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Attention: Melissa Rassack, Manager Central (Western)  
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## **Draft Mamre Road Precinct Development Control Plan**

Dear Ms Grose

Thank you for the opportunity to comment on the draft Development Control Plan (DCP) for the Mamre Road Precinct in relation to Aboriginal cultural heritage considerations under the *National Parks and Wildlife Act 1974* (the NPW Act).

Heritage NSW previously provided advice on the rezoning for the Mamre Road Precinct on 29 January 2020 (attached for your information) in relation to:

- potential for Aboriginal cultural heritage in the precinct and the need to prepare an Aboriginal cultural heritage study and consultation with Aboriginal communities.

### **Aboriginal Cultural Heritage**

Heritage NSW has reviewed the Aboriginal Heritage Controls in the draft DCP in the light of previous advice provided to the Department. Heritage NSW has also reviewed the *Mamre Road Precinct Aboriginal Heritage Study*, prepared by EMM, dated August 2020.

Heritage NSW notes that the identification of sites and areas of Aboriginal archaeological potential in the Aboriginal Heritage Study (AHS) was primarily based on a desktop assessment and predictive modelling. Very limited field survey, or 'ground-truthing,' was conducted due to time and access constraints.

It is stated in the AHS that most of the survey units had extremely low visibility and, as such, other areas may exhibit cultural material when future assessment occurs. It is further stated that the extent of cultural material (if any) is unknown in the archaeological buffer zones that have been established around the major creeks and waterways and ridgelines. Accordingly, the significance of these areas cannot be robustly assessed.

Heritage NSW considers that the assessment of Aboriginal cultural heritage undertaken is insufficient to adequately inform the draft DCP. Specific areas for conservation and conservation measures have not been identified, which does not align with the stated objective of the draft DCP (Section 2.4 [a]) "*To manage Aboriginal heritage values to ensure enduring conservation outcomes.*" Instead, the draft DCP stipulates that development applications must identify any areas of Aboriginal heritage value, including those that are to be retained and protected, and identify the management protocols for these.

Heritage NSW considers that the draft DCP controls as written do not provide clear and specific guidance on where further Aboriginal cultural heritage assessment and a potential Aboriginal Heritage Impact Permit will be required. The draft DCP controls also do not reference the

relevant documentation that should guide applicants in the identification and assessment of Aboriginal cultural heritage values.

### **Aboriginal cultural heritage advice**

Heritage NSW strongly encourages planning authorities to identify and conserve significant Aboriginal cultural heritage values up-front, at the DCP stage. This leads to better Aboriginal cultural heritage outcomes and gives greater certainty for stakeholders in any development assessment process.

Heritage NSW strongly recommends that the DCP controls for Aboriginal cultural heritage are revised to provide clear and specific guidance in relation to the requirements of the NPW Act. We also suggest amending the controls to indicate that the identification and assessment of Aboriginal cultural heritage values may include the need for surface survey and test excavation. In addition, it should be noted that the identification and assessment of Aboriginal cultural heritage values should be guided by the following documents:

- [Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in New South Wales](#) (OEH 2011).
- Consultation with the Aboriginal community undertaken in accordance with the [Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010](#) (DECCW 2010).
- Satisfy the requirements of the [Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW](#) (DECCW 2010).

### **Non-Aboriginal Heritage**

Heritage NSW's Heritage Programs team will provide separate comments on the draft DCP in relation to non-Aboriginal heritage considerations under the *Heritage Act 1977*.

If you have any questions regarding the above advice, please contact Sam Gibbins at Heritage NSW on 9895 6586 or via email at [samantha.gibbins@environment.nsw.gov.au](mailto:samantha.gibbins@environment.nsw.gov.au).

Yours sincerely



**Dr Samantha Higgs**  
**Senior Team Leader**  
**Aboriginal Cultural Heritage Regulation - North**  
**Heritage NSW**

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### **Draft Mamre Road Precinct Rezoning**

Dear Ms Waterworth

Thank you for the opportunity to comment on the draft Mamre Road Precinct rezoning, to change the land use planning controls for the precinct to allow for industrial, conservation and recreational uses, and changes to the Western Sydney Employment Area (WSEA) boundary. I apologise for the late response.

We have reviewed the documents provided against our records and note that the precinct does not include any State Heritage Register items. There are three items of local heritage significance listed in the *Penrith Local Environmental Plan 2010*. They are as follows:

- Bayley Park – House at 919-929 Mamre Road, Kemps Creek
- Gateposts to Colesbrook at 269-285 Mamre Road, Kemps Creek, and
- Brick Farmhouse at 282 Aldington Road, Kemps Creek.

These properties are unique in the Penrith local government area and hold historic associations with settler families. The properties also afford significant views of the surrounding pastureland and South Creek floodplain. Any development application near these heritage items should include a visual impact assessment.

The precinct also has potential for Aboriginal cultural heritage such as stone artefact scatters. An Aboriginal cultural heritage study should be prepared to identify potential impacts, mitigation measures, and consultation with Aboriginal communities.

If you have any questions please contact Stela Razzaque, Senior Heritage Programs Officer, Statewide Programs at Heritage NSW, Department of Premier and Cabinet by phone on 02 9873 8602 or via email at [stela.razzaque@environment.nsw.gov.au](mailto:stela.razzaque@environment.nsw.gov.au).

Yours sincerely

A handwritten signature in black ink, appearing to read 'Rochelle Johnston'.

**Rochelle Johnston**  
Manager, Statewide Programs  
Heritage NSW

As delegate of the Heritage Council of NSW

29 January 2020