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The General Manager  
Penrith City Council  
PO Box 60  
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**Submission - Draft Penrith LEP and DCP 2008 (Stage 1)**

Dear General Manager,

The Western Sydney Conservation Alliance Inc (WSCA) believe that there is an urgent need to protect our last great bushland remnants in a viable corridor and we have urged all levels of Government to assist in the creation of a Cumberland Conservation Corridor (CCC) across parts of the Penrith, Blacktown and Hawkesbury LGA's. Such an outcome requires the development and implementation of good environmental and urban planning policies and strategies. We are pleased to note that Penrith Council recognises the need for such a corridor and we congratulate Council for proposing a Biodiversity Network.

WSCA is of the opinion that the best conservation outcomes for the CCC will be achieved if the NSW Dept of Environment and Climate Change (DECC) acquires and manages the majority of the CCC lands as part of their Reserve System. To achieve this aim we lobbied the Federal Government to commit to handing over 1900 ha of Heritage Listed Commonwealth land at Orchard Hills and Shanes Park to DECC. We successfully lobbied the Federal Government to provide \$15 million for the purpose of protecting the former Air Services Australia site at Cranebrook. DECC is now working with DEWHA to protect the Cranebrook site and has expressed its interest in taking ownership of the Orchard Hills and Shanes Park sites.

We have made it known in several Mayoral meetings and correspondence with Council staff that through its LEP process Council can apply conservation zonings to large areas of important bushland remnants and thus facilitate the acquisition and protection of those lands by DECC. We have told Council that E2 Environmental Conservation zonings should be consistently applied to all bushland of conservation value such as the heritage listed lands at the Orchard Hills Defence Establishment, the former Air Services Australia site at Cranebrook, the lands owned by the Deerubbin Land Council and all other lands identified by DECC as Western Sydney Priority Areas for conservation.

We note that Council has applied E2 Environmental Conservation zonings to some of these lands; however, some of Council's zonings and mapping are inconsistent and are at odds with NSW Government environmental initiatives and policies. The rhetoric within the LEP document aims for superior conservation outcomes but there is no way this draft LEP will deliver on those ideals. It is only through the consistent application of conservation zonings that the CCC will be created.

