

Sarah Ng

From: Anthony Tavella on behalf of DPE PS ePlanning Exhibitions Mailbox
Sent: Friday, 9 October 2020 3:03 PM
To: DPE PS Biodiversity Mailbox
Subject: FW: Webform submission from: Draft Cumberland Plain Conservation Plan
Attachments: 20201008-submission-dcpp-2020-10-09-at-1.01.47-pm.pdf

From: noreply@feedback.planningportal.nsw.gov.au <noreply@feedback.planningportal.nsw.gov.au>
Sent: Friday, 9 October 2020 1:26 PM
To: DPE PS ePlanning Exhibitions Mailbox <eplanning.exhibitions@planning.nsw.gov.au>
Subject: Webform submission from: Draft Cumberland Plain Conservation Plan

Submitted on Fri, 09/10/2020 - 13:08
Submitted by: Anonymous
Submitted values are:
Submission Type: I am making a personal submission
First Name: Tony
Last Name: Kazmouz
Name Withheld: No
Email: [REDACTED]
Suburb/Town & Postcode: mtpritchard
Submission file:
[20201008-submission-dcpp-2020-10-09-at-1.01.47-pm.pdf](#)

Submission: I Tony Kazmouz, from [REDACTED] Wilton am writing this letter in regards to the recent changes in rezoning in my area. My neighbours and I strongly disagree with this decision to become E2 as I purchased this property approximately one year ago as RU2 on the bases I can build two separate dwellings for me and my elderly parents so I can look after them as we want to do mixed farming, some green houses and orchid as I did previously. I have also spoken to environmental solicitor and town planner and will do whatever it takes to tackle this problem. For the past 6 months, I have been drawing up plans with my architect for 2 dwellings which I am to submit in the next few weeks, also wanting to submit approval to farm green houses and an orchid where this is stated on my 149 certificate, this is why I purchased this property and also it is RU2. I am a father of 8 kids and have worked hard to get to where I am now. COVID-19 has played a big role in less work and really tough times and to top it off we got this news, all I want is for you to turn the tables and put yourself in our position that's all. We need you by our side as a close community so we can keep our dreams for the future for our children. Kind regards, Tony Kazmouz

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



Wilshire Webb Staunton Beattie Lawyers

Our Ref: CR: [REDACTED]

9 October 2020

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

Dear Madam/ Sir

SUBMISSION REGARDING DRAFT CUMBERLAND PLAIN CONSERVATION PLAN
[REDACTED] WILTON

We act for Mr Tony Kazmouz, land owner of [REDACTED] Wilton (**Land**).

The Land is affected by the Draft Cumberland Plain Conservation Plan (**Plan**) and proposed to be rezoned from RU2 - Rural Landscape, to E2 – Environmental Conservation.

Our client objects to the proposed rezoning of the Land to E2 – Environmental Conservation.

We are instructed that our client recently purchased the Land, with a view to developing the Land consistent with the present land zoning, RU2 – Rural Landscape.

The potential to develop the Land is significantly restricted, and in real terms, eliminated by the rezoning to E2 – Environmental Conservation.

We have reviewed the **enclosed** report prepared by Gunninah Pty Ltd (**Report**). The Report identifies that there are portions of the Land that are not suitable for inclusion in the proposed E2 – Environmental Conservation Zone rezoning. The Report also identifies that the mapping underlying the proposed rezoning is flawed in a number of respects and has not been prepared on the basis of site investigations. The Report also notes that the mapping in the Plan, which identifies the whole of the Land as 'strategic conservation', ignores the existing cleared access road, existing dwelling and associated features (including asset protection zones), previously cleared lands and a farm dam.

It would be inappropriate to rezone the Land on the basis of inadequate and incorrect information.

The Plan is a significant and extensive planning document, intended to identify “strategically important biodiversity areas within the Cumberland subregion to offset the biodiversity impacts of future urban development, while ensuring a vibrant and liveable city” (p 2, Plan). A vast region has been reviewed and analysed and aerial mapping undertaken to determine the areas of highest environmental value. However, given the extensive areas, it is not possible to undertake the required site investigations to properly assess the particular areas considered to be of high environmental value.

