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Dear Grace

Bio-certification Letter for 1030-1048 and 1050-1064 Mamre Road, Kemps Creek

Project no. 38020

Biosis Pty Ltd was commissioned by ESR Australia to prepare a bio-certification letter of advice for 1030-1048 (Lot 3 DP250002) and 1050-1064 (Lot 4 DP250002), Mamre Road, Kemps Creek in New South Wales (NSW).

ESR Australia seeks approval for the construction and use of a new warehousing and distribution facility (the project). The particulars of the project are as follows:

- Site preparatory works, including:
  - Demolition and clearing of all existing built form structures and exotic vegetation.
  - Bulk earthworks including 'cut and fill' to create flat development platforms for the proposed buildings, and topsoiling, grassing and site stabilisation works.
- Subdivision of the site.
- Construction of a new industrial estate at the site comprising one new industrial warehousing building with ancillary offices.
- Construction of internal road layout, loading spaces and car parking areas.
- Associated site landscaping.
- Signage.

Project background

The proposed development satisfies the definition of State Significant Development (SSD) pursuant to Schedule 1 Clause 12 of State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP) as the Capital Investment Value (CIV) exceeds more than $50 million.

On 17 August 2022, strategic biodiversity certification was conferred under Section 8.2 of the BC Act upon 11,165 hectares of land as 'Certified – Urban Capable Land' or 'Certified – Major Transport Corridor' under the *Order Conferring Strategic Biodiversity Certification - Cumberland Plain Conservation Plan* (NSW Government Gazette 2022). Therefore, vegetation within Lot 3 and 4 DP250002 is now wholly within land designated as Certified – Urban Capable Land (DPE 2022a) under The Cumberland Plain Conservation Plan (CPCP) (DPE 2022b).

Study area

The study area is defined as the entirety of 1030-1048 and 1050-1064 Mamre Road (Lot 3 and 4 DP250002, Certified – Urban Capable Land). The study area is located within:

- Penrith Council local government area (LGA).
- Land zoned as IN1 General Industrial under the provisions of State Environmental Planning Policy (Industry and Employment) 2009 (Industry and Employment SEPP), incorporating Chapter 2 Western Sydney Employment Area.
- Certified – Urban Capable Land under the CPCP (Lot 52 and 53 DP259135) (DPE 2022b).
- Mamre Road Precinct, as identified by the *Mamre Road Precinct Development Control Plan 2021* (Mamre Road Precinct DCP).
- The 3 to 8 kilometre wildlife buffer, as identified by Western Sydney Airport Co. (WSA Co.) (Western Sydney Airport 2021) and Section 10.3 of the *Western Sydney Aerotropolis Development Control Plan 2020* (Aerotropolis DCP).

Scope

The purpose of this advice is to provide information regarding the:

- Biodiversity certification of the Certified – Urban Capable Land within the study area and associated requirements under the CPCP (DPE 2022b).
- Legislative implications as a result of the project against relevant biodiversity legislation.
- Recommendations for the project, including mitigation measures (if any) required during clearing/removal of vegetation or fauna habitats developed in accordance with best practice and project requirements.

Legislative implications

The implications for the project were assessed in relation to key biodiversity legislation, policy, and plans including:

- Cumberland Plain Conservation Plan (DPE 2022b).
- *Order Conferring Strategic Biodiversity Certification - Cumberland Plain Conservation Plan* (NSW Government Gazette 2022).
- *Biodiversity Conservation Act 2016*.
- *Environment Protection and Biodiversity Conservation Act 1999*.
- *Environmental Planning and Assessment Act 1979*.
- *Fisheries Management Act 1994* (FM Act).
- *Water Management Act 2000* (WM Act).
- *Biosecurity Act 2015* (Biosecurity Act).
- *Local Land Services Amendment Act 2016.*

- *Penrith Local Environmental Plan 2010* (LEP).
- *Mamre Road Precinct Development Control Plan 2021*.
- *Western Sydney Aerotropolis Development Control Plan 2020*.
- State Environmental Planning Policy (Precincts–Western Parkland City) 2021 (Precincts–Western Parkland City SEPP).
- State Environmental Planning Policy (Industry and Employment) 2021.