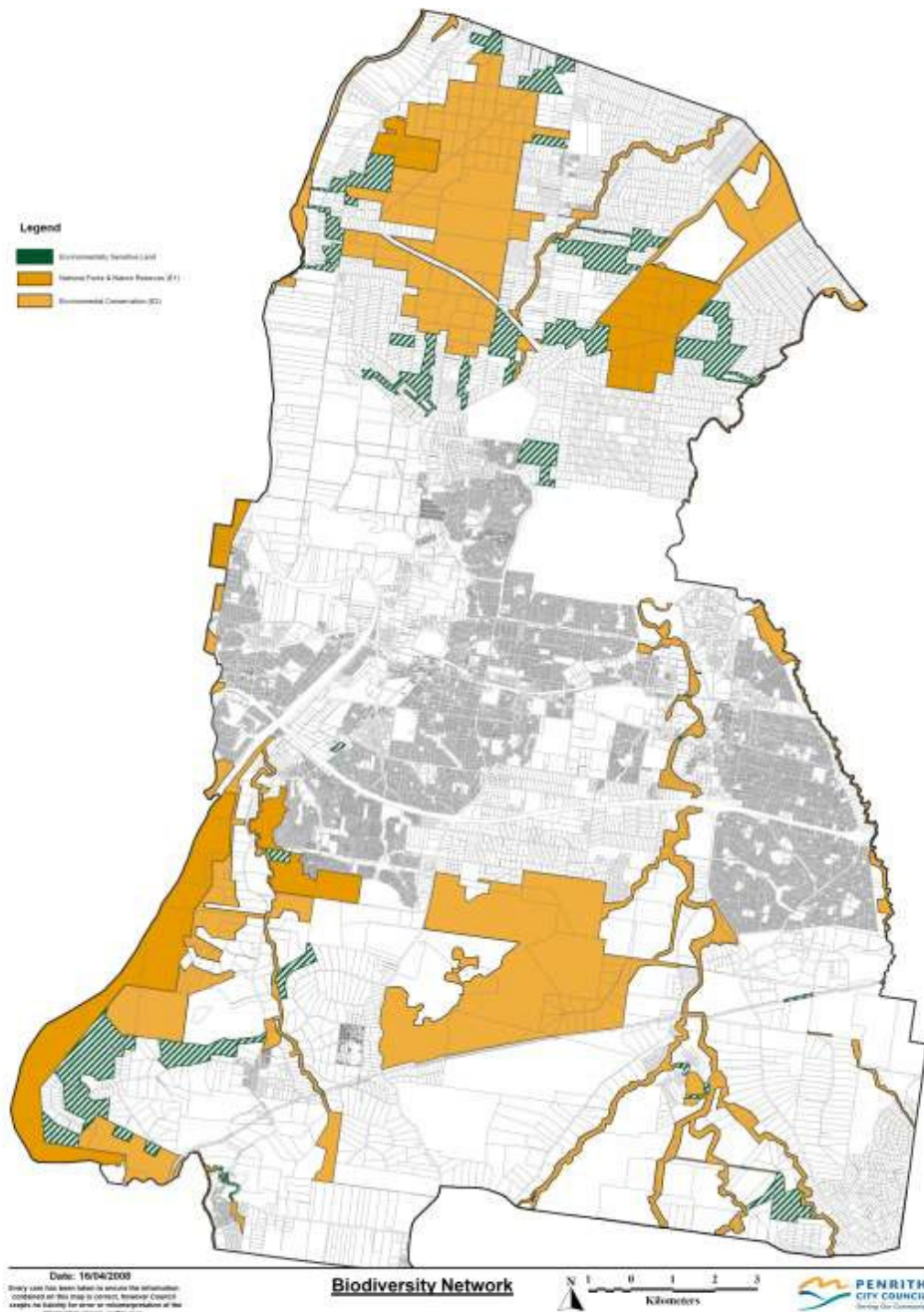
We are particularly concerned that many areas mapped by the DECC in the Londonderry area as Priority Conservation Areas have not received adequate conservation zonings and are not recognised at all by the LEP as having any conservation value. We submit the following further comments.

Yours truly,



Geoff Brown

## Penrith Council Biodiversity Network



It is encouraging that Council's LEP and DCP addresses the need to create biodiversity corridors and protect areas of remnant native vegetation. We agree with Council's rhetoric as to why such areas need to be created and protected. However this rhetoric appears hollow when one examines the actual mechanisms proposed by Council to achieve that aim.

Recently the NSW Scientific Committee made a preliminary decision to list Cumberland Plain Woodland as a Critically Endangered Ecological Community. DECC has now released a working paper for discussion which will form the basis for a recovery plan for the bushland of the Cumberland Plain. The above actions by NSW Scientists and Environmental Agencies is further proof that the bushland of the Cumberland Plain is at the crossroads and it is imperative that the development of planning strategies such as this get it right or we will further condemn Western Sydney's natural heritage to the brink of extinction. The above actions are only recent

ones but Council Officers from the Planning Team should be on top of this and make every effort to ensure the final LEP has noted and is consistent with their aims.

We note that it appears the Biodiversity Network mapping is based on Council's 1997 Flora and Fauna Corridors Study. It would have been appropriate for Council to have based its conservation zonings on more modern data and ground truthing. Council in its suite of LEP documents should have included a document specific to the proposed Biodiversity Network.

