



Wednesday, February 23, 2011

The General Manager  
Penrith City Council  
PO Box 60  
PENRITH NSW 2751

**Objection to DA11/0015  
Proposed Torrens Title Subdivision x 174 Residential Lots, 1 Public Reserve, 4 Residue Lots &  
Public Roads**

To Whom It May Concern:

The Western Sydney Conservation Alliance Inc (WSCA) objects to the above named Development Application (DA) by Delfin Lend Lease (DLL). The DA will result in the clearing of a significant amount of Cumberland Plain Woodland (CPW) which is listed at a State and Federal level as a critically endangered ecological community. It also destroys the habitat for the endangered Cumberland Land Snail which would exist on the DA site. The Flora and Fauna report and 7-part test by Cumberland Ecology is flawed and, unbelievably, concludes the clearing of nearly all the CPW from the Stage 2 area, an area of nearly 40 hectares, will not have a significant impact and require a Species Impact Statement.

DLL, which owns land adjacent to the publicly owned Regional Park (RP), argues that the RP can be used by them to offset the clearing of CPW within their development. This is not the case as the Regional Park was never in the ownership of Lend Lease. Council again needs to note that land already reserved for conservation cannot be considered an offset as per *the Principles for the use of biodiversity offsets in NSW* <http://www.environment.nsw.gov.au/biocertification/offsets.htm>

The DA is part of a development proposal that is not in the public interest. It fails miserably to meet the principles of Ecologically Sustainable Development, it destroys Penrith's natural heritage, it fails to provide sustainable transport solutions, and it adds to the overpopulation of the Penrith region, it exacerbates Penrith's traffic congestion and public infrastructure problems.

The Statement of Environmental Effects (SEE) is flawed and minimises the environmental and social impacts of the development.

WSCA asserts that this DA is not in the Public Interest and will have a significant impact on Penrith's natural heritage notably its critically endangered CPW which provides habitat for a range of flora and fauna species.



**DA site - Lace Monitor in hollow bearing *Eucalyptus moluccana***



**CPW regeneration in DA area - looking across slashed area of RP boundary - 2008**



**CPW regeneration in DA area – 2008**

## **Comments**

### **Misidentification of Critically Endangered Cumberland Plain Woodland**

Large areas mapped in the F&F report as "Exotic Grassland" contain trees or significant saplings as can clearly be seen on the aerial photo layer of the map. This simple desktop observation of treed CPW was confirmed with ground-truthing. By correcting this error in the F&F report, we can see in this first instance close to a doubling of the area of the vegetation community mapped as "Cumberland Plain Woodland" by Cumberland Ecology with a Eucalyptus/Angophora dominated upper stratum. This structure and floristic description conforms to the Final Determination (paragraph 2): "*Cumberland Plain Woodland is characterised by the assemblage of species listed in paragraph 3 and typically comprises an open tree canopy, a near-continuous groundcover dominated by grasses and herbs, sometimes with layers of shrubs and/or small trees*".

The areas mapped by Cumberland Ecology as "Exotic Grassland" showed, upon ground-truthing, to be dominated by native grasses with exotic species almost entirely absent for most of the area mapped as "Exotic Grassland". A conservative estimate of this area mapped in the F&F report as "Exotic Grassland" that is virtually weed free is approximately 80%. The majority of the remaining c.20% of the areas mapped in the F&F report as "Exotic Grassland" that does contain significant exotic species still contains a significant percentage cover of native species, with these native species also being represented by a moderate diversity. Areas mapped as "Exotic Grassland" by the F&F report are restricted to areas of significant soil disturbance or immediately along road edges. It should be noted that the Final Determination of the Scientific Committee describes CPW as encompassing derived native grasslands (paragraph 6) "*Either or both of the upper-storey and mid-storey may be absent from the community. Native grasslands derived from clearing of the woodland and forest are also part of this community if they contain characteristic non-woody species listed in paragraph 3.*" As a result the approximate 80% of the area erroneously mapped in the F&F report as "Exotic Grasslands" clearly conforms to CPW as it was found to be dominated by species listed in paragraph 3 of the Final Determination. Additionally, parts

of the remaining c20% of the areas mapped by Cumberland Ecology as "Exotic Grasslands" also comply with the definition of CPW as they contain species listed in paragraph 3.