Cumberland Plain Conservation Plan

On 17 August 2022, biodiversity certification based on the CPCP was conferred under Section 8.2 of the BC Act, with strategic biodiversity certified land within the study area specified as 'Certified – Urban Capable Land' (NSW Government Gazette 2022) in accordance with the CPCP (DPE 2022b).

Certified – Urban Capable Land is land identified for future urban development. This land is biodiversity certified under Part 8 of the BC Act. Approval under Part 10 of the EPBC Act has not been issued by Commonwealth Department of Climate Change, Energy, the Environment and Water (DCCEEW) to date. Approvals may still be required under other legislation, including the EP&A Act, FM Act and the WM Act.

Biodiversity Conservation Act 2016

In accordance with Part 8 of the BC Act, development under Part 4 of the EP&A Act does not require an assessment of likely impact of development on biodiversity to the extent that the development is carried out on biodiversity certified land in this instance Certified-Urban Capable Land under the CPCP. Therefore, development in these areas does not require further site by site biodiversity assessment or approval under the BC Act, if consistent with the CPCP and its approvals.

Environment Protection and Biodiversity Conservation Act 1999

The CPCP was prepared as a Strategic Assessment under Part 10 of the EPBC Act, meaning that once approval has been issued by DCCEEW, approval for impacts to Matters of National Environmental Significance (MNES) on Certified-Urban Capable Land within the CPCP will not be required.

The CPCPs Strategic Assessment under Part 10 of the EPBC Act has not yet been approved and therefore all actions associated with development are still required to assess their impact on the following relevant MNES under the EPBC Act:

- Nationally threatened species and ecological communities.
- Migratory species.
- World Heritage properties.
- National Heritage places.
- Wetlands of international importance.

As the current project will not impact upon any MNES, it may proceed, however it will be subject to other relevant environmental and planning approvals being obtained.

Environmental Planning and Assessment Act 1979

The EP&A Act was enacted to encourage the proper consideration and management of impacts of proposed development or land-use changes on the environment (both natural and built) and the community. The EP&A Act is administered by DPE.

The EP&A Act provides the overarching structure for planning in NSW and is supported by other statutory environmental planning instruments. Sections of the EP&A Act of primary relevance to the natural environment are outlined further below.

Section 1.7 of the EP&A Act requires proponents and consent authorities to consider if a development will have a significant effect on threatened species, populations or communities listed under the BC Act and FM Act. Section 1.7 (Section 7.3 of the BC Act and Part 7A of the FM Act) outlines factors that must be taken into account in a Test of Significance (ToS). Where any ToS determines that a development will result in a significant effect to a threatened species, population or community a Species Impact Statement (SIS) or preparation of a BOS application is required. However, under Section 7.6 of the BC Act, a ToS is not required on land that is biodiversity certified.

The BC Act is discussed above. The FM Act is discussed further below.

Fisheries Management Act 1994

The FM Act provides for the protection and conservation of aquatic species and their habitat throughout NSW. Two key objectives of the FM Act are to; conserve fish stocks and key fish habitats, and conserve threatened species, populations and ecological communities of fish and marine vegetation. When reviewing applications the Department of Primary Industries (DPI) will assess the likelihoods of impacts to waterways in relation to their sensitivity (TYPE) and waterway class (CLASS).

Impacts to threatened species, populations and communities, and critical habitats listed under the FM Act must be assessed through an ToS process under Section 1.7 of the EP&A Act. No records of threatened aquatic species have been recorded within 5 kilometres of the study area on the BioNet Atlas of NSW, however two species were predicted by the Protected Matters Search Tool (PMST). No predicted habitat for threatened aquatic species is mapped on the DPI spatial data portal within the study area. As there is no mapped key fish habitat within the subject land or records within 5 kilometres, the project is unlikely to result in impacts to threatened aquatic species or fish passage.

No instream woody debris is proposed to be removed and therefore a permit under Part 7 of the FM act is not required. NSW DPI is required to assess all projects that involve structures that span the full width of a waterway (including pipe crossings) or modifies the velocity or quantity of water. As the waterways do not support aquatic ecological communities, fish passage is unlikely to be impacted by works.