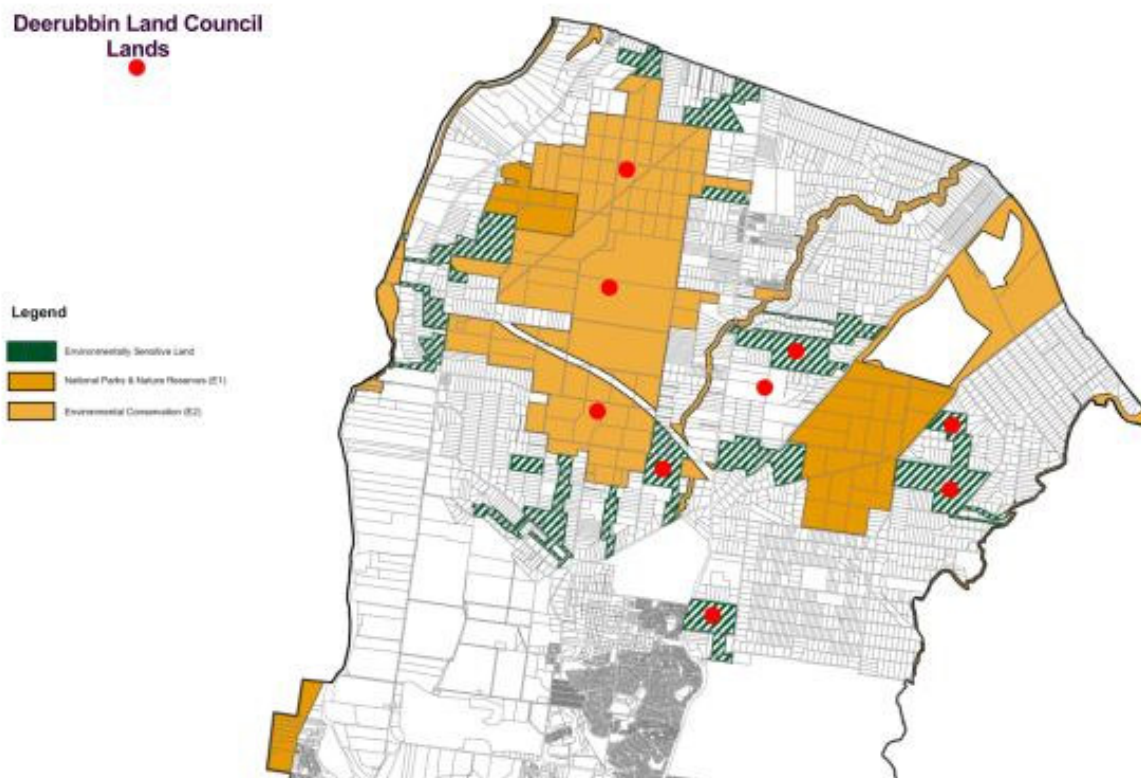
### Environmentally Sensitive Lands

We question why Council would apply a green hashing/affectation, termed 'Environmentally Sensitive Lands' (ESL), to high conservation value bushland instead of an E2 Environmental Conservation zoning. Council, in section 6.4 of the LEP and section C2 Vegetation Management of the DCP, has put in place certain controls on development of ESL lands however we do not believe these controls will be rigorous enough to stop land owners seeking to develop their land or from getting sympathetic approvals from Council for subdivision or other actions that will ultimately erode the conservation value of their lands.

ESL hatchings may also deter landowners, specifically large landowners such as the Deerubbin Land Council, who own DECC priority lands, from participating in DECC's biodiversity banking (biobanking) scheme. There would be very little incentive to sell, lease or go down the biobanking route with DECC when ESL allows landowners the opportunity to subdivide their RU4 zoned land for 2 ha blocks.

We believe that the ESL hatching should only have been applied selectively to some of the smaller privately owned lands. All large blocks owned by single land owners or those adjacent to current or future nature reserves such as the ADI Site and the ASA Cranebrook site should be zoned E2 Environmental Conservation.

### Inconsistencies



When we outline our vision for the Cumberland Conservation Corridor we state that the best conservation outcome would be achieved if the lands within the corridor were owned and managed by DECC. The ideal for the protection of bushland areas is that they are properly managed by a well resourced conservation management agency. These areas need proper plans of management. This is the problem with most of our bushland; they are not managed and their conservation values are eroded by arson, trail bikes, 4WD's rubbish dumping, weeds etc. The Deerubbin Lands and the Cranebrook ASA site are examples of sites having little or no management.

