



Department of the Environment and Heritage

Mr. Hugh Todd
ADI Residents Action Group
PO Box 4023
PENRITH PLAZA NSW 2750

Dear Mr. Todd

I refer to your letter, and enclosed video and photographs, of 20 March 2002 requesting a reconsideration of the decision by the former Minister for the Environment and Heritage that the proposed development of Xavier College on the former ADI site at St Mary's is not a controlled action.

After considering the context of the Minister's original decision and the additional information provided by the ADI Residents Action Group, the Department has concluded that there are insufficient grounds to recommend a reconsideration of the Minister's decision pursuant to section 78 of the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act). The principal reason for this conclusion is that the material before the Minister at the time of his decision, including advice from the Department and public submissions, identified that the proposed development site contains components of the endangered Cumberland Plain Woodland ecological community.

You state that the reason for the Minister's decision appears to be based upon a Referral from the Australian Museum Business Services, which asserted that Cumberland Plain Woodland was not present on the site, a finding which you state is erroneous. The Referral and associated documentation submitted by Australian Museum Business Services was only one of a number of sources of information which provided the context for the Minister's decision.

The ADI Residents Action Group's identification of additional native plant species on the site is also not considered to alter substantially the context of the Minister's decision. Having regard to prior disturbance and ongoing mowing and slashing, vegetation mapping by the NSW National Parks and Wildlife Service did not identify this locality as containing the Cumberland Plain Woodland ecological community. Furthermore, the school site was not included in the area listed in the Register of the National Estate by the Australian Heritage Commission. These factors indicate that the Cumberland Plain Woodland community on the proposed school site may be of a somewhat lower quality



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when compared to other more extensive areas of the woodland on the former ADI site. While noting the resilience and regenerative capacity of the community following disturbance, the Minister concluded that the proposed development did not represent a significant impact having regard to the extent and condition of Cumberland Plain Woodland in the surrounding area.

In conclusion, I acknowledge that the information supplied by the ADI Residents Action Group provides additional evidence that the proposed development site contains Cumberland Plain Woodland. However, given that the Minister's decision took into account the possibility that the site did, in fact, contain components of this ecological community, the Department does not believe that this new information constitutes grounds for a reconsideration of the original decision under s78 of the EPBC Act.

As previously discussed, you are entitled to seek a Statement of Reasons in relation to the Minister's decision pursuant to section 13 of the *Administrative Decisions (Judicial Review) Act 1977*. Any such request should be addressed to the Assistant Secretary, Policy and Compliance Branch, Environment Australia.

Thank you for bringing your views to the Department's attention.

Yours sincerely



Steve Mercer
Director
Referrals Section

10 April 2002

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