Water Management Act 2000

Under the WM Act an approval is required to undertake controlled activities on waterfront land. Waterfront land is defined within the Act as the bed of any river, lake or estuary and any land within 40 metres of the riverbanks, lake shore or estuary mean high water mark.

As specified in the waterways assessment (Biosis 2022), the watercourse mapped within Lot 3 DP250002 is classified as Strahler two order stream, which requires a riparian corridor width of 20 metres from the 'top of bank' on either side (NRAR 2018).

However, Section 4.41 (*Approvals etc legislation that does not apply*) of the EP&A Act states that a controlled activity approval (as per section 91 of the WM Act) is not required for a SSD. Therefore, the current project is considered exempt from the requirement to obtain a Controlled Activity Approval and works proposed within the mapped riparian corridors will be assessed as part of the EIS.

Biosecurity Act 2015

The Biosecurity Act provides for the identification, classification and control of priority weeds with the purpose of determining if a biosecurity risk is likely to occur. A biosecurity risk is defined as the risk of a biosecurity impact occurring, which for weeds includes the introduction, presence, spread or increase of a pest into or within NSW or any part of the State. A pest plant has the potential to; harm or reduce biodiversity or out-compete other organisms for resources, including food, water, nutrients, habitat and sunlight.

Under the Biosecurity Act a priority weed is any weed identified in a local strategic plan, for a region that includes that land or area, as a weed that is or should be prevented, managed, controlled or eradicated in the region. A local strategic plan here refers to a local strategic plan approved by the Minister under Division 2 of Part 4 of the *Local Land Services Act 2013*.

The Biosecurity Act introduces the concept of General Biosecurity Duty which, as detailed in Section 22 of the Act, which is defined as:

Any person who deals with biosecurity matter or a carrier and who knows, or ought reasonably to know, the biosecurity risk posed or likely to be posed by the biosecurity matter, carrier or dealing has a biosecurity duty to ensure that, the biosecurity risk is prevented, eliminated or minimised, so far as is reasonably practicable.

Two priority weeds for the Greater Sydney Region have been recorded in the study area and are listed in Table 2, along with their associated Duty.

Table 1 Priority weeds recorded within the study area

Scientific name	Common name	Biosecurity Duty
***Rubus fruticosus* sp. agg.**	Blackberry	General Biosecurity Duty
Senecio madagascariensis	Fireweed	General Biosecurity Duty

Penrith Local Environmental Plan 2010

Local Environmental Plans (LEPs) guide planning decisions for LGAs. They apply either to the whole or part of a LGA and make provision for the protection or utilisation of the environment through zoning of land and development controls. The LEP is not applicable to the land as the provisions of Industry and Employment SEPP apply.

Mamre Road Precinct Development Control Plan 2020

DCPs provide detailed planning and design guidelines to support planning controls. DCPs identify additional development controls and standards for addressing development issues at a local level.

Relevant controls are provided in Table 3.

A Weed Eradication and Management Plan will likely be required for the development as a requirement of the Mamre Road Precinct DCP, under Clause 2.2.2 and Clause 2.2.3 (Table 3).

One drainage line in the form of trunk drainage infrastructure is mapped within the study area. A second trunk drainage is mapped as occurring directly to the south of the study area in the adjoining property to the south, however no impact to this trunk drainage is expected to occur as a result of the works. Further, this second trunk drainage line falls outside of the study area, hence is not shown on Figure 2, nor discussed further in this report. As the study area contains mapped trunk drainage lines, the development site must comply with the objectives and development controls listed within the Mamre Road Precinct DCP, under Section 2.4, provided in Table 3.

Mamre Road Precinct DCP includes wildlife hazard controls in Section 2.1.1 Aviation Safeguarding, and landscaping controls in Section 4.2.3, provided in Table 3.

