

Geoff Brown
Convenor
ADI Residents Action Group
PO Box 4134
WERRINGTON NSW 2747
0431222602

Tuesday, 5 August 2008

General Manager
Penrith City Council
High St
Penrith NSW 2750

Submission DA08/0613 - Bushfire hazard reduction works for the ADI Site Western Precinct

To Whom It May Concern:

The ADI Residents Action Group opposes DA08/0613 as the works propose to remove regenerating Cumberland Plain Woodland from a 200 hectare area of the Western Precinct of the former ADI Site in order to create a Strategic Fire Advantage Zone.

The proponents stated reasons why bushfire hazard reduction works are needed include: The need to protect Kangaroos within the Western Precinct, the proposed Regional Park and surrounding landowners. We strongly reject these reasons as they are fabricated and simply desperate.

ADI RAG members accessed the Western Precinct recently and could not find Delfins alleged 1000 sterilised Kangaroos contained in enclosures that would be threatened by bushfire. We saw fenced enclosures that contained no more than 20 Kangaroos. We saw probably the same amount of dead Kangaroos. We did see about 30 Kangaroos outside of the enclosures. Within the enclosures we saw denuded areas of vegetation that would be incapable of burning, in other words if a bushfire did threaten the areas that once contained Kangaroos there would be insufficient fuel within the enclosures to burn and harm the Kangaroos. The fire would not penetrate the enclosures. This reason for the DA proposed by Delfin is totally laughable. They have been caught out trying to deceive Penrith Council.

Western Precinct Kangaroo enclosures with no Kangaroos and little grass to fuel a fire



Western Precinct Kangaroo enclosures Dead Kangaroos and little grass to fuel a fire



Delfin Lend Lease has fabricated the need to create this 200 ha SFAZ because it assists them with their future housing development plans for the Western Precinct. Denuding this area of trees and native flora makes it easier for Delfin to get away with maximising their development footprint within the proposed Western Precinct development. Council will not be able to argue for the retention of trees or the creation of pocket parks if this DA goes ahead and Delfin slash or remove significant areas of regrowth. This DA will be in effect for a minimum of five years. If the Western Precinct Plan is also approved by Penrith Council Delfin Lend Lease will likely defer development of the Western Precinct whilst Ropes Crossing struggles to sell houses but use this DA to keep denuding regenerating Cumberland Plain Woodland from the Western Precinct. This DA if allowed is Delfins get out of gaol card courtesy of Penrith Council.

We are very concerned that this DA has not been referred to the Federal Environment Minister for assessment under the EPBC Act. Cumberland Plain Woodland is listed under the EPBC Act and any proposal to destroy a listed EEC needs his approval. Council should not consider this DA until the Federal Minister has made his decision as to whether the proposed works affect a matter of national significance.

We also reject the proponents Flora and Fauna Assessment. Cumberland Ecology who prepared this report has been fabricating pro development ecological assessments on behalf of Delfin for many years. These reports have consistently been exposed as being erroneous. Council should recall the Xavier College Land and Environment Court decision which proved that Cumberland Plain Woodland existed across the entire 6 ha site. That legal precedent still stands to demonstrate that most existing studies of the Western Precinct are erroneous and unreliable. Cumberland Ecology gave evidence at that hearing that Cumberland Plain Woodland did not exist on the Xavier site. And now it is doing the same in this DA by pretending the extent of Cumberland Plain Woodland within the Western Precinct is limited to just 49 hectares. Cumberland Ecology has relied on flawed out dated vegetation mapping of the Western Precinct. Council should engage an independent ecologist to study and map the DA sites vegetation. This must be based on a site visit not a desktop study.

Cumberland Ecology also claims that there are only 2 *Pimelea spicata* within the Western Precinct. This again is false. ADI RAG were the ones that discovered the *Pimelea spicata* and alerted Delfin and DECC to the existence of many more than 2 individuals, we have video evidence. This report also states there is no evidence of Koalas on the site. DECC officer Jonathon Sanders stated recently that DECC fauna studies of the proposed Regional Park found fox scat with Koala hair in it. DECC Officer Ray Giddins also found Koala scat within the proposed Regional Park which was witnessed by me and others including David Robertson of

Cumberland Ecology. ADI RAG before that finding found Koala scat which was confirmed by UWS Ecologist Robert Close and DECC expert Dan Lunny.

Council needs to be consistent with regards to tree preservation. Most landowners are not allowed to remove trees unless Council has given its consent and that strict conditions have been met justifying the removal of the tree. Council states that a tree means having a 30cm girth at 40cm from the ground and is over 3 metres in height. If this is the case then the Western Precinct would have tens of thousands of trees removed as a result of this DA. Council also needs to consider that land clearing is responsible for a large percentage of Greenhouse gas emissions. It also removes a large carbon sink from Penrith. Council needs to quantify the effect this DA will have on Global Warming and the amount of Carbon that will be released into the atmosphere. This DA will undo all of Councils sustainability initiatives aimed at making Council carbon neutral.