It is very likely that land that is not of high environmental value has been included in the areas proposed to be rezoned as E2 – Environmental Conservation. Equally, it is likely that land that has significant environmental characteristics has not been included in the draft E2 – Environmental Conservation Zone. The change in zoning has the potential to significantly impact on individual land owners financially. It is critical that the mapping of the land zones is accurate and based on adequate data.

Given the inherent difficulty in rezoning large portions of land in western Sydney, and the significant impact inappropriate zoning will have on individual land owners, a better approach to realising the objective of supporting Western Sydney’s biodiversity and growth would be to broadly identify particular areas that have common characteristics. The Plan has adopted that approach in part, with the identification of the strategic conservation area. The proposed State Environmental Planning Policy for strategic conservation planning could then apply particular assessment criteria (including objectives) as an additional planning assessment layer over the existing zoning controls. This approach would require a detailed assessment of the actual (rather than the potential or theoretical) conservation value of the land. A similar approach to this has been adopted in the SEPP (Coastal Management) 2018.

A more equitable approach would be to address the methodology concerns set out in the attached Report, and once further assessments have been undertaken, relevant land could be included on a map under the proposed State Environmental Planning Policy for strategic conservation planning. A planning assessment layer (or investigation layer) could be included, requiring that the consent authority must have regard to specific matters when assessing development applications in the area mapped.

The effect of rezoning land presently zoned RU2 – Rural Landscape to E2 – Environmental Conservation is significant and will cause financial disadvantage to our client and undoubtedly to numerous land holders (particularly smaller landholders whose land holding is completely or significantly proposed as E2). The Report provided to our client identifies serious concerns with the methodology and information used to rezone the Land. It would not be reasonable for the Land to be rezoned where site assessments have not been conducted on individual lots.

The NSW Government can strike a balance, and avoid causing serious disadvantage to not only our client, but a large range of land holders across Western Sydney, by adopting approach that is similar to that of the SEPP (Coastal Management) 2018, and mapping regions (based on further information) likely to contain particular environmental characteristics, and applying, through the proposed SEPP for strategic conservation planning, objectives and development assessment criteria, that must be considered by the relevant consent authority when a development application is lodged. This approach will enable land to be developed consistently with the existing land zone, where it is able to meet the additional assessment criteria provided for in the proposed SEPP. A planning regime structured in this way will promote the much needed economic development in the State at this time, without compromising the important biodiversity in Western Sydney.

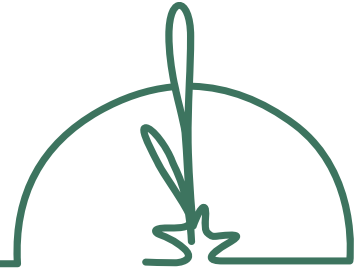
The Land should not be rezoned, and in particular should not be rezoned E2-Environmental Conservation. The Land should not have all development potential removed in circumstances where the attached Report identifies errors in the classification of the Land and the underlying methodology used as the basis to rezone the Land. Alternative planning mechanisms are available to address the identified objectives in the Plan.

Yours faithfully

A solid black rectangular box used to redact the signature of the sender.

WILSHIRE WEBB STAUNTON BEATTIE

Encl.



[REDACTED] WILTON
CUMBERLAND PLAIN CONSERVATION PLAN
SUBMISSION

F Dominic Fanning

07 October 2020

1 THE SUBJECT LAND

The “*subject land*” for the purposes of this *Report* consists of a portion of land at Wilton – No. [REDACTED]
[REDACTED]

2 SCOPE of THIS REPORT

This Report has been prepared by the undersigned to address the application and impacts of the *Draft Cumberland Plain Conservation Plan* (‘The Plan’) as documented in the *Draft Cumberland Plain Conservation Plan Viewer* (the ‘Plan Viewer’) on the subject land at Wilton.

3 INFORMATION BASE

The undersigned has visited the subject land (on 06 October 2020).

In addition, the undersigned has reviewed the mapping of the subject land on the ‘Plan Viewer’; as well as aerial photography of the subject land.

It is to be noted that the undersigned has extensive experience in the Wilton area; having been the principal ecologist for the Wilton Town Centre project.