Development within the Sydney Growth Centres is now commencing after the NSW Government conferred Biodiversity Certification to that area. Conditions attached to Biodiversity Certification indicate that a \$530 million conservation fund is to be established and managed in trust by DECC. The conditions indicate that DECC is to use \$400 million of that fund for the protection of the identified Western Sydney Priority Areas. Within the conditions is an acknowledgement that DECC must get value for money when it uses this fund to acquire land. Through the use of this conservation fund DECC may soon be in a strong position to start acquiring land for possible addition to its reserve system but only if there are willing sellers and the price is affordable.

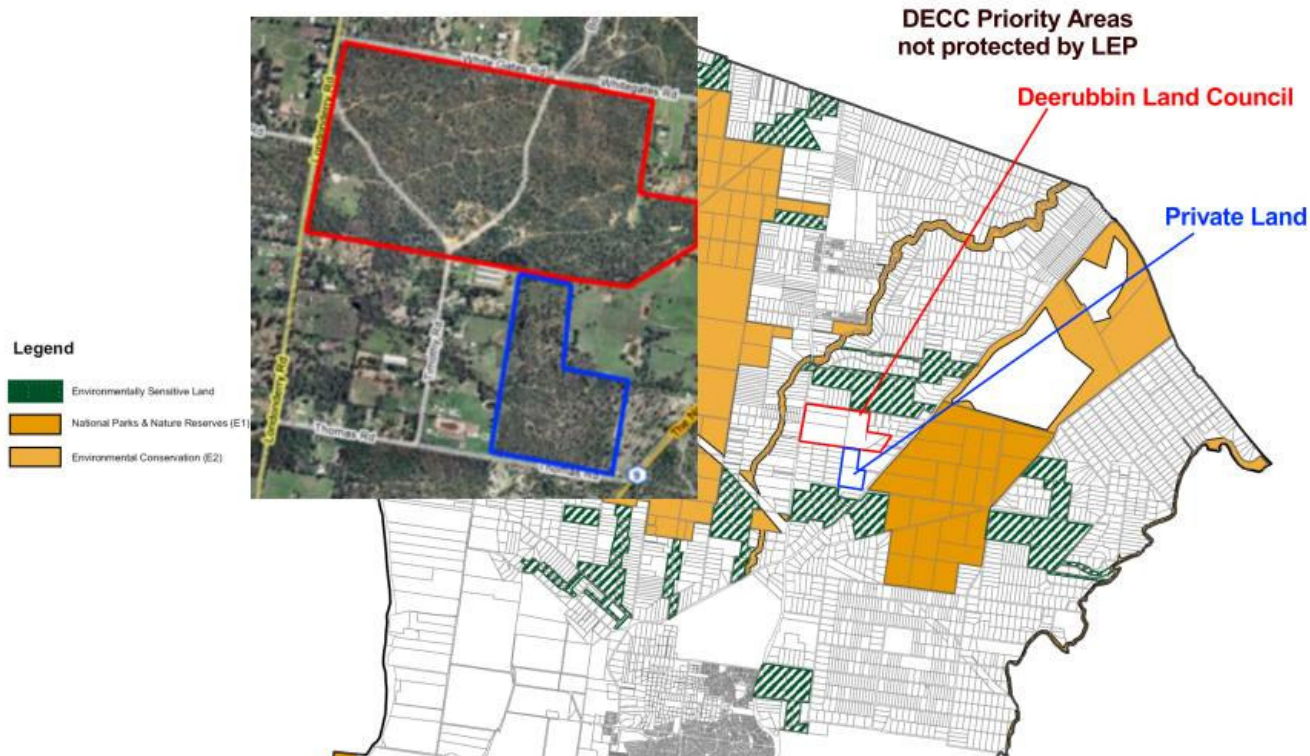
As well as acquiring land DECC appears prepared to use biobanking to secure priority areas. DECC is very keen for biobanking to succeed and it appears, to meet its Growth Centre Biodiversity Certification conditions, it is prepared to assist landowners of priority areas to enter the biobanking program by buying their credits and then retiring them. DECC also appears keen to deal with any landowners of bushland adjacent to priority areas.