Table 2 Relevant controls of Mamre Road Precinct DCP

Objective	Mamre Road Precinct DCP Controls
2.2.2 Biodiversity Certification	
a. *To ensure the requirements of strategic biodiversity certification under the Cumberland Conservation Plan are implemented, as it applies to the Mamre Road Precinct (if approved).* **b. *To protect threatened species and threatened ecological communities and ensure populations persist and the condition of suitable habitat improves at the landscape scale.***	*1. Development is to be sited, designed and managed to avoid or mitigate potential adverse impacts on natural areas and habitat.* *3. Where development is proposed to impact on an area of native vegetation, it will be demonstrated that no reasonable alternative is available. Suitable ameliorative measures will also be proposed (e.g. weed management, rehabilitation, nest boxes).* *4. A Weed Eradication and Management Plan outlining weed control measures during and after construction is to be submitted with the development application.*
2.2.3 Biodiversity Conservation and Management	
a. ***Increase and improve landscape connectivity through conservation and restoration of native vegetation to enable plant and animal communities to survive in the long term.*** b. ***Ensure consistency with the requirements of the relevant biodiversity certification for the subject land where applicable.*** c. ***Mitigate indirect and ongoing impacts of development and associated works on threatened ecological communities to improve and enhance condition over the long term.*** d. ***Avoid and minimise impacts to biodiversity from development and mitigate residual impacts unable to be avoided or minimised.*** e. ***Retain and protect native vegetation areas and provide for areas with a size and configuration that will allow for the survival and improvement of the***	*2. No clearing of native vegetation shall occur within the Precinct without consent.* *4. Asset Protection Zones (APZs) for bushfire protection purposes are to be located wholly within land zoned for IN1 General Industrial.* *10. A Threatened Species Assessment is to be undertaken for sites within 500m of an E2 Environmental Conservation zone to determine the presence of threatened species or their habitat. Building setbacks for particular threatened species, if present, are required in accordance with Table 3.* *11. Development applications are to contain a Landscape Plan showing the location, extent and area of any existing native vegetation on the development site in accordance with Section 4.2.3.* *12. A Flora and Fauna Assessment is to be submitted with all subdivision development applications.* *13. Avoid impacts to habitat features which provide essential habitat for threatened species and other fauna including large trees including dead trees at (>50cm diameter at breast height) and avoid impacts to soil within the dripline of the retained trees.* *14. Mitigation to be undertaken in accordance with the following best practice guidelines for threatened ecological communities:* – *Best Practice Guidelines: Cooks River/Castlereagh Ironbark Forest (NSW DECC, 2008) within and adjacent to the TEC.*

