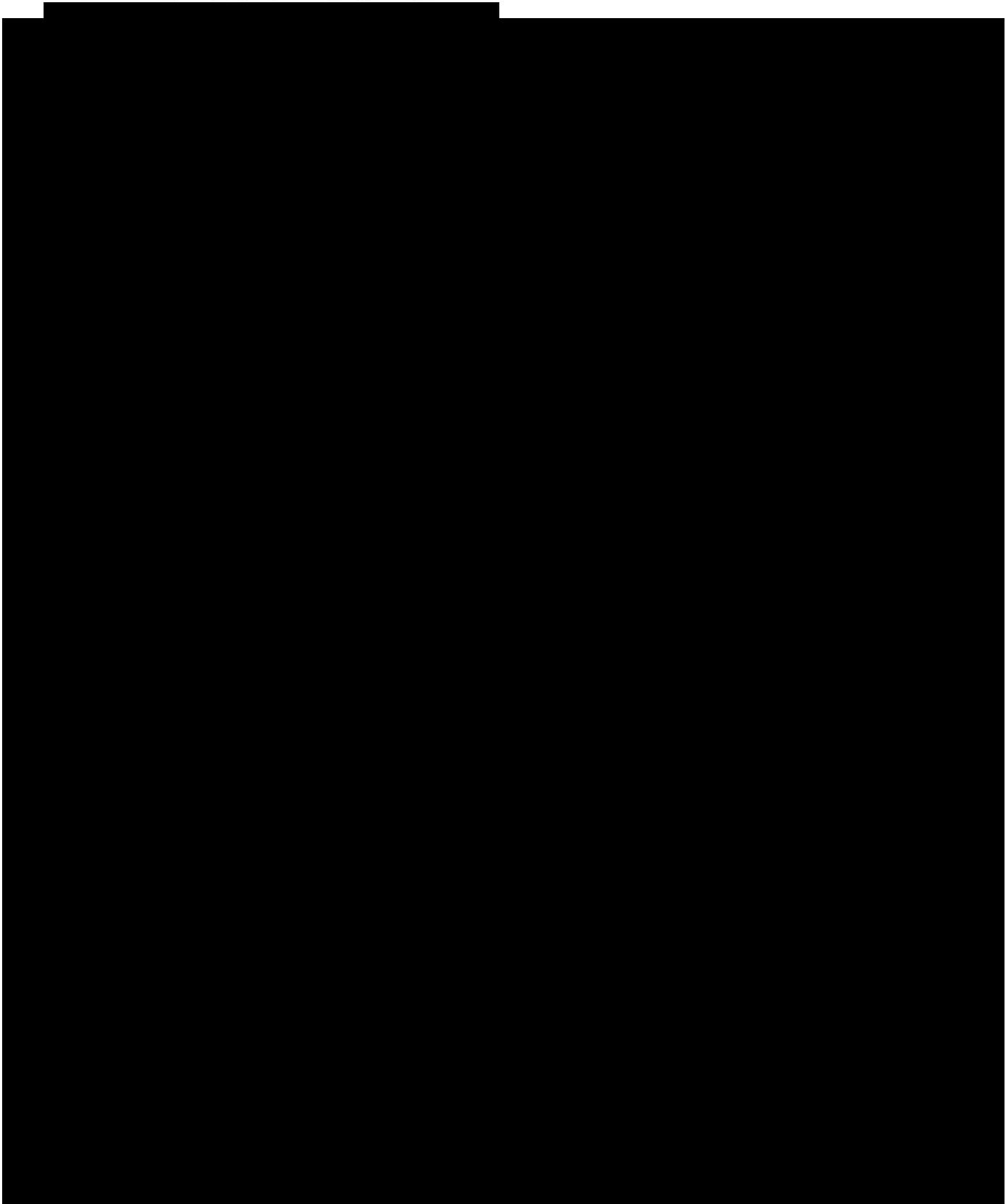
The current plan proposed by the owners of [REDACTED] and [REDACTED] uses the AT&L base and shows how a new configuration could produce larger industrial lots and result in a lesser land take for E2 purposes. The suggested new scheme avoids the creation of small, awkward shaped industrial slivers that compromise the appeal of land to market.

The suggested road layout, showing right-sized industrial lots that reflect the land’s proximity to the Southern Link Road, is presented below.

This proposed layout would secure the retention of the more relevant existing vegetation across the lots and result in a more practical and reasonable outcome for the landowners. It also has

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regard for the connectivity of conserved land across the estate, utilising public roads where necessary to connect and provide public access to other E2 land.



My client acknowledges that the zoning of the Mamre Road precinct has now been finalised but nonetheless feels that a better and more practical and reasonable outcome could still be achieved for its land and the adjacent Lot [REDACTED]

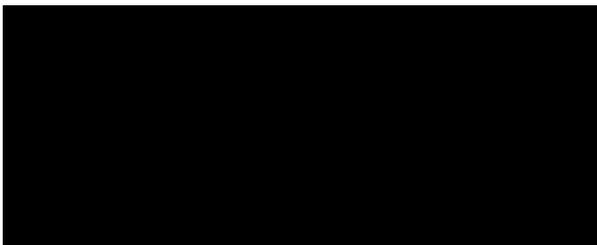
The suggested road layout and reduction of E2 land presents a more rational zone boundary for both Lots [REDACTED] and [REDACTED] and would not, in our opinion, compromise the integrity and purpose of the broader E2 allocation.

Any assistance that the Department can offer my client in terms of the final lot/zone/road configuration for Lots [REDACTED] and [REDACTED] in the remaining final stages of precinct planning would be appreciated.

We note, in particular, that a further zoning adjustment will be required to accommodate the final location and configuration of the Southern Link Road and its connection to Aldington Road and request that this submission be considered in conjunction with this final step.

Please note that Penrith City Council and Transport for NSW have been copied in this correspondence.

Yours Sincerely



Wayne Gersbach | **Memphis Strategic**

CC:

- Penrith City Council - Attention: Natasha Borgia: [REDACTED]
- Transport For NSW – Attention: Matthew Allen: [REDACTED]
- Transport For NSW – Attention: Dush Senanayake: [REDACTED]

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**APPENDIX A – Site vegetation photos**

