Lot 5 in DP 262213 Ropes Creek
Ropes Creek Industrial Estate

Part 3A Concept Plan and Project Application
Major Project No. 10_0127 and No. 10_0128

Response to Submissions

24th January 2011

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Principal Author: F Dominic Fanning	Version: 1.0	Date: 24th January 2011

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1 INTRODUCTION

1.1 Background

Applications have been made to the Department of Planning (DoP) with respect to the industrial development of Lot 5 in DP 262213 Ropes Creek pursuant to Part 3A of the *Environmental Planning Assessment Act 1979* (EP&A Act). The proposed development involves a *Concept Plan* (Major Project No. 10_0127) and a *Stage One Project Application* (MP No. 10_0128).

The applications were the subject of a comprehensive *Environmental Assessment Report* (EAR) prepared pursuant to the Director-General's Requirements (DGRs). The project has also been the subject of a number of specialist *Reports* with respect to relevant matters including *inter alia* ecology and stormwater management. The ecological assessment of the proposal is documented in the *Ecological Issues & Assessment Report* (EIAR) which was prepared by Environmental InSites in 2010.

Subsequent to the exhibition period for the main project applications, the DoP has provided a request for additional information, and has identified issues requiring further discussion or resolution. Included amongst that material is correspondence to the DoP from the Department of Environment, Climate Change and Water (DECCW) with respect *inter alia* to ecological matters.

This *Response to Submissions Report*, prepared by Mr Dominic Fanning of Environment InSites, addresses the various matters raised by the DoP and the DECCW with respect to the *Concept Plan* and the *Project Application*.

2 RESPONSES to ISSUES

2.1 Cumberland Plain Land Snail

The Cumberland Plain Land Snail *Meridolum corneovirens* occupies predominantly xeric woodland habitats with a relatively sparse grassy groundcover and generally with an abundance of shelter features such as logs, rocks and fallen timber and/or urban waste and debris (pieces of timber, vehicle parts and carpet are used).

Whilst the Cumberland Plain Land Snail does occur in small and highly degraded stands of woodland throughout western Sydney, the species does not usually inhabit sites which are characterised by a dense and predominantly introduced groundcover or sites which are devoid of shelter and which are characterised by dry hard soils and little or no leaf litter or fallen timber.

There is no suitable habitat for the Cumberland Plain Land Snail on the subject site (Lot 5 at Ropes Creek). The small stand of scattered Forest Red Gums in the northwestern corner of the site does not have any suitable shelter (rocks or fallen timber) or leaf litter (containing food resources), and would not be conducive to the survival of the Cumberland Plain Land Snail. No live Snails or dead shells were recorded during the site investigations which have been undertaken over a number of years on the subject site.

Given the lack of suitable habitat on the subject site, and given the absence of the Cumberland Plain Land Snail, there is no likelihood that any adverse impact (including a "*significant effect*") would be imposed upon this species by the proposed development of the site.

The DECCW correspondence regarding the proposal (dated 23rd of December 2010) states *inter alia* that "*there are a number of recent CLS records in the area, including on similarly degraded sites, so there is a likelihood that the species* [*ie* the Cumberland Plain Land Snail] *occurs on site*".

However, the principal author of the EIAR and of this *Response Report* (Mr F Dominic Fanning) has investigated the lands to the immediate north (the Fitzpatrick site) and to the northeast (the Jacfin development site southwest of the Wonderland site), as well as the Wonderland site itself. There are a number of patches of Cumberland Plain Woodland (CPW) vegetation in or around those lands which contain suitable habitat and shelter resources for the Cumberland Plain Land Snail. Conversely, Lot 5 does not contain any vegetation which would constitute suitable habitat for the Cumberland Plain Land Snail in its current condition.