Objective	Mamre Road Precinct DCP Controls
native vegetation communities in the long term. f. ***Retain and protect wetlands in patches of a size and configuration which will enable existing plant and animal communities to survive and improve in the long term.*** g. ***Ensure construction and operational works minimise impact to native vegetation and ecological communities.*** h. ***Reduce the risk to biodiversity and habitat in areas of bushfire risk and maintain threatened species through appropriate fire regimes over the long-term.*** i. ***Manage and enhance spatial variability of biodiversity to ensure species have habitat available for refuge from fires.*** j. ***To promote the conservation of urban bushland, avoid key biodiversity areas and ensure environmental integrity.*** k. ***To protect and preserve native vegetation and biological diversity in accordance with the principles of ecologically sustainable development.*** l. ***To retain native vegetation in parcels of a size and configuration which will enable the existing plant and animal communities to survive in the long term.*** m. ***To protect and enhance habitat for threatened species and endangered ecological communities.*** n. ***To provide a biodiversity corridor system linking remnant native vegetation across the Precinct with the riparian biodiversity system, including along Wianamatta-South Creek, Kemps Creek and Ropes Creek.*** o. ***To outline management arrangements to enable the establishment of a biodiversity corridor and its ongoing maintenance.*** p. ***To maintain the function of the floodplain to convey and store floodwaters to limit adverse impacts of flooding on the development, its users and surrounding properties.***	– *Recovering Bushland on the Cumberland Plain: Best Practice Guidelines for the Management and Restoration of Bushland (NSW DECC, 2005).* 15. *Where practical, prior to development commencing, applicants are to:* – *Provide for the appropriate re-use of native plants (including but not limited to seed collection) and re-use of topsoil that contains known or potential native seed bank.* – *Relocate native animals from development sites. Applicants should refer to the former Office of Environment and Heritage's Policy on the Translocation of Threatened Fauna in NSW.* 16. *Weeds of National Significance (WONS) and on the National Environmental Alert List under the National Weeds Strategy are to be managed and eradicated. Proponent to reference NSW Weed Wise for current weed identification and management approaches.* 17. *All subdivision design and bulk earthworks are to consider the need to minimise weed dispersion and promote weed eradication. A Weed Eradication and Management Plan, outlining weed control measures during and after construction, is to be submitted with any subdivision development application.* 18. *Pest control techniques implemented during and post construction are to be in accordance with regulatory requirements for chemical use and address the relevant pest control strategy and are to reduce the risk of secondary poisoning (e.g. from Pindone or second generation rodenticides).* 20. *High intensity lighting is to be designed to avoid light spill into adjoining natural areas. Australian Standard AS 4282 or updates to that standard are to be considered as a minimum.* 21. *Where a development footprint contains or is within 100 m of known microbat colonies or habitat likely to support microbat colonies, street lighting must not attract insects such as warm coloured LED light.* 22. *Where noise or lighting adjacent to land zoned E2 Environmental Conservation is likely to impact wildlife, the proponent must manage light spill, and timing of noise producing activities, including installing appropriate noise treatment barriers along major roads and other attenuation measures.* 23. *Ensure that appropriate mitigation strategies (including fauna-sensitive road design elements) are employed to minimise vehicle strike during and after road construction and upgrading.* 25. *Ensure movement of fauna is facilitated within and through wildlife corridors by:* – *Ensuring that activities do not create barriers to the movement of fauna along and within wildlife corridors.* – *Separating fauna from potential construction hazards through the pre-construction and construction process.*

Objective	Mamre Road Precinct DCP Controls
q. ***Ensure the extent and spread of weeds including weeds of national significance (WONS) are minimised during the construction and operation of the development and managed towards eradication.***	
2.11. Aviation Safeguarding – Wildlife Hazards	
a. To safeguard the future operations of the Western Sydney Airport, including 24-hour operations and provide appropriate protections for the surrounding community. ***b. To ensure compatible development that exhibits design excellence occurs on surrounding land.*** ***c. To ensure development does not introduce or intensify noise sensitive uses.***	*10. Development must not attract wildlife which would create a safety hazard in the operations of the Airport.* *11. All waste bins are to be designed and installed with fixed lids.* *12. Any bulk waste receptacle or communal waste storage area must be contained within enclosures that cannot be accessed by birds or flying foxes.* *13. Any stormwater detention within the 8 km wildlife buffer is to be designed to fully drain within 48 hours after a rainfall event.*
2.4. Integrated Water Cycle Management	
a. To protect, maintain or restore waterway health within Wianamatta-South Creek and its tributaries by managing development impacts. ***b. To ensure the waterway objectives (flow and water quality) for Wianamatta-South Creek*** ***c. are achieved.*** ***d. To ensure land use and development is integrated with water cycle management*** ***e. To protect, maintain and restore the ecological condition, hydrologic and hydrogeology of aquatic ecosystems (including but not limited to wetlands and riparian lands).*** ***f. To protect groundwater quality and availability.*** ***g. To consider whole of life costs and ease of maintenance in water planning.*** ***h. To transition to regional water infrastructure, where feasible, to optimise the efficiency of development and deliver better outcomes for waterways, amenity and liveability.*** ***i. To safely and effectively convey stormwater flows from the developed***	*3. Development applications must include a Water Management Strategy (WMS) detailing the proposed Water Sensitive Urban Design (WSUD) approach, how the WMS complies with stormwater targets (i.e. MUSIC modelling), and how these measures will be implemented, including ongoing management and maintenance responsibilities. Conceptual designs of the stormwater drainage and WSUD system must be provided to illustrate the functional layout and levels of the WSUD systems to ensure the operation has been considered in site levels and layout.* *4. The design and mix of WSUD infrastructure shall consider ongoing operation and maintenance. Development applications must include a detailed lifecycle cost assessment (including capital, operation/maintenance, and renewal costs over 30 years) and Maintenance Plan for WSUD measures.* *5. WSUD infrastructure may be adopted at a range of scales (i.e. allotment, street, estate, or sub-precinct scale) to treat stormwater, integrate with the landscape and maximise evaporative losses to reduce development flow runoff. Vegetated WSUD measures, naturalised trunk drainage and rainwater/stormwater reuse are preferred.* *6. Development must not adversely impact soil salinity or sodic soils and shall balance the needs of groundwater dependent ecosystems.* *7. Infiltration of collected stormwater is generally not supported due to anticipated soil conditions in the catchment. All WSUD systems must incorporate an impervious liner unless a detailed Salinity and Sodicity Assessment demonstrates infiltration of stormwater will not adversely impact the water table and soil salinity (or other soil conditions).* *8. Where development is not serviced by a recycled water scheme, at least 80% of its nonpotable demand is to be supplied through allotment rainwater tanks.*