There will be little incentive for a landowner to sell their land to DECC or participate in conservation initiatives such as biobanking if they can possibly make a greater and more immediate financial return from the sale and subdivision of its land. This is where Council's LEP, through the ESL hatching, can be seen as being in opposition to the NSW Governments conservation initiatives and policy direction. The Penrith Planning Strategy refers to Council's obligation to follow the conservation policies contained in the Metro Strategy regarding biobanking and any recovery plans for the Cumberland Plain.

All of the Deerubbin Land Council land has high conservation value and as such should be zoned E2. It is wrong of Council to put these lands at risk. The Land Council knows full well that they own high conservation value lands, they know that DECC opposed their land claim on the basis these lands were necessary for future nature conservation. It is well known that the Land Council seeks to profit from the development of their land. Council's priority must be to ensure this biodiversity network is protected in perpetuity rather than allow the owners of this network the option of becoming property developers.

There are several of DECCS priority areas, areas of high conservation value, some owned by the Deerubbin Land Council, **that have been overlooked by Penrith Council in its mapping of the Biodiversity Network.** These bushland blocks are critical to the creation of a viable flora and fauna corridor and therefore deserve an E2 zoning. See below.

DECC's biobanking team appears cognisant of the fact that Aboriginal Land Council's own some of the best bushland in NSW. DECC therefore are encouraging and targeting Land Council's to participate in the program. We hope that the Deerubbin Land Council works with DECC to protect all their Londonderry sites. Once again we urge Council to use its LEP to facilitate this outcome.



### Cumberland Conservation Corridor

We firmly believe that a formalised biodiversity corridor such as our CCC vision is needed to give any hope of sustaining a viable flora and fauna population in perpetuity. Such a corridor, if majority owned and managed by DECC, would remove many of the barriers facing the movement of terrestrial fauna, such as macropods. Often flora and fauna is trapped in islands surrounded by threats (urban and rural development, roads, fences, dogs and cats) and when catastrophic events occur localised extinctions follow. Council's draft LEP fails to do anything meaningful to create a continuous green belt and stop localised extinctions. We need to remove the barriers to flora and fauna movements not sustain them. A whole of Government approach is needed to formally create such a green belt and there is no reason why a new SEPP 'Cumberland Conservation Corridor' could not be enacted to ensure its protection and viability. Penrith Council can advance the formalising of this corridor with other levels of government and play a leadership role by amending its LEP to implement consistent E2 conservation zonings. Council should lobby the NSW Government to create a CCC SEPP.

### Former Air Services Australia Site Cranebrook

Council resolved on the 4<sup>th</sup> August 2008:

*279 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Kevin Crameri OAM That:*

- 1. The information contained in the report on Status of the Fernhill and Infracorp proposals for inclusion on the Metropolitan Development Program be received.*
- 2. Council lobby the State Government to acquire the Infracorp site, and dedicate it as a Nature Reserve under the National Parks and Wildlife Act, to conserve its unique assemblage of vegetation communities.*
- 3. Council make a submission to the NSW Scientific Committee requesting that the vulnerable threatened species on the Infracorp site be listed as endangered populations under the Threatened Species Act.*
- 4. Council pursue options for a Zone E2 Environmental Conservation zoning for the site through Stage 2 of the Penrith Local Plan.*

5. *Council seek, with the owners and appropriate authorities, urgent maintenance of the site to protect its unique ecological values, including a clean up of the site as soon as possible.*

WSCA has long urged Council to protect the entire site by rezoning it to E2 Environmental Conservation. DECC had formally urged Council to implement such a zoning in early 2006 when Council sought Section 62 advice from DECC in order to make this LEP.

We remain disappointed that protection of the entire ASA Site is still at risk partly due to Council deciding that the rezoning of Site will be considered in Stage 2 of the draft Penrith LEP. The protection of this Western Sydney Priority Area should have been dealt with now in Stage 1. Whilst we welcome Council's new found commitment to protect the entire site we question why Council dithered in coming to this policy decision when for many years it had at its disposal the same evidence it has today (Ecological and Heritage Reports) demonstrating that the site is a biodiversity hotspot and an area of outstanding Aboriginal Heritage value.