Cumberland Plain Woodland to be removed in Western Precinct



Council needs to acknowledge the fact that the current fire regime is adequate and this is supported by the fact that there has not been a fire in the Western Precinct since its implementation in 2003. From an

ecological perspective a fire would not necessarily be a negative thing as it would probably benefit the further regeneration of native vegetation found on the St Marys property.

The right thing to do would be to reject this DA and maintain the current fire regime. ADI RAG believes that a decision to allow the clearing of Cumberland Plain Woodland from the entire Western Precinct reduces the chance to add more land to the Regional Park. ADI RAG would like Penrith Council to support the idea of asking the NSW Planning Minister to rezone the land adjacent to Xavier College and along the Ninth Avenue boundary from urban to Regional Park. This will then mean that there is no fracturing of the proposed Cumberland Conservation Corridor. This rezoning can be achieved when the Planning Minister amends SREP 30. Clearing of bushland from this area as a result of this DA reduces this possibility.

Cumberland Plain Woodland in development areas near Xavier College



Council's ability to insist on the retention of bushland for pocket parks etc when assessing Precinct Plans will also be undermined if this DA is allowed to go ahead as proposed.

We ask that Council address the following points when assessing this DA and that it provides a response to us and in any Report that comes before Councillors.

- Details of the current bushfire hazard reduction regime e.g. The SAFZ that is currently implemented within the Western Precinct.
- The incidence of fire within the Western Precinct prior to the lodgement of this DA Has the current management plan succeeded in preventing fires within the Western Precinct
- The extent of Cumberland Plain Woodland, threatened, vulnerable and regionally significant species found across the Western Precinct. This would need to be assessed by an independent ecological consultant. Delfins data appears to be seriously out dated and flawed.
 - Reference should be made to the Xavier College Land and Environment Court decision that found CPW existed on that school site despite evidence by Lend Lease and the Catholic Education Office (David Robertson of Cumberland Ecology - who has provided the statement of environmental effects for this DA - represented the Catholic Education Office and Lend Lease). The judge dismissed this evidence and found that this area of the ADI Site was in fact Cumberland Plain Woodland. This legal precedent therefore applies to the rest of the Western Precinct.
- Whether this plan needs to be referred to the Federal Environment Minister for approval under the EPBC Act
- The number of trees likely to be removed as a result of approval of the DA
 - (<http://203.221.255.16/index.asp?id=606> **Interpretation:** 6. In this Order, except in so far as the context or subject or subject matter otherwise indicates or requires: Council means the Council of the City of Penrith. Tree means a perennial plant with self-supporting stem which: (a) Has a girth of 30cm or more, measured at a distance of 40cm above the ground; and (b) Has a height in excess of 3m.
- The total area of the Western Precinct to be cleared to 10cm
- What methods are proposed to reduce vegetation to 10cm e.g. Bulldozer, tree loppers, slasher etc.
- The potential climate change impacts resulting from the proposed clearing e.g. the amount of green house gases to be generated as a result of this DA
- The number of Kangaroos Delfin are holding in enclosures within the Western Precinct
- The fuel load within these enclosures
- The potential reduction in fuel load within the Western Precinct should Delfin release the Kangaroos from the enclosures
- Seek from Delfin clarification as to the number of Pimelea spicata located within the Western Precinct. They claim only two, yet on a site tour that I was on with Delfin and DECC - which we inspected the Western Precinct population -that number was much greater. I have video evidence of this.
- Seek clarification from Delfin as to the evidence of the presence of Koalas on the site. On a site tour with Delfin and DECC that I was on Ray Giddins the then DEC Threatened Species Officer collected a sample of scat that was later proven to belong to a Koala. This year Jonathon Sanders stated to me in a phone conversation that recent fauna studies on the ADI Site found Koala hair in the scat of a fox. There has been no specific search for Koalas on the site. There have been numerous sightings by former ADI staff and the public over the years.
- How approval of the DA would impact the formation of the Cumberland Conservation Corridor which seeks to link the North West part of the Regional Park to a bushland corridor identified by Councils City Wide LEP. Is there potential for this area - zoned urban - to be rezoned to Regional Park so that the CCC can continue to the North West boundary fence of the ADI Site. Council needs to be cognisant of how this DA would be inconsistent with any broader conservation planning for the Penrith LGA and the precedent this DA may set for land clearing by other land owners in the Penrith LGA that have significant areas of natural vegetation within their properties.

Further, I request WSCA be invited to meet with Council Officers prior to determination to discuss this matter further and that Council organise with Delfin for a site tour - which includes local stakeholders - so that we can view the on ground proposal, the extent of regeneration of CPW within the Western Precinct and the alleged threat that fire may have on the Kangaroos and the Regional Park.

Regards,



Geoff Brown