Objective	Mamre Road Precinct DCP Controls
area to the existing waterways or stormwater treatment infrastructure. ***j. To deliver the waterway objectives (flow and water quality)*** ***k. To contribute to the Greater Sydney Regional Plan – A Metropolis of Three Cities tree canopy cover target for metropolitan Sydney of 40 %.*** ***l. To provide functional areas of planting that enhance the presentation of a building, provide amenity, cooling and shade, and contribute to overall streetscape character.*** ***m. To encourage landscape design and tree species that are suited to the locality and contribute to water cycle management.*** ***n. To provide vegetated buffers to areas of environmental and recreational value.*** ***o. To screen undesirable views.***	
4.2.3. Landscaping	
p. To contribute to the Greater Sydney Regional Plan – A Metropolis of Three Cities tree canopy cover target for metropolitan Sydney of 40 %. ***q. To provide functional areas of planting that enhance the presentation of a building, provide amenity, cooling and shade, and contribute to overall streetscape character.*** ***r. To encourage landscape design and tree species that are suited to the locality and contribute to water cycle management.*** ***s. To provide vegetated buffers to areas of environmental and recreational value.*** ***t. To screen undesirable views.***	*12. The selection and location of proposed trees and other landscaping plants is to:* – *Be consistent with the preferred trees identified in Appendix C.* – *Consider the use of local native vegetation communities.* – *Re-use of native plants or topsoil removed during earthworks.* – *Contribute to the management of soil salinity, water levels and soil erosion.* – *Ensure tree species being low maintenance and drought tolerant. Consider the capacity of the species to contribute to tree canopy cover.* – *Ensure invasive turf (including Kikuyu) is not used in areas adjoining remnant vegetation within environmental conservation and recreation areas and riparian corridors, or within landscape buffers.* – *Incorporate a diverse range of flora species for to increase species resilience.* – *Consider service authority requirements in easement locations.*

State Environmental Planning Policy (Precincts–Western Parkland City) 2021 and Western Sydney Aerotropolis Development Control Plan 2020 Phase 1

While the Mamre Rd Precinct is not included on the Land Application Map within Chapter 4 Western Sydney Aerotropolis of the Precincts–Western Parkland City SEPP or the Aerotropolis DCP Phase 1, the study area is within the 3 to 8 kilometre wildlife buffer, as identified by Western Sydney Airport Co. (WSA Co.) (Western Sydney Airport 2021) and Section 10.3 of the Aerotropolis DCP Phase 1. The objectives, performance outcomes and benchmark solutions of Section 10.3 of the Aerotropolis DCP Phase 1 are shown in Table 4.