2.2 Flora and Fauna Surveys

Specific surveys and investigations for flora and fauna on the subject site at Ropes Creek have included:

- inspections of the site on at least three occasions in 2008 and 2010 by the principal author of this Report involving *inter alia*:
    - driven inspections of the whole of the subject land;
    - walked inspections of the watercourses and drainage lines, farm dams and patches of trees;
    - the opportunistic recording of fauna species, native plants and features of potential habitat value (*eg* hollow-bearing trees, dams *etc*); and
    - each of those inspections lasted a period of approximately 2-3 hours; and
- a detailed survey of the subject site for flora and fauna by two Environmental InSites staff on the 23rd of July 2010 involving walked and driven inspections of much of the land over a period of 4 hours, with the collection of additional records of flora and fauna species, a comprehensive species list and dedicated searches for threatened biota and/or their habitats.

2.3 Cumberland Plain Woodland

Whilst the *Final Determination* of the NSW Scientific Committee to list CPW as a "*critically endangered ecological community*" (CEEC) in the TSC Act does not specifically "*include minimal condition requirements*", the small patches of Forest Red Gums in pasture on the subject site at Ropes Creek have a groundcover which is predominantly of introduced pasture grasses and/or oats. Given those circumstances, those small patches (comprising approximately 7 trees) are more accurately described as 'paddock trees in pasture' than an example of the CPW community.

It is the opinion of the principal author of this *Report* that:

- even were those paddock trees to be considered an example of the CPW community, their loss will not be regarded as of significance with respect to the survival or rehabilitation of the CPW community;
- the substantial rehabilitation area adjoining Ropes Creek on Lot 5 (occupying the *E2* – zoned land) will include areas of CPW rehabilitation; and
- the *Hollow-bearing Tree Protocol*, which is included in the EIAR (and which is supported by the DECCW), will involve the salvage of tree-hollows from those specimens. In addition, it is recommended that the remainder of the trees be salvaged and either chipped for use in the *Offset Area* along Ropes Creek or used as brush matting and logs in rehabilitation areas.

It is noted that the small patches of trees on the subject site at Ropes Creek do not conform to the federally listed CEEC (known as 'Cumberland Plain Shale Woodlands and Shale-gravel Transition Forest'), as the patches (even cumulatively) are not 0.5ha or greater in area and do not support a groundcover that is more than 30% native. The EPBC Act (sensibly) does contain "*condition thresholds*" with respect *inter alia* to "*ecological communities*".

2.4 River-Flat Eucalypt Forest on Coastal Floodplains

The Environmental InSites EIAR states *inter alia* that vegetation on the subject site at Ropes Creek "*is not regarded as an example of the REFCF community or the SOFF community because none of the land along or adjacent to this part of the Ropes Creek constitutes a "Coastal Floodplain"".*

Conversely, the DECCW maintains that "*'Coastal floodplains' includes any floodplains below the escarpment of great dividing range' (as stated in the DECCW Identification Guidelines for this EEC*)".

The principal author of the Environmental InSites EIAR disputes the definition of "*coastal floodplains*" provided by the DECCW. There are many many "*floodplains*" located east of the great dividing range that clearly have no relevant association with the coast, and cannot sensibly or reasonably be regarded as "*<u>coastal</u> floodplains*" (emphasis added).

In any case, both of the vegetation types which could, theoretically at least, (or do, according to the DECCW) constitute either the REFCF or the SOFF communities are located along Ropes Creek or along its two small tributaries on the subject site (see Figure 7 in the Environmental InSites EIAR - attached). These areas of vegetation are all contained in land which is currently zoned *E2* –

Conservation, and none of those areas of vegetation will be adversely affected by the proposed Stage 1 development of the subject site at Ropes Creek.

Any potential for impacts upon parts of those bands of vegetation along the two small tributaries would be the subject of future design and specific applications for further staged development on the subject site at Ropes Creek. Vegetation along Ropes Creek itself is to be the subject of a significant rehabilitation program pursuant to the DoP–approved *Bushland Rehabilitation Management Plan*. The major road crossing of Ropes Creek which is mooted in the *State Environmental Planning Policy (Western Sydney Employment Area) 2009* is not a part of any proposal by Jacfin.