We reiterate our support for the entire site to be rezoned E2 Environmental Conservation in Stage 2 of the LEP.

### **Orchard Hills Defence Establishment and linkage to Mulgoa Nature Reserve**

WSCA welcomes Council's E2 Environmental Conservation zoning of the 1370 ha area of the Orchard Hills Defence Establishment. This area is Commonwealth Heritage Listed because of its outstanding conservation values including important remnants of Cumberland Plain Woodland. It is also one of DECC's priority areas for conservation

WSCA had been urging Council staff and Councillors for several years to use the LEP to sterilise this area from future urban development so that there was no chance of another ADI Site planning disaster. WSCA has urged the Commonwealth to gift ownership of the 1370 ha area to DECC at some stage in the future. Following lobbying by WSCA the Commonwealth committed to protecting the 1370 ha for nature conservation. We believe that DECC and DEWHA have had discussions about the sites protection and future ownership.

We urge Council to ensure that Stage 2 of the LEP delivers linkages between the bushland on the Defence site and the Mulgoa Nature Reserve.

### **Conservation Initiatives for Land Owners**

We are cognisant of the fact that many landowners are angry that ESL hatchings or E2 zonings have been applied to their land and that Council Officers have met with some of these land owners about their concerns. These landowners have every right to fear the worst because there has been little attempt by Local and State Government to inform these landowners about the benefits of preserving bushland on their properties or the potential financial benefits that may flow to them as a result of the Growth Centres conservation fund (\$530 million offset program)

Long before the Growth Centres conservation fund or biobanking was introduced WSCA members had argued that in order for conservation outcomes to be achieved across smaller private lands that there needed to be financial incentives in place to reward land owners for protecting their bushland. DECC was urged, to get willing sellers, that they offer to buy land off small land owners at slightly more than current values, also that they remunerate land owners for protecting bushland on their properties. We argued that there was no way landowners would become conservation managers unless they were rewarded financially.

Council must play a role in getting land owners interested in conservation. Council must be seen to be promoting to landowners within the Biodiversity Network DECC's conservation initiatives and the positive outcomes that will come with being a landowner within the Biodiversity Network. Council should be working with DECC to educate landowners about DECC's plans for land acquisition, biobanking and other conservation agreements. Council itself should be offering financial relief or incentives to ratepayers/landowners within the Biodiversity Network.

## **Fauna Crossings**

During the function of Local Environment Plan 2008 occasions will arise when existing roads are upgraded or new roads built. This is the time for incorporation into such road plans of means to accommodate movement of terrestrial fauna e.g. wildlife over/underpasses. We note the DCP has some controls applicable to new development near biodiversity corridors only. We would urge Council to look at the problem of fauna movement across existing roads within key areas of the LGA.

## **Proposed extension of M2 Motorway – SP2 Classified Roads**

WSCA is opposed to the extension of the M2 motorway as it will result in the clearing of hundreds of hectares of high conservation value bushland. We note the LEP allows this proposed extension with a SP2 Classified Roads zoning. We would urge Council to oppose the proposed route and to seek dialogue with the NSW Government as to an alternate route that will mitigate the destruction and fracturing of some of Western Sydney's most important bushland remnants.

## **Rural Dams**

The Urban Bushland Biodiversity Study (1997) of the National Parks & Wildlife Service identified the value rural dams have become for flora and fauna. This is understandable. It became apparent to our forbears that most creeks in Western Sydney were not able to supply sufficient water during periods of drought. Prior to European human arrival, fauna could migrate across the entire Cumberland Plain to obtain water during drought. The gradual development and fencing of the Cumberland Plain to the present extensive levels has made the migration of terrestrial fauna much more difficult and fraught with danger. The construction by humans of rural dams has been somewhat of a lifesaver for fauna (including invertebrates) and an aid to survival of aquatic flora.

Any plan to ensure biodiversity must address the importance of rural dams whether within, near or isolated from biodiversity corridors.

Accordingly, we recommend inclusion in the draft Development Control Plan, a clause or sub-clause which provides for an evaluation of rural dams in any area where development or infrastructure is proposed.