Table 3 Relevant objectives, performance outcomes and benchmark solutions of the Aerotropolis DCP Phase 1

Objective	Performance outcome	Aerotropolis DCP Benchmark solution
O1. Safeguard the future 24-hour operations of the Airport and provide appropriate protections for the surrounding community.	*PO1. Development does not attract wildlife which would create a safety hazard to the operations of the Airport.*	1. *All waste bins are designed and installed with fixed lids.* 2. *Any bulk waste receptacle or communal waste storage area is contained within enclosures that cannot be accessed by birds or flying foxes.* 3. *Any stormwater detention within the 3 to 8 km wildlife buffer is designed to fully drain within 48 hours after a rainfall event.*
O2. Ensure compatible development that exhibits design excellence occurs on land surrounding the Airport.	*PO2. Landscaping does not attract wildlife that could create a safety hazard to the operations of the Airport.*	1. *Refer to Appendix B* (of the DCP) *for a list of suitable landscape species.*

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2: Vegetation in non-rural areas

This chapter aims to protect the biodiversity values of trees and other vegetation in non-rural areas of NSW and to preserve the amenity of non-rural areas through the preservation of trees and other vegetation by ensuring that the BOS will apply to all clearing of native vegetation that exceeds the offset thresholds in urban areas and environmental conservation zones that do not require development consent.

As the study area is biodiversity certified, the provisions of this chapter under the SEPP do not apply.

Chapter 3: Koala Habitat Protection 2020

This chapter applies to land zoned RU1, RU2 or RU3. As the proposal occurs on land zoned IN1, this chapter does not apply. In addition, this chapter does not apply to Certified – Urban Capable Land.

Chapter 4: Koala Habitat Protection 2021

This chapter aims to encourage the conservation and management of areas of natural vegetation that provide habitat for Koalas to support a permanent free-living population over their present range and reverse the current trend of Koala population decline.

The study area is zoned IN1 and Penrith LGA is not listed in Schedule 2 of the SEPP and as such, this chapter is not relevant to the project. As the project is a State Significant Development this chapter does not apply.

Chapter 6: Bushland in urban areas

Penrith LGA is listed in Schedule 5 of the SEPP, however the study area is not zoned bushland or reserved for public open space, and as such, this chapter does not apply to the project.

Chapter 13: Strategic conservation planning

This chapter aims to facilitate appropriate development on biodiversity certified areas and applies to the study area. It requires asset protection zones (APZ) (associated vegetation clearance) to be wholly located on Certified – Urban Capable Land and the approved mitigation measure be complied with (i.e., measures in the Mamre Road Precinct DCP).

State Environmental Planning Policy (Industry and Employment) 2021

The Industry and Employment SEPP applies to the study area, however there are no provisions in the SEPP regarding threatened species. Native vegetation is addressed in in Clause 2.31 and Clause 2.43 (land zoned C2 or RE1). As land within the development site is bio-certified, these provisions do not apply to the lots.

Conclusion and recommendations

This letter is an assessment of the biodiversity certification associated with the proposed subdivision works on the Certified-Urban Cable Land that covers 1030-1048 (Lot 3 DP250002) and 1050-1064 (Lot 4 DP250002) in Kemps Creek NSW in accordance with the EP&A Act, BC Act and the EPBC Act. The study area is situated within Certified-Urban Capable Land under the CPCP. An assessment of the likely impact on biodiversity of development on biodiversity certified land is not required for the purposes of Part 4 of the EP&A Act.

The CPCP identifies a cost recovery program, which will occur through a Special Infrastructure Contribution or Strategic Biodiversity Component. In the Western Sydney Aerotropolis, there is a Special Infrastructure Contribution in operation, which specifies a contribution rate of $200,000 per hectare of net developable area for the Mamre Road Industrial Zone.

Recommendations

The following recommendations are provided for the project relating to biodiversity:

- ESR Australia to adhere to the recommendations included in the provided waterway assessment (Biosis 2022).
- Project Strategy to adhere to relevant mitigation measures outlined in:
  - Mamre Road Precinct DCP.
  - Relevant legislation and controls described above.
- Appropriate erosion and sediment control measures should be installed at all sites to avoid sedimentation of receiving water bodies or other indirect impacts to surrounding biodiversity values.
- In the unlikely event that unexpected threatened species are identified during the project, works should cease, and an ecologist should be contacted for advice.
- Two priority weeds within the Penrith Council LGA were identified within the study area (Table 3). Appropriate measures should be implemented to minimise the spread of these species.

I trust that this advice is of assistance to you however please contact me if you would like to discuss any elements of this ecological advice further.

Yours sincerely

Jake Schwebel
Project Botanist

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