2.5 Ropes Creek Corridor

The DECCW "*notes that the northern section of Ropes Creek that occurs on the site has been identified in the draft Recovery Plan for the Cumberland Plain (DECCW, 2010) as part of the Priority Conservation Lands (PCL). The desired outcome for PCLs is an appropriate conservation zoning and active management*".

As acknowledged by the DECCW, and as discussed in the EIAR (InSites 2010), the *E2* – zoned land along Ropes Creek is to be rehabilitated "*as part of the Offset Strategy for the Erskine Park Project*". This vegetation will thus not only be protected but will also be substantially rehabilitated and enhanced. No activities adjacent to Ropes Creek will involve any adverse impacts on the watercourse or on any riparian vegetation, and any future development of lands adjacent to the *Offset Area* (which would be the subject of future applications) would be required to protect the *E2* – zoned land as appropriate.

As noted by the DECCW, "*as this section of Ropes Creek is zoned E2 and will be rehabilitated as part of the Offset Strategy for the Erskine Park Project, both of the desired objects for the PCL are being achieved on site*".

2.6 E2 Zoned Land

The DECCW correspondence of the 23rd of December 2010 "*notes that the Report* [the Environmental InSites EIAR] *states the E2 zoning of the riparian areas on site is not warranted, given the levels of long-term disturbance and degradation*".

It is noted by the author of this *Response Report* that the Environmental InSites EIAR only makes that comment with respect to the highly degraded minor tributaries to Ropes Creek which occur on the subject site. That comment is not applied to Ropes Creek itself by Environmental InSites, and the zoning of those lands is not a matter which is specifically addressed as part of the *Concept Plan* (MP 10_0127 or the *Project Application* (MP 10_0128).

The *Concept Plan* identifies a single road crossing of each tributary for the project, as well as a regional road (which is identified in the Western Sydney Employment Area SEPP). It is an assumption and expectation of the principal author of the EIAR and of this *Response Report* that any works

associated with those road crossings will be undertaken in an environmentally sensitive and appropriate manner.

The *Project Application* anticipates a road crossing of the northern tributary at its upper (eastern) end, adjacent to the Lot 5 boundary. The tributary at this location is in extremely poor condition, and consists predominantly of scattered sedges and pasture grasses with a small stand of Swamp Oak along and upstream of the boundary fence. Detailed controls with respect to the design and construction of the road crossing of this watercourse would be incorporated into a *Construction Management Plan* to be prepared following consent for the proposal. Those controls would specifically address issues of potential disturbance, and would seek to minimise any adverse impacts upon the watercourse.

