

Our Ref: NHD1015435  
Your Ref:

5/263 Clarence Street  
Sydney NSW 2000  
Tel (61 2) 9262 6989  
Fax: (61 2) 9264 2414

12 August 2011

Office1 Level 1  
71 Molesworth Street  
PO Box 868  
Lismore NSW 2480  
Tel: 1300 369 791  
Fax: (61 2) 6621 3355

Mr Alan Stoneham  
General Manager  
Penrith City Council  
PO Box 60,  
Penrith NSW 2750

email: edonsw@edo.org.au  
web: www.nsw.edo.org.au

By email and facsimile: [pencit@penrithcity.nsw.gov.au](mailto:pencit@penrithcity.nsw.gov.au) and 4732 7777

Dear Mr Stoneham,

**Concurrence of Director-General: s 79B(3)(b) *Environmental Protection and Assessment Act 1979 (NSW)* – Jordan Springs: Villages 2 and 3**

We represent Western Sydney Conservation Alliance.

We are instructed that Council is due to make its decision in relation to the above developments on Monday 15 August 2011. We are further instructed that Council has not obtained the Director-General of the Office of Environment and Heritage's concurrence in respect of the development applications.

Section 79B(3)(b) of the *Environmental Planning and Assessment Act 1979 (NSW)* ('EPA Act') provides as follows:

*Development consent cannot be granted for:*

*(b) development that is likely to significantly affect a threatened species, population, or ecological community, or its habit,*

*without the concurrence of the Director-General of the [Office of Environment and Heritage]... .*

On behalf of our client we instructed Ms Teresa James, ecologist, to prepare a report on whether the Jordan Springs Stage 2A development application would have a significant affect on Cumberland Plain Woodland. We have attached a copy of Ms James' report dated May 2011, 'Preliminary Report – Jordan Springs Development Stage 2A, Western Precinct, St Marys Property (formally ADI Site). Ms James concludes at page 2 that the proposed residential development within Stage 2A of the Jordan Springs Village will have a significant impact on a local occurrence of the Cumberland Plain Woodland and its habitat.



We consider that Council should seek the concurrence of the Director General pursuant to section 79B(3)(b). If Council does not seek the Director General's concurrence and approves the development applications, its decision to approve may be vulnerable to legal challenge.

We look forward to your urgent response.

Yours sincerely

**Environmental Defender's Office (NSW) Ltd**



**Natasha Hammond-Deakin**

Solicitor



*An independent public interest legal centre specialising in environmental law*