4 ISSUES

4.1 Mapping

The *Draft Cumberland Plain Conservation Plan Viewer* (the 'Plan Viewer') identifies the subject land at Wilton in the following terms.

- The whole of the subject land (excluding the access driveway) as "*native vegetation*".
- The whole of the subject land (excluding the access driveway) as "*Important Koala Habitat*".
- The whole of the subject land (including the access driveway but excluding a small area in the southeastern corner) as "*strategic conservation*".

The mapping in 'The Plan' - which identifies the whole of the subject land as "*strategic conservation*" ignores the existence of a cleared access road, an existing dwelling and associated features (including Asset Protection Zones), previously cleared lands and a farm dam.

There is no evidence that the mapping of "*Threatened Ecological Communities*" (TECs) on the subject land has been based on any site investigations. The mapping of TECs on the land is therefore hypothetical; and cannot reasonably be a satisfactory basis for precluding development on the land.

In addition, the mapping of the whole of the subject land (excluding the access driveway) as "*Important Koala Habitat*" is based on hypothesis and conjecture; rather than on any empirical data. No survey of the subject land for Koalas has been undertaken. The designation of virtually all of the subject land as "*Important Koala Habitat*" is not justified and is not appropriate.

It is further noted that 'The Plan' does not provide any mechanism to review the mapping on which it relies; thus embedding flawed and incorrect mapping as the base of 'The Plan'.

4.2 Proposed Environmental Conservation

The proposed *Environmental Zoning* of the subject land contained in the Plan Viewer' (Attachment A) is based in part on the incorrect and/or inappropriate mapping identified above.

As a consequence, some of the proposed *Environmental Zoning* of the subject land is regarded as inappropriate; particularly as that zoning constitutes a prohibition on development of those lands for other than "*environmental protection works or flood mitigation works*" (see discussion below).

The subject land is currently zoned RU2 – Rural Landscape.

That zoning permits (**without consent**) the following.

- "***Extensive agriculture; home occupations***".

That zoning also permits (with consent) the following.

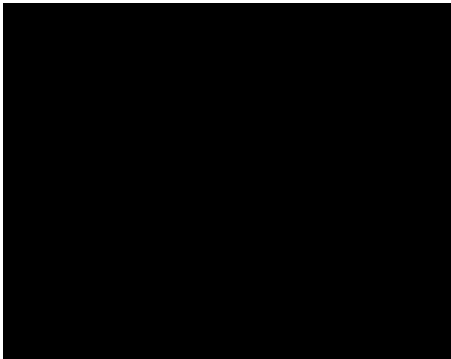
- "*Agriculture; Airports; Animal boarding or training establishments; Aquaculture; Bed and breakfast accommodation; Boat building and repair facilities; Boat sheds; Cellar door premises; Cemeteries; Community facilities; Crematoria; Depots; Dual occupancies (attached); Dwelling houses; Educational establishments; Environmental facilities; Environmental protection works; Extractive industries; Farm buildings; Farm stay*

accommodation; Flood mitigation works; Forestry; Freight transport facilities; Funeral homes; Group homes; Home-based child care; Home businesses; Home industries; Home occupations (sex services); Hospitals; Information and education facilities; Landscaping material supplies; Mortuaries; Places of public worship; Plant nurseries; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Research stations; Roads; Roadside stalls; Rural industries; Rural supplies; Rural workers' dwellings; Secondary dwellings; Signage; Transport depots; Veterinary hospitals; Water recreation structures; Water supply systems"

Doubtless some of the subject land should appropriately be protected for conservation purposes.

However, as a result of the proposed *Environmental Zoning* of the subject land pursuant to 'The Plan' for a "*public purpose*" (ie for environmental protection – which by definition is a "*public purpose*"), the landowner would be deprived of potential alternative development opportunities pursuant to the existing RU2 zoning of the land. As noted above, that zoning allows the undertaking of "***Extensive agriculture***" – without consent.

Rather than zoning the whole of the subject land for *Environmental Protection* (without any verification of the ecological values of the land), and thus imposing a prescriptive constraint on the land, it would be more appropriate for 'The Plan' to apply an 'investigation' layer – requiring detailed assessment of the actual (rather than the theoretical) conservation values of the land.



F Dominic Fanning
Gunninah