### **Inadequate and Incorrect Assessments of Significance**

Due to the dramatic underestimation of the area of CPW, the Assessment of Significance (7-part Test) for this Critically Endangered Ecological Community is based on incorrect figures for area of CPW to be impacted upon, and so the 7-part Test is invalid from the outset. Significance will be dramatically more, and using the conservative estimates of the real extent of CPW on the subject site, there will in actuality be more than a doubling of CPW proposed to be removed. Quite simply the clearing of such a large area of this *Critically* Endangered Ecological Community is demonstrably a significant impact and a Species Impact Statement is required. Questions in the 7-part Test are incorrectly answered and assessment of the effects of fragmentation and isolation upon CPW in the locality, along with the quality, habitat values, conservation significance and local significance of CPW have been underestimated, denied or simply not answered.

The argument that the Regional Park will preserve the CPW cannot be used in the assessment of significance as the Regional Park is not part of the current proposal. Beyond that it has no Plan of Management so even if it were part of the proposal, or occurred on the land of the current proposal, no details as to its management could be drawn into an argument. It is simply invalid to suggest that offsetting for impacts is occurring in other land that has nothing whatsoever to do with the current proposal.

During our recent visit, two threatened bird species were noted on site - Little Lorikeet and Black Tailed Godwit - these species need to have assessments 7-part Tests carried out and need to be incorporated into the F&F assessment. These species were utilising the subject site's habitat values, despite the following statement by Cumberland Ecology: "*No threatened bird species have been recorded from the Western Precinct as it contains poor habitat resources. It lacks a diverse and complex understorey to provide food resources for smaller birds and protection from predators, and consequently these bird species are not considered likely to occur within the study area. The majority of the study area is open grassland with few areas that contain trees, and the trees that are present are largely immature, and lack hollows to provide nesting habitat. The majority of the treed vegetation within the SMP will be conserved within the 900 ha Regional Park and will continue to provide high quality habitat for a wide range of species.*"

### **Summary**

1. This DA, and the ADI Site development in general, is not in the public interest and will result in the degradation of the environment and the quality of life of the people of Penrith
2. The projected population increase associated with this DA, and the ADI Site development in general, will dramatically increase traffic on the Northern Rd and exacerbate current traffic congestion in the Penrith region
3. The DA will have a significant impact on Cumberland Plain Woodland (CPW) which is listed as a critically endangered ecological community at a State (TSC Act) and Federal (EPBC Act) level
4. DLL must provide a Species Impact Statement
5. The Commonwealth Government, through legally binding contracts, ensured that when it sold the former ADI Site that the 828 ha area listed in the Register of the National Estate (that they were obligated to protect under the Australian Heritage Commission Act) would be conserved in public ownership as a Regional Park. As per *the Principles for the use of biodiversity offsets in NSW*, DLL cannot claim the RP as their offset as areas already reserved for conservation cannot be used as offsets.

6. If consent is given Council must require DLL to offset the loss of CPW and the offset ratio must be calculated using established methodology for critically endangered ecological communities
7. The Flora and Flora report prepared by the proponent is flawed, lacks scientific rigour and omits the presence of the Little Lorikeet, Black tailed Godwit and Swift Parrot which are threatened species. It grossly underestimates the extent of CPW across the study area.
8. Council needs to check to see if it is creating history as it is likely that this DA poses the single biggest impact to a critically endangered ecological community in NSW planning history
9. That this DA undermines the commitment by the NSW Liberal Nationals to protect a further 100 hectares of the CPW within the Western Precinct of the ADI Site
10. This DA, and the ADI development in general, ruins the open space view and aesthetics of the Cranebrook area currently enjoyed by thousands of local residents
11. This development is at odds with Penrith City Council's own planning goals for the LGA "*Long term planning is required to ensure that Council meets the economic and social needs of future generations, without compromising the values of the natural environment of Penrith City Council.*"
12. The DA area is considered a bush fire prone area and therefore Councils consent will expose landowners to unnecessary health and safety risks
13. That this DA be determined by Councillors not under delegated authority

Yours sincerely,



Geoff Brown  
President  
WSCA