2.7 Statement of Commitments

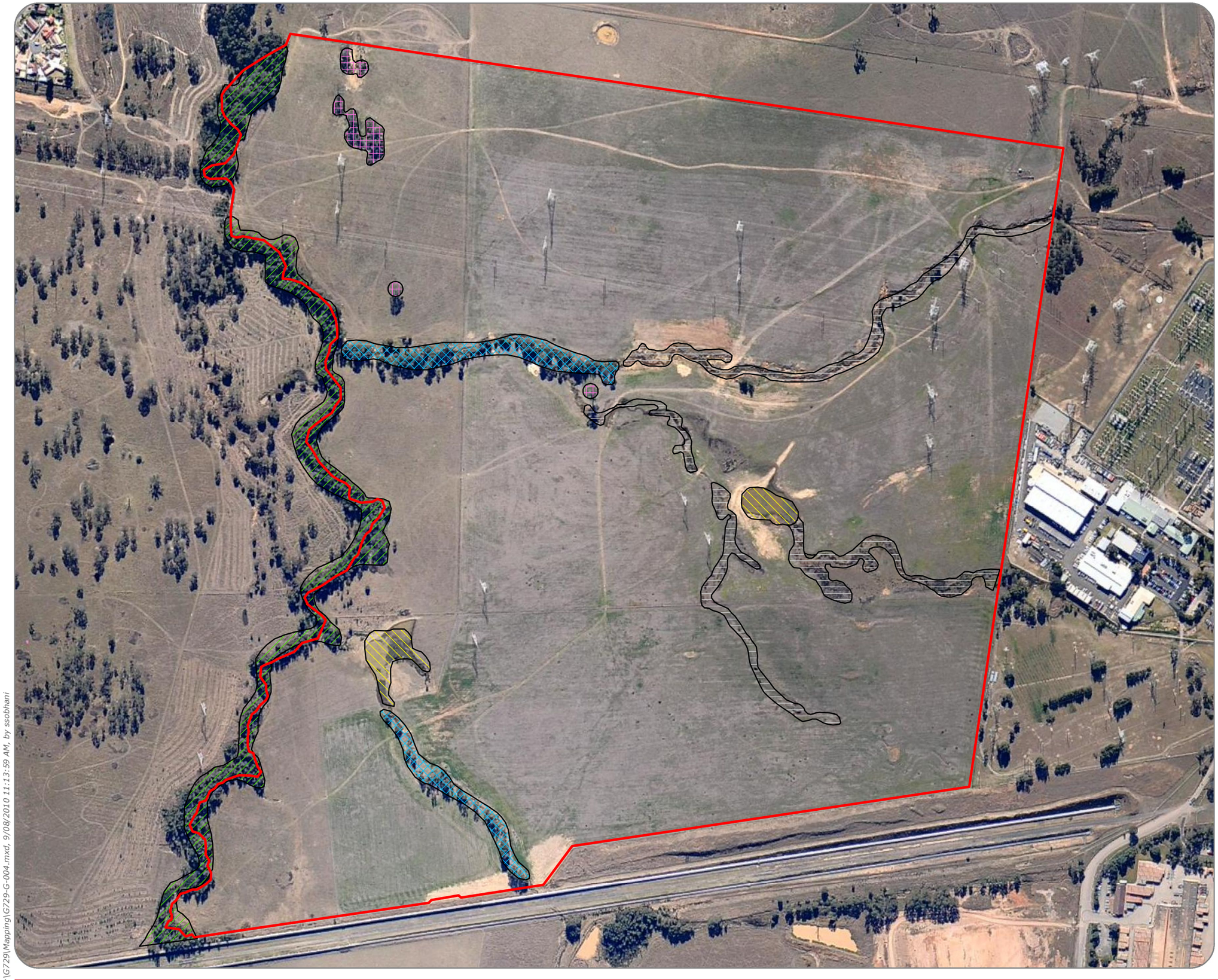
It is noted that the DECCW "*supports the implementation of the tree-hollow protocol* [sic]... *to ameliorate any impacts associated with the loss of these trees* [the scattered Forest Red Gums]".

The Environmental InSites 2010 EIAR documents a *Hollow-bearing Tree Protocol* which identifies measures to salvage and re-use tree-hollows to be removed for the project. As discussed above, it is also a recommendation of this *Response Report* that the remainder of the trees be used either as brush matting and logs or as mulched material in the *Offset Area* on the subject site to provide some native cover and resources within that rehabilitation area.

F Dominic Fanning
Director – Environmental InSites

Figure 7 Vegetation mapping by InSites on the subject site at Ropes Creek

ENVIRONMENTAL INSITES DEVELOPMENT CONSULTANTS



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0 50 100 150 200 250
Metres

NOTES:

1. Aerial Image © Nearmap 15/07/2010
2. Subject Site boundary based on DCDB 2010
3. Vegetation mapping surveyed by Insites 23/07/2010
4. All features are approximate only and subject to detailed survey

LEGEND

- Subject Site
- Artificial Freshwater Wetlands
- Degraded Drainage Lines
- Degraded Riparian Woodland
- Disturbed Riparian Woodland
- Forest Red Gums in pasture

No.	Date	Revision Details	INI

SCALE :	1:5,000 @ A3
CO-ORDS :	MGA
DATUM :	N/A
DATE OF PLAN :	29-07-2010
CHECKED BY/DATE :	SAS/29-07-2010
APPROVED BY/DATE :	FI/29-07-2010
JOB REF:	G729
GIS REF:	G729-G-004.mxd

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